

**WASHINGTON STATE  
BAR ASSOCIATION**



**Examining the Historical Organization  
and Structure of the WSBA  
(ETHOS of the WSBA)**

**Saturday, Aug 13, 2022, 9:00 a.m. – 4:00 p.m.  
Held Virtually**

[https://wsba.zoom.us/j/82041165990?pwd=RmdhcXI  
Xdmd4Skh4R110bDZCdXhLUT09](https://wsba.zoom.us/j/82041165990?pwd=RmdhcXI<br/>Xdmd4Skh4R110bDZCdXhLUT09)

Meeting ID: 820 4116 5990

Passcode: 351527

## AGENDA

9:00 AM	Welcome, Approval of ETHOS Meeting Minutes	Pres. Brian Tollefson
9:05 AM	Public Comment	
9:35 AM	Board of Governors Discussion and Action: Adopt response(s) to Question 3	
12:00 PM	Lunch	
1:00 PM	Board of Governors Discussion and Action: Adopt response(s) to Question 2	
2:30 PM	Break	
2:45 PM	Board of Governors Discussion: Final report drafting and other next steps	
4:00 PM	Adjourn	Pres. Brian Tollefson

# WASHINGTON STATE BAR ASSOCIATION

## BOARD OF GOVERNORS SPECIAL MEETING - ETHOS

### Minutes

WSBA Offices, Seattle, WA

March 5, 2022

#### Call to Order and Welcome ([link](#))

The special meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by Pres. Elect Dan Clark on Saturday, March 5, 2022, at 9:13 AM. Governors in attendance were:

Hunter Abell  
Francis Adewale  
Sunitha Anjilvel  
Lauren Boyd  
Pres. Elect Daniel D. Clark  
Tom McBride  
Treas. Bryn Peterson  
Brett Purtzer  
Serena Sayani  
Alec Stephens

Also in attendance were Todd Alberstone, Sara Bove, Michael Cherry, Kevin Fay, Chief Regulatory Counsel Renata Garcia, John Gray, Nancy Hawkins, Chief of Staff Ana LaNasa-Selvidge, James E. Macpherson, Member Engagement Specialist Curtiss Melvin, Executive Director Terra Nevitt, Chief Communications & Outreach Officer Sara Niegowski, Broadcast Services Manager Rex Nolte, Kari Petrasek, Director of Advancement Kevin Plachy, Parliamentarian G. Kim Risenmay, Immediate Past Pres. Kyle Sciuchetti, General Counsel Julie Shankland, Equity & Justice Officer Diana Singleton, Member Services & Engagement Manager Julianne Unite, Sashy Vijay, and Randy Winn.

#### Approval of February 5, 2022 ETHOS Meeting Minutes ([link](#))

Executive Director Nevitt asked if there were any corrections to the minutes. Hearing none, Gov. McBride moved for approval. The motion passed unanimously. Govs. Peterson and Purtzer were not present for the vote.

#### How is the WSBA Funded? ([link](#))

Chief Regulatory Counsel Renata Garcia presented an overview of WSBA's funding, as well as the General Fund and the Client Protection Fund. She noted that WSBA is not a non-profit organization, but is exempt from paying taxes as an instrument of the state. In terms of the general fund, Chief Garcia described its purpose and highlighted the revenue sources, which include a variety of fees in addition to license fees. She noted that about 75% of the annual general fund revenue comes from license fees and walked

through the license fee rate since 2012. Chief Garcia also presented on the use of license fees, noting that approximately 41% of the fee is used for mandatory functions, which are not exclusively regulatory; 32% is used for non-mandatory functions; and 27% goes towards management and organizational costs. She noted that if the organization were to bifurcate, the analysis of what the license fee would be for a regulatory organization would be more complex than adding the current cost of mandatory functions to some percentage of management costs. Chief Garcia briefly reviewed the categorization of general fund expenses and revenues. Chief Garcia described the purpose of the Client Protection Fund, which is to make gifts to address dishonesty or failure to account for client property by legal professionals. She noted that the fund is supported by an annual assessment required by the Supreme Court, which is currently set at \$20. She also walked through the 10-year history of the fund.

Director of Advancement Kevin Plachy presented an overview of the Sections and CLE Funds. In terms of the Section Fund, he noted that it is comprised of the reserve balances of all 29 WSBA sections. He noted that Sections pay a per-member-charge to WSBA which covers most of the direct and indirect costs for WSBA support, which is about \$70,821 of WSBA overhead for FY22. Director Plachy presented a history of individual section fund balances, as well as the total, noting that starting in FY20 the fund balances started to grow, which is likely due to the COVID-19 pandemic, which limited in-person activities and related expenses. He reported that the Section Fund balance currently sits at \$1,518,687, noting that the Fund was established by the Board of Governors and is subject to its control. Through fiscal policy, WSBA encourages sections to maintain at least 6 months, but no more than 2 years, worth of direct programming expenses.

Director Plachy addressed section revenue sources, explaining that section dues are the primary source, followed by CLE revenue, and he provided detail about the types of CLE revenue. He also walked through the per-member-charge (PMC), which is the primary expense for sections. Director Plachy reviewed how the PMC is calculated. He noted that the PMC was reduced in 2021 due to reorganization and consolidation of WSBA's support, and that for the past 6-7 years, the Board has made the decision to not raise the PMC over \$18.75, regardless of actual costs calculated.

In terms of the CLE Fund, Director Plachy explained that the CLE operation is self-sustaining, meaning it does not use any license fees. He noted that the fund is used to help the operation sustain market fluctuations and to make technology investments. He noted the operation develops 65-75 live programs each year, most of which are converted into an on-demand seminar which is available in the CLE store for three years. The live and on-demand products make up the primary sources of revenue for the CLE Fund. He also noted that WSBA Deskbooks are a part of the fund. Director Plachy explained that 9.92 FTE are allocated to the fund, including portions of finance staff and service center staff. He reported that the CLE Fund will cover approximately \$282,923 of WSBA overhead in FY22. Director Plachy walked through a history of the CLE Fund balance noting a renewed focus on the sustainability of the portfolio. He stated that as of January 2022 the fund has a balance of \$1.356 million, noting that this will be lower by the end of the fiscal year because the first three months of the year were revenue heavy – in part due to the double MCLE reporting year. Finally, Director Plachy described the interrelated nature of the CLE and Section activities. He explained that CLE programming developed in partnership with sections makes up a substantial portion of the live and on-demand revenue.

Discussion followed including clarity that conferences are included in the CLE Fund along with half and full-day CLE programs.

#### Understanding WSBA's Regulatory Functions ([link](#))

Chief Garcia referenced GR 12, noting that the Supreme Court has the exclusive power to regulate the legal profession and that WSBA operates under delegated authority to carry out those functions. She also walked through WSBA's regulatory objectives, as set forth GR 12.1. She explained the primary regulatory functions carried out by WSBA, which are admissions, mandatory continuing legal education, licensing and membership records, and discipline. Chief Garcia noted that it's not always clear what is regulatory, such as administration of the client protection fund and some functions carried out by some of the Supreme Court boards. She also touched on the concept of proactive management-based regulation. Chief Garcia highlighted the role of WSBA, the Board of Governors specifically, Court Created Boards, and the Supreme Court in each area of regulation. In closing, Chief Garcia noted that while it is important to understand what WSBA's regulatory functions are, perhaps the most significant question for this process is what functions are germane to the purposes of the bar.

#### History and Activities of WSBA Sections ([link](#))

Director Plachy presented a chart with information about the activities that sections engaged in during the last fiscal year, the history of section formation, the size of section executive committees, section dues, and fund balances. He highlighted that CLE is a robust activity for many sections and that nine sections reported engaging in legislative activity in the last fiscal year. He noted that many more sections are tracking legislation than commenting on legislation, with 20 tracking legislation and only 2 commenting on legislation in the current year. Director Plachy provided a brief history of section involvement in legislative activity.

Discussion followed, including clarification that most, but not all, section list serves are administered by WSBA and whether any sections might have been formed before 1973.

#### Relationship Between WSBA and Sections ([link](#))

Nancy Hawkins presented on behalf of the Family Law Section, presenting the section's activities, including educational activities and legislative engagement. She noted a decrease in sections commenting on legislation and shared her view that the decrease is a result of restrictive policies that should be changed. Ms. Hawkins reported on the section's work with AOC on the development/improvement of forms for family law practice, which touches nearly every family. She explained that this work is not only focused on serving the members, but also for the benefit of the legal system and the public. Ms. Hawkins also noted that the section takes seriously its work to engage with all parts of WSBA and shared her perspective that it is critical that WSBA remain an integrated bar so that the section can continue to do its work, which is vital to the practice. Finally, Ms. Hawkins noted that the sections, like CLE, are self-sustaining.

Kari Petrasek presented on behalf of the Solo and Small Practice Section, which she noted existed in a different form prior to the date presented earlier. She described the activities of the section, including educational activities, mentorship, networking events around the state, curating member-only practice

resources, and a robust list serve for sharing information relevant to the practice of law, which is often identified as one of the most valuable member benefits. She noted that one of the biggest sources of tension was the discussions of splitting off sections from the bar, noting that the section sees the value in being a part of the bar. Another area of tension has been the administration of section elections. She explained that the section's view is that the bar should not have any control over section reserves. She also noted that the staff support is supportive and high-quality, though the high-level of turnover has been challenging. Finally, Ms. Petrasek explained the value of sections operating as part of the integrated bar.

Kevin Fay presented on behalf of the Corporate Counsel Section, which he noted was formed in recognition that in-house counsel have challenges and needs that are different from other practicing attorneys and he highlighted the nature of those differences. He described the two primary activities of the section: providing relevant legal education, including a multi-day institute offered every other year; and networking activities for in-house counsel that can often be isolated in their roles. Mr. Fay explained that the section membership is not limited to current in-house counsel, which greatly benefits the effectiveness of the networking opportunities. In terms of tensions, he noted that the biggest was the Section Policy Work Group, which was viewed as an attempt to take section funds. He explained that the section is self-sustaining. He echoed Ms. Petrasek's comments that section funds should be exclusively under the control of sections. He also noted that he felt that many of their activities could be done less expensively apart of from WSBA, but that being a part of the WSBA adds value in terms of providing structure, guidance, budgeting, and calendaring and that sections may not always have alternative resources. He noted that even if WSBA did not add value, he would still support the integrated bar, noting the limitations of some of the voluntary bar associations that he is a part of.

Randy Winn, a member of the World Peace though Law Section, presented on his own behalf. He highlighted recent section activities, including providing educational to support members in providing legal assistance to Afghan refugees. He explained that this would not have happened without the partnership with WSBA, which he noted works well, especially for a section engaged in work that does not have significant commercial value. He urged WSBA to maintaining the integrated bar structure, while making any necessary tweaks. He explained the value of WSBA's resources to provide virtual programming that benefits members throughout the state. Mr. Winn highlighted recent work to market programming outside of Washington and urged the Board to consider reciprocity and joint action with other states regarding MCLE accreditation. Regarding past tensions, Mr. Winn addressed the Sections Policy Workgroup, and identified three learnings: 1) the money issues, which he noted were already addressed; 2) the lack of an institutional memory, in the sense that we don't maintain list serve histories; and 3) a concern about not adequately summarizing actions of the BOG in the meeting minutes. He noted that the minutes are much improved now and suggested that we add to the minutes a bulleted list with the precise language of all action taken.

Discussion followed, including appreciation for the work done in service of Afghan refugees; the rationale for keeping sections as a part of WSBA, including a concern that they would not exist separate from the bar's structure, that they are self-funded, that they generate revenue for the bar association, and that sections are critical to the production of educational resources available to members; a perspective from the section representatives that focusing on tensions should not be a primary focus of discussions as

tensions are to be expected and a focus could give rise to a sense that the structure must be changed; discussion as to why sections could not thrive on their own given all that they contribute to WSBA, which relates to section size, the fact that most business fail generally, and that volunteers aren't interested in doing the work currently performed by WSBA staff; a perspective that the WSBA needs the subject matter expertise of sections to develop substantive content for education and policy work; a perspective that the vast majority of members only contact with WSBA is paying license fees, taking mandatory education, and engaging with sections – and therefore for many members the sections are the bar; a perspective that the regulatory objectives are supported by section activities; frustration at sections having to defend their existence given all they contribute and in light of other challenges facing the Board and the staff; and a perspective that the only difference between sections and committees is that you pay to join a section.

#### Understanding Supreme Court Boards Administered by WSBA ([link](#))

Executive Director Nevitt provided an overview of General Rule 12.3, which guides WSBA's relationship with Supreme Court created boards. She explained that there is a significant amount of variety in terms of the Supreme Court boards, including how to define what they are. Director Nevitt explained the extent to which each board is engaged in regulatory work and policy work, whether members are appointed by the Court or the Board of Governors, how the chair of each board is appointed, whether the board has public members, and whether they meet annually with the Court. Director Nevitt also described the work of the Task Force Team Administering Xenial Involvement with Court Appointed Boards (TAXICAB), noting its purpose and its focus on the six Supreme Court boards whose members are also appointed by the Court. She highlighted questions for the Board of Governors to consider with respect to ETHOS, including the extent to which the Boards are independent of WSBA; the significance of which body appoints the members; the significance of their funding source; whether GR 12.2 applies to the boards; and the implication of first amendment litigation for the boards.

#### Relationship Between WSBA and Supreme Court Boards ([link](#))

Chair of the Practice of Law Board Michael Cherry began by noting that the Board does not have a position on the structure of the bar association at this time. He commented favorably on the discussions taking place at TAXICAB. He highlighted the many groups that the POLB works with and the rules that guide its work, including GR 25, GR 24, and RCW 2.48.180(2). Chair Cherry noted that the POLB has been reviewing the Fifth Circuit ruling related to *Keller* to determine whether the POLB's functions are germane, and he noted that believes the majority of its work is germane to the purposes of a bar association.

Sara Bove presented about the work of the LLLT Board. She noted that the order sunseting the LLLT licensure pathway did not change the nature of much of the Board's work relating to education, admissions, and discipline. She noted that there is not much interaction between the Board and the Board of Governors given that the Board reports directly to the Court and its members are appointed by the Court. In response to a question, Ms. Bove noted that the LLLT Board does not have a position on the bar structure question and is engaged in the work of TAXICAB to clarify the meaning of administration and the relationships.

Todd Alberstone described the work of the MCLE Board, including accrediting CLEs, considering appeals, and interpreting and suggesting amendments to the MCLE rules. He noted no strong views about the ETHOS questions.

Jennifer Taylor, Vice Chair of the Character & Fitness Board, described the work of the Board. She noted being personally impressed with how seriously the members of that board take its mission.

Chair Emily Rose Mowrey gave a brief overview of the Law Clerk Board. She noted that speaking only for herself, she views the work of the program to be critical to the work of the organization and is not sure who would administer the program if not the bar. She also noted that the program is cash positive, in terms of covering its own costs. She also highlighted the benefit to providing an alternative pathway to becoming a licensed attorney without having to leave their communities and attend law school at significant cost. She noted that reciprocity is a barrier and would appreciate the bar taking a larger role in advocating for reciprocity.

Discussion followed, including the potential impacts if the Law Clerk Board were to operate directly under the Supreme Court, noting the necessity of staff support and a concern that it might be challenging to have to take everything to the Court. Chair Cherry noted that the POLB is proposing the creation of a new Supreme Court Board and has considered the possibility of it being administered by the Administrative Office of the Courts (AOC). He noted that AOC is very focused on keeping courts running smoothly, which is very complex in our state and that moving a Board to AOC would result in a huge loss of institutional knowledge. Discussion continued, including a suggestion to invite the AOC to come present what they do; a perspective that having Boards administered by the same organization can facilitate collaboration among the boards; and a perspective that WSBA is the only state bar and being able to have a single organization to navigate difficult conversations serves to keep things consistent across the state. Representatives of the Character and Fitness and MCLE Boards both commented that the boards could not do their work without the support of the WSBA.

There was a suggestion to look into the reciprocity issue, and whether the APR 6 program could become ABA accredited.

#### Keller Deduction/What is Germane ([link](#))

General Counsel Shankland explained the reason for the Keller deduction, which arose out of the 1990 US Supreme Court Case, *Keller v. State Bar of California*. She noted that right now one of the questions before the US Supreme Court is whether the procedural safeguards WSBA has put in place in response to *Keller* are actually required. She noted that Article 15 of the WSBA Bylaws sets forth WSBA's procedures: 1) notice of the amount of the deduction is provided with the license fee; 2) defines the arbitration process; and 3) sets the scope of arbitration. She noted that in the most recent arbitration WSBA's process was upheld as "robust." General Counsel Shankland described how the calculation is made, noting the Bylaws require a conservative test that favors the members. She explained that she is only aware of two arbitrations in 2009 and 2018. In 2009, the arbitrator found that WSBA's support of same sex marriage legislation was not germane, but that the WSBA's support of a creation of a task force to examine capital punishment was germane. In 2018, the arbitrator found that the WSBA discussion series intended to pull

the public into discussions of law "Decoding the Law", the work of the Access to Justice Board, and the magazine were all germane. General Counsel Shankland described the origin of the germaneness concept. She also discussed the meaning of the term "administration of justice", which appears in GR 12.2 and the germaneness standard from *Keller*. She highlighted the court's analysis in a number of key cases, including *Janus*, *Gruber*, and *McDonald*. She noted that in *McDonald*, the Fifth Circuit found that bar associations that engage in non-germane activities are unconstitutional. She walked through the Fifth Circuit's test for germane legislative activity, as well as its treatment of other bar activities.

#### Comments from the Membership and the Public ([link](#))

The Board took comment from John Gray in favor of an integrated bar noting that he appreciates the efficiencies and the social aspect that come with everyone being in one place and talking about issues.

#### Board of Governors Questions, Comments and Discussion ([link](#))

The Board commenced discussion, including whether sections would be bound by GR 12 if they were bifurcated from the organization; encouragement to hear from more representatives of sections and supreme court boards and to hear evolving viewpoints; curiosity as to whether the mission statement is relevant to what is germane; whether sections in a separate organization, but still using the WSBA name would be subject to GR 12; support for a model where the Court takes on the regulatory pieces and WSBA continues to exist as a voluntary bar; a perspective that the BOG should present the pros and cons of a variety of structural models to the Court; and clarification that if there were to be some structural change, there would be significant work to determine the details to work out.

#### Future Agenda Items and Action Item Review ([link](#))

Executive Director Nevitt noted that the next meeting, March 25 will focus on hearing about what is going on across the country. There was an interest expressed in hearing from Colorado. There was a suggestion to develop a specific list of questions for other jurisdictions to answer. Executive Director Nevitt requested folks send their questions to her next week.

For future meetings there was a suggestion to look at WSBA governance and also a request to hear from the ACLU attorney that addressed the workgroup in 2019 to see if the view has changed. There was also a request to get more information about whether GR 12 would apply to any future iterations of WSBA's structure.

#### **ADJOURNMENT**

There being no further business, Pres. Tollefson adjourned the meeting at 3:30 PM.

Respectfully submitted,

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Terra Nevitt  
WSBA Executive Director & Secretary



# WASHINGTON STATE BAR ASSOCIATION

## BOARD OF GOVERNORS SPECIAL MEETING - ETHOS

### Minutes

WSBA Offices, Seattle, WA

April 23, 2022

#### Call to Order and Welcome ([link](#))

The special meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by Pres. Brian Tollefson on Friday, April 23, 2022, at 9:09 AM. Governors in attendance were:

Hunter Abell  
Sunitha Anjilvel  
Lauren Boyd  
Pres. Elect Daniel D. Clark  
Jordan Couch  
Matthew Dresden  
Carla Higginson  
Tom McBride  
Treas. Bryn Peterson  
Brett Purtzer  
Alec Stephens  
Brent Williams-Ruth

Also in attendance were Elly Baxter, Executive Administrator Shelly Bynum, Michael Cherry, Chief Disciplinary Counsel Doug Ende, Gov. Elect Kevin Fay, Cameron Fleury, Chief Regulatory Counsel Renata Garcia, Miryam Gordon, Nancy Hawkins, Robert Krabill, Dusty LaMay, Rajeev Majumdar, Carolyn MacGregor, Executive Director Terra Nevitt, Chief Communications & Outreach Officer Sara Niegowski, Gov. Elect Nam Nguyen, Ed Pesik, Webcast Specialist Clay Peterson, Gov. Elect Kari Petrasek, Director of Advancement Kevin Plachy, Genissa Richardson, Parliamentarian G. Kim Risenmay, David Rose, Immediate Past Pres. Kyle Sciuchetti, John Straight, Member Services & Engagement Manager Julianne Unite, and Barnaby Zall.

#### Comments from the Membership and the Public, Part 1 ([link](#))

John Straight commented that he was primarily present to observe on behalf of the Criminal Law Section and noted that the Section was generally in favor of maintaining the existing bar structure.

Discussion followed, including a suggestion that an opportunity for comment be provided once the Board has something to react to; a perspective that despite the US Supreme Court denying cert, there is still the Oregon case and the Washington Supreme Court's request that the Board consider a contingency plan as well as examine the desired structure of the organization.

David Rose highlighted some of the issues that are important to the Litigation Section, including legislative work related to the administration of justice in the state. As an example, he noted the impacts of moving away from in-person trials. He commented that he believes this work is important to the state and is worth preserving. John Straight echoed this comment noting the legislative work of the Litigation Section and distinguished it from the work of other associations, which do not represent the same cross-section of viewpoints that the sections do.

There was a question from a member of the Board of Governors as to whether the views being presented represent the view of section members or the view of the executive committees. In response, the criminal and litigation section represented noted that the executive committees had not yet taken formal positions and had not yet sought the feedback of section members. Discussion followed about the role of sections executive committees.

Elly Baxter, President of the International Practice Section commented that the section had not felt ready to reach out to section members to education them on the issues, and that the Executive Committee is able to represent the section. She further commented that the Section Executive Committee is advocating that the structure of WSBA not change, and she highlighted the work of the section. She noted that the work could not be done without the support of the WSBA staff and highlighted the value the name WSBA adds value to the work the section is able to do, particularly in continuing legal education.

Nancy Hawkins spoke on behalf of the Family Law Section. She noted that while the section has identified things they would like to see changed about the WSBA, they believe overhauling the structure would be a mistake for the sections and the WSBA. She noted that the section benefits other sections, benefits WSBA, and receives a benefit from being a part of WSBA. She noted that considering the US Supreme Court denying cert in the three cases challenging the structure of integrated bars, the answer to question number one is no and that WSBA should not be concerned about a sudden change to the structure. In terms of question number two, Ms. Hawkins explained that the section believes it is not possible to develop a contingency plan because there are too many possibilities to consider. The Section advises waiting until there is a specific case that affects WSBA. She commented that the section believes that WSBA should be proud of its work and the effectiveness of the Keller deduction. She commented on the feedback from dissenting members of the bar association and noted that those concerns can be addressed in other ways, and more effectively, in a bar that does more than licensing and discipline. Ms. Hawkins commented on the value of WSBA sections being able to advise the legislature. She noted that sections would struggle to succeed without the WSBA infrastructure, but also noted that sections pay for that support. She spoke in support of the Keller Deduction process, which she noted has been upheld by courts and in her view is better than the approach other bar associations take. Ms. Hawkins commented on the perspective that WSBA should not be engaged in any activities they don't agree with and noted the benefits of those programs to those that do need it and are supported by it, including member wellness programs and CLEs. She noted some of the challenges the organization has faced and noted that all organizations have those challenges, and her view that a structure change will not resolve them. She shared her perspective on the cases and why she believes WSBA would be in a good position to defend a challenge. Finally, Ms. Hawkins commented that focusing on the development of contingency plans will detract from other important work that WSBA should be engaged in.

Director of Advancement Kevin Plachy asked for comment from section leaders as to what the impact would be to sections if the Ninth Circuit were to identify commenting on substantive legislation as non-germane and not appropriate for integrated bars to engage in. Feedback included that not all comments on legislation are clearly "substantive" and could be considered procedural and that WSBA should work to distinguish some of this legislative work as germane because it does impact the practice of law and the administration of justice; that WSBA should make the comments, should be proud of the comments, and should fight for the right to make them; that sections could continue to function, but that legislation is a significant part of the work; and a perspective that it would be tragic if WSBA sections could not comment on discriminatory legislation. Discussion followed, including that there are ideas for the ideal structure of the WSBA that might allow the legal profession to engage more robustly in legislative work and a perspective from a section leader that WSBA is an ally to sections.

Chief Disciplinary Counsel Doug Ende sought comment on the hypothetical scenario where WSBA remained, but the regulatory functions were returned to the Court and/or the legislature. Responses included a concern that the overall cost to lawyers will go up in that scenario and a perspective that most sections' activity does not raise issues; a concern that lawyers would lose their opportunity to input on the regulatory aspects of the organization's work; that legal professionals would lose the privilege of self-regulation and a perspective that we are capable of doing that well and worth holding on to; a perspective that question three doesn't presuppose a legal problem, but rather asks what the ideal structure would be and that the focus of the discussion feels too narrowly focused on solving problems; a perspective that the cost of being licensed and also participating in a voluntary association – possibly on a state and local level – may outweigh the concern for some of paying for some non-germane activities; and a perspective that the WSBF might be a useful model to consider and a perspective that legislative work is critical and difficult to do under the current model.

Michael Cherry made comments on behalf of the Practice of Law Board. He commented that WSBA provides the board with access to specialized knowledge and resources that are centralized at the WSBA. He expressed a concern that if WSBA were limited to regulatory work, smaller counties would not be supported by a voluntary organization and other legal professionals would likely not be supported by a voluntary organization. He noted that the POLB benefits greatly from the infrastructure and expertise that WSBA is able to provide. In terms of challenges, he noted the speed at which the organization moves, which is not fast enough to address the challenges and that the work being done to discuss the bar structure is taking up capacity and delaying work that should be done in the areas of access to justice and diversity, equity and inclusion. He questioned whether WSBA is keeping up with the needs of the public and asked the Board to look for ways to move more quickly.

Discussion followed, including a perspective that given the denial of cert by the US Supreme Court, the imminent threat is gone and so the larger issue is GR 12 and other potential remedies, including amending GR 12; that GR 12 is being looked at; a perspective that GR 12 and the structure of WSBA provide value that will be lost if that activity is separated from WSBA; a concern that a statewide voluntary bar would not be viable; and a perspective that the legal issues are not yet resolved.

The Board took public comment from Nancy Hawkins that there are other activities of the organization that are not subjected to a GR 12 analysis and that members are much more concerned about some of these other activities than to section comments on legislation. Discussion followed, including a perspective that the overall process is not focused on sections, but that it has been the focus of this discussion due to the structure of the meeting; and that the Board will be looking at potential scenarios in the next meeting.

Comments from the Membership and the Public, Part 2 ([link](#))

The Board engaged in discussion about how to gather input from Minority Bar Associations.

Hearing no one wishing to make comment, Pres. Tollefson asked the Board whether the challenge with the organization is a matter of size. Responses included that it is a matter of history and not size; and that geography and concentration of lawyers can be a factor.

Discussion followed as to whether GR 12 would apply to sections if they were a separate, voluntary entity; the history of GR 12 and the perspective that GR 12 could be stricken or amended by the Washington State Supreme Court if the structure changed; that GR 12 is out-of-alignment with First Amendment development; a perspective that it will be more productive to answer these questions against any proposals we might develop; that splitting off the sections from WSBA would have a different and more negative impact than the impact of rebranding an organization; that the constitutional issues are more central to the discussion than GR 12; that if a separate entity were set up for legislative work it would likely be broader than just section comment; a perspective that the separate organization would not necessarily have less influence; that it is relevant that no section has requested to be spun off; a perspective that WSBA may not be the right entity to create a separate entity; that sections are part of the bar despite collecting voluntary fees for participation in them and are likely stuck with our limitations; the distinction between *Keller* precedent and the freedom of association at issue in the *Crowe* case; the challenge of reconciling the *Keller* language with the GR 12 language; that the staff will make some broad assumptions in terms of bringing models for the Board to explore; and clarification as to who the decision maker will be in terms of WSBA structure and scope of work.

Comments from the Membership and the Public, Part 3 ([link](#))

The Board took public comment from Nancy Hawkins who underlined the point that no sections are asking to be made a separate entity or to have a safe harbor to engage more robustly in legislative work, noting that WSBA is not the organization for some legislative advocacy and lawyers have other avenues for legislative advocacy. She further commented that if every section had to be a separate entity, they would not survive. With regard to sections forming an organization together, Ms. Hawkins noted that they would likely all have to agree or develop a process for approving legislative comment and therefore the problem would not be resolved.

John Straight commented in support of Nancy's comments. He further commented that at the time GR 12.2 was adopted there was debate as to whether sections would be included under the rule. As a result, an exception to the process was developed for sections to address concerns about the need to comment on legislation timely.

Discussion followed regarding the significance of a lack of member engagement; and a perspective that the organization is generally strong and should not be changed unless a much better model is demonstrated. There was a recitation of some of the online reviews of WSBA and a perspective on what those might tell the Board. Discussion continued, including a perspective that section speech is WSBA speech and under the current structure must follow the rules; whether sections are speaking agents for WSBA; a perspective that the organization should not become hyper-concerned about not permitting legislative comment for fear of being sued; a note that the Fifth Circuit rejected the idea that sections are voluntary because their speech is regulated by the governing body of the bar association; whether if the BOG stopped regulating the speech and were self-funded that would mean there was no longer a first amendment issue; a perspective that it makes sense that sections are a part of WSBA, because if they aren't, what are they; whether a disclaimer indicating that the speech is separate would protect WSBA from first amendment claims; a perspective that sections are not a separate entity and that the use of disclaimer would not change that.

John Straight further commented that WSBA should do away with the screening of section speech and not label it as part of the bar association. Gov. Elect Kevin Fay read the factors from the *McDonald* noting that those are all factors that WSBA could change.

Board discussion followed, including an example of what happens when sections have conflicting views and a perspective that there's value to that process, but that sections should be able to distinguish themselves and their perspectives; and an example of a section comment having an impact on WSBA's reputation with the legislature and a perspective that the section cannot be distinguished from WSBA, which gives rise to a first amendment issue. Nancy Hawkins commented on the value of having unique perspectives from different sections. Elly Baxter commented on how sections at WSBA compare to sections at other bar associations. John Straight commented that the focus should be on getting as many perspectives as possible to the legislature and not on trying to speak with one voice.

Executive Director Nevitt provided an update on future agenda topics. There was a suggestion to add a discussion of WSBA governance.

#### **ADJOURNMENT**

Pres. Tollefson adjourned the meeting at 3:45 PM without objection.

Respectfully submitted,

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Terra Nevitt  
WSBA Executive Director & Secretary

# WASHINGTON STATE BAR ASSOCIATION

## BOARD OF GOVERNORS SPECIAL MEETING - ETHOS

### Minutes

The Davenport Grand Hotel, Spokane, WA

May 21, 2022

#### Call to Order and Welcome ([link](#))

The special meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by Pres. Brian Tollefson on Saturday, May 21, 2022, at 9:06 AM. Governors in attendance were:

Hunter Abell  
Francis Adewale  
Sunitha Anjilvel  
Lauren Boyd  
Pres. Elect Daniel D. Clark  
Jordan Couch  
Matthew Dresden  
Carla Higginson  
Treas. Bryn Peterson  
Brett Purtzer  
Serena Sayani  
Alec Stephens  
Brent Williams-Ruth

Also in attendance were Mark Alexander, Executive Administrator Shelly Bynum, Chief Disciplinary Counsel Doug Ende, Gov. Elect Kevin Fay, Tamarra Garrison, Nancy Hawkins, Sections Program Specialist Carolyn MacGregor, Member Engagement Specialist Curtiss Melvin, Executive Director Terra Nevitt, Gov. Elect Nam Nguyen, Chief Communications & Outreach Officer Sara Niegowski, Broadcast Services Manager Rex Nolte, Gov. Elect Kari Petrasek, Director of Advancement Kevin Plachy, Parliamentarian G. Kim Risenmay, Immediate Past Pres. Kyle Sciuchetti, General Counsel Julie Shankland, Janet Welch, and Member Services & Engagement Manager Julianne Unite.

#### Exploring the Integrated Bar Model: Oregon, Idaho ([link](#))

Executive Director introduced the Executive Directors of Oregon and Idaho State Bar Associations, which both have an integrated bar model like Washington.

Executive Director Helen Hierschbiel explained that the Oregon State Bar (OSB) performs all regulatory functions in that State. She noted that the organization is governed by a Board of Governors with 19 members. Fifteen of the Board positions are elected by lawyers, which appoint four public members to the Board. Director Hierschbiel explained that OSB also has a 250+ House of Delegates, which is primarily

elected. The House of Delegates are the representative authority of the membership and can direct the Board of Governors, though they cannot control the professional liability fund or matters within the Supreme Court's authority. She noted that the OSB also has Boards, which are appointed by the Court and that oversee regulatory functions. OSB have 40 sections and 17 committees that carry out the work of the bar. Director Hirschbiel explained that in Oregon a fee is assessed for DEI programming, which is an established percentage of the license fee. She noted that OSB has many access to justice initiatives, and receives money from legislature to distribute to legal aid organizations in the state. Unlike the WSBA, the OSB does not have an Access to Justice Commission. Director Hirschbiel stated that the OSB engages in law improvement lobbying with sections and also for the bar priorities, which include adequate funding for courts, legal aid, and public defense. Regarding sections, she explained that membership is voluntary and that the OSB pays 50% of the cost to administer them.

Executive Director Diane Minnich explained that the Idaho State Bar (ISB) was established by statute and many changes would require legislative changes to enact. She noted that the ISB operates under Supreme Court rules, which govern its regulatory activities as well as sections and other activities of the Bar. Director Minnich stated that the ISB is governed by five commissioners, which are quite limited in what they can do, given that so much is governed by court rule. The ISB does not lobby for the most part. The only legislative activity relates to changing the rules that govern the bar association. She noted that when the bar wishes to change those rules, their process requires them to ask the membership first. Director Minnich noted that the ISB has 23 practice sections, which do not engage in legislative advocacy, though some sections have established independent groups to engage in lobbying. She noted that the sections are mostly self-supporting and that sections are charged for actual staff time, which is tracked. In addition to sections, the ISB has eleven committees, which are mostly established by rule. ISB does not receive legislative funding for legal services and does not have an access to justice commission, though it does have a fundraising group and a pro bono commission. Overall, the ISB has approximately 7,000 members, about 5,000 of which are active. Director Minnich also noted that there are many out-of-state active members that are not represented on the Board of Commissioners.

Director Hirschbiel added that the OSB was also created by statute, which is fairly detailed, including setting forth the organization's functions. Director Minnich added that license fees in Idaho are set by the legislature.

Dialogue followed, including about Idaho's resolution process; how outside lobbying works in Idaho; Oregon's House of Delegates; the extent to which Idaho and Oregon have a Keller deduction; Oregon's court-appointed boards and the relationship with the Board of Governors and the Court; the Keller challenge process in Oregon; how both states calculate the cost of administering sections; Oregon's approach to recruiting and appointing public members; the mandatory malpractice insurance programs in Idaho and Oregon; the status of Oregon's program to license paralegals and its alternative pathways to licensure for lawyers; and a suggestion that WSBA consider develop a house of delegates.

#### Exploring the Voluntary Bar Model: Colorado, Nebraska ([link](#))

Executive Director Amy Larson spoke about the Colorado Bar Association (CBA), which has always had a voluntary model. She noted that the CBA is in constant communication with the regulatory bodies. The

CBA engages in Legislative work, access to justice initiatives, and diversity work. Director Larson explained that over the years, communication among the entities has sometimes broken down around fees and each organization's roles in advocating for equity, diversity and inclusion (EDI) efforts. CBA recently did significant work to change its bylaws to better express how the voluntary bar is weaving EDI into all of its work. Director Larson noted that the Colorado Supreme Court has also been looking at this, including in the area of MCLE. Director Larsen explained that the CBA is seen as an important partner in communicating with membership. She described the CBA's robust legislative work, noting that there are four legislators on the Board. Colorado's Access to Justice commission, is partnership of Court, the CBA, and the Foundation and is an independent commission. Director Larsen described some of the issues they seek to address as partners, including the issue of legal deserts. Discussion followed about CBA's relationship to the discipline system; membership; member benefits; and section engagement.

Executive Director Liz Neely spoke about the bifurcation of the Nebraska State Bar Association (NSBA), which was an integrated bar previously. She noted that the Supreme Court already had discipline and admissions and mandatory fees could only be used for regulatory functions, which are defined as bar admissions, license renewal, discipline, trust accounts, UPL, and MCLE. She explained that a division was created under the Court and dues to NSBA were made voluntary. She explained that the Court's decision did not include a finding that there was a *Keller* problem, but rather that the Court wished to avoid the issue all together. Director Neely explained that all lawyers in Nebraska have to be members of the NSBA, but that payment of dues is voluntary, which is still controlled by the State Supreme Court. She noted that the NSBA can deny benefits to those that do not pay dues, but non-dues-paying members can serve on the Board. Director Neely suggested that if WSBA moves to a voluntary bar model it should budget to retain 65-75% of active members and only 35% of inactive members. She explained that the bar is most likely to lose government and corporate counsel lawyers, as well as young lawyers. Director Neely explained that the mission of a voluntary bar is, first and foremost, to provide value to members. Communications become critically important in a voluntary bar. Section members are the most likely to join the voluntary bar and they are truly the lifeblood of the association. Director Neely noted that defining what is regulatory is important, and identified the lawyers assistance program and the client assistance fund as grey areas. She noted that a benefit of having all lawyers as members of the NSBA is that they have access to all members.

Discussion followed regarding attorney input on regulatory processes and rulemaking; efforts to retain government lawyers and any impact of membership in the voluntary bar on discipline statistics; total cost to practice in each state and compensation for service provided in support of the mandatory bar; and the extent to which Nebraska has a "free rider" challenge in their model.

#### [Exploring the Hybrid Model: California \(link\)](#)

Executive Director of the State Bar of California Leah Wilson presented on the change to its structure, noting that it was mandated by the legislature. She highlighted the changes before and after. She explained that client trust accounts were added, sections were split off, more non-CLE educational programming was added, the Access to Justice Commission was spun off into its own 501(c)(3), DEI work is narrowed from law school on and the bar's primary role is data collection, analyzing, and promulgating best practices, and reduced legislative work.



Executive Director of the California Lawyers Association Oyango Snell described the sections and the California Lawyers Association (CLA) governance structure. The CLA is led by a Board of Representatives, made up of 18 reps from each section, as well as a president and vice president. The President is elected by the Board and supervises the Executive Director. Director Snell explained that the Association began in 2018 when the sections were bifurcated from the State Bar of California and since that time has been focused on trying to right size the organization given the resources they have to work with. He noted that given the decades of experiences in the sections that make up the organization it has been both in the start-up phase, as well as in need of renew at the same time. Director Snell explained that membership in the CLA is requested through the annual license renewal and that has been critical to the association's success. Currently the CLA has 45,000 paid members. In addition to sections, the CLA has several committees, including those focused on ethics; diversity, equity and inclusion; and leadership development. There is also a foundation, which is involved in access to justice and civic education efforts.

Director Wilson noted that the board got smaller post bifurcation and is made up of 7 attorneys and 6 public members. She explained further that there are no elections to the Board and there are no elected leadership positions.

Discussion followed, including about changes in section memberships before and after bifurcation; drivers that influence membership in the state bar association; awareness challenges; lessons learned from the change in structure, including how critical the relationship is between the regulator and the association, mindset, and mission focus, harnessing the power of the association; clarification on changes to access to justice work and the motivation for separation; engagement of the voluntary bar in new lawyers; and the process for and cost of bifurcation.

#### Financial Considerations for Potential Changes to WSBA's Scope and Structure ([link](#))

Kevin Plachy presented on financial considerations for seven potential scenarios for changes to the bar structure. Discussion included who would make the decision as to what would be germane in a "Keller pure" model; the extent to which a "Keller pure" model is different from our current model; clarification that the analysis presented is financial only, not social impact; what it would like to scale back legislation; a suggestion that WSBA wouldn't need self-funding for all the work, just the legislative work; what legislative work might happen under WSBA if a separate organization was created for sections; a concern that moving the sections out of WSBA might drive regional bar associations out of existence; a discussion of what happened to California's magazine after bifurcation; the cost to practice in California; and that the models don't take into account the cost to stand up a new organization.

#### Comments from the Membership and Public ([link](#))

Discussion followed, including the cost of rent and how that was allocated in the scenarios; the estimated drop off assumed for the voluntary model; the impact that a drop in volunteerism might have to the need for staff for the regulatory model; how CLE might be impacted in the various models; and the potential costs associated with the process of bifurcation.

Board of Governors Questions, Comments and Discussion ([link](#))

Discussion followed, including a perspective that young lawyer engagement would go down in the voluntary model and a lengthy discussion about member input and the possibility of doing a member survey. There was a specific suggestion that the officers develop a proposal for a survey, including timing.

Future Agenda Items and Action Item Review ([link](#))

ED Nevitt reviewed plan for upcoming ETHOS meetings, suggested that board members develop proposals for the June meeting, and suggested that the Member Engagement Committee develop a proposal for a membership survey.

**ADJOURNMENT**

Pres. Tollefson adjourned the meeting at approximately 4:00 PM.

Respectfully submitted,

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Terra Nevitt  
WSBA Executive Director & Secretary

# WASHINGTON STATE BAR ASSOCIATION

## BOARD OF GOVERNORS SPECIAL MEETING - ETHOS

### Minutes

WSBA Office, Seattle, WA

June 18, 2022

Call to Order and Welcome ([link](#))

The special meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by Pres. Brian Tollefson on Saturday, June 18, 2022, at 9:02 AM. Governors in attendance were:

Hunter Abell  
Francis Adewale  
Sunitha Anjilvel  
Pres. Elect Daniel D. Clark  
Matthew Dresden  
Carla Higginson  
Treas. Bryn Peterson  
Brett Purtzer  
Alec Stephens  
Brent Williams-Ruth

Also in attendance were Mark Alexander, Douglas Becker, Executive Administrator Shelly Bynum, Chief Disciplinary Counsel Doug Ende, Cameron Fleury, Nancy Hawkins, Robert Malae, Executive Director Terra Nevitt, Gov. Elect Nam Nguyen, Chief Communications & Outreach Officer Sara Niegowski, Broadcast Services Manager Rex Nolte, Gov. Elect Kari Petrasek, Director of Advancement Kevin Plachy, Parliamentarian G. Kim Risenmay, Immediate Past Pres. Kyle Sciuchetti, General Counsel Julie Shankland, Chief Equity & Justice Officer Diana Singleton, and Member Services & Engagement Manager Julianne Unite.

There was an opening discussion about whether a discussion of governance should be added into the ETHOS process, including a concern that the topic is too significant to take on with the time remaining; and a concern that the topics are not sufficiently linked.

Gov. Stephens moved that the Board does not include governance in the ETHOS process and that it recommend that the Board take up the topic of governance next year. Discussion followed for and against the motion.

Gov. Clark offered a friendly amendment to remove the portion of the motion that recommends the Board take up the discussion next year and that language be added to recommend that WSBA maintain the current structure of the Board with 14 governors and not adopt a recommendation of additional

governors, including public members and/or a dedicated LLLT governor. The motion was not accepted as friendly.

Discussion continued for and against the motion, including whether and when the topic should be taken up by the Board and a concern that the motion would require the Board to take up the topic. The Board took public comment from Nancy Hawkins that the Board has significant issues to take up rather than revisiting the structure and governance of the organization annually.

Gov. Stephens changed the motion to not include governance in the ETHOS process and to *refer* the question of governance to the next Board for their consideration, noting that he's not trying to tie the hands of the next Board. The seconder agreed to the modified motion. Discussion followed for and against the modified motion. Chief Disciplinary Counsel Ende advised that many of the governance issues and recommendations are structural and that the two issues are intertwined.

Gov. Higginson moved to sever the motion. The motion to sever passed unanimously. Gov. Stephens abstained. Gov. Abell called the question on the first part of the motion, that the Board not include governance in the ETHOS process. The motion to call the question passed unanimously. The underlying motion passed unanimously.

Discussion continued on part two of the motion, that the Board refer the question of governance to the next Board for their consideration. The motion failed 1-8. Gov. Anjilvel was not present for the vote. Gov. Stephens suggested that Pres. Tollefson, Pres. Elect Clark, and Executive Director Nevitt communicate to the Court the outcome of the discussion.

#### Discussion and Potential Action: Question 1 ([link](#))

Discussion commenced regarding question one, including whether the topic is ripe; and a perspective that WSBA's integrated model is the best model, and that there has not been any change or action that requires a change at this time, and therefore a change should not be made. Gov. Peterson moved that as to question number one, the answer is no, WSBA is not required by law to change its structure.

Discussion followed in support of the motion; regarding the value of a contingency plan; and clarification that question one and the motion on the table refer to the narrow question of whether a change is legally required.

Gov. Higginson moved to table the discussion to later in the meeting. The motion to table passed unanimously. Gov. Anjilvel was not present for the vote.

#### Discussion of Supreme court Boards Administered by WSBA and the Applicability of GR12 and Keller ([link](#))

Practice of Law Board Chair Michael Cherry made comments, including the Board's interest in understanding where it will fit if there is any change to WSBA. He noted that, in his view, the work of the POLB falls within the *Keller* definition of what is germane to the purposes of a mandatory bar association. He expressed concern that it is unclear whether bifurcating the bar would be feasible.

Discussion followed including a perspective that one of the benefits of an integrated bar is the ability support Supreme Court Boards, as well as the educational work of sections; the distinction between Supreme Court Boards and sections; and an explanation of TAXICAB, the task force that is looking at the relationship between WSBA and the Supreme Court Boards it is charged with administering.

The Board took public comment from Douglas Becker that the question of whether the Supreme Court Boards are germane to the purposes of a bar association is irrelevant to the question as to whether the bar should be unified or not. He noted that any organization with Board and staff is going to have natural and necessary tension, but that it is unnatural to have a third power center in the Supreme Court. He noted that there are inherent conflicts in the mission and that taken together with the three power centers means there will always be conflict in the mission and in decision-making. He concluded that WSBA cannot continue as a unified bar.

The Board took public comment from Nancy Hawkins with regard to the agenda and the value of discussion. In terms of the Supreme Court boards, she commented that there should be a better understanding between the Supreme Court and the WSBA. She noted that while much work is done well and efficiently, some work has been controversial and expensive, which has caused conflict. She noted that, in her opinion, the boards should have to follow the same rules that all WSBA entities, including the sections, have to follow.

Pres. Tollefson noted that the 11:15 topic was removed and suggested that after the break the Board return to the discussion of question one.

Gov. Adewale reported that the Access to Justice Board would have an official comment for the July ETHOS meeting. He clarified that he was not speaking for the Access to Justice Board when he said that it would be helpful to have specific questions for the Board to answer.

Executive Director Nevitt commented on the purpose of having discussions so that there could be specific feedback on the proposals in July.

Discussion followed about the potential impact on Supreme Court Boards in the event of bifurcation, including how they would be funded and where they would live; whether a regulatory body would have a role in educating the public and/or innovating the practice of law; that the Supreme Court boards have different functions and funding structures; and how a bifurcation might impact license fees.

#### Discussion and Potential Action: Question 1 ([link](#))

Pres. Tollefson reopened discussion regarding question one. Comments shared included that the question is moot and therefore no discussion needs to occur; and that no change is needed in light of the US Supreme Court's recent action.

Gov. Abell moved that the Board respond to question one and answer no and cite the US Supreme Court denial of cert of the structure. An objection was raised as to the appropriateness of the motion. Following advice from the parliamentarian, Pres. Tollefson ruled the motion as being out of order.

Discussion continued, including a perspective that WSBA cannot predict what will happen in the future, but that not change is needed at this time. The Board took public comment from Michael Cherry that if the question is moot now, it may not be for long and that the Court should be provided with further analysis than a simple "no". There were additional comments in support of answering "no" to question number one. The Board took public comment from Nancy Hawkins in favor of providing a definitive answer that the answer to question one is "no". Discussion followed, including about whether there was proper notice. The Board took public comment from Mark Alexander, speaking in his personally capacity, that even if the current cases don't require a change, the issue will continue to be raised nationally and with respect to the WSBA, specifically. He identified the fundamental challenge is that it's unclear who the WSBA serves and his perspective is that the Governance Task Force concluded that the WSBA serves the Washington Supreme Court and made recommendations along those lines. He noted the kinds of conflicts that will inevitably arise when there is a conflict between what the members of the organization want and what the Supreme Court directs and that will continue to cause problems. He concluded while there is not a law or case that applies the agency principle to whether you can have a mandatory bar, but that, in his opinion, it is only a matter of time and the problem is that there should be a duty of undivided loyalty to the principle and in the case of WSBA it's not clear and it must be changed.

Discussion of Question 3 – What is the ideal structure for WSBA to achieve its mission? ([link](#), [link](#))

There was a brief discussion of what order to take up questions two and three.

Discussion followed regarding question three, including a perspective that the question should not be narrowed to the current mission statement and a perspective that the Board revisited and reaffirmed the mission recently, and that should guide the answer to question three.

Gov. Williams-Ruth presented his proposal to create the Political Arm of Washington Lawyers (PAWL) and his rationale for it, which is that the legislative work is valuable, but not wholly appropriate within the integrated bar. Discussion followed, including whether PAWL is necessary given the voluntary legal associations that already exist; support for the concept, but concern about the effectiveness of the entity if it doesn't carry the name of WSBA; a concern that any outcome proposed should not sidestep WSBA's role in championing justice; a perspective that the proposal is responsive to much of the feedback from sections; a perspective that the question is one of morality; clarification that PAWL would be open to all WSBA members, while existing organizations are exclusive to specific practitioners; and a concern that the entity will simply appear to be an extension of the WSBA, rather than a truly separate organization.

The Board took public comment from Nancy Hawkins that the legislature moves to quickly for a broad organization like PAWL to be effective; that in her view it is not correct that every comment a section wants to make about a proposed bill is political speech; and that the proposal is not workable. She further noted that there is no case that forbids WSBA from analyzing proposed bills and providing input. She noted her disagreement that the challenge of WSBA is it has three centers of powers.

Discussion followed, including a concern that WSBA become too risk adverse in terms of legislative activity; whether the proposal solves the problem and concerns that have been expressed; curiosity about

how PAWL will be funded and how much funding would be required for it to be self-sustaining; a perspective that there should be more of a frank discussion of germaneness and that the conflicts raised by the DRAW letter are deserving of consideration; clarification that the proposal is not to create a superPAC or get into political races; that the considerations for sections of different sizes are distinct; the value of WSBA programs that benefit only a small number that are possible due to economies of scale; a perspective that the mission doesn't feel like a clear conflict of interest; and concerns about the helpfulness of a brief membership survey.

The Board took comment from Douglas Becker that there are actual conflicts within the bar association and that the concerns that there would be a tremendous loss if the bar was bifurcated seem overstated. A comment from a Board member followed expressing appreciation for the points made in the letter from Domestic Relations Attorneys of Washington (DRAW) about competing interests and the benefits of bifurcation in addressing that challenge.

#### Discussion of Whether WSBA's Referendum Process Would be Useful ([link](#))

Discussion began with a comment from a Board member that a referendum on the topic of bifurcation would not be useful because the yes/no model is too simplistic. The Board took comment from Douglas Becker that a survey would be preferable to a referendum. Discussion followed against using the referendum process and for and in opposition of a survey. Nancy Hawkins commented on the care that must be put into developing and administering a survey.

#### Discussion of Question 2 ([link](#))

Discussion continued on the topic of referendum, including a perspective that the referendum would be inappropriate given that the Supreme Court asked for the Board's recommendation; and that the existing survey platform/model should be used. Discussion on question two began with a comment that a contingency plan should be based on the potential worst-case scenario, not based on the answer to question three. Mark Alexander commented that the Board should be seeking as much information as it can, including getting input from members. There was a proposal that WSBA survey the members generally, and also to specific stakeholders, and that the Executive Director, President, and Chief Communications Officer work to accomplish that. Director Nevitt suggested that the task of developing a survey be delegated to the Member Engagement Council.

Discussion continued about the response to question two, including whether the proposal on the table should be considered a contingency plan; that there is an implicit proposal to maintain the status quo; that the response to question two should be similar to the DRAW proposal and should address what would happen to funds in the event of a bifurcation; that it's difficult to develop a contingency plan when we can't predict what the ninth circuit or the US Supreme Court might do; that it's not a good use of resources to try to predict and respond to what might happen down the road; that much of the work has already been done and simply needs fine-tuning; and a suggestion that we gather the work that has already been done and outline what a 90-day workplan might look like.

The Board took public comment from Nancy Hawkins that WSBA should have a legal contingency plan in the event that the Ninth Circuit issues a ruling that is adverse to the WSBA structure. She suggested that

WSBA develop a list of the issues that would need to be addressed, including allocation of funds, contracts, and disposition of assets and equipment.

Director Nevitt shared how she intended to proceed with regard to surveying the members and invited clearer direction from the Board. There was a request from a board member to add a presentation of the history to the July ETHOS agenda. Discussion followed regarding the survey, including a suggestion that the President appoint a governor from each side of the issue to collaborate on developing a survey.

Gov. Higginson moved that two people be designated by the President to work with Gov. Bryn Peterson on behalf of the Member Engagement Council to come up with survey questions to be sent to the members regarding restructuring the bar association. Discussion followed, including a perspective that Chief Niegowski and Director Plachy should take the lead and work with the survey company to formulate questions and that it can also make sense to ensure that there are diverse perspectives represented.

Gov. Peterson moved to amend the motion to include that Directors Niegowski and Plachy will work with WSBA's survey company and the Member Engagement Council and to appoint Govs. Higginson and Abell to work on the survey questions. Discussion followed, including a suggestion that staff develop the survey questions and bring them to the Board for approval at the July meeting; that the task be delegated to the Member Engagement Council as it exists; clarification that the underlying motion did not intend to include the Member Engagement Council, but instead two board members and the chair of the Member Engagement Council; that discussion of the survey questions could take an entire day; concern that in the amended motion it is unclear who is the decision-maker; and a recommendation that WSBA work with the professional survey company, rather than having individual board members develop questions.

Gov. Peterson withdrew his amended motion in favor of a proposal that the Member Engagement Council decide on the issue, including a vote if needed. Without objection, the motion to amend was withdrawn. Discussion on the underlying motion continued, including a perspective that the original motion would not mean that the group cannot be supported by staff or consult with the Member Engagement Council; and that the Member Engagement Council always invites all to participate in their meetings. Clarification was sought on whether the motion would permit engagement of the Council and NBRI. It was clarified that the motion did not include working with the entire Council. There was a suggestion that there seemed to be consensus that the Member Engagement Council should work with NBRI to develop the survey questions. The Board voted on the underlying motion, which resulted in a 4-4 tie. Pres. Tollefson voted no and the motion failed. Govs. Abell and Anjilvel were not present for the vote.

Pres. Tollefson sought a motion to refer to the matter to the Member Engagement Council to work with NBRI to develop the survey with the understanding that everyone can attend the meeting of the Council. Gov. Purtzer made the motion, which passed 7-1. Govs. Abell and Anjilvel were not present for the vote.

#### **ADJOURNMENT**

Pres. Tollefson suggested that the Executive Director send out a preview of the next meeting via email and adjourned the meeting at 4:42PM.



Respectfully submitted,

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Terra Nevitt  
WSBA Executive Director & Secretary

DRAFT

# WASHINGTON STATE BAR ASSOCIATION

## BOARD OF GOVERNORS SPECIAL MEETING - ETHOS

### Minutes

Tacoma Convention Center, Tacoma, WA

July 23, 2022

[Call to Order and Welcome \(link\)](#)

The special meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by Pres. Brian Tollefson on Saturday, July 23, 2022, at 9:07 AM. Governors in attendance were:

Hunter Abell  
Francis Adewale  
Sunitha Anjilvel  
Lauren Boyd  
Pres. Elect Daniel D. Clark  
Matthew Dresden  
Carla Higginson  
Tom McBride  
Treas. Bryn Peterson  
Brett Purtzer  
Alec Stephens  
Brent Williams-Ruth

Also in attendance were Anne Block, Executive Administrator Shelly Bynum, Michael Cherry, Carrie Donnelly, Chief Disciplinary Counsel Doug Ende, Gov. Elect Kevin Fay, Sandra Ferguson, Nancy Hawkins, Executive Director Terra Nevitt, Gov. Elect Nam Nguyen, Chief Communications & Outreach Officer Sara Niegowski, Broadcast Services Manager Rex Nolte, Gov. Elect Kari Petrusek, Director of Advancement Kevin Plachy, Terry Price, John Scannell, Immediate Past Pres. Kyle Sciuchetti, General Counsel Julie Shankland, Chief Equity & Justice Officer Diana Singleton, and Member Services & Engagement Manager Julianne Unite.

Pres. Tollefson made preliminary remarks and opened the floor for public comment.

Terry Price made comments on behalf of the Access to Justice Board that the Board wishes to remain at the Bar and that the Bar should remain a champion of justice. He stated that the Access to Justice Board's position is that the Keller deduction is sufficient remedy for those that object to activities in furtherance of access to justice. Discussion followed, including how the Keller deduction has operated with respect to the activities of the Access to Justice Board and the bar's conservative approach to the Keller deduction. Mr. Price commented further that the Access to Justice Board sees its work as being germane and essential to the work of the Bar association.

In response to a question, Pres. Tollefson confirmed that a quorum of the Board was present and had been established.

Michael Cherry commented that although the Practice of Law Board has not taken a formal vote, he believes that the perspective of the ATJ Board is echoed by the Practice of Law Board. Commenting on his own behalf, Mr. Cherry commented that the market for legal services is ripe for disruption due to consumers being unable to find the legal services they need at a price point and time that they desire. He commented that he would like to see a bar that was more focused on looking at the market for legal services and being proactive in addressing the related issues, such as cross-state practice of law. Discussion followed as to what would need to change in the organization for it focus on the issues identified by Mr. Cherry. In response he noted an overemphasis on internal issues, rather than projects, and fear of innovation.

The Board took comment from Gov. Elect Kevin Fay on behalf of the Executive Committee of the Corporate Counsel Section, which he reported has determined that it would like the Bar to remain integrated. He noted that the section benefits from the services of the organization and do not see any benefit to bifurcation, particularly economically. Gov. Elect Fay commented on his own behalf that as a corporate counsel he has seen that companies have already been innovating in terms of cross-border practice and use of paraprofessionals. He commented further that he believes the problem is economic rather than regulation; that there is a great unmet need for free legal services and that professionals cannot afford to give their services away. He commented that he believes the only thing the Bar can do is to lobby for more funding for civil legal aid. He summarized that on behalf of himself and his section the Bar should not bifurcate as it will not have any benefits and will reduce services to the members.

The Board took comment from Carrie Donnelly that any system requires accountability and that, in her opinion, the discipline system failed her. She noted there is a conflict of interest in the WSBA mission statement and that the organization cannot represent both sides. She further commented that there should be more transparency and participation of the public in the system.

During a break in public comment, Pres. Tollefson suggested each Board member comment on their responses to question number one from the Supreme Court, regarding whether there are any changes in the law that require a change to the WSBA structure.

Gov. Clark moved that the answer to question one, as to whether we are legally required to change the structure of the Bar association, the answer is no. Discussion followed, including a suggestion to amend the motion to add a citation to the three recent Supreme Court Cases, that amendment was accepted. The motion was restated as "Gov. Clark moved that the answer to question one, as to whether we are legally required to change the structure of the Bar association, in light of the US Supreme Court's denial of cert in Schell v. Oklahoma Supreme Court Justices, McDonald v. Firth, and Taylor v. Heath, the answer is no." Discussion continued, including a perspective that there are still pending cases that could require a change in the future; a perspective that the issue needs to be put to rest, regardless of the litigation, and focus on the work of the bar; a suggestion from Executive Director Nevitt that the Board considering

setting a roadmap for when the organization would revisit the structure question; comments in support of the motion and perspectives that the issue can never be fully resolved; a request that governors who are taking a position that the structure is strong, keep that in mind when the questions arise in the future.

Gov. Clark moved to call the question. The motion to call the question carried 8-3. Gov. Higginson was not present for the vote. The underlying motion passed 11-1.

Pres. Tollefson opened the conversation to responding to the second question from the Supreme Court relating to contingency planning. Discussion followed, including a perspective that the question comes down to risk tolerance; a suggestion from General Counsel Shankland that the Board start from the question as to what they want, rather than from a focus on legal barriers; and the extent to which legislative work is a key theme in the caselaw.

The Board took public comment from Anne Block that the regulation of the practice of law should be regulated by the executive branch and noted that she will continue to advocate that the Bar be abolished.

Discussion continued, including a suggestion that the Executive Director and leadership team be asked to develop an emergency plan to present to the Board for potential adoption, similar to the existing disaster recovery plan. There was also a suggestion that it makes sense to discuss the ideal structure of the Bar before resolving the question of contingencies.

The Board took public comment from Nancy Hawkins that executive sessions are not required to discuss caselaw and it would give a bad impression; that sections have commented that they do not want a political action committee; and her perspective that some of the comments in favor of bifurcation seem to indicate a lack of information.

[\(link\)](#) Gov. Higginson moved that in response to question 2, assuming we do not vote to bifurcate and we keep our current structure, the Executive Director and the Executive Leadership team develop a back-up emergency plan to present to the Board for potential adoption in the event that we are forced to change our current structure. Gov. Adewale offered a friendly amendment that all comments and papers submitted during the ETHOS process be considered. Gov. Higginson noted that she preferred not to include that in the motion.

Discussion followed, including a perspective that the staff is well positioned to develop a contingency plan; and a suggestion that the motion clarify that the contingency plan be specific to address a complete and total bifurcation. Gov. Higginson accepted a friendly amendment to restate the motion as "in response to question 2, assuming we do not vote to bifurcate and we keep our current structure, the Executive Director and the Executive Leadership team develop a back-up emergency plan to present to the Board for potential adoption in the event that we are forced by court order to separate the regulatory from the non-regulatory functions." The Board took comment from Chief Disciplinary Counsel Doug Ende suggesting that the Board not make a plan based on a guess about what the US Supreme Court might ultimately do. The meeting was briefly recessed due to disruption in the chat function of the virtual meeting platform.

([link](#)) Discussion continued, including about the extent to which public comment has been received and considered in the process; and a perspective that it might be not be a good use of time to develop a contingency plan.

Gov. Stephens moved to sever the original motion from the amendment, noting that in his view a contingency plan should not be limited to a court decision that calls for a complete bifurcation of the bar. The motion was restated, and Gov. Stephens clarified the part that he wished to sever. His motion died due to the lack of a second.

Discussion followed, including support for the motion and the idea that some planning would be useful even if only a rough draft; opposition to the motion based on a concern that its difficult to make a plan without knowing what we will be planning for; comments in support of the motion because it will be similar to any emergency planning; and comments in support of the motion and a perspective that WSBA *does* have sufficient information to plan and doesn't have to implement the plan if the result is different than what is expected.

The Board took public comment from Sandra Ferguson who identified herself as a non-practicing lawyer and a member of public. She asked the Board whether it had discussed question three and urged the Board to slow down and give the public and members an opportunity to weigh-in on that question, which she views as critically important. She inquired as to whether the Board would consider slowing down the process. She noted that she was interpreting Chief Justice Gonzalez's questions about bifurcation to refer to moving the regulatory functions under the Supreme Court, noting that she believes that there should be additional options, including the creation of a regulatory agency that is responsive to the electorate and that reports to the executive branch. She inquired as to how many other states regulate the profession under the executive branch. She further inquired as to who has the legal responsibility to ensure that the public is protected from dishonest.

Gov. Higginson moved to table the pending motion to the next structures meeting, expressing curiosity about what might happen that would require such an urgent response. Discussion followed in support of and in opposition to the motion. The Board took public comment from Nancy Hawkins in opposition to the motion. Discussion followed, including support for the motion to table; and a perspective that it is critical it is to be mindful of the input received throughout the process.

Sandra Ferguson asked the Board whether question three had been discussed and whether any motions had been made. It was clarified that question three was discussed at the June ETHOS meeting and that no action had been taken.

The motion to table passed 8-2. Govs. Abell and Anjilvel were not present for the vote.

Discussion followed regarding the survey to the membership and how it will be carried out. The Board took a question from Sandra Ferguson as to the rationale for not distributing the survey to all members.

Discussion followed as to development of proposals for the August 13 meeting. Several comments were suggested the three areas to look at status quo, complete bifurcation, and the PAWL proposal.

The Board took public comment from Sandra Ferguson who identified herself as a practicing attorney from 1993 to 2016, when she was harassed into quitting the practice of law. She walked through her personal experience in the discipline system and as a victim of white-collar crime by other attorneys. As to question three, she expressed her view that the structure needs fixing. She expressed her view that the structure has increased the wealth and power of a small group of lawyers over the profession and the public. She expressed her concern that the organization is being used to perpetuate criminal activity. She reiterated her question from earlier as to who has the legal obligation to protect the public. Ms. Ferguson recommends that WSBA be dissolved and that an independent investigator be appointed to investigate her allegations of case fixing. She recommended that the regulatory agency not be moved under the Supreme Court and instead be under the Executive branch.

**ADJOURNMENT** ([link](#))

Pres. Elect Clark moved to adjourn given that the Board has already had ample opportunity for discussion and reflection.

Gov. Dresden noted he was aligned with the comments made by Boyd and Peterson, but is keeping an open mind and would like to see the additional information. Gov. Williams-Ruth commented on the poor quality of the closed captioning.

Pres. Tollefson asked if there were any objections to adjournment. There being none, the meeting was adjourned at 3:11 PM.

Respectfully submitted,

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Terra Nevitt  
WSBA Executive Director & Secretary

# WASHINGTON STATE BAR ASSOCIATION

**TO:** WSBA Board of Governors  
**FROM:** Executive Director Terra Nevitt  
**DATE:** August 9, 2022  
**RE:** List of WSBA Functions

Below is a list of WSBA functions, as was requested at the July 23, 2022 ETHOS meeting.

Function	Department	Function	Department
Intake of Grievances	ODC	Investigation of Dishonesty or Theft	OGC
Investigation of Grievances	ODC	Custodianship of Legal Professional Files	OGC
Prosecution of Grievances	ODC	Payment of Claims from Client Protection Fund, including <i>Client Protection Board</i>	OGC
Random Audit Program	ODC	Assessing Organizational Risk and Ensuring Compliance	OGC
Diversion of Discipline	ODC, ADV	Contract Review and Management	OGC
Trust Account Overdraft Notification Program	ODC	Rule Making Engagement, including the Court Rules Committee	OGC, EJD, ADV
Investigation and Resolution of Disability/Incapacity Matters	ODC, OGC	Rule 9 Intern Program	RSD
Adjudication of Grievances, including <i>Hearing Officers, Disciplinary Board, Disciplinary Selection Panel</i>	OGC	MCLE Administration, Policy Development, and Appeals, including <i>MCLE Board</i>	RSD
<i>Discipline Advisory Round Table</i>	OGC, ODC	Course and Sponsor Accreditation for MCLE	RSD
Administration of the <i>Practice of Law Board</i>	OGC	Compliance Tracking of MCLE	RSD

LLLT Licensure and Administration, including <i>LLLT Board</i>	RSD	Free Legal Research Tool and other Practice Management Discounts	ADV
LPO Licensure and Administration, including <i>Limited Practice Board</i>	RSD	Education, Programming, and Networking for New and Young Lawyers, including the <i>Washington Young Lawyers Committee</i>	ADV
Licensing Exams: Development, Administration, and Grading, including <i>Board of Bar Examiners</i>	RSD	Support for Rural Practice, including <i>Small Town and Rural Committee</i>	ADV
Character and Fitness Review, including <i>Character and Fitness Board</i>	RSD	Insurance Marketplace	ADV
Admissions, including by motion, transfers, and Pro Hac Vice	RSD	Educational Seminars and Products, including the <i>CLE Committee</i>	ADV
Managing Annual Licensing Process and Status Changes	RSD	Free CLE, including Legal Lunchbox	ADV
Law Clerk Board Program, including <i>Law Clerk Board</i>	RSD	Member Wellness Line	ADV
Maintenance of Member Records	RSD	Member Wellness Consultations	ADV
Preadmission and Readmission Courses	RSD, ADV	Member Wellness Resources and Education	ADV
Ethics Line	ADV	Sections Networking and Mentorship	ADV
Ethics Outreach and Education	ADV	Sections Resources and Education	ADV
Ethics Advisory Opinions, including the <i>Committee on Professional Ethics</i>	ADV	Sections Scholarship and Grants	ADV
Reference Library	ADV	Sections Law Improvement Advocacy	ADV, COM



Practice Management Advice	ADV	<i>Council on Public Defense</i>	EJD
Practice Management Resources and Education and Practice Management Discount Network	ADV	Pro Bono Support and Recognition, including the <i>Pro Bono and Public Service Committee</i>	EJD
Deskbooks	COM	Moderate Means Program	EJD
Legislation Monitoring, including <i>Legislative Committee</i> and <i>Legislative Review Committee</i>	COM	Assessing WSBA Policies, Communications, and Activities for Equity	EJD
<i>Judicial Recommendations Committee</i>	COM	Membership Demographic Data Collection, Analysis, and Research	EJD, RSD
Member Outreach and Surveys, including the <i>Member Engagement Council</i>	COM	Ensuring Accessibility to WSBA Functions	EJD, OGC, HR
Bar News and other Publications, including the <i>Editorial Advisory Committee</i>	COM	DEI Resources, Outreach, and Education, including the <i>DEI Council</i>	EJD, ADV
Graphic and Publications Design	COM	Powerful Communities Project	EJD
Website Management	COM, IT	Support for the Washington Leadership Institute	OED
APEX Awards, 50 Year Lunch and other Recognition, including the <i>APEX Awards Committee</i>	COM	Organizational Leadership, including the <i>Board of Governors</i> and the <i>Executive Committee</i>	OED, BOG
Legal Community Outreach: MBAs, Local Bar Associations, Specialty Bar Associations	COM, EJD	Volunteer Recruitment, Support, Education, Engagement and Recognition, including the <i>Nominations Committee</i>	OED
Networking and Mentorship Support and Programming	EJD, ADV	Customer Service to Members and the Public	OED
Law School Outreach	EJD, ADV	Facilities Management and Security	OED, HR
Administration of the <i>Access to Justice Board</i>	EJD	<i>Washington State Bar Foundation</i>	OED

Strategic Planning, including the <i>Long-Range Strategic Planning Council</i>	OED, BOG	Finance and Accounting	FIN
Hiring and Supervision of Executive Director, including <i>Personnel Committee</i>	BOG	Insurance Management	FIN, OGC
Workforce Planning and Talent Management	HR	Budget Development, Audit, and Development of Fiscal Policies, including <i>Budget and Audit Committee</i>	FIN, BOG
Recruitment and Retention	HR	Compensation and Benefits	HR
Training and Employee Development	HR	Performance Management	HR
Workplace Climate and Culture and Employee Relations	HR	HR Compliance	HR
Employee Conflict Resolution	HR	Technology Management	IT
Payroll	FIN, HR	Technology Planning	IT
		IT Security	IT

# WASHINGTON STATE BAR ASSOCIATION

## MEMO

**To:** WSBA President Brian Tollefson and Board of Governors

**From:** Executive Director Terra Nevitt

**Date:** August 9, 2022

**Re:** ETHOS employee survey feedback

To continue to offer ample opportunities for WSBA staff to provide input about the structure of the state bar, we created a survey and opened it to all staff from July 20 to July 29, 2022. Advantages of the survey, versus more open-ended forums, included anonymity of responses and more structure for questions. Overall, **44 employees (about 31% of the workforce) responded.**

## SUMMARY INFORMATION

### *What is your preferred structure of the Washington State Bar Association?*

- 43%: Status quo
- 34%: Bifurcate, where some regulatory services are overseen by an agency of the Supreme Court and some or all professional services are overseen by a voluntary bar association
- 16%: No preference
- 3%: Other\*

## THEMES

### *In what ways, if any, does the current integrated structure of the WSBA support your work?*

- The professional association services support regulatory services and contribute to a functioning self-regulation model; many services proactively support members to keep them informed about and in compliance with regulatory functions, such as ethics.
- The public is best supported by a well-rounded bar that regulates, educates, and *connects* legal professionals. These connections (e.g., sections and boards) strengthen practice areas, pro-bono and access-to-justice work, and legal innovation.
- Having one structure with integrated administrative support and centralized resources/expertise is efficient, effective, and higher quality. Combined, we are stronger and do more to maintain the integrity of the legal profession.
- The outreach and communication functions are critical to help all members feel connected to and aware of important regulatory functions.
- Practice Management, Member Wellness, and CLE resources, in particular, support proactive regulatory management.

*“The WSBA’s overall mission of championing justice and the institutional backing bolsters all of our work to maintain a strong legal profession.”*

*“Our members and organization do their most meaningful work by being connected. ... The public is best protected by lawyers working together.”*

*In what ways, if any, does the current integrated structure of the WSBA challenge your work?*

- It's not clear how resources are devoted to/from regulatory services versus other programs, and it feels like regulatory services get short shrift—including in compensation.
- The duality is distracting or even detrimental to those on the regulatory side, especially in the Office of Disciplinary Counsel. Why:
  - Inherent conflicts—the WSBA leaders (BOG and exec team) are beholden to interests (lawyers') other than protecting the public, and this is problematic when leaders feel at odds with regulatory objectives, funding, and conditions of employment.
  - The regulatory and non-regulatory sides of the bar seem to have distinct and often competing missions. Those interacting with members in regulatory matters often must deal with a barrage of issues—such as members being upset about the WSBA taking political stances—that compromise members' perception of ODC neutrality and fairness.
- Doing important work, like advancing diversity, equity, and inclusion in the profession OR directly helping the public with referrals, is often stymied under threat of being sued for overstepping GR12 and Keller considerations.

*“Our (discipline) mission and focus is different, and almost antithetical, to that of the professional-association services of the bar. It can be confusing for some members.”*

*“Under the current structure, I am prohibited from engaging in some activities because of GR 12.2 that I likely would be able to engage in under a voluntary structure. I have to be extremely careful not to engage in or further any advocacy, political speech, etc.”*

*If you are a board or committee liaison, how does the current bar structure present opportunities and challenges to your board or committee?*

- FOCUS: We need to stop focusing on internal issues, like structure, and get back to doing work that actually impacts the profession and protects the public.
- There is opportunity in being able to collaborate and share information between so many entities.
- We are constrained by GR12 and fiscal policies.
- Because of the administration and facilitation of the WSBA, my entity can thrive. WSBA provides the resources, recruitment, and logistical support for my entity.

*\*Other bar structure ideas:*

- Integrated with a reorganization to allow for a more robust Keller calculation. Because so many are deeply invested in the current structure of the bar (including the Board), consideration of “best structure” should be done by the Supreme Court; in fact, the Court should use a zero-based organization design approach to restructure the entire state justice system; and it should be aimed at protecting the legal system and the public in a world of ongoing change, utilizing resources and people in the best way possible. The BOG needs to reinvest in long-term guardianship rather than short-term achievements.

*Are you concerned about the ETHOS process' potential impact on your job at the WSBA?*

- Yes: 36%
- Moderately: 36%
- No: 27%