

**WASHINGTON STATE**  
**B A R A S S O C I A T I O N**

**Board of Governors Meeting**

**Public Session**  
**Late Materials**

**March 7, 2019**  
**Hotel RL**  
**Olympia, Washington**



Board of Governors Meeting  
Hotel RL  
Olympia, WA  
March 7, 2019

**UPDATED**

*WSBA Mission: To serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.*

**PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE**

THURSDAY, March 7, 2019

GENERAL INFORMATION ..... 2

1. AGENDA ..... 18

**8:00 A.M.**

2. EXECUTIVE SESSION

- a. Recommendations re Client Protection Fund Gifts – Julie Shankland **(action)** ..... E-2
- b. Appeal from Law Clerk Board Decision – Jean McElroy **(action)**..... E-5
- c. President’s and Executive Director’s Reports
- d. Litigation Report – Julie Shankland..... E-87

**10:30 A.M. – PUBLIC SESSION**

- Welcome
- Report on Executive Session
- President’s Report and Executive Director’s Report
- Consideration of Consent Calendar\*

**MEMBER AND PUBLIC COMMENTS**

This time period is for guests to raise issues of interest.

**OPERATIONAL**

3. **FIRST READING/ACTION CALENDAR**

- a. Approve Recommendations from Mandatory Malpractice Insurance Task Force – Hugh Spitzer, Chair, and Doug Ende, Chief Disciplinary Counsel **(first reading)**..... 22
- New**-Discuss and Consider Resolution of the Status of the Office of Treasurer .....**late materials**
- b. Suggested Amendments to Mandatory Arbitration Rules (MARs) per Washington Supreme Court Request – Stephanie Dikeakos, MARs Subcommittee Chair, and Nicole Gustine, Assistant General Counsel **(action)** ..... 110
- c. Request for BOG Support of Diversity Committee Statement of Solidarity – Governor Alec Stephens, and KJ Williams, Diversity Programs Manager **(action)** ..... 189

\* See Consent Calendar. Any items pulled from the Consent Calendar will be scheduled at the President’s discretion.  
 The WSBA is committed to full access and participation by persons with disabilities to Board of Governors meetings. If you require accommodation for these meetings, please contact Kara Ralph at [karar@wsba.org](mailto:karar@wsba.org) or 206.239.2125.

**12:15 P.M. – LUNCH WITH LIAISONS AND GUESTS**

**2:00 P.M.**

- d. Input on WSBA Board of Governors No Retaliation Policy – WSBA Staff..... 205
- e. Approve Resolution in Recognition of Chief Justice Mary E. Fairhurst – Governor Dan Clark (**action**) ..... 209
- f. Legislative Update – Governor Kyle Sciuchetti, Chair of BOG Legislative Committee, and Sanjay Walvekar, Outreach and Legislative Affairs Manager ..... 211
  - 1. Substitute House Bill 1788..... 214
- g. Update from BOG Committee re Recommendations from Civil Litigation Rules Drafting Task Force – Governor Dan Bridges

**GOVERNOR ROUNDTABLE**

This time period is for Board members to raise new business and issues of interest.

**OPERATIONAL (continued)**

- 4. CONSENT CALENDAR..... 218**
  - a. January 17-18, 2019, Public Session Minutes..... 219
  - b. February 14, 2019, Special Meeting Public Session Minutes ..... 231
  
- 5. INFORMATION**
  - a. Executive Director’s Report ..... 234
  - b. Diversity and Inclusion Events ..... 264
  - c. Financial Statements
    - 1. First Quarter FY 2019 Budget to Actual Narrative ..... 266
    - 2. December 31, 2018, Financial Statements ..... 269
    - 3. January 31, 2019, Financial Statements ..... 310
    - 4. December 31, 2018, and January 31, 2019, Investment Updates ..... 353
  
- 6. PREVIEW OF MAY 16-17, 2019, MEETING ..... 354**

## 2018-2019 Board of Governors Meeting Issues

### NOVEMBER (Seattle)

#### Standing Agenda Items:

- Access to Justice Board Annual Report (Information)
- Financials
- FY2018 Fourth Quarter Management Report
- 2018-2019 Legislative Priorities
- 2018-2019 Legislative Review Committee Recommendations
- Office of Disciplinary Counsel Report (ED Report Information – quarterly)
- Outside Appointments (if any)
- Washington Leadership Institute (WLI) Fellows Report
- WSBA Practice Sections Annual Reports (ED Report Information)
- WSBF Annual Report

### JANUARY (Seattle)

#### Standing Agenda Items:

- ABA Midyear Meeting Sneak Preview
- Client Protection Fund (CPF) Annual Report
- Financials
- FY2018 Audited Financial Statements
- FY2019 First Quarter Management Report
- Legislative Session Report
- Office of Disciplinary Counsel Report (ED Report Information – quarterly)
- Outside Appointments (if any)

### MARCH (Olympia)

#### Standing Agenda Items:

- ABA Mid-Year Meeting Report
- Financials
- Legislative Report
- Outside Appointments (if any)
- Supreme Court Meeting

#### March 2018 Agenda Items:

- BOG Civil Litigation Rules Committee Report
- Mandatory Malpractice Insurance Final Report

### May (Yakima)

#### Standing Agenda Items:

- BOG Election Interview Time Limits (Executive Session)
- Financials
- FY2019 Second Quarter Management Report
- Interview/Selection of WSBA At-Large Governor
- Interview/Selection of the WSBA President-elect
- Legislative Report/Wrap-up
- Office of Disciplinary Counsel Report (ED Report Information – quarterly)
- Outside Appointments (if any)
- WSBA APEX Awards Committee Recommendations (Executive Session)

**JULY (Richland)**

Standing Agenda Items:

- ATJ Board Report
- BOG Retreat
- Court Rules and Procedures Committee Report and Recommendations
- Financials
- Draft WSBA FY2020 Budget
- FY2018 Third Quarter Management Report
- Office of Disciplinary Counsel Report (ED Report Information – quarterly)
- WSBA Committee and Board Chair Appointments
- WSBA Mission Performance and Review (MPR) Committee Update
- WSBA Treasurer Election

**SEPTEMBER (Seattle)**

Standing Agenda Items:

- 2020 Keller Deduction Schedule
- ABA Annual Meeting Report
- Chief Hearing Officer Annual Report
- Professionalism Annual Report
- Report on Executive Director Evaluation (Executive Session)
- Financials
- Final FY2020 Budget
- Legal Foundation of Washington and LAW Fund Report
- Washington Law School Deans
- WSBA Annual Awards Dinner
- WSBF Annual Meeting and Trustee Election

**Board of Governors – Action Timeline**

Description of Matter/Issue	First Reading	Scheduled for Board Action
Request for BOG Support of Diversity Committee Statement of Solidarity	Jan 17-18, 2019	March 7, 2019
Recommendations from Mandatory Malpractice Insurance Task Force	March 7, 2019	May 16-17, 2019

**WASHINGTON STATE**  
BAR ASSOCIATION

**TO:** WSBA Board of Governors  
**FROM:** Governor P.J. Grabicki  
**DATE:** March 5, 2019  
**RE:** Status of Office of Treasurer

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**Discussion:** Status of Office of Treasurer

After careful review of the WSBA governance documents, particularly the bylaws, the Board acknowledges that “suspension” of an officer is not within the power or authority of the Board. Rather, the Board can only remove and then replace an officer, and removal requires an affirmative vote of 75%. Thus, the vote for “suspension” of an officer was ultra vires and not within the scope of the Board’s authority, and such action was a nullity.