

WSBA

LEGISLATION AND COURT RULE COMMENT POLICY

***Revisions adopted 9-18-2014**

Purpose: This policy governs Section, Committee, Division or Council (hereinafter collectively referred to as 'Section') authority to publicly comment on state and federal court rules and legislation, and clarifies the conditions under which such Washington State Bar Association (WSBA) entities can publicly comment on state and federal court rules and legislation. For purposes of this policy, to “comment” means to take a position (for example, expressing support, concerns or opposition) with or without accompanying statements explaining the position, and it also means to provide input (for example, suggested amendments, recommendations or analysis) without taking a position.

Policy: The Board of Governors, the Executive Director, the Legislative Committees, or the Legislative Representative, are authorized to refer legislative proposals (including bills, initiatives, referenda, and resolutions) or proposed court rule changes to Sections of the WSBA for their consideration. Sections are authorized to appear before or otherwise publicly comment on legislation to the Legislature or Congress, or a committee of the Legislature or Congress, or to publicly comment on any state proposed rule change pursuant to Washington Supreme Court General Rule 9(f), or to publicly comment on any federal proposed rule change, upon the following conditions:

1. The Section may not publicly comment on federal legislation or federal court rules without prior written authorization of the Board, and such authorization may be subject to limitations established by the Board.
2. The Section will not publicly comment unless: (a) at least 75% of the total membership of the Section's governing body has first determined that the matter under consideration meets GR-12 ("relates to or affects the practice of law or administration of justice"); and (b) after determining that the matter meets GR-12, that the comments are the opinion of at least 75% of the total membership of the governing body of the Section. A subcommittee or other subset of a Section may not publicly communicate its comments on proposed legislation or court rules. For purposes of commenting on legislation and court rules, subcommittees and subsets of a Section may serve in an advisory capacity to the Section's governing body; however only the Section's governing body may publicly comment on legislation and court rules.

3. The Section shall not publicly communicate comments on a legislative or rule proposal that are in opposition to comments of the Board of Governors without prior written notice to the Board.
4. The Executive Director, the Board of Governors, the Legislative Committees, and the Legislative Representative, shall, as appropriate, be advised on an ongoing basis of decisions, comments, and actions of the Section. The Section shall advise the Legislative Representative of any proposed action intended to publicly communicate its comments on legislation in advance of taking such action; and, unless otherwise authorized by the Executive Director, the Board of Governors, or the Board of Governors Legislative Committee, the Section shall follow the advice, guidance, and recommendations of the Legislative Representative in taking any action.
5. The Sections shall represent to the Legislature, Congress, or to the Chief Justice that their comments are those of the Section only, and not the official comments of the WSBA unless the Section has the written approval of the Board of Governors to represent the Association.
6. In all cases, the Section representatives shall cease to publicly communicate the comments of the Section if requested to do so by the Executive Director, the Board of Governors, the Board of Governor's Legislative Committee or the President of the Bar; and, in the case of comments on legislative proposals, the Section representatives shall also cease to publicly communicate the comments of the Section if requested to do so by the Legislative Representative.
7. Sections are prohibited from joining or affiliating with groups or associations whose legislative advocacy reaches beyond the areas allowable under GR 12: "affecting the practice of law or administration of justice."