

**WSR 13-23-005**

**NOTICE OF PUBLIC MEETINGS  
ATTORNEY GENERAL'S OFFICE**

(Public Records Exemptions Accountability Committee)  
[Filed November 7, 2013, 10:06 a.m.]

The following is the 2014 meeting schedule for the public records exemptions accountability committee ("sunshine committee"):

February 18, 2014	9 a.m. - 1 p.m.	John A. Cherberg Building Conference Room ABC Olympia, Washington
May 20, 2014	9 a.m. - 1 p.m.	John A. Cherberg Building Conference Room ABC Olympia, Washington
August 19, 2014	9 a.m. - 1 p.m.	John A. Cherberg Building Conference Room ABC Olympia, Washington
October 28, 2014	9 a.m. - 1 p.m.	John A. Cherberg Building Conference Room ABC Olympia, Washington

Meetings will begin at 9 a.m. and last until 1 p.m. Some meetings may be rescheduled or relocated. The meeting location, agenda, and other information will be available five to seven days prior to each meeting at <http://www.atg.wa.gov/opengovernment/sunshine.aspx>. Please visit this web site to join the sunshine committee listserv to receive notices about when materials are posted.

Please contact Rebecca Podszus, Program Specialist, Policy and Government Affairs, Washington State Attorney General's Office, (360) 586-2683, [rebeccap3@atg.wa.gov](mailto:rebeccap3@atg.wa.gov), if you have any questions regarding this meeting agenda.

**WSR 13-23-009**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF HEALTH**

(Board of Physical Therapy)  
[Filed November 7, 2013, 2:50 p.m.]

In accordance with the Open Public Meeting[s] Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW), the following is the schedule of regular meetings for the department of health, board of physical therapy, for the year 2013. The board of physical therapy meetings are open to the public, and access for persons with disabilities may be arranged with advance notice; please contact the staff person below for more information.

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

Date	Time	Location
February 25, 2013	10:00 a.m.	Kent

Date	Time	Location
April 8, 2013	10:00 a.m.	Kent
June 17, 2013	9:00 a.m.	Spokane
August 12, 2013	10:00 a.m.	Conference Call
September 18, 2013	12:00 p.m.	Conference Call
October 21, 2013	8:00 a.m.	Tumwater
December 2, 2013	9:00 a.m.	Tumwater

If you need further information, please contact Kris Waidely, Program Manager, Board of Physical Therapy, Washington Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, (360) 236-4847, (360) 236-2901, [kris.waidely@doh.wa.gov](mailto:kris.waidely@doh.wa.gov), [www.doh.wa.gov](http://www.doh.wa.gov).

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

**WSR 13-23-010**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF HEALTH**

(Board of Physical Therapy)  
[Filed November 7, 2013, 2:51 p.m.]

In accordance with the Open Public Meeting[s] Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW), the following is the schedule of regular meetings for the department of health, board of physical therapy, for the year 2014. The board of physical therapy meetings are open to the public, and access for persons with disabilities may be arranged with advance notice; please contact the staff person below for more information.

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

Date	Time	Location
February 10, 2014	10:00 a.m.	Kent
April 21, 2014	10:00 a.m.	Kent
June 16, 2014	10:00 a.m.	Yakima
August 18, 2014	10:00 a.m.	Conference Call
October 20, 2014	10:00 a.m.	Kent
December 1, 2014	10:00 a.m.	Kent

If you need further information, please contact Kris Waidely, Program Manager, Board of Physical Therapy, Washington Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, (360) 236-4847, (360) 236-2901, [kris.waidely@doh.wa.gov](mailto:kris.waidely@doh.wa.gov), [www.doh.wa.gov](http://www.doh.wa.gov).

Please be advised the board of physical therapy is required to comply with the Public Disclosure Act, chapter

42.56 RCW. This act establishes a strong state mandate in favor of disclosure of public records. As such, the information you submit to the board, including personal information, may ultimately be subject to disclosure as a public record.

**WSR 13-23-015**

**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF THE STATE ACTUARY**  
(Select Committee on Pension Policy)  
[Filed November 12, 2013, 9:55 a.m.]

**December 2013 Meeting Schedule**

**SCPP Full and Executive Committee Meetings**

December 10, 2013 Full: Senate Hearing Room 4  
8:00 a.m. - 3:00 p.m. Exec: Senate Conference Rooms A/B/C

**WSR 13-23-016**

**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF THE STATE ACTUARY**  
(Select Committee on Pension Policy)  
[Filed November 12, 2013, 9:55 a.m.]

**2014 Meeting Schedule**

**SCPP Full and Executive Committee Meetings**

April 15, 2014 Full: Senate Hearing Room 4  
8:00 a.m. - 3:00 p.m. Exec: Senate Conference Rooms A/B/C

May 20, 2014 Full: Senate Hearing Room 4  
8:00 a.m. - 3:00 p.m. Exec: Senate Hearing Room 3

June 17, 2014 Full: Senate Hearing Room 4  
8:00 a.m. - 3:00 p.m. Exec: Senate Conference Rooms A/B/C

July 15, 2014 Full: Senate Hearing Room 4  
8:00 a.m. - 3:00 p.m. Exec: Senate Conference Rooms A/B/C

**August - no meeting scheduled**

September 16, 2014 Full: Senate Hearing Room 4  
8:00 a.m. - 3:00 p.m. Exec: Senate Conference Rooms A/B/C

October 21, 2014 Full: Senate Hearing Room 4  
8:00 a.m. - 3:00 p.m. Exec: Senate Conference Rooms A/B/C

November 18, 2014 Full: Senate Hearing Room 4  
8:00 a.m. - 3:00 p.m. Exec: Senate Conference Rooms A/B/C

December 16, 2014 Full: Senate Hearing Room 4  
8:00 a.m. - 3:00 p.m. Exec: Senate Conference Rooms A/B/C

**WSR 13-23-021**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
[November 6, 2013]

IN THE MATTER OF THE ADOPTION ) ORDER  
OF AMENDMENTS TO IRLJ 6.2— ) NO. 25700-A-1038  
MONETARY PENALTY SCHEDULE )  
FOR INFRACTIONS )

The Washington Department of Fish and Wildlife's (WDFW) having recommended the adoption of the proposed amendments to IRLJ 6.2—Monetary Penalty Schedule for Infractions, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as shown below are adopted.

(b) That the amendments will be published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 6th day of November, 2013.

	Madsen, C.J.
C. Johnson, J.	Stephens, J.
Owens, J.	Wiggins, J.
Fairhurst, J.	Gonzalez, J.
J. M. Johnson, J.	Gordon McCloud, J.

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 13-24 issue of the Register.

**WSR 13-23-022**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
[November 6, 2013]

IN THE MATTER OF THE REPEAL OF ) ORDER  
THE ARLJ 9—DISCLOSURE OF ) NO. 25700-A-1039  
RECORDS, CrRLJ 8.10—CLOSURE OF )  
PROCEEDINGS AND SEALING OF )  
RECORDS AND CrRLJ 8.11—DISCLO- )  
SURE OF RECORDS )

The District Municipal Court Judges' Association having recommended the repeal of the proposed amendment to ARLJ 9—Disclosure of Records, CrRLJ 8.10—Closure of Proceedings and Sealing of Records and CrRLJ 8.11—Disclosure of Records, and the Court having determined that the proposed repeal will aid in the prompt and orderly administration of justice and further determined the need for expedited repeal;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as shown below is repealed.

(b) That the amendment will be expeditiously repealed.

DATED at Olympia, Washington this 6th day of November, 2013.

	Madsen, C.J.
C. Johnson, J.	Stephens, J.
Owens, J.	Wiggins, J.
Fairhurst, J.	Gonzalez, J.
J. M. Johnson, J.	Gordon McCloud, J.

RULE ARLJ 9  
DISCLOSURE OF RECORDS

a) ~~Public Records.~~ Unless the trial judge rules otherwise in a particular case, the following are considered public records and may be viewed and copied by the public:

- ~~(1) Court pleadings;~~
- ~~(2) Dockets, both civil and criminal, regardless of the current status of the proceeding;~~
- ~~(3) Indexes to civil and criminal cases;~~
- ~~(4) Tape recordings of court proceedings;~~
- ~~(5) Search warrants, affidavits, and inventories, after execution and return of the warrant.~~

b) ~~Private Records.~~ The following are considered exempt from disclosure unless they have been admitted into evidence, incorporated into a court pleading, or are the subject of a stipulation on the record which places them into public record:

- ~~(1) Witness statements and police reports;~~
- ~~(2) Presentence reports and reports related to compliance with conditions of sentence;~~
- ~~(3) Copies of driving records or criminal history records subject to RCW 10.97;~~
- ~~(4) Correspondence received by the court regarding sentencing and compliance with the terms of probation.~~

e) ~~Quasi-Public Documents.~~ The following are not subject to public review, but are subject to review by the defendant and the defendant's lawyer:

- ~~(1) Witness statements;~~
- ~~(2) Presentence reports and reports related to compliance with conditions of sentence;~~
- ~~(3) Copies of driving records or criminal history records subject to RCW 10.97;~~
- ~~(4) Correspondence received by the court regarding sentencing and compliance with the terms of probation, except when the information is provided on the condition it remain confidential or when a finding of good cause is made for its confidentiality.~~

d) ~~Court Assistance.~~

- ~~(1) Court facilities are available to the public to assist in disclosure, subject to local court rule.~~
- ~~(2) For security purposes, the court may require identification from the reviewing party.~~

e) ~~Judicial Review.~~ To assure that only public records are reviewed by the public, judicial review of disclosure may be requested by the prosecuting authority, defendant, court clerks, or other interested parties. The court may withhold dissemination until a hearing may reasonably be held. Following the hearing, the court may make such restrictive orders as are necessary.

f) ~~Statutes Not Superseded.~~ Nothing in this rule shall be construed to supersede existing statutes or subsequent amendments thereto.

[Reserved.]

**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.

RULE 8-10  
CLOSURE OF PROCEEDINGS AND SEALING OF RECORDS

~~(a) Proceedings and Records To Be Open.~~ Court proceedings shall be open to the public, and court records denominated public records under ARLJ 9 shall be available for public inspection, unless the court orders closure or sealing, or other restrictions, pursuant to this rule.

~~(b) Grounds for Closure or Sealing Before Charges Filed.~~ Before charges are filed, the court may order proceedings closed or records sealed only upon a showing that

- ~~(1) There is a likelihood of jeopardy to an accused's right to a fair trial; or~~
- ~~(2) There exists a substantial threat to effective law enforcement; or~~
- ~~(3) There exists a substantial threat to the privacy or safety of an individual; or~~
- ~~(4) For other good cause shown; and that there are no less restrictive means available to protect the interest threatened.~~

~~(c) Grounds for Closure or Sealing After Charges Filed.~~ After charges are filed, the court may order proceedings closed or records sealed only upon a showing that

- ~~(1) There is a substantial probability of jeopardy to an accused's right to a fair trial; or~~
- ~~(2) There exists a serious and imminent threat to effective law enforcement; or~~
- ~~(3) There exists a serious and imminent threat to the privacy or safety of an individual; or~~
- ~~(4) For other good cause shown; and that there are no less restrictive means available to protect the interest threatened.~~

~~(d) Determination.~~ Upon motion and supporting affidavit, the court shall determine whether a proceeding should be closed or records sealed.

~~(1) The proponent shall state the grounds for the motion with reasonable specificity, consistent with the protection of the interest threatened. Any person present when the motion is made shall be given an opportunity to object to the proposed restriction.~~

~~(2) If the motion is made upon grounds set forth in (b)(1) or (c)(1), any person objecting to closure or sealing shall have the burden of suggesting effective alternatives. Otherwise, the proponent shall have the burden of showing that restrictions are necessary.~~

~~(3) If the motion is made upon grounds set forth in (b)(2) or (c)(2), the proponent shall have the burden of showing that restrictions are necessary.~~

~~(4) Upon determining that a proceeding should be closed or records sealed, the court shall promptly thereafter prepare~~

- ~~(1) A transcript of any in camera proceedings; and~~
- ~~(2) An order of closure or sealing; and~~
- ~~(3) Written findings of fact and conclusions of law setting forth with specificity the court's consideration of the~~

issues, including alternative methods suggested. If the order involves the sealing of records, it shall apply for a specific time period and require the proponent to come before the court at a time specified in the order to justify continued sealing.

(f) Other Order. If the court determines that there exists an alternative less restrictive than closure or sealing which will protect the threatened interest, it may issue an appropriate order and shall thereafter prepare the documents specified in section (e).

(g) Exclusion of Witness. This rule shall not apply to circumstances governed by ER 615.

(h) Discovery. This rule shall not apply to discovery procedures governed by rule 4.7.

(i) Disclosure Procedure. Reserved. See ARLJ 9.

[Reserved.]

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.

RULE 8.11  
DISCLOSURE OF RECORDS

Disclosure of records of courts of limited jurisdiction shall be governed by ARLJ 9 and by RCW 10.97.

[Reserved.]

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.

WSR 13-23-023  
RULES OF COURT  
STATE SUPREME COURT  
[November 6, 2013]

IN THE MATTER OF THE ADOPTION ) ORDER  
OF AMENDMENTS TO RPC 1.15A— ) NO. 25700-A-1040  
SAFEGUARDING PROPERTY and RPC )  
1.15B—REQUIRED TRUST ACCOUNT )  
RECORDS )

The Washington State Bar Association having recommended the adoption of the proposed amendments to RPC 1.15A—Safeguarding Property and RPC 1.15B—Required Trust Account Records, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as shown below are adopted.

(b) That the amendments will be published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 6th day of November, 2013.

Madsen, C.J.

C. Johnson, J.	Stephens, J.
Owens, J.	Wiggins, J.
Fairhurst, J.	Gonzalez, J.
J. M. Johnson, J.	Gordon McCloud, J.

RULES OF PROFESSIONAL CONDUCT (RPC)  
SUGGESTED AMENDMENTS TO RULE 1.15A SAFEGUARDING  
PROPERTY  
(REDLINE COPY)

(a) This Rule applies to (1) property of clients or third persons in a lawyer's possession in connection with a representation and (2) escrow and other funds held by a lawyer incident to the closing of any real estate or personal property transaction. Additionally, for all transactions in which a lawyer has selected, prepared, or completed legal documents for use in the closing of any real estate or personal property transaction, the lawyer must ensure that all funds received or held by the Closing Firm incidental to the closing of the transaction, including advances for costs and expenses, are held and maintained as set forth in this rule or LPORPC 1.12A. The lawyer's duty to ensure that all funds received or held by the Closing Firm incidental to the closing of the transaction are held and maintained as set forth in this rule or LPORPC 1.12A shall not apply to a lawyer when that lawyer's participation in the matter is incidental to the closing and (i) the lawyer or lawyer's law firm has a preexisting client-lawyer relationship with a buyer or seller in the transaction, and (ii) neither the lawyer nor the lawyer's law firm has an existing client-lawyer relationship with the Closing Firm or an LPO participating in the closing.

(b) A lawyer must not use, convert, borrow or pledge client or third person property for the lawyer's own use.

(c) A lawyer must hold property of clients and third persons separate from the lawyer's own property.

(1) A lawyer must deposit and hold in a trust account funds subject to this Rule pursuant to paragraph (h) of this Rule.

(2) Except as provided in Rule 1.5(f), and subject to the requirements of paragraph (h) of this Rule, a lawyer shall deposit into a trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(3) A lawyer must identify, label and appropriately safeguard any property of clients or third persons other than funds. The lawyer must keep records of such property that identify the property, the client or third person, the date of receipt and the location of safekeeping. The lawyer must preserve the records for seven years after return of the property.

(d) A lawyer must promptly notify a client or third person of receipt of the client or third person's property.

(e) A lawyer must promptly provide a written accounting to a client or third person after distribution of property or upon request. A lawyer must provide at least annually a written accounting to a client or third person for whom the lawyer is holding funds.

(f) Except as stated in this Rule, a lawyer must promptly pay or deliver to the client or third person the property which the client or third person is entitled to receive.

(g) If a lawyer possesses property in which two or more persons (one of which may be the lawyer) claim interests, the lawyer must maintain the property in trust until the dispute is resolved. The lawyer must promptly distribute all undisputed portions of the property. The lawyer must take reasonable action to resolve the dispute, including, when appropriate, interpleading the disputed funds.

(h) A lawyer must comply with the following for all trust accounts:

(1) No funds belonging to the lawyer may be deposited or retained in a trust account except as follows:

(i) funds to pay bank charges, but only in an amount reasonably sufficient for that purpose;

(ii) funds belonging in part to a client or third person and in part presently or potentially to the lawyer must be deposited and retained in a trust account, but any portion belonging to the lawyer must be withdrawn at the earliest reasonable time; or

(iii) funds necessary to restore appropriate balances.

(2) A lawyer must keep complete records as required by Rule 1.15B.

(3) A lawyer may withdraw funds when necessary to pay client costs. The lawyer may withdraw earned fees only after giving reasonable notice to the client of the intent to do so, through a billing statement or other document.

(4) Receipts must be deposited intact.

(5) All withdrawals must be made only to a named payee and not to cash. Withdrawals must be made by check or by ~~bank~~ electronic transfer.

(6) Trust account records must be reconciled as often as bank statements are generated or at least quarterly. The lawyer must reconcile the check register balance to the bank statement balance and reconcile the check register balance to the combined total of all client ledger records required by Rule 1.15B (a)(2).

(7) A lawyer must not disburse funds from a trust account until deposits have cleared the banking process and been collected, unless the lawyer and the bank have a written agreement by which the lawyer personally guarantees all deposits to the account without recourse to the trust account.

(8) Disbursements on behalf of a client or third person may not exceed the funds of that person on deposit. The funds of a client or third person must not be used on behalf of anyone else.

(9) Only a lawyer admitted to practice law may be an authorized signatory on the account.

(i) Trust accounts must be interest-bearing and allow withdrawals or transfers without any delay other than notice periods that are required by law or regulation and meet the requirements of ELC 15.7(d) and ELC 15.7(e). In the exercise of ordinary prudence, a lawyer may select any financial institution authorized by the Legal Foundation of Washington (Legal Foundation) under ELC 15.7(c). In selecting the type of trust account for the purpose of depositing and holding funds subject to this Rule, a lawyer shall apply the following criteria:

(1) When client or third-person funds will not produce a positive net return to the client or third person because the funds are nominal in amount or expected to be held for a short period of time the funds must be placed in a pooled interest-

bearing trust account known as an Interest on Lawyer's Trust Account or IOLTA. The interest earned on IOLTA accounts shall be paid to, and the IOLTA program shall be administered by, the Legal Foundation of Washington in accordance with ELC 15.4 and ELC 15.7(e).

(2) Client or third-person funds that will produce a positive net return to the client or third person must be placed in one of the following two types of non-IOLTA trust accounts unless the client or third person requests that the funds be deposited in an IOLTA account:

(i) a separate interest-bearing trust account for the particular client or third person with earned interest paid to the client or third person; or

(ii) a pooled interest-bearing trust account with sub-accounting that allows for computation of interest earned by each client or third person's funds with the interest paid to the appropriate client or third person.

(3) In determining whether to use the account specified in paragraph (i)(1) or an account specified in paragraph (i)(2), a lawyer must consider only whether the funds will produce a positive net return to the client or third person, as determined by the following factors:

(i) the amount of interest the funds would earn based on the current rate of interest and the expected period of deposit;

(ii) the cost of establishing and administering the account, including the cost of the lawyer's services and the cost of preparing any tax reports required for interest accruing to a client or third person's benefit; and

(iii) the capability of financial institutions to calculate and pay interest to individual clients or third persons if the account in paragraph (i)(2)(ii) is used.

(4) The provisions of paragraph (i) do not relieve a lawyer or law firm from any obligation imposed by these Rules or the Rules for Enforcement of Lawyer Conduct.

(j) In any transaction in which a lawyer has selected, prepared, or completed legal documents for use in the closing of any real estate or personal property transaction, where funds received or held in connection with the closing of the transaction, including advances for costs and expenses, are not being held in that lawyer's trust account, the lawyer must ensure that such funds, including funds being held by a closing firm, are held and maintained as set forth in this rule or LPORPC 1.12A. This duty shall not apply to a lawyer whose participation in a matter is incidental to the closing if (i) the lawyer or lawyer's law firm has a preexisting lawyer-client relationship with a buyer or seller in the transaction, and (ii) neither the lawyer nor the lawyer's law firm has an existing client-lawyer relationship with a closing firm or LPO participating in the closing.

#### Washington Comments

[1] A lawyer must also comply with the recordkeeping rule for trust accounts, Rule 1.15B.

[2] Client funds include, but are not limited to, the following: legal fees and costs that have been paid in advance other than retainers and flat fees complying with the requirements of Rule 1.5(f), funds received on behalf of a client, funds to be paid by a client to a third party through the lawyer, other funds subject to attorney and other liens, and payments received in excess of amounts billed for fees.

[3] This Rule applies to property held in any fiduciary capacity in connection with a representation, whether as trustee, agent, escrow agent, guardian, personal representative, executor, or otherwise.

[4] The inclusion of ethical obligations to third persons in the handling of trust funds and property is not intended to expand or otherwise affect existing law regarding a Washington lawyer's liability to third parties other than clients. See, e.g., *Trask v. Butler*, 123 Wn.2d 835, 872 P.2d 1080 (1994); *Hetzl v. Parks*, 93 Wn. App. 929, 971 P.2d 115 (1999).

[5] Property covered by this Rule includes original documents affecting legal rights such as wills or deeds.

[6] A lawyer has a duty to take reasonable steps to locate a client or third person for whom the lawyer is holding funds or property. If after taking reasonable steps, the lawyer is still unable to locate the client or third person, the lawyer should treat the funds as unclaimed property under the Uniform Unclaimed Property Act, RCW 63.29.

[7] A lawyer may not use as a trust account an account in which funds are periodically transferred by the financial institution between a trust account and an uninsured account or other account that would not qualify as a trust account under this Rule or ELC 15.7.

[8] If a lawyer accepts payment of an advanced fee deposit by credit card, the payment must be deposited directly into the trust account. It cannot be deposited into a general account and then transferred to the trust account. Similarly, credit card payments of earned fees, of retainers meeting the requirements of Rule 1.5 (f)(1), and of flat fees meeting the requirements of Rule 1.5 (f)(2) cannot be deposited into the trust account and then transferred to another account.

[9] Under paragraph (g), the extent of the efforts that a lawyer is obligated to take to resolve a dispute depend on the amount in dispute, the availability of methods for alternative dispute resolution, and the likelihood of informal resolution.

[10] The requirement in paragraph (h)(4) that receipts must be deposited intact means that a lawyer cannot deposit one check or negotiable instrument into two or more accounts at the same time, commonly known as a split deposit.

[11] Paragraph (h)(7) permits Washington lawyers to enter into written agreements with the trust account financial institution to provide for disbursement of trust deposits prior to formal notice of dishonor or collection. In essence the trust account bank is agreeing to or has guaranteed a loan to the lawyer and the client for the amount of the trust deposit pending collection of that deposit from the institution upon which the instrument was written. A Washington lawyer may only enter into such an arrangement if 1) there is a formal written agreement between the attorney and the trust account institution, and 2) the trust account financial institution provides the lawyer with written assurance that in the event of dishonor of the deposited instrument or other difficulty in collecting the deposited funds, the financial institution will not have recourse to the trust account to obtain the funds to reimburse the financial institution. A lawyer must never use one client's money to pay for withdrawals from the trust account on behalf of another client who is paid subject to the lawyer's guarantee. The trust account financial institution must agree that the institution will not seek to fund the guaranteed with-

drawal from the trust account, but will instead look to the lawyer for payment of uncollectible funds. Any such agreement must ensure that the trust account funds or deposits of any other client's or third person's money into the trust account would not be affected by the guarantee.

[12] The Legal Foundation of Washington was established by Order of the Supreme Court of Washington.

[13] A lawyer may, but is not required to, notify the client of the intended use of funds paid to the Foundation.

[14] If the client or third person requests that funds that would be deposited in a non-IOLTA trust account under paragraph (i)(2) instead be held in the IOLTA account, the lawyer should document this request in the lawyer's trust account records and preferably should confirm the request in writing to the client or third person.

[15] A lawyer may not receive from financial institutions earnings credits or any other benefit from the financial institution based on the balance maintained in a trust account.

[16] The term "Closing Firm" as used in this rule has the same definition as in ELPOC 1.3(g).

[17] The lawyer may satisfy the requirement of paragraph (aj), that the lawyer must ensure that all funds received or held by the a Closing Firm incidental to in connection with the closing of the transaction including advances for costs and expenses, are held and maintained as set forth in this rule or LPORPC 1.12A, by obtaining a certification or other reasonable assurance from the Closing Firm that the funds are being held in accordance with RPC 1.15A and/or LPORPC 1.12A. The lawyer is not required to personally inspect the books and records of the Closing Firm.

The last sentence of Paragraph (aj) is intended to relieve a lawyer from the duties of the paragraph (a) only if the lawyer or the lawyer's law firm has a previous client-lawyer relationship with one of the parties to the transaction and that party is a buyer or seller. Lawyers may be called on by clients to review deeds prepared during the escrow process, or may be asked to prepare special deeds such as personal representative's deeds for use in the closing. A lawyer may also be asked by a client to review documents such as settlement statements or tax affidavits that have been prepared for the closing. Such activities are limited in scope and are only incidental to the closing. The exception stated in the last sentence of paragraph (a) does not apply if the lawyer or the lawyer's law firm has an existing client-lawyer relationship with the Closing Firm or with a limited practice officer who is participating in the closing.

[18] When selecting a financial institution for purposes of depositing and holding funds in a trust account, a lawyer is obligated to exercise ordinary prudence under paragraph (i). All trust accounts must be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration up to the limit established by law for those types of accounts or be backed by United States Government Securities. Trust account funds must not be placed in stocks, bonds, mutual funds that invest in stock or bonds, or similar uninsured investments. See ELC 15.7(d).

[19] Only those financial institutions authorized by the Legal Foundation of Washington (Legal Foundation) are eligible to offer trust accounts to Washington lawyers. To become authorized, the financial institution must satisfy the

Legal Foundation that it qualifies as an authorized financial institution under ELC 15.7(c) and must have on file with the Legal Foundation a current Overdraft Notification Agreement under ELC 15.4. A list of all authorized financial institutions is maintained and published by the Legal Foundation and is available to any person on request.

[20] Upon receipt of a notification of a trust account overdraft, a lawyer must comply with the duties set forth in ELC 15.4(d) (lawyer must promptly notify the Office of Disciplinary Counsel of the Washington State Bar Association and include a full explanation of the cause of the overdraft).

**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.

**RULES OF PROFESSIONAL CONDUCT (RPC)**

**SUGGESTED AMENDMENT TO RULE 1.15B (a)(8) REQUIRED  
TRUST ACCOUNT RECORDS  
(REDLINE COPY)**

(a) A lawyer must maintain current trust account records. They may be in electronic or manual form and must be retained for at least seven years after the events they record. At minimum, the records must include the following:

(1) Checkbook register or equivalent for each trust account, including entries for all receipts, disbursements, and transfers, and containing at least:

- (i) identification of the client matter for which trust funds were received, disbursed, or transferred;
- (ii) the date on which trust funds were received, disbursed, or transferred;
- (iii) the check number for each disbursement;
- (iv) the payor or payee for or from which trust funds were received, disbursed, or transferred; and
- (v) the new trust account balance after each receipt, disbursement, or transfer;

(2) Individual client ledger records containing either a separate page for each client or an equivalent electronic record showing all individual receipts, disbursements, or transfers, and also containing:

- (i) identification of the purpose for which trust funds were received, disbursed, or transferred;
- (ii) the date on which trust funds were received, disbursed or transferred;
- (iii) the check number for each disbursement;
- (iv) the payor or payee for or from which trust funds were received, disbursed, or transferred; and
- (v) the new client fund balance after each receipt, disbursement, or transfer;

(3) Copies of any agreements pertaining to fees and costs;

(4) Copies of any statements or accountings to clients or third parties showing the disbursement of funds to them or on their behalf;

(5) Copies of bills for legal fees and expenses rendered to clients;

(6) Copies of invoices, bills or other documents supporting all disbursements or transfers from the trust account;

(7) Bank statements, copies of deposit slips, and cancelled checks or their equivalent;

(8) Copies of all trust account bank and client ledger reconciliations; and

(9) Copies of those portions of clients' files that are reasonably necessary for a complete understanding of the financial transactions pertaining to them.

(b) Upon any change in the lawyer's practice affecting the trust account, including dissolution or sale of a law firm or suspension or other change in membership status, the lawyer must make appropriate arrangements for the maintenance of the records specified in this Rule.

**WSR 13-23-024**

**RULES OF COURT**

**STATE SUPREME COURT**

[November 6, 2013]

IN THE MATTER OF THE ADOPTION ) ORDER  
OF AMENDMENTS TO DISCIPLINE ) NO. 25700-A-1041  
RULES FOR JUDGES (DRJ) 1, 2, 3, 4, 5, )  
6, 7, 10, 11, 12 & 13 )

The Commission on Judicial Conduct having recommended the adoption of the proposed amendments to Discipline Rules for Judges (DRJ) 1, 2, 3, 4, 5, 6, 7, 10, 11, 12 & 13, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as shown below are adopted.

(b) That the amendments will be published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 6th day of November, 2013.

	Madsen, C.J.
C. Johnson, J.	Stephens, J.
Owens, J.	Wiggins, J.
Fairhurst, J.	Gonzalez, J.
J. M. Johnson, J.	Gordon McCloud, J.

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 13-24 issue of the Register.

WSR 13-23-025
RULES OF COURT
STATE SUPREME COURT

[November 6, 2013]

IN THE MATTER OF THE ADOPTION ) ORDER
OF AMENDMENTS TO ER 901— ) NO. 25700-A-1042
REQUIREMENT OF AUTHENTICAFICA- )
TION OR IDENTIFICATION )

The Washington State Bar Association having recom-
mended the adoption of the proposed amendments to ER
901—Requirement of Authentication or Identification, and
the Court having considered the amendments and comments
submitted thereto, and having determined that the proposed
amendments will aid in the prompt and orderly administra-
tion of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as shown below are adopted.

(b) That the amendments will be published in the Wash-
ington Reports and will become effective upon publication.

DATED at Olympia, Washington this 6th day of Novem-
ber, 2013.

C. Johnson, J. Madsen, C.J.
Stephens, J.
Owens, J. Wiggins, J.
Fairhurst, J. Gonzalez, J.
J. M. Johnson, J. Gordon McCloud, J.

Reviser's note: The spelling error in the above material occurred in the
copy filed by the State Supreme Court and appears in the Register pursuant
to the requirements of RCW 34.08.040.

SUGGESTED AMENDMENT

SUPERIOR COURT RULES OF EVIDENCE (ER)
RULE 901—REQUIREMENT OF AUTHENTICATION OR IDEN-
TIFICATION

(a) General Provision. The requirement of authentica-
tion or identification as a condition precedent to admissibility
is satisfied by evidence sufficient to support a finding that the
matter in question is what its proponent claims.

(b) Illustrations. By way of illustration only, and not by
way of limitation, the following are examples of authentica-
tion or identification conforming with the requirements of
this Rule:

(1) Testimony of Witness With Knowledge. Testimony
that a matter is what it is claimed to be.

(2) Nonexpert Opinion on Handwriting. Nonexpert opin-
ion as to the genuineness of handwriting, based upon famil-
iarity not acquired for purposes of the litigation.

(3) Comparison by Court or Expert Witness. Compari-
son by the court or by expert witnesses with specimens which
have been authenticated.

(4) Distinctive Characteristics and the Like. Appear-
ance, contents, substance, internal patterns, or other distinc-
tive characteristics, taken in conjunction with circumstances.

(5) Voice Identification. Identification of a voice,
whether heard firsthand or through mechanical or electronic
transmission or recording, by opinion based upon hearing the
voice at any time under circumstances connecting it with the
alleged speaker.

(6) Telephone Conversations. Telephone conversations,
by evidence that a call was made to the number assigned at
the time by the telephone company to a particular person or
business, if (i) in the case of a person, circumstances, includ-
ing self-identification, show the person answering to be the
one called, or (ii) in the case of a business, the call was made
to a place of business and the conversation related to business
reasonably transacted over the telephone.

(7) Public Records or Reports. [Reserved. See RCWA
5.44 and CR 44.]

(8) Ancient Documents or Data Compilation. Evidence
that a document or data compilation, in any form, (i) is in
such condition as to create no suspicion concerning its
authenticity (ii) was in a place where it, if authentic, would
likely be, and (iii) has been in existence 20 years or more at
the time it is offered.

(9) Process or System. Evidence describing a process or
system used to produce a result and showing that the process
or system produces an accurate result.

(10) Electronic Mail (E-Mail). Testimony by a person
with knowledge that (i) the e-mail purports to be authored or
created by the particular sender or the sender's agent; (ii) the
e-mail purports to be sent from an e-mail address associated
with the particular sender or the sender's agent; and (iii) the
appearance, contents, substance, internal patterns, or other
distinctive characteristics of the e-mail, taken in conjunction
with the circumstances, are sufficient to support a finding that
the e-mail in question is what the proponent claims.

(11) Methods Provided by Statute or Rule. Any
method of authentication or identification provided by statute
or court rule.

Reviser's note: The spelling errors in the above material occurred in
the copy filed by the State Supreme Court and appear in the Register pursu-
ant to the requirements of RCW 34.08.040.

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 Reg-
ister pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above material occurred
in the copy filed by the State Supreme Court and appears in the Register pur-
suant to the requirements of RCW 34.08.040.

WSR 13-23-026
RULES OF COURT
STATE SUPREME COURT

[November 6, 2013]

IN THE MATTER OF THE ADOPTION ) ORDER
OF AMENDMENTS TO RAP 17.4(b)— ) NO. 25700-A-1043
FILING AND SERVICE MOTION— )
ANSWER TO MOTION )

The Court of Appeals having recommended the adoption
of the proposed amendments to RAP 17.4(b)—Filing and

Service of Motion—Answer to Motion, and the Court having determined that the proposed amendment will aid in the prompt and orderly administration of justice and further determined the need for expedited adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as shown below are adopted under emergency provisions of GR 9.

(b) That the amendments will be published expeditiously and will become effective upon publication.

DATED at Olympia, Washington this 6th day of November, 2013.

	Madsen, C.J.
C. Johnson, J.	Stephens, J.
Owens, J.	Wiggins, J.
Fairhurst, J.	Gonzalez, J.
J. M. Johnson, J.	Gordon McCloud, J.

RAP 17.4(b)

FILING AND SERVICE OF MOTION—ANSWER TO MOTION

(b) Emergency Motion.

...

An emergency motion may be presented on less notice ~~that~~ than that required by section (a).

WSR 13-23-027  
RULES OF COURT  
STATE SUPREME COURT

[November 6, 2013]

IN THE MATTER OF THE ADOPTION	)	ORDER
OF THE AMENDMENT TO ER 1101	)	NO. 25700-A-1044
(c)(4)—APPLICABILITY OF RULES—	)	
WHEN RULES NEED NOT BE	)	
APPLIED—APPLICATIONS FOR PRO-	)	
TECTION ORDERS	)	

The District Municipal Court Judges' Association having recommended the adoption of the proposed amendment to ER 1101 (c)(4)—Applicability of Rules—When Rules Need Not Be Applied—Applications for Protection Orders, and the Court having determined that the proposed amendment will aid in the prompt and orderly administration of justice and further determined the need for expedited adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as shown below are adopted under emergency provisions of GR 9.

(b) That the amendments will be published expeditiously and will become effective upon publication.

DATED at Olympia, Washington this 6th day of November, 2013.

	Madsen, C.J.
C. Johnson, J.	Stephens, J.

Owens, J.	Wiggins, J.
Fairhurst, J.	Gonzalez, J.
J. M. Johnson, J.	Gordon McCloud, J.

Proposed Amendment:

EVIDENCE RULE 1101  
APPLICABILITY OF RULES

(a) Courts Generally. Except as otherwise provided in section (c), these rules apply to all actions and proceedings in the courts of the state of Washington. The terms "judge" and "court" in these rules refer to any judge of any court to which these rules apply or any other officer who is authorized by law to hold any hearing to which these rules apply.

(b) Law With Respect to Privilege. The law with respect to privileges applies at all stages of all actions, cases, and proceedings.

(c) When Rules Need Not Be Applied. The rules (other than with respect to privileges, the rape shield statute and ER 412)) need not be applied in the following situations:

(1) Preliminary Questions of Fact. The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under rule 104(a).

(2) Grand Jury. Proceedings before grand juries and special inquiry judges.

(3) Miscellaneous Proceedings. Proceedings for extradition or rendition; detainer proceedings under RCW 9.100; preliminary determinations in criminal cases; sentencing, or granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; proceedings with respect to release on bail or otherwise; contempt proceedings in which the court may act summarily; habeas corpus proceedings; small claims court; supplemental proceedings under RCW 6.32; coroners' inquests; preliminary determinations in juvenile court; juvenile court hearings on declining jurisdiction; disposition, review, and permanency planning hearings in juvenile court; dispositional determinations related to treatment for alcoholism, intoxication, or drug addiction under RCW 70.96A; and dispositional determinations under the Civil Commitment Act, RCW 71.05.

(4) Applications for Protection Orders. Protection order proceedings under RCW 7.90, 7.94, 10.14, 26.50 and 74.34. Provided when a judge proposes to consider information from a criminal or civil database, the judge shall disclose the information to each party present at the hearing; on timely request, provide each party with an opportunity to be heard; and, take appropriate measures to alleviate litigants' safety concerns. The judge has discretion not to disclose information that he or she does not propose to consider.

(d) Arbitration Hearings. In a mandatory arbitration hearing under RCW 7.06, the admissibility of evidence is governed by MAR 5.3.

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 13-23-028
RULES OF COURT
STATE SUPREME COURT

[November 6, 2013]

IN THE MATTER OF THE ADOPTION ) ORDER
OF THE AMENDMENTS TO CrRLJ ) NO. 25700-A-1045
4.2(g)—STATEMENT OF DEFENDANT )
ON PLEA OF GUILTY AND DUI )
ATTACHMENT AND WASHINGTON )
STATE MISDEMEANOR DUI SEN- )
TENCING ATTACHMENT and CrRLJ )
4.2(i)—PETITION FOR DEFERRED )
PROSECUTION AND PETITION FOR )
DEFERRED PROSECUTION OF CRIM- )
INAL MISTREATMENT CHARGE )

The Pattern Forms Committee having recommended the adoption of the proposed amendment to CrRLJ 4.2(g)—Statement of Defendant on Plea of Guilty and DUI Attachment and Washington State Misdemeanor DUI Sentencing Attachment and CrRLJ 4.2(i)—Petition for Deferred Prosecution and Petition for Deferred Prosecution of Criminal Mistreatment Charge, and the Court having determined that the proposed amendment will aid in the prompt and orderly administration of justice and further determined the need for expedited adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as shown below is adopted.

(b) That the amendment will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 6th day of November, 2013.

C. Johnson, J. Madsen, C.J.
Owens, J. Stephens, J.
Fairhurst, J. Wiggins, J.
J. M. Johnson, J. Gordon McCloud, J.

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 13-24 issue of the Register.

WSR 13-23-029
RULES OF COURT
STATE SUPREME COURT

[November 7, 2013]

IN THE MATTER OF THE ADOPTION ) ORDER
OF AMENDMENTS TO ELC 3.6— ) NO. 25700-A-1046
MAINTENANCE OF RECORDS, ELC )
4.10—REDACTION OR OMISSION OF )
CONFIDENTIAL IDENTIFIERS, ELC )
5.1—GRIEVANTS AND ELC 11.2— )
DECISIONS SUBJECT TO BOARD )
REVIEW )

The Washington State Bar Association Office of Disciplinary Counsel having recommended the adoption of the proposed amendments to ELC 3.6—Maintenance of Records, ELC 4.10—Redaction or Omission of Confidential Identifiers, ELC 5.1—Grievants and ELC 11.2—Decisions Subject to Board Review, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as shown below are adopted.

(b) That the amendments will be published in the Washington Reports and will become effective on January 1, 2014.

DATED at Olympia, Washington this 7th day of November, 2013.

C. Johnson, J. Madsen, C.J.
Owens, J. Stephens, J.
Fairhurst, J. Wiggins, J.
J. M. Johnson, J. Gonzalez, J.
Gordon McCloud, J.

SUGGESTED AMENDMENTS TO RULES 3.6, 4.10, 5.1, AND 11.2 OF THE RULES FOR ENFORCEMENT OF LAWYER CONDUCT
Redline Version

RULE 3.6 MAINTENANCE OF RECORDS

(a) Permanent Records. In any matter in which a disciplinary sanction or admonition has been imposed or the lawyer has resigned in lieu of discipline under rule 9.3, the bar file and transcripts of the proceeding are permanent records. Related file materials, including investigative files, may be maintained in disciplinary counsel's discretion. Exhibits may be returned to the party supplying them, but copies should be retained where possible.

(b) Destruction of Files. In any matter in which a grievance or investigation has been dismissed without the imposition of a disciplinary sanction or admonition, whether following a hearing or otherwise, file materials relating to the matter may be destroyed three years after the dismissal first occurred, and must be destroyed at that time on the respondent lawyer's request unless the files are being used in an ongoing investigation or unless other good cause exists for retention. However, file materials on a matter dismissed after a diversion must be retained at least ten five years after the dismissal. If disciplinary counsel opposes a request by a respondent for destruction of files under this rule, the Board rules on that request.

(c) Retention of Docket. If a file on a matter has been destroyed under section (b), the Association may retain a docket record of the matter for statistical purposes only. That docket record must not include the name or other identification of the respondent.

(d) Deceased Lawyers. Records and files relating to a deceased lawyer, including permanent records, may be destroyed at any time in disciplinary counsel's discretion.

**RULE 4.10 REDACTION OR OMISSION OF CONFIDENTIAL IDENTIFIERS**

In all matters filed with a review committee, a hearing officer or the chief hearing officer, the clerk, the Board, or the Supreme Court, both disciplinary counsel and respondents must redact or omit from all exhibits, documents, and pleadings all personal identifiers as are required to be redacted or omitted by the General Rules applicable to the Superior Court, including GR 15, 22, and 31. When it is not feasible to redact or omit a personal identifier, the filing party must seek a protective order under rule 3.2(e) to have the document filed under seal. This rule does not apply to a request for review of dismissal under rule 5.7(b) or a request for review of deferral under rule 5.3 (d)(2).

**RULE 5.1 GRIEVANTS**

(a) - (b) [Unchanged.]

(c) **Grievant Rights.** A grievant has the following rights:

(1) - (2) [Unchanged.]

(3) to receive a copy of any response submitted by the respondent, subject to the following:

(A) [Unchanged.]

(B) Challenge to Disclosure Decision. Either the grievant or the respondent may file a challenge to disciplinary counsel's decision to withhold or not withhold all or a portion of a grievance or response within 20 days of the date of mailing of the decision. The challenge shall be resolved by a review committee, unless the matter has previously been dismissed under rule 5.67(d).

(4) - (9) [Unchanged.]

(d) - (e) [Unchanged.]

**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.

**RULE 11.2 DECISIONS SUBJECT TO BOARD REVIEW**

(a) **Decision.** For purposes of this title, "Decision" means:

(1) the hearing officer's findings of fact, conclusions of law, and recommendation, provided that if either party properly files a motion to amend under rule 10.16(c), the "Decision" includes the ruling on the motion, and becomes subject to Board review only upon the ruling on the motion; or

(2) the hearing officer's decision under rule 10.10(a) dismissing all claims.

(b) **Review of Decisions.** The Board reviews a Decision if ~~within 30 days of service of the Decision on the respondent.~~

(1) either party files a notice of appeal within 30 days of service of the Decision on the respondent; or

~~(2) the Chair files a notice of referral for sua sponte consideration under rule 11.3(b) of the a decision not recommending suspension or disbarment~~ the Board orders sua sponte review under rule 11.3.

(c) **Cross Appeal.** If a party files a timely notice of appeal under subsection (b)(1) of this rule and the other party wants relief from the Decision, the other party must file a notice of appeal with the Clerk within the later of (1) 14 days

after service of the notice filed by the other party, or (2) within the time set forth in subsection (b) for filing a notice of appeal.

**WSR 13-23-030**

**RULES OF COURT**

**STATE SUPREME COURT**

[November 7, 2013]

IN THE MATTER OF THE ADOPTION ) ORDER  
OF THE AMENDMENTS TO RALJ ) NO. 25700-A-1047  
5.4—LOSS OR DAMAGE OF ELEC- )  
TRONIC RECORD AND RALJ 11.7— )  
APPLICATION OF OTHER COURT )  
RULES )

The King County Prosecuting Attorney having recommended the adoption of the proposed amendments to RALJ 5.4—Loss or Damage of Electronic Record and RALJ 11.7—Application of Other Court Rules, 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 shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's web sites in January, 2014.

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

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2014. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Denise.Foster@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 7th day of November,.

For the Court

Madsen, C.J.

CHIEF JUSTICE

**GR 9 COVER SHEET  
Suggested Rule Change**

**RALJ 5.4**

**Application of Other Court Rules—Rules of Appellate Procedure**

**PURPOSE:** The Office of the King County Prosecuting Attorney is suggesting a change to the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ), to clarify the scope of a "new trial" mandated in the event of a lost electronic record.

All proceedings in courts of limited jurisdiction are preserved through an electronic record. Unfortunately, these records are occasionally lost or destroyed through computer or microphone malfunction. RALJ 5.4 provides that the remedy for a lost electronic record is "a new trial." The purpose of this suggested change is to clarify the meaning of a "new trial" when the lost or damaged electronic record pertains to a pretrial hearing, not a trial.

When a lost or damaged record pertains to the trial, RALJ 5.4's remedy is logical and easily applied on remand. However, if the lost or damaged record pertains to a pretrial hearing, the remedy is more complicated and difficult to apply. Courts of limited jurisdiction need guidance on this issue.

For example, if the lost electronic record pertains to a pretrial CrRLJ 3.5 hearing, rather than a trial, then what is the scope of the "new trial" on remand? In this situation, RALJ 5.4's remedy is ambiguous. Obviously, the appellant should be entitled to relitigate the CrRLJ 3.5 hearing for which the record was lost or destroyed. However, RALJ 5.4 does not specify that the appellant is entitled to relitigate the CrRLJ 3.5 hearing; it specifies that the appellant is entitled to "a new trial."

Assuming that "a new trial" allows the appellant to relitigate pretrial matters for which the record was lost or destroyed, it is still unclear whether the appellant is entitled to relitigate pretrial matters for which the electronic record survived.

Take, for example, a case in which a CrRLJ 3.6 suppression hearing was held on a different date than a CrRLJ 3.5 hearing. If the record of the CrRLJ 3.6 suppression hearing survived but the record of the CrRLJ 3.5 hearing was destroyed, should the appellant be entitled to relitigate both the CrRLJ 3.5 hearing and the CrRLJ 3.6 suppression hearing? Because RALJ 5.4 protects an appellant's right to obtain appellate review, and the appellant can obtain appellate review of any hearing for which the electronic hearing survived, the trial court should not be required to relitigate a hearing with a viable record that remains subject to appellate review. In that situation, relitigation of all pretrial matters is a waste of the court's limited resources and an unnecessary windfall to the appellant.

However, there are circumstances in which the lost record from one pretrial hearing may affect the proceedings in a subsequent pretrial hearing. For example, if the testimony at a CrRLJ 3.5 hearing affected the court's ruling at a subsequent CrRLJ 3.6 hearing, then the hearings are materially related and the appellant should be entitled to relitigate both hearings.

Finally, there is also a question as to whether the appellant should receive a new trial when the record of a pretrial hearing is lost but the record of the trial survived. If the litigation of the lost pretrial hearing would not affect the trial, there is no reason to hold a new trial. The trial record is still subject to review on appeal. A new trial should be held only if relitigation of a pretrial matter affects the evidence at trial.

The remedy provided by RALJ 5.4 lacks specificity. In its current form, the rule presumes that pretrial matters and trial are heard at the same time, such that any loss of an electronic record necessarily implies the loss of a trial record. In

practice, however, courts of limited jurisdiction hold numerous pretrial hearings prior to trial. Some of those pretrial hearings affect trial, and some do not.

The proposed amendment to RALJ 5.4 clarifies that the remedy for a lost or damaged record of a pretrial hearing is relitigation of the pretrial hearing for which the electronic record was lost or destroyed. The trial court need not relitigate a pretrial hearing or trial for which the electronic record survived, unless the appellant can demonstrate that a pretrial hearing or trial was materially affected by the lost electronic record.

#### RALJ 5.4 LOSS OR DAMAGE OF ELECTRONIC RECORD

In the event of loss or damage of the electronic record, or any significant or material portion thereof, the appellant, upon motion to the superior court, shall be entitled to a new trial, but only if the loss or damage of the record is not attributable to the appellant's malfeasance. If the lost record pertains to material or significant pretrial matter, the appellant shall be entitled to a new hearing on the matter for which the record was lost or destroyed. The trial court of limited jurisdiction will not relitigate a pretrial matter or a trial for which there is an electronic record subject to appellate review, unless the appellant demonstrates a court determines that the pretrial matter or the trial was materially affected by the lost electronic record. In lieu of a new trial, the parties may stipulate to a nonelectronic record as provided in rule 6.1(b). The court of limited jurisdiction shall have the authority to determine whether or not significant or material portions of the electronic record have been lost or damaged, subject to review by the superior court upon motion.

#### GR 9 COVER SHEET

#### Suggested Rule Change

#### RALJ 11.7(e)

#### Application of Other Court Rules—Rules of Appellate Procedure

**PURPOSE:** The Office of the King County Prosecuting Attorney is suggesting a change to the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ), to expressly allow the application of appropriate Rules of Appellate Procedure in appeals from courts of limited jurisdiction.

The purpose of this suggested change is to clarify that the enumerated Rules of Appellate Procedure supplement the Rules for Appeal of Decisions of Courts of Limited Jurisdiction when these rules do not conflict and when application is practicable. Currently, common appellate procedures permitted by the Rules of Appellate Procedure are not expressly incorporated under the RALJ.

Specifically, the RALJ do not provide a mechanism for moving to strike a brief that fails to comply with Title 7. Compare RAP 10.7. The RALJ do not provide a standard for consolidating cases on appeal. Compare RAP 3.3. The RALJ do not define the scope of issues that may be raised for the first time on review, nor do they define the scope of review for a case that has returned to the appellate court following remand. Compare RAP 2.5. The RALJ do not expressly per-

mit a statement of additional authorities. Compare RAP 10.8. The RALJ do not give the court of limited jurisdiction the authority to settle the record. Compare RAP 7.2

The RALJ allow a respondent to seek cross-review of a decision of the court of limited jurisdiction. RALJ 2.1(a). However, unlike the Rules of Appellate Procedure, the RALJ do not specify the scope of cross-review. Compare RAP 2.4(a).

The RALJ provide a streamlined procedure for appeals from courts of limited jurisdiction. However, in the aforementioned circumstances, the RALJ procedure would benefit from limited application of the more clearly defined Rules of Appellate Procedure.

**RALJ 11.7 APPLICATION OF OTHER COURT RULES**

**(a) Civil Rules.** The following Superior Court Civil Rules are applicable to appellate proceedings in civil cases in the superior court when not in conflict with the purpose or intent of these rules and when application is practicable: CR 1 (scope of rules), CR 2A (stipulations), CR 6 (time), CR 7(b) (form of motions), CR 11 (signing of pleadings), CR 25 (substitution of parties), CR 40 (a)(2) (notice of issues of law), CR 42 (consolidation; separate trials), CR 46 (exceptions unnecessary), CR 54(a) (judgments and orders), CR 60 (relief from judgment or order), CR 71 (withdrawal by attorney), CR 77 (superior courts and judicial officers), CR 78 (clerks), CR 79 (books and records kept by the clerk), CR 80 (court reporters), and CR 83 (local rules of superior court).

**(b) Criminal Rules.** The following Superior Court Criminal Rules are applicable to appellate proceedings in criminal cases in the superior court when not in conflict with the purpose or intent of these rules and when application is practicable: CrR 1.1 (scope), CrR 1.2 (purpose and construction), CrR 1.4 (prosecuting attorney definition), CrR 3.1 (right to and assignment of counsel), CrR 7.1 (sentencing), CrR 7.2 (presentence investigation), CrR 8.1 (time), CrR 8.2 (motions), CrR 8.5 (calendars), CrR 8.6 (exceptions unnecessary), CrR 8.7 (objections), and CrR 8.8 (discharge).

**(c) Civil Rules for Courts of Limited Jurisdiction.** The following Civil Rules for Courts of Limited Jurisdiction are applicable to appellate proceedings in civil cases in the court of limited jurisdiction when not in conflict with the purpose or intent of these rules and when application is practicable: CRLJ 5 (service and filing), CRLJ 6 (time), CRLJ 7(b) (motions), CRLJ 8 (general rules of pleading), CRLJ 10 (form of pleadings), CRLJ 11 (verification and signing of pleadings), CRLJ 25 (substitution of parties), CRLJ 40(b) (disqualification of judge), and CRLJ 60 (relief from judgment or order).

**(d) Criminal Rules for Courts of Limited Jurisdiction.** The following Criminal Rules for Courts of Limited Jurisdiction are applicable to appellate proceedings in criminal cases in the court of limited jurisdiction when not in conflict with the purpose or intent of these rules and when application is practicable: CrRLJ 1.7 (local court rules--availability), CrRLJ 1.5 (style and form), CrRLJ 3.1 (right to and assignment of lawyer), CrRLJ 8.9 (disqualification of judge), CrRLJ 8.9(c) (disqualification of judge--transfer), CrRLJ 7.8(a) (clerical mistakes), CrRLJ 8.1 (time), and CrRLJ 8.2 (motions). (Editorial Note: Effective September 1, 1987, Jus-

tice Court Criminal Rules (JCrR) were retitled Criminal Rules for Courts of Limited Jurisdiction (CrRLJ). Effective September 1, 1989, Justice Court Civil Rules (JCR) were retitled Civil Rules for Courts of Limited Jurisdiction (CRLJ).)

<<++++>> **(e) Rules of Appellate Procedure.** The following Rules of Appellate Procedure are applicable to appellate proceedings in criminal cases in the court of limited jurisdiction when not in conflict with the purpose or intent of these rules and when application is practicable: RAP 2.4(a) (scope of review), RAP 2.5 (circumstances which may affect the scope of review), RAP 3.3 (consolidation of cases), RAP 7.2(b) (authority of trial court to settle the record), RAP 10.7 (submission of improper brief), RAP 10.8 (additional authorities).<<++++>>

**WSR 13-23-031**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
[November 7, 2013]

IN THE MATTER OF THE ADOPTION ) ORDER  
OF THE AMENDMENTS TO RAP ) NO. 25700-A-1048  
2.2(c)—DECISIONS OF THE SUPE- )  
RIOR COURT THAT MAY BE )  
APPEALED, RAP 5.3(a)—CONTENT )  
OF NOTICE—FILING—CONTENT OF )  
NOTICE OF APPEAL, RAP 5.3(j)— )  
CONTENT OF NOTICE—FILING— )  
ASSISTANCE TO DEFENDANT IN )  
CRIMINAL CASE OR PARTY ENTI- )  
TLED TO REVIEW AT PUBLIC )  
EXPENSE, RAP 5.4(a)—FILING AND )  
SERVICE OF NOTICE, RAP 6.2(c)— )  
DISCRETIONARY REVIEW, RAP 9.6— )  
DESIGNATION OF CLERK'S PAPERS )  
AND EXHIBITS, RAP 9.7(b)—PREPAR- )  
ING CLERK'S PAPERS AND EXHIBITS )  
FOR APPELLATE COURT, RAP 10.10— )  
STATEMENT OF ADDITIONAL )  
GROUNDS FOR REVIEW, RAP 16.2— )  
ORIGINAL ACTION AGAINST STATE )  
OFFICER, RAP 16.14(a)—PERSONAL )  
RESTRAINT PETITION—APPELLATE )  
REVIEW, RAP 17.1(a)—SCOPE, RAP )  
18.3(b)—WITHDRAWAL BY COUN- )  
SEL AND RAP 18.13A—ACCELER- )  
ATED REVIEW OF JUVENILE DEPEN- )  
DENCY, DISPOSITION ORDERS AND, )  
ORDERS TERMINATING PARENTAL )  
RIGHTS, AND DEPENDENCY )  
GUARDIANSHIP ORDERS )

The Washington State Bar Association and Court of Appeals having recommended the adoption of the proposed amendments to RAP 2.2(c)—Decisions of the Superior Court that May Be Appealed, RAP 5.3(a)—Content of Notice—Filing—Content of Notice of Appeal, RAP 5.3(j)—Content of Notice—Filing—Assistance to Defendant in Criminal Case or Party Entitled to Review at Public Expense, RAP 5.4(a)—Filing and Service of Notice, RAP 6.2(c)—Discretionary

Review, RAP 9.6—Designation of Clerk's Papers and Exhibits, RAP 9.7(b)—Preparing Clerk's Papers and Exhibits for Appellate Court, RAP 10.10—Statement of Additional Grounds For Review, RAP 16.2—Original Action Against State Officer, RAP 16.14(a)—Personal Restraint Petition—Appellate Review, RAP 17.1(a)—Scope, RAP 18.3(b)—Withdrawal by Counsel and RAP 18.13A—Accelerated Review of Juvenile Dependency, Disposition Orders and, Orders Terminating Parental Rights, and Dependency Guardianship Orders, 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 shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January, 2014.

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

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2014. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Denise.Foster@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 7th day of November, 2013.

For the Court

Madsen, C.J.

CHIEF JUSTICE

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 13-24 issue of the Register.

WSR 13-23-033

NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
(Board of Denturists)

[Filed November 13, 2013, 11:38 a.m.]

In accordance with the Open Public Meeting[s] Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW), the following is the schedule of regular meetings for the department of health, board of denturists, for the year 2014. The board of denturists meetings are open to the public and access for persons with disabilities may be arranged with advance notice; please contact the staff person below for more information.

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

Table with 3 columns: Date, Time, Location. Rows include dates like January 31, 2014, April 10, 2014, August 8, 2014, and November 7, 2014, with times at 9:00 a.m. and locations at Department of Health Town Center 3, 2, or 1, Room 224, 158, or 163, Tumwater.

If you need further information, please contact Vicki Brown, Program Manager, Board of Denturists, Washington Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4865, fax (360) 236-2901, vicki.brown@doh.wa.gov, www.doh.wa.gov.

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

WSR 13-23-034

NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
(Dental Hygiene Examining Committee)

[Filed November 13, 2013, 11:38 a.m.]

In accordance with the Open Public Meeting[s] Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW), the following is the schedule of regular meetings for the department of health, dental hygiene examining committee, for the year 2014. The dental hygiene examining committee meetings are open to the public and access for persons with disabilities may be arranged with advance notice; please contact the staff person below for more information.

Agendas for the meetings listed below are made available in advance via listserv and the department of health web site (see below). Every attempt is made to ensure that the agenda is up-to-date. However, the dental hygiene examining committee reserves the right to change or amend agendas at the meeting.

Table with 3 columns: Date, Time, Location. Row includes date February 7, 2014, time 9:00 a.m., and location Conference Call.

Date	Time	Location
June 2, 2014	9:00 a.m.	Department of Health Town Center 2 Room 158 Tumwater
August 16, 2014	9:00 a.m.	Department of Health Town Center 2 Room 158 Tumwater
October 10, 2014	9:00 a.m.	Department of Health Town Center 2 Room 158 Tumwater

If you need further information, please contact Vicki Brown, Program Manager, Dental Hygiene Examining Committee, Washington Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4865, fax (360) 236-2901, vicki.brown@doh.wa.gov, www.doh.wa.gov.

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

**WSR 13-23-037**  
**RULES OF COURT**  
**STATE SUPREME COURT**

[November 12, 2013]

IN THE MATTER OF THE ADOPTION ) ORDER  
 OF THE AMENDMENTS TO, RAP ) NO. 25700-A-1049  
 10.2—TIME FOR FILING BRIEFS )

The Court having recommended the adoption of the proposed amendments to RAP 10.2—Time for Filing Briefs, 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 shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January, 2014.

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

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2014. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Denise.Foster@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 12th day of November, 2013.

For the Court

Madsen, C.J.

CHIEF JUSTICE

**GR 9 COVER SHEET**

**Suggested Change**

**RULES OF APPELLATE PROCEDURE (RAP)**

**Rule 10.2—TIME FOR FILING BRIEFS**

**Purpose:** The current rule for determining the deadline for an amicus curiae brief does not differentiate between cases in the Supreme Court and Court of Appeals, and, in both instances, primarily ties the amicus brief deadline to the oral argument date set by the appellate court. This approach has caused problems for both parties and the courts.

At the Supreme Court level, timely amicus curiae brief submissions do not always leave parties with sufficient time to submit an answering brief, or provide the court itself with sufficient time to fully consider amicus-related submissions in advance of oral argument. Under RAP 10.6, the Supreme Court does not set a date for filing the parties' answers to amicus briefs until the expiration of five business days after the amicus motion and accompanying amicus brief have been filed. The proposed amendment is designed to allow the Supreme Court adequate time to consider not just the amicus brief, but also the parties' answer to an amicus brief, before circulation of the Court's pre-hearing memorandum.

At the Court of Appeals level, letters setting oral argument are sometimes issued relatively close to the oral argument date, creating unreasonable time constraints for amicus curiae, parties submitting answering briefs, and for the court itself in fully considering amicus-related submissions in advance of oral argument. These same difficulties also may occur in those Court of Appeals cases where the court determines to consider the case on the merits without oral argument.

The proposed amendments set deadlines for amicus curiae briefs with due regard for these problems, and the differences between Supreme Court and Court of Appeals practice. The amendment is designed to minimize uncertainties regarding amicus curiae brief deadlines, increase the time available after an amicus curiae brief is submitted for the parties to file answering briefs, and allow the court more time to fully consider amicus-related submissions in advance of oral argument.

**(f) Brief of Amicus Curiae.** ~~A brief of amicus curiae not requested by the appellate court should be received by the appellate court and counsel of record for the parties and any other amicus curiae not later than 30 days before oral argument or consideration on the merits, unless the court sets a later different date, or allows a later date upon a showing of particular justification by the applicant.~~ a brief of amicus curiae should be filed as follows:

(1) Supreme Court. A brief of amicus curiae should be received by the court and counsel of record for the parties and any other amicus curiae the earlier of not later than 90 days after review has been granted or 45 days before oral argument or consideration on the merits.

(2) Court of Appeals. A brief of amicus curiae should be received by the court and counsel of record for the parties and any other amicus curiae not later than 45 days after the due date for the last brief of respondent permitted under this rule ~~10.2(b)~~.

**Reviser's note:** The unnecessary strikethrough in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 13-23-038**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
[November 12, 2013]

IN THE MATTER OF THE ADOPTION ) ORDER  
OF THE AMENDMENTS TO RALJ ) NO. 25700-A-1050  
2.2—WHAT MAY BE APPEALED, RAP )  
5.3—CONTENT OF NOTICE—FILING, )  
RAP 10.3—CONTENT OF BRIEF AND )  
RAP 18.5—SERVICE AND FILING OF )  
PAPERS )

The Washington State Bar Association having recommended the adoption of the proposed amendments to RALJ 2.2—What May Be Appealed, RAP 5.3—Content Of Notice—Filing, RAP 10.3—Content Of Brief and RAP 18.5—Service and Filing Of Papers, 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 shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January, 2014.

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

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-mail by no later than April 30, 2014. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Denise.Foster@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 12th day of November, 2013.

For the Court

Madsen, C.J.  
\_\_\_\_\_  
CHIEF JUSTICE

**GR 9 COVER SHEET**

**Suggested Change**

**RULES FOR APPEAL OF DECISIONS OF COURTS OF LIMITED JURISDICTION**

**RALJ 2.2—What May be Appealed**

(Codifying scope of appeal)

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

**Purpose:** The Rules of Appellate Procedure state, "The appellate court may refuse to review any claim of error which was not raised in the trial court." RAP 2.5(a). Formally codifying this rule for appeals from Courts of Limited Jurisdiction would aid pro se litigants in understanding the scope of appealable issues. As the Court stated in *State v. Naillieux*, 158 Wn. App. 630, 638, 241 P.3d 1280 (2010):

Our function is to review the validity of claimed errors by a trial judge who presided over a trial. That function assumes that counsel preserve the error by objecting to something the trial judge did or did not do. We do not, and should not, be in the business of retrying these cases. It is a wasteful use of judicial resources. *Id.* at 344, 835 P.2d 251; *State v. Bashaw*, 169 Wn.2d 133, 146, 234 P.3d 195 (2010); *State v. Labanowski*, 117 Wn.2d 405, 420, 816 P.2d 26 (1991). And it encourages skilled counsel to save claims of constitutional error for appeal so a defendant can get a new trial and second chance at a not guilty verdict if the first trial does not end in his favor. *Lynn*, 67 Wash.App. at 343, 835 P.2d 251.

Therefore, adding the exact language from RAP 2.5(a) to RALJ 2.2 would be consistent with existing case law.

**SUGGESTED AMENDMENT**

**RULES FOR APPEAL OF DECISIONS OF COURTS OF LIMITED JURISDICTION (RALJ)**

**RULE 2.2—WHAT MAY BE APPEALED**

(a) - (c) [No change]

**(d) Errors Raised for First Time on Appeal.** The superior court may refuse to review any claim of error that was not raised in the court of limited jurisdiction. However, a party may raise the following claimed errors for the first time on appeal: (1) lack of jurisdiction, (2) failure to establish facts upon which relief can be granted, and (3) manifest error affecting a constitutional right. A party may present a ground for affirming a decision of a court of limited jurisdiction that was not presented to that court if the record has been sufficiently developed to fairly consider the ground. A party may raise a claim of error that was not raised by the party in the court of limited jurisdiction if another party on the same side of the case raised the claim of error in that court.

**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.

## GR 9 COVER SHEET

**Suggested Change**  
**RULES OF APPELLATE PROCEDURE (RAP)**  
**RULE 5.3—CONTENT OF NOTICE—FILING**

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

**Purpose:** This amendment has two purposes. The first is to make the rule more easily understandable to the practitioner by eliminating unnecessary words and restructuring sentences to more clearly set forth the governing standard. The amendments to the first two sentences are not intended to alter or modify the substance of the original rule.

The second purpose of this amendment is to fill a gap that exists in the current rule. The current rule does not state whether and to what extent an amended notice of appeal or amended notice of discretionary review affects the ability of a party to seek cross review when the deadline to seek cross review from the original notice of appeal has passed. The proposed rule would provide that the filing of an amended notice of appeal or amended notice of discretionary review extends the time allowed to seek cross review of only those parts of the trial court's decisions identified in the amended notice of appeal or amended notice of discretionary review. In such cases, the party seeking cross review must provide notice within 14 days or as otherwise provided by statute or rule.

The proposed rule prevents prejudice to the respondent by allowing it to seek cross review of newly identified issues. The proposed rule prevents prejudice to the appellant by ensuring that filing an amended notice of appeal that adds a clarifying or minor part of the trial court's decision will not allow the respondent to seek cross review of the entire trial court's decision when the deadline to seek cross review has passed.

**SUGGESTED AMENDMENT**  
**RULES OF APPELLATE PROCEDURE (RAP)**  
**RULE 5.3—CONTENT OF NOTICE—FILING**

**(a) Content of Notice of Appeal.** A notice of appeal must (1) be titled a notice of appeal, (2) specify the party or parties seeking the review, (3) designate the decision or part of decision which the party wants reviewed, and (4) name the appellate court to which the review is taken. The party filing the notice of appeal should attach to the notice of appeal a copy of the signed order or judgment from which the appeal is made, and, in a criminal case in which two or more defendants were joined for trial by order of the trial court, provide the names and superior court cause numbers of all codefendants.

**(b) Content of Notice for Discretionary Review.** A notice for discretionary review must comply in content and form with the requirements for a notice of appeal, except that it should be titled a notice for discretionary review. A party seeking discretionary review of a decision of a court of limited jurisdiction should include the name of the district or municipal court and the cause number for which review is sought.

**(c) Identification of Parties, Counsel, and Address of Defendant in Criminal Case.** The party seeking review

should include on the notice of appeal the name and address of the attorney for each of the parties. In a criminal case the attorney for the defendant should also notify the appellate court clerk of the defendant's address, by placing this information on the notice. The attorney for a defendant in a criminal case must also keep the appellate court clerk advised of any changes in defendant's address during review.

**(d) Multiple Parties Filing Notice.** More than one party may join in filing a single notice of appeal or notice for discretionary review.

**(e) Notices Directed to More Than One Case.** If cases have been consolidated for trial, or have been tried together even though not consolidated for trial, separate notices for each case or a single notice for more than one case may be filed. A single notice for more than one case will be given the same effect as if a separate notice had been filed for each case. If cases have not been consolidated for trial or have not been tried together, separate notices must be filed.

**(f) Defects in Form of Notice.** The appellate court will disregard defects in the form of a notice of appeal or a notice for discretionary review if the notice clearly reflects an intent by a party to seek review.

**(g) Notices Directed to More Than One Court.** If a notice of appeal or a notice for discretionary review is filed which is directed to the Court of Appeals and a notice is filed in the same case which is directed to the Supreme Court, the case will be treated as if all notices were directed to the Supreme Court.

**(h) Amendment of Notice Directed to Portion of Decision.** In order to do justice, ~~the~~ appellate court may, on its own initiative or on the motion of a party, permit an amendment of a notice to include (i) additional parts of a trial court decision, ~~in order to do justice. On discretionary review, the appellate court may, on its own initiative or on the motion of a party, permit an amendment of a notice to include acts of the trial court that are subsequent to the act for which discretionary review was first sought if the subsequent acts~~ or (ii) subsequent acts of the trial court that relate to the subject of the first review act designated in the original notice of discretionary review. If the amendment is permitted, the record should be supplemented as provided in rule 9.10. The appellate court may condition the amendment on appropriate terms, including payment of a compensatory award under rule 18.9. An amendment extends the time allowed to seek cross review only of those additional parts of the decision or subsequent acts, and such notice seeking cross review must be filed within the later of (1) 14 days after service of the amended notice filed by the other party, or (2) the time within which notice must be given as provided by rule 5.2 (a), (b), (d), or (e).

**(i) Notice by Fewer Than All Parties on a Side—Joinder.** If there are multiple parties on a side of a case and fewer than all of the parties on that side of the case timely file a notice of appeal or notice for discretionary review, the appellate court will grant relief only (1) to a party who has timely filed a notice, (2) to a party who has been joined as provided in this section or (3) to a party if demanded by the necessities of the case. The appellate court will permit the joinder on review of a party who did not give notice only if the party's rights or duties are derived through the rights or duties of a

party who timely filed a notice or if the party's rights or duties are dependent upon the appellate court determination of the rights or duties of a party who timely filed a notice.

**(j) Assistance to Defendant in Criminal Case or Party Entitled to Review at Public Expense.** Trial counsel for a defendant in a criminal case or party entitled to review at public expense is responsible for filing any appropriate notice of appeal, notice for discretionary review, and motion for order of indigency under rule 15.2. If such a defendant or party is not represented by counsel at trial, the trial court clerk shall, if requested by the defendant or party in open court or in writing, supply a notice of appeal form, a notice for discretionary review form, or a form for a motion for order of indigency, and file the forms upon completion by the defendant or party.

**Reviser's note:** The spelling error in the above material occurred in the copy filed by the State Supreme Court and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### GR 9 COVER SHEET

#### Suggested Change

#### RULES OF APPELLATE PROCEDURE (RAP)

#### Rule 10.3—Content of Brief

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

**Purpose:** The proposed amendment deletes reference to RCW 41.64, which was repealed in 2002, effective July 1, 2006.

#### SUGGESTED AMENDMENT RULES OF APPELLATE PROCEDURE (RAP) RULE 10.3—CONTENT OF BRIEF

**(a) Brief of Appellant or Petitioner.** The brief of the appellant or petitioner should contain under appropriate headings and in the order here indicated:

[(1) – (2) no changes]

(3) *Introduction.* A concise introduction. This section is optional. The introduction need not contain citations to the record ~~of~~ or authority.

[(4) – (8) no changes]

[(b) – (g) no changes]

**(h) Assignments of Error on Review of Certain Administrative Orders.** In addition to the assignments of error required by rule 10.3 (a)(3) and 10.3(g), the brief of an appellant or respondent who is challenging an administrative adjudicative order under RCW 34.05 ~~or a final order under RCW 41.64~~ shall set forth a separate concise statement of each error which a party contends was made by the agency issuing the order, together with the issues pertaining to each assignment of error.

**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 spelling error in the above material occurred in the copy filed by the State Supreme Court and appears in the Register pursuant to the requirements of RCW 34.08.040.

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the State Supreme Court and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### GR 9 COVER SHEET

#### Suggested Change

#### RULES OF APPELLATE PROCEDURE (RAP)

#### Rule 18.5—Service and Filing of Papers

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

**Purpose:** This amendment deletes the reference to CR 5(h), Service of Papers by Telegraph, which has been rescinded.

#### SUGGESTED AMENDMENT RULES OF APPELLATE PROCEDURE (RAP) RULE 18.5—SERVICE AND FILING OF PAPERS

**(a) Service.** Except when a rule requires the appellate court commissioner or clerk or the trial court clerk to serve a particular paper, and except as provided in rule 9.5, a person filing a paper must, at or before the time of filing, serve a copy of the paper on all parties, amicus, and other persons who may be entitled to notice. If a person does not have an attorney of record, service should be made upon the person. Service must be made as provided in CR 5 (b), (f), and (g); ~~and (h).~~

**(b) Proof of Service.** Proof of service should be made by an acknowledgment of service, or by an affidavit, or, if service is by mail, as provided in CR 5(b). Proof of service may appear on or be attached to the papers filed.

**(c) Filing.** Papers required or permitted to be filed in the appellate court must be filed with the clerk, except that an appellate court judge may permit papers to be filed with the judge, in which event the judge will note the filing date on the papers and promptly transmit them to the appellate court clerk.

**(d) Filing by Facsimile.** [Reserved. See GR 17—Facsimile Transmission.]

**(e) Service and Filing by an Inmate Confined in an Institution.** An inmate confined in an institution may file and serve papers by mail in accordance with GR 3.1.

**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 spelling error in the above material occurred in the copy filed by the State Supreme Court and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### WSR 13-23-046

#### NOTICE OF PUBLIC MEETINGS

#### DEPARTMENT OF

#### ENTERPRISE SERVICES

(Capitol Campus Design Advisory Committee)

[Filed November 15, 2013, 9:41 a.m.]

The capitol campus design advisory committee (CCDAC) meeting scheduled for Thursday, November 7,

2013, has been rescheduled to Wednesday, December 4, 2013, at 10:00 a.m., Room 2332, 1500 Jefferson Street, Olympia, WA 98504.

If you have any questions, please contact Nouk Leap at (360) 407-9256 or Kim Buccarelli at (360) 407-9312.

**WSR 13-23-049**

**NOTICE OF PUBLIC MEETINGS  
EASTERN WASHINGTON UNIVERSITY**

[Filed November 15, 2013, 10:55 a.m.]

The 2013 Eastern Washington University board of trustees' meeting schedule has been changed to **add** the additional meeting below:

- Tuesday, December 3, approximately 8:30 a.m., Hargreaves Hall 223; approximately 1:30 p.m., Tawanka 215 B & C, on the Cheney campus.

Executive session will be held from approximately 11:30 a.m. - 1:00 p.m.

The 2013 schedule has been changed to **delete** the meeting below:

- November 22, 2013

If you have questions concerning this schedule, please contact Catherine Moss at (509) 359-6362.

**WSR 13-23-050**

**NOTICE OF PUBLIC MEETINGS  
RENTON TECHNICAL COLLEGE**

[Filed November 15, 2013, 10:55 a.m.]

Pursuant to RCW 42.30.075, please be advised that the Renton Technical College board of trustees' regular meetings during 2014 will be held as follows: The third Tuesday of each month, except for the months of July and August. Meetings will be held at 7:30 a.m., Roberts Campus Center Board Room, Room I-202, Renton Technical College, 3000 North-east 4th Street, Renton, WA 98056-4195.

- January - No meeting
- February 18, 2014
- March 18, 2014
- April 15, 2014
- May 20, 2014
- June 17, 2014
- July/August - No regularly scheduled meetings
- September 16, 2014
- October 21, 2014
- November 18, 2014
- December 16, 2014

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

**WSR 13-23-051**

**NOTICE OF PUBLIC MEETINGS  
RENTON TECHNICAL COLLEGE**

[Filed November 15, 2013, 10:55 a.m.]

The regular meeting of the board of trustees of Community College District 27, state of Washington, 3000 Fourth Street, Renton, WA, scheduled on Tuesday, November 19, 2013, at 7:30 a.m. will be held in the Technology Resource Center, Room C-111.

Please contact Di Beers at (425) 235-2426 if you have any questions.

**WSR 13-23-053**

**NOTICE OF PUBLIC MEETINGS  
GUARANTEED EDUCATION  
TUITION PROGRAM**

[Filed November 15, 2013, 12:32 p.m.]

In accordance with RCW 28B.95.020 and WAC 14-276-030, the advanced college tuition program, known as the guaranteed education tuition program, has adopted the following regular committee meeting schedule for 2014:

DATE	TIME	PLACE
Tuesday February 11, 2014	2:00 p.m. – 4:00 p.m.	Office of the Insurance Commissioner 5000 Capitol Boulevard S.E. Tumwater, WA 98501-4426 (360) 725-7000
Tuesday June 10, 2014	2:00 p.m. – 4:00 p.m.	TBD
Thursday September 4, 2014	2:00 p.m. – 4:00 p.m.	TBD
Tuesday November 18, 2014	2:00 p.m. – 4:00 p.m.	TBD

**WSR 13-23-058**

**NOTICE OF PUBLIC MEETINGS  
RECREATION AND CONSERVATION  
OFFICE**

(Habitat and Recreation Lands Coordinating Group)

[Filed November 15, 2013, 4:34 p.m.]

The habitat and recreation lands coordinating group (lands group) will hold the following meetings in 2014:

**Regular Quarterly Meetings**

Date	Time	Location
March 14, 2014	8:30 a.m. – 10:00 a.m.	Room 172 Natural Resources Building Capitol Campus Olympia
June 19, 2014	9:00 a.m. – 12:00 p.m.	Conference Rooms A, B, C John A Cherberg Building Capitol Campus Olympia
September 11, 2014	9:00 a.m. – 12:00 p.m.	Room 172 Natural Resources Building Capitol Campus Olympia
December 11, 2014	9:00 a.m. – 12:00 p.m.	Conference Rooms A, B, C John A Cherberg Building Capitol Campus Olympia

**2015-17 State Land Acquisition Coordinating Forum**

Date	Time	Location
March 14, 2014	10:30 a.m. – 5:00 p.m.	Room 172 Natural Resources Building Capitol Campus Olympia

For further information, please contact Nona Snell at (360) 902-3021 or check recreation and conservation office's (RCO) web page at [http://www.rco.wa.gov/boards/hrlcg\\_meetings.shtml](http://www.rco.wa.gov/boards/hrlcg_meetings.shtml).

The RCO schedules all public meetings at barrier free sites. Persons who need special assistance may contact Leslie Frank at (360) 902-0220 or by e-mail [leslie.frank@rco.wa.gov](mailto:leslie.frank@rco.wa.gov).

**WSR 13-23-059**  
**INTERPRETIVE STATEMENT**  
**DEPARTMENT OF REVENUE**  
 [Filed November 18, 2013, 10:46 a.m.]

**INTERPRETIVE STATEMENT ISSUED**

The department of revenue has issued the following excise tax advisory (ETA):

***ETA 3182.2013 Trade Shows, Conventions, and Educational Seminars Sponsored by Nonprofit Trade and Professional Organizations***

This ETA explains when a trade show, convention, or educational seminar is considered open to the general public for purposes of the business and occupation (B&O) tax deduction in RCW 82.04.4282 Deductions—Fees, dues, charges. This deduction includes charges made by a nonprofit trade or professional organization for attending or occupying space at a trade show, convention, or educational seminar sponsored by the nonprofit trade or professional organization, which trade show, convention, or educational seminar is "not open to the general public."

A copy of this document is available via the internet at Recent Rule and Interpretive Statements, Adoptions, and Repeals.

Tim Jennrich  
 Tax Policy Specialist

**WSR 13-23-060**  
**NOTICE OF PUBLIC MEETINGS**  
**LOCAL RECORDS COMMITTEE**  
 [Filed November 18, 2013, 10:58 a.m.]

**MEETINGS, POWERS AND DUTIES**

**FOR LOCAL GOVERNMENT AGENCIES:** The local records committee may adopt appropriate procedures for records disposition authorization, scheduling, and other matters relating to the retention, preservation, or destruction of public records of local government agencies. **(WAC 434-630-030)**

The local records committee shall review lists of records submitted to it for destruction authorization and may veto the destruction of any or all items contained therein.

The local records committee shall also review recurring disposition schedules recommended to it by agencies of local government and may veto, approve, or amend such schedules. **(WAC 434-630-040)**

You may verify meeting cancellations by visiting our web site at <http://www.sos.wa.gov/archives/> or by calling Washington state archives at (360) 586-4901. The 2014 meeting dates are as follows:

- 10:00 a.m.**
- 1129 Washington Street S.E.
- Olympia
- 2014**
- January 30
- April 24
- July 31
- October 30

**WSR 13-23-061**  
**RULES COORDINATOR**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**  
 [Filed November 18, 2013, 11:17 a.m.]

The office of financial management designates Roselyn Marcus to serve as the agency's rules coordinator. Roselyn's contact information is as follows: Roselyn Marcus, Assistant Director, Legal and Legislative Affairs, Office of Financial Management, 300 Insurance Building, 3rd Floor, P.O. Box 43113, Olympia, WA 98504-3113, phone (360) 902-0434, fax (360) 664-2832, e-mail [roselyn.marcus@ofm.wa.gov](mailto:roselyn.marcus@ofm.wa.gov).

David Schumacher  
 Director

**WSR 13-23-062**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**SERVICES FOR THE BLIND**  
 (Rehabilitation Council)

[Filed November 18, 2013, 11:35 a.m.]

The state rehabilitation council for the department of services for the blind (DSB) has changed the following regular meeting:

From: December 7, 2013.

To: December 6, 2013.

The location for this meeting remains the same and will be held from 9 a.m. to 4 p.m. at the DSB located at 3411 South Alaska Street, Seattle, WA 98118, in Conference Room #130.

If you need further information contact Debbie Cook, (206) 616-5913.

**WSR 13-23-064**  
**NOTICE OF PUBLIC MEETINGS**  
**STATE REHABILITATION**  
**COUNCIL FOR THE BLIND**

[Filed November 18, 2013, 1:51 p.m.]

The following is the schedule of regular meetings for the state rehabilitation council for the blind (DSB SRC) for 2014:

Date	Time	Location
March 7, 2014	9 a.m. - 4 p.m.	School for the Blind Auditorium 2214 East 13th Street Vancouver, WA 98661
June 6, 2014	9 a.m. - 4 p.m.	Department of Services for the Blind Conference Room 130 3411 South Alaska Street Seattle, WA 98118
September 5, 2014	9 a.m. - 4 p.m.	Department of Services for the Blind Conference Room 130 3411 South Alaska Street Seattle, WA 98118
December 5, 2014	9 a.m. - 4 p.m.	Department of Services for the Blind Conference Room 130 3411 South Alaska Street Seattle, WA 98118

For meeting information you may contact Debbie Cook at (206) 616-5913.

**WSR 13-23-068**  
**NOTICE OF PUBLIC MEETINGS**  
**STATE INDEPENDENT**  
**LIVING COUNCIL**

[Filed November 18, 2013, 2:49 p.m.]

The following is the schedule of regular meetings for the Washington state independent living council (SILC) for 2014.

There will be no meeting scheduled for January 2014. Specific locations for all other meetings are yet to be determined; once determined an updated notice will be sent.

Date	Time	Location
April 11, 2014	9 a.m. - 3 p.m.	Pullman, Washington
July 11, 2014	9 a.m. - 3 p.m.	Pasco, Washington
October 10, 2014	9 a.m. - 3 p.m.	Bellingham, Washington

ASL interpreters and real time captioning (CART) will be available. For other accommodation request, please contact SILC at 800-624-4105.

Participants may access the meeting remotely by telephone (voice only) or CART online:

Remote access via telephone: 1-800-379-6841. Passcode: 454428.

Remote access via CART online: <http://www.streamtext.net/text.aspx?event=SILC>.

SILC is appointed by the governor to guide development of and promote access to independent living services for individuals with disabilities statewide. The council works to increase opportunities for self-determination and empowerment of people with disabilities, and to create awareness of people with disabilities as a valuable human resource. We welcome your feedback concerning your experiences and concerns.

If you need further information contact SILC, 800-624-4105.

**WSR 13-23-070**  
**NOTICE OF PUBLIC MEETINGS**  
**STATE BOARD OF EDUCATION**

[Filed November 18, 2013, 3:15 p.m.]

Following is the schedule of meetings of the state board of education for 2014. Additional meetings may be scheduled as circumstances warrant.

Date	Time	Location
January 8-9, 2014	8:00-5:00	New Market Skills Center Tumwater
March 5-6, 2014	8:00-5:00	Puget Sound ESD Renton

Date	Time	Location
March 27, 2014*	1:00-5:00	OSPI Old State Capitol Olympia
May 7-8, 2014	8:00-5:00	Kennewick School District Kennewick
July 9-10, 2014	8:00-5:00	ESD 101 Spokane
August 25, 2014*	1:00-5:00	OSPI Old State Capitol Olympia
September 9-11, 2014	8:00-5:00	North Central ESD Wenatchee
November 13-14, 2014	8:00-5:00	ESD 112 Vancouver

\* Special meeting

If you need further information please contact State Board of Education, 600 Washington Street S.E., Olympia, WA, (360) 725-6027, [www.sbe.wa.gov](http://www.sbe.wa.gov).

**WSR 13-23-074**  
**NOTICE OF PUBLIC MEETINGS**  
**BEEF COMMISSION**  
 [Filed November 19, 2013, 9:55 a.m.]

Following is the schedule of 2014 meetings open to the public for the Washington state beef commission:

January 16, 2014 (Thursday)	Regular Board Meeting	Conference Call
March 13-14, 2014 (Thursday/ Friday)	Strategic Planning Meeting	TBD
May 8, 2014 (Thursday)	Regular Board Meeting	Ellensburg, Washington
June 12, 2014 (Thursday)	Annual Board Meeting	Ellensburg, Washington
September 11, 2014 (Thursday)	Regular Board Meeting	Ellensburg, Washington
November 13, 2014 (Thursday)	Regular Board Meeting	TBD*

\*To be held in conjunction with the Washington Cattle-men's Association Convention.

Should you have questions, please contact April Budinich at (206) 444-2902.

**WSR 13-23-076**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**  
 [Filed November 19, 2013, 10:38 a.m.]

Following is the schedule of regular meetings for the public employment relations commission for 2014:

Date	Time	Location
January 17, 2014	10:00 a.m.	112 Henry Street N.E. Suite 300 Olympia, WA
February 11, 2014	10:00 a.m.	9757 Juanita Drive N.E. Suite 201 Kirkland, WA
March 11, 2014	10:00 a.m.	112 Henry Street N.E. Suite 300 Olympia, WA
April 15, 2014	10:00 a.m.	112 Henry Street N.E. Suite 300 Olympia, WA
May 13, 2014	10:00 a.m.	9757 Juanita Drive N.E. Suite 201 Kirkland, WA
June 10, 2014	10:00 a.m.	112 Henry Street N.E. Suite 300 Olympia, WA
July 8, 2014	10:00 a.m.	112 Henry Street N.E. Suite 300 Olympia, WA
August 12, 2014	10:00 a.m.	112 Henry Street N.E. Suite 300 Olympia, WA
September 9, 2014	10:00 a.m.	9757 Juanita Drive N.E. Suite 201 Kirkland, WA
October 14, 2014	10:00 a.m.	112 Henry Street N.E. Suite 300 Olympia, WA
November 12, 2014	10:00 a.m.	9757 Juanita Drive N.E. Suite 201 Kirkland, WA

If you need further information contact Majel Boudia, P.O. Box 40919, Olympia, WA 98504-0919, phone (360) 570-7311, fax (360) 570-7334, [filing@perc.wa.gov](mailto:filing@perc.wa.gov), web site [www.perc.wa.gov](http://www.perc.wa.gov).

**WSR 13-23-080**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed November 19, 2013, 12:02 p.m.]

Under RCW 34.05.230, following are policy and interpretive statements issued by the department of labor and industries regarding the insurance services division policies.

If you have any questions or need additional information, please call Suchi Sharma at (360) 902-6744.

Suchi Sharma  
 Counsel for Executive Policy  
 Government Affairs and Policy Division

**Insurance Services Division:** Claims Specialty Services.

**New Policy:** Management Update, Communication with Represented Workers.

This management update clarifies the department's standard practice to honor requests by workers to have their attorney's represent them in matters pertaining to their claims.

**Date Issued:** August 9, 2013.

**Contact:** Nancy Lach, P.O. Box 44208, Olympia, WA 98504, (360) 902-4379, nancy.lach@lni.wa.gov.

**Amended Policy 1.35:** Releasing Claim Information and Claim-Specific Information.

This policy applies whenever the department or self-insured employer receives a request for claim information. This policy does not apply to crime victims' compensation claims under chapter 7.68 RCW. This policy is updated to add additional clarification and to reflect current practice.

Due to reconsideration of RCW 51.28.070, state fund and self-insured employers and their authorized representatives may review all claim files of a worker who has a claim pending with the requesting employer. The employer may review open and closed claims and claims by the worker filed against other employers regardless of the body part or condition. This is a change from the 1998 policy restricting employer access to claims of their own injured workers with any pending claims with injuries to the same area of the body. Policy point #9 has been added to clarify who [is] entitled to have access to claim file information when a worker dies.

Management Memo, *Releasing Claim Information: Employer Requests*, dated 11-29-12, is deleted. The information in the management memo is included in the 5-24-13 policy update.

**Date Issued:** May 24, 2013.

**Contact:** Nancy Lach, P.O. Box 44208, Olympia, WA 98504, (360) 902-4379, nancy.lach@lni.wa.gov.

**Amended Policy 5.12:** Determining Eligibility for Time-Loss Compensation When Employer Pays Worker - Kept on Salary (KOS).

This policy is changed from an interim to a formal policy and applies whenever a worker is kept on salary by a state fund or self-insured employer. This policy is updated to add additional clarification and to reflect current practice.

**Date Issued:** November 22, 2013.

**Contact:** Nancy Lach, P.O. Box 44208, Olympia, WA 98504, (360) 902-4379, nancy.lach@lni.wa.gov.

**Insurance Services Division:** Employer Services.

**New Policy 6.04:** Reporting Hours - Limousine and Cabulance Industries.

This is a new policy that outlines the methods that the department of labor and industries will allow businesses in the limousine and cabulance industries to report hours of all vehicle operators.

The owner of a limousine or a cabulance must report each quarter by one of the following methods:

- Actual hours worked by all vehicle operators each quarter, if records are kept; or
- 480 hours per vehicle operator each quarter.

**Date Issued:** April 18, 2012.

**Contact:** Jo Anne Attwood, P.O. Box 44148, Olympia, WA 98504, (360) 902-4777, joanne.attwood@lni.wa.gov.

**WSR 13-23-081**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**

[Filed November 19, 2013, 1:18 p.m.]

In compliance with RCW 42.30.075, the following board of trustees 2014 meeting schedule has been approved for Edmonds Community College. The regularly scheduled meetings will take place on the second Thursday of the month beginning at 4:30 p.m. in Snohomish Hall, Room 304, or the Gateway Hall Board Room, at Edmonds Community College, 20000 68th Avenue West, Lynnwood, WA 98036.

January 23 (Special Meeting)

February 18 (Special Meeting)

March 13

April 10

May 8

June 12

August 6-7 (Retreat)

September 11

October 9

November 13

**WSR 13-23-088**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE UNIVERSITY**

[Filed November 19, 2013, 3:34 p.m.]

**BOARD OF REGENTS SPECIAL MEETING NOTICE**  
 Washington State University and University of Washington

The Washington State University board of regents will hold a special meeting with the University of Washington

board of regents at 9:30 a.m., on Friday, November 29, 2013. The meeting will last approximately one hour. The meeting will be held in the Jim Houston Boardroom, Husky Stadium, University of Washington, Seattle Campus.

This notice is being sent by the direction of the chair of the board of the regents pursuant to the requirements of the Open [Public] Meeting[s] Act of 1971 as amended.

Questions about the board of regents meeting and schedule may be directed to Rebecca Lande, executive assistant to the board of regents, (509) 335-6662.

expected to be held at the agency's office at 1904 3rd Avenue, Suite 105, Seattle, WA.

If you have any questions, please call Judith White-Crow at (206) 689-4079 or e-mail [judithw@pscleaseair.org](mailto:judithw@pscleaseair.org).

Board of Directors Meeting Dates for 2014

- January 23
- February 27
- March 27
- April 24
- May 22
- June 26
- July 24
- September 25
- October 23
- November 20
- December 18

**WSR 13-23-111**

**NOTICE OF PUBLIC MEETINGS**

**OLYMPIC COLLEGE**

[Filed November 20, 2013, 11:58 a.m.]

Pursuant to RCW 42.30.075, the regular meeting of the board of trustees of Olympic College, District Three, will be held on the third Tuesday of the month, beginning at 5:00 p.m. in Humanities Student Services Building, Room 119/121, Olympic College Campus, 1600 Chester Avenue, Bremerton, WA. The board will meet on the following dates for calendar year 2014:

- January 21, 2014
- February 18, 2014
- March 18, 2014
- April 15, 2014 (held annually at the OC Poulsbo Campus, 1000 Olympic College Place N.W., Poulsbo, WA)
- May 20, 2014
- June 17, 2014
- No meeting in July
- August 19, 2014 (held annually at the OC Shelton Campus, 937 Alpine Way, Shelton, WA)
- September 16, 2014
- October 21, 2014
- November 18, 2014
- No meeting in December

In the event it is necessary to change any of these meeting dates, the appropriate notification will take place.

**WSR 13-23-112**

**NOTICE OF PUBLIC MEETINGS**

**PUGET SOUND**

**CLEAN AIR AGENCY**

[Filed November 20, 2013, 11:59 a.m.]

Following is our agency's list of board of directors meeting dates for the year 2014. All of the meetings are currently