

WSR 17-01-026
RULES OF COURT
STATE SUPREME COURT

[December 12, 2016]

IN THE MATTER OF PROPOSED) ORDER
 AMENDMENTS TO APR 1—IN GEN-) NO. 25700-A-1167
 ERAL; SUPREME COURT; PREREQUI-)
 SITES TO THE PRACTICE OF LAW;)
 COMMUNICATIONS TO THE ASSOCI-)
 ATION; CONFIDENTIALITY, APR 2—)
 BOARD OF GOVERNORS, APR 3—)
 APPLICANTS FOR ADMISSION TO)
 PRACTICE LAW, APR 4—BAR EXAM-)
 INATIONS; NOTIFICATION OF)
 RESULTS, APR 5—RECOMMENDA-)
 TION FOR ADMISSION; ORDER)
 ADMITTING TO PRACTICE; PAY-)
 MENT OF MEMBERSHIP FEE; OATH)
 OF ATTORNEY; RESIDENT AGENT,)
 APR 6—LAW CLERK PROGRAM, APR)
 7—INVESTIGATIONS; DUTY OF)
 APPLICANT, APR 8—LIMITED)
 ADMISSIONS, APR 9—LICENSED)
 LEGAL INTERNS, APR 11—MANDA-)
 TORY CONTINUING LEGAL EDUCA-)
 TION (MCLE), APR 12—LIMITED)
 PRACTICE RULE FOR LIMITED)
 PRACTICE OFFICERS, APR 13—SIGN-)
 INGS OF PLEADINGS AND OTHER)
 PAPERS; ADDRESS OF RECORD;)
 ELECTRONIC MAIL ADDRESS;)
 NOTICE OF CHANGE OF ADDRESS,)
 TELEPHONE NUMBER OR NAME,)
 APR 14—LIMITED PRACTICE RULE)
 FOR FOREIGN LAW CONSULTANTS,)
 APR 15—LAWYERS' FUND FOR CLI-)
 ENT PROTECTION, APR 16—MEDIA-)
 TION PROGRAM, APR 17—ADMINIS-)
 TRATIVE SUSPENSION FROM PRACTICE,)
 APR 19—LAWYER SERVICES,)
 APR 20—DEFINITIONS RELATING TO)
 CHARACTER AND FITNESS DETER-)
 MINATIONS, APR 20.1—APPLICA-)
 TION OF RULES, APR 21—FACTORS)
 CONSIDERED WHEN DETERMINING)
 CHARACTER AND FITNESS, APR)
 22.1—REVIEW OF APPLICATIONS,)
 APR 22.2—APPLICANT DUTIES AND)
 RIGHTS, APR 23—CHARACTER AND)
 FITNESS BOARD, APR 23.1—)
 AUTHORITY OF CHARACTER AND)
 FITNESS BOARD, APR 23.2—MEET-)
 INGS, APR 23.4—CLERK, APR 23.5—)
 SERVICE, APR 24.1—HEARING PRO-)
 CEDURE, APR 24.2—DECISION AND)
 RECOMMENDATION, APR 24.3—)
 ACTION ON SUPREME COURT'S)
 DETERMINATION, APR 25.1—)
 RESTRICTIONS ON REINSTATE-)
 MENT, APR 25.2—REVERSAL OF)
 CONVICTION, APR 25.3—PETITIONS)
 AND INVESTIGATIONS, APR 25.4—)
 HEARING BEFORE CHARACTER AND)
 FITNESS BOARD, APR 25.5—ACTION)
 BY CHARACTER AND FITNESS)
 BOARD, AND APR 25.6—ACTION ON)

SUPREME COURT'S DETERMINA-)
 TION, APR 26—INSURANCE DISCLO-)
 SURE, APR 27—PROVISION OF)
 LEGAL SERVICES FOLLOWING)
 DETERMINATION OF MAJOR DISAS-)
 TER, APR 28—LIMITED PRACTICE)
 RULE FOR LIMITED LICENSE LEGAL)
 TECHNICIANS, APR 28 REGULA-)
 TIONS, APR 28 APPENDIX—REGULA-)
 TIONS OF THE APR LIMITED)
 LICENSE LEGAL TECHNICIAN)
 BOARD)

The Washington State Bar Association, having recom-
 mended the proposed amendments to APR 1—In General;
 Supreme Court; Prerequisites to the Practice of Law; Com-
 munications to the Association; Confidentiality, APR 2—
 Board of Governors, APR 3—Applicants for Admission to
 Practice Law, APR 4—Bar Examinations; Notification of
 Results, APR 5—Recommendation for Admission; Order
 Admitting to Practice; Payment of Membership Fee; Oath
 of Attorney; Resident Agent, APR 6—Law Clerk Program,
 APR 7—Investigations; Duty of Applicant, APR 8—Limited
 Admissions, APR 9—Licensed Legal Interns, APR 11—
 Mandatory Continuing Legal Education (MCLE), APR 12—
 Limited Practice Rule for Limited Practice Officers, APR
 13—Signings of Pleadings and Other Papers; Address of
 Record; Electronic Mail Address; Notice of Change of
 Address, Telephone Number or Name, APR 14—Limited
 Practice Rule for Foreign Law Consultants, APR 15—Law-
 yers' Fund for Client Protection, APR 16—Mediation Pro-
 gram, APR 17—Administrative Suspension from Practice,
 APR 19—Lawyer Services, APR 20—Definitions Relating
 to Character and Fitness Determinations, APR 20.1—Appli-
 cation of Rules, APR 21—Factors Considered When Deter-
 mining Character and Fitness, APR 22.1—Review of Appli-
 cations, APR 22.2—Applicant Duties and Rights, APR 23—
 Character and Fitness Board, APR 23.1—Authority of Char-
 acter and Fitness Board, APR 23.2—Meetings, APR 23.4—
 Clerk, APR 23.5—Service, APR 24.1—Hearing Procedure,
 APR 24.2—Decision and Recommendation, APR 24.3—
 Action on Supreme Court's Determination, APR 25.1—
 Restrictions on Reinstatement, APR 25.2—Reversal of Con-
 viction, APR 25.3—Petitions and Investigations, APR
 25.4—Hearing Before Character and Fitness Board, APR
 25.5—Action by Character and Fitness Board, and APR
 25.6—Action on Supreme Court's Determination, APR 26—
 Insurance Disclosure, APR 27—Provision of Legal Services
 Following Determination of Major Disaster, APR 28—Lim-
 ited Practice Rule for Limited License Legal Technicians,
 APR 28 Regulations, APR 28 Appendix—Regulations of the
 APR Limited License Legal Technician Board, and the Court
 having considered the amendments thereto;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the pro-
 posed amendments as shown below are to be published for
 comment January 2017, in the Washington Reports, Wash-
 ington Register, Washington State Bar Association and
 Administrative Office of the Court's websites.

(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 Email by no later than April 30, 2017. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by email message must be limited to 1500 words.

DATED at Olympia, Washington this 7th day of December, 2016.

For the Court

Madsen, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

**Suggested Amendments
ADMISSION AND PRACTICE RULES (APR)
Rule 1.**

Submitted by the Washington State Bar Association

A. Name of Proponent:

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C. Purpose:

The primary purposes of the suggested amendments to APR 1 are to (1) introduce the distinction between the use of the words "admission" and "license" (and their variations) and (2) include a definition section for terms used throughout the APR.

The suggested amendments to many of the rules in the APR refer to the "admission" to practice law or a "license" to practice law. In general, the suggested amendments propose to use "admission" when referring to someone who is admitted to practice law under APR 3 as a lawyer, LLLT or LPO. The authorization to practice law for individuals admitted under APR 3 does not have a time restriction. That is to say that absent non-compliance with continuing license requirements or ethical rules, the license continues indefinitely. All

other authorizations to practice law are referred to as a "license" to practice law and are limited to a certain amount of time or only for so long as the individual meets certain conditions. For example, a person licensed as house counsel under APR 8(f) is licensed only so long as employed as house counsel; when the employment terminates, so too does the license to practice law as house counsel. The only exception to the term "license" is under APR 8(b), exception for particular action or proceeding, commonly referred to as *pro hac vice*. In that case the out of state lawyer is granted "permission" to practice law.

Suggested amendments to APR 1 also incorporate a new definitions section. The definition of "active legal experience" comes from current APR 3. The definition of "qualified legal services provider" comes from current APR 8(e). The rest of the definitions are new and all are meant to apply to all rules under the APR unless otherwise provided in a particular rule.

The remaining amendments relate to referring to the WSBA as the "Bar" throughout the amended APR, clarifying that some entities operating under these rules are administered by the Bar, and changing the name of the Lawyers' Fund for Client Protection consistent with suggested amendments to APR 15.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 1 (Redline)

TITLE

ADMISSION AND PRACTICE RULES (APR)
RULE 1. IN GENERAL; SUPREME COURT; PREREQUISITES TO THE PRACTICE OF LAW; COMMUNICATIONS TO THE ASSOCIATION BAR; CONFIDENTIALITY; DEFINITIONS

(a) Supreme Court. The Supreme Court of Washington has the exclusive responsibility and the inherent power to establish the qualifications for admission to practice law, and to admit and license persons to practice law in this state. Any person carrying out the functions set forth in these rules is acting under the authority and at the direction of the Supreme Court.

(b) Prerequisites to the Practice of Law. Except as may be otherwise provided in these rules, a person shall not appear as an attorney or counsel in any of the courts of the State of Washington, or practice law in this state, unless that person has passed the Washington State bar an examination for admission, has complied with the other requirements of these rules, and is an active member of the Washington State Bar Association (referred to in these rules as the Bar ~~Association~~). A person shall be admitted to the practice of law and become an active member of the Bar ~~Association~~ only by order of the Supreme Court.

(c) Communications to the Association. Communications to the ~~Bar Association~~, the Board of Governors, ~~the Board of Bar Examiners, the Character and Fitness Board, the Law Clerk Board, mediators, mediation staff,~~ or any other individual person, board, committee or other entity administered by the Bar or acting under authority of these rules, are

absolutely privileged, and no lawsuit may be predicated thereon.

(d) Confidentiality.

(1) Unless expressly authorized by the Supreme Court or by the applicant, all application records, including related investigation files, documents and proceedings, for the admission or ~~for a license limited admission~~ to practice law ~~and or for enrollment in~~ to the law clerk program are confidential and shall be privileged against disclosure, except as necessary to conduct an investigation, hearing, and appeal or review pursuant to these rules.

(2) Unless expressly authorized by the Supreme Court, all examination questions, scoring keys and other examination data used by the ~~Association Bar~~ to administer ~~the bar examination and other qualifying~~ any examinations for admission or licensing are not subject to public disclosure.

(3) Unless expressly authorized by the Supreme Court, the following records of the Board of Bar Examiners, Mandatory Continuing Legal Education Board, Limited Practice Board, Limited License Legal Technician Board, Law Clerk Board, Character and Fitness Board, and the ~~Lawyers' Fund for Client Protection Fund~~ Board are confidential and shall not be disclosed:

(i) ~~A~~ Preliminary drafts, notes, recommendations, and intra-Board memorandums in which opinions are expressed or policies formulated or recommended;

(ii) ~~B~~ Records that are relevant to a controversy to which the Board is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(4) Motions for ~~the limited admission~~ permission to practice law under APR 8(b) are not confidential and may be disclosed pursuant to a proper request.

(e) Definitions. The following definitions apply throughout these Admission and Practice Rules except where otherwise stated:

(1) "Active legal experience"

(A) when used to describe a requirement for admission or licensure as, or otherwise regarding, a lawyer means experience in the active practice of law as a lawyer, or as a teacher at an approved law school, or as a judge of a court of general or appellate jurisdiction or any combination thereof, in a state or territory of the United States or in the District of Columbia or in any jurisdiction where the common law of England is the basis of its jurisprudence;

(B) when used to describe a requirement for licensing as, or otherwise regarding, a LLLT, means active experience practicing law as an LLLT;

(C) when used to describe a requirement for licensing as, or otherwise regarding, a LPO means active experience practicing law as a LPO.

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

(3) "Bar counsel" means a staff lawyer employed by the Bar.

(4) "Board of Governors" means the Board of Governors of the Washington State Bar.

(5) "LLLT" means limited licensed legal technician.

(6) "LPO" means limited practice officer.

(7) "Member" means a person who is identified as belonging to a group identified as members by the Bar's Bylaws.

(8) "Qualified legal services provider" means a not for profit legal services organization in Washington State whose primary purpose is to provide legal services to low income clients.

(9) "Supreme Court" means the Supreme Court of Washington.

GR 9 COVER SHEET

**Suggested Amendments
ADMISSION AND PRACTICE RULES (APR)
Rule 2.**

Submitted by the Washington State Bar Association

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C. Purpose: The primary purpose of the suggested amendments to APR 2 is to clarify that some of the powers of the Board of Governors outlined in this rule have been delegated by the Board of Governors to Bar staff. The Board of Governors is not directly involved in the day-to-day operations of many of the duties set forth in the APR. Under the suggested amendments, the Board of Governors specifically retains the authority to approve or deny applications for admission. The remaining amendments reorganize many provisions consistent with the coordination effort and identify the Washington State Bar Association as the "Bar" as is consistent throughout the APR.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 2 (Redline)

TITLE
ADMISSION AND PRACTICE RULES (APR)
RULE 2. BOARD OF GOVERNORS;

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

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

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

(3) Appoint a Character and Fitness Board pursuant to rule 20 23;

(4) Except as otherwise stated in these Admission and Practice Rules, provide for the administration by the Bar of all aspects of:

(A) developing the form and content, receiving, reviewing, investigating, and approving or denying applications for admission and licensing examinations, participating in programs administered by the Bar, being admitted or licensed to practice law, or changing membership status with the Bar, and any other certificate or document referred to in these Admission and Practice Rules and

(B) recommending to the Supreme Court the approval or denial of applicants for admission or licensure to practice law;

Approve or deny applications for permission to take the bar examination, to enroll in the law clerk program, to be admitted to practice by motion, or to engage in the limited practice of law under pertinent provisions of rules 8, 9, and 14;

(5) Investigate all aspects of an applicant's qualifications to take the bar examination, to be admitted to the practice of law, to engage in the limited practice of law under pertinent provisions of rules 8, 9, and 14, or to enroll in the law clerk program;

(6) Recommend to the Supreme Court the admission or rejection of each applicant who has passed the bar examination, who is applying to be admitted to practice by motion, or who is applying to engage in the limited practice of law under pertinent provisions of rules 8, 9, and 14;

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

(68) Prescribe, with the approval of subject to review by the Supreme Court, the amount of any fees required by these rules; and

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

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

(b) Written Request. Any request to the Board of Governors for action on any subject under these rules shall be in writing and shall be properly filed. For the purpose of these rules, filing shall occur at the headquarters office of the Bar Association.

GR 9 COVER SHEET

Suggested Amendments
ADMISSION AND PRACTICE RULES (APR)
Rule 3.

Submitted by the Washington State Bar Association

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C. Purpose:

Some of the primary purposes of all of the suggested amendments to the APR are to eliminate duplication of rules and regulations, combine sections of the APR that describe nearly identical processes or qualifications common to all licenses to practice law, align terminology used throughout the APR to make the rules more readily understandable, and streamline certain aspects of Bar administration.

Rule 3 deals with qualifications and prerequisites for applications for admission to practice law. The suggested amendments incorporate information from existing APR 8, APR 12, and APR 28, and set forth both shared and unique requirements for the lawyer, limited license legal technician (LLLT) and limited practice officer (LPO) license types. Additionally, by combining this information in one rule, it should assist interested applicants and members of the public with understanding the differences and similarities among the license types.

The following describes each suggested amendment to APR 3 and the suggested amendment's purpose and intended effect:

APR 3(a)

The suggested amendments to APR 3(a) are intended to acknowledge that admission to the practice of law in Washington may not mean admission to practice as a lawyer, in light of the existing three types of licenses - for lawyers, LLLTs and LPOs. Additionally, the suggested amendments are intended to acknowledge that the words "bar examination" often are generally understood to mean a licensing examination for admission to practice as a lawyer. Because each of the three types of admission to practice law may involve administration of an examination, it would be advis-

able to simply use the word "examination" in most instances. The suggested amendments also explicitly state that anyone wishing to be licensed to practice law in Washington must be of good moral character and fit to practice.

APR 3(b)

APR 3(b) sets forth the ways in which applicants can qualify to take the bar examination to qualify to practice law as a lawyer in Washington.

A suggested amendment in the first sentence of APR 3(b) would add language clarifying that in order to qualify to take the Uniform Bar Exam (UBE) in Washington, a lawyer applicant must not be eligible for admission by motion or by transfer of a UBE score. This change is intended to prevent a form of cheating that can occur when people who do not need to take the bar examination take it in order to capture questions used on the multiple choice portion of the exam, and to preserve WSBA resources from having to administer the bar examination when it is not necessary for the applicant's admission.

The suggested amendments to APR 3(b) would clarify the types of law degrees from either U.S. schools or schools in other countries that are required in order to qualify for the lawyer bar examination in Washington. The suggested amendments would also reorder some of the subsections for greater clarity and ease of comprehension.

APR 3(c)

The suggested amendments in this section would make clear that admission by motion currently is an option available to lawyers only. The suggested amendments would create no substantial changes to current procedures.

APR 3(d)

These suggested amendments essentially would put into court rule the admissions policies adopted by the Board of Governors beginning in 2012 and currently found on the WSBA admissions website; the policies themselves have been in place since implementing the Uniform Bar Exam (UBE). Because the UBE is a primary method for admission to the practice of law as a lawyer, it is more appropriate to include the requirements in the APR.

APR 3(e)

The qualifications for LLLT applicants currently are found in APR 28(D), sections 1-3. The suggested amendments to APR 3(e) would move the provisions related to qualification for the LLLT exam to this rule; the exception would be that current APR 28 (D)3(d) going forward would be found in the new language in the suggested amendments to APR 28 Regulation 3.

The only substantive change from the currently stated requirements is that in the suggested amendments, the Paralegal Core Competency (PCC) Examination administered by the National Federation of Paralegal Associations is specifically identified as the LLLT core curriculum examination. This would represent a change to the text of the rule, intended just to bring the APR into alignment with current practices; the PCC examination has been designated as the LLLT core curriculum examination by LLLT Board policy throughout the history of the LLLT program.

APR 3(f)

This suggested amendment would reorganize information rather than make any substantive change to the requirements.

APR 3(g)

This section addresses emeritus pro bono admission procedures and has been moved from APR 8(e). The suggested text also incorporates changes to bring LLLTs and LPOs within the coverage of the rule, in addition to lawyers. In addition, the suggested amendments would make it so that being an emeritus pro bono practitioner would only be available to lawyers, LLLTs and LPOs who have been admitted to practice law in Washington, and would remove the rarely used out-of-state lawyer provisions.

APR 3(h)

This section was formerly denoted as (d) and was titled "Exceptions". With the suggested amendments, it would explicitly address withholding approval or permission to take examinations until the applicant establishes that all requirements have been met and until any character and fitness inquiry has been completed.

The suggested amendments would also delete specific information about character and fitness requirements from this rule; this reflects an intention to reduce duplicative information and place all character and fitness provisions in APR 20-25.6.

APR 3(i)

The suggested amendments would change the title of this section from "Forms" to "Applications; Fees; Filings"; would amend language in section (1)(A) and (1)(B) to clarify responsibility for the performance of certain activities. The suggested amendment to (1)(C) would add a reference to the character and fitness rules, set forth in other rules.

The new text in the suggested amendments to APR 3 (i)(2) and 3 (i)(3) addresses refunds and transfers of applications between exam administrations, and would give the Bar the authority to establish responsive policies to guide administration of the examinations. Refund and transfer procedures were formerly found in APR 12 Regulation 2 (as to LPO applicants) and the WSBA Admissions Policies (as to lawyer applicants), as well as being touched upon in various other places in the APR. Amending the APR to clarify that refunds and transfers will be handled according to Bar policy gives the Bar clear authority to make any changes to the policies as needed.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 3 (Redline)

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 3. APPLICANTS FOR ADMISSION TO PRACTICE LAW

(a) Prerequisite for Admission. Every person desiring to be admitted to the Bar ~~of the State of~~ and the practice of law in Washington must be of good moral character; and pos-

sess the requisite fitness to practice law, and must qualify for and pass an ~~bar~~ examination except as provided for in these rules.

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

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

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

(iii) graduation from a United States law school not approved by the Board of Governors together with the completion of an LL.M. degree for the practice of law as defined by these rules; or

(iv) graduation from a university or law school outside the United States with a degree in law together with the completion of an LL.M. degree for the practice of law as defined by these rules; or

(3) admission to the practice of law, together with current good standing, in any jurisdiction where the common law of England is the basis of its jurisprudence, and active legal experience for at least 3 three of the 5 five years immediately preceding the filing of the application; or

(4) graduation with a Master of Laws (LL.M.) degree for the practice of law as defined below and either:

(A) graduation with a JD degree from a United States law school not approved by the Board of Governors, or

(B) graduation from a university or law school in a jurisdiction outside the United States, with a degree in law that would qualify the applicant to practice law in that jurisdiction.

"Active legal experience" shall mean experience either in the active practice of law, or as a teacher at an approved law school, or as a judge of a court of general or appellate jurisdiction, or any combination thereof, in a state or territory of the United States or in the District of Columbia or in any jurisdiction where the common law of England is the basis of its jurisprudence.

"LL.M. degree for the practice of law" means an LL.M. program at a law school approved by the Board of Governors that consists of a minimum of 18,200 minutes of total instruction to include at least 12,000 minutes of instruction on principles of domestic United States law, which must include:

(A) a minimum of 2080 minutes in United States Constitutional Law, including principles of separation of powers and federalism:

(B) a minimum of 2080 minutes in the civil procedure of state and federal courts in the United States;

(C) a minimum of 1400 minutes in the history, goals, structure, values, rules and responsibilities of the United States legal profession and its members; and

(D) a minimum of 1400 minutes in legal analysis and reasoning, legal research, problem solving, and oral and written communication.

(c) Lawyer Admission by Motion. Lawyers admitted to practice law in other states or territories of the United States or the District of Columbia are not required to sit for the lawyer bar examination if they:

(1) file a certificate from that jurisdiction certifying the lawyer's admission to practice, and the date thereof, and current good standing or the equivalent; and

(2) present satisfactory proof of active legal experience for at least 3 three of the 5 five years immediately preceding the filing of the application.

(d) Lawyer Admission by UBE Score Transfer. Persons with a Uniform Bar Examination score earned in another state or territory of the United States or the District of Columbia are not required to sit for the lawyer bar examination in Washington if they:

(1) file a transcript demonstrating that the applicant received a UBE score that is equal to or higher than the score required to pass the UBE in Washington, and it has been not more than 40 months since the date of the administration of the UBE in which the score was earned; and

(2) file a transcript demonstrating that the applicant received an MPRE score equal to or higher than the score required to pass the MPRE in Washington, and the score was received no earlier than three years prior to and no later than 40 months after the date of the administration of the UBE in which the applicant received the UBE score.

(e) Qualification for LLLT examination. To qualify to sit for the LLLT examination, a person must:

(1) be at least 18 years of age.

(2) have the following education, unless waived through regulation:

(A) An associate level degree or higher;

(B) 45 credit hours of core curriculum instruction in paralegal studies pursuant to APR 28 Regulation 3 with instruction to occur at an ABA approved law school, an educational institution with an ABA approved paralegal education program, or an educational institution with an LLLT core curriculum program approved by the LLLT Board; and

(C) In each practice area in which an applicant seeks licensure, instruction in the approved practice area based on a curriculum developed by or in conjunction with an ABA approved law school, covering the key concepts or topics and the number of credit hours of instruction required for licensure in that practice area, as determined by the LLLT Board.

(3) present original proof of passing the Paralegal Core Competency Exam administered by the National Federation of Paralegal Associations.

(f) Qualification for LPO Examination. To qualify to sit for the LPO examination, a person must be at least 18 years of age.

(g) Emeritus Pro Bono Admission. A lawyer, LLLT or LPO admitted to practice law in Washington State may apply for emeritus pro bono status when the lawyer, LLLT or LPO is otherwise fully retired from the practice of law. An emeritus pro bono lawyer, LLLT or LPO shall provide legal services in Washington State only for a qualified legal service provider as defined in these rules.

(1) To apply, the lawyer, LLLT or LPO shall

(A) file an application in such form and manner as prescribed by the Bar;

(B) present satisfactory proof of active legal experience as defined in APR 1 or at least 5 of the 10 years immediately preceding the filing of the application;

(C) file a certification from a qualified legal services provider that the applicant's practice of law will comply with the terms of this rule;

(D) comply with training requirements prescribed by the Bar; and

(E) furnish whatever additional information or proof that may be required in the course of investigating the applicant.

(2) Upon approval of the application by the Bar, the lawyer, LLLT or LPO shall pay the current year's annual license fee in the amount required of inactive lawyers, LLLTs or LPOs, whichever is the applicable license type. Emeritus pro bono lawyers, LLLTs or LPOs are subject to annual license renewal as provided by the Board of Governors.

(3) Upon admission under this section, the practice of law by a lawyer, LLLT or LPO shall be limited to

(A) providing legal service for no fee through a qualified legal services provider; or

(B) serving as an unpaid governing or advisory board member or trustee of or providing legal counsel or service for no fee to a qualified legal services provider.

The prohibition against compensation for emeritus pro bono lawyers, LLLTs or LPOs shall not prevent a qualified legal services provider from reimbursing an emeritus pro bono lawyer, LLLT or LPO for actual expenses incurred while rendering legal services under this rule. A qualified legal services provider shall be entitled to receive all court awarded attorney's fees for any representation rendered by the emeritus pro bono lawyer, LLLT or LPO.

(4) Emeritus pro bono lawyers, LLLTs or LPOs shall pay to the Bar an annual license fee in the amount required of inactive lawyers, LLLTs or LPOs, whichever is the applicable license type.

(5) The practice of a lawyer, LLLT or LPO admitted under this section shall be subject to the applicable Rules of Professional Conduct, disciplinary rules, and to all other laws and rules governing lawyers, LLLTs or LPOs admitted to the Bar.

(6) Emeritus pro bono lawyers, LLLTs or LPOs shall be exempt from compliance with rule 11 concerning Mandatory Continuing Legal Education.

(7) Emeritus pro bono admission shall be automatically terminated and converted to inactive status when the lawyer, LLLT or LPO fails to comply with the terms of this rule.

(d) Exceptions (h) Withholding Approval or Permission to Take Examinations. The Bar Board of Governors may, in its discretion, withhold approval of an application or withhold permission to sit for the bar take an examination for an otherwise qualified applicant, until the applicant establishes that all requirements have been met or until completion of an inquiry into the applicant's character and fitness; if the applicant (i) has ever been convicted of a "serious crime" as defined in ELC 7.1 (a)(2), or (ii) has ever been disbarred or is presently suspended from the practice of law for disciplinary reasons in any jurisdiction, or (iii) has previously been denied admission to the Bar in this or any other jurisdiction for reasons other than failure to pass a bar examination. The Board of Governors may also withhold approval of an application or permission to sit for the bar examination where for any other reason there are serious and substantial questions regarding the present moral character or fitness of the applicant. The

Board of Governors may refer such matters to the Character and Fitness Board for investigation and hearing pursuant to these rules.

(ie) Forms Applications; Fees; Filing.

(1) Every applicant for admission shall:

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

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

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

(2) Refunds of any application fees shall be handled according to policies established by the Bar.

(3) Transfers of applicants from administration of one examination to administration of another examination shall be handled according to policies established by the Bar.

GR 9 COVER SHEET

Suggested Amendments

ADMISSION AND PRACTICE RULES (APR)

Rule 4.

Submitted by the Washington State Bar Association

A. Name of Proponent:

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C. Purpose:

The primary purpose of the suggested amendments to APR 4 is to centralize the location of all rules relating to the admission examinations for lawyers, LPOs and LLLTs and to coordinate as much as possible the policies and procedures relating to how the examination results are released to applicants.

APR 4(a): The suggested amendments would broaden current language to cover applications for admission to prac-

tice law for all types of licenses, and clarify that the Bar has authority to set dates and locations of all of the examinations.

APR 4(b): The suggested amendments clarify the types of information the Bar can release regarding examination results. They also explicitly state that there shall be no appeal or review of examination results; this approach to appeals currently is stated in other rules in the APR for LPOs and LLLTs, and in the WSBA Admission Policies (approved by the BOG since 2012) for lawyers. The no appeal policy is consistent with the National Conference of Bar Examiners (NCBE) standards of the condition of use for the UBE.

APR 4(c): The suggested amendments state the existing policy for repeats of the lawyer bar examination and broaden the language so it is applicable to the LLLT and LPO examinations as well.

APR 4(d): The suggested amendments explicitly state that the Washington lawyer bar examination consists of the Uniform Bar Exam (UBE) and the Multistate Professional Responsibility Exam (MPRE) and would incorporate WSBA Admissions policies that have been approved by the BOG and in place since Washington began using the UBE, including the required passing scores and expiration period for the MPRE.

APR 4(e) and APR 4(f): The suggested amendments relating specifically to the LLLT and LPO examinations contain provisions that currently are contained in APR 12 and APR 28, with only one change. The time in which to pass the LLLT ethics exam would be modified to 40 months after passing the LLLT practice area exam so that it would be consistent with the time to complete all preadmission requirements.

Other suggested amendments are made to conform the terminology to that which is used throughout the suggested amendments to the APR.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 4 (Redline)

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 4. ~~BAR~~ EXAMINATIONS FOR ADMISSION; NOTIFICATION OF RESULTS

(a) ~~Bar~~ Examinations. ~~The e~~Examinations for admission to ~~the bar~~ practice law shall be conducted by and under the direction of the ~~Bar~~ Board of Governors with the assistance of the Board of Bar Examiners. ~~The bar e~~Examinations shall be held in February and in July of each year, or at such other times and places as the ~~Bar~~ Board of Governors may designate, commencing at the times and in the locations selected by the Board of Governors.

(b) Notification of Results. As soon as practicable after the completion of ~~the bar~~ an examination, ~~the Board of Governors shall cause each~~ applicants will to be notified of the results of ~~the bar~~ examination. The ~~Bar~~ Board of Governors may disclose publicly the names of those applicants who have passed an examination, but not the names of those who failed an examination unless authorized by the applicant or

these rules. There shall be no appeal or review of examination results, the results to the applicant's law school and the National Conference of Bar Examiners. No other information will be divulged to persons other than the applicants concerning the applicants who failed the bar examination.

(c) ~~Repeating Bar~~ Examinations. There is no limitation on the number of times an unsuccessful applicant may apply for and take subsequent administrations of an examination for admission. Any applicant failing a bar examination may apply to take another bar examination.

(d) ~~Lawyer Bar~~ Examination. Unless otherwise provided by these rules, applicants for admission to practice as a lawyer must take and pass the National Conference of Bar Examiners' (NCBE) Uniform Bar Examination (UBE) and Multistate Professional Responsibility Examination (MPRE).

(1) Washington's UBE minimum passing score is 270.

(2) Washington's MPRE minimum passing score is 85, which must be earned no earlier than three years prior to and no later than 40 months after the date of the administration of the UBE in which the applicant received the minimum passing score.

(3) The Bar may disclose the results of the lawyer bar examination to an applicant's law school and the NCBE.

(e) ~~LLLT~~ Examination. Unless otherwise stated in these rules, all applicants for admission to practice law in Washington as an LLLT must take and pass an LLLT practice area examination and the LLLT professional responsibility examination.

(1) The practice area examination will test applicants on one specific practice area and knowledge of LLLT scope of practice specific to that practice area.

(A) Each practice area examination shall be comprised of three parts: a multiple choice section, an essay section, and a performance section.

(B) The duration, form, and manner of the exam shall be as prescribed by the LLLT Board.

(C) The minimum passing standard for the practice area examination is a score of 75 percent for each section of the examination. A failing grade in one section shall result in failure of the examination, in which case grading of any remaining sections shall not be required.

(D) An applicant who fails the practice area examination may request a copy of their essay and performance sections if graded. An applicant who passes the practice area examination will not receive a copy of the examination.

(2) The LLLT professional responsibility examination will test applicants on their knowledge of the LLLT Rules of Professional Conduct.

(A) The professional responsibility examination shall be comprised of one multiple choice section.

(B) The minimum passing standard for the professional responsibility examination is a score of 75 percent.

(C) The professional responsibility examination must be passed no earlier than 18 months and no later than 40 months from the date of the administration of the practice area examination in which the applicant receives a passing score.

(f) ~~LPO~~ Examination. All applicants for admission to practice law in Washington as an LPO must take and pass the LPO examination, which shall test applicants on the legal knowledge and skills required for LPO practice, as well as

the permissible scope of practice for an LPO and the LPO RPCs. There is not a separate professional responsibility examination.

(1) The LPO examination consists of three parts, a multiple choice examination, an essay examination, and a performance examination.

(2) The minimum passing standard for the examination is 75 percent for each section, and applicants must pass all three sections. A failing grade in one section shall result in failure of the examination in which case grading of any remaining sections shall not be required.

(3) Those applicants who fail the examination will be informed of their score on each graded section of the examination.

(4) Copies of the examination shall not be available to any applicant.

GR 9 COVER SHEET

Suggested Amendments ADMISSION AND PRACTICE RULES (APR) Rule 5

Submitted by the Washington State Bar Association

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C. Purpose:

The suggested amendments to APR 5 principally represent a reorganization of the information contained in the Admission and Practice Rules, rather than substantive changes to admission policies and practices. While its contents have been significantly restructured, the aim of the proposed amendments is to eliminate duplication of rules and unify administrative processes within the Washington State Bar Association for lawyers, LLLTs and LPOs.

The following describes the proposed amendments and the purpose and intended effect.

APR 5(a)

The current APR 5(a), "Recommendation for Admission", has been moved to the suggested amendments to APR 5(h), with some changes. The suggested amendments to APR

5(a) Preadmission Requirements broadens the language so it can apply to lawyer, Limited License Legal Technician (LLLT), and Limited Practice Officer (LPO) licenses to practice law. In the suggested amended text, the commonalities among the preadmission requirements for the three types of licenses are clearly delineated in APR 5(a) 1-4. This information is currently found in APR 5(b), APR 12(c) and APR 28(D). There are several basic admission requirements that were built into the foundation of all three license types: paying a license fee, filing licensing forms, and taking an oath. The only preadmission requirement listed in section (a) that represents a substantive change is APR 5 (a)(4), which requires all applicants who meet certain criteria to designate a resident agent per APR 13 in order to be licensed. This would create a small but substantive change to the address requirements for LLLTs and LPOs. Those changes are discussed in the GR 9 coversheets for suggested amendments to APR 12, 13, and 28.

APR 5(b)

This section addresses additional requirements for applicants seeking admission and licensing as a lawyer, beyond the requirements for preadmission common to all license types. The requirements for lawyer admission have not changed, but in APR 5 (b)(1) additional information regarding the Washington Law Component, including the minimum pass score, would be added. This information currently exists in the Admissions Policies of the Bar, adopted by the Board of Governors at the time of switching to the Uniform Bar Exam.

In APR 5 (b)(2), there is an amendment intended to clarify that the Bar, rather than the Board of Governors, approves the four hours of education required for admission. This is an administrative task better suited to the expertise of Bar staff than to the Board of Governors, and has traditionally been performed by the Bar.

The subsequent deletions in APR 5(b) reflect a reorganization of information; the preadmission requirements formerly found in this section can now be found in APR 5(a).

APR 5(c)

The suggested amendments would list the preadmission requirements for LLLT applicants. There would be no substantive changes to these requirements. These requirements are located in the current APR 28(E).

APR 5(d)

The suggested amendments would list the preadmission requirements specific to LPOs. There would be no substantive changes to these requirements. This requirement is located in the current APR 12(c).

APR 5(e)

The suggested amendments to APR 5(e) would describe the expiration of preadmission requirements for all license types. This section would take information currently located in APR 5(b), which applied only to applicants for admission and licensing as a lawyer, and would add text defining the expiration of preadmission requirements for all license types. There have been no substantive changes to the requirements for lawyer applicants.

The suggested amendments would make a substantive change to the amount of time LLLT applicants may take to complete preadmission requirements after the date they pass their licensing examination. Under current APR 28(E), LLLTs have three years (36 months) to complete preadmission requirements after passing their licensing examination; the suggested amendments to APR 5 would allow them 40 months. This relatively minor extension of the deadline to complete requirements is consistent with the lawyer deadline and would allow the Bar to unify administrative processes for the lawyer and LLLT licenses.

The suggested amendments would make a change to the deadline for completion of preadmission requirements for the LPO license, reflecting an effort to reduce the number of different deadlines and coordinate administrative procedures among the LPO and lawyer admission by motion and UBE transfer applicants. Currently, APR 12 Regulation 8 requires that all LPO license requirements be completed within nine months of passage of the licensing examination; this suggested amendment would give them an additional three months.

The suggested amendment to APR 5 (e)(4) would contain information currently stated in the Admissions Policies adopted by the Board of Governors.

The suggested amendments also would strike the current text of APR 5(b) regarding preadmission deadlines for admission by motion or UBE transfer.

APR 5 (f) and (g)

Currently, the oath in APR 5 only applies to prospective lawyers. Similar oath language for LPOs and LLLTs is currently contained in APR 12 and APR 28, respectively. The suggested amendments to APR 5(f) and 5(g) are meant to make the oath applicable to all license types. Accordingly, the suggested amendments would change the title of the oath from "oath of attorney" to "oath for the practice of law", and would add a sentence to the current "oath of attorney" regarding complying with any restrictions on the applicant's license to practice law.

For LLLT applicants, the suggested amendments would add the language in the Oath, paragraph 6, to the language of the oath currently set forth in APR 28.

For LPO applicants, the current oath for LPOs is in APR 12 Regulation 8(B), and focuses on potential liability as well as limitations on services. The oath in the suggested amendments to APR 5 includes an affirmation to disclose the limitations on services without specifically addressing liability. Because LPOs are required to submit documentation showing that they are covered by liability insurance or can personally cover claims before they can be licensed, having a term in the oath that would address liability issues seems unnecessary.

APR 5(h)

The suggested amendments to APR 5 would move the "Recommendation for Admission" section from APR 5(a) to APR 5(h) a recommendation for admission will only occur after the applicants have completed the applicable pre-admission requirements stated elsewhere in the suggested amendments to APR 5.

Throughout the text of the suggested amendments to the "Recommendation for Admission" section, the tasks formerly performed by the Board of Governors are now assigned to the Bar, a reflection of the administrative reality of these functions. Other suggested amendments include changing "shall recommend ... the admission or rejection of each applicant who has been approved for admission by motion" to "shall recommend ... the admission or rejection of each applicant who qualifies for and has been approved for admission without passing an examination". This amendment captures those who are admitted by motion, while also encompassing those who are admitted by transferring their UBE score from another jurisdiction.

APR 5(i)

The suggested amendments would reflect the current practice of accepting electronically submitted applications and documentation, and would designate the Bar as the entity that transmits the recommendation to the Supreme Court.

APR 5(j)

With these suggested amendment, the first sentence of the current APR 5(f), which states that there is no residency requirement to practice law in Washington, would make up the entirety of APR 5(j).

Text currently included in APR 5(f) is contained in the suggested amendments to APR 13. The GR 9 coversheet for the suggested amendments to APR 13 contains a discussion of suggested changes to the requirements for nonresident lawyers, LLLTs, and LPOs.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 5 (Redline)

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 5. ~~RECOMMENDATION FOR PRE-ADMISSION REQUIREMENTS; OATH; RECOMMENDATION FOR ADMISSION; ORDER ADMITTING TO PRACTICE LAW; PAYMENT OF MEMBERSHIP FEE; OATH OF ATTORNEY; RESIDENT AGENT~~

~~(a) Recommendation for Admission. The Board of Governors shall recommend to the Supreme Court the admission or rejection of each applicant who has passed the bar examination or been approved for admission by motion, and who has complied with the preadmission requirements set forth in this rule. A recommendation for admission shall be based upon the Board of Governors determination, after investigation, that the applicant appears to be of good moral character and in all respects qualified to engage in the practice of law. All recommendations of the Board of Governors shall be accompanied by the applicant's application for admission and any other documents deemed pertinent by the Board of Governors or requested by the Supreme Court. The recommendation and all accompanying documents and papers shall be kept by the Clerk of the Supreme Court in a separate file which shall not be a public record.~~

~~(b) Preadmission Requirements. Before an applicant who has passed the bar an examination for admission, or who~~

qualifies for admission without passing ~~the bar~~ an examination, may be admitted, the applicant must:

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

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

(3) take the Oath for the Practice of Law; and

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

(b) Lawyer applicants. In addition to the requirements in section (a) above, lawyer applicants must:

(1) take and pass the Washington Law Component (WLC). The duration, form and manner of the WLC shall be as prescribed by the Bar. The WLC minimum pass score is 80 percent; and

(2) complete a minimum of 4 hours of education in a curriculum and under circumstances approved by the ~~Bar Board~~ Board of Governors;

(3) pay to the Bar Association the annual license fee and any assessments for the current year;

(4) file any and all licensing forms required of active members;

(5) take the Oath of Attorney; and

(6) designate a resident agent if required to do so by section (f).

(c) LLLT Applicants. In addition to the requirements in section (a) above, LLLT applicants must:

(1) demonstrate financial responsibility pursuant to APR 28I; and

(2) demonstrate completion of 3,000 hours of substantive law-related work experience pursuant to APR 28 Regulation 9.

(d) LPO Applicants. In addition to the requirements in section (a) above, LPO applicants must demonstrate financial responsibility pursuant to APR 12(f).

(e) Expiration of Preadmission Requirements. The preadmission requirements must be completed within:

(1) 40 months from the date of the administration of the examination for lawyer applicants;

(2) 40 months from the date of the administration of the examination for LLLT applicants;

(3) 12 months from the date of the administration of the examination for LPO applicants;

(4) 12 months from the date of filing the application, for lawyer applicants who apply by motion or UBE score transfer, except for good cause shown.

~~For applicants who take and pass the bar examination, the preadmission requirements must be completed within 40 months from the date of the administration of the bar examination in which the score was earned. For applicants who apply by motion, the preadmission requirements must be completed within one year from the date of filing the application, except for good cause shown.~~

(fe) Oath for the Practice of Law of Attorney. The Oath for the Practice of Law of Attorney must be taken before an elected or appointed judge, excluding judges pro tempore, sitting in open court in the state of Washington. In the event a successful applicant is outside the state of Washington and the Chief Justice is satisfied that it is impossible or

impractical for the applicant to take the oath before an elected or appointed judge in this state, the Chief Justice may, upon proper application setting forth all the circumstances, designate a person authorized by law to administer oaths, before whom the applicant may appear and take said oath.

(gd) Contents of Oath. The oath which all applicants shall take is as follows:

OATH FOR THE PRACTICE OF LAW OF ATTORNEY

State of Washington, County of _____ ss.

I, _____, do solemnly declare:

1. I am fully subject to the laws of the State of Washington and the laws of the United States and will abide by the same.

2. I will support the constitution of the State of Washington and the constitution of the United States.

3. I will abide by the Rules of Professional Conduct approved by the Supreme Court of the State of Washington.

4. I will maintain the respect due to the courts of justice and judicial officers.

5. ~~If there are limitations on my license to practice law, I will confine my activities to those permitted pursuant to my license to practice law and will faithfully disclose any limitations on my services.~~

~~6. 5-~~ I will not counsel, or maintain any suit, or proceeding, which shall appear to me to be unjust, or any defense except as I believe to be honestly debatable under the law, unless it is in defense of a person charged with a public offense. I will employ for the purpose of maintaining the causes confided to me only those means consistent with truth and honor. I will never seek to mislead the judge or jury by any artifice or false statement.

~~7. 6-~~ I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with the business of my client unless this compensation is from or with the knowledge and approval of the client or with the approval of the court.

~~8. 7-~~ I will abstain from all offensive personalities, and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged.

~~9. 8-~~ I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay unjustly the cause of any person.

(signature)

SUBSCRIBED AND SWORN TO before me this ___ day of _____, 20 ___.

Judge

(h) Recommendation for Admission. The Bar shall recommend to the Supreme Court the admission or rejection of each applicant who has passed an examination for admission or who qualifies for and has been approved for admission without passing an examination, and who has complied with the preadmission requirements set forth in this rule. A recommendation for admission shall be based upon the Bar's determination, after investigation, that the applicant has met all the requirements for admission and appears to be of good moral character and fit to engage in the practice of law. All

recommendations of the Bar shall be accompanied by the applicant's application for admission and any other documents deemed pertinent by the Bar or requested by the Supreme Court. The recommendation and all accompanying documents shall be kept by the Clerk of the Supreme Court in a record which shall not be a public record.

(ie) Order Admitting to Practice. After examining the recommendation and accompanying documentation papers transmitted by the ~~Bar Board of Governors~~, the Supreme Court may enter such order in each case as it deems advisable. For those applicants it deems qualified, the Supreme Court shall enter an order admitting them to the practice of law.

(jf) Nonresident Lawyers, ~~LLLTs or LPOs; Resident Agent.~~ There shall be no requirement that an applicant, ~~lawyer, LLLT or LPO or a member of the Bar Association~~ be a resident in the state of Washington. ~~Every member, except a judicial member, of the Bar Association who does not live or maintain an office in the state of Washington shall file with the Bar Association the name and address of an agent within this state for the purpose of receiving service of process or of any other document required or permitted by statute or court rule to be served or delivered to a resident lawyer. Service or delivery to such agent shall be deemed service upon or delivery to the lawyer.~~

GR 9 COVER SHEET

Suggested Amendments ADMISSION AND PRACTICE RULES (APR) Rule 6.

Submitted by the Washington State Bar Association

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Chief Regulatory Counsel
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C. Purpose:

There are no substantive amendments to APR 6.

The suggested amendments conform the terminology to other language throughout the suggested amendments to the APR and include applicable cross-references to other APR consistent with the suggested amendments.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 6 (Redline)

TITLE
ADMISSION AND PRACTICE RULES (APR)
RULE 6. LAW CLERK PROGRAM

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

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

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

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

(3) Be engaged in regular, full-time employment in Washington State for an average of 32 hours per week with the primary tutor or primary tutor's employer in a (i) law office, (ii) legal department or (iii) a court of general, limited, or appellate jurisdiction in Washington State. The employment must include tasks and duties which contribute to the practical aspects of engaging in the practice of law;

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

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

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

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

(c) Tutors. To be eligible to act as a tutor in the law clerk program, a lawyer or judge shall:

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

(2) Be an active member in good standing of the ~~Bar Association~~, or be a judicial member who is currently elected or appointed to an elected position, who has not received a disciplinary sanction in the last 5 years, provided that if there is discipline pending or a disciplinary sanction has been imposed upon the member more than 5 years preceding the

law clerk's application for enrollment, the ~~Bar Board of Governors~~ shall have the discretion to accept or reject the member as tutor;

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

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

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

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

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

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

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

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

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

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

(2) Certificates. The tutor shall submit the examination, including the grade given for the examination and comments to the law clerk, and a monthly certificate, stating the law clerk's hours engaged in employment, study and the tutor's

personal supervision within 10 business days following the month of study. If an examination is not given, the monthly certificate shall be submitted stating the reason.

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

(4) Evaluations. Annually, or at other intervals deemed necessary, the law clerk shall participate with the tutor in an evaluation of the law clerk's progress.

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

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

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

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

(g) Termination. The ~~Bar Board of Governors~~ may direct a law clerk to change tutors if approval of a tutor is withdrawn. The ~~Bar Board of Governors~~ may terminate a law clerk's enrollment in the program for:

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

(2) Failure of the tutor to submit the monthly examinations and certificates at the end of each month in which they are due;

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

(4) Any other grounds deemed pertinent.

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

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

GR 9 COVER SHEET

Suggested Amendments

ADMISSION AND PRACTICE RULES (APR)

Rule 7.

Submitted by the Washington State Bar Association

A. Name of Proponent:

Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Robin L. Haynes, President
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

B. Spokesperson:

Paula C. Littlewood, Executive Director
Washington State Bar Association
1325 Fourth Avenue, Suite 600
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Jean K. McElroy, General Counsel/
Chief Regulatory Counsel
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539 (Phone: 206-727-8277)

C. Purpose:

The suggested amendments to APR 7 would reserve the rule and delete the entire text. The current provisions are duplicative of current APR 20-24 relating to character and fitness proceedings, and the subpoena provisions of APR 7(c) would be included in the suggested amendments to APR 22.1 and 23.1.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 7 (Redline)

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 7. ~~RESERVED~~ INVESTIGATIONS; DUTY OF APPLICANT

~~(a) Investigations.~~ The Board of Governors may refer any application for permission to take the bar examination, to be admitted to the practice of law or to be admitted to the limited practice of law under pertinent provisions of rules 8, 9, and 14, or to enroll in the law clerk program to state bar counsel or to the Character and Fitness Board for investigation pursuant to these rules.

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

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

GR 9 COVER SHEET

Suggested Amendments

ADMISSION AND PRACTICE RULES (APR)

Rule 8.

Submitted by the Washington State Bar Association

A. Name of Proponent:

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C. Purpose:

The primary purpose of the suggested amendments to APR 8 is to reduce the number of limited licenses to practice law in Washington available to lawyers who are already admitted to practice law in another U.S. jurisdiction, in large part because these provisions are very rarely used and because there are other readily accessible methods for these lawyers to be able to practice law in Washington. The suggested amendments also clarify that lawyers permitted or licensed to practice law under APR 8 are not members of the Washington State Bar Association (WSBA).

APR 8(a)

The suggested amendments would clarify that this rule is intended to cover lawyers who do not qualify for admission under APR 3 but want to engage in limited practice in Washington, and that such lawyers are not considered members of the WSBA.

APR 8(b)

The suggested amendments would add full-time active duty military officer serving in the office of a Staff Judge Advocate or a Naval Legal Service Office or a Trial Service Office located in Washington to those who can seek authorization to practice in particular matters. This would eliminate the requirement of having a separate application process and license for these military lawyers in this limited role, as is currently provided for in APR 8(g), and is intended to make it easier for military personnel, who are frequently being reassigned to new states, to practice while they are here in Washington. Recent prior amendments to the APR have made it much easier for spouses of military personnel to become admitted in Washington, through the use of UBE score transfer, and eased admission by motion for lawyers who have been in practice for at least three of the last five years.

Under the suggested amendments, the military lawyer's representation pro hac vice would not be limited to certain military personnel or certain types of cases. In addition, the military lawyer would not need to associate with a Washington lawyer and would not be required to pay the pro hac vice

fee if the lawyer is not receiving any compensation from clients in addition to the military pay to which they are already entitled. The military lawyer would file a motion with the court as instructed under APR 8(b) and the court would determine whether or not it was appropriate for the military lawyer to appear.

There have usually only been a handful of military lawyers each year who would receive this current military lawyer license under APR 8(g). In addition, due to the nature of military service, the lawyers often move out of state within a relatively short time of receiving the license and without notifying the Bar that they have left the state, which results in additional administrative work for the Bar. The suggested amendment to APR 8(b) should better serve military lawyers and the military personnel they represent.

In addition to the necessary amendments for the exceptions for military lawyers, the suggested amendments to APR 8(b) would consistently refer to the out-of-state lawyer as having been granted "permission" to appear before the court for a particular proceeding as opposed to "admission to practice". This is consistent with the general suggested amendments throughout the APR in which the term "admission" is limited to those who are admitted to practice law under APR 3. This would also be consistent with the original language of this rule that allowed the out-of-state lawyer to appear only "with the permission of the court".

APR 8(c)

The suggested amendments are not substantive in nature and are primarily to conform language to usage in other suggested amendments.

APR 8(d)

The suggested amendments would delete this section of the rule and reserve the numbering.

This current exception is for a U.S.-licensed lawyer who is teaching at a Washington law school, and the only practice of law permitted under this rule is to supervise Rule 9 licensed legal interns. There have been very few licenses issued under this rule.

Since the rule was adopted, the Bar has begun using the Uniform Bar Exam and the APR have been amended to provide for admission by motion after practice for three out of the previous five years. Therefore, it is much easier for lawyers who might have qualified for this license to get admitted under APR 3, and it should not be necessary any longer to provide for this separate licensing process.

APR 8(e)

The suggested amendments would delete this section of APR 8, and include most of the provisions in the suggested amendments to APR 3. The suggested amendments would delete the provisions for non-member emeritus because it is extremely rarely used and doesn't warrant a separate application process.

Currently, in order to qualify as non-member emeritus, a U.S. lawyer must be practicing law for a qualified legal services provider in Washington state and must have active legal experience for at least 10 of the last 15 years. The Bar currently has no one licensed as a non-member emeritus and has only had a total of four lawyers ever licensed as non-member emeritus, with the last license ending over two years ago on

May 8, 2014. Due to previous changes in the APR, there are other avenues for out-of-state lawyers seeking to engage in the provision of voluntary legal services.

APR 8(f)

The suggested amendments would explicitly state a current requirement that any mandatory assessment for the first year of licensing would be required upon approval of the application, and otherwise would make conforming amendments only.

APR 8(g)

The suggested amendments would delete this section and reserve the numbering. The suggested amendments to APR 8(b) would continue to permit practice by full-time military lawyers who are licensed in another state, through a modified form of pro hac vice permission to practice. The suggested amendments to APR(b) pro hac vice should make it easier for full-time military lawyers to handle the types of matters previously permitted to them under current APR 8(g) without imposing unnecessary administrative burdens or costs on them.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 8 (Redline)

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 8. NON-MEMBER LAWYER LICENSES TO PRACTICE LAW LIMITED ADMISSIONS

(a) In General. Lawyers admitted to the practice of law in any state or territory of the United States or the District of Columbia or in any foreign jurisdiction, who do not meet the qualifications stated in APR 3 requirements of rule 1(b) or 3(e), may engage in the limited practice of law in this state as provided in this rule. Lawyers permitted or licensed to practice law under this rule are not members of the Bar.

(b) Exception for Particular Action or Proceeding. A lawyer member in good standing of, and permitted to practice law in, the ~~bar~~ Bar of any other state or territory of the United States or of the District of Columbia, or a lawyer who is providing legal services for no fee through a qualified legal services provider pursuant to rule 8(f), may appear as a lawyer in any action or proceeding only

(i) with the permission of the court or tribunal in which the action or proceeding is pending, and

(ii) in association with an active lawyer member of the ~~Washington State Bar Association~~, who shall be the lawyer of record therein, responsible for the conduct thereof, and present at proceedings unless excused by the court or tribunal. The requirement in (ii) is waived for a lawyer who is a full-time active duty military officer serving in the office of a Staff Judge Advocate of the United States Army, Air Force, Navy, Marines, or Coast Guard, a Naval Legal Service Office or a Trial Service Office, located in the State of Washington.

(1) An application to appear as such a lawyer shall be made by written motion to the court or tribunal before whom the action or proceeding is pending, in a form approved by

the ~~Bar Board of Governors~~, which shall include certification by the lawyer seeking ~~permission admission~~ under this rule and the associated Washington lawyer that the requirements of this rule have been complied with, and shall ~~include an indication state the date~~ on which ~~date~~ the fee and ~~any mandatory~~ assessment required in part (2) were paid, or ~~indicating state~~ that the fee and assessment were waived pursuant to part (2). The motion shall be heard by the court or tribunal after such notice to the ~~Washington State Bar Association~~ and payment of fees and assessments as is required in part (2) below, ~~together with the required fee and assessment~~, unless waived pursuant to part (2), and to adverse parties as the court or tribunal shall direct. Payment of the required fee and assessment shall only be necessary upon a lawyer's first application to any court or tribunal in the same case. The court or tribunal shall enter an order granting or refusing the motion, and, if the motion is refused, the court or tribunal shall state its reasons.

(2) The lawyer making the motion shall submit a copy of the motion to the ~~Washington State Bar Association~~ accompanied by:

(A) a nonrefundable fee in each case in an amount equal to the license fee required of active lawyer members of the Bar set by the Board of Governors with the approval of the Supreme Court, and

(B) the Lawyers' Fund for Client Protection Fund assessment as required of active lawyer members of the Bar under these rules.

(3) Payment of the fee and assessment shall only be necessary upon a lawyer's first motion to any court or tribunal in the same case. The associated Washington lawyer counsel shall be jointly responsible for payment of the fee and assessment. The fee and assessment shall be waived for:

(A) a lawyer providing legal services for no fee through a qualified legal services provider pursuant to rule 8(f),

(B) a lawyer rendering service for no fee in either a bar association or governmentally sponsored legal services organization or in a public defender's office or similar program providing legal services to indigents and only in that capacity, or

(C) a lawyer who is a full-time active duty military officer serving in the office of a Staff Judge Advocate of the United States Army, Air Force, Navy, Marines, or Coast Guard, a Naval Legal Service Office or a Trial Service Office, located in the State of Washington, and who is not receiving any compensation from clients in addition to the military pay to which they are already entitled.

(4) The ~~Washington State Bar Association~~ shall maintain a public record of all motions for ~~admission permission to practice~~ pursuant to this rule.

(5) No member of the Bar Association shall lend his or her name for the purpose of, or in any way assist in, avoiding the effect of this rule.

(c) **Exception for Indigent Representation.** A member in good standing of the ~~bar~~ Bar of another state or territory of the United States or of the District of Columbia, who is eligible to apply for admission as a lawyer under rule APR 3 in this state, while rendering service in either a bar association or governmentally sponsored legal services organization or in a public defender's office or similar program providing legal

services to indigents and only in that capacity, may, upon application and approval, practice law and appear as a lawyer before the courts of this state in any matter, litigation, or administrative proceeding, subject to the following conditions and limitations:

(1) Application to practice under this rule shall be made to the ~~Bar Board of Governors~~, and the applicant shall be subject to the Rules for Enforcement of Lawyer Conduct and to the Rules of Professional Conduct.

(2) In any such matter, litigation, or administrative proceeding, the applicant shall be associated with an active lawyer member of the Bar Association, who shall be the lawyer of record and responsible for the conduct of the matter, litigation, or administrative proceeding.

(3) The applicant shall either apply for and take the first available lawyer bar examination after the date of the applicant's admission the applicant was granted authorization to practice under this rule, or, already have filed an application for admission by motion or Uniform Bar Exam UBE score transfer.

(4) The applicant's authorization right to practice under this rule (i) may be terminated by the Supreme Court at any time with or without cause, or (ii) shall be terminated automatically for failure to take or pass the required lawyer bar examination, or (iii) shall be terminated for failure to become an active lawyer member of the Bar Association within 60 days of the date the lawyer bar examination results are made public, or (iv) shall be terminated automatically upon denial of the application for admission, or (v) in any event, shall be terminated within 1 year from the original date of the applicant's admission the applicant was authorized to practice law in this state under this rule.

(d) ~~[Reserved.] Exception for Educational Purposes.~~ A lawyer who is enrolled and in good standing as a postgraduate student or as a faculty member in a program of an approved law school in this state, involving clinical work in the courts or in the practice of law, may apply to the Board of Governors for admission to the limited practice of law by paying an investigation fee and by presenting satisfactory proof of (i) admission to the practice of law and current good standing in any state or territory of the United States or the District of Columbia, and (ii) good moral character.

(1) Upon approval of the application by the Board of Governors, the applicant shall take the Oath of Attorney, and the Board of Governors shall transmit its recommendation to the Supreme Court which shall enter an order admitting the applicant to the limited practice of law under this section.

(2) The practice of an applicant admitted under this section shall be (i) limited to the period of time the applicant actively participates in the program, (ii) limited to the clinical work of the particular course of study in which the applicant is enrolled or teaching, (iii) free of charge for the services so rendered, and (iv) subject to the Rules of Professional Conduct and the Rules for Enforcement of Lawyer Conduct.

(3) An applicant admitted under this section shall be deemed an active member of the Bar Association only for the purpose of serving as a supervising lawyer under rule 9, and for no other purpose.

(4) When the applicant ceases actively to participate in the program, the law school dean shall immediately notify the

Bar Association and the Clerk of the Supreme Court so that the applicant's right to practice may be terminated of record.

(5) The right to practice under this rule shall terminate three years from the date of admission under this rule.

(c) ~~[Reserved.] Exception for Emeritus Pro Bono Membership.~~ A lawyer admitted to the practice of law in a state or territory of the United States or the District of Columbia, including Washington State, may apply to the Board of Governors for a limited license to practice law as an emeritus pro bono member in this state when the lawyer is otherwise fully retired from the practice of law. An emeritus pro bono member shall provide legal services in Washington State for a qualified legal services provider as defined in part (2) below. The lawyer shall apply by (i) filing an application in the form and manner that may be prescribed by the Board of Governors; (ii) presenting satisfactory proof of admission by examination to the practice of law and current good standing in any state or territory of the United States or the District of Columbia, provided that if a disciplinary sanction has been imposed upon the lawyer within 15 years immediately preceding the filing of the application for emeritus status, the Board of Governors shall have the discretion to accept or reject the application; (iii) presenting satisfactory proof of active legal experience as defined in APR 3(b) for at least 5 of the 10 years immediately preceding the filing of the application for lawyers admitted in Washington and for at least 10 of the 15 years immediately preceding the filing of the application for lawyers only admitted to practice in jurisdictions other than Washington; (iv) filing certification from a qualified legal services provider as defined in part (2) below that the applicant's practice of law will comply with the terms of this rule; (v) paying such fee as may be set by the Board of Governors with approval of the Supreme Court; (vi) complying with training requirements as may be prescribed by the Board of Governors; and (vii) furnishing whatever additional information or proof that may be required in the course of investigating the applicant.

~~(1) Upon approval of the application by the Board of Governors, the lawyer shall take the Oath of Attorney, pay the current year's annual membership fee in the amount required of inactive members, and the Board of Governors shall transmit its recommendation to the Supreme Court which may enter an order admitting the lawyer to the limited practice of law under this section. Emeritus pro bono membership shall be for one year subject to annual renewal as provided by the Board of Governors.~~

~~(2) The practice of a lawyer admitted under this section shall be limited to providing legal service for no fee through a qualified legal services provider; or serving as an unpaid governing or advisory board member or trustee of or providing legal counsel or service for no fee to a qualified legal services provider. A qualified legal services provider is a not for profit legal services organization in Washington state whose primary purpose is to provide legal services to low income clients. The prohibition against compensation for emeritus pro bono members shall not prevent a qualified legal services provider from reimbursing an emeritus pro bono member for actual expenses incurred while rendering legal services under this rule. A qualified legal services provider shall be entitled~~

to receive all court awarded attorney's fees for any representation rendered by the emeritus pro bono member.

~~(3) A lawyer admitted under this section shall pay to the Washington State Bar Association an annual license fee in the amount required of inactive members.~~

~~(4) The practice of a lawyer admitted under this section shall be subject to the Rules of Professional Conduct, the Rules for Enforcement of Lawyer Conduct, and to all other laws and rules governing lawyers admitted to the bar of this state. Jurisdiction shall continue whether or not the lawyer retains the limited license and irrespective of the residence of the lawyer.~~

~~(5) Emeritus pro bono members shall be exempt from compliance with rule 11 concerning Continuing Legal Education. However, prior to engaging in practice as an emeritus pro bono member, the lawyer must complete a training course or courses as approved by the Board of Governors.~~

~~(6) An emeritus pro bono member shall promptly report to the Washington State Bar Association a change in membership status in a state or territory of the United States or District of Columbia where the applicant has been admitted to the practice of law or the commencement of any formal disciplinary proceeding in any jurisdiction where the lawyer has been admitted to the practice of law.~~

~~(7) The limited license granted under this section shall be automatically terminated when the lawyer's practice fails to comply with part (2) above, the lawyer fails to comply with the terms of this rule, or on suspension or disbarment in a state or territory of the United States or District of Columbia where the applicant has been admitted to the practice of law. If the lawyer whose limited license is terminated was previously admitted to practice in Washington, the lawyer shall be transferred to inactive membership status upon termination.~~

(f) Exception for House Counsel. A lawyer admitted to the practice of law in any jurisdiction may apply to the Bar Board of Governors for a limited license to practice law as in-house counsel in this state when the lawyer is employed in Washington as a lawyer exclusively for a profit or not for profit corporation, including its subsidiaries and affiliates, association, or other business entity, that is not a government entity, and whose lawful business consists of activities other than the practice of law or the provision of legal services. The lawyer shall apply by:

(i) filing an application in the form and manner that may be prescribed by the Bar Board of Governors;

(ii) presenting satisfactory proof of (I) admission to the practice of law and current good standing in any jurisdiction and (II) good moral character and fitness to practice;

(iii) filing an affidavit from an officer, director, or general counsel of the applicant's employer in this state attesting to the fact the applicant is employed as a lawyer for the employer, including its subsidiaries and affiliates, and the nature of the employment conforms to the requirements of this rule;

(iv) paying the application fees required of lawyer applicants for admission under APR 3; and

(v) furnishing whatever additional information or proof that may be required in the course of investigating the applicant.

(1) Upon approval of the application by the ~~Bar Board of Governors~~, the lawyer shall take the Oath for the Practice of Law of Attorney, pay the current year's annual membership license fee and any mandatory assessments required of active lawyer members. ~~†The Bar Board of Governors shall transmit its recommendation to the Supreme Court which may enter an order granting admitting the lawyer a license to engage in the limited practice of law under this section.~~

(2) The practice of a lawyer licensed admitted under this section shall be limited to practice exclusively for the employer, including its subsidiaries and affiliates, furnishing the affidavit required by the rule and shall not include (i) appearing before a court or tribunal as a person admitted to practice law in this state, and (ii) offering legal services or advice to the public; or (iii) holding oneself out to be so engaged or authorized.

(3) All business cards and employer letterhead used by a lawyer licensed admitted under this section shall state clearly that the lawyer is licensed admitted to practice in Washington as in-house counsel.

(4) A lawyer licensed admitted under this section shall pay to the ~~Washington State Bar Association~~ an annual license fee in the maximum amount required of active lawyer members and any mandatory the Lawyers' Fund for Client Protection assessments required of active lawyer members of the Bar.

(5) The practice of a lawyer licensed admitted under this section shall be subject to the Rules of Professional Conduct, the Rules for Enforcement of Lawyer Conduct, and to all other laws and rules governing lawyers admitted to the active practice of law in this state. Jurisdiction shall continue whether or not the lawyer retains the limited license and irrespective of the residence of the lawyer.

(6) The lawyer shall promptly report to the ~~Washington State Bar Association~~ a change in employment, a change in admission or license membership status in any jurisdiction where the applicant has been admitted to the practice of law or the commencement of any formal disciplinary proceeding in any jurisdiction where the applicant has been admitted to the practice of law.

(7) The limited license granted under this section shall be automatically terminated when employment by the employer furnishing the affidavit required by this rule is terminated, the lawyer has been admitted to the practice of law pursuant to any other provision of the APR, the lawyer fails to comply with the terms of this rule, the lawyer fails to maintain current good standing in at least one other jurisdiction where the lawyer has been admitted to the practice of law, or on suspension or disbarment for discipline in any jurisdiction where the lawyer has been admitted to the practice of law. If a lawyer's employment is terminated but the lawyer, within three months from the last day of employment, is employed by an employer filing the affidavit required by (iii), the license shall be reinstated.

(8) A lawyer admitted in another United States jurisdiction and authorized to provide legal services under this Rule may provide legal services in this jurisdiction for no fee through a ~~Suggested Amendments to Admission to Practice Rules Washington State Bar Association~~ qualified legal services provider, as that term is defined in APR ~~18-(e)(2).~~ If

such services involve representation before a court or tribunal the lawyer shall seek admission permission under APR 8(b) and any fees for such admission permission shall be waived. The prohibition against compensation in this paragraph shall not prevent a qualified legal services provider from reimbursing a lawyer authorized to practice under this rule for actual expenses incurred while rendering legal services under this pro bono exception. In addition, a qualified legal services provider shall be entitled to receive all court awarded attorney's fees for pro bono representation rendered by the lawyer.

(g) [Reserved.] Exception for Military Lawyers. ~~A lawyer admitted to the practice of law in a state or territory of the United States or of the District of Columbia, who is a full-time active duty military officer serving in the office of a Staff Judge Advocate of the United States Army, Air Force, Navy, Marines, or Coast Guard, a Naval Legal Service Office or a Trial Service Office, located in the State of Washington, may, upon application and approval, appear as a lawyer and practice law before the courts of this state in any matter, litigation, or administrative proceeding, subject to the following conditions and limitations set forth in this rule. The applicant must be of good moral character and shall apply by (i) filing an application in the form and manner that may be prescribed by the Board of Governors; (ii) presenting satisfactory proof of admission by examination to the practice of law and current good standing as a member of the bar in any state or territory of the United States or the District of Columbia; (iii) complying with training requirements as set forth below; and (iv) furnishing whatever additional information or proof that may be required in the course of processing the application.~~

~~(1) To qualify for admission to practice under this rule, an applicant must, prior to admission, complete at least 15 credit hours of approved continuing legal education on Washington practice, procedure, and professional responsibility.~~

~~(2) Military lawyers admitted to practice pursuant to this rule are not, and shall not represent themselves to be members of the Washington State Bar Association.~~

~~(3) The applicant's right to practice under this rule: (i) may be terminated by the Supreme Court at any time with or without cause, or (ii) shall be terminated when the military lawyer ends active duty military service in this state. The lawyer admitted under this rule and his or her supervisory Staff Judge Advocate or his or her Commanding Officer are responsible to advise the Washington State Bar Association of any change in status of the lawyer that may affect his or her right to practice law under this rule.~~

~~(4) Military lawyers admitted pursuant to the rule may represent active duty military personnel in enlisted grades E-1 through E-4 and their dependents in noncriminal matters to the extent such representation is permitted by the supervisory Staff Judge Advocate or Commanding Officer, Naval Legal Service Office or Commanding Officer, Trial Service Office. Other active duty military personnel and their dependents may be represented if approved by the Service Judge Advocate General or his or her designee.~~

~~(5) Military lawyers admitted pursuant to this section may not demand or receive any compensation from clients in addition to the military pay to which they are already entitled.~~

~~(6) The practice of a lawyer admitted under this section shall be subject to the Rules of Professional Conduct, the Rules for Enforcement of Lawyer Conduct, the Admission to Practice Rules, and to all other laws and rules governing lawyers admitted to the bar of this state. Jurisdiction shall continue whether or not the lawyer retains the right to practice in Washington and irrespective of the residence of the lawyer.~~

GR 9 COVER SHEET

Suggested Amendments
ADMISSION AND PRACTICE RULES (APR)
Rule 9.

Submitted by the Washington State Bar Association**A. Name of Proponent:**

Washington State Bar Association
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 Seattle, WA 98101-2539

Robin L. Haynes, President
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B. Spokesperson:

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Jean K. McElroy, General Counsel/
 Chief Regulatory Counsel
 Washington State Bar Association
 1325 Fourth Avenue, Suite 600
 Seattle, WA 98101-2539 (Phone: 206-727-8277)

C. Purpose:

There are no substantive suggested amendments to APR 9. Instead, the amendments conform the terminology as used throughout the suggested amendments to the APR.

Under the suggested amendments, APR 9(c) regarding supervising lawyer qualifications would no longer include "a lawyer currently licensed pursuant to APR 8(d) Exception for Educational Purposes" because the suggested amendments would eliminate that license type (see suggested amendments to APR 8).

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 9 (Redline)

TITLE
 ADMISSION AND PRACTICE RULES (APR)
 RULE 9. LICENSED LEGAL INTERNS

(a) Purpose. Supervised professional practice plays an important role in the development of competent lawyers and expands the capacity of the Bar to provide quality legal services while protecting the interests of clients and the justice

system. This rule authorizes supervised professional practice by qualified law students, enrolled law clerks, and recent graduates of approved law schools when they are licensed pursuant to this rule to engage in the limited practice of law as "Licensed Legal Interns". The license granted pursuant to this rule is a limited license, based in part on recognition of the role practice experience plays in developing the competence of aspiring lawyers and in part on the fact that the Licensed Legal Intern will be supervised by an experienced lawyer. Persons granted such a limited license and their supervising lawyers must comply with the obligations and limitations set forth in these rules.

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

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

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

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

(2) Be an enrolled law clerk who:

(A) is certified by ~~WSBA Bar~~ staff to be in compliance with the provisions of APR 6 and to have successfully completed not less than five-eighths of the prescribed 4-year course of study; and

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

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

(c) Qualifications to Be a Supervising Lawyer. Except in the sections regarding the application for issuance of a limited license pursuant to this rule, references in this rule to "supervising lawyer" include both the supervising lawyer named in the application materials and on the Licensed Legal Intern identification card, and any other lawyer from the supervising lawyer's office who meets the qualifications of a supervising lawyer and who performs the duties of a supervising lawyer. A supervising lawyer must be ~~either:~~

~~(1) a lawyer currently licensed pursuant to APR 8(d) Exception for Educational Purposes; or~~

(2) an active lawyer member in good standing of the ~~Washington State Bar Association~~, who has been actively engaged in the practice of law in the State of Washington or in any state or territory of the United States or the District of Columbia for at least the ~~3~~ three years immediately preceding the date of the application, who has not been disbarred or subject to a disciplinary suspension in any jurisdiction within the previous 10 years and does not have a disciplinary proceeding pending or imminent, and who has not received a disciplinary sanction of any kind within the previous three years.

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

(1) The applicant and the supervising lawyer must fully and accurately complete the application, and they have a con-

tinuing duty to correct and update the information on the application while it is pending and during the term of the limited license. Every applicant and supervising lawyer must cooperate in good faith with any investigation by promptly furnishing written or oral explanations, documents, releases, authorizations, or other information reasonably required by the ~~Board of Governors or Bar Association staff, or Bar Counsel~~. Failure to cooperate fully or to appear as directed or to furnish additional information as required shall be sufficient reason for the ~~Bar Board~~ to recommend denial or termination of the license.

(2) The application must include:

(A) all requested information about the applicant and the Supervising Lawyer;

(B) the required certification from the law school (or confirmation from the Bar ~~Association~~, for APR 6 Law Clerks) that the applicant has the required educational qualifications; and

(C) certifications in writing under oath by the applicant and the supervising lawyer(s) that they have read, are familiar with, and will abide by this rule and the Rules of Professional Conduct.

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

(4) Bar ~~Association~~ staff shall review all applications to determine whether the applicant and the supervising lawyer have the necessary qualifications, and whether the applicant possesses the requisite good moral character and fitness to engage in the limited practice of law provided for in this rule. Bar ~~Association~~ staff may investigate any information contained in or issues raised by the application that reflect on the factors contained in APR 21-24, and any application that reflects one or more of the factors set forth in APR 21 ~~4.2(a)~~ shall be referred to Bar Counsel for review.

(5) Bar Counsel may conduct such further investigation as appears necessary, and may refer to the Character and Fitness Board for hearing any applicant about whom there is a substantial question whether the applicant possesses the requisite good moral character and fitness to practice law as defined in APR 20. Such hearing shall be conducted as provided in APR 20-24.3. Bar Counsel may require any disclosures and conditions of the applicant and supervising lawyer that appear reasonably necessary to safeguard against unethical conduct by the applicant during the term of the limited license. No decision regarding the good moral character and fitness to practice of an applicant made in connection with an application for licensing pursuant to this rule is binding on the Bar ~~Association~~ or Character and Fitness Board at the time an applicant applies for admission to practice law and membership in the ~~WSBA Bar~~, and such issues may be reinvestigated and reconsidered by Bar ~~Association~~ staff Bar Counsel, and the Character and Fitness Board.

(6) The Supreme Court shall issue or refuse the issuance of a limited license for a Licensed Legal Intern. The Supreme Court's decision shall be forwarded to the Bar ~~Association~~, which shall inform the applicant of the decision.

(7) Upon Supreme Court approval of an applicant, the Bar ~~Association~~ shall send to the applicant, in care of the supervising lawyer's mailing address on record with the Bar

~~Association~~, a letter confirming approval by the Supreme Court and a Licensed Legal Intern identification card. An applicant must not perform the duties of a Licensed Legal Intern before receiving the confirming letter and identification card.

(8) Once an application is accepted and approved and a license is issued, a Licensed Legal Intern is subject to the Rules of Professional Conduct and the Rules for Enforcement of Lawyer Conduct and to all other laws and rules governing lawyers admitted to the Bar of this state, and is personally responsible for all services performed as a Licensed Legal Intern. Any offense that would subject a lawyer admitted to practice law in this state to suspension or disbarment may be punished by termination of the Licensed Legal Intern's license, or suspension or forfeiture of the Licensed Legal Intern's privilege of taking the lawyer bar examination and being licensed admitted to practice law in this state.

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

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

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

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

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

(C) Present to the court ex parte and agreed orders signed by the supervising lawyer, except as otherwise provided in these rules;

(D) After a reasonable period of in-court supervision or supervision while practicing before an administrative agency, which shall include participating with the supervising lawyer in at least one proceeding of the type involved before the same tribunal and being observed by the supervising lawyer while handling one additional proceeding of the same type before the same tribunal:

(i) Represent the State or the respondent in juvenile court in misdemeanor and gross misdemeanor cases;

(ii) Try hearings, non-jury trials, or jury trials, in courts of limited jurisdiction;

(iii) Represent a client in any administrative adjudicative proceeding for which non-lawyer representation is not otherwise permitted.

(2) In any proceeding in which a Licensed Legal Intern appears before the court, the Licensed Legal Intern must advise the court of the Intern's status and the name of the Intern's supervising lawyer.

(3) A Licensed Legal Intern may participate in Superior Court and Court of Appeals proceedings, including depositions, only in the presence of the supervising lawyer or another lawyer from the same office.

(4) A Licensed Legal Intern must not receive payment directly from a client for the Intern's services. A Licensed Legal Intern may be paid for services by the Intern's employer, and the employer may charge for the services provided by the Licensed Legal Intern as may be appropriate.

(5) A Licensed Legal Intern must not try any motion or case or negotiate for or on behalf of any client unless the client is notified in advance of the status as a Licensed Legal Intern and of the identity and contact information of the Licensed Legal Intern's supervising lawyer.

(6) A Licensed Legal Intern must not perform any of the actions permitted by this rule on behalf of or under the supervision of any lawyer other than the supervising lawyer or another lawyer employed in the same office who is qualified for such supervision under this rule.

(7) For purposes of the attorney-client privilege, a Licensed Legal Intern shall be considered a subordinate of the lawyer providing supervision for the Intern.

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

(1) must provide training to all Licensed Legal Interns supervised by the supervising lawyer, regarding the Rules of Professional Conduct and how they relate to the limited practice of the Licensed Legal Intern. Such training may be waived if the supervising lawyer otherwise determines that the Licensed Legal Intern has previously received such training and the supervising lawyer deems such training sufficient for the limited practice that will be supervised;

(2) must direct, supervise and review all of the work of the Licensed Legal Intern and shall assume personal professional responsibility for any work undertaken by the Licensed Legal Intern while under the lawyer's supervision;

(3) must ensure that all clients to be represented by the Licensed Legal Intern are informed of the intern's status as a Licensed Legal Intern in advance of the representation;

(4) must review and sign all correspondence providing legal advice to clients and all pleadings, motions, briefs, and other documents prepared by the Licensed Legal Intern and ensure that they comply with the requirements of this rule, and must sign the document if it is prepared for presentation to a court;

(5) must take reasonable steps to ensure that the Licensed Legal Intern is adequately prepared and knowledgeable enough to be able to handle any assigned matters performed outside the supervising lawyer's presence, but need not be present in the room while the Licensed Legal Intern is performing such duties unless such presence is specifically required by this rule;

(6) must supervise no more than

(a) one Licensed Legal Intern at any one time if the supervising lawyer is in private practice not otherwise described below;

(b) four Licensed Legal Interns at any one time if the supervising lawyer is employed by a recognized institution of legal aid, legal assistance, public defense or similar programs furnishing legal assistance to indigents, or by the legal departments of a state, county or municipality; or

(c) 10 Licensed Legal Interns at any one time if the supervising lawyer is a full-time clinical supervising lawyer or a member of the faculty of an approved law school for a clinical course offered by the law school where such course has been approved by its dean and is directed by a member of its faculty and is conducted within institutions or legal departments described in the section above or within the law school, provided that a supervising lawyer attends all adversarial proceedings conducted by the legal interns;

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

(8) must inform the Bar Association staff promptly if circumstances arise that cause the supervising lawyer to have concern about the good moral character or fitness to practice of a Licensed Legal Intern supervised by that lawyer, and cooperate in any investigation that may follow such a report;

(9) may terminate supervision of a Licensed Legal Intern under this rule at any time, with or without good cause, and must promptly notify the Bar Association staff of the effective date of the termination and the reasons for the termination;

(10) may be terminated as a supervising lawyer at the discretion of the ~~Bar Board of Governors~~, and when so terminated, must take steps to ensure that any Licensed Legal Intern previously supervised by the supervising lawyer ceases to perform duties or hold him/herself out as though supervised by the supervising lawyer.

(g) Additional Obligations and Limitations. The following additional general obligations and limitations apply:

(1) A judge or administrative hearing officer may exclude a Licensed Legal Intern from active participation in a

case in the interest of orderly administration of justice or for the protection of a litigant or witness. In such case, a continuance shall be granted to secure the attendance of the supervising lawyer, who must assume personal responsibility for that matter.

(2) A Licensed Legal Intern or the supervising lawyer must notify the Bar ~~Association~~ staff promptly if the supervising lawyer named on a Licensed Legal Intern's identification card terminates supervision of the Licensed Legal Intern, and such Licensed Legal Intern is prohibited from performing any of the actions described in these rules unless and until a change of supervising lawyer has been approved and a new identification card issued.

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

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

(2) A limited license is granted at the sufferance of the Supreme Court and may be revoked at any time upon the court's own motion, or upon the motion of the ~~Bar Board of Governors~~, in either case with or without cause.

(3) A Licensed Legal Intern must immediately cease performing any services under this rule and must cease holding himself or herself out as a Licensed Legal Intern upon:

(A) the termination for any reason of the Intern's limited license under this rule;

(B) the termination of the supervision for any reason or the upon the resignation of the Intern's supervising lawyer;

(C) the suspension or termination by the ~~Bar Board of Governors~~ of the supervising lawyer's status as a supervising lawyer;

(D) the withdrawal of approval of the Intern pursuant to this rule, or

(E) the failure of the supervising lawyer to maintain qualification to be a supervising lawyer under the terms of this rule.

GR 9 COVER SHEET

Suggested Amendments ADMISSION AND PRACTICE RULES (APR) Rule 11

Submitted by the Washington State Bar Association

A. Name of Proponent:

Washington State Bar Association

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Seattle, WA 98101-2539

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B. Spokesperson:

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Seattle, WA 98101-2539 (Phone: 206-727-8277)

C. Purpose:

The primary purpose of the suggested amendments to APR 11 is to redefine and incorporate the mandatory continuing legal education (MCLE) requirements for Limited License Legal Technicians (LLLTs) and Limited Practice Officers (LPOs). The goal is to centralize MCLE compliance of all legal professionals in the state of Washington into a single rule. These amendments would allow Bar staff to streamline and unify compliance with MCLE requirements, rather than build and/or maintain three separate processes that rely on volunteers and several staff members to separately handle essentially the same regulatory work for each license. The effect of the proposed changes would be to make administrative compliance uniform for lawyers, LLLTs and LPOs. Additionally, MCLE centralization would naturally increase learning opportunities as all approved courses would be available to all licensed legal professionals.

APR 11(a)

The suggested amendments establish that the purpose of APR 11 is to institute the MCLE requirements for all legal professionals licensed in the state of Washington: lawyers, LLLTs and LPOs.

APR 11(b)

The suggested amendments would include LLLTs and LPOs within the coverage of this rule, and conform definitions to those used throughout the suggested amendments to the APR.

APR 11(c)

LLLTs and LPOs are currently required to earn ten continuing legal education credits per year. The suggested amendment to APR 11 (c)(1) would create a 30-credit every three years requirement for LLLTs and LPOs, which is equivalent to the existing 10 credits per year, and also promotes administrative efficiency because there are well-established processes in place to accommodate three-year reporting periods.

APR 11(d)

The suggested amendments to APR 11 (d)(1) would replace the use of the term "not a member" with "a Washing-

ton resident who is not licensed to practice law"; this would ensure a public voice on the MCLE Board. It would also allow LLLTs and LPOs to become MCLE Board members. Another suggested amendment, to APR 11 (d)(3), would remove a redundant sentence related to the budget ("All expenses incurred and fees collected shall be submitted on a budget approved by the Association's Board of Governors") because the first sentence covers the issue by providing that all reimbursements follow the Bar's expenses policies.

APR 11 (e), (f), (g) and (h)

The suggested amendments would add LLLTs and LPOs to the coverage of the rule, and make other conforming changes to language.

APR 11(i)

The suggested amendments would add LLLTs and LPOs to the coverage of the rule, and make other conforming changes to language.

The suggested amendment to APR 11 (i)(8)(iv) would specifically state that the Court has the discretion to consider matters solely on the basis of the record presented to the MCLE Board, which is only implicit in the current rule.

APR 11 (j) and (k)

The suggested amendments would add LLLTs and LPOs to the coverage of the rule, and make other conforming changes to language.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 11 (Redline)

TITLE

RULE 11. MANDATORY CONTINUING LEGAL EDUCATION (MCLE)

(a) Purpose. Mandatory continuing legal education ("MCLE") is intended to enhance lawyers', LLLTs' and LPOs' legal services to their clients and protect the public by assisting lawyers, LLLTs and LPOs in maintaining and developing their competence as defined in RPC 1.1 or equivalent rule for LLLTs and LPOs, fitness to practice as defined in APR ~~22~~ 20, and character as defined in APR 20 ~~21~~. These rules set forth the minimum continuing legal education requirements for lawyers, LLLTs and LPOs to accomplish this purpose.

(b) Definitions. For the purposes of this rule, the following definitions shall apply:

(1) "Activity" means any method by which a lawyer, LLLT or LPO may earn MCLE credits.

(2) "Association" means the ~~Washington State Bar Association~~.

(~~3~~) "Attending" means participating in an approved activity or course.

(~~4~~) "Calendar year" means a time period beginning January 1 and ending December 31.

(~~5~~) "Identical activity" means any prior course or other activity that has not undergone any substantial or substantive changes since last offered, provided or undertaken.

(~~6~~) "Lawyer, LLLT or LPO" means an active ~~member~~ lawyer, LLLT or LPO of the ~~Association~~ Bar, a judicial member of the ~~Association~~ Bar classified as an administrative law judge, and any other lawyer licensed or authorized ~~admitted to the limited~~ practice of law in Washington who is required by the Admission and Practice Rules (APR) to comply with this rule.

(~~7~~) "Reporting period" means a three-year time period as assigned by the ~~Association~~ Bar in which a lawyer, LLLT or LPO must meet the education requirements of this rule.

(~~8~~) "Sponsor" means a provider of continuing legal education activities.

(c) Education Requirements.

(1) *Minimum Requirement.* Each lawyer must complete 45 credits and each LLLT and LPO must complete 30 credits of approved continuing legal education by December 31 of the last year of the reporting period with the following requirements:

(i) at least 15 credits must be from attending approved courses in the subject of law and legal procedure, as defined in section (f)(1); and

(ii) at least six credits must be in ethics and professional responsibility, as defined in section (f)(2).

(2) *Earning Credits.* A lawyer, LLLT or LPO earns one credit for each 60 minutes of attending an approved activity. Credits are rounded to the nearest quarter hour. A lawyer, LLLT or LPO may earn no more than eight credits per calendar day. A lawyer, LLLT or LPO cannot receive credit more than once for an identical activity within the same reporting period.

(3) *New Lawyers, LLLTs and LPOs.* Newly admitted lawyers, LLLTs and LPOs are exempt for the calendar year of admission.

(4) *Military Personnel.* Military personnel in the United States Armed Forces may be granted an exemption, waiver or modification upon proof of undue hardship, which includes deployment outside the United States. A petition shall be filed in accordance with subsection (i)(5) of these rules.

(5) *Exemptions.* The following are exempt from the requirements of this rule for the reporting period(s) during which the exemption applies:

(i) *Judicial Exemption.* Judicial members of the ~~Association~~ Bar, except for administrative law judges;

(ii) *Supreme Court Clerks.* The ~~Washington State~~ Supreme Court clerk and assistant clerk(s) who are prohibited by court rule from practicing law;

(iii) *Legislative Exemption.* Members of the Washington State Congressional Delegation or the Washington State Legislature; and

(iv) *Gubernatorial Exemption.* The Governor of Washington state.

(6) *Comity.* The education requirements in Oregon, Idaho and Utah substantially meet Washington's education requirements for lawyers. These states are designated as comity states. A lawyer may certify compliance with these rules in lieu of meeting the education requirement by paying a comity fee and filing a Comity Certificate of MCLE Compliance from a comity state certifying to the lawyer's subjection to and compliance with that state's MCLE requirements during the lawyer's most recent reporting period.

(7) *Carryover Credits.* If a ~~member~~ lawyer, LLLT or LPO completes more than the required number of credits for any one reporting period, up to 15 of the excess credits, two of which may be ethics and professional responsibility credits, may be carried forward to the next reporting period.

(d) MCLE Board

(1) *Establishment.* There is hereby established an MCLE Board consisting of seven members, six of whom must be active ~~lawyers, LLLTs or LPOs~~ members of the Bar Association and one who is ~~not licensed to practice law~~ not a member of the Association. The Supreme Court shall designate one board member to serve as chair of the MCLE Board. The members of the MCLE Board shall be appointed by the Supreme Court. Appointments shall be staggered for a 3-year term. No member may serve more than two consecutive terms. Terms shall end on September 30 of the applicable year.

(2) *Powers and Duties.*

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

(ii) *Policies.* The MCLE Board may adopt policies to provide guidance in the administration of APR 11 and the associated regulations. The MCLE Board will notify the Board of Governors and the Supreme Court of any policies that it adopts. Such policies will become effective 60 days after promulgation by the MCLE Board.

(iii) *Approve Activities.* The MCLE Board shall approve and determine the number of credits earned for all courses and activities satisfying the requirements of these rules. The MCLE Board shall delegate this power to the ~~Association~~ Association Bar subject to MCLE Board review and approval.

(iv) *Review.* The MCLE Board shall review any determinations or decisions regarding approval of activities made by the ~~Association Bar~~ Association Bar under these rules that adversely affect any lawyer, LLLT or LPO or sponsor upon request of the lawyer, LLLT or LPO, sponsor or ~~Association Bar~~ Association Bar. The MCLE Board may take appropriate action consistent with these rules after any such review and shall notify the lawyer, LLLT or LPO or sponsor in writing of the action taken. The MCLE Board's decision shall be final.

(v) *Fees.* The MCLE Board shall determine and adjust fees for the failure to comply with these rules and to defray the reasonably necessary costs of administering these rules. Fees shall be approved by the ~~Association's~~ Association's Board of Governors.

(vi) *Waive and Modify Compliance.* The MCLE Board shall waive or modify a lawyer's, LLLT's or LPO's compliance with the education or reporting requirements of these rules upon a showing of undue hardship filed in accordance with these rules. The MCLE Board may delegate this power to the ~~Association Bar~~ Association Bar subject to (1) parameters and standards established by the MCLE Board, and, (2) review by the MCLE Board.

(vii) *Approve Mentoring Programs.* The MCLE Board shall approve mentoring programs that meet requirements and standards established by the MCLE Board for the purposes of awarding MCLE credit under these rules.

(viii) *Audits for Standards Verification.* The MCLE Board may audit approved courses to ensure compliance with the standards set forth in these rules.

(3) *Expenses and Administration.* Members of the MCLE Board shall not be compensated for their services but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties according to the ~~Association Bar's~~ Association Bar's expense policies. ~~All expenses incurred and fees collected shall be submitted on a budget approved by the Association's Board of Governors.~~ The Association Bar shall provide administrative support to the MCLE Board.

(e) Approved Activities. A lawyer, LLLT or LPO may earn MCLE credit by attending, teaching, presenting or participating in activities approved by the ~~Association Bar~~ Association Bar. Only the following types of activities may be approved:

(1) Attending, teaching, presenting or participating in or at a course, provided that any pre-recorded audio/visual course is less than five years old;

(2) Preparation time for a teacher, presenter or panelist of an approved activity at the rate of up to five credits per hour of presentation time, provided that the presentation time is at least 30 minutes in duration;

(3) Attending law school courses with proof of registration or attendance;

(4) Attending bar review courses for jurisdictions other than Washington with proof of registration or attendance;

(5) Writing for the purpose of lawyer, LLLT or LPO education, when the writing has been published by a recognized publisher of legal works as a book, law review or scholarly journal article of at least 10 pages, will earn one credit for every 60 minutes devoted to legal research and writing;

(6) Teaching law school courses, when the instructor is not a full-time law school professor;

(7) Providing pro bono legal services provided the legal services are rendered through a qualified legal services provider as defined in APR 18~~(e)~~;

(8) Participating in a structured mentoring program approved by the MCLE Board provided the mentoring is free to the mentee and the mentor is an active member of the ~~Association Bar~~ Association Bar in good standing and has been admitted to the practice of law in Washington for at least five years. The MCLE Board shall develop standards for approving mentoring programs; and

(9) Judging or preparing law school students for law school recognized competitions, mock trials or moot court. The sponsoring law school must comply with all sponsor requirements under this rule.

(f) Approved Course Subjects. Only the following subjects for courses will be approved:

(1) *Law and legal procedure*, defined as legal education relating to substantive law, legal procedure, process, research, writing, analysis, or related skills and technology;

(2) *Ethics and professional responsibility*, defined as topics relating to the general subject of professional responsibility and conduct standards for lawyers, LLLTs, LPOs, and judges, including diversity and anti-bias with respect to the

practice of law or the legal system, and the risks to ethical practice associated with diagnosable mental health conditions, addictive behavior, and stress;

(3) *Professional development*, defined as subjects that enhance or develop a lawyer's, LLLT's or LPO's professional skills including effective lawyering, leadership, career development, communication, and presentation skills;

(4) *Personal development and mental health*, defined as subjects that enhance a lawyer's, LLLT's or LPO's personal skills, well-being and awareness of mental health issues. This includes, stress management, and courses about, but not treatment for, anxiety, depression, substance abuse, suicide and addictive behaviors;

(5) *Office management*, defined as subjects that enhance the quality of service to clients and efficiency of operating an office, including case management, time management, business planning, financial management, office technology, practice development and marketing, client relations, employee relations, and responsibilities when opening or closing an office;

(6) *Improving the legal system*, defined as subjects that educate and inform lawyers, LLLTs or LPOs about current developments and changes in the practice of law and legal profession in general, including legal education, global perspectives of the law, courts and other dispute resolution systems, regulation of the practice of law, access to justice, and pro bono and low cost service planning; and

(7) *Nexus subject*, defined as a subject matter that does not deal directly with the practice of law but that is demonstrated by the lawyer, LLLT or LPO or sponsor to be related to a lawyer's, LLLT's or LPO's professional role as a lawyer, LLLT or LPO.

(g) Applying for Approval of an Activity. In order for an activity to be approved for MCLE credit, the sponsor or lawyer, LLLT or LPO must apply for approval as follows.

(1) *Sponsor.* A sponsor must apply for approval of an activity by submitting to the Association Bar an application fee and an application in a form and manner as prescribed by the Association Bar by no later than 15 days prior to the start or availability of the activity.

(i) *Late fee.* A late fee will be assessed for failure to apply by the deadline. The Association Bar may waive the late fee for good cause shown.

(ii) *Repeating Identical Course.* A sponsor is not required to pay an application fee for offering an identical course if the original course was approved and the identical course is offered less than 12 months after the original course.

(iii) *Waiver of Application Fee.* The Association Bar shall waive the application fee for a course if the course is offered for free by a government agency or nonprofit organization. This provision does not waive any late fee.

(2) *Lawyer, LLLT or LPO.* A lawyer, LLLT or LPO may apply for approval of an activity not already approved or submitted for approval by a sponsor by submitting to the Association Bar an application in a form and manner as prescribed by the Association Bar. No application fee is required.

(h) Standards for Approval. Application of the standards for approval, including determination of approved subject areas and approved activities in subsections (e) and (f) of

this rule, shall be liberally construed to serve the purpose of these rules. To be approved for MCLE credit, all courses, and other activities to the extent the criteria apply, must meet all of the following criteria unless waived by the Association Bar for good cause shown:

(1) A course must have significant intellectual or practical content designed to maintain or improve a lawyer's, LLLT's or LPO's professional knowledge or skills, competence, character, or fitness;

(2) Presenters must be qualified by practical or academic experience or expertise in the subjects presented and not disbarred from the practice of law in any jurisdiction;

(3) Written materials in either electronic or hardcopy format must be distributed to all lawyers, LLLTs and LPOs before or at the time the course is presented. Written materials must be timely and must cover those matters that one would expect for a professional treatment of the subject. Any marketing materials must be separate from the written subject matter materials;

(4) The physical setting must be suitable to the course and free from unscheduled interruption;

(5) A course must be at least 30 minutes in duration;

(6) A course must be open to audit by the Association Bar or the MCLE Board at no charge except in cases of government-sponsored closed seminars where the reason is approved by the Association Bar;

(7) Presenters, teachers, panelists, etc. are prohibited from engaging in marketing during the presentation of the course;

(8) A course must not focus directly on a pending legal case, action or matter currently being handled by the sponsor if the sponsor is a lawyer, LLLT, LPO, private law firm, corporate legal department, legal services provider or government agency; and

(9) A course cannot have attendance restrictions based on race, color, national origin, marital status, religion, creed, gender, age, disability or sexual orientation.

(i) Lawyer, LLLT or LPO Reporting Requirements.

(1) *Certify Compliance.* By February 1 of the year following the end of a lawyer's, LLLT's or LPO's reporting period, a lawyer, LLLT or LPO must certify compliance, including compliance by comity certification, with the education requirements for that reporting period in a manner prescribed by the Association Bar.

(2) *Notice.* Not later than July 1 every year, the Association Bar shall notify all lawyers, LLLTs and LPOs who are in the reporting period ending December 31 of that year, that they are due to certify compliance.

(3) *Delinquency.* A lawyer, LLLT or LPO who does not certify compliance by the certification deadline or by the deadline set forth in any petition decision granting an extension may be ordered suspended from the practice of law as set forth in APR 17.

(4) *Lawyer, LLLT or LPO Late Fee.* A lawyer, LLLT or LPO will be assessed a late fee for either (i) or (ii) below but not both.

(i) *Education Requirements Late Fee.* A lawyer, LLLT or LPO will be assessed a late fee for failure to meet the minimum education requirements of this rule by December 31. Payment of the late fee is due by February 1, or by the date set

forth in any decision or order extending time for compliance, or by the deadline for compliance set forth in an APR 17 pre-suspension notice.

(ii) *Certification and Comity Late Fee.* A lawyer, LLLT or LPO will be assessed a late fee for failure to meet the certification requirements or comity requirements by February 1. Payment of the late fee is due by the date set forth in any decision or order extending time for compliance or by the deadline for compliance set forth in an APR 17 pre-suspension notice.

(iii) *Failure to Pay Late Fee.* A lawyer, LLLT or LPO who fails to pay the MCLE late fee by the deadline for compliance set forth in an APR 17 pre-suspension notice may be ordered suspended from the practice of law as set forth in APR 17.

(5) *Petition for Extension, Modification or Waiver.* A lawyer, LLLT or LPO may file with the MCLE Board an undue hardship petition for an extension, waiver and/or modification of the MCLE requirements for that reporting period. In consideration of the petition, the MCLE Board shall consider factors of undue hardship, such as serious illness, extreme financial hardship, disability, or military service, that affect the lawyer's, LLLT's or LPO's ability to meet the education or reporting requirements. The petition shall be filed at any time in a form and manner as prescribed by the Association Bar but a petition filed later than 30 days after the date of the APR 17 pre-suspension notice will not stay suspension for the reasons in the APR 17 pre-suspension notice.

(6) *Decision on Petition.* The MCLE Board shall as soon as reasonably practical notify the lawyer, LLLT or LPO of the decision on a petition. A lawyer, LLLT or LPO may request review of the decision by filing, within 10 days of notice of the decision, a request for a hearing before the MCLE Board.

(7) *Hearing on Petition.* Upon the timely filing of a request for hearing, the MCLE Board shall hold a hearing upon the petition.

(i) The MCLE Board shall give the lawyer, LLLT or LPO at least 10 days written notice of the time and place of the hearing.

(ii) Testimony taken at the hearing shall be under oath and recorded.

(iii) The MCLE Board shall issue written findings of fact and an order consistent with these rules as it deems appropriate. The MCLE Board shall provide the lawyer, LLLT or LPO with a copy of the findings and order.

(iv) The MCLE Board's order is final unless within 10 days from the date thereof the lawyer, LLLT or LPO files a written notice of appeal with the Supreme Court and serves a copy on the Association Bar. The lawyer, LLLT or LPO shall pay to the Clerk of the Supreme Court any required filing fees.

(8) *Review by the Supreme Court.* Within 15 days of filing a notice with the Supreme Court for review of the MCLE Board's findings and order, after such a non-compliance petition hearing, the lawyer, LLLT or LPO shall cause the record or a narrative report in compliance with RAP 9.3 to be transcribed and filed with the Bar Association.

(i) The MCLE Board chairperson shall certify that any such record or narrative report of proceedings contains a fair and accurate report of the occurrences in and evidence introduced in the cause.

(ii) The MCLE Board shall prepare a transcript of all orders, findings, and other documents pertinent to the proceeding before the MCLE Board, which must be certified by the MCLE Board chairperson.

(iii) The MCLE Board shall then file promptly with the Clerk of the Supreme Court the record or narrative report of proceedings and the transcripts pertinent to the proceedings before the MCLE Board.

(iv) The matter shall be considered by the Supreme Court pursuant to procedures established by order of the Court, which may in the Court's discretion consist of consideration solely on the basis of the record presented to the MCLE Board.

(v) The times set forth in this rule for filing notices of appeal are jurisdictional. The Supreme Court, as to appeals pending before it, may, for good cause shown (1) extend the time for the filing or certification of said record or narrative report of proceedings and transcripts; or (2) dismiss the appeal for failure to prosecute the same diligently.

(9) *Compliance Audits.* The Association Bar may audit an individual lawyer's, LLLT's or LPO's compliance certification to substantiate participation in the activities listed in the certification. The Association Bar may request records from a lawyer, LLLT or LPO or sponsor for the purpose of conducting the audit and the lawyer, LLLT or LPO must comply with all such requests. Where facts exist that indicate a lawyer, LLLT or LPO may not have participated in the activities certified to, the lawyer, LLLT or LPO, may be referred to the Association Bar's Office of Disciplinary Counsel and/or credit for the activities may be rescinded.

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

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

(2) The sponsor must provide each participant with an evaluation form to complete. The forms or the information from the forms must be retained for two years and provided to the Association Bar upon request.

(3) The sponsor must submit an attendance report in a form and manner as prescribed by the Association Bar and pay the required reporting fee no later than 30 days after the conclusion of the course. A late fee will be assessed for failure to report attendance by the deadline.

(i) *Waiver of Reporting Fee.* The Association Bar shall waive the reporting fee for a course if the course is offered for free by a government agency or nonprofit organization. This provision does not waive any late fee.

(4) The sponsor must retain course materials for four years from the date of the course. Upon request of the ~~Association Bar~~, a sponsor must submit for review any written, electronic or presentation materials including copies of audio/visual courses.

(5) The sponsor must keep accurate attendance records and retain them for six years. The sponsor must provide copies to the ~~Association Bar~~ upon request.

(6) The sponsor shall not state or imply that the ~~Association Bar~~ or the MCLE Board approves or endorses any person, law firm or company providing goods or services to lawyers, LLLTs, LPOs or law firms.

(7) *Accredited Sponsors.* The ~~Association Bar~~ may approve and accredit sponsoring organizations as "accredited sponsors" subject to procedures and fees established by the ~~Association Bar~~. Accredited sponsors have the same duties as sponsors but have the additional responsibility of approving their own courses and determining appropriate MCLE credit in accordance with this rule. Accredited sponsors pay an annual flat fee for all course applications submitted in lieu of an application fee for each individual course.

(k) Confidentiality. Unless expressly authorized by the Supreme Court or by the lawyer, LLLT or LPO, all files and records relating to a lawyer's, LLLT's or LPO's individual MCLE requirements are confidential and shall be privileged against disclosure except as necessary to conduct an investigation, hearing, and appeal or review pursuant to these rules. This provision does not apply to the ~~Association Bar~~ except that such records shall not be disclosed to ~~Association Bar~~ staff responsible for creating or marketing CLE products.

GR 9 COVER SHEET

Suggested Amendments ADMISSION AND PRACTICE RULES (APR) Rule 12.

Submitted by the Washington State Bar Association

A. Name of Proponent:

Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Robin L. Haynes, President
Washington State Bar Association
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B. Spokesperson:

Paula C. Littlewood, Executive Director
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Jean K. McElroy, General Counsel/
Chief Regulatory Counsel
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539 (Phone: 206-727-8277)

C. Purpose:

The primary purposes of the suggested amendments to APR 12 are to substantially align admission, licensing and renewal processes for lawyers, LLLTs and LPOs in order to streamline administration. The scope of practice for LPOs is unchanged. The suggested amendments would move all of the procedures currently described in the appended regulations into the body of APR 12 itself or into other APR, therefore, the suggested amendments would delete the regulations in their entirety. Amendments to each section of the rule or regulation are discussed below.

APR 12(a)

The suggested amendment would remove the word "lay" from the description of LPOs.

APR 12(b)

The suggested amendments would not change the composition of the Limited Practice Board but the term of appointment would be changed to three years and ending on September 30, in conformance with other Supreme Court boards and Bar committees.

The duties of the Limited Practice Board (LP Board) under the suggested amendments would be creating and grading the LPO exam, some limited involvement with handling grievances and discipline, approving the standard forms for use by LPOs, and recommending rule changes.

The actual administration of the LPO examination has always been a function carried out by the Bar staff, and this would be explicitly stated in the amendments. Other functions currently within the realm of the LP Board, such as involvement with applications and character and fitness reviews, recommending successful examinees for admission, and approving and accrediting continuing education courses would be transferred to other existing boards (Character and Fitness and MCLE Boards) and consolidated for administration by Bar staff. Other suggested amendments would clarify that other administrative function would be performed by the Bar, including expense reimbursements and official receipt of notices.

APR 12(c)

The suggested amendments would move the LPO certification requirements in this section to APR 5, with the exception of the age requirement which would be moved to APR 3 (see the GR 9 Coversheets for APR 3 and APR 5), and would delete this section of the rule.

APR 12(d)

The scope of the LPO license remains unchanged. The suggested amendments would replace the term "certified" with "licensed", to conform with terminology throughout the suggested amendments to the APR. LP would be added in front of "Board" to clarify that it is the Limited Practice Board to which the rule is referring (and this clarification is consistent throughout APR 12).

APR 12(e)

The suggested amendments affect numbering only.

APR 12(f)

As mentioned above, under the suggested amendments, continuing education would be consolidated for all license

types under APR 11. Currently, both active and inactive LPOs maintain the same continuing education reporting requirements; the suggested amendments would require continuing education for active LPOs only. Under the suggested amendments, like lawyers, inactive LPOs would need to become current before returning to active status but would not need to report credits while continuing on inactive status.

The suggested amendments would move the detailed financial responsibility requirements from APR 12 Regulation 7 to this section with no substantive changes.

License fees and any assessments, such as for the Client Protection Fund, would have the same policies, provisions and deadlines as set forth in the Bar's Bylaws related to lawyer fees and assessments in order to create administrative efficiency in the collection of license fees for all license types.

The procedure for trust account certification would be aligned with the lawyer procedure so the LPO, lawyer and LLLT declarations and administrative procedures can be as uniform as possible.

APR 12 (g) and (h)

There are no suggested amendments.

APR 12(i)

The suggested amendments would shorten the Confidentiality and Public Records section to a reference to GR 12.4, and would delete other sections covering applications, exams, and licensing data that are already addressed in GR 12.4 or other confidentiality provisions in APR 1.

APR 12(j)

The suggested amendments would move the provisions regarding inactive status for LPOs from where it is currently in APR 12 Regulation 13 to this new section with substantive changes. Under the suggested amendments, inactive LPOs would not be required to complete MCLE requirements but would be required to adhere to MCLE requirements for returning to active status under the Bar's Bylaws.

APR 12(k)

This suggested amendment would add a section stating that the procedures for returning to active status will be as set forth in the Bar's Bylaws rather than through a regulation under APR 12.

APR 12(l)

In the suggested amendments, the current APR 12 Regulation 14 relating to voluntary cancellation of the LPO license would be moved to this section and conform to the resignation requirements for lawyers. Also, LPOs would use the term "voluntary resignation" instead of "voluntary cancellation."

APR 12 Comment [1] - Unchanged.

APR 12 Comment [2]

In an effort to discontinue the use of the term "non-lawyer" the suggested amendments would modify the language of this comment but make no substantive change to the meaning of the comment.

Regulation 1

These specific requirements would be moved to APR 5, and this regulation deleted.

Regulation 2

Most of the requirements for applying for the LPO license would be moved to APR 3. The provisions regarding the fingerprinting requirement are not in the amended APR because the investigation of the LPO applicant would be handled in the same manner and with the same tools as lawyer applicants. Policies regarding filing deadlines, refunds, withdrawals and transfers are administrative in nature and will be set forth in policies approved by the Board of Governors. This regulation would be deleted.

Regulation 3

Approval of applications for admission would be moved to APR 5, and this regulation deleted.

Regulation 4

The provisions of Regulation 4 relating to an appeal of the denial of the application would not be included in the amended APR. Instead, the character and fitness investigation, review and hearing procedures in APR 20-24 would apply to LPO applicants as they do to lawyer applicants.

Regulation 5

Administration of the examination would be moved to APR 4, and this regulation deleted.

Regulation 6

The examination standards and notification of results would be moved to APR 4, and this regulation deleted.

Regulation 7

The financial responsibility requirements would be moved to APR 12 (f)(2), and this regulation deleted.

Regulation 8

The provisions of regulation 8 would be moved to APR 5 as part of the admission process. LPOs would use the new Oath for the Practice of Law (see the GR 9 Coversheet for APR 5). This regulation would be deleted.

Regulation 9

As discussed above, the general license fee requirement would be in APR 12 (f)(3) and the policies, provisions and deadlines would be as set forth in the Bar's Bylaws. This regulation would be deleted.

Regulation 10

Reinstatement after an administrative suspension would be as provided for in APR 17 and the Bar's Bylaws, and this regulation deleted. This is another example of creating an administrative efficiency by applying the same rules and procedures to all license types.

Regulation 11

The continuing financial responsibility and trust account information would be moved to APR 12(f), and this regulation deleted.

Regulation 12

As discussed above, continuing education would fall under the purview of the MCLE Board and APR 11 (see GR

9 Coversheet for APR 11), and this regulation would be deleted.

Regulation 13

See suggested amendments to APR 12 (j) and (k). This regulation would be deleted.

Regulation 14

See suggested amendments to APR 12(l).

Regulation 15

This provision relates to financial responsibility and would be moved to APR 12 (f)(2). This regulation would be deleted.

Regulation 16

The rules and procedures for reinstating an LPO license after it has been revoked would be the same as for disbarred lawyers and would be covered under APR 25-25.6. This would also mean that an LPO whose license is revoked would need to wait five years before applying instead of the two years now required.

Regulation 17

This language would be deleted.

Regulation 18

Administrative support is already addressed in APR 12 (b)(3) and "clerk" is not used in APR 12, therefore, this regulation would be deleted.

Regulation 19

As there will be no regulations under the suggested amendments there would be no need for this regulation and it would be deleted.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 12 (Redline)

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 12. LIMITED PRACTICE RULE FOR LIMITED PRACTICE OFFICERS

(a) Purpose. The purpose of this rule is to authorize certain ~~lay~~ persons to select, prepare and complete legal documents incident to the closing of real estate and personal property transactions and to prescribe the conditions of and limitations upon such activities.

(b) Limited Practice Board.

(1) ~~Establishment~~ Composition. There is hereby established a Limited Practice Board (referred to herein as the "LP Board") ~~shall~~ shall consisting of nine members to be appointed by the Supreme Court of the State of Washington. Not less than four of the members of the LP Board must be lawyers admitted to the practice of law in the State of Washington. Four of the members of the LP Board ~~shall~~ must be business representatives, one each of the following four industries: escrow, lending, title insurance, and real estate. Appointments shall be for 4 3-year staggered terms. No member of the LP Board may serve more than two consecutive terms. Terms shall end

on ~~December 31~~ September 30 of the applicable year. The Supreme Court shall designate one of the members of the LP Board as chairperson.

(2) Duties and Powers.

~~(A) Applications.~~ The LP Board shall accept and process applications for certification under this rule.

~~(ii) LPO Examination.~~ The LP Board shall work with the Bar and others as necessary to create, maintain, and grade an LPO conduct the examination for certification required by admission to practice law under this rule. The examination shall consist of such questions as the LP Board may select on such subjects as may be listed by the Board and approved by the Supreme Court. ~~The LP Board shall establish the number of examinations to be given each year and the dates of the examinations.~~

~~(iii) Investigation and recommendation for admission.~~ The LP Board shall notify each applicant of the results of the examination and shall recommend to the Supreme Court the admission or rejection of each applicant who passes the examination. The Supreme Court shall enter an order admitting to limited practice those applicants it deems qualified, conditioned upon each applicant taking an oath that he or she will comply with this rule and paying to the Board the annual fee for the current year. Upon the entry of such order, the taking and filing of the oath, and payment of the annual fee, an applicant shall be enrolled as a limited practice officer and shall be entitled to perform those services permitted by this rule. The oath must be taken before a court of record in the State of Washington.

~~(iv) Education.~~ The Board shall approve individual courses and may accredit all or portions of the entire educational program of a given organization which, in the Board's judgment, will satisfy the educational requirement of these rules. It shall determine the number of credit hours to be allowed for each such course. It shall encourage the offering of such courses and programs by established organizations, whether offered within or outside this state.

~~(B) Grievances and discipline.~~ The LP Board's involvement in the shall adopt investigation, hearing and appeal procedures for handling and shall hear complaints of persons aggrieved by the failure of limited practice officers to comply with the requirements of this rule and of the Limited Practice Officer Rules of Professional Conduct shall be as established in the Rules for Enforcement of Limited Practice Officer Conduct (ELPOC). Upon a finding by the Board that a limited practice officer has failed to comply in any material manner with the requirements of this rule, the Board shall take such action as may be appropriate to the degree of the violation, considering also the number of violations and the previous disciplinary record of the limited practice officer. Disciplinary action may include admonitions, reprimands, and recommendations to the Supreme Court for the suspension or revocation of the limited practice officer's certification.

~~(vi) Investigation.~~ Upon the receipt of a complaint that a limited practice officer has violated the provisions of this rule and in other appropriate circumstances, the Board may investigate the conduct of the limited practice officer to determine whether the limited practice officer has violated the requirements, conditions or limitations imposed by this rule.

~~(Cvii)~~ Approval of ~~f~~Forms. The LP Board shall approve standard forms for use by limited practice officers in the performance of legal services authorized by this rule.

~~(viii) Fees.~~ ~~The Board shall establish and collect examination and annual fees in such amounts as are necessary to carry out the duties and responsibilities of the Board.~~

~~(Dix) Rules Regulations.~~ The LP Board shall propose to the Supreme Court amendments to these rules as may appear necessary to implement and carry out the provisions of this rule, regulations to implement the provisions of this rule for adoption by the Supreme Court.

(3) *Expenses of the Board.* Members of the LP Board shall not be compensated for their services. For their actual reasonable and necessary expenses incurred in the performance of their duties, they shall be reimbursed ~~by the Board in a manner consistent with its rules according to the Bar's expense policies.~~ All such expenses shall be paid pursuant to a budget submitted to and approved by the Washington State Bar Association on an annual basis. Funds accumulated from examination fees, annual fees, and other revenues shall be used to defray all expenses of the Board.

(4) *Administration.* The administrative support to the LP Board shall be provided by the Washington State Bar Association. All notices and filings required by these Rules, including applications for admission as a Limited Practice Officer, shall be sent to the headquarters of the Bar.

~~(c) [Reserved.] Certification Requirements.~~ An applicant for certification as a limited practice officer shall:

(1) *Age.* Be at least 18 years of age.

(2) *Moral Character and Fitness.* Be of good moral character and possess the requisite fitness to act as a limited practice officer.

(3) *Examination.* Satisfy the examination requirements established by the Board.

(4) *Application.* Submit an application in such form as may be required by the Board. Additional proof of any fact stated in the application may be required by the Board. In the event of the failure or refusal of an applicant to furnish any information or proof, the Board may deny the application.

(5) *Examination Fee.* Pay, upon the filing of an application, the examination fee.

(d) Scope of Practice Authorized by Limited Practice Rule. Notwithstanding any provision of any other rule to the contrary, a person licensed certified as a limited practice officer under this rule may select, prepare and complete documents in a form previously approved by the LP Board for use by others in, or in anticipation of, closing a loan, extension of credit, sale or other transfer of interest in real or personal property. Such documents shall be limited to deeds, promissory notes, guaranties, deeds of trust, reconveyances, mortgages, satisfactions, security agreements, releases, Uniform Commercial Code documents, assignments, contracts, real estate excise tax affidavits, bills of sale, and powers of attorney. Other documents may be from time to time approved by the LP Board.

(e) Conditions Under Which Limited Practice Officers May Prepare and Complete Documents. Limited practice officers may render services authorized by this rule only under the following conditions and with the following limitations:

(1) Agreement of the Clients. Prior to the performance of the services, all clients to the transaction shall have agreed in writing to the basic terms and conditions of the transaction. In the case of a power of attorney prepared in anticipation of a transaction, the principal(s) and attorney(s)-in-fact shall have provided the limited practice officer consistent written instructions for the preparation of the power of attorney.

(2) Disclosures to the Clients. The limited practice officer shall advise the clients of the limitations of the services rendered pursuant to this rule and shall further advise them in writing:

~~(A)~~ that the limited practice officer is not acting as the advocate or representative of either of the clients;

~~(B)~~ that the documents prepared by the limited practice officer will affect the legal rights of the clients;

~~(C)~~ that the clients' interests in the documents may differ;

~~(D)~~ that the clients have a right to be represented by lawyers of their own selection; and

~~(E)~~ that the limited practice officer cannot give legal advice as to the manner in which the documents affect the clients.

The written disclosure must particularly identify the documents selected, prepared, and/or completed by the limited practice officer and must include the name, signature and number of the limited practice officer.

(f) Continuing License Certification Requirements.

(1) *Continuing Education.* Each active limited practice officer must complete a minimum number of credit hours of approved or accredited continuing education, as prescribed by APR 11 regulation of the Board, during each license year in courses certified by the Board to be appropriate for study by limited practice officers providing services pursuant to this rule; provided, that the limited practice officer shall not be required to comply with this subsection during the license year in which he or she is initially certified.

(2) *Financial Responsibility.* Each active limited practice officer or employer thereof shall show proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted by this rule. The proof of financial responsibility shall be in such form and in such amount as the Board may by regulation prescribe. Each active limited practice officer shall submit to the LP Board proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted under APR 12 in one of the following described manners.

A. Submit an individual policy for Errors and Omissions insurance in the amount of at least \$100,000;

B. Submit an Errors and Omissions policy of the employer or the parent company of the employer who has agreed to provide coverage for the LPO's ability to respond in damages in the amount of at least \$100,000;

C. Submit the LPO's audited financial statement showing the LPO's net worth to be at least \$200,000;

D. Submit an audited financial statement of the employer or other surety who agrees to respond in damages for the LPO, indicating net worth of \$200,000 per each limited practice officer employee to and including five and an additional \$100,000 per each limited practice officer employee over

five, who may be subject to the jurisdiction of the Limited Practice Board; or

E. Submit proof of indemnification by the limited practice officer's government employer.

Each active LPO shall certify annually continued financial responsibility in the form and manner as prescribed by the Bar. Each LPO shall notify the Bar of any cancellation or lapse in coverage. When an LPO is demonstrating financial responsibility by 1) an endorsement on the employer's Errors and Omissions insurance policy, or 2) submission of the employer's audited financial statement accompanied by the Certificate of Financial Responsibility, the Bar shall notify the employer when the LPO's status changes from Active to another status or when the LPO is no longer admitted to practice.

(3) Annual License Fees and Assessments. Each limited practice officer must pay the annual license fee established by the Board of Governors, subject to review by the Supreme Court, and any mandatory assessments as ordered by the Supreme Court. Provisions in the Bar's Bylaws regarding procedures for assessing and collecting lawyer license fees and late fees, and regarding deadline, rebates, apportionment, fee reductions, and exemption, and other issues relating to fees and assessment, shall also apply to LPO license fees and late fees. Failure to pay may result in suspension from practice pursuant to APR 17.

(4) Trust Account. Each active limited practice officer shall certify annually compliance with Rules 1.12A and 1.12B of the LPO Rules of Professional Conduct. Such certification shall be filed in a form and manner as prescribed by the Bar and shall include the bank where each account is held and the account number. Failure to certify may result in suspension from practice pursuant to APR 17.

(g) Existing Law Unchanged. This rule shall in no way expand, narrow or affect existing law in the following areas:

(1) The fiduciary relationship between a limited practice officer and his or her customers or clients;

(2) Conflicts of interest that may arise between the limited practice officer and a client or customer;

(3) The right to act as one's own attorney under the pro se exception to the unauthorized practice of law including but not limited to the right of a lender to prepare documents conveying or granting title to property in which it is taking a security interest;

(4) The lack of authority of a limited practice officer to give legal advice without being licensed to practice law;

(5) The standard of care which a limited practice officer must practice when carrying out the functions permitted by this rule.

(h) Treatment of Funds Received Incident to the Closing of Real or Personal Property Transactions. Persons admitted to practice under this rule shall comply with LPORPC 1.12A and B regarding the manner in which they identify, maintain and disburse funds received incidental to the closing of real and personal property transactions, unless they are acting pursuant to APR 12 (g)(3).

(i) Confidentiality and Public Records.

(1) GR 12.4 shall apply to access to LP Board records.

~~(2) Unless expressly authorized by the Supreme Court or by the applicant, all application records, including related~~

~~investigation files, documents and proceedings, for the limited admission to the practice of law as an LPO are confidential and shall be privileged against disclosure, except as necessary to conduct an investigation, hearing, appeal, or review pursuant to these rules.~~

~~(3) Unless expressly authorized by the Supreme Court, all examination questions, scoring keys and other examination data used by the Board to administer the LPO examinations are not subject to public disclosure.~~

~~(4) Unless expressly authorized by the Supreme Court or the LPO, the following Board and Bar records are exempt from public access: personal information in Board and Bar records for LPOs and Board members to the extent that disclosure would violate their right of privacy, including home contact information (unless such information is their address of record), Social Security numbers, driver's license numbers, identification or security photographs held in Board and Bar records, and personal data including ethnicity, race, disability status, gender, and sexual orientation. LPO license status, license number, dates of admission or licensing, addresses of record, and business telephone numbers, facsimile numbers, and electronic mail addresses (unless there has been a request that electronic mail addresses not be made public) shall not be exempt, provided that any such information shall be exempt if the Chair of the Board approves the confidentiality of that information for reasons of personal security or other compelling reason, which approval must be reviewed annually.~~

(j) Inactive Status. A LPO may request transfer to inactive status after being admitted. A LPO on inactive status is required to pay an annual license fee as established by the BOG and approved by the Supreme Court. A LPO on inactive status is not required to meet the financial responsibility requirements or the MCLE requirements.

(k) Reinstatement to Active Status. A LPO on inactive status or suspended from practice may return to active status by filing an application and complying with the procedures set forth for lawyer members of the Bar in the Bar's Bylaws.

(l) Voluntary Resignation. Any Limited Practice Officer may request to voluntarily resign the LPO license by notifying the Bar in such form and manner as the Bar may prescribe. If there is a disciplinary investigation or proceeding then pending against the LPO, or if the LPO has knowledge that the filing of a grievance of substance against such LPO is imminent, resignation is permitted only under the provisions of the applicable disciplinary rules. An LPO who resigns the LPO license cannot practice law in Washington in any manner, unless they are licensed or authorized to do so by the Supreme Court.

COMMENT

[1] Comment Re: APR 12(d)

Powers of attorney authorizing a person to negotiate and sign documents in anticipation of, or in the closing of, a transaction are included in the documents limited practice officers are authorized to prepare. Such documents may include, but are not limited to, purchase and sale agreements for real or personal property, loan agreements, and letters of intent.

[2] Comment Re: LPO Professional Standard Of Care

The purpose of this comment is to discuss the legal standard of care to which a limited practice officer is subject, while also clarifying the limited duties of a limited practice officer compared to an attorney when selecting and preparing legal documents and to show the greater breadth of a lawyer's duties and services which a party may not expect when engaging a limited practice officer.

Generally, when anyone non-lawyer selects and prepares a legal document for another, the non-lawyer engages in the unauthorized practice of law. Despite this, the non-lawyer they (including a licensed limited practice officers) will be held to the standard of a lawyer: "to comply with the duty of care, an attorney must exercise the degree of care, skill, diligence, and knowledge commonly possessed and exercised by a reasonable, careful and prudent lawyer in the practice of law in this jurisdiction . . ." *Hizey v. Carpenter*, 119 Wn.2d 251, 261, 830 P.2d 246 (1992). However, when selecting and preparing approved forms a limited practice officer, though having a limited license to practice law as defined and limited in APR 12, will not be authorized nor charged with many of the duties of a lawyer. Except as provided otherwise in APR 12 rules and regulations, these include the duty to investigate legal matters, to form legal opinions (including but not limited to the capacity of an individual to sign for an entity or whether a legal document is effective), to give legal advice (including advice on how a legal document affects the rights or duties of a party), or to consult with a party on the advisability of a transaction. See also LPORPC 1.1, Competence, and LPORPC 1.3, Communication.

APPENDIX APR 12. ~~[RESERVED]~~ REGULATIONS OF THE APR 12 LIMITED PRACTICE BOARD

REGULATION 1. IN GENERAL

Every person desiring to be admitted to limited practice as a Limited Practice Officer (LPO) pursuant to Admission and Practice Rule (APR) 12 must submit an application in the form and manner and within the time limits established by these Regulations, pay the requisite fee, and satisfy all of the requirements of APR 12.

REGULATION 2. APPLICATIONS

A. Application. An applicant must submit to the Washington State Bar Association (WSBA):

1. a completed application for admission to limited practice under APR 12 in the form and manner prescribed by the Limited Practice Board;
2. a fingerprint card which has been processed by the applicant at a local police department or fingerprinting agency;
3. a signed Authorization and Release; and
4. a signed Affidavit of Applicant.

The application shall not be considered complete and will not be approved pursuant to Regulation 3 unless the applicant has provided a current residential address.

B. Fees. An applicant will pay an examination fee in an amount set by the Limited Practice Board with the approval of the Supreme Court, which must be paid with the applica-

tion, and each applicant will be sent a receipt for the application and fee.

C. Verification of Application Information. Each applicant must submit a fingerprint card which shall be forwarded to the Washington State Patrol for a criminal history check, and for each applicant who has not resided in the state of Washington for two years, a Federal Bureau of Investigation check shall also be conducted. A status review on all professional licenses will be conducted for each applicant. The applicant will furnish whatever additional information or proof may be required in the course of investigating the applicant.

D. Refunds and Transfers.

1. For all applicants there is a nonrefundable administration fee totaling one half the amount of the examination fee.

2. An applicant may withdraw from the current examination by written request received at least 14 days prior to the date set for the examination and may also request a refund of the fee less the administration fee.

3. An applicant withdrawing an application less than 14 days prior to the date set for the examination will receive no refund of any kind.

4. If the application is denied before the examination, the examination fee less the nonrefundable administration fee will be refunded. If the applicant reapplies to sit for the examination, the applicant will pay the full examination fee then required of all applicants.

5. If an applicant fails the examination and applies to repeat the next scheduled examination, the examination fee shall be the amount set by the Limited Practice Board with the approval of the Supreme Court.

E. Filing Deadline. An applicant must file the application to take the LPO examination by the deadline established by the Board. No applications will be accepted after the deadline.

REGULATION 3. APPROVAL OR DENIAL OF APPLICATION

A. Approval of Application. The Limited Practice Board will determine if the application meets the criteria established in APR 12.

B. Denial of Application. If the application is denied, the applicant will be granted the right to an appeal of the determination pursuant to Regulation 4.

C. Notification of Action on Application. The applicant will be notified whether the application has been approved or denied. If the application has been approved, the applicant will be informed of the date, time and location of the next examination. If the application has been denied, the applicant will be notified of the basis for the denial and of the appeal process of Regulation 4.

REGULATION 4. DENIAL OF APPLICATION — RIGHT OF APPEAL

A. Appeals Panel. The Appeals Panel shall be made up of three members of the Limited Practice Board appointed by the Chair.

B. Right of Appeal. Every applicant who has been denied admission under APR 12 shall have a right of appeal before the Appeals Panel.

C. Time Period for Appeal. An applicant whose application has been denied shall have the right to appeal denial of

admission pursuant to APR 12 by submitting a written request within fourteen (14) calendar days of the date the denial of application was issued.

D. Procedure for Appeal.

1. *To begin the appeal procedure.* The applicant's written request for appeal must be filed within the time period for appeal and state the applicant's reason for believing that the application should be approved.

2. *Written submissions.* The complete application will be provided to the Appeals Panel for consideration. The applicant may submit other written materials to the Appeals Panel which may include statements, correspondence, affidavits, memoranda of law or other written items that the applicant believes will assist the Appeals Panel in reviewing the denial. If the Appeals Panel determines the written submissions are merely cumulative or not relevant to the appeal, the Appeals Panel may exclude any submitted materials from consideration.

Written materials must be received no later than ten (10) calendar days prior to the scheduled hearing date.

3. *Stipulations.* Upon agreement of the parties, written stipulations may be utilized by the Appeals Panel.

4. *Review by the Appeals Panel.* The Appeals Panel will consider all relevant written material submitted in accordance with these Regulations. The Appeals Panel may also request oral presentations by the parties if it deems them helpful to a final determination. The Appeals Panel may set time constraints on the oral presentations.

5. *Findings of the Appeals Panel.* The Appeals Panel will make written findings and may affirm or reverse the denial of the application or direct further investigation for the reasons stated in the written findings.

6. Timelines and scheduling of the appeal.

a. Upon timely receipt of the request for appeal, the Appeals Panel will schedule the matter for consideration on a date not more than fourteen (14) calendar days from the date the request is received and will notify the applicant of the scheduled date for the consideration of the appeal.

b. The Appeals Panel will not consider any request for appeal which does not strictly comply with these Regulations.

e. Upon a showing of good cause, the Appeals Panel may waive any of the procedural requirements of these Regulations or reschedule the appeal for an earlier or later date.

d. Telephone conferences may be held in lieu of a hearing, and oral presentations may be made by telephone if requested by the Appeals Panel.

7. *Notification of findings.* The Appeals Panel will notify the applicant of the findings of the Appeals Panel. If the application has been approved, the applicant will be supplied any forms or information necessary to sit for the examination. If the application has been denied, the applicant will be informed and supplied a copy of the Appeals Panel's written findings.

REGULATION 5. ADMINISTRATION OF EXAMINATION.

The examination will be administered twice a year at appropriate locations within the state at dates and locations established by the Limited Practice Board.

REGULATION 6. EXAMINATION STANDARDS AND NOTIFICATION OF RESULTS

The passing standard for the examination is 75 percent for each section. A failing grade in one section shall result in failure of the exam in which case grading of any remaining sections shall not be required. All applicants will be notified of the applicant's examination results. Those applicants who fail the examination will be informed of their score on each graded section of the examination. Examination scores shall not be disclosed to those applicants who pass the examination. Copies of the examination shall not be available to any applicant.

REGULATION 7. FINANCIAL RESPONSIBILITY REQUIREMENT

Each limited practice officer shall submit to the Board proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted under APR 12 in one of the following described manners:

1. Submit an individual policy for Errors and Omissions insurance in the amount of at least \$100,000;

2. Submit an Errors and Omissions policy of the employer or the parent company of the employer who has agreed to provide coverage for the applicant's ability to respond in damages in the amount of at least \$100,000;

3. Submit the applicant's audited financial statement showing the applicant's net worth to be at least \$200,000;

4. Submit an audited financial statement of the employer or other surety who agrees to respond in damages for the applicant, indicating net worth of \$200,000 per each limited practice officer employee to and including five and an additional \$100,000 per each limited practice officer employee over five, who may be subject to the jurisdiction of the Limited Practice Board; or

5. Submitted proof of indemnification of the limited practice officer's government employer.

REGULATION 8. CERTIFICATION OF RESULTS TO SUPREME COURT; OATH

A. Admission Order.

The Limited Practice Board will submit to the Washington State Supreme Court the names of those persons who have passed the examination for admission pursuant to APR 12, taken the oath as prescribed by these rules, and furnished proof of the applicant's financial responsibility requirement pursuant to regulation 7.

The names of successful applicants will be submitted only after compliance with APR 12 and these Regulations, and the applicants will be admitted under APR 12 only after the admission order has been entered by the Supreme Court.

Each successful applicant shall complete all the requirements for certification within nine (9) months of the date the applicant is notified of the examination results. If an applicant fails to satisfy all the requirements for certification within this period, the applicant shall not be eligible for admission under APR 12 without submitting a new application for admission.

B. Contents of Oath. The oath which all applicants shall take is as follows:

OATH FOR LIMITED PRACTICE OFFICERS

STATE OF WASHINGTON

COUNTY OF _____

I, _____, do solemnly declare:

1. I am fully subject to the laws of the State of Washington and Rule 12 of the Admission and Practice Rules and APR 12 Regulations adopted by the Washington State Supreme Court and will abide by the same.

2. I will support the constitutions of the state of Washington and of the United States of America.

3. I will abide by the Limited Practice Officer Rules of Professional Conduct and Rules for Enforcement of LPO Conduct approved by the Supreme Court of the State of Washington.

4. I will confine my activities as a Limited Practice Officer to those activities allowed by law, rule and regulation and will only utilize documents approved pursuant to APR 12.

5. I will faithfully disclose the limitations of my services; that I am not able to act as the advocate or representative of any party, that documents prepared will affect legal rights of the parties, that the parties' interests in the documents may differ, that the parties have a right to be represented by a lawyer of their own selection, and that I cannot give legal advice regarding the manner in which the documents affect the parties.

I understand that I may incur personal liability if I violate the applicable standard of care of a Limited Practice Officer. Also, I understand that I only have authority to act as a Limited Practice Officer during the times that my financial responsibility coverage is in effect. If I am covered under my employer's errors and omissions insurance policy or by my employer's certificate of financial responsibility, my coverage is limited to services performed in the course of my employment.

Signature Limited Practice Officer

Subscribed and sworn to before me this _____ day of _____, _____.

JUDGE

REGULATION 9. ANNUAL FEE

A. Except as set forth in section B of this Regulation, every Limited Practice Officer shall pay an annual fee in an amount set by the Limited Practice Board with the approval of the Supreme Court, which is due on or before August 1 of each year and shall cover the annual license period of July 1 to June 30. Annual fees paid after August 1 shall be subject to a late fee equal to one-half the annual fee. Failure to pay the annual fee shall subject the LPO to suspension from limited practice as a Limited Practice Officer. The Board shall provide at least 30 days written notice of intent to seek suspension to an LPO at the LPO's address of record. Written notice shall be sent by certified mail. After such notice, the Court

may enter an order suspending the LPO from limited practice. If the LPO fails to comply with conditions for reinstatement pursuant to Regulation 10 within 9 months of the date of suspension, the license of the suspended LPO will be revoked.

B. The prorated annual fee for LPOs who pass the qualifying examination given in the spring and who request active status prior to July 1 of that same calendar year shall be one half the amount of the annual fee. LPOs shall pay the annual fee set forth in Regulation 9(A) to retain their active status after June 30 of the calendar year of their admission.

C. An LPO shall provide his or her residential address to the Board at the time of payment of the annual fee.

REGULATION 10. REINSTATEMENT AFTER SUSPENSION FOR NONPAYMENT OF ANNUAL FEE.

An LPO who is suspended pursuant to Regulation 9(A) shall be reinstated if the LPO has within nine (9) months of the date of suspension:

- 1. submitted an application for reinstatement in the form prescribed by the Board;
- 2. continued to meet the qualifications set out in APR 12 and these Regulations; and
- 3. paid a sum equal to the amount of all delinquent annual fees, late fees, and any investigation fees as may be determined by the Board.

REGULATION 11. CONTINUING FINANCIAL RESPONSIBILITY AND TRUST ACCOUNT DECLARATIONS

A. Each active LPO shall certify annually by August 1 continued financial responsibility in the form and manner as prescribed by the Board. Each LPO shall notify the Limited Practice Board of any cancellation or lapse in coverage.

B. Each active LPO shall certify annually compliance with Rules 1.12A and 1.12B of the LPO Rules of Professional Conduct. Such declaration shall be filed by August 1 in a form and manner as prescribed by the Board and shall include the bank where each account is held and the account number.

C. During any period that an LPO has not reported in accordance with these Regulations, or is not on inactive status pursuant to Regulation 13, the license of the LPO shall be suspended. The Board shall provide at least 30 days written notice of intent to seek suspension to an LPO at the LPO's address of record. Written notice shall be sent by certified mail. After such notice, the Court may enter an order suspending the LPO from limited practice. Each suspended LPO must demonstrate compliance with the requirements of APR 12 within nine (9) months of the date of the suspension or the license of the suspended LPO will be revoked.

REGULATION 12. CONTINUING EDUCATION

Every LPO shall attend a minimum of ten (10) hours of approved continuing education during each license year (July 1 to June 30). Two (2) hours of the required ten (10) hours of continuing education shall be on liability issues. If an LPO completes more than ten (10) credit hours in a given license year, the excess credit, up to ten credits, may be carried forward and applied to such LPO's education requirements for the next calendar year.

Every LPO shall submit proof of compliance with the continuing education attendance requirements by filing an Affidavit of Attendance as prescribed by the Continuing Education Regulations of the Limited Practice Board. Failure to comply with the continuing education requirements will subject the LPO to suspension of license as a Limited Practice Officer. The Board shall provide at least 30 days written notice of intent to seek suspension to an LPO at the LPO's address of record. Written notice shall be sent by certified mail. After such notice, the Court may enter an order suspending the LPO from limited practice. If the suspended LPO fails to comply with conditions for reinstatement pursuant to Continuing Education Regulations of the Limited Practice Board within nine (9) months of the date of suspension, the license of the suspended LPO will be revoked.

REGULATION 13. INACTIVE STATUS

An LPO may request transfer to inactive status after being certified. An LPO who has been transferred to inactive status must continue to meet all continuing education requirements applicable during the period of inactive status. An LPO on inactive status is required to pay the annual fee required by these Regulations.

If an LPO does not meet the continuing education requirements or the annual fee requirement, the LPO may be suspended.

An LPO on inactive status is not required to meet the financial responsibility requirements prescribed by these regulations during the period of inactive status.

An LPO on inactive status may return to active status by filing a petition to return to active status with the Board. To be granted active status, the LPO must be current on the payment of the annual fees, the continuing education requirements and the financial responsibility requirements prescribed by these Regulations.

REGULATION 14. VOLUNTARY CERTIFICATION CANCELLATION

Any Limited Practice Officer may request to voluntarily surrender the LPO certification by notifying the Limited Practice Board in writing of the desire to cancel and returning the LPO license with the request. The Limited Practice Board may deny requests for voluntary cancellation from any LPO who is the subject of a pending disciplinary investigation or proceeding. The Limited Practice Board will notify the LPO of the effective date of the cancellation if approved.

After entry of the cancellation order, the former LPO shall not accept any new clients or engage in work as an LPO in any matter.

The Board will cause a notice of the cancellation to be published in the same manner as notices of discipline under ELPOC 3.5(b).

REGULATION 15. CHANGE IN STATUS

When an LPO is demonstrating financial responsibility by 1) an endorsement on the employer's Errors and Omissions insurance policy, or 2) submission of the employer's audited financial statement accompanied by the Certificate of Financial Responsibility, the Limited Practice Board shall notify the employer when the LPO is transferred to one of the following statuses: inactive status, voluntary certification

cancellation, disability inactive status, or the license is suspended or revoked.

REGULATION 16. REINSTATEMENT AFTER REVOCATION

16.1 RESTRICTIONS AGAINST PETITIONING

A. When Petition May Be Filed. No petition for reinstatement shall be filed within a period of two (2) years after revocation or within one (1) year after an adverse decision of the Supreme Court upon a former petition, or within a period of six (6) months after an adverse recommendation of the Board on a former petition when that recommendation is not submitted to the Supreme Court. If prior to revocation the LPO was suspended pursuant to the provisions of Title 7 of the Rules for Enforcement of LPO Conduct (ELPOC), or any comparable rule, the period of suspension shall be credited toward the two (2) years referred to above.

B. Payment of Obligations. No revoked LPO may file a petition for reinstatement until costs and expenses assessed pursuant to these rules, and restitution ordered as provided, have been paid by the revoked LPO, or the revoked LPO has entered into a payment plan for any such obligations as provided for under ELPOC 13.9.

16.2 REVERSAL OF CONVICTION

If an LPO has been revoked solely because of the LPO's conviction of a crime and the conviction is later reversed and the charges dismissed on their merits, the Supreme Court may in its discretion, upon direct application by the LPO, enter an order reinstating the LPO to limited practice under APR 12. At the time such direct application is filed with the court, a copy shall be filed with the Board.

16.3 FORM OF PETITION

A petition for reinstatement as an LPO after revocation shall be in writing in such form as the Board may prescribe. The petition shall set forth the age, residence and address of the petitioner, the date of revocation, and a concise statement of facts claimed to justify reinstatement. The petition shall be accompanied by the total fees required for application under APR 12.

16.4 INVESTIGATION

The Board may, in its discretion, refer the petition for reinstatement for investigation and report to counsel appointed by the Board, if any, or such other person or persons as may be determined by the Board.

16.5 HEARING BEFORE BOARD

A. Notice. The Board may fix a time and place for a hearing on the petition and shall serve notice thereof ten (10) days prior to the hearing upon the petitioner and upon such other persons as may be ordered by the Board. Notice of the hearing shall also be published in such newspaper or periodical as the Board shall direct. Such published notice shall contain a statement that a petition for reinstatement has been filed and shall give the date fixed for the hearing.

B. Statement in Support or Opposition. On or prior to the date of hearing, anyone wishing to do so may file with the Board a written statement for or against reinstatement, such statements to set forth factual matters showing that the peti-

tioner does or does not meet the requirements of Regulation 16.6A. Except by its leave, no person other than the petitioner or petitioner's counsel shall be heard orally by the Board.

16.6 ACTION BY BOARD

~~A. Requirements for Favorable Recommendation.~~

~~Reinstatement may be recommended by the Board only upon an affirmative showing that the petitioner possesses the qualifications and meets the requirements as set forth by the Board and APR 12, and that the LPO's reinstatement will not be contrary to the public interest.~~

~~**B. Action on Recommendation.** The recommendation of the Board shall be served upon the petitioner. If the Board recommends reinstatement, the record and recommendation shall be transmitted to the Supreme Court for disposition. If the Board recommends against reinstatement, the record and recommendation shall be retained by the Board unless the petitioner requests that it be submitted to the Supreme Court. If the petitioner so requests, the record and recommendation shall be transmitted to the Supreme Court for disposition. If the petitioner does not so request, the examination fee shall be refunded to the petitioner, but the petitioner shall still be responsible for payment of costs incidental to the reinstatement proceeding as directed by the Board.~~

16.7 ACTION ON SUPREME COURT'S DETERMINATION

~~**A. Petition Approved.** If the petition for reinstatement is granted by the Supreme Court, the reinstatement shall be subject to the petitioner's taking and passing the examination for APR 12 applicants and paying the costs incidental to the reinstatement proceeding as directed by the Supreme Court.~~

~~**B. Petition Denied.** If the petition for reinstatement is denied, the examination fee shall be refunded to the petitioner, but the petitioner shall still be responsible for payment of the costs incidental to the reinstatement proceeding.~~

~~REGULATION 17. (RESERVED)~~

~~REGULATION 18. NOTICE AND FILING; ADMINISTRATION~~

~~All notices and filings required by these Regulations, including applications for admission as a Limited Practice Officer, shall be sent to the headquarters of the Washington State Bar Association. The Washington State Bar Association shall provide administrative support for the Limited Practice Board pursuant to APR 12 (b)(3). "Clerk" as used in these regulations means WSBA staff designated to support the Board.~~

~~REGULATION 19. AMENDMENT.~~

~~These Regulations may be altered, amended, or repealed by vote of the Board on approval of the Supreme Court.~~

GR 9 COVER SHEET

Suggested Amendments ADMISSION AND PRACTICE RULES (APR) Rule 13.

Submitted by the Washington State Bar Association

A. Name of Proponent:

Washington State Bar Association

1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Robin L. Haynes, President
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

B. Spokesperson:

Paula C. Littlewood, Executive Director
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Jean K. McElroy, General Counsel/
Chief Regulatory Counsel
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539 (Phone: 206-727-8277)

C. Purpose:

The primary purpose of the suggested amendments to APR 13 is to include LLLTs and LPOs so that requirements, and the legal professional's duties, regarding name, address, phone number and email address would be consistent across all license types. In addition, for purposes of notifying the Court of changes to this information, "Clerk of the Supreme Court" would be replaced with "Administrative Office of the Court" to reflect actual practice.

The suggested amendments to APR 13 would also include the resident agent requirement that is currently in APR 5. Currently, the resident agent rule requires a resident agent if the lawyer does not reside or maintain an office in Washington. An issue arises when some lawyers use a post office box, resulting in no physical street address at which to serve the lawyer. The suggested amendment would require lawyers, LLLTs and LPOs to provide a resident agent when their address of record is outside the state or is not a physical street address. These suggested amendments would ensure that all lawyers, LLLTs and LPOs have a tie to Washington and have an address at which the legal professional can actually be served.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 13 (Redline)

TITLE

ADMISSION AND PRACTICE RULES (APR)
**RULE 13. SIGNING OF PLEADINGS AND OTHER PAPERS;
ADDRESS OF RECORD; ELECTRONIC MAIL ADDRESS; NOTICE
OF CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME;
RESIDENT AGENT**

(a) Signing of Pleadings and Other Papers. All pleadings and other papers signed by an attorney lawyer, LLLT or LPO and filed with a court shall include the attorney's lawyer's, LLLT's or LPO's Washington State Bar Association membership number in the signature block. The law department of a municipality, county, or state, public defender

organization or law firm is authorized to make an application to the Supreme Court Clerk for an office identification number. An office identification number may be assigned by the Supreme Court Clerk upon a showing that it will facilitate the process of electronic notification. If an office identification number is granted, it shall appear with the attorney's lawyer's, LLLT's or LPO's Washington State Bar Association membership number in the signature block.

(b) Address of Record; Change of Address. An attorney lawyer, LLLT or LPO must advise the Washington State Bar Association of a current mailing address and telephone number. The mailing address shall be the attorney's lawyer's, LLLT's or LPO's public address of record. An attorney lawyer, LLLT or LPO whose mailing address or telephone number changes shall, within 10 days after the change, notify the Washington State Bar Association, who shall forward changes weekly to the Administrative Office of the Clerk of the Supreme Court for entry into the state computer system. The notice shall be in a form acceptable to the Bar Association and shall include (1) the attorney's lawyer's, LLLT's or LPO's full name, (2) the lawyer's, LLLT's or LPO's attorney's Washington State Bar Association membership number, (3) the previous address and telephone number, clearly identified as such, (4) the new address and telephone number, clearly identified as such, and (5) the effective date of the change. The courts of this state may rely on the address information contained in the state computer system in issuing notices in pending actions.

(c) Electronic mail address. An attorney lawyer, LLLT or LPO shall advise the Washington State Bar Association of a current electronic mail address. A lawyer, LLLT or LPO whose electronic mail address changes shall, within 10 days after the change, notify the Washington State Bar Association, who shall forward changes weekly to the Administrative Office of the Clerk of the Supreme Court for entry into the state computer system. Use of electronic mail addresses for court notice, service and filing must comply with GR 30.

(d) Change of Name. A lawyer, LLLT or LPO whose name changes shall, within 10 days after the change, notify the Washington State Bar Association, who shall forward changes weekly to the Administrative Office of the Clerk of the Supreme Court for entry into the state computer system. The notice shall be in a form acceptable to the Bar Association and shall contain (1) the full previous name, clearly identified as such, (2) the full new name, clearly identified as such, (3) the attorneys lawyer's, LLLT's or LPO's Washington State Bar Association membership number, and (4) the effective date of the change.

(e) Requirements of Local and Other Court Rules Not Affected. The responsibility of a party or an attorney lawyer, LLLT or LPO to keep the court and other parties and attorneys lawyers, LLLTs or LPOs informed of the party's or attorney's lawyer's, LLLT's or LPO's correct name and current address, as may be required by local or other court rule, is not affected by this rule.

(f) Resident Agent. If the address of record required under this rule is not in the state of Washington or is not a physical street address, the lawyer, LLLT or LPO shall file with the Bar the name and address of an agent within this state for the purpose of receiving service of process or of any

other document required or permitted by statute or court rule to be served or delivered to a resident lawyer, LLLT or LPO. Service or delivery to such agent shall be deemed service upon or delivery to the lawyer, LLLT or LPO. The name and address of the resident agent shall be a public record. If the address or name of the resident agent changes, the lawyer, LLLT or LPO shall notify the Bar of the change within 10 days after the change. Judicial and honorary members of the Bar are exempt from the requirements of this section.

GR 9 COVER SHEET

Suggested Amendments ADMISSION AND PRACTICE RULES (APR) Rule 14.

Submitted by the Washington State Bar Association

A. Name of Proponent:

Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Robin L. Haynes, President
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

B. Spokesperson:

Paula C. Littlewood, Executive Director
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Jean K. McElroy, General Counsel/
Chief Regulatory Counsel
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539 (Phone: 206-727-8277)

C. Purpose:

The primary purposes of the suggested amendments to APR 14 are to unify terminology as used throughout the suggested amendments to the APR, adjust cross-references to rules as necessary due to the suggested amendments, and to clarify that the Bar staff handles the application process for this limited license. There are no substantive changes to the rule.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 14 (Redline)

TITLE
ADMISSION AND PRACTICE RULES (APR)
RULE 14. LIMITED PRACTICE RULE FOR FOREIGN LAW CONSULTANTS

(a) Purpose. The purpose of this rule is to authorize lawyers from a foreign country to advise or consult about foreign

law and to prescribe the conditions and limitations upon such limited practice.

(b) Qualifications.

(1) To qualify as a Foreign Law Consultant applicant for admission to the limited practice of law in the State of Washington as provided in these rules, a person must:

(i) Present satisfactory proof of both admission to the practice of law, together with current good standing, in a foreign jurisdiction, and active legal experience as a lawyer or counselor at law or the equivalent in a foreign jurisdiction for at least 5 of the 7 years immediately preceding the application; and

(ii) Possess ~~the~~ good moral character and fitness to practice law requisite for a member of the Bar of the State of Washington as defined in APR 20; and

(iii) Execute under oath and file with the Bar Association ~~two copies of~~ an application in such form as may be required by the Bar Board of Governors; and

(iv) File with the application a certificate from the authority in such foreign country having final jurisdiction over professional discipline, certifying as to the applicant's admission to practice, and the date thereof, and as to the good standing of such lawyer or counselor at law or the equivalent, together with a duly authenticated English translation of such certificate, if it is not in English; and

(v) File with the application a letter of recommendation from one of the members of the executive body of such authority or from one of the judges of the highest law court or courts of original jurisdiction of such foreign country, together with a duly authenticated English translation of such letter, if it is not in English; and

(vi) Provide with the application such other evidence of the applicant's educational and professional qualifications, good moral character and fitness and compliance with the requirements of this rule as the Board of Governors may require; and

(vii) Pay upon the filing of the application a fee equal to that required ~~pursuant to rule 3 (d)(2)~~ to be paid by an ~~attorney~~ lawyer applicant to take the lawyer bar examination.

(2) Upon a showing that strict compliance with the provisions of subsections (b)(1)(iv) or (b)(1)(v) would cause the applicant unnecessary hardship, the Bar Board of Governors may at its discretion waive or vary the application of such provisions and permit the applicant to furnish other evidence in lieu thereof.

(c) Procedure. The Bar Board of Governors shall approve or disapprove applications for admission of Foreign Law Consultants licenses. Additional proof of any facts stated in the application may be required by the Bar Board. In the event of the failure or refusal of the applicant to furnish any information or proof, or to answer any inquiry of the Board pertinent to the pending application, the Bar Board may deny the application. Upon approval of the application by the Bar Board of Governors, the Bar Board shall recommend to the Supreme Court ~~the admission of that~~ the applicant be granted a license for the purposes herein stated. The Supreme Court may enter an order ~~admitting~~ licensing to practice those applicants it deems qualified, conditioned upon such applicants:

(1) Taking and filing with the Clerk of the Supreme Court the Oath for the Practice of Law of Attorney pursuant to ~~rule~~ APR 5; and

(2) Paying to the Bar Association ~~its membership the~~ license fee and any mandatory assessments for the current year in the maximum amount required of active lawyer members; and

(3) Filing with the Bar Association in writing his or her address in the State of Washington, or the name and address of his or her registered agent as provided in APR 13 ~~5(e)~~, together with a statement that the applicant has read the Rules of Professional Conduct and Rules for Enforcement of Lawyer Conduct, is familiar with their contents and agrees to abide by them.

(d) Scope of Practice. A Foreign Law Consultant shall be authorized to engage in the limited practice of law only as authorized by the provisions of this rule. A Foreign Law Consultant may not:

(1) Appear for a person other than the Foreign Law Consultant as lawyer in any court or before any magistrate or other judicial officer in this state (other than upon admission permission for a particular action or proceeding pursuant to rule 8(b)) or prepare pleadings or any other papers or issue subpoenas in any action or proceeding brought in any court or before any judicial officer of this state;

(2) Prepare any deed, mortgage, assignment, discharge, lease or any other instrument affecting title to real estate located in the United States; or

(3) Prepare any will or trust instrument affecting the disposition on death of any property located in the United States and owned by a resident thereof; or any instrument related to the administration of a decedents estate in the United States; or

(4) Prepare any instrument with respect to the marital relations, rights or duties of a resident of the United States, or the custody or care of the children of such a resident; or

(5) Render legal advice on the law of the State of Washington, of any other state or territory of the United States, of the District of Columbia or of the United States (whether rendered incident to preparation of legal instruments or otherwise) unless and to the extent that the Foreign Law Consultant is admitted to practice law before the highest court of such other jurisdiction; or

(6) In any way hold himself or herself out as a member of the Bar of the State of Washington; or

(7) Use any title other than "Foreign Law Consultant", the firm name, and/or authorized title used in the foreign country where the Foreign Law Consultant is admitted to practice. In each case, such title or name shall be used in conjunction with the name of such foreign country.

(e) Regulatory Provisions. A Foreign Law Consultant shall be subject to the Rules for Enforcement of Lawyer Conduct and the Rules of Professional Conduct as adopted by the Supreme Court and to all other laws and rules governing lawyers admitted to the Bar of this state, except for the requirements of APR 11 relating to mandatory continuing legal education. Jurisdiction shall continue whether or not the Consultant retains the authority for the limited practice of law in this state, and regardless of the residence of the Consultant.

(f) Continuing Requirements.

(1) *Annual Fee and Assessments.* A Foreign Law Consultant shall pay to the Bar Association its membership an annual license fee and any mandatory assessments for the current year in the maximum amount required of active lawyer members.

(2) *Report.* A Foreign Law Consultant shall promptly report to the Bar Association any change in his or her status in any jurisdiction where he or she is admitted to practice law.

(g) Termination of License. A limited license is granted at the sufferance of the Supreme Court and may be revoked at any time upon the courts own motion, or upon the motion of the Bar Board of Governors, with or without cause, including failure to comply with the terms of this rule.

(h) Reciprocity. A Foreign Law Consultant applicant shall demonstrate that the country or jurisdiction from which he or she applies does not impose, by any law, rule or regulation, any requirements, limitations, restrictions or conditions upon the admission of members of the Washington State Bar Association as Foreign Law Consultants in that foreign country or jurisdiction which are significantly more limiting or restrictive than the requirements of this rule. The Supreme Court may deny a license admission to a Foreign Law Consultant applicant upon that basis, or may impose similar limitations, restrictions or conditions upon foreign legal consultant applicants from that foreign country or jurisdiction.

GR 9 COVER SHEET

Suggested Amendments
ADMISSION AND PRACTICE RULES (APR)
Rule 15.

Submitted by the Washington State Bar Association

A. Name of Proponent:

Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Robin L. Haynes, President
Washington State Bar Association
1325 Fourth Avenue, Suite 600
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B. Spokesperson:

Paula C. Littlewood, Executive Director
Washington State Bar Association
1325 Fourth Avenue, Suite 600
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Jean K. McElroy, General Counsel/
Chief Regulatory Counsel
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539 (Phone: 206-727-8277)

C. Purpose:

The primary purpose of the suggested amendments to APR 15 is to incorporate Limited Practice Officers (LPOs) and Limited License Legal Technicians (LLLTs) into the ambit of the Fund, which would be renamed the Client Protection Fund. LPOs and LLLTs are practicing law and have

clients whom they may injure. They should contribute to the fund that mitigates the losses incurred by legal practitioners, and that fund should review and make appropriate awards for losses to clients that fall within the coverage of the rule.

If the suggested amendments are adopted, the Court will need to issue an order setting the assessment amounts for LPOs and LLLTs.

Another substantive amendment would be to amend Regulation 9(b) and Example 1 to specifically state that the amount of the maximum allowable amount of a gift from the Fund would be \$150,000. This would be consistent with recent action taken by the BOG to increase the limit on gifts paid out by the Fund to that amount.

There are also many amendments related to unifying the terminology used throughout the amended APR, including replacing the term "nonlawyers" with "community representatives who are not licensed to practice law".

In addition, the term "Procedural Rules" applying to the rules that come after APR 15 would be changed to "Procedural Regulations" in order to avoid confusion caused by using the same term for both the primary rules and the subset of procedural rules.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 15 (Redline)

TITLE
ADMISSION AND PRACTICE RULES (APR)

RULE 15. ~~LAWYERS' FUND FOR~~ CLIENT PROTECTION FUND

(a) Purpose. The purpose of this rule is to create a Lawyers' Fund for Client Protection Fund (the Fund), to be maintained and administered as a trust by the Washington State Bar Association (WSBA), in order to promote public confidence in the administration of justice and the integrity of the legal profession.

(b) Establishment. The Fund shall be established and funded through assessments ordered by the Supreme Court to be paid by members and other licensees to the Bar.

(1) The Board of Governors shall act as Trustees for the Fund.

(2) The Board of Governors shall appoint a Client Protection Board, to help administer the Fund pursuant to these rules. The Client Protection Board shall consist of 11 lawyers, LLLTs or LPOs and two community representatives who are not licensed to practice law, who shall be appointed to serve staggered three-year terms.

(3) Funds accruing and appropriated to the Fund may be used for the purpose of relieving or mitigating a pecuniary loss sustained by any person by reason of the dishonesty of, or failure to account for money or property entrusted to, any lawyer, LLLT or LPO member of the Bar WSBA as a result of or directly related to the lawyer's, LLLT's or LPO's member's practice of law (as defined in GR 24), or while acting as a fiduciary in a matter directly related to the lawyer's, LLLT's or LPO's member's practice of law. Such funds may also, through the Fund, be used to relieve or mitigate like losses

sustained by persons by reason of similar acts of an individual who was at one time a ~~member of the WSBA~~ admitted to the practice of law in Washington as a lawyer, LLLT, or LPO but who was at the time of the act complained of under a court ordered suspension.

(4) The Fund shall not be used for the purpose of relieving any pecuniary loss resulting from ~~an attorney's a lawyer's, LLLT's or LPO's~~ negligent performance of services or for acts performed after a lawyer, LLLT or LPO member is disbarred or revoked.

(5) Payments from the Fund shall be considered gifts to the recipients and shall not be considered entitlements.

(c) **Funding.** The Supreme Court may by order provide for funding by assessment of lawyers, LLLTs and LPOs ~~members of the WSBA~~ in amounts determined by the court upon the recommendation of the Board of Governors ~~of the WSBA~~.

(d) **Enforcement.** Failure to pay any fee assessed by the ~~court~~ Supreme Court in the manner and by the date specified by the Bar on or before the date specified by the court shall be a cause for suspension from practice until payment has been made.

(e) **Restitution.** A lawyer, LLLT or LPO whose conduct results in payment to an applicant shall be liable to the Fund for restitution.

(1) A lawyer, LLLT or LPO on Active status must pay restitution to the Fund in full within 30 days of final payment by the Fund to an applicant unless the ~~attorney~~ lawyer, LLLT or LPO enters into a periodic payment plan with Bar counsel assigned to the Client Protection Board.

(2) Lawyers, LLLTs or LPOs on disciplinary or administrative suspension, disbarred or revoked lawyers, LLLTs or LPOs, and lawyers, LLLTs or LPOs on any status other than disability inactive must pay restitution to the Fund in full prior to returning to Active status, unless the attorney enters into a periodic payment plan with Bar counsel assigned to the Client Protection Board.

(3) ~~An attorney~~ lawyer, LLLT or LPO who returns from disability inactive status as to whom an award has been made shall be required to pay restitution if and as provided in Procedural ~~Rule~~ Regulation 6(I).

(4) Restitution not paid within 30 days of final payment by the Fund to an applicant shall accrue interest at the maximum rate permitted under RCW 19.52.050.

(5) Bar counsel assigned to the Client Protection Board may, in his or her sole discretion, enter into an agreement with ~~an attorney~~ a lawyer, LLLT or LPO for a reasonable periodic payment plan if the ~~attorney~~ lawyer, LLLT or LPO demonstrates in writing the present inability to pay assessed costs and expenses.

(A) Any payment plan entered into under this rule must provide for interest at the maximum rate permitted under RCW 19.52.050.

(B) A lawyer, LLLT or LPO ~~An attorney~~ may ask the ~~Fund~~ Client Protection Board to review an adverse determination by Bar counsel regarding specific conditions for a periodic payment plan. The Chair of the Client Protection Board directs the procedure for ~~Fund~~ Client Protection Board review, and the ~~Fund~~ Client Protection Board's decision is not subject to further review.

(6) A lawyer's, LLLT's or LPO's ~~An attorney's~~ failure to comply with an approved periodic payment plan or to otherwise pay restitution due under this Rule may be grounds for denial of status change or for discipline.

(f) **Administration.** The Bar shall maintain and administer the Fund in a manner consistent with these rules and Regulations. Fund shall be maintained and administered by the Board of Governors acting as trustees for the Fund. The Board shall appoint the Lawyers' Fund for Client Protection Board (Client Protection Board) to administer the Fund pursuant to rules adopted by the Board of Governors and approved by the Supreme Court. The Client Protection Board shall consist of 11 lawyers and 2 nonlawyers, who will be appointed to serve staggered 3-year terms.

(g) **Subpoenas.** A lawyer member of the Client Protection Board, or Bar eCounsel for the Washington State Bar Association assigned to the ~~Committee~~ Client Protection Board, shall have the power to issue subpoenas to compel the attendance of the lawyer, LLLT or LPO being investigated or of a witness, or the production of books, or documents, or other evidence, at the taking of a deposition. A subpoena issued pursuant to this rule shall indicate on its face that the subpoena is issued in connection with an investigation under this rule. Subpoenas shall be served in the same manner as in civil cases in the superior court.

(h) **Reports.** ~~The Bar Board of Governors, in consultation with the Client Protection Board,~~ shall file with the Supreme Court a full report on the activities and finances of the Fund at least annually and may make other reports to the court as necessary.

(i) **Communications to the Bar Association.** Communications to the ~~Bar Association~~, Board of Governors (Trustees), Client Protection Board, ~~Association~~ Bar staff, or any other individual acting under authority of these rules, are absolutely privileged, and no lawsuit predicated thereon may be instituted against any applicant or other person providing information.

LAWYERS' FUND FOR CLIENT PROTECTION FUND (APR 15) PROCEDURAL RULES REGULATIONS

RULE REGULATION 1. PURPOSE

(a) ~~A.~~ The purpose of these ~~rules~~ regulations is to establish procedures pursuant to Rule 15 of the Admission ~~to and~~ Practice Rules, to maintain and administer a Lawyers' Fund for Client Protection Fund established as a trust by the ~~Washington State Bar Association (WSBA)~~, in order to promote public confidence in the administration of justice and the integrity of the legal profession.

(b) ~~B.~~ Funds accruing and appropriated to the Fund may be used for the purpose of relieving or mitigating a pecuniary loss sustained by any person by reason of the dishonesty of, or failure to account for money or property entrusted to, any ~~member~~ lawyer, LLLT or LPO of the ~~WSBA~~ Bar as a result of or directly related to the lawyer's, LLLT's or LPO's ~~member's~~ practice of law (as defined in GR 24), or while acting as a fiduciary in a matter directly related to the ~~member's~~ lawyer's, LLLT's or LPO's practice of law. Such funds may also, through the Fund, be used to relieve or mitigate like losses sustained by persons by reason of similar acts of an individual who was at one time a ~~member~~ lawyer, LLLT or LPO of

the WSBA Bar but who was at the time of the act complained of under a court ordered suspension.

~~(c) C.~~ The Fund shall not be used for the purpose of relieving any pecuniary loss resulting from ~~an attorney's a~~ lawyer's, LLLT's or LPO's negligent performance of services.

RULE REGULATION 2. ESTABLISHMENT OF THE FUND.

~~(a) A.~~ **Trustees.** Pursuant to APR 15, the members of the Board of Governors ~~of the WSBA~~ will serve during their terms of office as Trustees (Trustees) for the Fund to hold funds assessed by the Supreme Court for the purposes of the Fund. The WSBA Bar President will serve as President of the Trustees.

~~(b) B.~~ **Funding.** The Trustees may recommend to the Supreme Court that it order an annual assessment of all active ~~members~~ lawyer's, LLLT's and LPO's of the WSBA Bar in an amount recommended by the Trustees to be held by them in trust for the purposes of the Fund.

~~(c) C.~~ **Enforcement.** Any active ~~member~~ lawyer, LLLT or LPO failing to pay any annual assessment on or before the date set for payment by the Supreme Court shall, ~~after 60 days written notice sent to his or her last known business address as shown in the records of the WSBA,~~ be ordered suspended from the practice of law in accordance with APR 17 and the Bar's Bylaws until the assessment is paid.

RULE REGULATION 3. LAWYERS' FUND FOR CLIENT PROTECTION BOARD

~~(a) A.~~ **Membership.** The ~~Lawyers' Fund for Client Protection~~ Board shall consist of 11 lawyers, LLLTs or LPOs and ~~2 nonlawyers~~ two community representatives who are not licensed to practice law, appointed by the Trustees for terms not exceeding ~~3~~ three years each.

~~(b) B.~~ **Vacancies.** Vacancies on the Client Protection Board shall be filled by appointment of the Trustees.

~~(c) C.~~ **Officers.** The Trustees shall appoint a chairperson of the Client Protection Board for a term of one-year or until a successor is appointed. The secretary of the Client Protection Board shall be a staff member of the WSBA Bar assigned to the Client Protection Board by the Executive Director of the WSBA Bar.

~~(d) D.~~ **Meetings.** The Client Protection Board shall meet not less than once per year upon call of the chairperson, or at the request of the staff member of the WSBA Bar, who shall not be entitled to vote on Client Protection Board matters.

~~(e) E.~~ **Quorum.** A majority of the Client Protection Board members, excluding the secretary, shall constitute a quorum.

~~(f) F.~~ **Record of Meetings.** The secretary shall maintain minutes of the Client Protection Board deliberations and recommendations.

~~(g) G.~~ **Authority and Duties of Client Protection Board.** The Client Protection Board shall have the power and authority to:

(1) Consider claims for reimbursement of pecuniary loss and make a report and recommendation regarding payment or nonpayment on any claim to the Trustees.

(2) Provide a full report of its activities annually to the Supreme Court and the Trustees and to make other reports and to publicize its activities as the Court or Trustees may deem advisable.

~~(h) H.~~ **Conflict of Interest.**

(1) A Client Protection Board member who has or has had a lawyer/client relationship or financial relationship with an applicant or lawyer, LLLT or LPO who is the subject of an application shall not participate in the investigation or deliberation of an application involving that applicant or lawyer, LLLT or LPO.

(2) A Client Protection Board member with a past or present relationship, other than that as provided in section (1), with an applicant or lawyer, LLLT or LPO who is the subject of an application, shall disclose such relationship to the Client Protection Board and, if the Client Protection Board deems it appropriate, that member shall not participate in any action relating to that application.

RULE REGULATION 4. APPLICATIONS FOR PAYMENT

~~(a) A.~~ **Applications Form.** All applications for payment through the ~~Lawyers Fund for Client Protection~~ Fund shall be made by submitting to the Bar an application in such form and manner as determined by the Bar on a form approved by the Board, and shall include all information requested on the form.

~~(b) B.~~ **Disciplinary Grievances.** Before an application for payment from the Fund will be considered, the applicant must also file a disciplinary grievance with the Office of Disciplinary Counsel, unless the lawyer, LLLT or LPO is disbarred, revoked or deceased, or unless the Client Protection Board in its discretion finds that no disciplinary grievance is required.

~~(c) Information about the Fund. C. Notice by Office of Disciplinary Counsel.~~ Any person who has filed a disciplinary grievance with the WSBA alleging a loss occasioned by the dishonest conduct of a lawyer should be provided with a Lawyers Fund for Client Protection Fund application form and given information about the Fund. The application and information about the Fund shall be published on the Bar's public website and provided to any person on request.

RULE REGULATION 5. ELIGIBLE CLAIMS

~~(a) A.~~ **Eligibility.** To be eligible for payment from the Fund, the loss must be caused by the dishonest conduct of a lawyer, LLLT or LPO or the failure to account for money or property entrusted to a lawyer, LLLT or LPO as a result of or directly related to the lawyer's, LLLT's or LPO's practice of law ~~(as defined in GR 24).~~ The loss must also have arisen out of and by reason of a client-lawyer relationship or a fiduciary relationship in a matter directly related to the lawyer's, LLLT's or LPO's practice of law.

~~(b) B.~~ **Time Limitations.** Any application must be made within three years from the date on which discovery of the loss was made or reasonably should have been made by the applicant, and in no event more than three years from the date the lawyer, LLLT or LPO dies, is disbarred or revoked, is disciplined for misappropriation of funds, or is criminally convicted for matters relating to the applicant's loss, provided that the Client Protection Board or Trustees in their discretion may waive any limitations period for excusable neglect or other good cause.

~~(c) C.~~ **Dishonest Conduct.** As used in these rules and regulations, "dishonest conduct" or "dishonesty" means

wrongful acts committed by a lawyer, LLLT or LPO in the nature of theft or embezzlement of money or the wrongful taking or conversion of money, property or other thing of value, including but not limited to refusal to refund unearned fees or expenses as required the Rules of Professional Conduct.

(d) ~~D~~: Excluded Losses. Except as provided by Section E of this Regulation Rule, the following losses shall not be reimbursable:

(1) Losses incurred by related persons, law partners and associate ~~attorneys~~ lawyers, LLLTs or LPOs of the lawyer, LLLT or LPO causing the loss. For purposes of these Rules and Regulations, "related persons" includes a spouse, domestic partner, child, grandchild, parent, grandparent, sibling, or other Relative or individual with whom the lawyer, LLLT or LPO maintains a close, familial relationship;

(2) Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby, including any loss to which any bonding agent, surety, or insurer is subrogated, to the extent of that subrogated interest;

(3) Losses incurred by any financial institution which are recoverable under a "banker's blanket bond" or similar commonly available insurance or surety contract;

(4) Losses incurred by any business entity controlled by the lawyer, LLLT or LPO or any person or entity described in Regulation Rule 5 D (1), (2) or (3);

(5) Losses incurred by an assignee, lienholder, or creditor of the applicant or lawyer, LLLT or LPO, unless application has been made by the client or beneficiary or the client or beneficiary has authorized such reimbursement;

(6) Losses incurred by any governmental entity or agency;

(7) Losses arising from business or personal investments not arising in the course of or arising out of the client-lawyer or client-LLLT relationship, or the provision of LPO services;

(8) Consequential damages, such as lost interest, or attorney's fees or other costs incurred in seeking recovery of a loss.

(e) ~~E~~: Special and Unusual Circumstances. In cases of special and unusual circumstances, the Client Protection Board may, in its discretion, consider an application which would otherwise be excluded by reason of the procedural requirements of these rules and regulations.

(f) ~~F~~: Unjust Enrichment. In cases where it appears that there will be unjust enrichment, or that the applicant contributed to the loss, the Client Protection Board may, in its discretion, recommend the denial of the application. No rule should be interpreted as to provide a financial windfall to a claimant from the ~~F~~und.

(g) ~~G~~: Investment Victims. When considering gifts to claimants who were victimized after investing with a lawyer, LLLT or LPO, the Client Protection Board may consider such factors as the sophistication of the investor, the length of the relationship with the lawyer, LLLT or LPO, and whether the investor was aware that the lawyer, LLLT or LPO had ~~non-lawyer~~ partners who were not lawyers, LLLTs or LPOs.

(h) ~~H~~: Exhaustion of Remedies. The Client Protection Board may consider whether an applicant has made reasonable attempts to seek reimbursement of a loss before taking

action on an application. This may include, but is not limited to, the following:

(1) Filing a claim with an appropriate insurance carrier;

(2) Filing a claim on a bond, when appropriate;

(3) Filing a claim with any and all banks which honored a financial instrument with a forged endorsement;

(4) As a prelude to possible suit under part (5) below, demanding payment from any business associate or employer who may be liable for the actions of the dishonest lawyer, LLLT or LPO; or

(5) Commencing appropriate legal action against the lawyer, LLLT or LPO or against any other party or entity who may be liable for the applicant's loss.

~~RULE~~ REGULATION 6. PROCEDURES

(a) ~~A~~: Ineligibility. Whenever it appears that an application is not eligible for reimbursement pursuant to Rule 5, the applicant shall be advised of the reasons why the application may not be eligible for reimbursement.

(b) ~~B~~: Investigation and Report. The WSBA Bar staff member assigned to the Client Protection Board shall conduct an investigation regarding any application. The investigation may be coordinated with any disciplinary investigation regarding the lawyer, LLLT or LPO. The staff member shall report to the Client Protection Board and make a recommendation to the Client Protection Board.

(c) ~~C~~: Notification of lawyer, LLLT or LPO. The lawyer, LLLT or LPO, or his or her representative, regarding whom an application is made shall be notified of the application and provided a copy of it, and shall be requested to respond within 20 days. If the lawyer's, LLLT or LPO's address of record on file with the WSBA Bar is not current, then a copy of the application should be sent to the lawyer, LLLT or LPO at any other address on file with the WSBA Bar. A copy of these Rules and Regulations shall be provided to the lawyer, LLLT or LPO or representative.

(d) ~~D~~: Withdrawal of Application/Restitution. If, during the investigation of an application, the Applicant withdraws the Application or the Applicant receives full restitution of the amount stated in the Application, the Applicant and the lawyer, LLLT or LPO shall be advised that the file will be closed without further action.

(e) ~~E~~: Testimony. The Client Protection Board may request that testimony be presented to complete the record. Upon request, the lawyer, LLLT, LPO or applicant, or their representatives, may be given an opportunity to be heard at the discretion of the Client Protection Board.

(f) ~~F~~: Finding of Dishonest Conduct. The Client Protection Board may make a finding of dishonest conduct for purposes of considering an application. Such a determination is not a finding of dishonest conduct for purposes of professional discipline.

(g) ~~G~~: Evidence and Burden of Proof. Consideration of an application need not be conducted according to technical rules relating to evidence, procedure and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence commonly accepted by reasonably prudent persons in the conduct of their affairs. The applicant shall have the burden of establishing eligibility for reimbursement by a clear preponderance of the evidence.

~~(h) H-~~ Pending Disciplinary Proceedings. Unless the Client Protection Board or Trustees otherwise direct, no application shall be acted upon during the pendency of a disciplinary proceeding or investigation involving the same act or conduct that is alleged in the claim.

~~(i) I-~~ Deferred Disciplinary Proceedings; Lawyer, LLLT or LPO on Disability Inactive Status.

(1) If an application relates to a lawyer, LLLT or LPO on disability inactive status, and/or a disciplinary proceeding or investigation is deferred due to a lawyer's, LLLT's or LPO's transfer to disability inactive status, the ~~Fund~~ Client Protection Board may act on the application when received or may defer processing the application for up to three years if the lawyer, LLLT or LPO remains on disability inactive status.

(2) A lawyer, LLLT or LPO on disability inactive status seeking to return to Active status may, while pursuing reinstatement pursuant to the Rules for Enforcement of Conduct or other applicable discipline rules, request that the lawyer's, LLLT or LPO's obligation to make restitution for any applications approved while the lawyer, LLLT or LPO was on disability inactive status be reviewed.

(A) If the request for review is based in, whole or in part on the merits of the application(s), the lawyer, LLLT or LPO may request the ~~Fund~~ Client Protection Board review and reconsider any such applications. The ~~Fund~~ Client Protection Board's decision on review shall be reported to the Trustees, which shall have sole authority for the final decision. If the Trustees determine that the application(s) should not have been approved, the lawyer, LLLT or LPO will not be responsible for restitution and the applicant(s) shall not be required to repay the Fund. If the Trustees determine that the applications were appropriately granted and the lawyer, LLLT or LPO is responsible for restitution, the rules regarding restitution shall apply.

(B) If the lawyer, LLLT or LPO does not contest the merits of the applications but simply wants to request that restitution be waived, the request shall be submitted to the Bar ~~e~~Counsel for the Fund, who shall submit the request to the Trustees together with ~~Fund counsel's~~ Bar Counsel's recommendation. The decision of the Trustees shall be final and is not subject to appeal.

~~(j) J-~~ Public Participation. Public participation at Client Protection Board meetings shall be permitted only by prior permission granted by the Client Protection Board chairperson.

~~(k) K-~~ Client Protection Board Action.

(1) Actions of the Client Protection Board Which Are Final Decisions: A decision by the Client Protection Board on an application for payment of \$25,000 or less--whether such decision be to make payment, to deny payment, to defer consideration, or for any action other than payment of more than \$25,000--shall be final and without right of appeal to the Trustees.

(2) Actions of the Client Protection Board Which Are Recommendations to the Trustees: A decision by the Client Protection Board (a) on an application for more than \$25,000, or (b) involving a payment of more than \$25,000 (regardless of the amount stated in the application), is not final and is a recommendation to the Trustees which shall have sole authority for final decisions in such cases.

RULE REGULATION 7. ADJUDICATION BY TRUSTEES

~~(a) A-~~ A recommendation by the Client Protection Board (a) concerning applications for more than \$25,000, or (b) that payments of more than \$25,000 be made to applicants regarding any one lawyer, LLLT or LPO, shall be reported to the Trustees which may, in its discretion, adopt, modify, disapprove or take any other appropriate action on the Client Protection Board's recommendation.

~~(b) B-~~ A decision of the Trustees shall be final and there shall be no right of appeal from that decision.

RULE REGULATION 8. NOTIFICATION OF APPLICANT AND LAWYER, LLLT OR LPO

Both the applicant and the lawyer, LLLT or LPO who is the subject of an application shall be advised of any decision of the Client Protection Board or the Trustees.

RULE REGULATION 9. LIMITATIONS ON REIMBURSEMENT

~~(a) A-~~ The Trustees may, at their discretion, set limitations on the amount of reimbursement.

~~(b) B-~~ The maximum allowable amount of a gift is \$150,000. There is no limit on the number of gifts that can be made to reimburse clients for the wrongful acts of any one lawyer, LLLT or LPO.

~~(c) C-~~ Applications approved for \$5,000 or less shall be paid in full upon approval by the Client Protection Board (and the Trustees, if required under these Rules and Regulations). Applications approved for more than \$5,000 shall be paid \$5,000 upon approval by the Client Protection Board (and the Trustees, if required under these Rules and Regulations); payment of the remaining balance approved shall be deferred until fiscal year end and shall be subject to any proration which may be approved by the Trustees.

~~(d) D-~~ At the last meeting; of the Trustees for each fiscal year, the ~~Fund~~ Client Protection Board shall report the total outstanding balance on approved gifts and shall recommend whether the outstanding balance should be paid in full or prorated. When approved gifts are prorated, the prorated payment shall reflect the total amount of the gift, less the initial \$5,000 payment made upon approval by the Client Protection Board. By way of illustration:

Example 1: The application is for an amount in excess of \$~~150,000~~ 75,000,00. The ~~Fund~~ Client Protection Board recommends and the Board of Governors, as Trustees, approves a gift in the maximum allowable amount of \$~~150,000~~ 75,000. \$5,000 is paid upon approval by the Trustees. At fiscal year end, the ~~Fund~~ Client Protection Board recommends and the Board of Governors, as Trustees, approves using a prorating formula that would result in applicants receiving 20% of their unpaid gifts. 20% of \$~~145,000~~ 70,000 is \$~~29,000~~ 14,000, so a second payment of \$~~29,000~~ 14,000 is issued to the applicant.

Example 2: In the same fiscal year another applicant applies for and receives a gift in the amount of \$7,500. \$5,000 is paid upon approval. At fiscal year end, a second payment is issued for \$500.

RULE REGULATION 10. NO LEGAL RIGHT TO PAYMENT

Any and all payments made to applicants in connection with the ~~Lawyers' Fund for~~ Client Protection Fund are gratuitous and are at the sole discretion of the Trustees.

RULE REGULATION 11. RESTITUTION AND SUBROGATION

(a) ~~A~~. Restitution. A lawyer, LLLT or LPO whose conduct results in payment to an applicant shall be liable to the Fund for restitution, and the Trustees may bring such action as they deem advisable to enforce restitution.

(b) ~~B~~. Subrogation. As a condition of payment, an applicant shall be required to provide the Fund with a pro tanto transfer of the applicant's rights against the lawyer, LLLT or LPO, the lawyer's, LLLT's or LPO's legal representative, estate or assigns; and of the claimant's rights against any third party or entity who may be liable for the applicant's loss. Failure to return a signed subrogation agreement to the Fund within three years of approval of the application will result in revocation of that approval.

(c) ~~C~~. Action to Enforce Restitution. In the event the Trustees commence a judicial action to enforce restitution, they shall advise the applicant who may then join in the action to recover any unreimbursed losses. If the applicant commences such an action against the lawyer, LLLT or LPO or another entity who may be liable for the loss, the applicant shall notify the Fund who may join in the action.

(d) ~~D~~. Duty to Cooperate. As a condition of payment, the applicant shall be required to cooperate in all efforts that the Fund undertakes to achieve restitution.

RULE REGULATION 12. COMPENSATION FOR REPRESENTING APPLICANTS

No lawyer shall charge or accept any payment for prosecuting an application on behalf of an applicant, unless such charge or payment has been approved by the Trustees.

RULE REGULATION 13. CONFIDENTIALITY

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

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

RULE REGULATION 14. NOTICE OF ACTIONS

Notice of approval of an application to the Fund may be published in the Washington State Bar News official publication of the Bar or elsewhere at the direction of the Client Protection Board or Trustees. Notice may also be posted electronically on any web site maintained by the WSBA Bar. If the lawyer, LLLT or LPO has made full restitution to the Fund, any notice posted electronically by the WSBA Bar may, at the request of the lawyer, LLLT or LPO, be removed.

RULE REGULATION 15. AMENDMENTS

These Rules and Regulations may be amended, altered or repealed on the recommendation of the Client Protection Board by a vote of the Trustees, with the approval of the Supreme Court.

GR 9 COVER SHEET

Suggested Amendments
ADMISSION AND PRACTICE RULES (APR)
Rule 16.

Submitted by the Washington State Bar Association**A. Name of Proponent:**

Washington State Bar Association
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C. Purpose:

The suggested amendments would delete APR 16 and reserve the numbering. In the past, as permitted in GR 12.1, the WSBA operated both a mediation program and a fee arbitration program, but found that the programs generally were seldom used and did not warrant the administrative expense of maintaining the programs. The WSBA ceased operating these programs several years ago and since then has not instituted any new programs under this Rule.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 16 (Redline)

TITLE
 ADMISSION AND PRACTICE RULES (APR)
 RULE 16. ~~[RESERVED] MEDIATION~~

~~(a) Policy: It is the policy of the Supreme Court to encourage through a conciliatory process the informal and prompt resolution of disputes between lawyers and their clients, disputes between lawyers and other lawyers, and other disputes, including disputes between lawyers and other professionals regarding expert witness fees.~~

~~(b) Mediation Program.~~ The Washington State Bar Association is authorized to maintain and administer a Mediation Program for the resolution of disputes voluntarily submitted by the parties, or referred by the Office of Disciplinary Counsel, when mediation appears appropriate, and to be governed by such guidelines as may be adopted by the Bar Association's Board of Governors and approved by the Supreme Court.

~~(c) Confidentiality.~~ Mediation under this rule shall be confidential, and communications made or materials submitted in, or in connection with, the mediation proceeding will be privileged and confidential as provided by RCW 5.60.070, provided that no party to the mediation will be precluded from filing or pursuing a grievance under the Rules for Enforcement of Lawyer Conduct.

~~(d) Selection and Appointment of Mediators.~~ Mediators may be agreed upon by the parties or shall be assigned from a list approved by the Board of Governors and maintained by the Bar Association of both lawyers and non-lawyers with the appropriate training and experience to serve effectively in a facilitative role. Lawyers assigned as mediators shall be active members of the Bar Association for at least 7 years.

~~(e) Communications to the Association.~~ Communications to the Bar Association, Board of Governors, mediator, mediation staff, or any other individual acting under authority of these rules, are absolutely privileged, and no lawsuit predicated thereon may be instituted against any party to a mediation, witness or other person providing information.

GR 9 COVER SHEET

Suggested Amendments
ADMISSION AND PRACTICE RULES (APR)
Rule 17.

Submitted by the Washington State Bar Association

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C. Purpose:

The primary purpose of the suggested amendments to APR 17 is to make the procedures and reasons for administrative suspensions uniform for lawyers, LLLTs and LPOs. This is accomplished by suggested amendments throughout identifying that the provisions apply to lawyers, LLLTs and LPOs.

By adding LPOs to these provisions, LPOs would be newly subject to administrative suspension for failing to comply with the provisions of APR 17 (a)(1), and APR 17 (a)(2)(B), (F) and (G).

By adding LLLTs to these provisions, LLLTs would be newly subject to administrative suspension for failing to comply with the provisions of APR 17 (a)(2)(B) and (F).

Finally, failure to timely notify the WSBA of a change in the lawyer's, LLLT's or LPO's name is not currently a basis for suspension from practice for lawyers, LLLTs or LPOs but would be with the suggested amendments to APR 17 (a)(2)(G).

The remaining suggested amendments would maintain consistency of terminology throughout the suggested amendments to the APR.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 17 (Redline)

TITLE
ADMISSION AND PRACTICE RULES (APR)
RULE 17. ADMINISTRATIVE SUSPENSION FROM PRACTICE

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

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

(2) failure of a ~~member lawyer, LLLT or LPO~~ to comply with licensing requirements under these rules, the ~~Rules for Enforcement of Lawyer Conduct~~ applicable disciplinary rules, or the Bar's ~~Association~~ Bylaws. This includes but is not limited to a ~~member lawyer's, LLLT's or LPO's~~:

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

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

(C) failure to comply with MCLE requirements;

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

(E) failure to file annual trust account information;

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

(G) failure to timely notify the ~~Bar Association~~ of a change in the lawyer's LLLT's or LPO's name, address, phone

number or email address or resident agent information as required under APR 13.

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

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

(d) Rules of Professional Conduct Not Superseded. Nothing in this rule supersedes any of the Rules of Professional Conduct.

GR 9 COVER SHEET

Suggested Amendments ADMISSION AND PRACTICE RULES (APR)

Rule 19.

Submitted by the Washington State Bar Association

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C. Purpose:

The suggested amendments to APR 19 would include LPOs and LLLTs along with lawyers as eligible for practice assistance services from the WSBA, such as the Lawyer, LPO and LLLT Assistance Program, the Law Office Management Assistance Program and the Professional Responsi-

bility Program. This is first reflected in the suggested amendment to the title, specifically adding LLLT and LPO services, and is continued throughout all of the suggested amendments.

In addition, the suggested amendments would use "the Bar" to identify the WSBA, consistent with other suggested amendments, and would amend references to the Rules for Enforcement of Lawyer Conduct to a more general "applicable disciplinary rules" to reflect that the three types of licenses currently have three separate sets of disciplinary rules.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 19 (Redline)

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 19. LAWYER, LLLT AND LPO SERVICES

(a) Purpose. The purpose of this rule is to protect the public, to assist lawyers, LLLTs and LPOs in the performance of their duties and responsibilities in the representation of clients, to maintain and improve the integrity of the legal profession, and to promote the interests of justice.

(b) Lawyers, LLLTs and LPOs Assistance Program (LAP).

(1) *Authorization.* The ~~Washington State Bar Association~~ is authorized to create a program to help prevent and alleviate problems that may detrimentally influence a lawyer's, LLLTs or LPOs performance, including physical illnesses, emotional problems or addictions.

(2) *Confidentiality.* Confidential communications between a ~~lawyer~~ LAP client and staff or peer counselors of the Lawyers', LLLTs' and LPOs' Assistance Program shall be privileged against disclosure without the consent of the ~~lawyer~~ LAP-client to the same extent and subject to the same conditions as confidential communications between a client and psychologist.

(3) *Exoneration From Liability.*

(i) ~~Bar Association~~ and Its Agents. No cause of action shall accrue in favor of any person, arising from any action or proceeding pursuant to these rules, against the ~~Bar Association~~, or its officers or agents (including but not limited to its staff, members of the Board of Governors, or any other individual acting under the authority of these rules) provided only that the ~~Bar Association, officer or agent or individual~~ shall have acted in good faith. The burden of proving bad faith in this context shall be upon the person asserting it. The ~~Bar Association~~ shall provide defense to any action brought against an officer or agent of the ~~Bar Association~~ for actions taken in good faith under these rules and shall bear the costs of that defense and shall indemnify the officer or agent against any judgment taken therein.

(ii) Other persons. Communications to the ~~Bar Association~~, Board of Governors, staff, or any other individual acting under the authority of these rules, are absolutely privileged, and no lawsuit predicated thereon may be instituted against them or other person providing information.

(c) Fee Arbitration Program. [Reserved.]

(d) Law Office Management Assistance Program (LOMAP).

(1) *Authorization.* The ~~Washington State Bar Association~~ is authorized to create a program to help improve the quality of legal services by assisting lawyers, LLLTs and LPOs to better manage ~~better~~ their offices and improve the professional delivery of legal services.

(2) *Confidentiality.* Information obtained by Bar staff or agents of the Law Office Management Assistance Program shall be confidential unless:

(i) the assisted lawyer, LLLT or LPO consents to disclosure;

(ii) disclosure, based upon reasonable belief, is necessary to prevent the assisted lawyer, LLLT or LPO from committing a crime; or

(iii) pursuant to court order.

(e) Professional Responsibility Program.

(1) *Authorization.* The ~~Washington State Bar Association~~ is authorized to maintain a program to assist lawyers, LLLTs or LPOs in complying with their obligations under the Rules of Professional Conduct, thereby enhancing the quality of legal representation provided by Washington lawyers, LLLTs and LPOs.

(2) *Professional Responsibility Counsel.* "Professional responsibility counsel" denotes a lawyer employed or appointed by the Bar ~~Association~~ to act as counsel on the Bar ~~Association's~~ behalf in performing duties under part (e) of this rule, and any other lawyer employed or appointed by the Bar ~~Association~~, including but not limited to disciplinary counsel or general counsel, whenever such lawyer is temporarily performing those duties.

(3) *Ethics Inquiries.* Any member of the Bar ~~Association~~, or any lawyer, LLLT, LPO or legal intern admitted, licensed or permitted by rule to practice law in this state, may direct an ethics inquiry to professional responsibility counsel. Such inquiries should be made by telephone to the Bar ~~Association's~~ designated ethics inquiry telephone line. The provisions of this rule also apply to ethics inquiries initially submitted in writing, including facsimile, e-mail, or other electronic means, but do not apply to requests for written ethics opinions directed to the Bar ~~Association's~~ ~~Rules of Professional Conduct~~ Committee on Professional Ethics or its equivalent.

(4) *Scope.* An inquirer may request the guidance of professional responsibility counsel in identifying, interpreting or applying the Rules of Professional Conduct as they relate to his or her prospective ethical conduct. If the inquiry presents a set of facts, those facts should ordinarily be presented in hypothetical format. Professional responsibility counsel provides no legal advice or opinions, and the inquirer is responsible for making his or her own decision about the ethical issue presented. The inquiry shall be declined if it (i) requires analysis or resolution of legal issues other than those arising under the Rules of Professional Conduct; (ii) seeks an opinion about the ethical conduct of a lawyer person other than the inquirer; or (iii) seeks an opinion about the ethical propriety of the inquirer's past conduct.

(5) *Limitations and Inadmissibility.* Neither the making of an inquiry nor the providing of information by professional responsibility counsel under this rule creates a client-

lawyer relationship. Any information or opinion provided during the course of an ethics inquiry is the informal, individual view of professional responsibility counsel only. No information relating to an ethics inquiry, including the fact that an inquiry has been made, its content, or the response thereto, may be asserted in response to any grievance or complaint under the ~~Rules for Enforcement of Lawyer Conduct~~ applicable disciplinary rules, nor is such information admissible in any proceeding under the ~~Rules for Enforcement of Lawyer Conduct~~ applicable disciplinary rules.

(6) *Records.* Professional responsibility counsel shall not make or maintain any permanent record of the identity of an inquirer or the substance of a specific inquiry or response. Professional responsibility counsel may keep records of the number of inquiries and the nature and type of inquiries and responses. Such records shall be used solely to aid the Bar ~~Association~~ in developing the Professional Responsibility Program and developing additional educational programs. Such records shall be exempt from public inspection and copying and shall not be subject to discovery or disclosure in any proceeding.

(7) *Confidentiality.* Communications between an inquirer and professional responsibility counsel are confidential and shall be privileged against disclosure except by consent of the inquirer or as authorized by the Supreme Court. Professional responsibility counsel shall not use or reveal information learned during the course of an ethics inquiry except as RPC 1.9 would permit with respect to information of a former client. The provisions of RPC 8.3 do not apply to information received by professional responsibility counsel during the course of an ethics inquiry.

(f) Communications to the Bar Association. Communications to the Bar ~~Association~~, Board of Governors, staff, or any other individual acting under the authority of this rule, are absolutely privileged, and no lawsuit predicated thereon may be instituted against them or other person providing information.

GR 9 COVER SHEET

Suggested Amendments
ADMISSION AND PRACTICE RULES (APR)
Rules 20 through 25.6.

Submitted by the Washington State Bar Association**A. Name of Proponent:**

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C. Purpose:

Because APR 20-25.6 were amended effective September 1, 2016, these rules all relate to the Character and Fitness review and hearing process, and there are very few substantive suggested amendments, one GR 9 Cover Sheet is being submitted to address suggested amendments to all of these rules.

The primary purpose of the suggested amendments to APR 20-25.6 is to incorporate all applicants into the same process, regardless of the program or license for which the applicant is applying. Accordingly, applications for the educational alternative to law school, the APR 6 Law Clerk Program, and for admission to practice and licensing as a Limited Practice Officer (LPO) or Limited License Legal Technician (LLLT), would be specifically identified as being covered by these rules. Rather than maintaining the expense and administrative burden of three separate processes for three different license types, combining them into the same process would ease administrative burdens, simplify processes, and reduce costs and expenses.

Additional suggested non-substantive amendments throughout would include inserting the title of the Character and Fitness Board, to clearly identify the Board to which the rules are intended to apply (because some of this responsibility would be shifted away from the LLLT and LP Boards), and to conform terminology with other suggested amendments to the APR.

There are a few substantive changes, individually addressed below.

APR 20(g)

The suggested amendment would assist with coordinating terminology among the license types by stating that the words "disbarred" or "disbarment" when used in APR 20-25.6 would include "revoked" or "revocation" when referring to LLLT and LPO licenses.

APR 22.1(c) and APR 23.1(5)

The suggested amendments to these rules would move the subpoena powers from APR 7 (consistent with the suggested amendments to that rule) to APR 22.1(c) and APR 23.1(5), for bar counsel and the character and fitness board respectively.

APR 25.6(a)

The suggested amendment would clarify that in addition to the requirement to retake the relevant licensing examination, an approved applicant would be required to pay the annual active license fee and any mandatory assessments required for the particular license type.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 20-25.6 (Redline)

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 20. DEFINITIONS RELATING TO CHARACTER AND FITNESS DETERMINATIONS

(a) Applicant. "Applicant" as used in APR 20-25.6 means every applicant for admission to practice law, for limited admission or licensure to practice law, for enrollment in the APR 6 law clerk program, or for change of membership class or status under the Bar's ~~Association~~ Bylaws. In matters involving investigations or hearings pursuant to the filing of a petition for reinstatement by a disbarred or revoked lawyer, LLLT or LPO, "Applicant" shall also include a petitioner for reinstatement.

(b) Bar Counsel. "Bar Counsel" as used in APR 20-25.6 means one or more lawyers employed by the Bar ~~Association~~ who shall represent the Bar ~~Association~~ in reviewing applications for admission, readmission and licensure or at hearings before the Character and Fitness Board and/or act as counsel to the Character and Fitness Board. Bar Counsel who represents the Bar ~~Association~~ at hearings before the Character and Fitness Board may make a recommendation in support of or in opposition to the admission, licensure, enrollment or reinstatement of an Applicant.

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

(d) Fitness to Practice Law. Fitness to practice law is a record of conduct that establishes that the Applicant meets the essential eligibility requirements for the practice of law.

(e) Essential Eligibility Requirements. The essential eligibility requirements for the practice of law are:

(1) The ability to exercise good judgment and to conduct oneself with a high degree of honesty, integrity, and trustworthiness in financial dealings, legal obligations, professional relationships, and in one's professional business.

(2) The ability to conduct oneself in a manner that engenders respect for the law and adheres to the Washington Rules of Professional Conduct.

(3) The ability to diligently, reliably, and timely perform legal tasks and fulfill professional obligations to clients, ~~attorneys~~ lawyers, LLLTs, LPOs, courts and others.

(4) The ability to competently undertake fundamental ~~lawyering~~ legal skills commensurate with the lawyer, LLLT or LPO license applied for, such as legal reasoning and analysis, recollection of complex factual information and integration of such information with complex legal theories, problem solving, and recognition and resolution of ethical dilemmas; and

(5) The ability to communicate comprehensibly with clients, ~~attorneys~~ lawyers, LLLTs, LPOs, courts, and others, with or without the use of aids or devices.

(f) Health Diagnosis. "Health diagnosis" as used in APR 20-25.6 means a determination or conclusion regarding a sensory, mental, or physical condition that:

(1) Is medically cognizable or diagnosable; or

(2) Exists in a record or history; or

(3) Is perceived to exist whether or not it exists in fact.

(g) Disbarred or Disbarment. Disbarred or disbarment as used in APR 20-25.6 includes those terms as applied to lawyers or others and also includes the terms revoked or revocation when referring to LLLT and LPO licenses.

RULE 20.1 APPLICATION OF RULES

These rules and any subsequent amendments will apply in their entirety on the effective date as ordered by the Supreme Court to any pending matter except as would not be feasible or would work an injustice. The Chair may rule on the appropriate procedure with a view to insuring a fair and orderly proceeding.

RULE 21. FACTORS CONSIDERED WHEN DETERMINING CHARACTER AND FITNESS

(a) Factors Considered. The following factors shall be considered when determining an Applicant's good moral character and fitness to practice law:

- (1) unlawful conduct;
- (2) academic misconduct;
- (3) making of false statements or omitting material information in connection with an application for limited admission to practice law, to ~~sit for~~ take an bar examination required for admission, or otherwise for a license licensure or admission to ~~the practice of~~ law;
- (4) misconduct in employment;
- (5) acts involving dishonesty, making false statements, fraud, deceit or misrepresentation;
- (6) abuse of legal process;
- (7) neglect of financial responsibilities;
- (8) disregard of professional obligations;
- (9) violation of a court order;
- (10) conduct demonstrating an inability to meet one or more essential eligibility requirements for the practice of law;
- (11) denial of admission to the bar in this or another jurisdiction on character and fitness grounds;
- (12) disciplinary action by any professional licensing or disciplinary agency of any jurisdiction;
- (13) conduct that physically threatens or harms another person; and
- (14) any other conduct which reflects adversely on moral character or fitness of the Applicant to practice law.

(b) Aggravating and Mitigating Factors. The following factors shall be considered in mitigation or aggravation when determining an applicant's good moral character or fitness to practice law:

- (1) Applicant's age at the time of the conduct;
- (2) Recency of the conduct;
- (3) Reliability of the information concerning the conduct;
- (4) Seriousness of the conduct;
- (5) Factors or circumstances underlying the conduct;
- (6) Cumulative nature of the conduct;
- (7) Candor in the admissions process and before the Character and Fitness Board;
- (8) Materiality of any omissions or misrepresentations; and
- (9) Evidence of rehabilitation, recovery, or remission, which may include but is not limited to the following, no single one of which is determinative:
 - (i) absence of recent misconduct;

- (ii) compliance with any disciplinary, judicial or administrative order arising out of the misconduct;
- (iii) sufficiency of punishment;
- (iv) restitution of funds or property, where applicable;
- (v) Applicant's attitude toward the misconduct, including without limitation acceptance of responsibility and remorse;
- (vi) personal assurances, supported by corroborating evidence, of a desire and intent to engage in exemplary conduct in the future;
- (vii) constructive activities and accomplishments since the conduct in question;
- (viii) the Applicant's understanding and acceptance of the factors leading to the misconduct and how similar misconduct may be avoided in the future;

(ix) length of time in which the Applicant has been in recovery or remission, where applicable, and if it is less than two years, expert opinion that the period of treatment, recovery or remission is adequate for the applicant to meet the essential eligibility requirements for the practice of law; and

(x) compliance with any recommended or prescribed treatment plans.

(c) Non-Discrimination Policy. In determining good moral character and fitness to practice law, the Bar ~~Association~~ and the Character and Fitness Board shall not discriminate against any applicant on the basis of:

- (1) Race, color or ethnic identity;
- (2) Gender or gender identity;
- (3) Sexual orientation;
- (4) Marital status;
- (5) Creed or religion;
- (6) Political beliefs or affiliation;
- (7) Sensory, mental or physical disability;
- (8) National origin;
- (9) Age;
- (10) Honorably discharged veteran or military status;
- (11) Use of a trained service animal by a person with a disability; or
- (12) Any other class protected under state or federal law.

RULE 22. CHARACTER AND FITNESS REVIEW OF APPLICATIONS FOR ADMISSION; APPLICANT DUTIES AND RIGHTS

RULE 22.1 REVIEW OF APPLICATIONS

(a) Admissions Staff Review. All applications for admission or licensure to practice law in Washington state or to change membership class or status with the Bar ~~Association~~, and all petitions for readmission to the practice of law in Washington state shall be reviewed by the Bar ~~Association~~ admissions staff for purposes of determining whether any of the factors set forth in Rule 21(a) are present.

(b) Referral to Bar Counsel—Standard. All applications and petitions which reflect one or more of the factors set forth in Rule 21(a) shall be referred to Bar Counsel for review.

(c) Review By Bar Counsel. Upon receiving a referral from ~~the Bar~~ admissions staff, Bar Counsel may conduct such further investigation as he or she deems necessary. Bar counsel may issue subpoenas to compel attendance of an applicant or witness, or the production of books, documents, or other evidence, at a deposition or hearing. Subpoenas shall be served in the same manner as in civil cases in the superior

court. Any investigation or inquiry into a health diagnosis, alcohol or drug dependence, or treatment for either must comply with sections (e) and (f) of this Rule.

(d) Referral for Hearing—Standard. Bar Counsel shall refer to the Character and Fitness Board for hearing any Applicant about whom there is a substantial question whether the Applicant possesses the requisite good moral character and fitness to practice law. In determining whether a substantial question exists, Bar Counsel shall apply the factors and considerations set forth in Rule 21(a) and review the material evidence in the light most favorable to the ~~Bar Association's~~ obligation to recommend the licensure or admission to the practice of law of only those persons who possess good moral character and fitness to practice law.

(e) Basis for Inquiry into Health Diagnosis and Drug or Alcohol Dependence. Any inquiry by the ~~Bar Association~~ or the Character and Fitness Board about drug or alcohol dependence, a health diagnosis, or treatment for either can occur only if it appears that the Applicant has engaged in conduct that demonstrates the inability to meet one or more of the essential eligibility requirements and (1) the drug or alcohol dependence, health diagnosis, or treatment information was disclosed voluntarily to explain the conduct or as a voluntary response to any question on the application; or (2) the ~~Association~~ or the Character and Fitness Board learns from a third-party source that the drug or alcohol dependence, health diagnosis, or treatment was raised as an explanation for the conduct.

(f) Scope of Inquiry into Health Diagnosis and Drug or Alcohol Dependence. When a basis for an inquiry by the ~~Bar Association~~ or the Character and Fitness Board has been established under section (e), any such inquiry must be narrowly, reasonably, and individually tailored and adhere to the following:

(1) The first inquiry will be to request statements from the Applicant;

(2) Following completion of the inquiry in section (f)(1) above, additional statements may be requested from treatment providers if reasonably deemed necessary by the ~~Bar Association~~ or the Character and Fitness Board. The statements of treatment providers shall be accorded considerable weight; and

(3) In those cases in which the statements from the Applicant and treatment providers do not resolve reasonable concerns about the Applicant's ability to meet the essential eligibility requirements, the ~~Bar Association~~ or Character and Fitness Board may seek medical or treatment records. Any requests for medical or treatment records shall be by way of narrowly tailored requests and releases that provide access only to information that is reasonably necessary to assess the Applicant's ability to meet the essential eligibility requirements.

(4) Any testimony or records from medical or other treatment providers may be admitted into evidence at a hearing on, or review of, the Applicant's fitness and transmitted with the record on review to the Disciplinary Board and/or the Supreme Court. Records and testimony regarding the Applicant's fitness shall otherwise be kept confidential in all respects and neither the records nor the testimony of the medical or treatment provider shall be discoverable or admissible

in any other proceeding or action without the written consent of the Applicant.

RULE 22.2 APPLICANT DUTIES AND RIGHTS

(a) Duty of Applicant. It shall be the duty of every Applicant to cooperate in good faith with any investigation by promptly furnishing written or oral explanations, documents, releases, authorizations, or anything else reasonably required by Bar Counsel, the ~~Bar Association~~ or the Character and Fitness Board consistent with these rules. Failure to appear as directed or to furnish additional proof or answers as required or to cooperate fully shall be sufficient reason ~~for the Board~~ to reject or recommend the rejection of an application.

(b) Applicant Contact with Character and Fitness Board. Applicants shall not have direct contact with any member of the Character and Fitness Board from the time the Applicant's application is filed with the ~~Bar Association~~ until the matter is finally resolved by the Character and Fitness Board or the Supreme Court, except to the extent direct contact is required during the hearing. If the Applicant believes that communication with the Character and Fitness Board is necessary outside the hearing, such communication shall take place through Bar Counsel. If the Applicant believes that contact about the Applicant's matter with members of the Character and Fitness Board is necessary after the matter is finally resolved by the Character and Fitness Board or the Court, such contact should be made only through Bar Counsel.

(c) Applicant Right to Counsel. An applicant may be represented by counsel at any time during the application process.

RULE 23. CHARACTER AND FITNESS BOARD

(a) Composition. The Character and Fitness Board shall consist of not less than three community representatives who are not ~~lawyers~~ licensed to practice law, appointed by the Supreme Court, and not less than one lawyer, LLLT or LPO member from each congressional district, appointed by the Board of Governors. The validity of the Character and Fitness Board's actions is not affected if the Character and Fitness Board's makeup differs from the stated constitution due to a temporary vacancy in any of the specified positions.

(b) Qualifications. Lawyer, LLLT or LPO members must be active lawyers, LLLTs or LPOs ~~members~~ of the ~~Bar Association~~ and have been active ~~members of the Bar Association~~ for at least 5 years.

(c) Character and Fitness Board Chair. The Board of Governors shall annually designate one lawyer member of the Character and Fitness Board to act as chair and another as vice-chair. The vice-chair shall serve as chair in the absence of or at the request of the chair. If both the chair and the vice-chair will be absent from a meeting or hearing, the chair may appoint another member of the Character and Fitness Board to serve as chair pro tern at any hearing.

(d) Vacancies. Vacancies in lawyer membership on the Character and Fitness Board and in the office of the chair and vice-chair shall be filled by the Board of Governors. Vacancies in community representative membership shall be filled by the Supreme Court. A person appointed to fill a vacancy shall complete the unexpired term of the person he or she

replaces, and if that unexpired term is less than 24 months he or she may be reappointed to a consecutive term.

(e) Quorum. A majority of the Character and Fitness Board members shall constitute a quorum. Given a quorum, the concurrence of a majority of those present shall constitute action of the Character and Fitness Board. In the event a quorum is not present, Bar Counsel and the Applicant may agree to waive the requirement of a quorum.

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

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

(h) Voting. Each member, whether community representative or lawyer, LLLT or LPO, shall have one vote.

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

RULE 23.1. AUTHORITY OF CHARACTER AND FITNESS BOARD

(a) The Character and Fitness Board shall have the power and authority to:

(1) Conduct hearings concerning matters of character and fitness bearing upon the qualification of Applicants referred to the Character and Fitness Board by Bar Counsel and of all petitioners for reinstatement;

(2) Request medical or other treatment records, hear testimony from and ask questions of medical or other treatment providers in accordance with Rule 22.1 (e) and (f);

(3) Request an Applicant to submit to an Independent Medical Examination in accordance with Rule 24.1(f);

(4) Recommend the approval or denial of an Applicant's application after hearing;

(5) Issue subpoenas to compel attendance of an applicant or witness, or the production of books, documents, or other evidence, at a deposition or hearing, on the Character and Fitness Board's behalf or at the request of an Applicant. Subpoenas shall be served in the same manner as in civil cases in the superior court; and,

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

(b) No Character and Fitness Board member shall offer an opinion to an Applicant on whether the Applicant's record establishes good moral character and fitness to practice law until after the completion of a hearing regarding that Applicant's application or petition.

RULE 23.2 MEETINGS

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

RULE 23.4 CLERK

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

RULE 23.5. SERVICE

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

RULE 24. CHARACTER AND FITNESS BOARD HEARINGS

RULE 24.1 HEARING PROCEDURE

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

(b) Appearance and Right to Counsel. Applicants shall appear in person at any hearing before the Character and Fitness Board, unless the Applicant's presence is waived by the Character and Fitness Board for good cause shown. The presumption is that the Applicant's personal attendance at the hearing will be required. An Applicant may be represented by counsel.

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

(d) Proceedings Not Civil or Criminal. Hearings before the Character and Fitness Board are not civil or criminal but are sui generis hearings to determine whether an Applicant is of good moral character and possesses the requisite fitness to practice law.

(e) Rules of Evidence.

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

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

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

(4) Expert witnesses shall appear and testify in person or by telephone or video conference before the Character and Fitness Board, unless in the discretion of the Character and Fitness Board their appearance before the Character and Fitness Board is waived.

(5) Generally, all documentary evidence to be submitted to the Character and Fitness Board for consideration must be delivered to Bar Counsel not less than 30 days prior to the hearing. Bar Counsel will provide copies of all documentary evidence, and any hearing briefs, memoranda, or other documentary material, to the Character and Fitness Board members and to the Applicant prior to the hearing date.

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

(7) Questioning of the Applicant and the Applicant's witnesses shall be conducted by Bar Counsel, by members of the Character and Fitness Board, and by the Applicant or the Applicant's counsel.

(8) The Character and Fitness Board may question medical or other treatment providers and seek medical or other treatment records consistent with the provisions of Rule 22.1(e), 22.1(f) and Rule 24.1(f).

(f) Independent Medical Examination. An independent medical examination may be requested by the Character and Fitness Board only when a basis for an inquiry by the Character and Fitness Board exists under Rule 22.1(e) and only after testimony and evidence presented at the hearing has failed to resolve the Character and Fitness Board's reasonable concerns regarding the Applicant's ability to meet the essential eligibility requirements to practice law. If the applicant has not previously been requested to provide information under APR 22.1 (f)(1), (2) and (3), the Character and Fitness Board shall provide the applicant with the opportunity to submit such information, within such reasonable timelines as the Character and Fitness Board shall establish, prior to requesting the independent medical examination.

(1) Time and Place. Any independent medical examination shall occur at a time and place convenient to the applicant and shall be conducted by a provider mutually agreed upon by the applicant and the Bar Association.

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

(3) Costs: The cost of any independent medical examination required by the Character and Fitness Board shall be borne by the Bar Association.

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

(5) Confidentiality of IME: Any report and testimony of an examining professional may be admitted into evidence at a hearing on, or review of, the Applicant's fitness and transmitted with the record on review to the Disciplinary Board and/or the Supreme Court. Reports and testimony regarding the Applicant's fitness shall otherwise be kept confidential in all respects and neither the report nor the testimony of the examining professional shall be discoverable or admissible in any other proceeding or action without the consent of the Applicant.

(6) Rebuttal to IME: Applicants shall have the right to provide rebuttal medical information from their treating clinicians if such information is provided within thirty (30) days from the receipt of the independent medical examination report ~~provided pursuant to section (i).~~

(g) Confidentiality: All hearings and documents before the Character and Fitness Board on applications for admission or ~~limited admission to the Bar Association~~ licensure to practice law, admission to enrollment in the law clerk program, and return to active membership are confidential, but may be provided to the Disciplinary Board or Supreme Court in connection with any appeal or review, or to other entities with the written consent of the applicant.

RULE 24.2. DECISION AND RECOMMENDATION

(a) Decision. Within 30 days after the proceedings are concluded, or if a transcript is ordered, within 30 days after the transcript is received by the Character and Fitness Board, unless a greater or shorter period is directed by the Character and Fitness Board chair, the Character and Fitness Board will file with the Bar Association written findings of fact, conclusions of law, and a recommendation. Any Character and Fitness Board member or members may file a written dissent within the same time period.

(b) Action on Character and Fitness Board Recommendation. The recommendation of the Character and Fitness Board shall be served upon the Applicant pursuant to Rule 23.5.

(1) If the Character and Fitness Board recommends admission, the record, recommendation and all exhibits shall be transmitted to the Supreme Court for disposition.

(2) If the Character and Fitness Board recommends against admission, the record and recommendation shall be retained in the office of the Bar Association unless the Applicant requests that it be submitted to the Supreme Court by filing a Notice of Appeal with the Character and Fitness Board within 15 days of service of the recommendation of the Character and Fitness Board. If the Applicant so requests, the Character and Fitness Board will transmit the record, includ-

ing the transcript, exhibits, and recommendation to the Supreme Court for review and disposition. The Applicant must pay to the Supreme Court any fee required by the Court in connection with the appeal and review.

(c) Reapplication. No application for admission or a license to practice law may be filed within a period of one year after a decision of the Character and Fitness Board recommending against admission or licensure that is not appealed to the Supreme Court, and the Bar Association shall maintain a record of the application, hearing and Character and Fitness Board recommendation in the Bar Association records.

RULE 24.3. ACTION ON SUPREME COURT'S DETERMINATION

(a) Application Approved. If the application is approved by the Supreme Court, admission shall be subject to the Applicant's taking and passing any required qualifying examinations and complying with all other requirements for admission or the license to practice law.

(b) Application Denied. If the application is denied, the Bar Association shall maintain a record of the application, hearing, and appeal in the Bar Association records. No new petition for admission or a license to practice law shall be filed within a period of one year after the date of the Supreme Court decision denying the application.

RULE 25. PETITIONS FOR REINSTATEMENT AFTER DISBARMENT

RULE 25.1. RESTRICTIONS ON REINSTATEMENT

(a) Petitions For Reinstatement. All Petitions for Reinstatement after Disbarment shall be referred for hearing before the Character and Fitness Board. The provisions of Rules 20 through 24.3 shall apply to Petitions for Reinstatement unless otherwise provided for in rules 25 through 25.6.

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

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

(d) Payment of Obligations. No disbarred lawyer, LLLT or LPO may file a petition for reinstatement until costs and expenses and restitution ordered by the Disciplinary Board or the Supreme Court have been paid and until amounts paid out of the Lawyers' Fund for Client Protection Fund for losses caused by the conduct of the Petitioner have

been repaid to the client protection fund, or until periodic payment plans for costs and expenses, restitution and repayment to the client protection fund have been entered into by agreement between the Petitioner and disciplinary counsel. A Petitioner may seek review by the Chair of the Disciplinary Board of an adverse determination by disciplinary counsel regarding the reasonableness of any such proposed periodic payment plan. Such review will proceed as directed by the Chair of the Disciplinary Board and the decision of the Chair of the Disciplinary Board is final unless the Chair of the Disciplinary Board determines that the matter should be reviewed by the Disciplinary Board, in which case the Disciplinary Board review will proceed as directed by the Chair and the decision of the Disciplinary Board will be final.

RULE 25.2. REVERSAL OF CONVICTION

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

RULE 25.3. PETITIONS AND INVESTIGATIONS

(a) Form of Petition. A petition for reinstatement after disbarment shall be in writing and filed with the Bar Association. The petition shall set forth the residence and address of the Petitioner, the date of disbarment, and a concise statement of facts claimed to justify reinstatement. The petition shall be accompanied by the total fees required of a lawyer, LLLT or LPO Applicant for admission under these rules, and by a completed application for admission.

(b) Investigations. The petition for reinstatement shall be referred to the Character and Fitness Board for hearing. Bar Counsel and Bar Admissions staff shall conduct such investigation as appears necessary, and in accordance with APR 20-24.3.

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

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

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

RULE 25.4. HEARING BEFORE CHARACTER AND FITNESS BOARD

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

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

(c) **Hearings.** Hearings shall be conducted pursuant to Rule 24.1 except to the extent that provisions of rules 25-25.6 conflict with the provisions of Rule 24.1, and except that such hearings shall be public.

RULE 25.5. ACTION BY CHARACTER AND FITNESS BOARD

(a) **Requirements for Favorable Recommendation.** Reinstatement may be recommended by the Character and Fitness Board only upon a showing, supported by clear and convincing evidence, that the Petitioner possesses the requisite good moral character and fitness to practice law as set forth in these rules and that the Petitioner has been rehabilitated.

(b) **Rehabilitation—Factors Considered by the Character and Fitness Board.** In reaching the decision of whether the Petitioner has been rehabilitated, the Character and Fitness Board shall consider the factors set forth in Rule 21(b), where applicable, and the following factors:

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

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

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

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

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

(vi) The time that has elapsed since disbarment;

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

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

(c) **Non-Discrimination.** The Bar Association and the Character and Fitness Board shall not discriminate against any petitioner based on the factors in Rule 21(c).

(d) **Action on Character and Fitness Board Recommendation.** The recommendation of the Character and Fitness Board shall be served upon the Petitioner pursuant to Rule 23.5. If the Character and Fitness Board recommends reinstatement, the record and recommendation shall be transmitted to the Supreme Court for disposition. If the Character and Fitness Board recommends against reinstatement, the record and recommendation shall be retained in the office of the Bar Association unless the Petitioner requests that it be submitted to the Disciplinary Board by filing with the Clerk of the Disciplinary Board a request for Disciplinary Board review within 15 days of service of the recommendation of the Character and Fitness Board. If the Petitioner so requests, the record and recommendation shall be transmitted to the Disciplinary Board for disposition and the review will be conducted under the procedure of rules 11.9 and 11.12 of the Rules for Enforcement of Lawyer Conduct. If the Petitioner does not so request, the record and recommendation shall be retained in the records of the Bar Association and the Petitioner shall still be responsible for payment of the costs incidental to the reinstatement proceeding as directed by the Character and Fitness Board.

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

RULE 25.6. ACTION ON SUPREME COURT'S DETERMINATION

(a) **Petition Approved.** If the petition for reinstatement is approved by the Supreme Court, the reinstatement shall be subject to the Petitioner's taking and passing the bar examination required for the relevant license type, completing all requirements for admission, paying to the Bar Association its the required license fee in the appropriate amount for the current year plus any mandatory assessments, and paying the costs incidental to the reinstatement proceeding as directed by the Supreme Court.

(b) **Petition Denied.** If the petition for reinstatement is denied, the Petitioner shall still be responsible for payment of the costs incidental to the reinstatement proceeding as directed by the Supreme Court.

GR 9 COVER SHEET

Suggested Amendments
ADMISSION AND PRACTICE RULES (APR)
Rule 26.

Submitted by the Washington State Bar Association**A. Name of Proponent:**

Washington State Bar Association
 1325 Fourth Avenue, Suite 600
 Seattle, WA 98101-2539

Robin L. Haynes, President
 Washington State Bar Association
 1325 Fourth Avenue, Suite 600
 Seattle, WA 98101-2539

B. Spokesperson:

Paula C. Littlewood, Executive Director
 Washington State Bar Association
 1325 Fourth Avenue, Suite 600
 Seattle, WA 98101-2539

Jean McElroy, General Counsel/
 Chief Regulatory Counsel
 Washington State Bar Association
 1325 Fourth Avenue, Suite 600
 Seattle, WA 98101-2539 (Phone: 206-727-8277)

C. Purpose:

The primary purposes of the suggested amendments to APR 26 are to specify that this rule only applies to lawyers (and not LLLTs and LPOs, who are required to maintain insurance or demonstrate financial responsibility in order to obtain and maintain their licenses to practice) and to conform terminology throughout the suggested amendments to the APR. The proposed changes would not have any substantive effect on this rule.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to AP

SUGGESTED AMENDMENTS TO APR 26 (Redline)

TITLE
 ADMISSION AND PRACTICE RULES (APR)
RULE 26. INSURANCE DISCLOSURE

(a) Each active lawyer member of the Bar Association shall certify annually in a form and manner approved by the Bar Board of Governors by the date specified by the Bar form (1) whether the lawyer is engaged in the private practice of law; (2) if engaged in the private practice of law, whether the lawyer is currently covered by professional liability insurance; (3) whether the lawyer intends to maintain insurance during the period of time the lawyer is engaged in the private practice of law; and (4) whether the lawyer is engaged in the practice of law as a full-time government lawyer or is counsel employed by an organizational client and does not represent clients outside that capacity. Each active lawyer admitted to the active practice of law who reports being covered by pro-

fessional liability insurance shall certify in a form and manner prescribed by ~~notify~~ the Bar Association in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect or terminates for any reason.

(b) The information submitted pursuant to this rule will be made available to the public by such means as may be designated by the Bar Board of Governors, which may include publication on the website maintained by the Bar Association.

(c) Any active lawyer admitted to the active practice of law who fails to comply with this rule by the date specified by the Bar in section (a) may be ordered suspended from the practice of law by the Supreme Court until such time as the lawyer complies. Supplying false information in response to this rule shall subject the lawyer to appropriate disciplinary action.

GR 9 COVER SHEET

Suggested Amendments
ADMISSION AND PRACTICE RULES (APR)
Rule 27.

Submitted by the Washington State Bar Association**A. Name of Proponent:**

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 1325 Fourth Avenue, Suite 600
 Seattle, WA 98101-2539

Robin L. Haynes, President
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B. Spokesperson:

Paula C. Littlewood, Executive Director
 Washington State Bar Association
 1325 Fourth Avenue, Suite 600
 Seattle, WA 98101-2539

Jean K. McElroy, General Counsel/
 Chief Regulatory Counsel
 Washington State Bar Association
 1325 Fourth Avenue, Suite 600
 Seattle, WA 98101-2539 (Phone: 206-727-8277)

C. Purpose:

The primary purpose of the suggested amendments to APR 27 is to include the correct cross-reference to the APR if the suggested amendments are adopted, and to coordinate terminology with other suggested amendments to the APR.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 27 (Redline)

TITLE
 ADMISSION AND PRACTICE RULES (APR)
RULE 27. PROVISION OF LEGAL SERVICES FOLLOWING DETERMINATION OF MAJOR DISASTER

(a) Determination of Existence of Major Disaster. Solely for purposes of this Rule, the Supreme Court shall determine when an emergency affecting the justice system, as a result of a natural or other major disaster, has occurred in:

(1) Washington and whether the emergency caused by the major disaster affects the entirety or only a part of the State of Washington, or

(2) another jurisdiction, but only after such a determination and its geographical scope have been made by the highest court of that jurisdiction. The authority to engage in the temporary practice of law in Washington pursuant to paragraph (c) shall extend only to lawyers who principally practice in the area of such other jurisdiction determined to have suffered a major disaster causing an emergency affecting the justice system and the provision of legal services.

(b) Temporary Practice in Washington Following Major Disaster in Washington. Following the determination of an emergency affecting the justice system in Washington pursuant to paragraph (a) of this Rule, or a determination that persons displaced by a major disaster in another jurisdiction and residing in Washington are in need of pro bono services and the assistance of lawyers from outside of Washington is required to help provide such assistance, a lawyer authorized to practice law in another United States jurisdiction, and not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in Washington on a temporary basis. Such legal services must be provided on a pro bono basis without compensation, expectation of compensation or other direct or indirect pecuniary gain to the lawyer. Such legal services shall be supervised by a lawyer licensed to practice in Washington and assigned by a qualified legal services provider as defined in APR 1 Rule 8(e) or as otherwise ordered by the Supreme Court. A qualified legal services provider shall be entitled to receive all court-awarded attorney's fees for any representation rendered by the assigned lawyer pursuant to this Rule. When a lawyer authorized to practice under this rule signs correspondence or pleadings, the lawyer's signature shall be followed by the title "active disaster relief lawyer."

(c) Temporary Practice in Washington Following Major Disaster in Another Jurisdiction. Following the determination of a major disaster in another United States jurisdiction, a lawyer who is authorized to practice law and who principally practices in that affected jurisdiction, and who is not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in Washington on a temporary basis. Those legal services must arise out of and be reasonably related to that lawyer's practice of law in the jurisdiction, or area of such other jurisdiction, where the major disaster occurred.

(d) Duration of Authority for Temporary Practice. The authority to practice law in Washington granted by paragraph (b) of this Rule shall end when the Supreme Court determines that the emergency affecting the justice system caused by the major disaster in Washington has ended except that a lawyer then representing clients in Washington pursuant to paragraph (b) is authorized to continue the provision of legal services for such time as is reasonably necessary to complete the representation, but the lawyer shall not thereaf-

ter accept new clients. The authority to practice law in Washington granted by paragraph (c) of this Rule shall end 60 days after the Supreme Court declares that the emergency affecting the justice system caused by the major disaster in the affected jurisdiction has ended.

(e) Court Appearances. The authority granted by this Rule does not include appearances in court except:

(1) pursuant to Rule 8(b) and, if such authority is granted, any fees for such admission shall be waived; or

(2) if the Supreme Court, in any determination made under paragraph (a) of this Rule, grants blanket permission to appear in all or designated courts of Washington to lawyers providing legal services pursuant to paragraph (b) of this Rule. If such an authorization is included, any admission fees shall be waived.

(f) Disciplinary Authority and Registration Requirement and Approval. Lawyers providing legal services in Washington pursuant to paragraphs (b) or (c) are subject to the disciplinary authority of Washington and the Washington Rules of Professional Conduct as provided in Rule 8.5 of the Rules of Professional Conduct. Lawyers providing legal services in Washington under paragraphs (b) or (c) must file a registration statement with the ~~Washington State Bar Association~~. The registration statement shall be in a form prescribed by the ~~Bar Association~~. Any lawyer seeking to provide legal services pursuant to this rule must be approved by the Supreme Court before being authorized to provide such legal services. Any lawyer who provides legal services pursuant to this Rule shall not be considered to be engaged in the unlawful practice of law in Washington.

(g) Notification to Clients. Lawyers licensed to practice law in another United States jurisdiction who provide legal services pursuant to this Rule shall inform clients in Washington of the jurisdiction in which they are licensed to practice law, any limits on that license, and that they are not authorized to practice law in Washington except as permitted by this Rule. They shall not state or imply to any person that they are otherwise licensed to practice law in Washington.

GR 9 COVER SHEET

Suggested Amendments

ADMISSION AND PRACTICE RULES (APR) 28

A. Name of Proponent:

Washington State Bar Association
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Seattle, WA 98101-2539

Robin L. Haynes, President
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

B. Spokesperson:

Paula C. Littlewood, Executive Director
Washington State Bar Association
1325 Fourth Avenue, Suite 600
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Jean K. McElroy, General Counsel/
Chief Regulatory Counsel
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539 (Phone: 206-727-8277)

C. Purpose:

Since its inception in 2012, the Limited License Legal Technician (LLLT) program has operated as a self-contained regulatory system housed at and administered by the Washington State Bar Association (WSBA). The LLLT Board, with administrative support from the Bar, has the authority to oversee and administer all of the regulatory functions of the LLLT program.

The primary purposes of the suggested amendments to APR 28 and accompanying regulations are to coordinate and streamline the regulatory structures and administration of lawyer, LLLT, and LPO licenses, to unify the terminology used throughout the APR. As part of this process, many portions of APR 28 and the regulations are no longer necessary or have been consolidated under other rules of the APR. Also, regulatory processes recommended by the LLLT Board and approved by the Supreme Court as the program was being developed were often codified in the Regulations of APR 28, rather than amending the text of the rule itself. Those regulations have now been successfully implemented, and greater clarity can be achieved by deleting the text of those regulations and consolidating information in other sections of the suggested amendments to the APR.

In addition, there are suggested substantive amendments to the composition of the LLLT Board that are unrelated to the other suggested amendments to the APR.

The major suggested amendments and their intended effects are described below. Non-substantive suggested amendments occur throughout the provisions of this rule and relate primarily to unifying terminology across the suggested amendments to the APR.

APR 28 B(2)

This suggested amendment adds the word "LLLT" in front of "Board" in the definitions section (and similar suggested amendments are made throughout APR 28) in order to avoid confusion with the many other boards referenced in the APR.

APR 28 B(3) and B(9)

Administrative amendments are suggested in APR 28 B(3) and B(9) to add the word lawyer, to clarify which of several types of licenses to practice law is intended in these sections.

APR 28 C(1)

APR 28 C(1) governs the establishment and membership of the LLLT Board. The LLLT Board believes that the suggested amendments to this section would greatly improve their ability to develop the LLLT program under the supervision of the Court. One of the suggested amendments would increase the number of LLLT Board members from thirteen to fifteen; the goal of the increase is to share the significant workload for LLLT Board members.

The suggested amendments also would add a non-voting ex officio member to the LLLT Board who is a representative

of the Washington State Board of Community and Technical Colleges (SBCTC); receiving input from this new ex officio member would allow the LLLT Board to receive regular input and maintain an active partnership with the SBCTC. The SBCTC has been consulted and supports this idea.

Additional suggested amendments are intended to diversify the LLLT Board by making active LLLTs eligible for up to eleven of the LLLT Board member positions. It also allows up to two positions to be occupied by LPOs, lawyers or LLLTs who hold judicial status, or emeritus pro bono lawyers or LLLTs. Increasing diversity among the types of legal professionals who serve as Board members will broaden the perspective of the LLLT Board. Allowing LLLTs to serve on the LLLT Board is especially crucial; the LLLT Board believes that LLLTs must have a forum to assist in the development of their profession, as lawyers have traditionally had in their own.

The suggested amendment regarding the four "nonlawyer" positions has been amended only in regards to the terminology which describes those members; the LLLT Board believes that the intent of the Supreme Court in designating four of the Board appointments for "nonlawyers" was to include the voices of the public rather than to potentially create an entire Board with people licensed to practice law.

The suggested amendment striking language regarding the initial appointment of LLLT Board members would reflect that the initial setup of the LLLT Board has already occurred.

Finally, an amendment is suggested to clarify that despite the exact makeup of the members of the LLLT Board specified by this rule, the validity of the Board's actions would not be affected if for some reason there is a temporary vacancy in any of the appointed positions.

APR 28 C(2)

The suggested amendments would delete language from the current rule assigning some functions to the LLLT Board, because if the suggested amendments to the APR are adopted, those functions will be performed by others (the Bar, other boards or WSBA staff).

APR 28 C(3)

Current APR 28 C(3) authorizes the LLLT Board to establish various aspects of the LLLT regulatory structure. The LLLT Board has completed its mandate to establish these aspects of the program, and that authorization is no longer necessary. The suggested amendments would delete this language but maintain the LLLT Board's ability to propose rules, regulations, and amendments to the rule, and to implement any changes to the program.

APR 28 C (4) & (5)

The suggested amendments to APR 28 C(4) would keep language relating to the WSBA's administration of the program in section C(4) and move the language relating to reimbursement of Board member expenses in a new section C(5).

APR 28 D

The suggested amendments would delete the language in this rule and reserve the numbering. The majority of these provisions would be moved to amended APR 3 without substantive change if the suggested amendments are adopted.

Section (d), regarding educational credit hours would be moved to APR 11.

APR 28 E

The suggested amendments would delete the language in the section and reserve the numbering. With the exception of section (1), the suggested amendments would move all provisions of APR 28E to amended APR 5 (see GR 9 Coversheet for APR 5) without substantive change. Section (1), regarding the examination would be moved to APR 4.

APR 28 F

Suggested amendments to APR 28F would unify terminology used throughout the suggested amendments to the APR.

APR 28 G

LLLTs who plan to work from home and those who live in rural areas where mail is not delivered have expressed concern about the requirement for LLLTs to have a principal place of business having a physical street address. Compliance with the current rule would require that LLLTs who worked from home and did not want to publish their home address or those who cannot receive mail at their home address due to the boundaries of the postal service would have to open an office where they could be served. The suggested amendments resolve this issue by aligning LLLT (and LPO) address and resident agent requirements with those of lawyers under the suggested amendments to APR 13.

APR 28 I

Suggested amendments to APR 28 I would reflect the reorganization of provisions from regulations under APR 28 or to other APR. Mandatory continuing legal education would be under amended APR 11. Regulation 12 on financial responsibility would be moved to APR 28 I(2). Regulation 11 regarding annual license fees would be moved to APR 28 I(3), and would now include a substantive amendment that the annual license fee would be established by the Board of Governors rather than the LLLT Board, subject to review by the Supreme Court. The administrative processes established for lawyer licenses around annual fees, including deadlines, late fees, apportionment, reductions, etc., would apply to LLLTs; this would allow the Bar to streamline the annual relicensing process for all license types.

Regulation 13 on trust account information would be moved to APR 28 I(4), and this suggested amendment would also add a substantive change by stating that LLLTs could be administratively suspended under APR 17, allowing the Bar to introduce efficiencies in addressing various administrative suspension issues.

APR 28 J

Consistent with the approach taken in other suggested amendments, and in an effort to discontinue the use of the term "non-lawyer", this suggested amendment would modify the language of this section. There is no substantive change to the meaning or purpose of this section.

APR 28 L

The current section L addresses access to LLLT program records. The suggested amendments would clearly state that GR 12.4 applies to LLLT Board records and would eliminate

duplicative provisions that would be found in APR 1 and GR 12.4.

APR 28 M and N

Generally, APR 28 M and N contain the information regarding transferring to or from inactive status previously found in APR 28 Regulation 16. The procedures for transferring to inactive and active status would be unified across all three license types under the Bar's Bylaws.

APR 28 O

APR 28 O echoes the former APR 28 Regulation 17, which addressed voluntary cancellations of licenses. The suggested amendment would change the terminology, due to the fact that the Bar would be unifying its terminology from "cancelling" to "resigning" a license. This section would remain substantially unchanged, except that it would instruct the LLLT wishing to resign their license to notify the WSBA rather than the LLLT Board. The sections addressing resignation under the shadow of a disciplinary proceeding would not change substantially.

Appendix APR 28 Regulation 1

With the suggested amendments, Regulation 1 would be deleted and the numbering reserved. The requirements currently described in this regulation would be redistributed throughout the APR.

Appendix APR 28 Regulation 3

There are no substantive changes to Regulation 3, except that some would be moved to APR 3. The provision addressing the number of minutes in each credit hour is currently in APR 28 D, and this suggested amendment would move that provision to this regulation.

Appendix APR 28 Regulation 4

The only substantive changes in these suggested amendments would be to extend the time for accepting waivers to 2023 and to extend the expiration of the waiver to 2025. This would permit persons who may be waiting for practice areas other than family law to take advantage of the waiver provision.

NOTE: The LLLT Board has previously sent a suggested amendment to the Court that would make the same changes to the dates that are described above. The non-substantive changes are not covered by that previously accepted amendment.

Appendix APR 28 Regulation 5

The suggested amendments would move the content of current Regulation 5 to amended APR 3. The only substantive change to these procedures would be the removal of the requirement that LLLT candidates submit fingerprint cards to the Federal Bureau of Investigation (FBI) for the purposes of a criminal history record check; under the amended APR, the Bar may conduct background checks for LLLT candidates by whatever means are deemed appropriate to the individual applicant, rather than requiring submission of fingerprints to the FBI. This unifies the background check process for LLLTs, LPOs, and lawyer applicants. Rule change language cancelling the FBI fingerprint requirement was approved by the LLLT Board.

Appendix APR 28 Regulation 6

The suggested amendments would address the Regulation 6 provisions in amended APR 3, and would shift discretion for approving applications to the Bar, in line with its duty to perform all administrative functions related to the LLLT license.

Appendix APR 28 Regulation 7

The suggested amendments to APR 20-25.6 would unify the procedures for determining character and fitness across the LLLT, LPO, and lawyer license types. Thus, Regulation 7 would not be necessary. The authority to conduct character and fitness investigations and hearings would rest with the Character and Fitness Board, rather than the LLLT Board. There would be no substantial changes to the process itself, which was originally modeled on the lawyer character and fitness procedure.

Appendix APR 28 Regulation 8

The suggested amendments would move the text of APR 28 Regulation 8 amended to APR 4(e) with no substantive changes.

Appendix APR 28 Regulation 9

Suggested amendments to APR 28 Regulation 9 would change the time to complete the experience requirement from no more than three years after the exam to forty months after passing the LLLT practice area examination. The amendment aligns with the time limit for completing the preadmission requirements that would be set forth in amended APR 5.

Appendix APR 28 Regulation 10

The suggested amendments would move the provisions of Regulation 10 relating to the original admission to practice to amended APR 5 with only minor substantive changes. The remaining provisions and the additional language in the suggested amendments to Regulation 10 would unify and clarify procedures already established for LLLTs who wish to become licensed in more than one practice area, with no substantive changes.

The suggested amendments would also add a new section (D) that would relate to LLLTs with licenses for more than one practice area who wish to voluntarily cancel their license to practice in one area only. This information is currently in Regulation 17 section B.

Appendix APR 28 Regulation 11

The policies, provisions and deadlines related to license fee requirements would be as set forth in the WSBA Bylaws, so the suggested amendments would delete the text of this regulation and reserve the numbering.

Appendix APR 28 Regulation 12

The suggested amendments would move the financial responsibility requirements to APR 28(I) without substantive changes, and would strike the text and reserve the numbering of this regulation.

Appendix APR 28 Regulation 13

The suggested amendments would move the trust account information to APR 28 (I)4, and strike the text and reserve the numbering of this regulation.

Appendix APR 28 Regulation 14

The suggested amendments would move information regarding LLLT MCLE compliance to APR 11, and would delete the text of this regulation and reserve the numbering.

Appendix APR 28 Regulation 15

The suggested amendments would move the administrative suspension provisions to APR 17, and would delete the text and reserve the numbering of this regulation.

Appendix APR 28 Regulation 16

The suggested amendments would move the rules relating to LLLT inactive status to APR 28 M and N, and would delete the text and reserve the numbering of this regulation.

Appendix APR 28 Regulation 17

The suggested amendments would move the provisions regarding voluntary resignation (formerly termed "cancellation") to APR 28 O, and would delete the text and reserve the numbering of this regulation.

Appendix APR 28 Regulation 18

The suggested amendments would delete the text and reserve the numbering of this regulation, and these provisions would be covered by the suggested amendments to APR 25 and 25.1 and the WSBA Bylaws.

Appendix APR 28 Regulation 19

The suggested amendments would cover the provisions of Regulation 19 in the suggested amendments to APR 28 C(4), and would delete the text and reserve the numbering of this regulation.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: Cover letter from Paula C. Littlewood transmitting suggested amendments to APRs.

SUGGESTED AMENDMENTS TO APR 28 (Redline)**TITLE****TITLE**

ADMISSION AND PRACTICE RULES (APR)

RULE 28. LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS

A. Purpose. The Civil Legal Needs Study (2003), commissioned by the Supreme Court, clearly established that the legal needs of the consuming public are not currently being met. The public is entitled to be assured that legal services are rendered only by qualified trained legal practitioners. Only the legal profession is authorized to provide such services. The purpose of this rule is to authorize certain persons to render limited legal assistance or advice in approved practice areas of law. This rule shall prescribe the conditions of and limitations upon the provision of such services in order to protect the public and ensure that only trained and qualified legal practitioners may provide the same. This rule is intended to permit trained Limited License Legal Technicians to provide limited legal assistance under carefully regulated circumstances in ways that expand the affordability of quality legal assistance which protects the public interest.

B. Definitions. For purposes of this rule, the following definitions will apply:

(1) "APR" means the Supreme Court's Admission to Practice Rules.

(2) "LLLT Board" ~~when used alone~~ means the Limited License Legal Technician Board.

(3) "Lawyer" means a person licensed as a lawyer and eligible to practice law in any United States jurisdiction.

(4) "Limited License Legal Technician" (LLLT) means a person qualified by education, training and work experience who is authorized to engage in the limited practice of law in approved practice areas of law as specified by this rule and related regulations. The legal technician does not represent the client in court proceedings or negotiations, but provides limited legal assistance as set forth in this rule to a pro se client.

(5) "Paralegal/legal assistant" means a person qualified by education, training, or work experience; who is employed or retained by a lawyer, law office, corporation, governmental agency, or other entity; and who performs specifically delegated substantive law-related work for which a lawyer is responsible.

(6) "Reviewed and approved by a Washington lawyer" means that a Washington lawyer has personally supervised the legal work and documented that supervision by the Washington lawyer's signature and bar number.

(7) "Substantive law-related work" means work that requires knowledge of legal concepts and is customarily, but not necessarily, performed by a lawyer.

(8) "Supervised" means a lawyer personally directs, approves; and has responsibility for work performed by the Limited License Legal Technician.

(9) "Washington lawyer" means a person licensed and eligible to practice law in Washington and who is an active or emeritus pro bono lawyer member of the ~~Washington State Bar Association~~.

(10) Words of authority:

(a) "May" means "has discretion to," "has a right to," or "is permitted to."

(b) "Must" or "shall" means "is required to."

(c) "Should" means "recommended but not required."

C. Limited License Legal Technician Board

(1) *Establishment.* There is hereby established a Limited License Legal Technician Board (LLLT Board). The LLLT Board shall consist of 13 15 voting members appointed by the Supreme Court of the State of Washington, nine of whom shall be active Washington lawyers, and four of whom shall be nonlawyer, and one non-voting ex officio member who is a representative of the Washington State Board of Community and Technical Colleges. At least one member shall be a legal educator. At least 11 members shall be Washington lawyers, LLLTs or LPOs. Of those 11 members, at least nine shall be active lawyers or LLLTs, and no more than two may be LPOs, or judicial or emeritus pro bono lawyers or LLLTs. Four members of the LLLT Board shall be Washington residents who do not have a license to practice law. The members shall initially be appointed to staggered terms of one to three years. Thereafter, a Appointments shall be for staggered three year terms. No member may serve more than two consecutive full three year terms. The validity of the Board's actions is not affected if the Board's makeup differs from the stated consti-

tion due to a temporary vacancy in any of the specified positions.

(2) *LLLT Board Responsibilities.* The LLLT Board shall be responsible for the following:

(a) Recommending practice areas of law for LLLTs, subject to approval by the Supreme Court;

(b) ~~Processing applications and fees, and screening applicants;~~

(c) Working with the Bar and other appropriate entities to select, create, maintain, and grade ~~Administering~~ the examinations required under this rule which shall, at a minimum, cover the rules of professional conduct applicable to LLLTs, rules relating to the attorney-client privilege, procedural rules, and substantive law issues related to ~~one or more~~ approved practice areas;

(d) ~~Determining LLLT Continuing Legal Education (LLLT CLE) requirements and approval of LLLT CLE programs;~~

(e) Approving education and experience requirements for licensure in approved practice areas;

(f) Establishing and overseeing committees and tenure of members;

(g) ~~Establishing and collecting examination fees, LLLT CLE fees, annual license fees, and other fees in such amounts approved by the Supreme Court as are necessary to carry out the duties and responsibilities of the Board;~~

(h) Establishing and maintaining criteria for approval of educational programs that offer LLLT core curriculum; and

(i) Such other activities and functions as are expressly provided for in this rule.

(3) *Rules and Regulations.* The LLLT Board shall propose rules, and regulations and amendments to these rules and regulations, to implement and carry out the provisions of this rule, for adoption by the Supreme Court, that:

(a) Establish procedures for grievance and disciplinary proceedings;

(b) Establish trust account requirements and procedures;

(c) Establish rules of professional and ethical conduct; and

(d) Implement the other provisions of this rule.

(4) *Administration and Expenses of the Board.* The ~~Washington State Bar Association~~ shall provide reasonably necessary administrative support for the LLLT Board. Members of the Board shall not be compensated for their services but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties according to the Washington State Bar Association's expense policies. Funds accumulated from examination fees, annual fees, and other revenues shall be used to defray the expenses of the Board. All anticipated expenses and revenues shall be submitted on a proposed budget for approval by the Washington State Bar Association's Board of Governors. All notices and filings required by these Rules, including applications for admission as a LLLT, shall be sent to the headquarters of the Bar.

(5) *Expenses of the LLLT Board.* Members of the LLLT Board shall not be compensated for their services but shall be reimbursed for actual reasonable and necessary expenses incurred in the performance of their duties according to the Bar's expense policies.

D. [Reserved.] Requirements for Applicants. An applicant for licensure as an LLLT shall:

- (1) *Age.* Be at least 18 years of age;
- (2) *Moral Character and Fitness to Practice.* Be of good moral character and demonstrate fitness to practice as an LLLT;
- (3) *Education.* Have the following education, unless waived by the Board through regulation:
 - (a) An associate level degree or higher;
 - (b) 45 credit hours of core curriculum instruction in paralegal studies as approved by the Board with instruction to occur at:
 - (i) an ABA approved law school;
 - (ii) an educational institution with an ABA approved paralegal education program; or
 - (iii) an educational institution with an LLLT core curriculum program approved by the Board.
 - (c) In each practice area in which an applicant seeks licensure, instruction in the approved practice area, which must be based on a curriculum developed by or in conjunction with an ABA approved law school. For each approved practice area, the Board shall determine the key concepts or topics to be covered in the curriculum and the number of credit hours of instruction required for admission in that practice area;
 - (d) For the purposes of satisfying APR 28 (D)(3), one credit hour shall be equivalent to 450 minutes of instruction.
- (4) *Application.* Execute under oath and file with the Board his/her application, in such form as the Board requires. An applicant's failure to furnish information requested by the Board or pertinent to the pending application may be grounds for denial of the application.
- (5) *Examination Fee.* Pay, upon the filing of the application, the examination fee and any other required application fees as established by the Board and approved by the Supreme Court.

E. [Reserved.] Licensing Requirements. In order to be licensed as a Limited License Legal Technician, all applicants must:

- (1) *Examination.* Take and pass the examinations required under these rules;
- (2) *Experience.* Acquire 3,000 hours of substantive law-related work experience supervised by a licensed lawyer. The experience must be acquired no more than three years prior to licensure and no more than three years after passing the examination;
- (3) *Annual License Fee.* Pay the annual license fee;
- (4) *Financial Responsibility.* Show proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted by this rule. The proof of financial responsibility shall be in such form and in such amount as the Board may by regulation prescribe; and
- (5) Meet all other licensing requirements set forth in the rules and regulations proposed by the Board and adopted by the Supreme Court.

F. Scope of Practice Authorized by Limited Practice Rule. The Limited License Legal Technician shall ascertain whether the issue is within the defined practice area for which the LLLT is licensed. If it is not, the LLLT shall not provide the services required on this issue and shall inform the client

that the client should seek the services of a lawyer. If the issue is within the defined practice area, the LLLT may undertake the following:

- (1) Obtain relevant facts, and explain the relevancy of such information to the client;
- (2) Inform the client of applicable procedures, including deadlines, documents which must be filed, and the anticipated course of the legal proceeding;
- (3) Inform the client of applicable procedures for proper service of process and filing of legal documents;
- (4) Provide the client with self-help materials prepared by a Washington lawyer or approved by the LLLT Board, which contain information about relevant legal requirements, case law basis for the client's claim, and venue and jurisdiction requirements;
- (5) Review documents or exhibits that the client has received from the opposing side, and explain them to the client;
- (6) Select, complete, file, and effect service of forms that have been approved by the State of Washington, either through a governmental agency or by the Administrative Office of the Courts or the content of which is specified by statute; federal forms; forms prepared by a Washington lawyer; or forms approved by the LLLT Board; and advise the client of the significance of the selected forms to the client's case;
- (7) Perform legal research;
- (8) Draft letters setting forth legal opinions that are intended to be read by persons other than the client, and draft documents beyond what is permitted in paragraph (6), if the work is reviewed and approved by a Washington lawyer;
- (9) Advise a client as to other documents that may be necessary to the client's case, and explain how such additional documents or pleadings may affect the client's case;
- (10) Assist the client in obtaining necessary documents, such as birth, death, or marriage certificates.

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

- (1) A Limited License Legal Technician must have a principal place of business having a physical street address for the acceptance of service of process in the State of Washington;
- (2) A Limited License Legal Technician must personally perform the authorized services for the client and may not delegate these to a nonlicensed person. Nothing in this prohibition shall prevent a person who is not a licensed LLLT from performing translation services;
- (23) Prior to the performance of the services for a fee, the Limited License Legal Technician shall enter into a written contract with the client, signed by both the client and the Limited License Legal Technician, that includes the following provisions:
 - (a) An explanation of the services to be performed, including a conspicuous statement that the Limited License Legal Technician may not appear or represent the client in court, formal administrative adjudicative proceedings, or other formal dispute resolution process or negotiate the client's legal rights or responsibilities, unless permitted under GR 24(b);

(b) Identification of all fees and costs to be charged to the client for the services to be performed;

(c) A statement that upon the client's request, the LLLT shall provide to the client any documents submitted by the client to the Limited License Legal Technician;

(d) A statement that the Limited License Legal Technician is not a lawyer and may only perform limited legal services. This statement shall be on the first page of the contract in minimum twelve-point bold type print;

(e) A statement describing the Limited License Legal Technician's duty to protect the confidentiality of information provided by the client and the Limited License Legal Technician's work product associated with the services sought or provided by the Limited License Legal Technician;

(f) A statement that the client has the right to rescind the contract at any time and receive a full refund of unearned fees. This statement shall be conspicuously set forth in the contract; and

(g) Any other conditions required by the rules and regulations of the LLLT Board.

(34) A Limited License Legal Technician may not provide services that exceed the scope of practice authorized by this rule, and shall inform the client, in such instance, that the client should seek the services of a lawyer.

(45) A document prepared by an LLLT shall include the LLLT's name, signature, and license number beneath the signature of the client.

H. Prohibited Acts. In the course of dealing with clients or prospective clients, a Limited License Legal Technician shall not:

(1) Make any statement that the Limited License Legal Technician can or will obtain special favors from or has special influence with any court or governmental agency;

(2) Retain any fees or costs for services not performed;

(3) Refuse to return documents supplied by, prepared by, or paid for by the client, upon the request of the client. These documents must be returned upon request even if there is a fee dispute between the Limited License Legal Technician and the client;

(4) Represent or advertise, in connection with the provision of services, other legal titles or credentials that could cause a client to believe that the Limited License Legal Technician possesses professional legal skills beyond those authorized by the license held by the Limited License Legal Technician;

(5) Represent a client in court proceedings, formal administrative adjudicative proceedings, or other formal dispute resolution process, unless permitted by GR 24;

(6) Negotiate the client's legal rights or responsibilities, or communicate with another person the client's position or convey to the client the position of another party, unless permitted by GR 24(b);

(7) Provide services to a client in connection with a legal matter in another state, unless permitted by the laws of that state to perform such services for the client;

(8) Represent or otherwise provide legal or law related services to a client, except as permitted by law, this rule or associated rules and regulations;

(9) Otherwise violate the Limited License Legal Technicians' Rules of Professional Conduct.

I. Continuing Licensing Requirements

(1) Continuing Education Requirements. Each active Limited License Legal Technician ~~annually~~ must complete a minimum number of credit hours of approved or accredited education, as prescribed by APR 11. ~~the Board-approved number of credit hours in courses or activities approved by the Board, provided that the Limited License Legal Technician shall not be required to comply with this subsection during the calendar year in which he or she is initially licensed.~~

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

a. submitting an individual professional liability insurance policy in the amount of at least \$100,000 per claim and a \$300,000 annual aggregate limit;

b. submitting a professional liability insurance policy of the employer or the parent company of the employer who has agreed to provide coverage for the LLLT's ability to respond in damages in the amount of at least \$100,000 per claim and a \$300,000 annual aggregate limit; or

c. submitting proof of indemnification by the LLLT's government employer.

~~Each Limited License Legal Technician shall annually provide proof of financial responsibility in such form and in such amount as the Board may by regulation prescribe.~~

(3) License Fees and Assessments. Each Limited License Legal Technician must pay the annual license fee established by the Board of Governors, subject to review by the Supreme Court, and any mandatory assessments as ordered by the Supreme Court. Provisions in the Bar's Bylaws regarding procedures for assessing and collecting lawyer license fees and late fees, and regarding deadlines, rebates, apportionment, fee reductions, and exemptions, and any other issues relating to fees and assessments, shall also apply to LLLT license fees and late fees. Failure to pay may result in suspension from practice pursuant to APR 17. ~~Annual Fee. Each Limited License Legal Technician shall pay the annual license fee established by the Board and approved by the Supreme Court.~~

(4) Trust Account. Each active Limited License Legal Technician shall annually certify compliance with Rules 1.15A and 1.15B of the LLLT Rules of Professional Conduct. Such certification shall be filed in a form and manner as prescribed by the Bar and shall include the bank where each account is held and the account number. Failure to certify may result in suspension from practice pursuant to APR 17.

J. Existing Law Unchanged. This rule shall in no way modify existing law prohibiting the unauthorized practice of law nonlawyers from practicing law or giving legal advice other than as authorized under this rule or associated rules and regulations.

K. Professional Responsibility and Limited License Legal Technician-Client Relationship

(1) Limited License Legal Technicians acting within the scope of authority set forth in this rule shall be held to the standard of care of a Washington lawyer.

(2) Limited License Legal Technicians shall be held to the ethical standards of the Limited License Legal Technicians' Rules of Professional Conduct.

cians' Rules of Professional Conduct, which shall create an LLLT IOLTA program for the proper handling of funds coming into the possession of the Limited License Legal Technician.

(3) The Washington law of attorney-client privilege and law of a lawyer's fiduciary responsibility to the client shall apply to the Limited License Legal Technician-client relationship to the same extent as it would apply to an attorney-client relationship.

L. Confidentiality and Public Records.

(1) GR 12.4 shall apply to access to LLLT Board records.

(2) ~~Unless expressly authorized by the Supreme Court or by the applicant, all application records, including related investigation files, documents, and proceedings, for the limited admission to the practice of law as an LLLT are confidential and shall be privileged against disclosure, except as necessary to conduct an investigation, hearing, appeal, or review pursuant to these rules.~~

(3) ~~Unless expressly authorized by the Supreme Court, all examination questions, scoring keys, and other examination data used by the Board to administer the LLLT licensing examinations are not subject to public disclosure.~~

(4) ~~Unless expressly authorized by the Supreme Court or the LLLT, the following Board and Bar records are exempt from public access: personal information in Board and Bar records for LLLTs and Board members to the extent that disclosure would violate their right of privacy, including home contact information (unless such information is their address of record), Social Security numbers, driver's license numbers, identification or security photographs held in Board and Bar records, and personal data including ethnicity, race, disability status, gender, and sexual orientation. LLLT license status, license number, dates of admission or licensing, addresses of record, and business telephone numbers, facsimile numbers, and electronic mail addresses (unless there has been a request that electronic mail addresses not be made public) shall not be exempt, provided that any such information shall be exempt if the Chair of the Board approves the confidentiality of that information for reasons of personal security or other compelling reasons, which approval must be reviewed annually.~~

M. Inactive Status. An LLLT may request transfer to inactive status after being admitted. An LLLT on inactive status is required to pay an annual license fee as established by the Board of Governors and approved by the Supreme Court.

N. Reinstatement to Active Status. An LLLT on inactive status may return to active status by filing an application and complying with the procedures set forth for lawyer members of the Bar in the Bar's Bylaws.

O. Voluntary Resignation. Any Limited License Legal Technician may request to voluntarily resign the LLLT license by notifying the Bar in such form and manner as the Bar may prescribe. If there is a disciplinary investigation or proceeding then pending against the LLLT, or if the LLLT has knowledge that the filing of a grievance of substance against such LLLT is imminent, resignation is permitted only under the provisions of the applicable disciplinary rules. An LLLT who resigns the LLLT license cannot practice law in

Washington in any manner, unless they are otherwise licensed or authorized to do so by the Supreme Court.

APPENDIX APR 28. REGULATIONS OF THE APR 28 LIMITED LICENSE LEGAL TECHNICIAN BOARD REGULATION 1: ~~RESERVED. IN GENERAL~~

~~Every person desiring to be licensed and to maintain licensure as a Limited License Legal Technician (LLLT) pursuant to Admission to Practice Rule (APR) 28 shall satisfy all of the requirements of APR 28 and Appendix APR 28.~~

~~To facilitate prompt administration of APR 28 and these regulations, designated staff of the Washington State Bar Association (Association) may act on behalf of the LLLT Board under APR 28 and these regulations.~~

REGULATION 2: PRACTICE AREAS—SCOPE OF PRACTICE AUTHORIZED BY LIMITED LICENSE LEGAL TECHNICIAN RULE

In each practice area in which an LLLT is licensed, the LLLT shall comply with the provisions defining the scope of practice as found in APR 28 and as described herein.

A. Issues Beyond the Scope of Authorized Practice.

An LLLT has an affirmative duty under APR 28F to inform clients when issues arise that are beyond the authorized scope of the LLLT's practice. When an affirmative duty under APR 28F arises, then the LLLT shall inform the client in writing that:

1. the issue may exist, describing in general terms the nature of the issue;
2. the LLLT is not authorized to advise or assist on this issue;
3. the failure to obtain a lawyer's advice could be adverse to the client's interests; and,
4. the client should consult with a lawyer to obtain appropriate advice and documents necessary to protect the client's interests.

After an issue beyond the LLLT's scope of practice has been identified, if the client engages a lawyer with respect to the issue, then an LLLT may prepare a document related to the issue only if a lawyer acting on behalf of the client has provided appropriate documents and written instructions for the LLLT as to whether and how to proceed with respect to the issue. If the client does not engage a lawyer with respect to the issue, then the LLLT may prepare documents that relate to the issue if:

1. The client informs the LLLT how the issue is to be determined and instructs the LLLT how to complete the relevant portions of the document, and
2. Above the LLLT's signature at the end of the document, the LLLT inserts a statement to the effect that the LLLT did not advise the client with respect to any issue outside of the LLLT's scope of practice and completed any portions of the document with respect to any such issues at the direction of the client.

The LLLT may proceed in the manner described above only if no other defined prohibitions apply.

B. Domestic Relations.

1. *Domestic Relations, Defined.* For the purposes of these Regulations, domestic relations shall include only: (a) child support modification actions, (b) dissolution actions, (c) domestic violence actions, except as prohibited by Regula-

tion 2B(3), (d) committed intimate relationship actions only as they pertain to parenting and support issues, (e) legal separation actions, (f) major parenting plan modifications when the terms are agreed to by the parties before the onset of the representation by the LLLT, (g) minor parenting plan modifications, (h) parenting and support actions, (i) paternity actions, and (j) relocation actions, except as prohibited by Regulation 2B(3).

2. *Scope of Practice for Limited License Legal Technicians — Domestic Relations.* LLLTs in domestic relations may provide legal services to clients as provided in APR 28F, except as prohibited by APR 28H and Regulation 2B(3). Unless an issue beyond the scope arises or a prohibited act would be required, LLLTs may advise and assist clients (1) to initiate and respond to actions and (2) regarding motions, discovery, trial preparation, temporary and final orders, and modifications of orders.

3. *Prohibited Acts.* In addition to the prohibitions set forth in APR 28IT, in the course of dealing with clients or prospective clients, LLLTs licensed to practice in domestic relations:

- a. shall not represent more than one party in any domestic relations matter;
- b. shall not provide legal services:
 - i. in defacto parentage or nonparental custody actions; and
 - ii. if 25 U.S.C. Chapter 21, the Indian Child Welfare Act, or RCW 13.38, the Washington State Indian Child Welfare Act, applies to the matter;
- c. shall not advise or assist clients regarding:
 - i. division of owned real estate, formal business entities, or retirement assets that require a supplemental order to divide and award, which includes division of all defined benefit plans and defined contribution plans;
 - ii. bankruptcy, including obtaining a stay from bankruptcy;
 - iii. disposition of debts and assets, if one party is in bankruptcy or files a bankruptcy during the pendency of the proceeding, unless: (a) the LLLT's client has retained a lawyer to represent him/her in the bankruptcy, (b) the client has consulted with a lawyer and the lawyer has provided written instructions for the LLLT as to whether and how to proceed regarding the division of debts and assets in the domestic relations proceeding, or (c) the bankruptcy has been discharged;
 - iv. anti-harassment orders, criminal no contact orders, anti-stalking orders, and sexual assault protection orders in domestic violence actions;
 - v. jointly acquired committed intimate relationship property issues in committed intimate relationship actions;
 - vi. major parenting plan modifications unless the terms were agreed to by the parties before the onset of the representation by the LLLT;
 - vii. the determination of Uniform Child Custody Jurisdiction and Enforcement Act issues under RCW 26.27 or Uniform Interstate Family Support Act issues under RCW 26.21A unless and until jurisdiction has been resolved;
 - viii. objections to relocation petitions, responses to objections to relocation petitions, or temporary orders in relocation actions;

ix. final revised parenting plans in relocation actions except in the event of default or where the terms have been agreed to by the parties.

d. shall not appear or participate at the taking of a deposition; and

e. shall not initiate or respond to an appeal to an appellate court.

REGULATION 3: EDUCATION REQUIREMENTS FOR LLL APPLICANTS AND APPROVAL OF EDUCATIONAL PROGRAMS

An applicant for ~~licensure~~ admission as an LLL shall satisfy the following education requirements:

A. Core Curriculum.

1. *Credit Requirements.* An applicant for licensure shall have earned 45 credit hours as required by APR ~~3, 28D~~ ~~(3)(b)~~. The core curriculum must include the following required subject matters with minimum credit hours earned as indicated:

1. Civil Procedure, minimum 8 credit hours;
2. Contracts, minimum 3 credit hours;
3. Interviewing and Investigation Techniques, minimum 3 credit hours;
4. Introduction to Law and Legal Process, minimum 3 credit hours;
5. Law Office Procedures and Technology, minimum 3 credit hours;
6. Legal Research, Writing and Analysis, minimum 8 credit hours; and
7. Professional Responsibility, minimum 3 credit hours.

The core curriculum courses in which credit for the foregoing subject matters is earned shall satisfy the curricular requirements approved by the LLL Board and published by the Bar Association. If the required courses completed by the applicant do not total 45 credit hours, then the applicant may earn the remaining credit hours by taking legal or paralegal elective courses. All core curriculum course credit hours must be earned at an ABA approved law school, an educational institution with an ABA approved paralegal program, or at an educational institution with an LLL core curriculum program approved by the LLL Board under the Washington State LLL Educational Program Approval Standards.

For purposes of satisfying APR 3 (e)(2), one credit hour shall be equivalent to 450 minutes of instruction.

2. *LLL Educational Program Approval Requirements for Programs Not Approved by the ABA.* The LLL Board shall be responsible for establishing and maintaining standards, to be published by the Association, for approving LLL educational programs that are not otherwise approved by the ABA. Educational programs complying with the LLL Board's standards shall be approved by the LLL Board and qualified to teach the LLL core curriculum.

B. *Practice Area Curriculum.* An applicant for licensure in a defined practice area shall have completed the prescribed curriculum and earned course credits for that defined practice area, as set forth below and in APR ~~28D (3)(e)~~ 3(e). Each practice area curriculum course shall satisfy the curricular requirements approved by the LLL Board and published by the Bar Association.

1. *Domestic Relations.*

a. Prerequisites: Prior to enrolling in the domestic relations practice area courses, applicants shall complete the following core courses: Civil Procedure; Interviewing and Investigation Techniques; Introduction to Law and Legal Process; Legal Research, Writing, and Analysis; and Professional Responsibility.

b. Credit Requirements: Applicants shall complete five credit hours in basic domestic relations subjects and ten credit hours in advanced and Washington specific domestic relations subjects.

REGULATION 4: LIMITED TIME WAIVERS

A. Limited Time Waiver, Defined. For the limited time between the date the Board begins to accept applications and December 31, 2023 ~~16~~, the LLLT Board shall grant a waiver of the minimum associate-level degree requirement and/or the core curriculum education requirement set forth in APR (3) ~~28D~~ if an applicant meets the requirements set forth in Regulation 4B. The LLLT Board shall not grant waivers for applications filed after December 31, 2023 ~~16~~. The LLLT Board shall not waive the practice area curriculum requirement. The limited time waiver application will be separate from the application process for licensure admission set forth in these regulations.

B. Waiver Requirements and Applications. To qualify for the limited time waiver, an applicant shall pay the required fee, submit the required waiver application form, and provide proof, in such form as the Bar Board requires, that he/she has:

1. Passed a LLLT Board approved national paralegal certification examination;
2. Active certification from a LLLT Board approved national paralegal certification organization; and
3. Completed 10 years of substantive law-related experience supervised by a licensed lawyer within the 15 years preceding the application for the waiver. Proof of 10 years of substantive-law related experience supervised by a licensed lawyer shall include the following:
 - a. the name and bar number of the supervising lawyer(s),
 - b. certification by the lawyer that the work experience meets the definition of substantive law-related work experience as defined in APR 28, and
 - c. the dates of employment or service.

C. Review of Limited Time Waiver Application. The Bar Association shall review each limited time waiver application to determine if the application meets the waiver requirements. Any application that does not meet the limited time waiver requirements as established by this Regulation shall be denied by the Bar Association on administrative grounds, with a written statement of the reason(s) for denial.

D. Review of Denial. An applicant whose application for waiver has been denied by the Bar Association may request review by the LLLT Board chair. Such request shall be filed with the Bar Association within 14 days of the date of the notification of denial. The applicant shall be provided with written notification of the chair's decision, which is not subject to review.

E. Expiration of Limited Time Waiver Approval. Approval of the limited time waiver application shall expire

December 31, 2025 ~~18~~. After expiration of the approval, any subsequent application for licensure by the applicant shall meet all of the standard requirements for licensure admission without waiver.

REGULATION 5: [RESERVED] APPLICATIONS

~~**A. Fees.** All applications shall be accompanied by the required examination and application fee.~~

~~**B. Application for Licensure.** An applicant for licensure as an LLLT shall complete and file with the Association:~~

- ~~1. a completed application for licensure in a form and manner prescribed by the Board;~~
- ~~2. evidence in a form and manner prescribed by the Board demonstrating completion of

 - ~~a. at a minimum, an associate level degree, except applicants who have been approved for a limited time waiver pursuant to Regulation 4;~~
 - ~~b. the core curriculum required pursuant to Regulation 3A, except applicants who have been approved for a limited time waiver pursuant to Regulation 4, and~~
 - ~~c. the practice area curriculum required pursuant to Regulation 3B;~~
 - ~~3. original proof of passing the Core Curriculum Examination as required by Regulation 8; and~~
 - ~~4. a signed and notarized Authorization, Release and Affidavit of Applicant.~~~~

~~**C. Application for Additional Practice Area.** An LLLT seeking licensure in an additional practice area must complete and file with the Association:~~

- ~~1. a completed practice area application in a form and manner prescribed by the Board;~~
- ~~2. evidence in a form and manner prescribed by the Board demonstrating completion of the practice area curriculum required under Regulation 3B; and~~
- ~~3. a signed and notarized Authorization, Release and Affidavit of Applicant.~~

~~**D. Background Check.** Each applicant for licensure shall submit a fingerprint card to the Federal Bureau of Investigation (FBI) for a criminal history record check and provide to the FBI a release for the results of the criminal history check to be sent directly to the Association. A Washington LLLT applying for licensure in an additional practice area shall not be required to submit a fingerprint card, unless it has been more than two years since the LLLT was last issued a license.~~

~~The applicant shall furnish whatever additional information or proof may be required in the course of investigating the applicant, and failure to furnish such information may be grounds for denial of licensure.~~

REGULATION 6: [RESERVED] APPROVAL OR DENIAL OF APPLICATION ON ADMINISTRATIVE GROUNDS

~~**A. Review of Application.** The Association shall review each application to determine if the application meets the criteria for licensure established in APR 28. Any application that does not meet the initial criteria for licensure as established by APR 28 shall be denied by the Association on administrative grounds, except for those applications where there is a substantial question as to the applicant's good moral character or fitness to practice. The applicant will be notified whether the application has been approved or denied. If the~~

application has been denied, the applicant will be notified of the grounds for the denial and the review process.

B. Review of Denial. Every applicant who has been denied licensure under APR 28 on administrative grounds may request review by the Board chair. To request review, an applicant shall submit a written request within 14 days of the date the denial of application was issued and state the reason for the request.

C. Procedure for Review. The Board chair shall consider the request for review on the written record only and shall hear no oral arguments. The chair shall enter a written decision which may affirm or reverse the denial of the application or direct further investigation.

REGULATION 7: ~~[RESERVED.] CHARACTER AND FITNESS~~

A. Question of Character and Fitness. Each applicant for licensure as an LLLT shall establish good moral character and fitness to practice as defined in APR 21 and APR 22(a). When considering an applicant's good moral character and fitness to practice, the Board, Association staff, and Bar Counsel shall apply the factors set forth in APR 24.2. If there is a substantial question as to the good moral character or fitness to practice of an applicant for admission or admission after disciplinary revocation then the application will be referred to the Character and Fitness Committee of the Board for hearing.

B. Character and Fitness Committee. The Character and Fitness Committee shall be made up of three members of the Board appointed by the Board Chair. The Board Chair shall designate one member of the Board to act as chair of the Committee.

The Character and Fitness Committee shall have the power and authority to accept referrals from the Association concerning matters of character and fitness of applicants, order further investigation of matters relevant to the applications, conduct hearings, perform such other functions as necessary and proper to carry out its duties, and make appropriate recommendations.

C. Association Review. The Association shall review each application to determine whether any of the factors set forth in APR 24.2 are present. The Association shall review the material evidence in a light most favorable to the Association's obligation to recommend the licensing or admission to the limited practice of law only those persons who possess good moral character and fitness to practice.

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

E. Duty of Applicant. It shall be the duty of every applicant to cooperate in good faith and furnish whatever additional information or documentation may be required in the course of investigating the applicant. Failure to furnish such information may be grounds for denial of the application. Applicants shall not have direct contact with any member of the Committee or Board from the date of filing the application with the Association until the matter is resolved by the

Board or Supreme Court, except to the extent direct contact is required during the hearing.

F. Hearings. APR 24.3 shall apply equally to character and fitness hearings conducted pursuant to this Regulation and is incorporated herein by reference, except that the Character and Fitness Board as referenced in APR 24.3 shall mean the Character and Fitness Committee of the LLLT Board. Reference to the chair or chairperson in APR 24.3, as applied in this rule, shall mean the Character and Fitness Committee Chair. Applicants shall appear in person at any hearing before the Character and Fitness Committee, unless the Committee waives the applicant's presence for good cause shown.

G. Decisions and Recommendation of Character and Fitness Committee.

1. Findings of Character and Fitness Committee. The Character and Fitness Committee will timely file with the Association written findings of fact, conclusions of law, and a recommendation or direct further investigation for the reasons stated in the written findings.

2. Action on Recommendation.

a. If the Committee recommends admission, the record, recommendation, and all exhibits shall be transmitted to the Supreme Court for disposition.

b. If the Committee recommends against licensure, the record and recommendation shall be retained in the office of the Association unless the applicant submits a written request for review by the Board within 15 days of service of the recommendation. If the applicant so requests, the Committee will transmit the record, recommendation, and all exhibits to the Board for a recommendation. No additional evidence, materials, or argument shall be considered by the Board.

H. Review by the Board.

1. Decision of the Board. After receipt of the record, the Board will enter a written decision and may affirm or reverse the findings of the Character and Fitness Committee or direct further investigation for the reasons stated in the written decision.

2. Action on Recommendation.

a. If the Board recommends admission, the record, recommendation, and all exhibits shall be transmitted to the Supreme Court for disposition.

b. If the Board recommends against admission, the record and recommendation shall be retained in the office of the Association unless the applicant requests that it be submitted to the Supreme Court by filing a Notice of Appeal with the Board within 15 days of service of the recommendation of the Board. If the applicant so requests, the Board will transmit the record, including the transcript, exhibits, and recommendation to the Supreme Court for review and disposition. The applicant must pay to the Supreme Court any fee required by the Court in connection with appeal and review.

I. Action on Supreme Court's Determination.

1. Application Approved. If the application is approved by the Supreme Court, admission shall be subject to the applicant's taking and passing of the licensing examination and complying with all other requirements for licensure.

2. Application Denied. If the application is denied by the Supreme Court, the Board shall maintain a record of the application, hearing, and appeal in the Association records.

J. Reapplication.

No application for admission may be filed within a period of one year after a final decision of the Character and Fitness Committee, Board, or Supreme Court recommending against admission.

REGULATION 8: [RESERVED.] EXAMINATIONS; NOTIFICATION OF RESULTS

A. Administration of Examinations. The examinations will be administered at such times and locations as the Board may designate.

An applicant for initial licensure shall pass a core curriculum examination, a practice area examination, and a professional responsibility examination.

An LLLT who applies for licensure in an additional practice area shall be required to take only the qualifying practice area examination in the practice area for which he or she is seeking licensure.

B. Core Curriculum Examination. The core curriculum examination shall be satisfied by passing a national certifying paralegal examination as approved by the Board.

C. Practice Area Examination. The practice area examination will test applicants on one specific practice area and knowledge of LLLT scope specific to the practice area. All practice area examinations shall be comprised of three parts: a multiple choice section, an essay section, and a performance section. The duration, form, and manner of the exam shall be as prescribed by the Board. The passing standard for the practice area examination is a score of 75 percent for each section of the exam. A failing grade in one section shall result in failure of the exam, in which case grading of any remaining sections shall not be completed.

D. Professional Responsibility Examination. The professional responsibility examination will test applicants on LLLT ethical duties as set forth in APR 28, the LLLT Rules of Professional Conduct, and knowledge of the LLLT scope of practice as set forth in APR 28F and H. The professional responsibility examination shall be comprised of one multiple choice section. The duration, form, and manner of the exam shall be as prescribed by the Board. The passing standard for the professional responsibility examination is a score of 75%.

E. Results. Each applicant will be notified of the applicant's practice area and professional responsibility examination results. An applicant who fails the practice area examination may request a copy of the essay and performance sections. An applicant who passes the practice area exam will not receive a copy of the exam. An applicant may not request a copy of the professional responsibility examination.

An applicant who passes the practice area examination but fails the professional responsibility examination or vice versa may retake the failed exam at the next two administrations of the exam. The passing score shall be valid for one year from the date the applicant is notified of the exam results. If the applicant does not pass the failed exam within one year of such notification, the applicant shall be required to retake the exam he or she passed.

REGULATION 9: SUBSTANTIVE LAW-RELATED WORK EXPERIENCE REQUIREMENT

Each applicant for licensure as a limited license legal technician shall show proof of having completed 3,000 hours of substantive law-related work experience supervised by a licensed lawyer as required by APR 528E(2)(c). The experience requirement shall be completed within no more than three years before or after and 40 months after the date the applicant is notified of passing both the practice area and professional responsibility qualifying examinations of the LLLT practice area examination that the applicant passed. The proof shall be provided in such form as the Bar Board requires, but shall include at a minimum:

1. the name and bar number of the supervising lawyer;
2. certification that the work experience meets the definition of substantive law-related work experience as defined in APR 28;
3. the total number of hours of substantive law-related work experience performed under the supervising lawyer; and
4. certification that the requisite work experience was acquired within the time period required by this regulation APR 28E(2).

REGULATION 10: CERTIFICATION OF RESULTS TO SUPREME COURT; OATH ADDITIONAL PRACTICE AREAS

A. Recommendation for Licensure. The Board shall recommend to the Washington State Supreme Court the licensure of all applicants who have met all licensing requirements set forth in APR 28 and these regulations, including good moral character and fitness to practice. All recommendations of the Board shall be accompanied by the application for licensure and any other documents deemed pertinent by the Board or requested by the Supreme Court. The recommendation and all accompanying documents and papers shall not be public record.

B. Pre licensure Requirements. Before an applicant who has passed the qualifying examinations may be licensed, the applicant shall:

1. furnish proof of completion of the requisite hours of substantive law-related work experience supervised by a licensed lawyer as required by Regulation 9;
2. furnish proof of financial responsibility as required by Regulation 12;
3. pay the annual license fee and any assessments for the current year as required by Regulation 11;
4. file any and all licensing forms required for active limited license legal technicians; and
5. take the Oath of Limited License Legal Technician.

The pre-licensure requirements shall be completed within three years of the date the applicant is notified of the examination results. If an applicant fails to satisfy all the requirements for licensure within this period, the applicant shall not be eligible for licensure under APR 28 without submitting a new application for licensure and retaking the practice area and professional responsibility examinations.

Application for Additional Practice Area. An LLLT seeking admission in an additional practice area must complete and file with the Bar:

1. a completed practice area application in a form and manner prescribed by the Bar;

2. evidence in a form and manner prescribed by the Bar demonstrating completion of the practice area curriculum required under Regulation 3(B); and

3. a signed and notarized Authorization, Release and Affidavit of Applicant.

B C. Additional Practice Area Pre-licensure Requirements. An LLLT who is seeking licensure in an additional practice area shall:

- 1. take and pass the additional practice area examination;
- 2. pay the annual license fee as stated in the fee schedule; and
- 3. file any and all licensing forms required for active limited license legal technicians.

The requirements above shall be completed within one year of the date the applicant is notified of the practice area examination results. If an LLLT fails to satisfy all the requirements for licensure in an additional practice area within this period, the LLLT shall not be eligible for licensure in the additional practice area without submitting a new application and retaking the practice area examination.

~~**D. Oath of Limited License Legal Technician.** The Oath of Limited License Legal Technician shall be taken before an elected or appointed judge, excluding judges pro tempore, sitting in open court in the state of Washington.~~

~~**E. Contents of Oath.** The oath which all applicants shall take is as follows:~~

OATH FOR LIMITED LICENSE LEGAL TECHNICIANS

STATE OF WASHINGTON

COUNTY OF _____

I, _____, do solemnly declare:

1. I am fully subject to the laws of the state of Washington, the laws of the United States, Rule 28 of the Admission to Practice Rules, and APR 28 Regulations adopted by the Washington State Supreme Court and will abide by the same;

2. I will support the constitutions of the State of Washington and of the United States of America;

3. I will abide by the Limited License Legal Technician Rules of Professional Conduct approved by the Supreme Court of the State of Washington;

4. I will confine my activities as a Limited License Legal Technician to those activities allowed by law, rule and regulation and will only utilize documents approved pursuant to APR 28;

5. I will faithfully disclose the limitations of my services and that I am not a lawyer;

6. I will maintain the confidence and preserve inviolate the secrets of my client and will accept no compensation in connection with the business of my client, unless this compensation is from or with the knowledge and approval of the client or with the approval of the court;

7. I will abstain from all offensive personalities and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged;

8. I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay unjustly the cause of any person.

 Signature Limited License Legal Technician

Subscribed and sworn to before me this ____ day of _____, ____.

 JUDGE

~~**F. Order Admitting to Limited Practice as LLLT.**~~

~~After examining the recommendation and accompanying documents transmitted by the Board, the Supreme Court may enter such order in each case as it deems advisable. For those applicants it deems qualified, the Supreme Court shall enter an order admitting them to limited practice as LLLTs. Applicants shall be admitted under APR 28 only after the order has been entered by the Supreme Court.~~

C G. Order Admitting LLLT to Limited Practice in Additional Practice Area.

After examining the recommendation and accompanying documents transmitted by the Bar Board, the Supreme Court may enter such order in each case as it deems advisable. For those LLLTs it deems qualified, the Supreme Court shall enter an order admitting them to limited practice in the additional practice area.

D. Voluntary Termination of Single Practice Area License.

An LLLT licensed in two or more practice areas may request to voluntarily terminate a single practice area by notifying the Bar in writing. After terminating the practice area license, the LLLT shall not accept any new clients or engage in work as an LLLT in any matter in the terminated practice area. The Bar will notify the LLLT of the effective date of the termination.

REGULATION 11: [RESERVED] ANNUAL LICENSE FEES

~~**A.** Except as set forth in section B of this Regulation, every Limited License Legal Technician shall pay an annual license fee in an amount set by an established fee schedule approved by the Board and the Supreme Court. The annual license fee is due August 1 of each year and shall cover the annual license period of July 1 to June 30. Annual license fees paid after August 1 shall be subject to a late fee equal to one half the annual license fee.~~

~~**B.** LLLTs who pass the qualifying examination after January 1 but before July 1 and who request active status prior to July 1 of that same calendar year shall pay a prorated annual license fee of one half the amount of the annual license fee. LLLTs shall pay the annual license fee set forth in Regulation 11A to retain their active status after June 30 of the calendar year of their licensure.~~

~~**C.** An LLLT shall provide his or her residential and business addresses, telephone numbers, and business email address to the Board at the time of payment of the annual license fee. An LLLT whose address, telephone number, or email address changes shall notify the Association within 10 days after the change.~~

REGULATION 12: [RESERVED] FINANCIAL RESPONSIBILITY

~~**A. Insurance Requirement.** Each limited license legal technician shall show proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted under APR 28 by:~~

1. Submitting an individual professional liability insurance policy in the amount of at least \$100,000 per claim and a \$300,000 annual aggregate limit;

2. Submitting a professional liability insurance policy of the employer or the parent company of the employer who has agreed to provide coverage for the LLLT's ability to respond in damages in the amount of at least \$100,000 per claim and a \$300,000 annual aggregate limit; or

3. Submitting proof of indemnification by the LLLT's government employer.

B. Continuing Requirement. Each active LLLT shall certify annually by August 1 financial responsibility in a form and manner as prescribed by the Board. Each LLLT shall notify the Board of any cancellation or lapse in coverage.

REGULATION 13: [RESERVED.] TRUST ACCOUNT DECLARATION

Rules 15.4 (a) and (b) and 15.7 of the Rules for Enforcement of Lawyer Conduct (ELC) shall apply to LLLT IOLTA (Interest on Lawyer Trust Account) accounts. Annually, each active LLLT shall certify compliance with Rules 1.15A and 1.15B of the Limited License Legal Technician Rules of Professional Conduct. Such declaration shall be filed by August 1 in a form and manner as prescribed by the Board and shall include the bank where each account is held and the account number.

REGULATION 14: [RESERVED.] CONTINUING EDUCATION

A. Minimum Requirement. An LLLT shall complete a minimum of ten hours of approved continuing education each license year by June 30. A newly licensed LLLT shall be exempt for the first license year. The education must relate to the LLLT's area of practice, scope of practice or the subject matter covered in the required LLLT core curriculum and shall include a minimum of two hours in legal ethics and professional responsibility per license year.

Each continuing education course shall be approved in accordance with the procedures set forth in continuing education policies approved by the Board.

B. Proof of Compliance. An LLLT shall certify annually by August 1 compliance with the continuing education requirements in a form and manner as prescribed by the Board.

C. Policies and Fees. The Board shall establish continuing education policies for the efficient administration of this regulation and shall include, but not be limited to, standards for approval of continuing education courses, procedures for reporting attendance, and sponsor duties. The Board shall determine and adjust fees to defray the reasonably necessary costs of administering this regulation.

REGULATION 15: [RESERVED.] ADMINISTRATIVE SUSPENSION FROM LIMITED PRACTICE

A. Basis for Suspension from Limited Practice. The Board shall request that the Supreme Court suspend an LLLT from limited practice upon:

1. notification from the Department of Social and Health Services that an LLLT is more than six months delinquent in noncompliance with a valid and enforceable order entered by

a court of competent jurisdiction requiring the LLLT to pay child support; or

2. failure of an LLLT to comply with licensing requirements under APR 28 and these Regulations. This includes but is not limited to an LLLT's:

a. failure to pay the annual license fee as set forth in Regulation 11A;

b. failure to comply with financial responsibility requirements as set forth in Regulation 12;

c. failure to file an annual trust account declaration as set forth in Regulation 13;

d. failure to comply with continuing education requirements as set forth in Regulation 14; and

e. failure to timely notify the Association of a change of address, telephone number, or email address pursuant to Regulation 11C.

B. Notice and Order of Suspension. The Board shall provide at least 30 days written notice of intent to seek suspension to an LLLT at the LLLT's address of record with the Board. Written notice shall be sent by certified mail. The Board shall establish procedures consistent with these Regulations. An LLLT shall have a right to submit proof that the grounds for suspension do not or no longer exist. After such notice, the Court may enter an order suspending the LLLT from limited practice.

C. Change of Status after Suspension Pursuant to This Regulation. An LLLT who has been administratively suspended under this rule shall have a right to submit proof in a manner and form prescribed by the Board that the grounds for suspension no longer exist. The Court may enter an order changing status upon determination said proof is satisfactory and so long as the LLLT meets all other requirements for limited practice under APR 28 and these regulations.

REGULATION 16: [RESERVED.] INACTIVE STATUS

An LLLT may request transfer to inactive status after being admitted. An LLLT who has been transferred to inactive status shall continue to meet all continuing requirements under APR 28 and these regulations except for the financial responsibility and trust account declaration requirements.

An LLLT on inactive status may return to active status by filing an application to return to active status with the Board. To be granted active status, the LLLT shall be current on all licensing requirements, including payment of the annual fees, the continuing education requirements, and the financial responsibility requirements.

REGULATION 17: [RESERVED.] VOLUNTARY CANCELLATION OF LICENSE

A. Voluntary Cancellation of LLLT License. Any LLLT may request to voluntarily surrender the LLLT license by notifying the Board in writing of the desire to cancel the LLLT license. The Board may deny requests for voluntary cancellation from any LLLT who is the subject of a pending disciplinary investigation or proceeding. After entry of the cancellation order by the Supreme Court, the former LLLT shall not accept any new clients or engage in work as an LLLT in any matter. The Board will notify the LLLT of the effective date of the cancellation if approved. The former LLLT shall then promptly notify by registered or certified mail, return receipt request, all clients in pending matters of

the license cancellation and the consequent inability to act as an LLLT.

~~**B. Voluntary Cancellation of Single Practice Area License.** An LLLT licensed in two or more practice areas may request to voluntarily surrender a single practice area license by notifying the Board in writing of the desire to cancel the LLLT single practice area license. The Board may deny requests for voluntary cancellation of a single practice area license from any LLLT who is the subject of a pending disciplinary investigation or proceeding. After entry of the cancellation order by the Supreme Court, the LLLT shall not accept any new clients or engage in work as an LLLT in any matter in the voluntarily cancelled practice area. The Board will notify the LLLT of the effective date of the cancellation if approved. The former LLLT shall then promptly notify by registered or certified mail, return receipt request, all clients with pending matters in the voluntarily cancelled practice area of the license cancellation and the consequent inability to act as an LLLT in the specific practice area.~~

~~**C. Reinstatement after Voluntary Cancellation.** In order to be reinstated, an LLLT who voluntarily cancels his or her license must reapply, pass the certifying examinations, and complete all other requirements for licensure pursuant to APR 28 and these Regulations.~~

~~**REGULATION 18: [RESERVED.] REAPPLICATION FOR LICENSURE AFTER DISCIPLINARY REVOCATION**~~

~~No application for licensure after disciplinary revocation shall be filed within a period of five years after revocation or~~

within one year after an adverse decision of the Supreme Court upon a former application, or within one year after an adverse recommendation of the Board on a former application when that recommendation is not submitted to the Supreme Court. If prior to revocation the LLLT was suspended on an interim basis pending disciplinary proceedings, the period of suspension shall be credited toward the five years referred to above.

~~**REGULATION 19: [RESERVED.] NOTICE AND FILING**~~

~~All notices and filings required by these Regulations, including applications for licensure as a Limited License Legal Technician, shall be delivered to the headquarters of the Association.~~

~~**REGULATION 20: AMENDMENT AND BOARD POLICIES**~~

These Regulations may be altered, amended, or repealed by vote of the LLLT Board on approval of the Supreme Court. The LLLT Board has ongoing authority to adopt policies for the administration of the LLLT program consistent with APR 28 and these Regulations.

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.

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 17-03-003

AGENDA

DEPARTMENT OF COMMERCE

[Filed January 4, 2017, 2:21 p.m.]

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

Please contact Jamie Rossman if you have questions at jaimie.rossman@commerce.wa.gov or (360) 725-2717.

Semi-Annual Rule-Making Agenda
January through June 2017

WAC Citation	Subject Matter/Purpose of Rule	Current Activity/ Approximate Filing Date
Chapters 365-190 and 365-196 WAC	Sections including WAC 365-190-080, 365-196-485 and 365-196-580 may be updated to adequately reflect new requirements and to provide clear guidance to regulate and protect critical areas on land used for agricultural activities.	CR-102 anticipated spring 2017
Chapter 130-10 WAC	Update sections of WAC pertaining to disclosure of public records to align with changed requirements and current practices.	Rule adoption anticipated spring 2017

Jamie Rossman
Rules Coordinator

WSR 17-03-007

**INTERPRETIVE OR POLICY STATEMENT
UNIVERSITY OF WASHINGTON**

[Filed January 4, 2017, 3:55 p.m.]

The University of Washington has recently revised the following policy statements, scholastic regulation, and administrative information:

- "Fire Safety," revised effective August 10, 2016 (Administrative Policy Statement 16.1).
- "Repeating of Dental Courses," revised effective October 12, 2016 (*Student Governance and Policies*, Chapter 115, Section 3).
- "Purchase, Management, and Use of an Automated External Defibrillator at the University of Washington," revised effective October 13, 2016 (Administrative Policy Statement 10.12).
- "University Organization Chart," revised effective December 29, 2016 (Administrative Policy Statement 1.1).
- "University-Wide Leadership List," revised effective December 29, 2016 (Administrative Policy Statement 1.2).
- "Leave Policy for Classified Non-Union Staff," revised December 1, 2016, effective January 1, 2017 (Administrative Policy Statement 43.15).

To view any item noted above, see the UW Policy Directory: washington.edu/admin/rules/policies/. For more information regarding these materials contact Rebecca Goodwin Deardorff, Director of Rules Coordination, University of Washington, Box 351210, Seattle, WA 98195-1210, or by email rules@uw.edu.

WSR 17-03-010

**NOTICE OF APPEAL
OFFICE OF THE GOVERNOR**

[Filed January 5, 2017, 9:27 a.m.]

**NOTICE OF APPEAL
RCW 34.05.330(3)**

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

On November 22, 2016, the Governor's Office received an appeal from Carol Sue James, attorney for Washington Academy of Physician Assistants, relating to the Department of Labor and Industries' denial of a petition to repeal or amend WAC 296-20-12501. The Governor's Office denied the Petition on January 5, 2017.

DATE: January 5, 2017

Taylor Wonhoff
Deputy General Counsel
to the Governor

WSR 17-03-011

**NOTICE OF PUBLIC MEETINGS
RENTON TECHNICAL COLLEGE**

[Filed January 5, 2017, 10:03 a.m.]

Pursuant to RCW 42.30.075, the Renton Technical College board of trustees' regular meetings during 2017 will be held as follows:

Date	Week/Day of the Month
January 18, 2017	Third Wednesday
February 15, 2017	Third Wednesday
March 22, 2017	Fourth Wednesday
April 19, 2017	Third Wednesday
May 17, 2017	Third Wednesday
June 14, 2017	Second Wednesday
July 2017	No meeting
August 2017	No meeting
September 20, 2017	Third Wednesday
October 18, 2017	Third Wednesday
November 15, 2017	Third Wednesday
December 13, 2017	Second Wednesday

There are no regular meetings during the months of July and August.

All meetings will be scheduled at 3:00 p.m., at Renton Technical College, 3000 N.E. 4th Street, Roberts Campus Center Board Room, Room I-202, Renton, WA 98056-4195.

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

WSR 17-03-012

**NOTICE OF PUBLIC MEETINGS
CRIMINAL JUSTICE
TRAINING COMMISSION**

[Filed January 5, 2017, 10:04 a.m.]

Below are the 2017 meeting dates for the Washington state criminal justice training commission (WSCJTC).

The following meetings will be held at WSCJTC, 19010 1st Avenue South, Burien, WA 98148.

Date	Time	Location
Wednesday, March 8, 2017	10:00 a.m.	Room E-154
Wednesday, June 14, 2017	10:00 a.m.	Room E-154
Wednesday, September 13, 2017	10:00 a.m.	Room E-154
Wednesday, December 13, 2017	10:00 a.m.	Room E-154

If you have questions, please call Marisa O'Neill at (206) 835-7372.

WSR 17-03-023

AGENDA

DEPARTMENT OF LICENSING

[Filed January 6, 2017, 9:58 a.m.]

Following is the rule-making agenda for the department of licensing. This agenda is sent as a requirement of RCW 34.05.314.

If I can provide any additional information regarding rule making at the department of licensing please don't hesitate to contact Damon Monroe via email dmonroe@dol.wa.gov, or phone (360) 902-3843.

RULE-MAKING AGENDA FOR RULES UNDER DEVELOPMENT

January 2017

CR-101	CR-102	PROGRAM	SUBJECT
13-14-059		COR/Public disclosure	WAC 308-93-087, 308-93-088, 308-93-089, disclosure of names and addresses of individual vessel owners. To incorporate recent legislative changes, SSB 5182 passed during the 2013 session.
13-23-085		BPD/Court reporters	Chapter 308-14 WAC, amending chapter for effectiveness, clarity, intent and statutory authority.
14-05-042	16-23-165 17-01-019	BPD/Driver training school program	Chapters 308-108 and 308-110 WAC, update rules for driver training schools who teach traffic safety education and administer knowledge and driving examinations.
14-17-039		PSD/Programs and services, field and licensing support	WAC 308-104-050 Waiver of driver education requirement.
14-21-061		CRD/Vehicle and vessel licensing	WAC 308-96A-026 Vehicle transit permit. HB [E2SHB] 1129 passed during the 2014 session which requires a \$5 service fee be charged by all offices for registration transactions.
15-04-029		CRD/Vehicle and vessel licensing	WAC 308-96A-099 Use class descriptions.
15-08-074 15-19-016		BPD/Dealer services program	WAC 308-63-040, 308-65-040, 308-65-090, 308-65-120(5), vehicle wreckers, hulk haulers and scrap processors. Correct authority for inspection approval as described in RCW.
15-11-016		PSD/Driver and vehicle records	WAC 308-96B-020 General provisions, regarding individuals with disabilities vehicle license privileges.
16-01-075		BPD Real estate program	WAC 308-56A-525 Vehicle seller's report of sale, update the rule in response to recent legislation.
16-01-076		BPD Real estate program	Chapter 308-96B WAC, Individual with disabilities vehicle license privileges. Update rules pertaining to vehicle license and parking privileges for individuals with disabilities in response to recent legislation.
16-04-084		BPD Tattoos, body piercing, and body art program	Chapter 308-22 WAC, Body art, body piercing, and tattooing rules.
16-08-011		PSD Commercial driver license	Chapter 308-100 WAC, Commercial driver's (CDL) examination fees and third-party testing fee.
16-13-125		PSD Driver and vehicle records	Amend WAC 308-96A-026, to remove the requirement for a licensing agent signature as we are making transit permits available online.
16-16-125		PSD Motorcycle safety	New chapter 308-109 WAC, Motorcycle training schools.
16-21-084		PSD Contracts and initiatives unit	WAC 308-107-050 Ignition interlock device revolving account.

CR-101	CR-102	PROGRAM	SUBJECT
16-20-060		BPD Transportation services	WAC 308-66-180 Record of transactions. 2016 legislature passed SSB 6326 which modified record keeping statute to allow vehicle dealers to maintain records in electronic form. These WAC changes will provide guidance for electronic record retention.
16-21-083		PSD Hearings and interviews	New WAC 308-104-350 Significant decisions in driver license cases. Creates a process for nominating, selecting and indexing decisions made by hearings examiners in driver license hearings that are legally significant.
16-24-085		PSD Driver and vehicle records	CR-101 Chapters 308-56A, 308-96A, 308-57, 308-59, 308-93 and 308-96B WAC, the amendments are needed to align existing definitions, practices and resolve technical issues.

Damon Monroe
Rules Coordinator

WSR 17-03-027

**NOTICE OF PUBLIC MEETINGS
HIGHLINE COLLEGE**

[Filed January 6, 2017, 11:25 a.m.]

Following is the meeting schedule for 2017 for the board of trustees of Highline College, District 9. All meetings will be held in Building 25 on the Highline campus in Des Moines, Washington and begin with a study session at 8:00 a.m., followed by the regular meeting at 10:00 a.m. The exceptions to this schedule will be during the months of March and October 2017. Due to impending schedule conflicts, the dates of those meetings will be forwarded upon confirmation. Please note the February meeting date is a Wednesday. These meeting dates were approved by the board of trustees at the December 15, 2016, meeting.

DATE	STUDY SESSION	MEETING
January 12, 2017	8:00 a.m.	10:00 a.m.
February 22, 2017 <i>(Wednesday)</i>	8:00 a.m.	10:00 a.m.
March, 2017	Unconfirmed	Unconfirmed
April 13, 2017	8:00 a.m.	10:00 a.m.
May 4, 2017	8:00 a.m.	10:00 a.m.
June 15, 2017	8:00 a.m.	10:00 a.m.
July 13, 2017	8:00 a.m.	10:00 a.m.
No August 2017 meeting		
September 21, 2017	8:00 a.m.	10:00 a.m.
October 2017	Unconfirmed	Unconfirmed
November 16, 2017	8:00 a.m.	10:00 a.m.
December 14, 2017	8:00 a.m.	10:00 a.m.

WSR 17-03-030

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF COMMERCE**

(Achieving a Better Life Experience Governing Board)

[Filed January 6, 2017, 12:07 p.m.]

Following is the schedule of monthly meetings for the Washington state department of commerce, achieving a better life experience governing board for 2017:

Date	Time	Location
January 23, 2017	9:30 a.m. - 2:30 p.m.	Department of Commerce
February 27, 2017	9:30 a.m. - 2:30 p.m.	1011 Plum Street S.E.
March 27, 2017	9:30 a.m. - 2:30 p.m.	Olympia, WA 98504
April 24, 2017	9:30 a.m. - 2:30 p.m.	Building 5
May 22, 2017	9:30 a.m. - 2:30 p.m.	1st Floor Conference Room
June 26, 2017	9:30 a.m. - 2:30 p.m.	
July 24, 2017	9:30 a.m. - 2:30 p.m.	
August 28, 2017	9:30 a.m. - 2:30 p.m.	
September 25, 2017	9:30 a.m. - 2:30 p.m.	
October 23, 2017	9:30 a.m. - 2:30 p.m.	
November 20, 2017	9:30 a.m. - 2:30 p.m.	
December 18, 2017	9:30 a.m. - 2:30 p.m.	

Please note, all meetings are open to the public, but a commerce staff member has a severe, life-threatening peanut allergy. Please refrain from bringing any peanuts or products with peanuts in them with you to these meetings.

If you need further information, please contact Peter Tassoni, Disabilities Workgroup Manager, Washington State Department of Commerce, Community Services Housing Division, P.O. Box 42525, Olympia, WA 98504-2525, (360) 725-3125, Peter.Tassoni@commerce.wa.gov, www.commerce.wa.gov.

WSR 17-03-031

RULES OF COURT

STATE SUPREME COURT

[January 4, 2017]

IN THE MATTER OF THE EXPEDITIOUS ADOPTION OF THE PROPOSED AMENDMENT TO RAP 14.2—WHO IS ENTITLED TO COSTS) ORDER NO. 25700-A-1170

The Appellate Costs Workgroup, having recommended the expeditious adoption of the proposed amendment to RAP 14.2—Who is Entitled to Costs, 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 expeditiously in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 4th day of January, 2017.

Signature block for Johnson, Owens, Fairhurst, Stephens, Madsen, Wiggins, Gonzalez, Gordon McCloud, Yu.

RULE RAP 14.2

WHO IS ENTITLED TO COSTS

A commissioner or clerk of the appellate court will award costs to the party that substantially prevails on review, unless the appellate court directs otherwise in its decision terminating review, or unless the commissioner or clerk determines an adult offender does not have the current or likely future ability to pay such costs. When the trial court has entered an order that an offender is indigent for purposes of appeal, that finding of indigency remains in effect, pursuant to RAP 15.2(f) unless the commissioner or clerk determines by a preponderance of the evidence that the offender's financial circumstances have significantly improved since the last determination of indigency. The commissioner or clerk may consider any evidence offered to determine the individual's current or future ability to pay. If there is no substantially prevailing party on review, the commissioner or clerk will not award costs to any party. An award of costs will specify the party who must pay the award. In a criminal case involving an indigent juvenile or adult offender, an award of costs will apportion the money owed between the county and the State. A party who is a nominal party only will not be awarded costs and will not be required to pay costs. A "nominal party" is one who is named but has no real interest in the controversy.

WSR 17-03-032

RULES OF COURT

STATE SUPREME COURT

[January 4, 2017]

IN THE MATTER OF THE EXPEDITIOUS ADOPTION OF THE PROPOSED AMENDMENT TO RAP 9.2—VERBATIM OF PROCEEDINGS) ORDER NO. 25700-A-1171

The Appellate Costs Workgroup, having recommended the expeditious adoption of the proposed amendment to RAP 9.2—Verbatim of Proceedings, 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 expeditiously in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 4th day of January, 2017.

Signature block for Johnson, Owens, Fairhurst, Stephens, Madsen, Wiggins, Gonzalez, Gordon McCloud, Yu.

RAP 9.2

VERBATIM REPORT OF PROCEEDINGS

(a) Unchanged.

(b) Content. A party should arrange for the transcription of all those portions of the verbatim report of proceedings necessary to present the issues raised on review. A verbatim report of proceedings provided at public expense will not include the voir dire examination or opening statement unless so ordered by the trial court. If the party seeking review intends to urge that a verdict or finding of fact is not supported by the evidence, the party should include in the record all evidence relevant to the disputed verdict or finding. If the party seeking review intends to urge that the court erred in giving or failing to give an instruction, the party should include in the record all of the instructions given, the relevant instructions proposed, the party's objections to the instructions given, and the court's ruling on the objections. Unless the parties agree that a cost bill will not be filed under RAP 14.2, the party claiming indigency on appeal should include in the record all portions of the trial court proceedings relating to all trial court decisions on indigency and relating to any trial court decisions on the offender's current or likely future ability to pay discretionary legal financial obligations.

(c) - (f) Unchanged.

WSR 17-03-033
RULES OF COURT
STATE SUPREME COURT

[January 4, 2017]

IN THE MATTER OF THE EXPEDITIOUS ADOPTION OF THE PROPOSED AMENDMENT TO RAP 9.6— DESIGNATION OF CLERK'S PAPERS AND EXHIBITS) ORDER NO. 25700-A-1172

The Appellate Costs Workgroup, having recommended the expeditious adoption of the proposed amendment to RAP 9.6—Designation of Clerk's Papers and Exhibits, 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 expeditiously in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 4th day of January, 2017.

Table of signatures: Johnson, J., Owens, J., Fairhurst, J., Stephens, J., Madsen, C.J., Wiggins, J., Gonzalez, J., Gordon McCloud, J., Yu, J.

RAP 9.6
DESIGNATION OF CLERK'S PAPERS AND EXHIBITS

(a) Unchanged.

(b) Designation and Contents.

(1) The clerk's papers shall include, at a minimum:

(A) the notice of appeal or the notice for discretionary review;

(B) the indictment, information, or complaint in a criminal case;

(C) the summons and complaint, or case initiating petition in a civil case;

(D) any written order or ruling not attached to the notice of appeal, of which a party seeks review;

(E) the final pretrial order, or the final complaint and answer or other pleadings setting out the issues to be tried if the final pretrial order does not set out those issues;

(F) any written opinion, findings of fact or conclusions of law;

(G) any jury instruction given or refused that presents an issue on appeal; and

(H) any order sealing documents if sealed documents have been designated;

(I) in a criminal case where a cost bill may be filed, any order concerning the defendant's indigency and current or likely future ability to pay discretionary legal financial obligations.

(2) Each designation or supplement shall specify the full title of the pleading, the date filed, and, in counties where subnumbers are used, the clerk's subnumber.

(3) Each designation of exhibits shall include the trial court clerk's list of exhibits and shall specify the exhibit number and the description of the exhibit to be transmitted.

(c) Unchanged.

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

WSR 17-03-034
RULES OF COURT
STATE SUPREME COURT

[January 4, 2017]

IN THE MATTER OF THE EXPEDITIOUS ADOPTION OF THE PROPOSED AMENDMENT TO RAP 15.2— DETERMINATION OF INDIGENCY AND RIGHTS OF INDIGENT PARTY) ORDER NO. 25700-A-1173

The Appellate Costs Workgroup, having recommended the expeditious adoption of the proposed amendment to RAP 15.2—Determination of Indigency and Rights of Indigent Party, 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 expeditiously in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 4th day of January, 2017.

Table of signatures: Johnson, J., Owens, J., Fairhurst, J., Stephens, J., Madsen, C.J., Wiggins, J., Gonzalez, J., Gordon McCloud, J., Yu, J.

RAP RULE 15.2

DETERMINATION OF INDIGENCY AND RIGHTS OF INDIGENT PARTY

(a) - (e) Unchanged

(f) Continued Indigency Presumed. A party and counsel for the party who has been granted an order of indigency must bring to the attention of the trial appellate court any significant improvement during review in the financial condition of the party. The appellate court will give a party the benefits of an order of indigency throughout the review unless the trial appellate court finds the party's financial con-

dition has improved to the extent that the party is no longer indigent.

(g) - (i) Unchanged

WSR 17-03-035
RULES OF COURT
STATE SUPREME COURT
[January 5, 2017]

IN THE MATTER OF THE EXPEDITIOUS ADOPTION OF THE PROPOSED AMENDMENT TO RAP FORM 13) ORDER NO. 25700-A-1174

The Court having recommended the expeditious adoption of the proposed amendment to RAP Form 13, and 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 expeditiously in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 5th day of January, 2017.

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

RULES ON APPEAL APPENDIX OF FORMS
FORM 13 - Motion for Order of Indigency

SUPERIOR COURT OF WASHINGTON
FOR _____ COUNTY

[Name of Plaintiff])
())
Plaintiff,) No. [trial court]
)
v.) Motion for Order of Indigency - (Criminal), (Juvenile Offense), (Dependency), (Termination), (Commitment), (Civil Contempt), (Habeas Corpus), (Appeal involving a Constitutional or Statutory Right to Counsel) Case
[Name of defendant])
Defendant)

_____, (defendant) (respondent) (petitioner), files a notice of appeal in the above-referenced (criminal), (juvenile offense), (dependency), (termination), (commit-

ment), (civil contempt), (habeas corpus), (appeal involving a constitutional or statutory right to counsel) case, and moves the court for an Order of Indigency authorizing the expenditure of public funds to prosecute this appeal (wholly at public expense) (partially at public expense).

(Defendant) (Respondent) (Petitioner) was found indigent by order of this court on _____. There has been no change in (Defendant) (Respondent) (Petitioner)'s financial status since that time and (Defendant) (Respondent) (Petitioner) continues to lack sufficient funds to seek review in this case.

(Defendant) (Respondent) (Petitioner) asks the court to order the following to be provided at public expense: all filing fees, attorney fees, preparation, reproduction, and distribution of briefs, preparation of verbatim report of proceedings, and preparation of necessary clerk's papers.

The following certificate is made in support of this motion.

DATED: _____
(Defendant) (Respondent) (Petitioner)

- WSBA#
Attorney for (Defendant) (Respondent) (Petitioner)

CERTIFICATE

I, _____, certify as follows:

- 1. That I have previously been found indigent by this court.
2. That the highest level of education I have completed is:
() Grade School () High School () College or greater
3. That I have held the following jobs:
4. That I: () have not received job training
() have received the following job training:
5. That I: () do not have a mental or physical disability that would affect my ability to work
() have the following mental or physical disability that would affect my ability to work:
6. That I: () do not have children or family members that normally depend on me for financial support
() have the following children or family members that normally depend on me for support
7. That I: () do not anticipate my financial condition improving in the foreseeable future through inheritance, sale of land, or similar.
() anticipate my financial condition improving in the foreseeable future as follows:

I am the (defendant) (respondent) (petitioner) and I wish to appeal the judgment that was entered in the above entitled cause.

2. [Check one box]

[] a. I have previously been found to be indigent by order of this court on _____. There has been no change

Date	Time	Location
June 23, 2017	9:00 a.m.	Department of Health 111 Israel Road S.E. Town Center 2 Room 158 Tumwater, WA 98501
September 8, 2017	9:00 a.m.	Department of Health 111 Israel Road S.E. Town Center 2 Room 158 Tumwater, WA 98501
December 1, 2017	9:00 a.m.	Department of Health 111 Israel Rd. S.E. Town Center 2 Room 158 Tumwater, WA 98501

If you need further information, please contact Brad Burnham, MPA, Program Manager, Washington Department of Health, Chemical Dependency Professional Certification Advisory Committee, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4912, fax (360) 236-2901, email brad.burnham@doh.wa.gov, web www.doh.wa.gov.

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

WSR 17-03-044

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH**

(Mental Health Counselors, Marriage and Family Therapists, and Social Workers Advisory Committee)

[Filed January 9, 2017, 9:44 a.m.]

In accordance with the Open Public Meeting[s] Act (chapter 42.30 RCW) and the Administrative Procedures [Procedure] Act (chapter 34.05 RCW), the following is the schedule of regular meetings for the department of health mental health counselors, marriage and family therapists, and social workers advisory committee for the year 2017. The mental health counselors, marriage and family therapists, and social workers advisory 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 mental health counselors, marriage and family therapists, and social workers advisory committee reserves the right to change or amend agendas at the meeting.

Date	Time	Location
February 24, 2017	9:00 a.m.	Department of Health 111 Israel Road S.E. Town Center 2 Room 158 Tumwater, WA 98501
June 9, 2017	9:00 a.m.	Department of Health 111 Israel Road S.E. Town Center 2 Room 158 Tumwater, WA 98501
September 22, 2017	9:00 a.m.	Department of Health 111 Israel Road S.E. Town Center 2 Room 158 Tumwater, WA 98501
December 8, 2017	9:00 a.m.	Department of Health 111 Israel Road S.E. Town Center 2 Room 158 Tumwater, WA 98501

If you need further information, please contact Brad Burnham, Program Manager, Washington Department of Health, Mental Health Counselors, Marriage and Family Therapists, and Social Workers Advisory Committee, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4912, fax (360) 236-2901, email brad.burnham@doh.wa.gov, web www.doh.wa.gov.

Please be advised the mental health counselors, marriage and family therapists, and social workers advisory committee is required to comply with the Public Disclosure [Records] Act, chapter 42.56 RCW. This act establishes a strong state mandate in favor of disclosure of public records. As such, the information you submit to the committee, including personal information, may ultimately be subject to disclosure as a public record.

WSR 17-03-046

**NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION**

[Filed January 9, 2017, 10:51 a.m.]

The following date, time and location is for a special commission meeting on January 14, 2017: Washington State Human Rights Commission, Commission Meeting, January 14, 2017, at 10:00 a.m., Central Building, 810 3rd Avenue, First Floor Conference Room, Seattle, WA 98104.

WSR 17-03-047

**RULES COORDINATOR
PUBLIC DISCLOSURE COMMISSION**

[Filed January 9, 2017, 11:02 a.m.]

The contact information for rules coordinator of the public disclosure commission as required by RCW 34.05.312 is Jana Greer, Executive Assistant, Public Disclosure Commission, 711 Capitol Way, Room 206, P.O. Box 40908, Olym-

pia, WA 98504-0908, email OfficeAdmin@pdc.wa.gov, phone (360) 753-1985 or (360) 753-1111.

Evelyn Fielding Lopez
Executive Director

WSR 17-03-048

**NOTICE OF PUBLIC MEETINGS
TACOMA COMMUNITY COLLEGE**

[Filed January 9, 2017, 11:03 a.m.]

The following change needs to be reflected for the Tacoma Community College board of trustees retreat scheduled for January 13, 2017.

From: January 13, 2017, 8:00 a.m. - 5:00 p.m., Tacoma Community College Campus.

To: January 13, 2017, 8:00 a.m. - 4:00 p.m., 3017 Ruston Way, Tacoma, WA 98402.

WSR 17-03-052

**NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE**

[Filed January 9, 2017, 12:50 p.m.]

Amended Notice

**Associated Students of Bellingham Technical College
(ASBTC)**

Executive Team

**Regular Meeting Schedule
2017**

Pursuant to RCW 42.30.075, the Bellingham Technical College ASBTC executive team's regular meetings during 2017 will be held the first and third Wednesday of each month, except where indicated, beginning January 11. All meetings will begin at 3:30 p.m. in the College Services Board Room (CS 215), unless indicated otherwise, at Bellingham Technical College, 3028 Lindbergh Avenue, Bellingham, WA 98225.

- January 11 and 25, 2017
(January 25 date starts at 4:00 p.m.)
- February 1 and 15, 2017
- March 1 and 15, 2017
- April 5 and 19, 2017
- May 3, 17, 31, 2017
- June 14, 2017
- No meetings held July - September**
- October 11 and 25, 2017
(October 11 date in CC 233)
- November 8 and 22, 2017
- December 6, 2017

If you have questions, please contact Melisa Nelson at (360) 752-8443 or email mnelson@btc.edu.

WSR 17-03-053

DEPARTMENT OF ECOLOGY

[Filed January 9, 2017, 2:21 p.m.]

Pursuant to RCW 70.285.050, which phases copper, several other heavy metals, and asbestos out of automobile brake friction materials, the Washington department of ecology is publishing a report to the legislature documenting the recommendations of the brake friction material advisory committee and finding that copper free brake friction materials are available at a cost and quantity to justify a ban on brake friction materials containing more than 0.5 percent copper beginning in 2025.

The brake friction material advisory committee, which consisted of representatives of industry, environmental groups, and safety advocates and government, recommended that Washington state move forward with the publication of a report to the legislature, initiating the process described in RCW 70.285.050 banning automobile brakes containing more than 0.5 percent copper beginning in 2025.

A copy of the report may be found on ecology's better brakes web site <http://www.ecy.wa.gov/programs/hwtr/betterbrakes.html>.

WSR 17-03-056

**NOTICE OF PUBLIC MEETINGS
GRAYS HARBOR COLLEGE**

[Filed January 10, 2017, 10:10 a.m.]

The following is the 2017 meeting scheduled for the Grays Harbor College board of trustees:

Tuesday, January 17	2:00 p.m.
Tuesday, February 21	2:00 p.m.
Tuesday, March 21	2:00 p.m.
Tuesday, April 18	2:00 p.m.
Tuesday, May 16	2:00 p.m.
Tuesday, June 20	2:00 p.m.
Tuesday, July 18	2:00 p.m.
Tuesday, September 19	2:00 p.m.
Tuesday, October 17	2:00 p.m.
Tuesday, November 21	2:00 p.m.

All meetings will take place in Room 4331, Schermer Instructional Building on the Grays Harbor College campus.

WSR 17-03-059

**NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION**

[Filed January 10, 2017, 11:46 a.m.]

The following meeting has been CANCELLED: Washington state Human Rights Commission, Commission Meeting, January 14, 2017, at 10:00 a.m., Central Building, 810 3rd Avenue, First Floor Conference Room, Seattle, WA 98104.

WSR 17-03-060
AGENDA
DEPARTMENT OF
RETIREMENT SYSTEMS
 [Filed January 10, 2017, 11:48 a.m.]

Semi-Annual Rule-Making Agenda
January through June 2017

Following is the department of retirement systems' semi-annual rule-making agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on the agenda as conditions warrant.

If you have questions about this rule-making agenda, please contact Jilene Siegel, Rules Coordinator, P.O. Box 48380, Olympia, WA 98504-8380, phone (360) 664-7291, email jilenes@drs.wa.gov.

WAC Citation	Subject Matter	Current Activity		
		Preproposal (CR-101)	Proposed (CR-102) or Expedited (CR-105)	Permanent (CR-103)
WAC 415-104-202	LEOFF 1 flexible survivor options	WSR 16-10-095	WSR 16-23-070	WSR 17-02-033
WAC 415-110-685 WAC 415-112-140	Purchased service credit for substitutes	WSR 16-19-005	WSR 16-23-071	WSR 17-02-032
New WAC 415-02-325	2008 Early retirement factors	WSR 16-12-065	WSR 17-01-030	
	LEOFF 1 annuity purchase	WSR 16-20-042		
	LEOFF 2 disaster coverage death and disability benefits	WSR 16-18-090		
	Retirement or termination bonuses or payments	WSR 16-17-143 Withdrawn: WSR 17-01-078		
	Public records	WSR 06-01-050 Withdrawn: WSR 17-01-078		
	Property division in dissolution orders	WSR 05-12-034		
	Interest on defined benefit member accounts	WSR 13-15-128		
	LEOFF 2 disability			
	Gainsharing (repealer)			
	Employee retirement benefits board (repealer)			

Jilene Siegel
 Rules Coordinator

WSR 17-03-062
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 [Filed January 10, 2017, 12:26 p.m.]

I am requesting that the code reviser decodify and recodify the following sections in chapter 388-101 WAC, effective February 1, 2017:

Current WAC Number and Title	New Number - Same Title
388-101-3202 Background checks—National fingerprint background checks.	388-101D-0070

Current WAC Number and Title	New Number - Same Title
388-101-3250 Background checks—Requirements for service providers.	388-101D-0075
388-101-3255 Background checks—Provisional hire—Pending results.	388-101D-0080
388-101-3259 Long-term care worker requirements.	388-101D-0087

Katherine I. Vasquez
Rules Coordinator

WSR 17-03-063
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION

[Filed January 10, 2017, 12:27 p.m.]

Please CANCEL the following meeting: Washington State Human Rights Commission, Commission Meeting, January 26, 2017, at 5:30 p.m., 711 South Capitol Way, Suite 402, Olympia, WA 98504.

WSR 17-03-064
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION

[Filed January 10, 2017, 12:29 p.m.]

The following date, time, and location is for our January 31, 2017, commission meeting: Washington State Human Rights Commission, Commission Meeting, at 5:30 p.m., Central Building, 810 3rd Avenue, First Floor Conference Room, Seattle, WA 98104.

WSR 17-03-067
NOTICE OF PUBLIC MEETINGS
BREE COLLABORATIVE

[Filed January 10, 2017, 3:22 p.m.]

The following schedule of regular meetings is for the Dr. Robert Bree opioid prescribing guideline implementation workgroup meetings for 2017:

Date	Time	Location
Wednesday February 22	3:00 - 4:30 p.m.	The Foundation for Health Care Quality 705 Second Avenue Suite 410 Seattle, WA 98104

Date	Time	Location
Wednesday March 29	3:00 - 4:30 p.m.	The Foundation for Health Care Quality 705 Second Avenue Suite 410 Seattle, WA 98104
Wednesday April 26	3:00 - 4:30 p.m.	The Foundation for Health Care Quality 705 Second Avenue Suite 410 Seattle, WA 98104
Wednesday May 31	3:00 - 4:30 p.m.	The Foundation for Health Care Quality 705 Second Avenue Suite 410 Seattle, WA 98104
Wednesday June 28	3:00 - 4:30 p.m.	The Foundation for Health Care Quality 705 Second Avenue Suite 410 Seattle, WA 98104
Wednesday July 26	3:00 - 4:30 p.m.	The Foundation for Health Care Quality 705 Second Avenue Suite 410 Seattle, WA 98104
Wednesday August 23	3:00 - 4:30 p.m.	The Foundation for Health Care Quality 705 Second Avenue Suite 410 Seattle, WA 98104
Wednesday September 20	3:00 - 4:30 p.m.	The Foundation for Health Care Quality 705 Second Avenue Suite 410 Seattle, WA 98104
Wednesday October 25	3:00 - 4:30 p.m.	The Foundation for Health Care Quality 705 Second Avenue Suite 410 Seattle, WA 98104

If you need further information contact Ginny Weir, Foundation for Health Care Quality, 705 Second Avenue, Suite 410, Seattle, WA 98104, phone (206) 204-7377, fax (206) 682-3739, email GWeir@qualityhealth.org.

WSR 17-03-069
NOTICE OF PUBLIC MEETINGS
COMMISSION ON
ASIAN PACIFIC AMERICAN AFFAIRS

[Filed January 10, 2017, 4:56 p.m.]

Following is the schedule of regular meetings for the commission on Asian Pacific American affairs for 2017:

Date	Time	Location
January 21, 2017	10:00 a.m. - 2:00 p.m.	General Administration Building 210 11th Avenue S.W. Olympia, WA 98504

Date	Time	Location
March 18, 2017	10:00 a.m. - 2:00 p.m.	Lynnwood, Washington
June 17, 2017	11:00 a.m. - 3:00 p.m.	Bremerton, Washington
September 16, 2017	10:00 a.m. - 2:00 p.m.	Spokane, Washington
November 18, 2017	10:00 a.m. - 2:00 p.m.	Kent, Washington

If you need further information contact Brianne Ramos, 210 11th Avenue S.W., 301A, Olympia, WA 98504, (360) 725-5667, brianne.ramos@capaa.wa.gov, www.capaa.wa.gov.

WSR 17-03-070
NOTICE OF PUBLIC MEETINGS
COMMUNITY ECONOMIC
REVITALIZATION BOARD

[Filed January 10, 2017, 5:49 p.m.]

The community economic revitalization board (CERB) will be having regularly scheduled meetings on the following dates:

2017 Meetings	Location
January 19, 2017 (10 a.m.)	Olympia, Commerce
March 16, 2017	Olympia, Commerce
May 18, 2017	Olympia, Commerce
July 27, 2017	Olympia, Commerce
September 21, 2017	Olympia, Commerce
November 16, 2017	Olympia, Commerce

The meetings will begin at 9:00 a.m.

Please note that the January 19, 2017, meeting will begin at 10:00 a.m.

Meetings are held at the Department of Commerce, 1011 Plum Street S.E., Building 5, First Floor, Columbia River Room, Olympia, WA 98504.

Please contact the CERB main line at (360) 725-2744 for additional information, or find us on the web at www.commerce.wa.gov/cerb.

WSR 17-03-071
RULES COORDINATOR
COMMUNITY COLLEGES
OF SPOKANE

[Filed January 11, 2017, 10:10 a.m.]

In accordance with RCW 34.05.312, Community Colleges of Spokane designates John O'Rourke as the agency's rules coordinator. Following is Mr. O'Rourke's contact information: John O'Rourke, Grants and Contract Manager, Community Colleges of Spokane, Mailstop 1006, P.O. Box 6000, Spokane, WA 99217-6000, email John.O'Rourke@ccs.spokane.edu, phone (509) 434-5185, fax (509) 434-5279.

Please feel free to contact Christine Johnson's office at (509) 434-5006, if you have questions.

WSR 17-03-078

NOTICE OF PUBLIC MEETINGS
OFFICE OF
PUBLIC DEFENSE

[Filed January 12, 2017, 8:15 a.m.]

The Washington state office of public defense (OPD) will hold its quarterly advisory committee meetings as follows:

- March 16, 2017
- June 22, 2017
- September 14, 2017
- December 7, 2017

Meeting time is from 9:30 a.m. to 11:30 a.m. The location of the September meeting is to be determined. The December meeting will be held by teleconference. Contact OPD at (360) 586-3164, ext. 114 for a participant telephone number. The March and June meetings will be held at the Administrative Office of the Courts, SeaTac Office Center, South Tower, 18000 International Boulevard, Suite 1106, SeaTac, WA 98188-4251.

Contact OPD at (360) 586-3164, ext. 114 if you have questions regarding the above meeting schedule.

Meeting dates, time and location are subject to change.

WSR 17-03-080

NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
(HIV Planning Steering Group)

[Filed January 12, 2017, 11:15 a.m.]

In accordance with the Open Public Meeting[s] Act (chapter 42.30 RCW) and the Administrative Business Practices [Procedure] Act (chapter 34.05 RCW), the following is the schedule of regular meetings for the department of health, HIV statewide planning group [HIV planning steering group] (HPSG) for the year 2017. HPSG 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, HPSG reserves the right to change or amend agendas at the meeting.

Date	Time	Location
January 19, 2017	10:00 a.m. - 3:00 p.m.	Department of Health Kent Regional Office 20425 72nd Avenue South Building 2 Suite 309 Kent, WA 98032

Date	Time	Location
March 16, 2017	10:00 a.m. - 3:00 p.m.	Department of Health Kent Regional Office 20425 72nd Avenue South Building 2 Suite 309 Kent, WA 98032
May 18, 2017	10:00 a.m. - 3:00 p.m.	Department of Health Kent Regional Office 20425 72nd Avenue South Building 2 Suite 309 Kent, WA 98032
July 20, 2017	10:00 a.m. - 3:00 p.m.	Department of Health Kent Regional Office 20425 72nd Avenue South Building 2 Suite 309 Kent, WA 98032
September 21, 2017	10:00 a.m. - 3:00 p.m.	Department of Health Kent Regional Office 20425 72nd Avenue South Building 2 Suite 309 Kent, WA 98032
November 16, 2017	10:00 a.m. - 3:00 p.m.	Department of Health Kent Regional Office 20425 72nd Avenue South Building 2 Suite 309 Kent, WA 98032

If you need further information, please contact Lydia Guy-Ortiz, Health Services Consultant 4, Office of Infectious Disease, Washington Department of Health, P.O. Box 47840, Olympia, WA 98504-7840, phone (360) 236-2480 [236-3480], fax (360) 236-2901, email lydia.guy-ortiz@doh.wa.gov, <http://www.doh.wa.gov/YouandYourFamily/IllnessandDisease/HIVAIDS/Planning/HIVPlanningSteeringGroup>.

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

WSR 17-03-085

**NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE**

[Filed January 12, 2017, 3:40 p.m.]

Amended Notice

**Associated Students of Bellingham Technical College
(ASBTC)**

Executive Team

**Regular Meeting Schedule
2017**

Pursuant to RCW 42.30.075, the Bellingham Technical College ASBTC executive team's regular meetings during 2017 will be held the first and third Wednesday of each

month, except where indicated, beginning January 11. All meetings will begin at 3:30 p.m. in Campus Center Room 233 (CC 233), unless indicated otherwise, at Bellingham Technical College, 3028 Lindbergh Avenue, Bellingham, WA 98225.

January 11 and 25, 2017

(January 25 date starts at 4:00 p.m.; January meetings are in the College Services Boardroom)

February 1 and 15, 2017

March 1 and 15, 2017

April 5 and 19, 2017

May 3, 17, 31, 2017

June 14, 2017

No meetings held July - September

October 11 and 25, 2017

November 8 and 22, 2017

December 6, 2017

If you have questions, please contact Melisa Nelson at (360) 752-8443 or email mnelson@btc.edu.

WSR 17-03-091

**NOTICE OF PUBLIC MEETINGS
PIERCE COLLEGE**

[Filed January 13, 2017, 12:27 p.m.]

**BOARD ACTION EXHIBIT NUMBER 2016-48
FINAL BOARD ACTION: November 9, 2016
Pierce College District Number Eleven**

The board of trustees of Community College District Number Eleven will hold their regular meetings mostly on the second Wednesday of each month. These meetings will be open to the public and advertised accordingly (RCW 42.30.075). The chancellor shall file, with the code reviser, a schedule of the time and place of such meetings on or before January of each year for publication in the Washington State Register.

**BOARD OF TRUSTEES
2017 REGULAR MEETING SCHEDULE**

DATE	TIME	LOCATION
January 11	1:00 p.m.	Pierce College Puyallup
February 8	1:00 p.m.	Pierce College Fort Steilacoom
March 22	1:00 p.m.	Pierce College Puyallup
April 12	1:00 p.m.	Pierce College Fort Steilacoom

DATE	TIME	LOCATION
May 10	1:00 p.m.	Pierce College Puyallup
June 14	1:00 p.m.	Pierce College Fort Steilacoom
July	No meeting scheduled	
August TBA	Retreat	
September 13	1:00 p.m.	Pierce College Puyallup
October 11	1:00 p.m.	Pierce College Fort Steilacoom
November 8	1:00 p.m.	Pierce College Puyallup
December	No meeting scheduled	

PLEASE NOTE: Special meetings may be called at any time by the chairperson or a majority vote of the board. All special meetings will be publicly advertised at least twenty-four hours prior to being convened. A study session will take place prior to each board meeting.

WSR 17-03-096
NOTICE OF PUBLIC MEETINGS
BOARD FOR VOLUNTEER
FIREFIGHTERS AND RESERVE OFFICERS
 [Filed January 13, 2017, 2:14 p.m.]

In addition to the previously stated 2017 meetings, the state board for volunteer firefighters [and reserve officers] will meet in the James R. Larson Forum Building, 605 11th Avenue S.E., Suite 207, on February 27, 2017, at 9:00 a.m.

WSR 17-03-097
NOTICE OF PUBLIC MEETINGS
RENTON TECHNICAL COLLEGE
 [Filed January 13, 2017, 3:01 p.m.]

DATE CHANGE

A special meeting of the board of trustees of Community College District 27, 3000 Fourth Street, Renton, WA, will be held on Wednesday, January 18, 2017, at 2:00 p.m.

The purpose of the special meeting will be a board study session to tour the medical assistant program in B-125. The board of trustees regular meeting will follow in the board room, I-202 at 3:00 p.m.

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

WSR 17-03-099
NOTICE OF PUBLIC MEETINGS
BEER COMMISSION
 [Filed January 17, 2017, 9:24 a.m.]

The Washington beer commission (WBC) has scheduled its regular meetings as follows. All WBC meetings begin at 1:00 p.m. and take place at Fremont Brewing Production Facility, 4700 9th Avenue N.W., Seattle, WA 98107.

- Tuesday, February 14
- Tuesday, April 4
- Tuesday, June 6
- Tuesday, August 8
- Tuesday, October 10
- Tuesday, November 14 9 a.m. - 4 p.m.
 - Annual Strategic Planning
 - Retreat
 - Diamond Knot Craft Brewing
 - 5602 232nd Street S.W.
 - Mountlake Terrace, WA 98043

For more information, please contact WBC at (206) 795-5510.

WSR 17-03-101
NOTICE OF PUBLIC MEETINGS
SEED POTATO COMMISSION
 [Filed January 17, 2017, 9:45 a.m.]

The Washington seed potato commission has scheduled its regular meetings as follows. All meetings begin at noon and are held at Steakhouse9 Bistro and Lounge, 115 East Homestead Boulevard, Lynden, WA.

- Thursday, April 6
- Thursday, June 1
- Thursday, August 3
- Thursday, October 5
- Thursday, December 7

For more information, contact Trisha Berg at (360) 734-4280.

WSR 17-03-102
AGENDA
DEPARTMENT OF
EARLY LEARNING
 [Filed January 17, 2017, 9:50 a.m.]

The department of early learning (DEL) prepares a semi-annual rule-making agenda in January and July each year to let the public know about DEL rule changes that are underway or planned. DEL rules are part of the Washington Administrative Code (WAC), and permanent DEL rules can be found online at Title 170 WAC. Find current information about department rule-making activity online at DEL Rules Under Development. See additional notes following the table.

**Semi-Annual Rule-Making Agenda Under RCW 34.05.314
January 1 Through July 31, 2017**

Subject Matter and Authority	WAC Chapter or Sections	Description	Emergency Rules (CR-103E)	Preproposal Notice (CR-101)	Proposed Rule (CR-102) and Public Hearings or Expedited Rule (CR-105)	Permanent Rule (CR-103P)
Single set of licensing standards for child care and the early childhood education and assistance program (ECEAP). RCW 43.215.060, 43.215.070; chapter 43.215 RCW	Possible revisions to chapters 170-06, 170-12, 170-290, 170-100 and 170-297 WAC. Repealing chapters 170-295 and 170-296A WAC. Creating a new WAC chapter.	Rule making to implement a single set of licensing standards for child care and ECEAP. The new WAC chapter will provide minimum health and safety standards for child care and preschool programs, rely on the standards established in the early achievers program to address quality issues in participating early childhood programs, take into account the separate needs of family care providers and child care centers and promote the continued safety of child care settings.	None	WSR 16-15-020	To be determined	To be determined
Environmental safety - early learning program premises. RCW 43.215.020, 43.215.201	Enacting a section in new chapter 170-300 WAC. Repealing WAC 170-295-5070, 170-296A-1360, 170-296A-1375, 170-296-1400, 170-296A-4000.	In response to Governor Inslee's Directive 16-06, the department of health issued recommendations for DEL and other agencies that are intended to reduce exposure to lead and other environmental hazards where children live, learn, and play. DEL is following those recommendations and plans to adopt rules to reduce children's exposure to lead and other environmental hazards for all premises on which early learning programs operate. This rule making is also part of the larger effort described above to develop a single set of licensing standards for child care and ECEAP.	None	WSR 16-24-086	To be determined	To be determined
Updating health and safety standards relating to safe sleep practices for infants and toddlers in the care of an early learning provider. RCW 43.215.060, 43.215.070, 43.215.201	Enacting a section in new chapter 170-300 WAC. Repealing WAC 170-295-4110 and 170-296A-7100.	Rule making is needed to update licensing rules pertaining to safe sleep practices in order to reduce infants' and toddlers' sleep-related incidents while in the care of early learning providers. This rule making is also part of the larger effort described above to develop a single set of licensing standards for child care and ECEAP.	None	WSR 16-24-091	To be determined	To be determined

Subject Matter and Authority	WAC Chapter or Sections	Description	Emergency Rules (CR-103E)	Preproposal Notice (CR-101)	Proposed Rule (CR-102) and Public Hearings or Expedited Rule (CR-105)	Permanent Rule (CR-103P)
Family, friends and neighbors program. RCW 43.215.060, 43.215.070, chapter 43.215 RCW	Possible revisions to chapters 170-03 and 170-290 WAC. New WAC chapter.	To comply with new requirements allowing Washington state to receive federal funding for subsidized child care provided by a family member, friend or neighbor, DEL anticipates engaging in rule making to address program eligibility, background check requirements, health and safety requirements, monitoring and inspection, administrative hearing rights, and other topics to be determined. Revisions to chapter 170-290 WAC may be necessary for consistency.	None	WSR 16-15-052	To be determined	To be determined
DEL's background check rules and director's list. RCW 43.215.060, 43.215.070, chapter 43.215 RCW	Title 170 WAC and chapter 170-06 WAC	As a condition for licensure, early learning program providers must undergo a criminal history background check. DEL is reviewing its rules related to background checks, including WAC 170-06-0120, which sets out crimes that would disqualify an individual from providing child care. DEL anticipates rule making to revise chapter 170-06 WAC to ensure compliance with RCW 9.96A.020 while continuing to safeguard the health and safety of children in early learning programs.	None	WSR 16-15-043	To be determined	To be determined
Licensed school-age child care standards. RCW 43.215.070	Chapter 170-297 WAC	Implementing chapter 231, Laws of 2016 to exempt early learning programs that operate on public or private school premises from regulations governing the physical facility environment.	None	WSR 16-15-051	To be determined	To be determined
Subsidized child care wait list. RCW 43.215.060, 43.215.070	New WAC 170-290-2210, 170-290-2220, 170-290-2230, 170-290-2240, and 170-290-3506	Budgetary limits on child care subsidy programs require rules for administering wait lists in the event consumer need exceeds program capacity. Proposed rules clarify how wait lists will be administered, including prioritization, when benefits start for a consumer who is taken off the wait	None		Expedited rule-making notice WSR 17-01-156	To be determined

Subject Matter and Authority	WAC Chapter or Sections	Description	Emergency Rules (CR-103E)	Preproposal Notice (CR-101)	Proposed Rule (CR-102) and Public Hearings or Expedited Rule (CR-105)	Permanent Rule (CR-103P)
		list, withdrawal from and reinstatement to the wait list, and provider payment terms.				
Implementing early achievers participation requirements. RCW 43.215.060, 43.215.070, chapter 43.215 RCW	WAC 170-290-0030	Update and create new rules to ensure the working connections child care and seasonal child care programs implement early achievers participation requirements for existing and new providers to be eligible for subsidy and to also develop remedial activities procedures for existing providers as required by the Early Start Act. <i>After permanent rules took effect October 22, 2016, program administrators discovered WAC 170-290-0030 conflicted with the permanent rules and filed an expedited rule-making notice and proposed correction.</i>	None		Expedited rule-making notice WSR 17-01-157	To be determined
Working connections and seasonal child care subsidy programs. RCW 43.215.060, 43.215.070, chapter 43.215 RCW	Chapter 170-290 WAC	<p>DEL anticipates rule making that will:</p> <ul style="list-style-type: none"> • Implement 2017-19 SEIU Local 925 collective bargaining agreement, including: <ul style="list-style-type: none"> ◦ Increasing base rates, ◦ Increasing providers' annual professional training days, ◦ Tracking absent days when a child is not scheduled and authorized for care, and ◦ Setting deadline by which DEL must return audit records requested from and produced by providers. • Implement recently enacted federal requirements to better serve homeless consumers, and • Make miscellaneous technical corrections throughout the chapter. 	None	To be determined	To be determined	To be determined

Subject Matter and Authority	WAC Chapter or Sections	Description	Emergency Rules (CR-103E)	Preproposal Notice (CR-101)	Proposed Rule (CR-102) and Public Hearings or Expedited Rule (CR-105)	Permanent Rule (CR-103P)
Department of early learning rules— General. RCW 43.215.060, 43.215.070, chapter 43.215 RCW	All chapters of Title 170 WAC	DEL may revise its rules to update, streamline, and improve efficiencies across all programs it administers and to implement legislation as required by the 2017 legislature.	To be determined	To be determined	To be determined	To be determined

Notes:

The DEL semi-annual rule-making agenda is prepared for information purposes only, and future dates or periods noted in this agenda are planning estimates that are subject to change. This agenda does not constitute a rule or rule-making action. Any errors or omissions in this agenda do not affect the actual DEL rules or rule-making notices filed with the office of the code reviser and published in the Washington State Register.

There may be additional DEL rule making that cannot be forecasted as the department adopts rules to implement new state laws, to meet federal requirements, or to meet unforeseen circumstances. Emergency rules noted, if any, are those in effect at the time this agenda was filed with the code reviser or were the last emergency rules filed prior to this agenda on the particular subject.

For more information about DEL rule making, or to join a mailing list to receive DEL rule notices and draft materials, please email Rules@del.wa.gov, or write to the DEL Rules Coordinator, P.O. Box 40970, Olympia, WA 98504-0970.

CR means "code reviser." The legislature's office of the code reviser creates the rule-making notice forms used and filed by all state agencies.

CR-101 is a *preproposal statement of inquiry notice* filed under RCW 34.05.310.

CR-102 may be a *proposed rule-making notice* filed under RCW 34.05.320; a continuance notice under RCW 34.05.325, or a supplemental proposed rule-making notice under RCW 34.05.340.

CR-103E is an *emergency rule-making order* filed under RCW 34.05.350.

CR-103P is a *permanent rule-making order* filed under RCW 34.05.360.

CR-105 is an *expedited rule-making notice* filed under RCW 34.05.353.

WSR means "Washington State Register." The *WSR numbers* noted throughout this rules agenda are the official filing numbers assigned by the office of the code reviser and entered on materials filed for legal publication in the State Register.

WSR 17-03-107

**NOTICE OF PUBLIC MEETINGS
WASHINGTON MATERIALS MANAGEMENT
AND FINANCING AUTHORITY**

[Filed January 17, 2017, 11:15 a.m.]

The Washington materials management and financing authority would like to publish the schedule for regularly held board meetings for calendar year 2017. Regular meetings will be held:

- January 19, 2017
- March 16, 2017
- May 18, 2017
- July 20, 2017
- September 21, 2017
- November 16, 2017

All meetings are held at 9:30 a.m. at the offices of Van Ness Feldman, 719 Second Avenue, Suite 1150, Seattle, WA 98104.

WSR 17-03-112

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES**
(Industrial Insurance Chiropractic Advisory Committee)

[Filed January 17, 2017, 11:36 a.m.]

Pursuant to chapter 42.30 RCW, the Open Public Meetings Act, this gives notice that the following industrial insurance chiropractic advisory committee (IICAC) meeting originally published under WSR 16-20-094 has been updated: January 19, 2017, meeting is rescheduled to February 16, 2017, at 9:30 - 11:30 a.m., at the Labor and Industries Headquarters, 7273 Linderson Way S.E., Tumwater. The room has changed from Room S129 to S118.

Please call Simone Javaher at (360) 902-4246 or Denise Santoyo at (360) 902-5024, if you have questions about this meeting.

The IICAC meeting agendas and materials will be posted at <http://www.lni.wa.gov/ClaimsIns/Providers/ProjResearchComm/IICAC/Meetings.asp>.

WSR 17-03-118
NOTICE OF PUBLIC MEETINGS
CLOVER PARK
TECHNICAL COLLEGE
 [Filed January 18, 2017, 8:51 a.m.]

The board of trustees of Clover Park Technical College, at the January 11, 2017, regular meeting, changed the start time of the March 8, 2017, business agenda from 4 p.m. to **3 p.m.** and also **cancelled** the study session for March.

WSR 17-03-119
DEPARTMENT OF ECOLOGY
 [Filed January 18, 2017, 9:27 a.m.]

PUBLIC NOTICE

Announcing the Reissuance of the Concentrated Animal Feeding Operations (CAFO) National Pollution Discharge Elimination System (NPDES) and State Waste Discharge General Permit

PERMITS: The Washington state department of ecology (ecology) is reissuing the CAFO NPDES and state waste discharge general permit (permit). State and federal water quality statutes and regulations do not allow the discharge of pollutants to waters of the state without permit coverage. Ecology issues general permits in place of a series of individual permits when the permitted activities are similar.

The permit will be reissued as two separate permits, the CAFO state waste discharge general permit (state permit) and the CAFO NPDES and state waste discharge general permit (combined permit). Both the state and combined permits become effective on March 3, 2017, and expire March 2, 2022.

PURPOSE OF THE PERMITS: The state and combined permits regulate the discharge of pollutants such as manure, litter, or process wastewater from CAFOs into waters of the state.

The combined permit will conditionally authorize discharges to surface and groundwater. The state permit will conditionally authorize discharges only to groundwater. No surface water discharges are authorized under the state permit.

Coverage under a general permit will be available to facilities that meet the definition of a CAFO and that have a discharge or that voluntarily apply for permit coverage.

PERMIT AND SUPPORTING DOCUMENTS: Ecology accepted public comment on the draft state and combined permits, fact sheet, and notice of intent from June 15, 2015, until August 31, 2016.

Ecology held public workshops and hearings in Bellingham, Washington on July 26, 2016, Yakima, Washington on July 28, 2016, and an online webinar on July 27, 2016. Ecology received written comments during the public comment period and responded to these comments in Appendix C of the fact sheet.

You may download copies of the final permits, the response to comments, and the fact sheet from the ecology web site at <http://www.ecy.wa.gov/programs/wq/permits/>

cafo/index.html. You may also request hardcopies of the documents from Jon Jennings at jonathan.jennings@ecy.wa.gov or (360) 407-6283.

ECOLOGY CONTACT: Jon Jennings, Washington State Department of Ecology, P.O. Box 47696, Olympia, WA 98504-7696, phone (360) 407-6283, email jonathan.jennings@ecy.wa.gov.

APPEALS: These permits may be appealed to the pollution control hearings board (PCHB) within thirty days of the date of receipt of either of the final permits. The appeal process is governed by chapters 43.21B RCW and 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal, the following must be done within thirty days of receipt of this permit:

- File the appeal and a copy of this permit with PCHB (see addresses below). Filing means actual receipt by PCHB during regular business hours.
- Serve a copy of the appeal and this permit on ecology in paper form - by mail or in person (see addresses below). *Email is not accepted.*

The appeal must also comply with other applicable requirements in chapters 43.21B RCW and 371-08 WAC.

ADDRESS AND LOCATION INFORMATION:

Street Addresses: **Department of Ecology**, Attn: Appeals Processing Desk, 300 Desmond Drive S.E., Lacey, WA 98503; and **Pollution Control Hearings Board**, 1111 Israel Road S.W., Suite 301, Tumwater, WA 98501.

Mailing Addresses: **Department of Ecology**, Attn: Appeals Processing Desk, P.O. Box 47608, Olympia, WA 98504-7608; and **Pollution Control Hearings Board**, P.O. Box 40903, Olympia, WA 98504-0903.

WSR 17-03-120

AGENDA

HEALTH CARE AUTHORITY

[Filed January 18, 2017, 9:42 a.m.]

The following is the Washington health care authority's semi-annual rule-making agenda for rules under development to be published in the Washington state register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on the agenda as conditions warrant.

If you have questions about this rule-making agenda, contact Wendy Barcus, Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, phone (360) 725-1306, email wendy.barcus@hca.wa.gov.

WAC Citation	Subject Matter	Current Activity		
		CR-101	CR-102 or CR-105	CR-103E
WAC 182-502-0110	Washington apple health - Conditions of payment	WSR 16-20-082 Filed 10/4/16	CR-102 WSR 17-03-113 Filed 1/17/17	
WAC 182-503-0005	Washington apple health - How to apply	WSR 16-23-046 Filed 11/10/16		
WAC 182-503-0050	Washington apple health - Verification of eligibility	WSR 15-12-121 Filed 6/3/15	CR-102 WSR 16-20-050 Filed 10/12/16	
WAC 182-505-0100, 182-505-0210, 182-505-0215, 182-505-0225, 182-505-0235, 182-505-0237, 182-505-0240, 182-505-0300	Washington apple health - Premium-based health care for kids	WSR 16-09-024 Filed 4/12/16		
WAC 182-509-0320, 182-512-0050, 182-512-0550, 182-512-0860, chapter 182-527 WAC	Washington apple health - ABLE accounts	WSR 17-03-075 Filed 1/11/17		
New WAC 182-513-1600, 182-513-1605, 182-513-1610, 182-513-1615, 182-513-1620, 182-513-1630, 182-513-1636, 182-513-1640, 182-513-1650, 182-513-1655, 182-513-1660	Washington apple health - Medicaid alternative care (MAC) and tailored supports for older adults (TSOA) program	WSR 16-20-085 Filed 10/4/16		
WAC 182-513-1505, 182-513-1510, 182-513-1515, 182-513-1520, 182-513-1525	Washington apple health - Guardianship fees	WSR 16-19-045 Filed 9/14/16		
WAC 182-516-0001, 182-516-0100, 182-516-0105, 182-516-0110, 182-516-0115, 182-516-0120, 182-516-0125, 182-516-0130, 182-516-0135, 182-516-0145, 182-516-0200, 182-516-0201, 182-516-0300, 182-516-0400	Washington apple health - Trusts, annuities, and life estates - effects on medical program	WSR 16-01-014 Filed 12/4/15		
WAC 182-518-0030	Washington apple health - Notice requirements - electronic notices	WSR 16-20-101 Filed 10/5/16		

WAC Citation	Subject Matter	Current Activity		
		CR-101	CR-102 or CR-105	CR-103E
Chapter 182-526 WAC	Washington apple health - Administrative hearing rules for medical services programs	WSR 15-07-018 Filed 3/9/15	CR-102 WSR 16-17-093 Filed 8/18/16 Hearing date 9/27/16	
WAC 182-530-1050, 182-530-3000, 182-530-3100, 182-530-3200, 182-530-4100, 182-530-4125, 182-530-4150, 182-530-6000, 182-530-7000, 182-530-7050, 182-530-7150, 182-530-7250, 182-530-7300, 182-530-7700, 182-530-7900, 182-530-8000, 182-530-8100, 182-530-8150	Washington apple health - Prescription drug program	WSR 16-14-053 Filed 6/29/16 and WSR 16-15-087 Filed 7/20/16	CR-102 WSR 17-02-083 Filed 1/11/17 Hearing date 2/7/17	
WAC 182-531-0050, 182-531-0550	Washington apple health - Physicians related services definitions and experimental and investigational services	WSR 16-17-094 Filed 8/18/16	CR-102 WSR 16-24-055 Filed 12/2/16 Hearing date 1/10/17	
WAC 182-531-0300, 182-531-0400, 182-531-0650, 182-531-1100, 182-531-1450, 182-531-1700, 182-531-1750, 182-531-1800, 182-531-1850	Washington apple health - Physicians related services - housekeeping only		CR-105 WSR 16-23-155 Filed 11/22/16	
WAC 182-533-0315, 182-533-0325, 182-533-0327, 182-533-0345	Washington apple health - Maternity support services	WSR 16-17-095 Filed 8/18/16		
Chapter 182-538 WAC	Washington apple health - Managed care organizations grievance and appeals	WSR 16-23-149 Filed 11/22/16		
WAC 182-538A-130, 182-538A-190	Washington apple health - Managed care	WSR 16-22-059 Filed 10/31/16		
WAC 182-543-0500, 182-543-2000, 182-543-5000, 182-545-200	Washington apple health - Durable medical equipment, complex rehabilitation technology, prosthetics/orthotics, outpatient rehabilitation	WSR 16-13-009 Filed 6/2/16	CR-102 WSR 16-19-032 Filed 9/13/16 Hearing date 10/25/16	
Chapter 182-544 WAC, WAC 182-531-1000	Washington apple health - Vision care	WSR 16-19-103 Filed 9/21/16		

WAC Citation	Subject Matter	Current Activity		
		CR-101	CR-102 or CR-105	CR-103E
WAC 182-546-0001, 182-546-0100, 182-546-0200, 182-546-0250, 182-546-0300, 182-546-0400, 182-546-0425, 182-546-0450, 182-546-0500, 182-546-0600, 182-546-0700, 182-546-0800, 182-546-0900, 182-546-1000, 182-546-1500, 182-546-2500, 182-546-4000	Washington apple health - Ambulance transportation services	WSR 14-03-080 Filed 1/15/14		
WAC 182-546-4600	Washington apple health - Ambulance transportation - involuntary substance use disorder treatment - Ricky Garcia Act	WSR 16-14-040 Filed 6/28/16		WSR 16-22-031 Filed 10/25/16
New section in chapter 182-546 WAC	Washington apple health - Ground emergency medical transportation program (GEMT)	WSR 15-24-129 Filed 12/2/15		
Chapters 182-548, 182-549 WAC	Washington apple health - Federally-qualified health centers and rural health clinics	WSR 16-13-130 Filed 6/21/16	CR-102 WSR 16-17-145 Filed 8/24/16 Hearing date 9/27/16	
WAC 182-550-2531, 182-550-2551	Washington apple health - Acute PM&R	WSR 16-16-116 Filed 8/3/16		
WAC 182-550-2600	Washington apple health - Inpatient psychiatric services	WSR 15-22-009 Filed 10/22/15		
WAC 182-551-2010, 182-551-2030, 182-551-2125, 182-551-2130, 182-551-2210	Washington apple health - Home health services	WSR 16-11-094 Filed 5/18/16	CR-102 WSR 16-19-033 Filed 9/13/16 Hearing date 9/13/16	
WAC 181-551-1860	Washington apple health - Hospice concurrent care	WSR 16-15-050 Filed 7/15/16	CR-102 WSR 16-20-081 Hearing date 11/8/16	
WAC 182-551-3000	Washington apple health - Private duty nursing	WSR 15-24-036 Filed 11/20/15		
WAC 182-554-100, 182-554-200, 182-554-300, 182-554-400, 182-554-600, 182-554-700, 182-554-800, 182-554-900	Washington apple health - Enteral nutrition	WSR 15-02-038 Filed 12/31/14	CR-102 WSR 16-23-083 Filed 11/16/16 Hearing date 12/27/16	

WAC Citation	Subject Matter	Current Activity		
		CR-101	CR-102 or CR-105	CR-103E
WAC 182-554-500	Washington apple health - Covered enteral nutrition products, equipment and related supplies - orally administered - clients twenty years of age and younger only	WSR 15-02-038 Filed 12/31/14	CR-102 WSR 16-23-083 Filed 11/16/16 Hearing date 12/27/16	WSR 16-24-004 Filed 11/28/16
WAC 182-559-100, 182-559-200, 182-500-0070	Washington apple health - Supportive housing and supported employment	WSR 16-20-083 Filed 10/4/16		

Wendy Barcus
Rules Coordinator

WSR 17-03-124
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 [Filed January 18, 2017, 11:07 a.m.]

Notice of Interpretive or Policy Statement

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

Developmental Disabilities Administration (DDA)

Document Title: Public Comment Notice for Proposed Developmental Disabilities Administration Waiver Renewals.

Subject: Basic plus, core, community protection, and children's intensive in-home behavioral support HCBS waiver renewals are available for thirty days of public comment.

Effective Date: February 17, 2017.

Document Description: DDA within DSHS, in cooperation with the health care authority (agency), is posting for public comment four waiver five year renewals of DDA's medicaid 1915(c) waivers: Basic plus, core, community protection, and children's intensive in-home behavioral support. Each proposed waiver renewal is available at <https://www.dshs.wa.gov/dda>.

To receive a copy of the interpretive or policy statements, contact Bob Beckman, DDA, P.O. Box 45310, Olympia, WA 98504-5310, phone (360) 407-1555, TDD/TTY 711 or 1-800-833-6388, fax (360) 407-0955, email bob.beckman@dshs.wa.gov, web site www.dshs.wa.gov/dda.

WSR 17-03-126
NOTICE OF PUBLIC MEETINGS
GUARANTEED EDUCATION
TUITION COMMITTEE
 [Filed January 18, 2017, 11:23 a.m.]

2017 Meeting Schedule Update

Background: As outlined in RCW 28B.95.030, WAC 14-104-010, the GET committee shall hold regular meetings as needed. Additional special meetings may be scheduled if needed. The following is an update to the meeting schedule for the 2017 calendar year: On Thursday, January 19, 2017, at 3:30 p.m. - 4:30 p.m., at the Washington Student Achievement Council, 917 Lakeridge Way S.W., Olympia, WA 98502.