

WSR 17-12-006

**NOTICE OF PUBLIC MEETINGS
BREE COLLABORATIVE**

[Filed May 25, 2017, 11:50 a.m.]

The following addition to the schedule of a regular meeting is for the Dr. Robert Bree AMDG Opioid Guideline Implementation workgroup:

Date	Time	Location
Thursday, June 22	1:00 - 3:30 p.m.	Puget Sound Regional Council 5th Floor Board Room 1011 Western Avenue Seattle

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 17-12-007

**NOTICE OF PUBLIC MEETINGS
PUBLIC WORKS BOARD**

[Filed May 25, 2017, 11:55 a.m.]

NOTICE OF REVISION OF PUBLIC MEETINGS FOR 2017

The public works board will be holding regularly scheduled business meetings on the following dates at 9:00 a.m.:

- January 6, 2017
- February 3, 2017
- ~~February 13, 2017~~ CANCELLED ~~Emergency Meeting Conference Call 3:00 p.m.~~
- ~~March 3, 2017~~ CANCELLED
- April 7, 2017
- May 5, 2017
- June 2, 2017** CANCELLED
- July 7, 2017
- August 4, 2017
- September 7-8, 2017 Board retreat
- October 6, 2017
- November 3, 2017
- December 1, 2017

All meetings are held at the Department of Commerce, 1011 Plum Street S.E., Olympia, WA 98506, unless noted otherwise. All meeting materials and information can be found on our web site www.pwb.wa.gov.

Please contact the public works board at (360) 725-2744 for any further information.

WSR 17-12-014

**NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION**

[Filed May 26, 2017, 3:01 p.m.]

The following date and time is for the June 22, 2017, commission meeting: Washington State Human Rights Commission, Commission Meeting, June 22, 2017, at 5:30 p.m., 810 Third Avenue, First Floor Conference Room, Seattle, WA 98104.

WSR 17-12-015

**NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION**

[Filed May 26, 2017, 3:15 p.m.]

The following date and time is for a special commission meeting: Washington State Human Rights Commission, Special Commission Meeting, June 29, 2017, at 5:30 p.m., Conference Call, (712) 432-0490, Access Code: 833014#.

WSR 17-12-024

**NOTICE OF PUBLIC MEETINGS
COUNTY ROAD
ADMINISTRATION BOARD**

[Filed May 30, 2017, 12:21 p.m.]

SPECIAL MEETING NOTICE: June 29, 2017
County Road Administration Board
2404 Chandler Court S.W.
Suite 240
Olympia, WA 98504
8:30 a.m. - noon

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation. Hearing and speech impaired persons call 1-800-833-6384.

WSR 17-12-025

**NOTICE OF PUBLIC MEETINGS
COUNTY ROAD
ADMINISTRATION BOARD**

[Filed May 30, 2017, 12:25 p.m.]

SPECIAL MEETING NOTICE: July 12, 2017
Days Inn Conference Center
901 Berry Road
Ellensburg, WA 98926
1:00 p.m. to 5:00 p.m.

SPECIAL MEETING NOTICE: July 13, 2017
Days Inn Conference Center
901 Berry Road
Ellensburg, WA 98926
8:30 a.m. - noon

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation. Hearing and speech impaired persons call 1-800-833-6384.

WSR 17-12-028
RULES COORDINATOR
GAMBLING COMMISSION
[Filed May 30, 2017, 3:40 p.m.]

Our fax number for the rules coordinator has changed from the last notice filed as WSR 16-20-102 on October 5, 2016. The new fax number is (360) 486-3630.

David E. Trujillo
Director

WSR 17-12-033
ATTORNEY GENERAL'S OFFICE
[Filed May 31, 2017, 1:59 p.m.]

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

The Washington attorney general routinely publishes notice of an opportunity to comment for opinion requests that we receive from the heads of state agencies, state legislators, and county prosecuting attorneys if we anticipate publishing a formal opinion in response to the request. We do so in order to provide members of the public with a chance to provide any legal analysis that they would like us to consider as we develop our opinion. In preparing any comments, please be aware that our opinion will provide our considered legal analysis of the question presented, and therefore comments that address the interpretation of the law are more helpful than comments that express an opinion as to what the law should be.

If you are interested in commenting on a request listed in this volume of the register, you should notify the attorney general's office of your interest by June 28, 2017. This is not the due date by which comments must be received, and we will consider any comments we receive before we complete our opinion. However, if you do not notify the attorney general's office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the attorney general's office of your intention to comment by email to OpinionComments@atg.wa.gov or by writing to the Office of the Attorney General, Solicitor General Division, Attention Jeff Even, Deputy Solicitor General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of

your intention to comment, you may be provided with a copy of the opinion request in which you are interested, information about the attorney general's opinion process, information on how to submit your comments, and a due date by which your comments must be received to ensure that they are fully considered.

If you are interested in receiving notice of new formal opinion requests via email, you may visit the attorney general's web site at <http://www.atg.wa.gov/ago%E2%80%9090> opinions for more information on how to join our AGO opinions list.

The attorney general's office seeks public input on the following opinion request(s):

Opinion Docket No. 17-05-01
Request by Governor Jay Inslee/General Counsel Nicholas Brown

QUESTION:

When both the governor and the lieutenant governor are temporarily absent from Washington at the same time, who possesses the legal authority to serve as the acting governor in their absence?

WSR 17-12-034
INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE
[Filed May 31, 2017, 3:29 p.m.]
INTERPRETIVE STATEMENT ISSUED

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

ETA 3202.2017 - Deductibility of Membership Dues Paid to Chambers of Commerce and Visitor Bureaus

This ETA explains that membership fees received by visitor bureaus and chambers of commerce are generally "bona fide dues" deductible from the business and occupation (B&O) tax.

A copy of this document is available via the internet at Rule and Tax Advisory Adoptions and Repeals.

Kevin Dixon
Tax Policy Manager
Rules Coordinator

WSR 17-12-038
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed June 1, 2017, 10:27 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).

**Aging and Long-Term Support Administration
Division of Home and Community Services (HCS)**

Document Title: Public Notice.
Subject: Residential support waiver amendment.
Effective Date: August 1, 2016.

Document Description: The Washington state health care authority and DSHS intend to submit an amendment to the Residential Support Waiver WA.1086. The amendment will adjust enrollment limits to reflect higher utilization in waiver years three, four, and five.

A draft of the amendment will be posted for review and comment from June 22, 2017, through July 22, 2017. The amendment can be viewed at <https://www.dshs.wa.gov/altsa/stakeholders/hcbs-residential-support-waiver-amendments>.

If you would like to receive a paper copy of the amendment, please call (360) 725-2576 during the review period and provide your name, telephone number, and mailing address.

Comments may be provided by email or letter to the contact person listed below. Comments must be received by 5:00 on July 22, 2017.

To receive a copy of the interpretive or policy statements, contact Sandy Spiegelberg, HCS, P.O. Box 45600, Olympia, WA 98504, phone (360) 725-2576, TDD/TTY (360) 438-2637, fax (360) 586-9727, email sandra.spiegelberg@dshs.wa.gov, web site <https://www.dshs.wa.gov/altsa/stakeholders/hcbs-residential-support-waiver-amendments>.

**WSR 17-12-042
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
(Pharmacy Quality Assurance Commission)**
[Filed June 1, 2017, 2:47 p.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 a notice to report a change of location for the June 22, 2017, meeting of the department of health, pharmacy quality assurance commission regular business meeting. The pharmacy quality assurance commission 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 pharmacy quality assurance commission reserves the right to change or amend agendas at the meeting.

Date	Time	New Location
June 22, 2017	9:00 a.m.	By webinar only Register here.

Old Location
Benton/Yakima County
Location to be determined

If you need additional information, please contact Doreen E. Beebe, Health Services Consultant 4, Washington Department of Health, Pharmacy Quality Assurance Commission, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4834, fax (360) 236-2901, email Doreen.Beebe@doh.wa.gov, web www.doh.wa.gov.

Please be advised the pharmacy quality assurance commission 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 17-12-044
NOTICE OF PUBLIC MEETINGS
STATE BOARD OF HEALTH**
[Filed June 1, 2017, 3:35 p.m.]

In accordance with the Open Public Meetings Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW), the following is the revised schedule of regular meetings for the Washington state board of health, for the year 2017. The board's 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 board's web site (see below). Every attempt is made to ensure that the agenda is up-to-date. However, the board reserves the right to change or amend agendas at the meeting.

Date	Location
Wednesday June 14, 2017	Gonzaga University Hemmingson Center Multipurpose Room 314 702 East Desmet Avenue Spokane, WA 99202
Wednesday July 12, 2017	Hold date - meet only if necessary
Wednesday August 9, 2017	Capitol Campus John A. Cherberg Building SHR3 304 15th Avenue S.W. Olympia, WA 98501
Wednesday October 11, 2017	Location to be determined (TBD), but likely; Yakima Convention Center 10 North 8th Street Yakima, WA 98901

Date	Location
Wednesday November 8, 2017	Department of Health (or location TBD) Point Plaza East Room 152/153 310 Israel Road S.E. Tumwater, WA 98501

*Updated 6/1/2017

If you need further information, please contact Melanie Hisaw, Executive Assistant, Washington State Board of Health, P.O. Box 47990, Olympia, WA 98504-7990, phone (360) 236-4104, fax (360) 236-4088, email melanie.hisaw@sboh.wa.gov, web www.sboh.wa.gov.

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

WSR 17-12-045

**NOTICE OF PUBLIC MEETINGS
STATE BOARD OF HEALTH**

(Governor's Interagency Council on Health Disparities)
[Filed June 1, 2017, 3:36 p.m.]

In accordance with the Open Public Meetings Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW), the following is the revised schedule of regular meetings for the governor's interagency council on health disparities, for the year 2017. The council's 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 council's web site (see below). Every attempt is made to ensure that the agenda is up-to-date. However, the board reserves the right to change or amend agendas at the meeting.

Date	Location
Wednesday September 13, 2017	The 2100 Building 2100 24th Avenue South Seattle, WA 98144
Wednesday December 13, 2017	Department of Health (or location TBD) Point Plaza East Room 152/153 310 Israel Road S.E. Tumwater, WA 98501

* Updated 6/1/2017

If you need further information, please contact Melanie Hisaw, Executive Assistant, Washington State Board of Health, P.O. Box 47990, Olympia, WA 98504-7990, phone

(360) 236-4104, fax (360) 236-4088, email melanie.hisaw@sboh.wa.gov, web www.healthequity.wa.gov.

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

WSR 17-12-054

HEALTH CARE AUTHORITY

(Health Technology Clinical Committee)
[Filed June 2, 2017, 11:19 a.m.]

The health technology clinical committee reached a final coverage decision for the following technology at their May 19, 2017, public meeting:

- Extracorporeal shock wave therapy for musculoskeletal conditions, Decision No: 20170317A.

All documents related to these evidence assessments, including the final coverage decisions, are available on the health technology assessment program web site www.hca.wa.gov/about-hca/health-technology-assessment.

For further information contact Christine Masters, Program Specialist, WA - Health Technology Assessment, P.O. Box [42712], 626 8th Avenue S.E., Olympia, WA 98504-2712, desk (360) 725-5126, fax (360) 586-8827, christine.masters@hca.wa.gov.

WSR 17-12-067

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

[Filed June 2, 2017, 3:57 p.m.]

In accordance with RCW 28B.95.020 and WAC 14-276-030, the advanced college tuition program, known as the guaranteed education tuition (GET) program, has made a revision to the GET committee meeting schedule:

Current Meeting Date: June 7, 2017
2:00 p.m. - 4:00 p.m.
J. A. Cherberg Building
Capitol Campus
Senate Hearing Room 3
Olympia, WA 98504

Rescheduled to: July 6, 2017
2:00 p.m. - 4:00 p.m.
J. A. Cherberg Building
Capitol Campus
Senate Hearing Room 1
Olympia, WA 98504

Please contact Katie Gross if you need additional information.

WSR 17-12-068
NOTICE OF PUBLIC MEETINGS
SEED POTATO COMMISSION

[Filed June 5, 2017, 8:26 a.m.]

The Washington seed potato commission has scheduled meeting dates for fiscal year 2018. Meetings are from 1:00 p.m. to 2:30 p.m. at the Washington Seed Potato Commission Office, 1796 Front Street, Lynden, WA, 98264. Meeting dates:

- September 7, 2017
- December 7, 2017
- March 1, 2018
- June 7, 2018

For more information, please contact Henry Bierlink, henry@waseedpotato.com.

WSR 17-12-070
RULES OF COURT
STATE SUPREME COURT

[June 1, 2017]

IN THE MATTER OF THE EXPEDITIOUS ADOPTION OF THE SUGGESTED AMENDMENT TO ER 1101—APPLICABILITY OF RULES) ORDER) NO. 25700-A-1184)

The District and Municipal Court Judges' Association, having recommended the expeditious adoption of the suggested amendment to ER 1101—Applicability of Rules, 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 amendment as shown below is adopted.

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

DATED at Olympia, Washington this 1st day of June 2017.

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

EVIDENCE RULE 1101 APPLICABILITY OF RULES

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

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

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

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

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

(3) *Miscellaneous Proceedings.* Proceedings for extradition or rendition; detainer proceedings under RCW 9.100; preliminary determinations in criminal cases; sentencing, or granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; proceedings with respect to release on bail or otherwise; contempt proceedings in which the court may act summarily; habeas corpus proceedings; small claims court; supplemental proceedings under RCW 6.32; coroners' inquests; preliminary determinations in juvenile court; juvenile court hearings on declining jurisdiction; disposition, review, and permanency planning hearings in juvenile court; dispositional determinations related to treatment for alcoholism, intoxication, or drug addiction under RCW 70.96A; and dispositional determinations under RCW 71.05 and 71.34.

(4) *Applications for Protection Orders.* Protection order proceedings under RCW 7.90, 7.92, 7.94, 10.14, 26.50 and 74.34. Provided when a judge proposes to consider information from a criminal or civil database, the judge shall disclose the information to each party present at the hearing; on timely request, provide each party with an opportunity to be heard; and, take appropriate measures to alleviate litigants' safety concerns. The judge has discretion not to disclose information that he or she does not propose to consider.

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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 17-12-071
RULES OF COURT
STATE SUPREME COURT

[June 1, 2017]

IN THE MATTER OF THE EXPEDITIOUS ADOPTION OF THE PROPOSED AMENDMENT TO BJAR 2—COMPOSITION) ORDER NO. 25700-A-1185

The Board for Judicial Administration, having recommended the expeditious adoption of the proposed amendment to BJAR 2—Composition, 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 amendment as shown below is adopted.

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

DATED at Olympia, Washington this 1st day of June 2017.

Signature block for Johnson, J., Madsen, J., Owens, J., Stephens, J., Fairhurst, C.J., Wiggins, J., Gonzalez, J., Gordon McCloud, J., Yu, J.

BJAR 2
COMPOSITION

(c) Terms of Office.

(1) Of the members first appointed, one justice of the Supreme Court shall be appointed for a two-year term; one judge from each of the other levels of court for a four-year term; one judge from each of the other levels of court and one Washington State Bar Association member for a three-year term; one judge from the other levels of court and one Washington State Bar Association member for a two-year term; and one judge from each level of trial court for a one-year term. Provided that the terms of the District and Municipal Court Judges' Association members whose terms begin on July 1, 2010 and July 1, 2011 shall be for two years which begin on July 1, 2017 shall be for less than a full term, two years, and shall thereafter be for a term of four years and the terms of the Superior Court Judges' Association members whose terms begin on July 1, 2010 and July 1, 2013 shall be for two years each. Thereafter, voting members shall serve four-year terms and the Washington State Bar Association members for three-year terms commencing annually on June July 1. The Chief Justice, the President Judges and the Administrator for the Courts shall serve during tenure.

WSR 17-12-072
RULES OF COURT
STATE SUPREME COURT

[June 1, 2017]

IN THE MATTER OF THE PROPOSED AMENDMENTS TO ELC 2.5—HEARING OFFICERS, ELC 2.7—CONFLICTS REVIEW OFFICER, ELC 4.2—FILING; ORDERS, ELC 5.3—INVESTIGATION OF GRIEVANCE, ELC 5.5—INVESTIGATORY SUBPOENAS, ELC 5.6—REVIEW OF OBJECTIONS TO INQUIRIES AND MOTIONS TO DISCLOSE, ELC 9.3—RESIGNATION IN LIEU OF DISCIPLINE, ELC 10.7—AMENDMENT OF FORMAL COMPLAINT, ELC 10.16—DECISION OF HEARING OFFICER, ELC TITLE 15—TRUST ACCOUNT EXAMINATIONS OVERDRAFT NOTIFICATION, AND IOLTA, ELC 15.1—RANDOM EXAMINATION OF BOOKS AND RECORDS) ORDER NO. 25700-A-1186

The Washington State Bar Association, having recommended the adoption of the proposed amendments to ELC 2.5—Hearing Officers, ELC 2.7—Conflicts Review Officer, ELC 4.2—Filing; Orders, ELC 5.3—Investigation of Grievance, ELC 5.5—Investigatory Subpoenas, ELC 5.6—Review of Objections to Inquiries and Motions to Disclose, ELC 9.3—Resignation in Lieu of Discipline, ELC 10.7—Amendment of Formal Complaint, ELC 10.16—Decision of Hearing Officer, ELC Title 15—Trust Account Examinations Overdraft Notification, and IOLTA, ELC 15.1—Random Examination of Books and Records, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

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

(b) That the amendments will be published in the Washington Reports and will become effective September 1, 2017.

DATED at Olympia, Washington this 1st day of June 2017.

Signature block for Johnson, J., Madsen, J., Owens, J., Stephens, J., Fairhurst, C.J., Wiggins, J., Gonzalez, J., Sheryl Gordon McCloud, Mary Yu

RULE 2.5 HEARING OFFICERS

(a) - (d) [No change]

(e) Chief Hearing Officer.

(1) [No change]

(2) Duties and Authority. The chief hearing officer:

(A) - (G) [No change]

(H) hears requests for amendment of formal complaints under rule 10.7(b),

(I) - (L) [No change]

(f) - (h) [No change]

RULE 2.7 CONFLICTS REVIEW OFFICER

(a) **Function.** [No change to introductory text]

(1) Authority. The Conflicts Review Officer's duties are limited to performing the initial review of grievances covered by this Rule. A Conflicts Review Officer may, under rule 5.3(b), obtain the respondent lawyer's response to the grievance, if he/she feels it necessary to do so, in his/her sole discretion. A Conflicts Review Officer may dismiss the grievance under rule 5.67(a), defer the investigation under rule 5.3(d), or assign the grievance to special disciplinary counsel for investigation under rules 2.8(b) and 5.3. If a grievant requests review of a dismissal under rule 5.7(b), the Conflicts Review Officer may either reopen the matter for investigation or refer it to a review committee under that rule.

(2) [No change]

(b) - (f) [No change]

RULE 4.2 FILING; ORDERS

(a) **Filing and Signing of Originals.** Except in matters before the Supreme Court, the original of any pleading, motion, or other paper authorized by these rules, other than discovery, must be filed with the Clerk. Original documents filed with the Clerk must be signed by the party or person filing the document or the attorney of record for the party or person filing the document. Filing may be made by first-class mail or electronically as set forth in subsection (c) of this rule. Filing may be made by first-class mail and is deemed accomplished on the date of mailing. Filing of papers for matters before the Supreme Court is governed by the Rules of Appellate Procedure.

(b) [No change]

(c) **Electronic Filing.** Filing of documents with the Clerk under subsections (a) and (b) of this rule may be accomplished by e-mail ~~or by facsimile or an electronic system provided by the Clerk,~~ provided that a document so filed electronically with the Clerk after 5:00 p.m. or on weekends or legal holidays shall be deemed to have been filed on the next business day. A paper original of documents filed under this subsection (c) should thereafter be filed as well. A document filed electronically shall be considered an original under this rule.

RULE 5.3 INVESTIGATION OF GRIEVANCE

(a) - (h) [No change]

(i) **Objections.** Within 30 days of service of an investigative inquiry under section (g) of this rule, a lawyer may serve a written objection on disciplinary counsel who receives an investigative inquiry made under section (g) of this rule may object. An objection is reviewed by motion as provided in rule 5.6.

RULE 5.5 INVESTIGATORY SUBPOENAS

(a) - (d) [No change]

(e) **Objections By Lawyers.**

(1) To protect confidential client information, or for other good cause shown, a lawyer may object ~~under rule 5.6~~ to an investigative subpoena ~~issued pursuant to this rule or a disciplinary counsel request or inquiry during a deposition~~

under this rule. An objection must be in writing or on the record and is reviewed by motion as provided in rule 5.6.

(2) A timely objection suspends any duty to respond as to the subpoena or to a request or inquiry under this rule until a ruling has been made under rule 5.6. An objection to a subpoena is timely if made prior to the date specified for production or the date of the deposition. An objection to a request or inquiry under this rule is timely if made in response to the request or inquiry during the course of the deposition.

RULE 5.6 REVIEW OF OBJECTIONS TO INQUIRIES AND MOTIONS TO DISCLOSE

(a) [No change]

(b) **Procedure.**

(1) A lawyer who has objected under rules 5.3(i) or 5.5(e) must file a motion seeking review of the objection within 15 days of the date of the objection.

(2) An objection must clearly and specifically set out the challenged inquiry or request and the basis for the objection.

(23) [No change to text of former subsection (b)(2)]

(34) [No change to text of former subsection (b)(3)]

(45) [No change to text of former subsection (b)(4)]

(56) [No change to text of former subsection (b)(5)]

(c) - (d) [No change]

RULE 9.3 RESIGNATION IN LIEU OF DISCIPLINE

(a) [No change]

(b) **Process.** The respondent first notifies disciplinary counsel that the respondent intends to submit a resignation and asks disciplinary counsel to prepare a statement of alleged misconduct and to provide a declaration of costs and a proposed resignation form. After receiving the statement and the declaration of costs, if any, the respondent may resign by signing and submitting to disciplinary counsel the resignation form prepared by disciplinary counsel, sworn to or affirmed under oath ~~and notarized~~, which must include the following:

(c) - (e) [No change]

(f) **Costs and Expenses.** If a respondent resigns under this rule, the expenses under rule 13.9(c) are ~~\$1,000~~ \$1,500 ~~and respondent must consent to the entry of an order assessing these expenses under rule 13.9(c). With the resignation, the respondent must pay this \$1,000 expense, plus all actual costs as defined by rule 13.9(b). If the respondent demonstrates inability to pay these costs and expenses, instead of paying this amount, the respondent must execute, in disciplinary counsel's discretion, a confession of judgment or a deed of trust for that amount. Disciplinary counsel may file a claim under section (g) for costs not covered by this amount the payment, confession of judgment, or deed of trust.~~

(g) [No change]

RULE 10.7 AMENDMENT OF FORMAL COMPLAINT

(a) [No change]

(b) **Amendments Dismissing Charges.** Disciplinary counsel may dismiss charges at any time and amend a formal complaint accordingly. The respondent may, within ten days of service of the amendment, object to the amendment by a motion to the hearing officer. The hearing officer will consider the motion under the procedure provided by rule 10.8.

(bc) Other Amendments. Disciplinary counsel must obtain authorization from the chief hearing officer for amendments other than those under sections (a) or (b) or rule 10.3(c). Disciplinary counsel must give respondent notice of a request for authorization to amend. A request to amend will be considered under the procedure provided by rule 10.8. The chief hearing officer, after consultation with any assigned hearing officer, may authorize the amendment, may require that the additional facts or charges be the subject of a separate formal complaint, or may direct disciplinary counsel to report the matter to a review committee under rule 5.7(c).

(ed) Decision. In ruling on a motion under section (a) or (b) this rule, a hearing officer or the chief hearing officer may grant or deny the motion in whole or part. Authorization to amend should be freely given when justice so requires.

(de) Service and Answer. Disciplinary counsel serves an amendment to a formal complaint on the respondent as provided in rule 4.1 but need not serve a Notice to Answer with the amendment. Rule 10.5 governs the answer to an amendment except that any part of a previous answer may be incorporated by reference.

RULE 10.16 DECISION OF HEARING OFFICER

(a) [No change]

(b) Preparation of Findings. Either party may submit proposed findings of fact, conclusions of law, and recommendation as part of their argument of the case. Proposed findings, conclusions, and recommendation, if any, must be submitted within 20 days after the disciplinary hearing is concluded or as otherwise ordered by the hearing officer. The hearing officer either (1) writes findings of fact, conclusions of law, and recommendations without requiring submission of proposed findings, conclusions, or recommendations or (2) announces a tentative decision then requests one or both parties to prepare proposed findings, conclusions, and recommendations. After notice and an opportunity to respond, the hearing officer considers the proposals and responses and enters findings, conclusions, and recommendations.

(c) - (d) [No change]

TITLE 15 - AUDITS, AND TRUST ACCOUNT EXAMINATIONS, OVERDRAFT NOTIFICATION, AND IOLTA

RULE 15.1 RANDOM EXAMINATION OF BOOKS AND RECORDS

(a) Authorization. The Office of Disciplinary Counsel is authorized to examine the books and records of any lawyer or law firm selected at random to determine whether the lawyer or law firm is complying with RPC 1.15A, 1.15B, and other Rules of Professional Conduct referencing RPC 1.15A or RPC 1.15B. As used in this Title, the term law firm has the same meaning as prescribed in RPC 1.0A(c).

(b) - (e) [No change]

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

WSR 17-12-073
RULES OF COURT
STATE SUPREME COURT
[June 1, 2017]

IN THE MATTER OF THE PROPOSED AMENDMENTS TO OR 12.1—REGULATORY OBJECTIVES; GR 12.2—WASHINGTON STATE BAR ASSOCIATION: PURPOSES, AUTHORIZED ACTIVITIES, AND PROHIBITED ACTIVITIES; GR 12.3—WASHINGTON STATE BAR ASSOCIATION ADMINISTRATION OF SUPREME COURT-CREATED BOARDS AND COMMITTEES; GR 12.4—WASHINGTON STATE BAR ASSOCIATION ACCESS TO RECORDS; GR 12.5—IMMUNITY) ORDER NO. 25700-A-1187

The Washington State Bar Association, having recommended the adoption of the proposed amendments to GR 12.1—Regulatory Objectives; GR 12.2—Washington State Bar Association: Purposes, Authorized Activities, and Prohibited Activities; GR 12.3—Washington State Bar Association Administration of Supreme Court-Created Boards and Committees; GR 12.4—Washington State Bar Association Access to Records; GR 12.5—Immunity, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

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

(b) That the amendments will be published in the Washington Reports and will become effective September 1, 2017.

DATED at Olympia, Washington this 1st day of June 2017.

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

RULE 12. REGULATION OF THE PRACTICE OF LAW

The Washington Supreme Court has inherent and plenary authority to regulate the practice of law in Washington. The legal profession serves clients, courts, and the public, and has special responsibilities for the quality of justice administered in our legal system. The Court ensures the integrity of the legal profession and protects the public by adopting rules for the regulation of the practice of law and actively supervising persons and entities acting under the Supreme Court's authority.

RULE 12.1. REGULATORY OBJECTIVES

Legal services providers must be regulated in the public interest. In regulating the practice of law in Washington, the Washington Supreme Court's objectives include:

A. Protection of the public;

B. Advancement of the administration of justice and the rule of law;

C. Meaningful access to justice and information about the law, legal issues, and the civil and criminal justice systems;

D. Transparency regarding the nature and scope of legal services to be provided, the credentials of those who provide them, and the availability of regulatory protections;

E. Delivery of affordable and accessible legal services;

F. Efficient, competent, and ethical delivery of legal services;

G. Protection of privileged and confidential information;

H. Independence of professional judgment;

I. Accessible civil remedies for negligence and breach of other duties owed, disciplinary sanctions for misconduct, and advancement of appropriate preventive or wellness programs;

J. Diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system.

RULE 12.42. WASHINGTON STATE BAR ASSOCIATION: PURPOSES, AUTHORIZED ACTIVITIES, AND PROHIBITED ACTIVITIES

In the exercise of its inherent and plenary authority to regulate the practice of law in Washington, the Supreme Court authorizes and supervises the Washington State Bar Association's activities. The Washington State Bar Association carries out the administrative responsibilities and functions expressly delegated to it by this rule and other Supreme Court rules and orders enacted or adopted to regulate the practice of law, including, the purposes and authorized activities set forth below.

(a) Purposes: In General. In general, the Washington State Bar Association strives to:

(1) Promote independence of the judiciary and the ~~bar~~ legal profession.

(2) Promote an effective legal system, accessible to all.

(3) Provide services to its members and the public.

(4) Foster and maintain high standards of competence, professionalism, and ethics among its members.

(5) Foster collegiality among its members and goodwill between the ~~bar~~ legal profession and the public.

(6) Promote diversity and equality in the courts; and the legal profession, and the bar.

(7) Administer admissions, ~~regulation, to the bar~~ and discipline of its members in a manner that protects the public and respects the rights of the applicant or member.

(8) Administer programs of legal education.

(9) Promote understanding of and respect for our legal system and the law.

(10) Operate a well-managed and financially sound association, with a positive work environment for its employees.

(11) Serve as a ~~state-wide~~ statewide voice to the public and to the branches of government on matters relating to these purposes and the activities of the association and the legal profession.

(b) Specific Activities Authorized. In pursuit of these purposes, the Washington State Bar Association may:

(1) Sponsor and maintain committees, and sections, and divisions whose activities further these purposes;

(2) Support the judiciary in maintaining the integrity and fiscal stability of an independent and effective judicial system;

(3) Provide periodic reviews and recommendations concerning court rules and procedures;

(4) Administer examinations and review applicants' character and fitness to practice law;

(5) Inform and advise ~~lawyers~~ its members regarding their ethical obligations;

(6) Administer an effective system of discipline of its members, including receiving and investigating complaints of ~~lawyer~~ misconduct by legal professionals, taking and recommending appropriate punitive and remedial measures, and diverting less serious misconduct to alternatives outside the formal discipline system;

(7) Maintain a program, pursuant to court rule, requiring members to submit fee disputes to arbitration;

(8) Maintain a program for mediation of disputes between members and ~~their clients and~~ others;

(9) Maintain a program for ~~lawyer~~ legal professional practice assistance;

(10) Sponsor, conduct, and assist in producing programs and products of continuing legal education;

(11) Maintain a system for accrediting programs of continuing legal education;

(12) Conduct ~~audits~~ examinations of lawyers' legal professionals' trust accounts;

(13) Maintain a ~~lawyers'~~ fund for client protection in accordance with the Admission ~~to~~ and Practice Rules;

(14) Maintain a program for the aid and rehabilitation of impaired members;

(15) Disseminate information about ~~bar~~ the organization's activities, interests, and positions;

(16) Monitor, report on, and advise public officials about matters of interest to the ~~bar~~ organization and the legal profession;

(17) Maintain a legislative presence to inform members of new and proposed laws and to inform public officials about ~~bar~~ the organization's positions and concerns;

(18) Encourage public service by members and support programs providing legal services to those in need;

(19) Maintain and foster programs of public information and education about the law and the legal system;

(20) Provide, sponsor, and participate in services to its members;

(21) Hire and retain employees to facilitate and support its mission, purposes, and activities, including in the ~~bar's~~ organization's discretion, authorizing collective bargaining;

(22) Establish the amount of all license, application, investigation, and other related fees, as well as charges for services provided by the Washington State Bar Association, and collect, allocate, invest, and disburse funds so that its mission, purposes, and activities may be effectively and efficiently discharged. The amount of any license fee is subject to review by the Supreme Court for reasonableness and may be modified by order of the Court if the Court determines that it is not reasonable;

(23) Administer Supreme Court-created boards in accordance with General Rule 12.3.

(c) Activities Not Authorized. The Washington State Bar Association will not:

- (1) Take positions on issues concerning the politics or social positions of foreign nations;
- (2) Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice; or
- (3) Support or oppose, in an election, candidates for public office.

RULE 12.23. WASHINGTON STATE BAR ASSOCIATION ADMINISTRATION OF SUPREME COURT-CREATED BOARDS AND COMMITTEES

[Unchanged.]

RULE 12.3. IMMUNITY

~~All boards, committees, or other entities, and their members and personnel, and all personnel and employees of the Washington State Bar Association, acting on behalf of the Supreme Court under the Admission to Practice Rules, the rules for Enforcement of Lawyer Conduct, and the Disciplinary Rules for Limited Practice Officers, shall enjoy quasi-judicial immunity if the Supreme Court would have immunity in performing the same functions.~~

RULE 12.4. WASHINGTON STATE BAR ASSOCIATION ACCESS TO RECORDS

(a) [Unchanged.]

(b) Scope. This rule governs the right of public access to Bar records. This rule applies to the Washington State Bar Association and its subgroups operated by the Bar including the Board of Governors, committees, task forces, commissions, boards, offices, councils, divisions, sections, and departments. This rule also applies to boards and committees under GR 12.23 administered by the Bar. A person or entity entrusted by the Bar with the storage and maintenance of Bar records is not subject to this rule and may not respond to a request for access to Bar records, absent express written authority from the Bar or separate authority in rule or statute to grant access to the documents.

- (c) [Unchanged.]
- (d) [Unchanged.]
- (e) [Unchanged.]
- (f) [Unchanged.]
- (g) [Unchanged.]
- (h) [Unchanged.]
- (i) [Unchanged.]
- (j) [Unchanged.]

RULE 12.5. IMMUNITY

All boards, committees, or other entities, and their members and personnel, and all personnel and employees of the Washington State Bar Association, acting on behalf of the Supreme Court under the Admission and Practice Rules, the Rules for Enforcement of Lawyer Conduct, or the disciplinary rules for limited practice officers and limited license legal technicians, shall enjoy quasi-judicial immunity if the Supreme Court would have immunity in performing the same functions.

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

**WSR 17-12-074
RULES OF COURT
STATE SUPREME COURT**

[June 1, 2017]

IN THE MATTER OF THE PROPOSED)	ORDER
AMENDMENT TO CR 23—CLASS)	NO. 25700-A-1188
ACTIONS)	

The Legal Foundation of Washington, having recommended the adoption of the proposed amendment to CR 23—Class Actions, and the Court having considered the amendment and comments submitted thereto, and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

- (a) That the amendment as shown below is adopted.
- (b) That the amendment will be published in the Washington Reports and will become effective September 1, 2017.

DATED at Olympia, Washington this 1st day of June 2017.

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

**RULE CR 23
CLASS ACTIONS**

(a)-(e) [Unchanged]

(f) Disposition of Residual Funds.

(1) "Residual Funds" are funds that remain after the payment of all approved class member claims, expenses, litigation costs, attorneys' fees, and other court-approved disbursements to implement the relief granted. Nothing in this rule is intended to limit the parties to a class action from suggesting, or the trial court from approving, a settlement that does not create residual funds.

(2) Any order entering a judgment or approving a proposed compromise of a class action certified under this rule that establishes a process for identifying and compensating members of the class shall provide for the disbursement of residual funds. In matters where the claims process has been exhausted and residual funds remain, not less than ~~twenty-five percent (25%)~~ fifty percent (50%) of the residual funds shall be disbursed to the Legal Foundation of Washington to support activities and programs that promote access to the civil justice system for low income residents of Washington State. The court may disburse the balance of any residual funds beyond the minimum percentage to the Legal Foundation of Washington or to any other entity for purposes that

have a direct or indirect relationship to the objectives of the underlying litigation or otherwise promote the substantive or procedural interests of members of the certified class.

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

WSR 17-12-075
RULES OF COURT
STATE SUPREME COURT
[June 1, 2017]

IN THE MATTER OF THE PROPOSED) ORDER
AMENDMENTS TO RAP 15.2(c)—) NO. 25700-A-1189
DETERMINATION OF INDIGENCY)
AND RIGHTS OF INDIGENT PARTY)

Judge Stan Rumbaugh, having recommended the adoption of the proposed amendment to RAP 15.2(c)—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 amendment as shown below is adopted.

(b) That the amendment will be published in the Washington Reports and will become effective September 1, 2017.

DATED at Olympia, Washington this 1st day of June 2017.

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

RULE 15.2. DETERMINATION OF INDIGENCY AND RIGHTS OF INDIGENT PARTY

(a) Motion for Order of Indigency. A party seeking review in the Court of Appeals or the Supreme Court partially or wholly at public expense must move in the trial court for an order of indigency. The party shall submit a Motion for Order of Indigency, in the form prescribed by the Office of Public Defense. .

(b) Action by the Trial Court. The trial court shall determine the indigency, if any, of the party seeking review at public expense. The determination shall be made in written findings after a hearing, if circumstances warrant, or by reevaluating any order of indigency previously entered by the trial court. The court:

(1) shall grant the motion for an order of indigency if the party seeking public funds is unable by reason of poverty to pay for all or some of the expenses for appellate review of:

(a) criminal prosecutions or juvenile offense proceedings meeting the requirements of RCW 10.73.150,

(b) dependency and termination cases under RCW 13.34,

(c) commitment proceedings under RCW 71.05 and 71.09,

(d) civil contempt cases directing incarceration of the contemner,

(e) orders denying petitions for writ of habeas corpus under RCW 7.36, including attorneys' fees upon a showing of extraordinary circumstances, and

(f) any other case in which the party has a constitutional or statutory right to counsel at all stages of the proceeding; or

(2) shall deny the motion for an order of indigency if a party has adequate means to pay all of the expenses of review. The order denying the motion for an order of indigency shall contain findings designating the funds or source of funds available to the party to pay all of the expenses of review.

(c) Other Cases. In cases not governed by subsection (b) of this rule, the trial court shall determine in written findings the indigency, if any, of the party seeking review. The party must demonstrate in the motion or the supporting affidavit that the issues the party wants reviewed have probable merit, which will be determined by the Supreme Court pursuant to subsection (d) of this paragraph. ~~and that~~ The party must further demonstrate the party has a constitutional or statutory right to review partially or wholly at public expense; the right to which will also be determined by the Supreme Court pursuant to subsection (d) of this paragraph.

(1) *Party Not Indigent.* The trial court shall deny the motion if a party has adequate means to pay all of the expenses of review. The order denying the motion for an order of indigency shall contain findings designating the funds or sources of funds available to the party to pay all of the expenses of review.

(2) *Party Indigent.* If the trial court finds the party seeking review is unable by reason of poverty to pay for all or some of the expenses of appellate review, the trial court shall enter such findings, which shall be forwarded to the Supreme Court for consideration, pursuant to section (d) of this rule. The trial court shall determine in those findings the portion of the record necessary for review and the amount, if any, the party is able to contribute toward the expense of review. The findings shall conclude with an order to the clerk of the trial court to promptly transmit to the Supreme Court, without charge to the moving party, the findings of indigency, the affidavit in support of the motion, and all other papers submitted in support of or in opposition to the motion. The trial court clerk shall promptly transmit to the Supreme Court the papers designated in the findings of indigency.

(d) Action by Supreme Court. If findings of indigency and other papers relating to the motion for an order of indigency are transmitted to the Supreme Court, the Supreme Court will determine whether an order of indigency in that case should be entered by the superior court. The determination will be made by a department of the Supreme Court on a regular motion day without oral argument and based only on the papers transmitted to the Supreme Court by the trial court clerk, unless the Supreme Court directs otherwise. If the Supreme Court determines that the party is seeking review in good faith, that an issue of probable merit is presented, and

that the party is entitled to review partially or wholly at public expense, the Supreme Court will enter an order directing the trial court to enter an order of indigency. In all other cases, the Supreme Court will enter an order denying the party's motion for an order of indigency. The clerk of the appellate court will transmit a copy of the order to the clerk of the trial court and notify all parties of the decision of the Supreme Court.

(e) Order of Indigency. An order of indigency shall designate the items of expense which are to be paid with public funds and, where appropriate, the items of expense to be paid by a party or the amount which the party must contribute toward the expense of review. The order shall designate the extent to which public funds are to be used for payment of the expense of the record on review, limited to those parts of the record reasonably necessary to review issues argued in good faith. The order of indigency must be transmitted to the appellate court as a part of the record on review.

(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 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 court finds the party's financial condition has improved to the extent that the party is no longer indigent.

(g) Appointment and Withdrawal of Counsel in Appellate Court. The appellate court shall determine questions relating to the appointment and withdrawal of counsel for an indigent party on review. The Office of Public Defense shall, in accordance with its indigent appellate representation policies, provide the names of indigent appellate counsel to the appellate courts on a case-by-case basis. If trial counsel is not appointed, trial counsel must assist counsel appointed for review in preparing the record.

(h) Review of Order or Finding of Indigency. A party in a case of a type listed in section (b)(1) of this rule may seek review of an order denying an order of indigency entered by a trial court. A party may also seek review of written findings under section (c)(1) of this rule that the party is not indigent. Review must be sought by a motion for discretionary review.

(i) Withdrawal of Counsel in Appellate Court. If counsel can find no basis for a good faith argument on review, counsel should file a motion in the appellate court to withdraw as counsel for the indigent as provided in rule 18.3(a).

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 17-12-076
RULES OF COURT
STATE SUPREME COURT**

[June 1, 2017]

IN THE MATTER OF THE PROPOSED)	ORDER
AMENDMENTS TO APR 1—IN GEN-)	NO. 25700-A-1190
ERAL; SUPREME COURT; PREREQUI-)	
SITES TO THE PRACTICE OF LAW;)	
COMMUNICATIONS TO THE ASSOCIA-)	
TION; CONFIDENTIALITY, APR 2—)	
BOARD OF GOVERNORS, APR 4—BAR)	
EXAMINATIONS; NOTIFICATION OF)	
RESULTS, APR 6—LAW CLERK PRO-)	
GRAM, APR 7—INVESTIGATIONS;)	
DUTY OF APPLICANT, APR 8—LIM-)	
ITED ADMISSIONS, APR 9—LICENSED)	
LEGAL INTERNS, APR 11—MANDA-)	
TORY CONTINUING LEGAL EDUCA-)	
TION, APR 12—LIMITED PRACTICE)	
RULE FOR LIMITED PRACTICE OFFI-)	
CERS, APR 13—SIGNINGS OF PLEAD-)	
INGS 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 CONSUL-)	
TANTS, APR 15—LAWYERS' FUND FOR)	
CLIENT PROTECTION, APR 16—MEDI-)	
ATION PROGRAM, APR 17—ADMINIS-)	
TRATIVE SUSPENSION FROM PRACTICE,)	
APR 19—LAWYER SERVICES,)	
APR 20—DEFINITIONS RELATING TO)	
CHARACTER AND FITNESS DETERMI-)	
NATIONS, APR 20.1—APPLICATION OF)	
RULES, APR 21—FACTORS CONSIDER-)	
ED WHEN DETERMINING CHARAC-)	
TER AND FITNESS, APR 22.1—REVIEW)	
OF APPLICATIONS, APR 22.2—APPLI-)	
CANT DUTIES AND RIGHTS, APR 23—)	
CHARACTER AND FITNESS BOARD,)	
APR 23.1—AUTHORITY OF CHARAC-)	
TER 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—RESTRIC-)	
TIONS ON REINSTATEMENT, APR)	
25.2—REVERSAL OF CONVICTION,)	
APR 25.3—PETITIONS AND INVESTI-)	
GATIONS, APR 25.4—HEARING)	
BEFORE CHARACTER AND FITNESS)	
BOARD, APR 25.5—ACTION BY CHAR-)	
ACTER AND FITNESS BOARD, AND)	
APR 25.6—ACTION ON SUPREME)	
COURT'S DETERMINATION, APR 26—)	
INSURANCE DISCLOSURE, APR 27—)	
PROVISION OF LEGAL SERVICES FOL-)	
LOWING DETERMINATION OF MAJOR)	
DISASTER, APR 28—LIMITED PRACTICE)	
RULE FOR LIMITED LICENSE)	
LEGAL TECHNICIANS, APR 28 REGU-)	
LATIONS, APR 28 APPENDIX—REGU-)	
LATIONS OF THE APR LIMITED)	

LICENSE LEGAL TECHNICIAN)
BOARD)

WSR 17-12-077
RULES OF COURT
STATE SUPREME COURT

[June 1, 2017]

IN THE MATTER OF THE SUGGESTED) ORDER
NEW RULE OF EVIDENCE 413—) NO. 25700-A-1191
IMMIGRATION STATUS)

The Washington State Bar Association, having recom-
mended the adoption of the proposed amendments to APR
1—In General; Supreme Court; Prerequisites to the Practice
of Law; Communications to the Association; Confidentiality,
APR 2—Board of Governors, APR 4—Bar Examinations;
Notification of Results, 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, APR 12—Limited
Practice Rule for Limited Practice Officers, APR 13—Sign-
ings of Pleadings and Other Papers; Address of Record; Elec-
tronic Mail Address; Notice of Change of Address, Tele-
phone Number or Name, APR 14—Limited Practice Rule for
Foreign Law Consultants, APR 15—Lawyers' Fund for Cli-
ent Protection, APR 16—Mediation Program, APR 17—
Administrative Suspension from Practice, APR 19—Lawyer
Services, APR 20—Definitions Relating to Character and
Fitness Determinations, APR 20.1—Application 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—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 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 Determination, APR 26—Insurance Disclo-
sure, APR 27—Provision of Legal Services Following Deter-
mination of Major Disaster, APR 28—Limited 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 and comments submitted thereto, and having
determined that the proposed amendments will aid in the
prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

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

(b) That the amendments will be published in the Wash-
ington Reports and will become effective September 1, 2017.

DATED at Olympia, Washington this 1st day of June
2017.

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

Reviser's note: The material contained in this filing exceeded the
page-count limitations of WAC 1-21-040 for appearance in this issue of the
Register. It will appear in the 17-14 issue of the Register.

Columbia Legal Services, et al., having recommended
the suggested new rule of Evidence 413—Immigration Sta-
tus, 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 sug-
gested new rule as shown below is to be published for com-
ment in the Washington Reports, Washington Register,
Washington State Bar Association and Administrative Office
of the Court's websites expeditiously.

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

(C) Comments are to be submitted to the Clerk of the
Supreme Court by either U.S. Mail or Internet E-Mail by no
later than September 15, 2017. Comments may be sent to the
following addresses: P.O. Box 40929, Olympia, Washington
98504-0929, or supreme@courts.wa.gov. Comments submit-
ted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 1st day of June
2017.

For the Court

Fairhurst, C.J.

CHIEF JUSTICE

GR9 Cover Sheet

Proposal to Adopt New Rule of Evidence 413
Concerning Evidence of Immigration Status

Submitted by Columbia Legal Services, Northwest Immi-
grant Rights Project, Legal Voice, and the Washington
Association of Prosecuting Attorneys

(A) Purpose: The proposed rule would adopt a new Rule
of Evidence 413 to apply to all civil and criminal cases in
Washington.

Washington courts strive to provide equal access to all
and to provide litigants with a fair and impartial trial. Feder-
ated Publications, Inc. v. Swedberg, 96 Wn. 2d 13, 17, 633
P.2d 74, 76 (1981) ("The right to trial by jury includes the
right to an unbiased and unprejudiced jury.") One touchstone
of a fair trial is an impartial trier of fact -- a jury capable and
willing to decide the case solely on the evidence before it. In
re Elmore, 162 Wn. 2d 236, 267, 172 P.3d 335, 351 (2007).

Providing immigrants with access to the courts and a fair
trial is essential for our justice system. Census data shows the
foreign-born share of Washington's population has doubled
from 6.6% in 1990, to 13.5% in 2013.1 As of 2011, Washing-
ton was home to 943,664 immigrants.2 According to the Gov-

ernor's office, one in every seven people in the state are immigrants.³

¹ *New Americans in Washington: The Political and Economic Power of Immigrants, Latinos, and Asians in the Evergreen State*, Immigration Policy Center (January, 2015), <https://www.americanimmigrationcouncil.org/research/new-americans-washington>

² *Id.*

³ Executive Order 17-01, Reaffirming Washington's Commitment to Tolerance, Diversity, and Inclusiveness, February 23, 2017.

Immigration status evidence is of special concern in the context of criminal cases involving domestic violence, sexual assault, and trafficking in persons. Undocumented immigrant victims and witnesses, a disproportionate number of whom are women and children, are frequently uninformed, unfamiliar with or simply confused about, their legal rights, and the legal system. See Washington Courts Domestic Violence Bench Guide for Judicial Officers, Appendix F (2015); and 22 U.S.C.A. § 7101 (20). They are particularly vulnerable due to a variety of factors including language barriers, separation from community, lack of understanding of U.S. laws, fear of deportation, cultural differences, and predatory offenders. *Id.*⁴ For many victims the fear of being reported to immigration and fear of deportation are the most intimidating factor that kept battered immigrants from seeking the services they needed *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, Int'l Review of Victimology 93 (2000) Giselle Hass, Mary Ann Dutton & Leslye Orloff.⁵⁴ The result is victims deterred from seeking criminal legal assistance, or even basic social services.

⁴ See also *Victims of Trafficking and Violence Protection Act of 2000*, Pub. L. 106-386, sec. 1513 (a)(1)(A) (2000), and Mary Ann Dutton, Leslye Orloff & Giselle Aguilar Hass, *Characteristics of Help-Seeking Behaviors Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 Geo. J. on Poverty L. & Pol'y 245, 293 (2000). Numerous case history examples of how abusers use threats of deportation to silence victims were submitted to Congress in conjunction with the Violence Against Women Acts of 1994 and 2000. See generally Leslye Orloff, Jessica Cundari & Erica Esterbrook, *New Dangers for Battered Immigrants: The Untold Effects of the Demise of 245(i)*, Ayuda (1999); Robin L. Camp, et al., *Untold Stories: Cases Documenting Abuse by U.S. Citizens and Lawful Residents of Immigrant Spouses*, Family Violence Prevention Fund (1993).

⁵ See e.g., See generally Catherine Klein & Leslye Orloff, *Providing Legal Protection for Battered Women: An Analysis of Statutes and Case Law* 21 Hofstra L. Rev. 804, 1025-26 (1993) (reconfirming that VAWA provides "that all battered immigrant women have full access to protection orders, can report domestic violence crimes, and can have their abusers prosecuted in the same matter as any other battered woman even if they do not have legal immigration status.")

Since 2010, our Supreme Court has recognized that consideration of immigration status poses serious obstacles to our courts' ability to deliver a fair trial. "Issues involving immigration can inspire passionate responses that carry a significant danger of interfering with the fact finder's duty to engage in reasoned deliberation." *Salas v. Hi-Tech Erectors*, 168 Wn. 2d 664, 672, 230 P.3d 583 (2010). Fact-finders may unwittingly make decisions based on prejudice if immigration status evidence is admitted. "Questions regarding a defendant's immigration status appeal to the trier of fact's passion and prejudice." *Id.* (quoting *State v. Avendano-Lopez*, 79 Wn. App. 706, 718-19, 904 P.2d 324 (1995)). In

Salas the court found "the risk of prejudice inherent in admitting immigration status [evidence is] great." *Id.* at 673.

While *Salas* provides some direction to trial courts, it does not provide a uniform and comprehensive standard. In light of the "significant danger" that immigration status evidence poses to the fact-finding process, a court rule is needed. See *id.* at 672. This is true especially in light of a flurry of federal executive orders that have further inflamed the topic of immigration resulting in an increased risk of prejudice caused by the admission of immigration status. Moreover, speculating whether a party might be deported in the future is not productive, especially in light of the complexity of federal immigration law and the lack of expertise of trial court judges in that area of the law.

Evidentiary rules restricting the introduction of prejudicial evidence are common. For over 100 years our Supreme Court has prohibited the discussion of insurance coverage due to its prejudicial nature and propensity to "confuse or inflame the minds of the jurors." *Lowset v. Seattle Lumber Co.*, 38 Wn. 290, 292, 80 P. 431, 432 (1905); *Stratton v. CH Nichols Lumber Co.*, 39 Wn. 323, 331-32 (1905) (raising insurance issues during *voir dire* required new trial). Based on studies that juries inflated damage awards when they know insurance covers the loss, the federal insurance exclusionary rule, Evidence Rule 411, was established "to ensure that juries base their verdicts upon legitimate grounds and not upon the improper notion that a judgment adverse to the defendant will be passed along to a 'deep pocket' insurance company." Alan Calnan, *The Insurance Exclusionary Rule Revisited: Are Reports of Its Demise Exaggerated?*, 52 Ohio St. L.J. 1177, 1178 (1991). In 1979, Washington adopted ER 411, which is identical to the federal rule. *SA Wash. Prac., Evidence Law and Practice* § 411.1 (5th ed.). Although Rule 411 is directed only to the testimony of witnesses at trial, the cases make it clear that counsel should also avoid references to insurance during opening statements, closing arguments, and the like. *Id.* at § 411.2, see also Thomas A. Doyle, *Competing Concerns in Employment Litigation: How Courts are Managing Discovery of an Employee's Immigration Status*, 28 ABA J. Lab. & Emp. L. 405 (2013).

The Court and Legislature have limited evidence of a victim's past sexual behavior or sexual predisposition in civil and criminal cases involving alleged sexual misconduct. For over 25 years, Evidence Rule 412 and RCW 9A.44.020 have regulated admissibility of a victim's sexual behavior through a formal pretrial procedure. *SA Wash. Prac., Evidence Law and Practice* § 412.1 (6th ed.).⁶ The procedural requirements promote appropriate handling of sensitive evidence in the pretrial and trial process and allow courts to balance important competing considerations of a defendant's constitutional right to confront and cross-examine witnesses against the state's interest in encouraging rape victims to testify. *Id.* at §§ 412.3 & 412.5.

⁶ The drafter's comment to ER 412 when first proposed to the Washington Supreme Court in 1988 notes the Federal Rules of Evidence and Uniform Rules of Evidence each contain a rule which limits the admissibility of evidence of a sexual offense victim's past sexual behavior. *5A Wash. Prac., Evidence Law and Practice* § 412.3 (5th ed.).

Immigration evidence, due to its highly prejudicial impact on a fact-finder's deliberative process, should receive

treatment similar to ER 411 and ER 412. A new evidence rule, proposed ER 413, would limit the introduction of immigration evidence (with some exceptions) to ensure equal and impartial access to Washington's court system. The rule would give the judge discretion to review this evidence when it is directly probative to a particular case. Uniform standards set forth through a court rule address the implications of introducing immigration status as evidence, particularly in context of abuse, in order to most effectively administer a just decision. ER 413 provides clear guidance for evidence that is not just an issue of money, embarrassment or shame, but so sensitive that it poses potentially life altering consequences that serve to bar marginalized people from coming to court at all.

The new rule would promote equitable access to justice by removing the potential for racial and ethnic stereotyping that inevitably results from the unnecessary injection of immigration status evidence into the fact-finding process. *See TX! Transportation Co. v. Hughes*, 306 S.W. 3d 230 (Tex. 2010) ("calling attention to [plaintiff's] illegal immigration status whenever he could appeals to racial and ethnic prejudices [that] cannot be tolerated because they undermine the very basis of our judicial process"). Just as ER 411 was adopted to protect insurance companies from inflated verdicts, and Rape Shield afford protection to victims of sexual assault, proposed ER 413 is designed to protect Washington's immigrants and ensure they can obtain access to the justice system without fear of the legal process being overtaken by racial, ethnic, or anti-immigrant prejudice.

One of the other effects of the proposed rule could be to give judges an explicit basis in the rules of evidence for granting protective orders regarding discovery of immigration status. A protective order could be justified based on an argument that such discovery would not be "reasonably calculated to the discovery of admissible evidence," CR 26(c).

(B) Review by Section

Criminal Cases

Section (a) provides that immigration status is inadmissible unless (1) status is an essential fact to prove an element of a criminal offense or to defend against the alleged offense; or (2) to show bias or prejudice of a witness for impeachment. The subsections of section (a) set forth the procedures for using immigration status: (1) a written pretrial motion that includes an offer of proof; (2) an affidavit supporting the offer of proof; (3) a court hearing outside the presence of the jury if the offer of proof is sufficient; (4) admissibility of immigration status to show bias or prejudice if the evidence is reliable, relevant and the probative value of the evidence outweighs the prejudice from immigration status. This procedure is similar to that adopted in RCW 9A.44.020(3).

Subsection (a)(5) clarifies that section (a) shall not be construed to prohibit cross examination regarding immigration status if doing so would violate a criminal defendant's constitutional rights. There is a similar provision in Federal Rule of Evidence 412 (b)(1)(c).

Civil Cases

Section (b) provides that in a civil proceeding, immigration status evidence of a party or witness shall not be admissible except where immigration status is an element of a

party's cause of action or where another exception to the general rule applies.

Section (b)(1) sets forth two limited circumstances where evidence of immigration status would be handled through a Rule 59(h) motion. The proposed rule balances the concerns of prejudice against immigrants highlighted by the Supreme Court with the legitimate need of a defendant, in limited cases, to raise status issues where reinstatement or future lost wages are sought.

Parties would be permitted to submit to the court, through a post-trial motion, immigration status evidence under subsection (b)(1)(A), if an opposing party prevailed on a future lost earnings claim and that same party was subject to a final order of removal in immigration proceedings, a court may review such immigration status evidence to determine whether an adjustment in the future lost earnings award is appropriate. This is consistent with the Supreme Court's *Salas* decision which held that evidence of a party's immigration status alone should not be considered in determining the value of a future lost wages award as the chance of detection and removal from the U.S. is low. *Salas*, 168 Wn. 2d at 669-70.

Subsection (b)(1)(B) provides for a post-trial review where the party seeks reinstatement to employment. This would permit review of immigration status where a party is awarded reinstatement to employment, in order to avoid potential conflict with federal law prohibiting the employment of undocumented persons.

Section (b)(2) provides the procedural mechanism whereby a party intending to offer such evidence under subsection (a) or (c) must file a written motion under seal pursuant to GR15. The court must then hold an in camera hearing. If the court determines that the evidence may be used, it shall make findings of fact and conclusions of law regarding the use of that evidence. The papers and record of the hearing must be sealed, unless the court orders otherwise.

(C) Procedure Section

Since 2014, attorneys concerned about the unfair and prejudicial use of evidence pertaining to immigration status in civil and criminal proceedings have worked on a proposed rule to address this systemic problem. In October of that year, the proponents submitted a draft proposed rule and GR9 to the WSBA Court Rules & Procedures Committee for review. Prior to submitting the proposal, Columbia Legal Services ran the proposal by advocates at the Northwest Justice Project, the Northwest Immigrant Rights Project, Legal Voice, and the Asian Pacific Institute on Gender-Based Violence. Additionally, the Washington Association of Prosecuting Attorneys gained the approval of all elected prosecuting attorneys within the state and obtained Board approval to move forward with the proposal. In addition, the proposal was also run by advocates at the National Immigrant Women's Advocacy Project, Aequitas, and the proposal was shared with the American Bar Association Commission on Domestic and Sexual Violence.

The Washington Defender Association was provided with a copy of the proposal as was the ACLU. WDA was, and continues to be supportive of the civil portion of the proposal, but had significant reservations on the criminal side. The proposal was discussed at least twice on regularly scheduled WSBA Rules Committee meetings. The primary concern raised by the Committee was the need for more specific language as to how and when the proposal would apply in criminal matters. We expect that the Court will hear directly from them. At this point, we do not believe that any further changes would convince the defense bar to support the rule.

With that feedback in mind, the proponents went back to the drawing board. Throughout 2015, the proponents worked to develop language on the criminal portion of the proposal and ultimately decided to pull the proposal to allow stakeholders the necessary time to review and comment on the new language. Multiple stakeholders from the criminal defense bar were actively engaged including the WDA, the ACLU, and the Washington Association of Criminal Defense Lawyers. An in-person meeting was held in the fall of 2015 to discuss the proposal in detail. At that meeting, those from the defense bar stated they would review the proposal and make recommendations to address their concerns. After several months of review, the WDA reported that no amendments would be proposed and the defense bar would continue to support the civil side of the proposal, but not the criminal side. In light of constitutional concerns raised by the defense bar, a specific provision was added to the proposal to ensure 6th Amendment rights were fully protected.

During the summer of 2016, the Access to Justice Board agreed to review the revised proposal. Position statements were received from both the proponents and the opponents from the defense bar. That committee met multiple times to review the proposal including a significant in-person meeting on November 4, 2016 where both the proponents and opponents made presentations. There was no opposition voiced at that meeting to the civil portion of the proposal. On February 9, the ATJ Board ultimately informed the proponents that there was "quick and strong unanimity that the proposal in the context of the civil litigation is appropriate." However, the Board stated it would not "support or oppose the ER 413 proposal in the context of criminal matters."

While the proposal was under review by the ATJ Board, the proponents re-submitted it to the WSBA Rules sub-committee for them to scrub the rule before sending it on to the Washington Supreme Court. That sub-committee reviewed the bill and sent it out for limited stakeholder review to members of the defense bar as well as immigration law practitioners. The subcommittee ultimately decided it could not simply scrub the rule and would need to go through a full vetting review. Given the length of time the proposal had been in the pipeline, the number of stakeholders who had already reviewed proposal, the widespread support for the civil portion of the rule, and the increased importance of need for such a proposal in our State the proponents decided to request immediate review by the Supreme Court.

[PROPOSED] NEW EVIDENCE RULE 413. IMMIGRATION STATUS

(a) Criminal Cases; Evidence Generally Inadmissible. In any criminal matter, evidence of a party's or a witness's immigration status shall not be admissible unless immigration status is an essential fact to prove an element of, or a defense to, the criminal offense with which the defendant is charged, or to show bias or prejudice of a witness pursuant to ER 607. The following procedure shall apply prior to any such proposed uses of immigration status evidence to show bias or prejudice of a witness:

(1) A written pretrial motion shall be made that includes an offer of proof of the relevancy of the proposed evidence.

(2) The written motion shall be accompanied by an affidavit or affidavits in which the offer of proof shall be stated.

(3) If the court finds that the offer of proof is sufficient, the court shall order a hearing outside the presence of the jury.

(4) The court may admit evidence of immigration status to show bias or prejudice if it finds the evidence is reliable, relevant, and that its probative value outweighs the prejudicial nature of evidence of immigration status.

(5) Nothing in this section shall be construed to exclude evidence which would result in the violation of a defendant's constitutional rights.

(b) Civil Cases; Evidence Generally Inadmissible. Except as provided in subsections (b)(1), evidence of a party's or a witness's immigration status shall not be admissible unless immigration status is an essential fact to prove an element of a party's cause of action.

(1) Post-Trial Proceedings. Evidence of immigration status may be submitted to the court through a post-trial motion:

(A) Where a party, who is subject to a final order of removal in immigration proceedings, was awarded damages for future lost earnings; or

(B) Where a party was awarded reinstatement to employment.

(2) Procedure to review evidence. Whenever a party seeks to use or introduce immigration status evidence, the court shall conduct an *in camera* review of such evidence. The motion, related papers, and record of such review may be sealed pursuant to GR 15, and shall remain under seal unless the court orders otherwise. If the court determines that the evidence may be used, the court shall make findings of fact and conclusions of law regarding the permitted use of that evidence.

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 spelling errors in 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 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: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 17-12-078
RULES OF COURT
STATE SUPREME COURT
[June 1, 2017]

1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
Phone: 206.727.8298

IN THE MATTER OF SUGGESTED) ORDER
AMENDMENTS TO RPC 1.6—CONFIDENTIALITY OF INFORMATION, RPC 7.3—SOLICITATION OF CLIENTS, AND 8.4—MISCONDUCT) NO. 25700-A-1192

The Washington State Bar Association, having recommended the suggested amendments to RPC 1.6—Confidentiality of Information, RPC 7.3—Solicitation of Clients, and 8.4—Misconduct, 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 suggested amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites expeditiously.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties. The purpose statement and suggested amendments shall be published in January 2018.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2018. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 1st day of June 2017.

For the Court

Fairhurst, C.J.
CHIEF JUSTICE

GR 9 COVER SHEET
Suggested Amendments to
RULES 1.6 and 7.3 of the Rules of Professional Conduct (RPC)

A. Proponent

Washington State Bar Association
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539

B. Spokespersons

Mark Fucile, Chair, WSBA Committee on Professional Ethics

Fucile & Reising LLP
800 NW 6th Ave Ste. 211
Portland, OR 97209-3783
Phone: 503.224.4895

Jeanne Marie Clavere
Professional Responsibility Counsel
Washington State Bar Association

C. Purpose

The suggested amendments are technical corrections to the Rules of Professional Conduct following the Court's adoption of changes to the RPC on June 2, 2016, in response to the ABA Ethics 20/20 amendments to the ABA Model Rules.

1. RPC 1.6 (b)(6) and (7). The word "or" at the end of RPC 1.6 (b)(6) should be deleted and added to the end of RPC 1.6 (b)(7). Because the number of subparts in RPC 1.6(b) increased from seven to eight, the suggested change would reflect the correct placement of the connecting word "or" in the series.

2. RPC 7.3(b). The words "from a client" should be deleted from RPC 7.3(b) to remedy an inadvertent drafting error in the material submitted to the Court. As currently written, RPC 7.3(b) only applies to solicitations addressed to current clients, whereas the intention of the rule is to current clients or anyone else. Removing the words "from a client" would eliminate any possible confusion and misinterpretation. It would also make RPC 7.3(b) identical to Model Rule 7.3(b).

D. Hearing

The proponent does not request a public hearing.

E. Expedited Consideration

The proponent requests expedited consideration.

SUGGESTED AMENDMENT
RULES OF PROFESSIONAL CONDUCT (Redline)

RPC 1.6
CONFIDENTIALITY OF INFORMATION

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer to the extent the lawyer reasonably believes necessary:

(1) - (5) Unchanged.

(6) may reveal information relating to the representation of a client to comply with a court order; or

(7) may reveal information relating to the representation to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client; or

(8) may reveal information relating to the representation of a client to inform a tribunal about any client's breach of fiduciary responsibility when the client is serving as a court appointed fiduciary such as a guardian, personal representative, or receiver.

(c) Unchanged.

SUGGESTED AMENDMENT
RULES OF PROFESSIONAL CONDUCT (Redline)

RPC 7.3
SOLICITATION OF CLIENTS

(a) A lawyer shall not, directly or through a third person, by in-person, live telephone, or real-time electronic contact solicit professional employment from a possible client when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain, unless the person contacted:

(1) - (3) Unchanged.

(b) A lawyer shall not solicit professional employment from a client by written, recorded or electronic communication or by in-person, telephone or real-time electronic contact even when not otherwise prohibited by paragraph (a), if;

(1) the target of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or

(2) the solicitation involves coercion, duress or harassment.

(c) - (d) Unchanged.

GR 9 COVER SHEET

Suggested Amendments to

RULE 8.4 of the Rules of Professional Conduct (RPC)

A. Proponent

Washington State Bar Association
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B. Spokespersons

Mark Fucile, Chair, WSBA Committee on Professional Ethics

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C. Purpose

RPC 8.4 specifies professional misconduct for Washington lawyers if they commit or engage in certain types of prohibited conduct. The suggested amendments to (g) and (h) would add veterans and members of the military to the anti-discrimination and anti-prejudice provisions of the rule, which already includes sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status. The suggested amendment incorporates the language from the Washington Law Against Discrimination, RCW 49.60, which was amended in 2007 to add "honorably discharged veteran or military status" as a protected category. Amending RPC 8.4 (g) and (h) would make the Rules of Professional Conduct consistent with state law.

D. Hearing

The proponent does not request a public hearing.

E. Expedited Consideration

The proponent does not request expedited consideration.

SUGGESTED AMENDMENT
RULES OF PROFESSIONAL CONDUCT (RPC)
RULE 8.4 - MISCONDUCT

It is professional misconduct for a lawyer to:

(a) - (f) [Unchanged.]

(g) commit a discriminatory act prohibited by state law on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, honorably discharged veteran or military status, or marital status, where the act of discrimination is committed in connection with the lawyer's professional activities. In addition, it is professional misconduct to commit a discriminatory act on the basis of sexual orientation if such an act would violate this Rule when committed on the basis of sex, race, age, creed, religion, color, national origin, disability, honorably discharged veteran or military status, or marital status. This Rule shall not limit the ability of a lawyer to accept, decline, or withdraw from the representation of a client in accordance with Rule 1.16;

(h) in representing a client, engage in conduct that is prejudicial to the administration of justice toward judges, lawyers, or LLLTs, other parties, witnesses, jurors, or court personnel or officers, that a reasonable person would interpret as manifesting prejudice or bias on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, honorably discharged veteran or military status, or marital status. This Rule does not restrict a lawyer from representing a client by advancing material factual or legal issues or arguments.

(i) - (n) Unchanged

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 17-12-079

RULES OF COURT
STATE SUPREME COURT

[June 1, 2017]

IN THE MATTER OF THE SUGGESTED) ORDER
AMENDMENT TO RAP 3.4—TITLE OF) NO. 25700-A-1193
CASE AND DESIGNATION OF PAR-)
TIES)

The Office of Public Defense, having recommended the adoption of the suggested amendment to RAP 3.4—Title of Case and Designation of Parties, and the Court having considered the amendments 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 pursuant to the provisions of GR 9(g), the suggested amendment as shown below is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties. The purpose statement and suggested amendments shall be published in January 2018.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2018. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 1st day of June 2017.

For the Court

Fairhurst, C.J.

CHIEF JUSTICE

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

GR 9 COVER SHEET

Suggested Amendment

Rules of Appellate Procedure

RAP 3.4 — TITLE OF CASE AND DESIGNATION OF PARTIES

A. Proponent: Washington State Office of Public Defense

B. Spokespersons: George Yeannakis, Trial Level Public Defense Improvement Program Managing Attorney, and Gideon Newmark, Appellate Program Managing Attorney, Washington State Office of Public Defense, PO Box 40957, Olympia, WA 98504-0957, (360) 584-5636, george.yeannakis@opd.wa.gov

C. Purpose: To update RAP 3.4 to provide for juvenile offender appeals to be recaptioned using the juvenile's initials, and for the juvenile's initials to be used throughout appellate proceedings.

It has long been a matter of convention in Washington's appellate courts that juvenile offender appeals are captioned using the juvenile's initials, not the juvenile's name. There is currently no statute or court order requiring such recaptioning. Recognizing this fact, Division III of the Court of Appeals recently published a general order requiring unsealed juvenile offender appeals to be captioned using the juvenile's full name. But recent changes in juvenile record-sealing law would be frustrated if Washington's longstanding custom of protecting juvenile identities on appeal was abandoned.

In 2014, the Legislature declared that "it is the policy of the state of Washington that the interest in juvenile rehabilitation and reintegration constitutes compelling circumstances that outweigh the public interest in continued availability of

juvenile court records." Laws of 2014, ch. 175, § 1. The Legislature accordingly required that a juvenile's court record be administratively sealed upon the juvenile's eighteenth birthday, provided that the juvenile has met the terms and conditions of his or her disposition, and in the absence of any objection. RCW 13.50.260. Such administrative sealing will be rendered useless, however, if juvenile offender identities are routinely published online, as all appellate opinions are. In the interest of effectuating the policy enacted by the Legislature, and in the interest of enabling juveniles to be rehabilitated and lead productive lives following a juvenile offense disposition, this Court should adopt the attached suggested amendment to RAP 3.4.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting material: Suggested rule amendment.

RULES OF APPELLATE PROCEDURE (RAP)

RULE 3.4 — TITLE OF CASE AND DESIGNATION OF PARTIES

RAP 3.4

TITLE OF CASE AND DESIGNATION OF PARTIES

The title of a case in the appellate court is the same as in the trial court except that the party seeking review by appeal is called an "appellant," the party seeking review by discretionary review is called a "petitioner," and an adverse party on review is called a "respondent."

Upon motion of a party or on the court's own motion, and after notice to the parties, the Supreme Court or the Court of Appeals may change the title of a case by order in said case. In a juvenile offender case, the parties shall caption the case using the juvenile's initials. The parties shall refer to the juvenile by his or her initials throughout all briefing and pleadings filed in the appellate court, and shall refer to any related individuals in such a way as to not disclose the juvenile's identity. However, the trial court record need not be redacted to eliminate references to the juvenile's identity.

WSR 17-12-080

RULES OF COURT

STATE SUPREME COURT

[June 1, 2017]

IN THE MATTER OF THE PROPOSED) ORDER
AMENDMENTS TO CrR 3.4—PRES-) NO. 25700-A-1194
ENCE OF THE DEFENDANT, AND)
CrRLJ 3.4—PRESENCE OF THE)
DEFENDANT)

The SB 5177 Court Video Testimony Work Group, having recommended the adoption of the proposed amendments to CrR 3.4—Presence of the Defendant, and CrRLJ 3.4—Presence of the Defendant, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

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

(b) That the amendments will be published in the Washington Reports and will become effective September 1, 2017.

DATED at Olympia, Washington this 1st day of June 2017.

	Fairhurst, C.J.
Johnson, J.	Wiggins, J.
Madsen, J.	Gonzalez, J.
Owens, J.	
Stephens, J.	Yu, J.

**CrR RULE 3.4
PRESENCE OF THE DEFENDANT**

(a) When Necessary. The defendant shall be present at the arraignment, at every stage of the trial including the empaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by these rules, or as excused or excluded by the court for good cause shown.

(b) Effect of Voluntary Absence. The defendant's voluntary absence after the trial has commenced in his or her presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by its lawyer for all purposes. In prosecutions for offenses punishable by fine only, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence.

(c) Defendant Not Present. If in any case the defendant is not present when his or her personal attendance is necessary, the court may order the clerk to issue a bench warrant for the defendant's arrest, which may be served as a warrant of arrest in other cases.

(d) Video Conference Proceedings.

(1) Authorization. Preliminary appearances held pursuant to CrR 3.2.1, arraignments held pursuant to this rule and CrR 4.1, bail hearings held pursuant to CrR 3.2, and trial settings held pursuant to CrR 3.3, may be conducted by video conference in which all participants can simultaneously see, hear, and speak with each other. Such proceedings shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule or policy. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the trial court judge. Any party may request an inperson hearing, which may in the trial court judge's discretion be granted.

(2) Agreement. Other trial court proceedings including the entry of a Statement of Defendant on Plea of Guilty as provided for by CrR 4.2 may be conducted by video conference only by agreement of the parties, either in writing or on the record, and upon the approval of the trial court judge pursuant to local court rule.

(3) Standards for Video Conference Proceedings. The judge, counsel, all parties, and the public must be able to see and hear each other during proceedings, and speak as permitted by the judge. Video conference facilities must provide for confidential communications between attorney and client and security sufficient to protect the safety of all participants and observers. In interpreted proceedings, the interpreter must be

located next to the defendant and the proceeding must be conducted to assure that the interpreter can hear all participants.

(e) Video Conference Proceedings under RCW 10.77

(1) Authorization. Proceedings held pursuant to RCW 10.77 may be conducted by video conference in which all participants can simultaneously see, hear, and speak with each other except as otherwise directed by the trial court judge. When these proceedings are conducted via video conference, it is presumed that all participants will be physically present in the courtroom except the forensic evaluator unless as otherwise provided by these rules, or as excused or excluded by the court for good cause shown. Good cause may include circumstances where at the time of the hearing, the court does not have the technological capability or equipment to conduct the conference by video as provided in this rule. Such video proceedings shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule or policy. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the trial court judge. Five days prior to the hearing date, any party may request the forensic evaluator be physically present in the courtroom, which may in the trial court judge's discretion be granted.

(2) Standards for Video Conference Proceedings under RCW 10.77. The judge, counsel, all parties, and the public must be able to see and hear each other during proceedings, and speak as permitted by the judge. Video conference facilities must provide for confidential communications between attorney and client and security sufficient to protect the safety of all participants and observers. In interpreted proceedings, the interpreter must be located next to the defendant and the proceeding must be conducted to assure that the interpreter can hear all participants.

**CrRLJ RULE 3.4
PRESENCE OF THE DEFENDANT**

(a) When Necessary. The defendant shall be present at the arraignment, at every stage of the trial including the empaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by these rules, or as excused or excluded by the court for good cause shown.

(b) Effect of Voluntary Absence. The defendant's voluntary absence after the trial has commenced in his or her presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by its lawyer for all purposes. In prosecutions for offenses punishable by fine only, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence.

(c) Defendant Not Present. If in any case the defendant is not present when his or her personal attendance is necessary, the court may order the clerk to issue a bench warrant for the defendant's arrest, which may be served as a warrant of arrest in other cases.

(d) Video Conference Proceedings.

(1) Authorization. Preliminary appearances held pursuant to CrRLJ 3.2.1(d), arraignments held pursuant to this rule and CrRLJ 4.1, bail hearings held pursuant to CrRLJ 3.2, and

WSR 17-12-081
RULES OF COURT
STATE SUPREME COURT

[June 1, 2017]

IN THE MATTER OF THE PROPOSED) ORDER
AMENDMENTS TO IRLJ 3.5—DECI-) NO. 25700-A-1195
SION ON WRITTEN STATEMENT)
(LOCAL OPTION))

trial settings held pursuant to CrRLJ 3.3(f), may be conducted by video conference in which all participants can simultaneously see, hear, and speak with each other. Such proceedings shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule or policy. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the trial court judge. Any party may request an inperson hearing, which may in the trial court judge's discretion be granted.

(2) Agreement. Other trial court proceedings including the entry of a Statement of Defendant on Plea of Guilty as provided for by CrRLJ 4.2 may be conducted by video conference only by agreement of the parties, either in writing or on the record, and upon the approval of the trial court judge pursuant to local court rule.

(3) Standards for Video Conference Proceedings. The judge, counsel, all parties, and the public must be able to see and hear each other during proceedings, and speak as permitted by the judge. Video conference facilities must provide for confidential communications between attorney and client and security sufficient to protect the safety of all participants and observers. In interpreted proceedings, the interpreter must be located next to the defendant and the proceeding must be conducted to assure that the interpreter can hear all participants.

(e) Video Conference Proceedings under RCW 10.77

(1) Authorization. Proceedings held pursuant to RCW 10.77 may be conducted by video conference in which all participants can simultaneously see, hear, and speak with each other except as otherwise directed by the trial court judge. When these proceedings are conducted via video conference, it is presumed that all participants will be physically present in the courtroom except the forensic evaluator unless as otherwise provided by these rules, or as excused or excluded by the court for good cause shown. Good cause may include circumstances where at the time of the hearing, the court does not have the technological capability or equipment to conduct the conference by video as provided in this rule. Such video proceedings shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule or policy. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the trial court judge. Five days prior to the hearing date, any party may request the forensic evaluator be physically present in the courtroom, which may in the trial court judge's discretion be granted.

(2) Standards for Video Conference Proceedings under RCW 10.77. The judge, counsel, all parties, and the public must be able to see and hear each other during proceedings, and speak as permitted by the judge. Video conference facilities must provide for confidential communications between attorney and client and security sufficient to protect the safety of all participants and observers. In interpreted proceedings, the interpreter must be located next to the defendant and the proceeding must be conducted to assure that the interpreter can hear all participants.

The District and Municipal Court Judges' Association, having recommended the adoption of the proposed amendments to IRLJ 3.5—Decision on Written Statement (Local Option), and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

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

(b) That the amendments will be published in the Washington Reports and will become effective September 1, 2017.

DATED at Olympia, Washington this 1st day of June 2017.

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

RULE IRLJ 3.5
DECISION ON WRITTEN STATEMENTS LOCAL RULE OPTIONS
(Local Option)

(a) Decisions on Written Statements.

(1) Contested Hearing Procedures. The court shall examine the citing officer's report and any statement or documents submitted by the defendant. The examination may be held in chambers and shall take place within 120 days after the defendant filed the response to the notice of infraction. The court shall determine whether the plaintiff has proved by a preponderance of the evidence submitted whether the infraction was committed examination may be held in chambers and shall not be governed by the Rules of Evidence.

(1) Factual Determination. The court shall determine whether the plaintiff has proved by a preponderance of all evidence submitted that the defendant has committed the infraction.

(2) Disposition Mitigation Hearing Procedures. A mitigation hearing based upon a written statement may be held in chambers and shall take place within 120 days after the defendant filed the response to the notice of If the court determines that the infraction has been committed, it may assess a penalty in accordance with rule 3.3.

(3) Notice to Parties Defendant. The court shall notify the parties defendant in writing of its decision whether an infraction was found to have been committed and what penalty, if including any penalty, was imposed.

(4) *No Appeal Permitted.* There shall be no appeal from a decision on written statements.

(b) Telephonic or Video Conference Mitigation Hearings.

(1) Local Rule Permitted. A court may adopt a local rule permitting defendants to appear at a mitigation hearing by telephone or video conference in lieu of an in-person appearance, such proceedings are open to the public. Mitigation hearings based upon written statements may be held in chambers.

(2) Requirements. Such local rule shall comply with the requirements that the hearings shall be conducted on the record, the defendant be advised that the hearing is being audio recorded, and the court shall advise the defendant in writing of its decision and any penalty imposed.

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 17-12-086

HEALTH CARE AUTHORITY

[Filed June 6, 2017, 6:45 a.m.]

NOTICE

Title or Subject: Medicaid State Plan Amendments (SPA) 17-0014 FQHC and 17-0015 RHC Alternative Payment Methodology (APM).

Effective Date: July 1, 2017.

Description: The health care authority (the agency) previously published notice of its intent to submit two medicaid SPAs - 16-0027 for Federally Qualified Health Centers (FQHC) and 16-0028 for Rural Health Centers (RHC) - under WSR 16-15-088. These SPAs were to be submitted as directed by the state legislature in E2SHB 2572 and as supported by the agency's center for medicare and medicaid innovation state innovation model grant. The SPAs were to establish an optional new APM for FQHCs and RHCs. The new APM was intended to increase the use of value-based contracting, alternative quality contracting, and other payment incentives that promote quality, efficiency, cost-savings, and health improvement.

The agency did not submit SPAs 16-0027 and 16-0028 in 2016. The agency intends to renumber them as 17-0014 for FQHCs and 17-0015 for RHCs and submit them after July 1, 2017.

The APM will establish a budget-neutral, baseline per-member-per-month (PMPM) payment amount for each participating facility. Managed care organizations will pay participating FQHCs and RHCs for each eligible client they assign to the facility, and the agency will pay a PMPM to bring FQHCs and RHCs up to their baselines, with adjustments for certain factors. The agency will perform reconciliations to ensure participating facilities receive no less than they would have under previous reimbursement methods.

The new APM is completely voluntary; FQHCs and RHCs will not be required to participate in the new APM if they do not wish to.

These SPAs are anticipated to have no effect on annual aggregate expenditures; participating facilities will receive no less than they would have under previous reimbursement methods.

The SPAs are in the development process; therefore copies are not yet available for review. To contact the agency for additional information and copies of the SPAs when they become available, please contact the agency in your county listed below, or Gary Swan, Healthier Washington Medicaid Transformation, 628 8th Avenue S.E., Olympia, WA 98501, phone (360) 725-1250, TDD/TTY 1-800-848-5429, fax (360) 586-9551, email gary.swan@hca.wa.gov, web site http://www.hca.wa.gov/hw/Pages/mt_initiative1.aspx.

County Contacts

Adams County

Adams County Health Department
108 West Main
Ritzville, WA 99169
Phone (509) 659-3315

Asotin County

Clarkston Home and Community Services Office
525 Fifth Street
Clarkston, WA 99403
Web site <http://www.altcWashington.com>
Phone (509) 751-4672
Alt. Phone 1-800-310-4881
Fax (509) 758-4593

Benton County

Tri-Cities Home and Community Services Office
500 North Morain Street
Suite 2210
Kennewick, WA 99336
Phone (509) 374-2100
Alt. Phone 1-800-310-4833
Fax (509) 374-7559

Chelan County

Chelan Community Services Office
805 South Mission Street
Wenatchee, WA 98801
Phone (509) 667-6000

Clallam County

Port Angeles Home and Community Services Office
235 West 1st Street
Port Angeles, WA 98362
Phone (360) 565-2160
Alt. Phone 1-800-280-9891
TTY (360) 417-5651
Fax (360) 417-1416

Clark County

Vancouver Home and Community Services Office
800 N.E. 136th Avenue
Suite 220
Vancouver, WA 98684
Phone (360) 397-9500
Alt. Phone 1-800-280-0586
TTY (360) 750-4079

Fax (360) 992-7949

Columbia County

Aging and Disability Resource Center
410 East Main
Dayton, WA 99328
Web site <http://www.altc.washington.com/>
Phone (509) 382-4787

Cowlitz County

Kelso Home and Community Services Office
711 Vine Street
Kelso, WA 98626
Phone (360) 501-2500
Alt. Phone 1-800-605-7322
TTY (360) 577-7591
Fax (360) 578-4106

Douglas County

Wenatchee Home and Community Services Office
50 Simon Street S.E.
Suite B
East Wenatchee, WA 98802
Phone (509) 886-6140
Alt. Phone 1-800-670-8874
Fax (509) 886-6221

Ferry County

Republic Home and Community Services Office
89 East Delaware
Republic, WA 99166
Phone (509) 775-2227
Alt. Phone 1-888-437-0516
TTY (509) 775-2661
Fax (509) 775-2401

Franklin County

Franklin County Commissioners Office
1016 North 4th Avenue
Pasco, WA 99301
Phone (509) 545-3535

Garfield County

Garfield County District Court
789 West Main Street
P.O. Box 817 or 819
Pomeroy, WA 99347
Phone (509) 843-1002

Grant County

Moses Lake Home and Community Services Office
1651 South Pilgrim Street
Moses Lake, WA 98837
Phone (509) 764-5657
Alt. Phone 1-800-671-8902
TTY 1-800-833-6388
Fax (509) 764-5656

Grays Harbor County

Aberdeen Home and Community Services Office
415 West Wishkah Street
Suite A2
Aberdeen, WA 98520
Phone (360) 533-9222

Alt. Phone 1-800-487-0119

TTY (360) 533-9730

Fax (360) 533-9782

Island County

Oak Harbor Home and Community Services Office
900 East College Way
Suite 210
Mt. Vernon, WA 98273
Phone (360) 429-2961
Alt. Phone 1-866-608-0836
Fax (360) 429-2958

Jefferson County

Port Townsend Home and Community Services Office
915 Sheridan Street
Suite 201
Port Townsend, WA 98368
Phone (360) 379-4326
Alt. Phone 1-800-280-9991
Fax (360) 344-4600

King County

King County Home and Community Services Office
1737 Airport Way South
Suite 130
P.O. Box 24847
Seattle, WA 98134
Phone (206) 341-7750
Alt. Phone 1-800-346-9257
TTY 1-800-833-6384

Kitsap County

Bremerton Home and Community Services Office
4710 Auto Center Boulevard
Bremerton, WA 98312
Phone (360) 473-2299
Alt. Phone 1-800-422-7114
TTY (360) 478-4928
Fax (360) 478-6467

Kittitas County

Ellensburg Home and Community Services Office
100 East Jackson Avenue
Suite 100
Ellensburg, WA 98926
Phone (509) 925-0433
Alt. Phone 1-800-310-4999
Fax (509) 962-7755

Klickitat County

White Salmon Home and Community Services Office
221 North Main Street
White Salmon, WA 98672
Phone (509) 493-6157
Alt. Phone 1-800-504-1180

Lewis County

Chehalis Home and Community Services Office
3451 Galvin Road
Centralia, WA 98531
Phone (360) 807-7150
Alt. Phone 1-800-487-0360

Fax (360) 330-7552

Lincoln County

Lincoln County Health Department
90 Nicholls Street
Davenport, WA 99122
Phone (509) 725-1001

Mason County

Shelton Home and Community Services Office
2505 Olympic Highway North
Suite 440
Shelton, WA 98584
Phone (360) 664-9050
Alt. Phone 1-800-462-4957
Fax (360) 432-2045

Okanogan County

Omak Home and Community Services Office
130 South Main
Omak, WA 98841
Phone (509) 846-2103
Alt. Phone 1-888-437-0529
TTY (509) 826-7389
Fax (509) 826-7439

Pacific County

South Bend Home and Community Services Office
307 East Robert Bush Drive
P.O. Box 87
South Bend, WA 98586
Phone (360) 875-4222
Alt. Phone 1-800-458-3747
Fax (360) 875-0590

Pend Oreille County

Newport Home and Community Services Office
1600 West First Avenue
Newport, WA 99156
Phone (509) 447-6223
Alt. Phone 1-888-437-0516
Fax (509) 447-5256

Pierce County

Tacoma Home and Community Services Office
1949 South State Street
Tacoma, WA 98405
Phone (253) 476-7200
Alt. Phone 1-800-442-5129
TTY (253) 593-5471
Fax (253) 597-4161

San Juan County

San Juan County Health Services
145 Rhone Street
Friday Harbor, WA 98250
Phone (360) 378-4474
Fax (360) 378-7036

Skagit County

Mount Vernon Home and Community Services Office
900 East College Way
Suite 210
Mt. Vernon, WA 98273

Phone (360) 429-2961

Alt. Phone 1-866-608-0836

Fax (360) 416-7401

Skamania County

Stevenson Home and Community Services Office
266 S.W. Second Street
P.O. Box 817
Stevenson, WA 98648
Phone (509) 427-5611
Alt. Phone 1-800-505-4203
Fax (509) 427-4604

Snohomish County

Smokey Point Home and Community Services Office
3906 172nd Street N.E.
Suite 101
Arlington, WA 98223
Phone (360) 651-6800
Alt. Phone 1-800-827-2984
Fax (360) 651-6832

Spokane County

Spokane Home and Community Services Office
1330 North Washington Street
Suite 3000
Spokane, WA 99201
Phone (509) 568-3700
Alt. Phone 1-800-459-0421
TTY (509) 568-3697
Fax (509) 568-3771

Stevens County

Colville Home and Community Services Office
1100 South Main
Colville, WA 99114
Phone (509) 685-5644
Alt. Phone 1-800-437-0516
Fax (509) 684-7430

Thurston County

Tumwater Home and Community Services Office
6639 Capitol Boulevard S.W.
Tumwater, WA 98512
Phone (360) 664-9050
Alt. Phone 1-800-462-4957
TTY (360) 407-1678
Fax (360) 664-9107

Wahkiakum County

Health and Human Services
42 Elochoman Valley Road
Cathlamet, WA 98612
Phone (360) 795-8630
Alt. Phone 1-800-635-5989

Walla Walla County

Walla Walla Home and Community Services Office
206 West Poplar
Walla Walla, WA 99362
Phone (509) 524-4960
Alt. Phone 1-800-310-5678
Fax (509) 527-4142

Whatcom County
 Bellingham Home and Community Services Office
 600 Lakeway Drive
 Bellingham, WA 98225
 Phone (360) 756-5750
 Alt. Phone 1-800-239-8292
 Fax (360) 676-2239

Yakima, WA 98902
 Phone (509) 225-4400
 Alt. Phone 1-800-822-2097
 Fax (509) 575-2286

Whitman County
 Colfax Home and Community Services Office
 418 South Main Street
 Suite 3
 Colfax, WA 99111
 Phone (509) 397-5091
 Alt. Phone 1-800-459-0421
 Fax (509) 397-4323

Yakima County
 Yakima Home and Community Services Office
 1002 North 16th Avenue

WSR 17-12-088
NOTICE OF PUBLIC MEETINGS
BOARD FOR VOLUNTEER
FIREFIIGHTERS AND RESERVE OFFICERS

[Filed June 6, 2017, 8:38 a.m.]

The state board for volunteer firefighters and reserve officers has changed the date of July quarterly meeting from July 21, 2017, to July 17, 2017. The meeting will be held at the James R. Larson Forum Building, 605 11th Avenue S.E., Suite 207, Olympia, WA 98501.

WSR 17-12-095
AGENDA
DEPARTMENT OF COMMERCE

[Filed June 6, 2017, 11:30 a.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 Jaime Rossman if you have questions, jaime.rossman@commerce.wa.gov or (360) 725-2717.

Semi-Annual Rule-Making Agenda
July through December 2017

WAC Citation	Subject Matter/Purpose of Rule	Current Activity/ Approximate Filing Date
Chapters 365-190 and 365-196 WAC	Growth management rules 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 in summer 2017
WAC 194-37-140 through 194-37-200	Examine potential rule changes to strengthen appropriate use of the cost cap provisions of the Energy Independence Act (chapter 19.285 RCW).	CR-101 anticipated in July 2017 CR-102 anticipated in November 2017
Chapter 365-220 WAC	Update rules for the developmental disabilities endowment trust fund.	CR-101 anticipated late in 2017
Chapter 365-65 WAC	Amend small business retirement marketplace rules to conform with RCW 43.330.735 and [43.330].750 as amended by SSB 5675, chapter 69, Laws of 2017.	CR-101 anticipated in July
New chapter in Title 365 WAC	Adopt rules for the low-income home rehabilitation revolving loan program, newly established by ESB 5647, chapter 285, Laws of 2017.	CR-101 anticipated in summer 2017
Chapter 194-37 WAC	Incorporate the effect of ESB 5128, chapter 315, Laws of 2017, which expands the list of eligible renewable resources to include incremental generation due to capital investments at biomass-fired generating facilities that commenced operation before 1999.	CR-101 filed in June 2017 CR-102 anticipated in August 2017

WSR 17-12-097
NOTICE OF PUBLIC MEETINGS
TRAFFIC SAFETY COMMISSION

[Filed June 6, 2017, 12:47 p.m.]

Following is the schedule of regular meetings for the Washington traffic safety commission for 2018:

Date	Time	Location
January 18, 2018	10:30 a.m. - 12 noon	Washington Traffic Safety Commission Offices 621 8th Avenue S.E. Suite 409 Olympia, WA 98504-0944
April 19, 2018	10:30 a.m. - 12 noon	Washington Traffic Safety Commission Offices 621 8th Avenue S.E. Suite 409 Olympia, WA 98504-0944
July 19, 2018	10:30 a.m. - 12 noon	Washington Traffic Safety Commission Offices 621 8th Avenue S.E. Suite 409 Olympia, WA 98504-0944
October 18, 2018	10:30 a.m. - 12 noon	Washington Traffic Safety Commission Offices 621 8th Avenue S.E. Suite 409 Olympia, WA 98504-0944

If you need further information, please contact Geri M. Nelson by phone (360) 725-9898 or email gnelson@wtsc.wa.gov.

WSR 17-12-111
DEPARTMENT OF ECOLOGY

[Filed June 7, 2017, 9:25 a.m.]

PUBLIC NOTICE

Announcing the Issuance of the Bridge and Ferry Terminal Washing General Permit

PERMIT: The Washington state department of ecology (ecology) is issuing the bridge and ferry terminal washing NPDES general permit. This permit becomes effective on August 1, 2017, and expires July 31, 2022.

State and federal water quality regulations do not allow the discharge of pollutants to waters of the state without permit coverage. Activities associated with the washing of bridges and ferry terminals can result in the discharge of potential pollutants, and therefore require a discharge permit before these activities [activities] may occur over surface waters. Ecology issues general permits in place of a series of individual permits when the permitted activities are similar.

PURPOSE OF THE PERMIT: The bridge and ferry terminal washing NPDES general permit allows for the regular maintenance cleaning, preparatory washing, and painting of bridge and ferry terminals and associated metal structures over waters of the state. The activities permitted by the permit aid bridge inspectors with the Washington state department of transportation in performing in-depth inspections to assess the structural integrity of bridges and ferry terminals

across the state, and conduct maintenance operations to prolong structural integrity and increase public safety.

PERMIT AND SUPPORTING DOCUMENTS: Ecology accepted public comment on the draft permit, fact sheet and notice of intent from October 19, 2016, until December 2, 2016. Ecology hosted a webinar, public workshop, and hearing in Lacey, Washington on November 22, 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 permit, the response to comments, and the fact sheet from the ecology web site at http://www.ecy.wa.gov/programs/wq/permits/bridge_washing/index.html. You may request hard copies of the documents from Foroozan Labib at (360) 407-6439 or foroozan.labib@ecy.wa.gov.

ECOLOGY CONTACT: Foroozan Labib, Washington State Department of Ecology, P.O. Box 47696, Olympia, WA 98504-7696, phone (360) 407-6439, email foroozan.labib@ecy.wa.gov.

APPEALS: This permit may be appealed to the pollution control hearings board (PCHB) within thirty days of the date of receipt of the final permit. 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) (also see glossary).

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; or **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; or **Pollution Control Hearings Board**, P.O. Box 40903, Olympia, WA 98504-0903.

WSR 17-12-114
NOTICE OF PUBLIC MEETINGS
TACOMA COMMUNITY COLLEGE

[Filed June 7, 2017, 10:20 a.m.]

The following change needs to be reflected for the Tacoma Community College board of trustees retreat scheduled for June 23, 2017.

From: June 23, 2017, 8:00 a.m. - 5:00 p.m., Tacoma Community College campus.

To: June 23, 2017, 8:00 a.m. - 4:00 p.m., 3017 Ruston Way, Tacoma, WA 98402.

If you need any other information, Kelly Maxfield can be reached at (253) 566-5169.