



# WSBA

WASHINGTON STATE BAR ASSOCIATION

## LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD

**November 21, 2013**

### AGENDA

Washington State Bar Association  
1325 Fourth Avenue – Suite 600  
Seattle, Washington 98101  
Time: 2:00 p.m. to 5:00 p.m.

1. **Call to Order/Preliminary Matters** (Steve Crossland) (2:00 p.m.)
  - Approval of October 17, 2013 meeting minutes
  - Meeting Schedule for FY 2014
2. **RPC Subcommittee Recommendations Consent Agenda** (2:15 p.m.)
  - a. Proposed Title 5 of the LLLT Rules of Professional Conduct are adopted in their entirety.
3. **RPC Subcommittee Issues for Board Discussion** (2:45 p.m.)
  - IOLTA Rules and ELC Title 15 (Caitlin Davis Carlson)
4. **Report of RPC Subcommittee Meeting** (3:00 p.m.)
5. **Report of Examination Subcommittee Meeting** (3:15 p.m.)
  - Board assistance with writing exam questions
6. **Report re Meetings with Community Colleges**
7. **Open Discussion**
8. **Adjourn** (5:00 p.m.)

### MEETING MATERIALS

1. 2013-10-17 Draft Meeting Minutes [pp. 583-587]
2. 2013-10-17 Approved RPC Subcommittee Minutes [pp. 588-590]
3. 2013-09-16 Approved Examination Subcommittee Minutes [pp. 591-592]
4. 2013-09-16 Appendix of Board Decisions [pp. 593-600]
5. 2013-10-17 Proposed Title 5 [pp. 601-605]
6. 2013-11-15 Draft Bylaws of LLLT Review Committee [pp. 606-608]



# WSBA

WASHINGTON STATE BAR ASSOCIATION

## LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD MEETING MINUTES

October 17, 2013

Washington State Bar Association  
Seattle, Washington

Members present were Steve Crossland (Chair), Lupe Artiga, Paul Bastine (BOG Liaison), Bill Covington, Caitlin Davis Carlson, Jeanne Dawes, Ellen Dial, Lynn Fleischbein, Ellen Reed, Elisabeth Tutsch, and Ruth Walsh McIntyre.

Also in attendance was Thea Jennings (Staff Liaison) and Jean McElroy, Chief Regulatory Counsel.

Also present was Christy Carpenter, a member of the public.

### PRELIMINARY MATTERS

The meeting was called to order at 2:00 p.m.

#### **I. LLLT Business Relationships with Lawyers & Draft RPC Title 5**

Title 5 Workgroup Chair Brooks Holland reported on the draft of the RPC Title 5 workgroup, referencing his October 10, 2013 explanatory email and draft Title 5 circulated to the full Board.

Based on the Board's guidance, the workgroup drafted Title 5 to prohibit nonlawyer ownership of LLLT firms. The workgroup drafted the rules to permit partnership with lawyers and other LLLTs based on the Board's interest in considering such flexible business models. Using the existing structure of RPC 5.1-5.4 to allow LLLTs to partner with both LLLTs and lawyers resulted in complicated and confusing language. As such, the RPC subcommittee proposes an Option B. Using the existing structure of RPC 5.1-5.4, Option B permits LLLTs to partner, share fees with, and manage only other LLLTs, but adds a new RPC 5.x which separately authorizes LLLTs and lawyers to partner under specific conditions. Option B will likely avoid the potential confusion found in addressing LLLT business relationships with other LLLTs and lawyers all within the same RPC. Further, should the Supreme Court decide against lawyer and LLLT joint ownership of law firms, RPC 5.x would be easily severable from the RPC.

RPC 5.x provides that LLLTs cannot acquire a majority ownership in a firm and that lawyers with managerial authority would have the same supervisory role over the ethics of LLLTs as other lawyers in a firm. The subcommittee recognized that for RPC 5.x to be effective, there would need to be an equivalent lawyer RPC with a comment that includes an admonition against allowing LLLTs to control their independent professional judgment by compensation or otherwise.

The Board discussed and unanimously adopted the RPC 5.x model. The workgroup will prepare a final draft of Title 5 for the Board's next consent agenda.

## **II. Meeting Minutes**

The September 16, 2013 meeting minutes were approved.

## **III. New Board Policies**

In order to promote the timely administration of the program and consistent with the authority of the Board to enact certain policies at will, the Board discussed adopting certain policies to increase enrollment numbers for the Winter Quarter 2014 LLLT family law courses. They approved policy decisions as described below. These policies are effective immediately

### **NALS Professional Paralegal Exam & Waiver**

The NALS Professional Paralegal (PP) exam is substantially equivalent to the PACE and Certified Paralegal exams, which currently qualify for the limited time waiver. The Board agreed the exams were comparable and by unanimous vote adopted a policy adding the PP exam and certification to the list of qualifying options for the limited time waiver.

### **Enrollment Options for Family Law Courses**

Staff Liaison Thea Jennings indicated that her contacts with potential applicants revealed that many interested students had already completed their ABA approved paralegal degrees but were missing a prerequisite course or two. The Board considered different policy options that would permit those students who have completed their degree to enroll. The Board unanimously adopted the policy that applicants may enroll who have completed (1) their paralegal degree or certificate from an ABA approved program and (2) at least half of the required 45 core curriculum credit hours.

## **IV. RPC Consent Agenda**

The Board then discussed the October 17, 2013 consent agenda recommendation of the RPC subcommittee:

- a) The Fundamental Principles, Preamble, and Scope sections of the LLLT Rules of Professional Conduct are adopted in their entirety.

The highlighted text in the Fundamental Principles, Preamble, and Scope sections will need to be revisited once the subcommittee is further into its work. The Board approved the recommendation on consent with one typographical error correction.

## **V. RPC Subcommittee Report**

Chair Ellen Dial presented the report of the October 17, 2013 RPC subcommittee meeting. She noted that the subcommittee will invite a member of the Supreme Court to participate in the meetings of the subcommittee to keep the Court abreast of its work.

### **Prohibition Against Communicating with Opposing Party**

At its last meeting, the Board determined that an LLLT may not communicate with an unrepresented opposing party or a lawyer/LLLT representing the opposing party. After discussion, the subcommittee determined an amendment to APR 28 clarifying this prohibition is not necessary; however, the prohibition should be incorporated into RPC 4.2-4.4.

### **IOLTA Rules**

The IOLTA workgroup will present its final draft of the IOLTA provisions to the Board at its November meeting. This includes RPC 1.15A and RPC 1.15B and ELC Title 15. After which, the draft with any necessary changes will appear on the Board's consent agenda for December.

### **Title 1**

At its last meeting, the subcommittee divided into workgroups to complete Title 1. The workgroups completed drafts for the subcommittee meeting. The subcommittee discussed a draft of RPC 1.1-1.6. It debated whether fee sharing arrangements as found in RPC 1.5(e) should be permitted. If permitted, the issue of joint responsibility would arise, meaning to what extent would a lawyer and/or LLLT share responsibility both ethically and financially in the outcome of a case. The subcommittee does not want to limit any possible business arrangements that would create a viable business option for LLLTs. The subcommittee was unable to resolve the issue of joint responsibility and did not complete its review of Title 1. The subcommittee will continue its discussions on Title 1 at its next meeting.

### **Drafting the RPC**

The subcommittee then created workgroups for Titles 2-3.

## **VI. Report of Examination Subcommittee**

Chair Lupe Artiga presented the report of the October 17, 2013 Examination subcommittee meeting.

### **Paralegal Core Competency Exam (PCCE)**

The subcommittee discussed concerns about the board creating a core education exam. This issue was previously discussed as a concern by the admissions subcommittee and other board members in general. Creating an exam on general legal education is a huge

undertaking and requires a substantial amount of resources that the LLLT board and WSBA do not have. It was put to the subcommittee that the core exam should be a broad based foundation of legal education and there should not be a higher standard for LLLTs than there is for lawyers.

The subcommittee reviewed the study guide and sample questions for the Pace Core Competency Exam (PCCE) administered by the National Federation of Paralegal Associations (NFPA). The PCCE covers more topics than are required; however, there is room in the core education requirements for elective courses. Furthermore, like a bar exam and law students, a LLLT student need not take all courses that are covered on the exam. There are study guides and prep courses available for preparing for the exam. The subcommittee did not make any decisions, but agreed that it may be best to proceed with an exam that has been professionally developed.

The PCCE does not cover LLLT RPC issues. The subcommittee considered creating a third ethics exam.

### **Family Law Exam and Advisory Workgroup**

Moving forward on the premise that a core exam will no longer need to be created, the subcommittee discussed the make-up of the family law practice area exam. The subcommittee discussed the importance of ethics, scope and writing and believes those items should be included in the practice area exams. A first concept of the practice area exam is as follows:

<b>Subjects</b>	<b>Multiple Choice</b>	<b>Written Components</b>	<b>Advisory Group</b>
Family Law	80 min/40 Questions	60 min for 3 essays/ 60 min performance	6 members reduced to 4 members after creation of exam
Professional Responsibility/Scope	40 min/20 Questions	PR/Scope issues incorporated in family law written components.	
<b>Total Practice Area Exam</b>	<b>2 hours/60 Questions</b>	<b>2 hours writing</b>	<b>4 hours total</b>

The subcommittee discussed the practice area advisory groups whose purpose would be to assist with exam creation and to advise the LLLT board on changes in law that may require changes to scope or exam questions. The advisory group would not be reimbursed and would be made up of volunteer lawyers and eventually LLLTs. The Board unanimously approved the creation of the Family Law Advisory Workgroup.

Staff was directed to send out notices seeking volunteers to the law schools, paralegal schools, family law section, solo and small business section, the Access to Justice Board and judges if possible. The subcommittee previously suggested six members on the advisory workgroup to start with and that would then be reduced to four after the creation of the exam. The size still needs to be discussed and finalized by the subcommittee.

**VII. Other**

BOG Liaison Paul Bastine noted that the term “nonlawyer” is regularly used to describe LLLTs. However, when talking about nonlawyers, we are talking of those who are not in the legal profession. The Governance Task Force has been using the term to describe anyone who is not a member of the Bar Association. As such, the use of that term has become confusing. This will need to be clarified at some point.

**ADJOURNMENT**

The meeting adjourned at 4:30 p.m.

**NEXT MEETING**

The next meeting will be 2:00 p.m. Thursday, November 21, 2013, at the offices of the Washington State Bar Association, 1325 4th Avenue, Seattle, Washington.



# WSBA

WASHINGTON STATE BAR ASSOCIATION

**LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD  
LLLT RPC SUBCOMMITTEE  
MEETING MINUTES**

**October 17, 2013**

**Washington State Bar Association  
Seattle, Washington**

Members present were Ellen Dial (Chair), Paul Bastine (BOG Liaison), Caitlin Davis Carlson, Doug Ende, Brooks Holland (by WebEx), Janet Olejar, Debi Perluss, and Elisabeth Tustch.

Also in attendance was Thea Jennings (Staff Liaison).

## **PRELIMINARY MATTERS**

The meeting was called to order at 10:00 a.m.

### **I. Minutes of Prior Meeting**

The minutes from the subcommittee's September 16, 2013 meeting were approved.

### **II. Consent Agenda Items**

The subcommittee reviewed and agreed to its September 16, 2013 consent agenda item:

- a) The Fundamental Principles, Preamble, and Scope sections of the LLLT Rules of Professional Conduct are adopted in their entirety.

The subcommittee noted that the highlighted text in the Fundamental Principles, Preamble, and Scope sections will need to be revisited once the subcommittee is further into its work.

### **III. Prohibition Against Communicating with Opposing Party**

The Board determined that an LLLT may not communicate with an unrepresented opposing party or a lawyer/LLLT representing the opposing party. After discussion, the subcommittee determined an amendment to APR 28 clarifying this prohibition is not necessary; however, the prohibition should be incorporated into RPC 4.2-4.4.

#### **IV. Title 5 Workgroup Report**

Workgroup Chair Brooks Holland presented the report of the Title 5 workgroup, referencing his October 10, 2013 explanatory email and draft Title 5 circulated to the subcommittee members and the full Board.

The workgroup drafted Title 5 to permit partnership with lawyers and other LLLTs based on the Board's interest in considering such flexible business models. The draft includes two proposed versions of RPC 5.1-5.4: Option A and Option B. Option A uses the existing structure of RPC 5.1-5.4 to allow LLLTs to partner with both LLLTs and lawyers, but the resulting language is complicated and difficult to comprehend. In Option B, RPC 5.1-5.4 permits LLLTs to partner, share fees with, and manage only other LLLTs, but adds a new RPC 5.x which separately authorizes LLLTs and lawyers to partner under specific conditions. Option B will likely avoid the potential confusion found in addressing LLLT business relationships with other LLLTs and lawyers all within the same RPC (as in Option A). Further, should the Supreme Court decide against lawyer and LLLT joint ownership of law firms, RPC 5.x would be easily severable from the RPC.

Ultimately, the subcommittee approved Option B for recommendation to the full Board, as it is easier to understand. The subcommittee recognized that for RPC 5.x to be effective, there would need to be an equivalent lawyer RPC with a comment that includes an admonition that lawyers not allow LLLTs to control their independent professional judgment by compensation or otherwise.

With that, the subcommittee continued its discussion of the remaining provisions of Title 5. It was noted that RPC 5.8 assumes the existence of disciplinary sanctions that apply to LLLTs. Given that no disciplinary rules are currently in existence, it is unclear what the terminology will be. Final drafting of RPC 5.8 will need to be coordinated with whatever disciplinary sanction decisions are made with respect to LLLTs.

#### **V. Report of IOLTA Workgroup**

Chair Caitlin Davis Carlson presented the report and draft of the IOLTA workgroup. The workgroup recommended minor changes to RPC 1.15A, RPC 1.15B, and ELC Title 15 concerning trust funds, as outlined in the materials submitted to the subcommittee. The subcommittee reviewed and made decisions regarding these recommended changes. It was noted that with respect to the trust account rules, the subcommittee will need to follow up on terminology and whether to include comments. Many of the comments for the lawyer IOLTA rules are substantive in nature and provide a fuller explanation of how to interpret the rules. The workgroup recommends that the subcommittee consider adopting some of these comments.

The IOLTA workgroup will present its final draft of the IOLTA provisions to the Board at its November meeting. After which, the draft with any necessary changes will appear on the Board's consent agenda for December.

## **VI. Reports of the Title 1 Workgroups**

### **Title 1.1-1.6**

Elisabeth Tutsch presented the report of the Title 1.1-1.6 workgroup. When drafting these RPC, the workgroup attempted to make as few changes as possible. The subcommittee suggested multiple minor changes to the language of RPC 1.1-1.4, which Ms. Tutsch will incorporate into the draft for the subcommittee's next meeting.

The subcommittee then discussed the provision regarding contingent fees found in RPC 1.5(d). Contingent fees are inappropriate for LLLTs considering the limited scope of their practice. As such, RPC 1.5(d) should be reserved.

The subcommittee then debated whether fee sharing arrangements as found in RPC 1.5(e) should be permitted. If permitted, the issue of joint responsibility would arise, meaning to what extent would a lawyer and/or LLLT share responsibility both ethically and financially in the outcome of a case. It was noted that RPC 1.5(e) was meant to address joint responsibility in a contingent fee arrangement situation, which is forbidden for LLLTs. However, the subcommittee does not want to limit any possible business arrangements that would create a viable business option for LLLTs. The subcommittee was unable to resolve the issue of joint responsibility and will readdress it at its next meeting.

The subcommittee will address the remaining provisions of Title 1 at its next meeting.

## **VII. Workgroup Assignments**

The subcommittee then made new workgroup assignments among the members as follows:

1. Title 2 Counselor. Doug Ende and Ellen Dial.
2. Title 3 Advocate: Debi Perluss.

## **ADJOURNMENT**

The meeting adjourned at 12:50 p.m.

## **NEXT MEETING**

The next meeting will be 9:00 a.m. Thursday, November 21, 2013, at the offices of the Washington State Bar Association, 1325 4th Avenue, Seattle, Washington.



# WSBA

WASHINGTON STATE BAR ASSOCIATION

## LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD EXAMINATION SUBCOMMITTEE MINUTES

**October 17, 2013**

**Washington State Bar Association  
Seattle, Washington**

Members present were Lupe Artiga (Chair), Brenda Cothary, Bill Covington, Jeanne Dawes, Lynn Fleischbein, Ruth Walsh McIntyre, Ellen Reed and Melissa Shaw.

Also in attendance were Jean McElroy (General Counsel/Chief Regulatory Counsel) and Bobby Henry (Associate Director for Regulatory Services).

### **PRELIMINARY MATTERS**

The meeting was called to order at 10:00 a.m. The minutes of the September 16, 2013 meeting were approved. The subcommittee introduced and welcomed two new subcommittee members, Ruth Walsh McIntyre and Melissa Shaw.

### **BUSINESS**

#### **I. Discussion**

The subcommittee discussed concerns about the board creating a core education exam. This issue was previously discussed as a concern by the admissions subcommittee and other board members in general. Creating an exam on general legal education is a huge undertaking and requires a substantial amount of resources that the LLLT board and WSBA do not have. It was put to the subcommittee that the core exam should be a broad based foundation of legal education and there should not be a higher standard for LLLTs than there is for lawyers.

The subcommittee reviewed the study guide and sample questions for the Pace Core Competency Exam (PCCE) administered by the National Federation of Paralegal Associations (NFPA). The PCCE covers more topics than are required; however, there is room in the core education requirements for elective courses. Furthermore, like a bar exam and law students, a LLLT student need not take all courses that are covered on the exam. There are study guides and prep courses available for preparing for the exam. The subcommittee did not make any decisions, but agreed that it may be best to proceed with an exam that has been professionally developed.

Moving forward on the premise that a core exam will no longer need to be created, the subcommittee discussed the make-up of the family law practice area exam. The subcommittee discussed the importance of ethics, scope and writing and believes those items should be included in the practice area exams. A first concept of the practice area exam is as follows:

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The subcommittee discussed the practice area advisory groups whose purpose would be to assist with exam creation and to advise the LLLT board on changes in law that may require changes to scope or exam questions. The advisory group would not be reimbursed and would be made up of volunteer lawyers and eventually LLLTs.

Staff was directed to send out notices seeking volunteers to the law schools, paralegal schools, family law section, solo and small business section, the Access to Justice Board and judges if possible. The subcommittee previously suggested six members on the advisory workgroup to start with and that would then be reduced to four after the creation of the exam. The size still needs to be discussed and finalized by the subcommittee.

## **II. Next Meeting**

Brenda Cothary will seek a person from NFPA to discuss the PCC Exam with the subcommittee. Further, WSBA staff will look into WSBA's past essay questions. Melissa Shaw will obtain a bank of family law questions from Barbri/Rigos. The subcommittee will review and discuss the information received for and presented at the next meeting.

## **ADJOURNMENT**

The meeting adjourned at 1:00 p.m.

## **NEXT MEETING**

The next meeting will be 9:00 a.m. Thursday, November 21, 2013, at the offices of the Washington State Bar Association, 1325 4th Avenue, Seattle, Washington.

APPENDIX OF LLLT BOARD DECISIONS

No.	Board Meeting Date	Requirement/Topic	Decision
1	1/30/2013	Practice Area	Family law
2	3/14/2013	Scope	Scope limited to Dissolution, Legal Separation, Parenting & Support, Parentage, Intimate Domestic Relationships, and Domestic Violence actions.
3	3/14/2013	Scope	Prohibited from practicing in Defacto Parentage and Nonparental Custody actions.
4	3/14/2013	Forms	Within the approved types of domestic relations actions, LLLTs may select and prepare all pattern forms used to initiate actions.
5	3/14/2013	Education	Must complete 45 credit hours in core curriculum in paralegal studies (each credit hour equals 450 minutes of instruction)
6	3/14/2013	Education	Must complete 12 credit hours in the major or approved practice area (each credit hour equals 450 minutes of instruction)
7	3/14/2013	Education	Core and major course instruction must occur at ABA approved law school or ABA approved paralegal education program
8	3/14/2013	Education	Major curriculum will be developed by or in conjunction with Washington's ABA approved law schools
9	3/14/2013	Experience	Must complete 18 months (3,000 hours) of substantive law-related work experience supervised by a licensed lawyer before admission
10	3/14/2013	Experience	Experience not required before exam
11	3/14/2013	Experience	Must complete experience requirement no later than three years after passing the examination and no more than three years prior to admission
12	3/14/2013	Dual Representation	LLLTs are prohibited from engaging in dual representation of parties in family law matters
13	4/18/2013	Domestic Violence Actions	In domestic violence actions, LLLTs may advise and assist clients regarding protection and restraining orders, responses to petitions for protection orders, and modifications and renewals of protection orders
14	4/18/2013	Domestic Violence Actions	In domestic violence actions, LLLTs will be prohibited from advising and assisting clients with anti-harassment orders, criminal no contact orders, and sexual assault protection orders.
15	4/18/2013	Relocation Actions	In relocation actions, LLLTs may advise and assist clients regarding relocation petitions, ex parte final orders, motions/declarations to waive notice requirements, and child support paperwork.

APPENDIX OF LLLT BOARD DECISIONS

No.	Board Meeting Date	Requirement/Topic	Decision
16	4/18/2013	Relocation Actions	In relocation actions, LLLTs will be prohibited from advising and assisting clients regarding objections to relocation petitions, responses to objections, and temporary orders.
17	4/18/2013	Relocation Actions	In relocation actions, LLLTs must terminate the legal services and advise the client to seek the advice of a lawyer if an objection is filed or there is a need for temporary orders.
18	4/18/2013	Education	Applicants must have a minimum of an associate level degree subject to any waiver provided for in the regulations
19	4/18/2013	Pro Bono	The pro bono requirement should be stricken from APR 28(D)(3)
20	4/18/2013	Examination	The qualifying examination will include a core exam and a major area of study exam which will be comprised of three parts: a multiple choice section, an essay section, and a practicum section
21	4/18/2013	Examination	The ethics section of the examination shall be built into both the core and major exams
22	5/16/2013	Limited time waiver	The limited time waiver period shall begin when the Board begins accepting applications and shall end on December 31, 2016.
23	5/16/2013	Limited time waiver	During the limited time waiver, educational institutions may waive or give credit for core course requirements if the institution determines the previous courses taken by students are substantially equivalent to the Board-mandated core curriculum requirements.
24	5/16/2013	Fingerprint cards	Fingerprint cards for criminal history checks shall be required of all applicants prior to licensing similar to the LPO model with administrative details to be determined by WSBA staff.
25	5/16/2013	Financial responsibility	Proof of financial responsibility shall be required of all applicants prior to licensing similar to the LPO model with administrative details to be determined by WSBA staff.
26	5/16/2013	Character & Fitness	Good moral character requirements for all applicants shall parallel the procedures used for lawyer applicants with a process that provides for a character and fitness board/panel of three people, with a right of appeal to the full Board if an applicant is rejected on character and fitness grounds.
27	5/16/2013	APR 28 Amendments	The parenthetical should be stricken from APR 28(F)(8)

APPENDIX OF LLLT BOARD DECISIONS

No.	Board Meeting Date	Requirement/Topic	Decision
28	5/16/2013	APR 28 Amendments	Under APR 28(F)(6), amend the language to " <u>Select, and complete, file, and effect service of</u> forms that have been approved by the State of Washington, either through a governmental agency or by the Administrative Office of the Courts . . ."
29	5/16/2013	APR 28 Amendments	Approved APR 28 amendments for submission to the Supreme Court relating to APR 28(D)(3), APR 28(E), and APR 28(F) establishing new education and experience requirements for applicants and amending certain scope provisions in the rule.
30	6/20/2013	Scope	Unless an issue prohibited by regulation arises, for dissolution and legal separation, paternity, parenting and support, and child support modification actions, LLLTs may initiate actions and advise and assist clients regarding trial preparation; final orders, i.e. findings of fact and conclusions of law, final decrees, parenting plans, and orders of child support; and modifications of final orders of support.
31	6/20/2013	Scope	Unless an issue prohibited by regulation arises, LLLTs may select and prepare all forms authorized by APR 28(F)(6) for dissolution and legal separation, paternity, parenting and support, and child support modification actions.
32	6/20/2013	Division of Property	LLLTs will be prohibited from advising and assisting clients regarding division of owned real estate, formal business entities, and retirement assets that require a supplemental order to divide or award, which includes division of all defined benefit plans and defined contribution plans.

APPENDIX OF LLLT BOARD DECISIONS

No.	Board Meeting Date	Requirement/Topic	Decision
33	6/20/2013	Bankruptcy	LLTs will be prohibited from advising and assisting clients regarding bankruptcy, including obtaining a stay from bankruptcy. If one party is in bankruptcy or files a bankruptcy during the pendency of the proceeding, the LLLT may not advise and assist regarding disposition of debts and assets unless: the LLLT's client has retained an lawyer to represent him/her in the bankruptcy; or has consulted with an lawyer and the lawyer has provided written instructions for the LLLT as to whether and how to proceed regarding the division of debts and assets in the domestic relations proceeding; or the bankruptcy has been discharged.
34	6/20/2013	Intimate Domestic Relationship Actions	In intimate domestic relationship actions, LLLTs will be limited to advising and assisting clients regarding parenting and support issues.
35	6/20/2013	Intimate Domestic Relationship Actions	In intimate domestic relationship actions, LLLTs will be prohibited from advising and assisting clients regarding community property issues.
36	6/20/2013	Collaboration with Lawyers	If in the course of the representation, an issue arises with respect to which the LLLT is prohibited from giving advice or assistance under these rules, then the LLLT shall inform the client in writing that the issue may exist, the LLLT is not authorized to assist on this issue, the failure to obtain a lawyer's advice could be adverse to the client's interests, and the client should consult with a lawyer to obtain appropriate advice and documents necessary to protect the client's rights.
37	6/20/2013	Parenting Plan Modifications	In parenting plan modification actions, LLLTs may advise and assist in preparation of all forms authorized by APR 28(F)(6) for minor and agreed major parenting plan modification actions, unless an issue prohibited by regulation arises.
38	6/20/2013	Parenting Plan Modifications	In parenting plan modification actions, LLLTs will be prohibited from advising and assisting clients regarding major parenting plan modification actions, unless there is agreement by the parties at the onset of the representation by the LLLT.
39	6/20/2013	Limited time waiver	Under a limited time waiver, eligible applicants may waive certain admission requirements provided the applicants meet other specified education and/or experience requirements.

APPENDIX OF LLLT BOARD DECISIONS

No.	Board Meeting Date	Requirement/Topic	Decision
40	6/20/2013	Limited time waiver	During the limited time waiver, the Board will grant a waiver of all the core education and the minimum associate level degree to applicants who: (i) have passed the PACE or NALA certification exam; (ii) have maintained the PACE or NALA continuing certification requirements; and (iii) have 10 years of substantive law-related experience supervised by a licensed lawyer within the past 15 years.
41	6/20/2013	Education	The core curriculum requirements chart developed by the Admissions and Licensing Subcommittee is adopted in its entirety, including the minimum credit requirements for each course.
42	6/20/2013	Education	The required core education courses taught at the ABA approved paralegal programs or law schools do not need to have the exact name as listed in the regulations so long as the core curriculum is taught in the courses;
43	6/20/2013	Education	If the required core courses do not total 45 credits, applicants may take any other courses in paralegal studies from an ABA approved paralegal program or law courses at an ABA approved law school to satisfy the 45 credit requirement.
44	6/20/2013	Applications	Applications should instruct the applicant to provide a social security number if the applicant has one; otherwise, it shall not be required.
45	6/20/2013	Examination	If an applicant for initial licensure fails one of the required exams, the applicant will have the opportunity to pass the other exam at the next two administrations of the exam. The passing score is good for a year. If the applicant does not pass after a year, the applicant will be required to retake the previously passed exam.
46	6/20/2013	Examination	For purposes of the experience requirements, the three year clock starts after passing both exams.
47	6/20/2013	Examination	There shall be no limit on the number of times an applicant can sit for the exams.
48	6/20/2013	Examination	Each component of the examinations (multi-choice, essay, performance) will be graded independently from the other. An applicant must score 75% on each component to pass the exam. The Board shall not grade other components after failing one component.

APPENDIX OF LLLT BOARD DECISIONS

No.	Board Meeting Date	Requirement/Topic	Decision
49	6/20/2013	Examination	There shall be no appeal of examination scores and applicants shall not be entitled to receive a copy of their failed exams
50	6/20/2013	Limited time waiver	The Board adopted Regulation 4 Limited Time Waiver for submission to the Supreme Court.
51	7/18/2013	Education	Applicants must complete five credit hours in basic domestic relations subjects and ten credit hours in advanced and Washington specific domestic relations subjects.
52	7/18/2013	Education	For informational purposes, the tuition for the domestic relations courses is estimated to be \$250
53	7/18/2013	Education	Prior to enrolling in the domestic relations practice area courses, applicants not seeking a waiver must complete the following core courses: Civil Procedure; Interviewing and Investigation Techniques; Introduction to Law and Legal Process; Legal Research, Writing, and Analysis; and Professional Responsibility
54	7/18/2013	APR 28 Appendix	Appendix APR 28 Regulations 1, 3, and 5-12 approved for adoption and submission to the Supreme Court.
55	7/18/2013	UCCJEA/UIFSA	LLTs shall not advise and assist clients regarding the determination of Uniform Child Custody Jurisdiction and Enforcement Act issues or Uniform Interstate Family Support Act issues unless and until jurisdiction has been resolved
56	7/18/2013	Motions	In domestic relations actions, LLLTs may select, prepare, file, and serve motions consistent with the rule except where other defined prohibitions apply
57	7/18/2013	Discovery	In domestic relations actions, LLLTs may assist and advise clients regarding discovery in domestic relations actions except where other defined prohibitions apply
58	7/18/2013	Discovery	In domestic relations matters, LLLTs shall not appear or participate in the taking of a deposition
59	7/18/2013	Appeals	In domestic relations matters, LLLTs shall not initiate or respond to an appeal to an appellate court.
60	7/18/2013	Domestic Violence Actions	LLTs shall not advise and assist clients with anti-stalking orders in domestic violence actions

APPENDIX OF LLLT BOARD DECISIONS

No.	Board Meeting Date	Requirement/Topic	Decision
61	7/18/2013	Collaboration with Lawyers	After an issue beyond the LLLT's scope of practice has been identified, an LLLT may prepare a document related to the issue only if a lawyer acting on behalf of the client has provided appropriate documents and written instructions for the LLLT as to whether and how to proceed with respect to the issue. The LLLT shall then be required to follow the instructions and incorporate the terms of the necessary documents into the final court orders. The LLLT may proceed in this manner only if no other defined prohibitions apply
62	7/18/2013	Indian Child Welfare Act	LLTs shall not provide legal services if the Indian Child Welfare Act applies to the matter.
63	7/18/2013	APR 28 Appendix	Appendix APR 28 Regulation 2 approved for adoption and submission to the Supreme Court
64	8/15/2013	Education	The family law course requirements chart developed by the Family Law Curriculum Workgroup was adopted in its entirety.
65	8/15/2013	RPC	The existing lawyer RPC will serve as the basis for the LLLT RPC.
66	8/15/2013	RPC	The following approach to drafting the RPC will be used: Determine which lawyer RPC (1) do not apply, (2) do apply, (3) apply but need modification, and (4) are missing and need to be added
67	8/15/2013	Service Member's Civil Relief Act	LLTs may provide legal services if a party to the action is covered by the Service Member's Civil Relief Act or the Servicemembers Civil Relief Act.
68	9/16/2013	Communication	An LLLT may not communicate with an unrepresented opposing party or a lawyer and LLLT representing the opposing party
69	9/16/2013	Business Arrangements	Nonlawyer ownership of LLLT practices and/or fee sharing with nonlawyers is prohibited.
70	10/17/2013	RPC Preamble	The Fundamental Principles, Preamble, and Scope Sections of the LLLT Rules of Professional Conduct are adopted in their entirety.
71	10/17/2013	Limited time waiver	The NALS Professional Paralegal exam and the PP certification shall qualify for the limited time waiver.
72	10/17/2013	Education	Students may enroll in the family law courses if they have (1) a paralegal degree or certificate from an ABA approved program and (2) at least half of the required 45 credit hours of core curriculum.

APPENDIX OF LLLT BOARD DECISIONS

No.	Board Meeting Date	Requirement/Topic	Decision
73	10/17/2013	Business Arrangements	Partnerships and fee sharing between lawyers shall be permitted under a new provision to RPC Title 5.
74	10/17/2013	Family Law Exam	A Family Law Curriculum Workgroup should be convened to assist with exam creation and to advise the LLLT Board on changes in the law that may require changes to scope or exam questions.
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## Rules of Professional Conduct

### Title 5. Law Firms and Associations

#### RPC 5.1 Responsibilities of Partners, Managers, and Supervisory LLLTs

- (a) An LLLT partner, and an LLLT who individually or together with other LLLTs possesses comparable managerial authority, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all LLLTs in the firm conform to the Rules of Professional Conduct.
- (b) An LLLT having direct supervisory authority over another LLLT shall make reasonable efforts to ensure that the other LLLT conforms to the Rules of Professional Conduct.
- (c) An LLLT shall be responsible for another LLLT's violation of the Rules of Professional Conduct if:
  - (1) the LLLT orders or, with knowledge of the specific conduct, ratifies the conduct involved; or
  - (2) the LLLT is a partner or has comparable managerial authority in the firm in which the other LLLT practices, or has direct supervisory authority over the other LLLT, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

#### RPC 5.2 Responsibilities of a Subordinate LLLT

- (a) An LLLT is bound by the Rules of Professional Conduct notwithstanding that the LLLT acted at the direction of another person.
- (b) A subordinate LLLT does not violate the Rules of Professional Conduct if that LLLT acts in accordance with a supervisory LLLT [or lawyer's] reasonable resolution of an arguable question of professional duty.

#### RPC 5.3 Responsibilities Regarding Non-LLLT Assistants

With respect to a non-LLLT employed or retained by or associated with an LLLT:

- (a) an LLLT partner, and an LLLT who individually or together with other LLLTs possesses comparable managerial authority shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the LLLT;
- (b) an LLLT having direct supervisory authority over the non-LLLT shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the LLLT; and
- (c) an LLLT shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by an LLLT if:
  - (1) the LLLT orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
  - (2) the LLLT is a partner or has comparable managerial authority in the firm in which the person is employed, or has direct supervisory authority over the person, and knows of the

conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

#### **RPC 5.4 Professional Independence of an LLLT**

- (a) An LLLT or LLLT firm shall not share legal fees with anyone who is a non-LLLT, except that:
- (1) an agreement by an LLLT with the LLLT's firm, partner, or LLLT associate may provide for the payment of money, over a reasonable period of time after the LLLT's death, to the LLLT's estate or to one or more specified persons;
  - (2) an LLLT who purchases the practice of a deceased, disabled, or disappeared LLLT may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of that LLLT the agreed-upon purchase price;
  - (3) an LLLT or LLLT firm may include non-LLLT employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement; and
  - (4) [Reserved in Lawyer RPC].
  - (5) an LLLT authorized to complete unfinished legal business of a deceased LLLT may pay to the estate or other representative of the deceased LLLT that proportion of the total compensation that fairly represents the services rendered by the deceased LLLT.
- (b) An LLLT shall not form a partnership with a non-LLLT if any of the activities of the partnership consist of the practice of law.
- (c) An LLLT shall not permit a person who recommends, employs, or pays the LLLT to render legal services for another to direct or regulate the LLLT's professional judgment in rendering such legal services [except when a lawyer or other LLLT would be authorized or required by law to direct or regulate the LLLT's services].
- (d) An LLLT shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:
- (1) a non-LLLT owns any interest therein, except that a fiduciary representative of the estate of an LLLT may hold the stock or interest of the LLLT for a reasonable time during administration;
  - (2) a non-LLLT is a corporate director or officer (other than as secretary or treasurer) thereof or occupies the position of similar responsibility in any form of association other than a corporation; or
  - (3) a non-LLLT has the right to direct or control the professional judgment of an LLLT.

#### **RPC 5.5 Unauthorized Practice of Law**

- (a) An LLLT shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.
- (b) [Reserved].
- (c) [Reserved].
- (d) [Reserved].

#### ***Explanatory Note***

Paragraph (a) of Rule 5.5 expresses the basic prohibition on a legal practitioner practicing law in a jurisdiction where that individual is not specifically licensed or otherwise authorized to practice law. It reflects the general notion (enforced through criminal-legal prohibitions) that, in general, legal services

may only be provided by those licensed to do so. This limitation on the ability to practice law is designed to protect the public against the rendition of legal services by unqualified persons. See Comment [2] to Rule of Professional Conduct 5.5.

As applied to LLLTs, this principle should be the same. An actively licensed LLLT should practice law as an LLLT only in a jurisdiction where he or she is licensed to do so, i.e., Washington state. An LLLT must not practice law in a jurisdiction where he or she is not authorized to do so. Unless and until other jurisdictions authorize Washington-licensed LLLTs to practice law, it will be unethical under Rule 5.5 for the LLLT to provide or attempt to provide legal services extraterritorially. Relatedly, it is unethical to assist anyone in activities that constitute the unauthorized practice of law in any jurisdiction.

With respect to the remainder of Rule 5.5 (paragraphs (b) through (d)), these provisions define the circumstances in which lawyers can practice in Washington despite being unlicensed here. For example, lawyers actively licensed elsewhere may provide services on a temporary basis in Washington in association with a lawyer admitted to practice here or when the lawyer's activities "arise out of or are reasonably related to the lawyer's practice in his or her home jurisdiction." These provisions also recognize that certain non-Washington-licensed lawyers may practice here on more than a temporary basis (e.g., lawyers providing services authorized by federal law), and otherwise prohibit non-Washington-licensed lawyers from establishing a systematic and continuous presence in Washington for the practice of law.

The latter provisions are, at this time, unnecessary in LLLT Rules of Professional Conduct because there are no limited license programs in other jurisdictions tantamount to Washington's Limited License Legal Technician rules and no need to authorize nonlawyers in other jurisdictions to practice law in Washington, either temporarily or on an ongoing basis. For this reason, it is suggested that paragraphs (b) through (d) be reserved. Should other jurisdictions develop systems for admitting and regulating limited license practitioners that ensure those individuals are qualified and that consumers of legal services are adequately protected, multijurisdictional practice provisions analogous to RPC 5.5(b)-(d) could then be considered.

#### **RPC 5.6 Restrictions on Right to Practice**

An LLLT shall not participate in offering or making:

- (a) a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the rights of an LLLT or lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or
- (b) an agreement in which a restriction on the LLLT or lawyer's right to practice is part of the settlement of a client controversy.

#### **RPC 5.7 Responsibilities Regarding Law-Related Services**

- (a) An LLLT shall be subject to the Rules of Professional Conduct with respect to the provision of law-related services, as defined in paragraph (b), if the law-related services are provided:
  - (1) by the LLLT in circumstances that are not distinct from the LLLT's provision of legal services to clients; or
  - (2) in other circumstances by an entity controlled by the LLLT individually or with others if the LLLT fails to take reasonable measures to assure that a person obtaining the law-

related services knows that the services are not legal services and that the protections of the client-LLLT relationship do not exist.

- (b) The term "law-related services" denotes services that might reasonably be performed in conjunction with and in substance are related to the provision of legal services, and that are not prohibited as unauthorized practice of law when provided by anyone except an LLLT or a lawyer.

#### **RPC 5.8 Misconduct Involving Disbarred, Suspended, Resigned, and Inactive LLLTs and Lawyers**

- (a) An LLLT shall not engage in the practice of law while on anything other than active status.
- (b) An LLLT shall not engage in any of the following with an individual who is a disbarred or suspended LLLT or lawyer or who has resigned in lieu of disbarment or discipline:
  - (1) practice law with or in cooperation with such an individual;
  - (2) maintain an office for the practice of law in a room or office occupied or used in whole or in part by such an individual;
  - (3) permit such an individual to use the LLLT's name for the practice of law;
  - (4) practice law for or on behalf of such an individual; or
  - (5) practice law under any arrangement or understanding for division of fees or compensation of any kind with such an individual.

#### ***Explanatory Note***

This Rule tracks RPC 5.8 for lawyers with substitutions for LLLTs. The entire text of this Rule presupposes that LLLTs will have the same disciplinary measures and categories of status with the Bar Association (or another regulating body) as currently exist for lawyers. The language of 5.8 should be altered to reflect any decisions made regarding the structure of regulation for LLLTs in regards to status and discipline.

#### **RPC 5.X Business Structures Involving LLLT and Lawyer Ownership**

- (a) Notwithstanding the provisions of Rule 5.4, an LLLT may:
  - (1) subject to the requirements of Rule 1.5(e), share fees with a lawyer;
  - (2) form a partnership with a lawyer where the activities of the partnership consist of the practice of law, or
  - (3) practice with or in the form of a professional corporation, association, or other business structure authorized to practice law for a profit in which a lawyer owns an interest or serves as a corporate director or officer or occupies a position of similar responsibility.
- (b) An LLLT and a lawyer may practice in a jointly owned firm or other business structure authorized by paragraph (a) of this rule only if:
  - (1) LLLTs do not direct or regulate any lawyer's professional judgment in rendering legal services;
  - (2) LLLTs have no direct supervisory authority over any lawyer;
  - (3) LLLTs do not possess a majority ownership interest or exercise controlling managerial authority in the firm;
  - (4) lawyers with managerial authority in the firm expressly undertake responsibility for the conduct of LLLT partners or owners to the same extent they are responsible for the conduct of lawyers in the firm under RPC 5.1.

***Explanatory Note***

This Rule codifies the proposition that LLLTs may enter into fee-sharing arrangements and for-profit business relationships with lawyers. It is designed as an exception to the general prohibition stated in Rule 5.4 that LLLTs may not share fees or enter into business relationships with individuals other than LLLTs. This approach represents an alternative to revising Rules 5.1 through 5.4 directly, leaving it clear in those rules what an LLLT's responsibilities are with respect to other LLLTs and individuals who are neither LLLTs nor lawyers.

In addition to expressly authorizing fee-sharing and business structures between LLLTs and lawyers in paragraph (a), paragraph (b) of the Rule sets forth limitations on the role of LLLTs in jointly owned firms, specifying that regardless of an LLLT's ownership interest in such a firm, the business may not be structured in a way that permits LLLTs directly or indirectly to supervise lawyers or to otherwise direct or regulate a lawyer's independent professional judgment. This includes a limitation on LLLTs possessing a majority ownership interest or controlling managerial authority in a jointly owned firm, a structure that could result indirectly in non-lawyer decision-making affecting the professional independence of lawyers. Lawyer managers, by contrast, will be required to undertake responsibility for a firm's legal-technician owners by expressly assuming responsibility for their conduct to the same extent as they are responsible for the conduct of firm lawyers.

For this approach to be effective, it will require counterpart amendments to Title 5 of the lawyer Rules of Professional Conduct to authorize lawyers to share fees and enter into business relationships with LLLTs.

**BYLAWS OF THE  
WASHINGTON STATE  
LIMITED LICENSE LEGAL TECHNICIAN (LLLT) REVIEW COMMITTEE**

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**ARTICLE I  
NAME & AUTHORITY**

Section 1: The official name of this organization shall be the "Limited Licensed Legal Technician Review Committee" hereafter referred to as the Committee.

**ARTICLE II  
PURPOSE**

Section 1: The Committee shall advise the Washington Limited License Legal Technician Board with regard to Washington State Community & Technical Colleges for the purposes of determining college eligibility to offer course work to meet the core education requirements as identified by the Limited License Legal Technician Board. The Committee's functions may include, but are not limited to: planning, coordinating, and promoting approved Washington LLLT education programs; and evaluating, assessing and recommending approval of non-American Bar Association (ABA) approved schools.

Section 2: The Committee shall serve as a resource to the community to facilitate an understanding of, and support for the needs of the Washington State LLLT Board, which include but are not limited to maintaining academic rigor (in alignment with the standards of ABA accreditation) and supporting access and affordability towards obtaining a LLLT license.

**ARTICLE III  
MEMBERSHIP**

Section 1: The Committee shall be comprised of at least 4 and no more than 6 members, excluding non-voting members.

Section 2: Members of the committee shall consist of two (2) college system paralegal instructor representatives selected by the executive director of the college board, three (2) representatives of the legal profession (Judge and lawyer of practice area) selected from nominations provided by state-wide legal organizations, and one, up to two, (2) representatives (Paralegal and eventually a practicing LLLT, once available) from nominations provided by a state-wide legal organization representing a cross-section of workers in the state. Non-voting members (not to exceed three) may be selected at the discretion of the committee, from state government organizations including (but not limited to): The Department of Labor & Industries, the Department of Employment Security, the Department of Social and Health Services, the Workforce Training and Education Coordinating Board,

the Superintendent of Public Instruction, and/or the Workforce Development Councils.

Section 3: Members shall be appointed for up to two-year terms. Members will be eligible for reappointment, but cannot serve more than two terms. In the event that membership in a particular group reaches 100 percent turnover in a given year, one member may have his/her appointment extended for a third two-year term at the discretion of the committee. On-going membership: each group (education and legal) may nominate one representative to serve as an on-going member, not subject to limitations of two-two year terms. Appointment of the on-going member is at the discretion of the committee.

Section 4: Members shall be appointed by the committee from nominations provided in accordance with section 2 above.

Section 5: The SBCTC shall designate a staff liaison to the Committee, who shall serve as a non-voting member. Non-voting members of the committee may discuss any matter before the committee, but shall not have a vote.

#### **ARTICLE IV OFFICERS AND THEIR DUTIES**

Section 1: The officers shall be a chair and secretary. The chair will be determined by vote of the committee. The secretary shall be the SBCTC non-voting member appointed by the Director of Workforce Education at SBCTC.

Section 2: The chair shall perform the following duties:

- 1) Preside over the meetings of the Committee.
- 2) Designate such sub-committees as shall be necessary to conduct the work of the Committee, name sub-committee chairs, and appoint sub-committee members (subject to the approval of the Committee).

Section 3: The chair may designate a staff person from SBCTC to serve as chair in his/her absence.

Section 4: The secretary and his/her designee, shall send notice of all regular meetings to the members of the Committee, which shall be delivered (electronically) at least one week prior to the meeting with the agenda and minutes from the previous committee meeting(s). The secretary shall:

- 1) Keep records of the attendance of members at meetings.
- 2) Keep a record of all regular and special meetings; and
- 4) Maintain a permanent record file of the Committee's activities.

#### **ARTICLE V MEETINGS**

- Section 1: Meetings of the Committee will be scheduled by SBCTC staff at least quarterly during each year.
- Section 2: All meetings of the Committee will be open to the public in compliance with RCW Chapter 42.30 with the exception of executive sessions when qualifying topics are under consideration. Special meetings may be called by the Chairman, the chairman of the committee, or by a simple majority of the committee.
- Section 3: A quorum will consist of a majority of official voting members currently serving. In the event action on pending business facing a near term deadline is necessary when a quorum is lacking, such action may be taken if supported by the required number when polled by telephone or sub-committee delegated by the chair.
- Section 4: It is the duty of each Committee member to notify the secretary if he/she is unable to attend a scheduled Committee meeting. A member must attend one-half (50 percent) of the scheduled meetings in a calendar year. When a member's attendance falls below 50 percent, the secretary shall notify the appropriate representative group seeking a list of candidates for replacement.

## **ARTICLE VI SUB-COMMITTEES**

- Section 1: Any standing Sub-Committees will be appointed by the chair, comprised of equal representation from college and legal professionals; as the need arises.
- Section 2: Sub-committees shall report regularly to the Committee.
- Section 3: A sub-committee will be discharged upon accomplishing the task(s) for which it was established.

## **ARTICLE VII PARLIAMENTARY PROCEDURE**

- Section 1: The following regular order of business shall be the established procedures for all meetings:
- 1) Call to Order/Introductions
  - 2) Formal Meeting
    - Approval of Minutes
    - Correspondence
    - Sub-committee Reports
  - 3) Unfinished Business
  - 4) New Business
  - 5) Adjournment
- Section II: When not in conflict of these bylaws, Roberts' Rules of Order Revised shall govern the proceedings of this Committee.