

WASHINGTON STATE
BAR ASSOCIATION

BOARD OF GOVERNORS MEETING

September 26-27, 2025

Meeting Supplemental Materials

Seattle, WA
Zoom and Teleconference

WASHINGTON STATE BAR ASSOCIATION

To: The President, President-elect, and The Board of Governors

From: Terra Nevitt, Executive Director
Tiffany Lynch, Director of Finance
Laurie Powers, General Counsel

Date: August 14, 2025

Re: FY 2026 License Fee *Keller* Deduction

ACTION: Approve 2026 *Keller* deduction schedule.

Each year, the annual license fee form provides an “optional *Keller* deduction” approved by the Board of Governors. This is in response to the U. S. Supreme Court 1990 decision in *Keller v. State Bar of California*¹ holding that state bar mandatory fees may not be used over a member’s objection for activities that are *political or ideological in nature and which are not reasonably related to (1) regulating the practice of law, or (2) improving the quality of legal services*. In *Eugster v. WSBA*², the court stated that “the WSBA provides robust procedural safeguards to ensure compliance with *Keller*.” Recent court decisions affirm that *Keller* has not been overruled and provide limited additional clarity to the definition of chargeability (germaneness). In addition to *Keller*’s Constitutional limitations, General Rules 12-12.3 set out the Washington Supreme Court’s plenary authority over the WSBA, its regulatory objectives for regulating the practice of law, and the WSBA’s purposes, authorized, and prohibited activities.

Article XV of the WSBA Bylaws explains the *Keller* deduction approach, notice, and arbitration provisions. The Bylaws state that “[w]hen calculating the *Keller* deduction, the Bar shall use a conservative test for determining whether an individual activity is chargeable or nonchargeable. When in doubt, the Bar will err in favor of the membership by considering activities to be nonchargeable even when a reasonable argument could be made that such activities were chargeable.” This year’s calculation reflects this conservative approach and includes activities that could reasonably be considered chargeable.

OVERVIEW OF OPTIONAL KELLER DEDUCTION CALCULATION

The optional *Keller* deduction amount for FY 26 is the sum of the following three numbers:

¹ *Keller v. State Bar of California*, 496 U.S. 1 (1990).

² *Eugster v. WSBA*, No. C15-0375JLR 2015 WL 5175722 (W.D. Wash Sept. 3, 2015), *aff’d*, 684 F.App’x 618 (9th Cir. 2017).

- (1) The full FY 26 budgeted amount for legislative activities divided by the number of license fee paying members expected in FY 26;
- (2) The full FY 26 budgeted amount for ABA delegate activities divided by the number of license fee paying members expected in FY 26; and
- (3) A cost of other activities considered non-chargeable based on a detailed review of the current fiscal year, including staff salary, benefits and overhead (including meeting time and conference call costs). We used the time period July 1, 2024—June 30, 2025 to gather 12 months of financial information.

LEGISLATIVE EXPENSE CALCULATION

The WSBA's FY26 legislative activity budget amount of \$295,591.00 is divided by the expected number of license fee paying members in FY26 to calculate the per member amount.

$$\$295,591.00 \div 43,486 = \$6.80$$

We changed our calculation method for the legislative expense beginning with the FY 22 Keller deduction. Prior to that time, we calculated a percentage of the current fiscal year's legislative activities that objecting members might consider nongermane and applied that percentage to the next year's legislative budget and divided that number by the anticipated number of license fee paying members to determine the base number. Due to the ongoing legal challenges and decisions related to the Keller definition of germane activity, the deduction calculation now includes the entire legislative budget regardless of whether the activities are germane and chargeable. This reflects a decision to take a conservative approach that favors the membership.

Even though we no longer calculate the percentages, we continue to collect that information and have included that detailed information.

ABA DELEGATION EXPENSE CALCULATION

As a non-mandatory bar, the ABA considers and takes positions on matters that are not germane, including some that may be viewed as taking a political position. We review the ABA legislative agenda and advise our delegates regarding what is non-germane and that they must not participate in such activities. Consistent with our conservative approach, we treat the entire ABA Delegate budgeted amount as non-chargeable.

$$\$18,000.00 \div 43,486 = \$0.41$$

OTHER NON-CHARGEABLE EXPENSES/GENERAL STAFF TIME

We reviewed all other WSBA activities to identify other activities that we are considering non-chargeable under our conservative approach. WSBA employees review meeting agendas and minutes and provide details of staff time and meeting expenses for activities that might designate as non-chargeable. We reviewed all activities, including CLE programming, Bar News and publications, BOG meetings, diversity, and access to justice activities. We followed the same conservative approach and included germane activities in this calculation when recent court

decisions made the definition of germane activities less clear. In this category, we included some Access to Justice Board activities, oversight and management of the Legislative portfolio not included in the Legislative expense calculation above, and some Board of Governors meeting activities. The detailed information is attached.

We calculated the amount of the deduction as follows:

- (1) Determine the activities to include in the deduction;
- (2) Determine the percentage of time spent on activities considered non-chargeable;
- (3) Apply this percentage to the FY 26 budgeted amount for these activities.

The total amount spent for staff time, overhead, and costs for this category is \$61,505.08.

$$\$61,505.08 \div 43,486 = \$1.41$$

KELLER DEDUCTION CALCULATION AND ROUNDING UP

The *Keller* deduction is the sum of the amounts in #1, #2, and #3 above.

$$\$6.80 + \$0.41 + \$1.41 = \$8.62$$

We recommend rounding up for simplicity and ease in calculations. Therefore, we recommend that the Keller deduction for FY 26 be set at **\$8.65**

The comparison to previous years is shown in this table:

YEAR	DEDUCTION
2026	\$8.65
2025	\$7.70
2024	\$8.00
2023	\$6.90
2022	\$9.02
2021	\$3.85
2020	\$1.55
2019	\$1.25
2018	\$2.50
2017	\$3.50
2016	\$6.40
2015	\$4.40
2014	\$4.70
2013	\$6.40
2012	\$6.00

Based on these calculations, we recommend the following Keller deduction schedule for 2026 prorated by the amount of license fee paid by various categories of WSBA membership:

	License Fee	Keller Deduction
• Active Lawyer Admitted to any Bar before 2024	\$468.00	\$8.65
• Active Lawyer Admitted to any Bar in 2024 or 2025	\$234.00	\$4.33
• Inactive/Pro Bono Lawyer	\$200.00	\$3.70
• New Active Lawyer-admitted same year of exam (Jan 1-June 30)	\$234.00	\$4.33
• New Active Lawyer-admitted same year of exam (July 1-Dec 31)	\$117.00	\$2.16
• Active Limited License Legal Technician Admitted before 2024	\$229.00	\$4.23
• Active LLLT Admitted in 2024 or 2025	\$114.50	\$2.12
• New Active LLLT – admitted same year of exam Jan 1- Jun 30	\$114.50	\$2.12
• New Active LLLT – admitted same year of exam Jul 1- Dec 31	\$57.25	\$1.06
• Active LPO Admitted before 2024	\$200.00	\$3.70
• Active LPO Admitted in 2024 or 2025	\$100.00	\$1.85
• New Active LPO – admitted same year of exam Jan 1- Jun 30	\$100.00	\$1.85
• New Active LPO – admitted same year of exam Jul 1- Dec 31	\$50.00	\$0.92
• Inactive LLLT/LPO	\$100.00	\$1.85
• Judicial	\$50.00	\$0.92

FY 26 KELLER CALCULATION DATA

LEGISLATIVE

BILL # OR TOPIC	ACTIVITY	EMPLOYEE HOURS
Leg. Review	Bill referrals to Sections, watching TVW hearings	250
Leg. Admin. Work	Updating website, generating LobbyGov reports, updating keywords and contacts from Sections and other entities	30
Potential 2025 legislative proposals	7/16/24 meeting to discuss potential legislative proposals	1
Advance directives and pregnancy legislation	7/29/24 meeting with RPPT Section and NW Justice Project to discuss a potential legislative proposal dealing with advance directives	1
Unified court system	7/29/2024 meeting with Rep. Taylor to discuss legislation related to a unified court system	2
WA Consumer Protection Act	8/8/24 meeting with the Attorney General's Office to discuss the Practice of Law Board's proposal related to the Consumer Protection Act	1
Public defense caseload standards	8/19/24 Meeting with CPD to discuss public defense caseloads and funding	2
Uniform Parental Nonvisitation Act	8/21/24 discussion with Superior Court Judges Association regarding the Uniform Parental Nonvisitation Act	1
Uniform Parental Nonvisitation Act	9/18/24 discussion with Superior Court Judges Association regarding the Uniform Parental Nonvisitation Act	1
Dispute Resolution Section legislative priorities	9/24/24 discussion with the Dispute Resolution Section Legislative Subcommittee regarding 2025 legislative priorities	1
Parenting plan limitations	9/25/24 meeting with Rep. Taylor and the Family Law Section Executive Committee to discuss draft legislation re: parenting plan limitations	1
Uniform Parental Nonvisitation Act	10/1/24 discussion with Sen. Pedersen and the Family Law Section Executive Committee	0.5
Proposal to amend RCWs 23B and 25.15 to re-open defunct corporations for insurance purposes	10/9/24 discussion with Rep. Senn and the Business Law Section regarding a potential proposal to amend the corporations statutes	1
SHB 2806 (early family law mediation)	10/21/24 discussion with Rep. Goodman, the Family Law Section Executive Committee, and the Dispute Resolution Section Legislative Committee regarding early family law mediation legislation	1
WSBA Legislative Priorities	10/21 call with Sen. Torres regarding WSBA legislative priorities	0.5
Unified court system	10/30 discussion with Rep. Taylor regarding unified court system legislation	1

SHB 2806 (early family law mediation)	1/6/25 discussion with Rep. Goodman regarding early family law mediation legislation.	0.5
SJM 8006 (LLLT program)	1/15/25 call with Sen. Torres regarding SJM 8006 (expanding the LLLT program)	0.5
Unified court system	Stakeholder roundtable discussion regarding draft unified court system legislation	1
HB 1207 (court fees)	1/21/25 discussion with the WA Clerks Association regarding HB 1207 (court fees)	0.5
HB 1484 (estate tax exclusion amount)	1/22/25 discussion with Rep. Orcutt and the Probate & Trust Council regarding HB 1484 (estate tax exclusion)	0.5
LGBTQ+ Section legislative priorities	1/23/25 discussion with LGBTQ+ Section legislative liaison regarding section legislative priorities	0.5
HB 1014 (child support workgroup recommendations))	1/24/25 discussion with Rep. Walen and the Family Law Section Executive Committee	0.5
HB 1207 (court fees)	1/29/25 discussion with the Secretary of State's Office regarding HB 1207	0.5
SB 5006 (corporations act)	1/29/25 discussion with Sen. Hasegawa	0.5
HB 1207 (court fees)	1/30/25 discussion with Rep. Taylor	0.5
WSBA legislative priorities	1/30 check-in with Sen. Pedersen	0.5
HB 1207 (court fees)	1/30/25 discussion with Rep. Thai	0.5
WSBA legislative priorities	1/30/25 check-in with Rep. Abell	2
DR Section Legislative Priorities	2/10/25 discussion with DR Section legislative liaison re: legislative priorities	0.5
WSBA Legislative Priorities	2/13/25 check-in with Sen. Torres	0.5
WSBA Legislative Priorities	2/13/25 check-in with Rep. Goodman	0.5
WSBA Legislative Priorities	2/13/25 check-in with Sen. Dhingra	0.5
HB 1207 (court fees)	Stakeholder roundtable discussion regarding HB 1207	0.5
LGBTQ+ Section legislative priorities	2/26/25 discussion with LGBTQ+ Section legislative liaison regarding section legislative priorities	0.5
HB 1620 (parenting plans)	3/4/25 meeting with Rep. Davis and Family Law Section Executive Committee	0.5
HB 1207 (court fees)	3/6/25 meeting with Rep. Thai	0.5
HB 1620 (parenting plans)	3/11/25 check-in with Family Law Section Executive Committee	0.5
HB 1620 (parenting plans)	3/14/25 check-in with Sen. Dhingra and Family Law Section Executive Committee	0.5
WSBA Legislative Priorities	3/20/25 check-in with Sen. Pedersen and WSBA leadership team	0.5
WSBA Legislative Priorities	3/20/25 check-in with Rep. Taylor and WSBA leadership team	0.5
WSBA Legislative Priorities	3/20/25 check-in with Sen. Torres and WSBA leadership team	0.5
WSBA Legislative Priorities	3/20/25 check-in with Sen. Dhingra and WSBA leadership team	0.5

SB 5420 (benefits for veterans)	4/1/25 meeting with the Legal Assistance to Military Personnel Section and Sen. Lovick	0.5
Legislative session recap	5/23 meeting with the Family Law Section Executive Committee	0.5
Legislative session recap/potential early mediation legislation	5/27 meeting with the DR Section Legislative Committee and House Democratic Caucus staff	0.5
Oregon State Bar Legislative Program	6/16 meeting with Oregon State Bar lobbyist re: legislative policies	0.5
WSBA Legislative Priorities	6/18 meeting with Rep. Goodman and ED Nevitt	1
Contract lobbyist	Discussions with WSBA contract lobbyist	8

ACCESS TO JUSTICE BOARD AND COUNCIL ON PUBLIC DEFENSE

TOPIC	ACTIVITY	EMPLOYEE HOURS
Updating the Standards for Indigent Defense, Family Defense Standards, and Appellate Standards- monthly from July 2024-June 2025	<p>During this period, the CPD held monthly discussions focused on two key areas:</p> <ol style="list-style-type: none"> 1. Tracking the Court's review of proposed revised Standards on Indigent Defense – This included responding to stakeholder questions, monitoring public comments, collaborating with WSBA Communications on messaging, and participating in Court listening sessions to encourage public input. 2. Developing proposed revisions to the Family Defense Standards and Appellate Standards. <p>The Council dedicated 20–30 minutes at each main monthly meeting to these topics, with subcommittees meeting regularly throughout the month.</p> <p>Please note: this spreadsheet reflects only the hours reported by EJT staff. Other WSBA staff—such as those in OGC, Communications, and OED—also contributed and may have additional hours not captured here. Volunteer hours are not fully tracked, as staff are not involved in all subcommittee meetings.</p>	20
Support for HB 1171 - monthly from October 2025 - February 2025	CPD member Paul Holland asked the CPD to support HB 1171, which provided legislative amendment to RCW 26.44.030(1)(f). Paul provided updates to the CPD through the legislative session and the CPD spent time in one meeting to vote in support of the legislation. Staff and CPD members then worked to request support from the BOG and submit the letter of support.	4.5

RPC 6.1 - March 2025	The CPD discussed proposed revisions to RPC 6.1 that were posted for comment on the Court's website. After discussion, the CPD chose not to submit a formal comment but did provide input to the individual who drafted the proposal	0.75
Legislative and Funding updates November 2024 - March 2025	The CPD received updates from OPD, WDA, and others at their monthly meetings regarding legislation applicable to public defense, including funding, and received information on how to advocate for this legislation. Additionally, the CPD voted to support OPD's budget request and worked to request support from the BOG	5
2025 ATJ Conference Planning - July 2024 - June 2025	Planning for the September 2025 ATJ Conference began before July 2024. The hours reported here include working with the planning committee and ATJ Board as well as time staff spend on project managing the entirety of the planning	231
Legislative Updates - Jan. 10, 2025, March 7, 2025	Antonio Ginatta with CLS provided an updated on the legislative session and highlighted bills of interest to civil legal aid and Alliance members. Additional updates were provided by other Alliance members	3
Governmental Funding Updates - July - June	The Board receives funding updates from the Equal Justice Coalition and OCLA regarding the current legislative session and preparing for the next session, including how to get involved to advocate for funding, etc.	8
Post-Goldmark Forum - December - February	The ATJ Board planned and hosted a forum following the Goldmark luncheon to discuss the impact on civil legal aid providers that was expected due to policy changes coming from the Federal gov.t	16
JISC Rule 2 Draft Comment - February 14, 2025	The ATJ Board drafted and submitted a comment to proposed changes to JISC Rule 2	2.5
Suggested Amendments to RPC 1.5(e), 5.4, and 7.3 - Dec 13 2025	The ATJ Board and ATJ Rules committee reviewed and drafted comments to the suggested amendments	2.5

BOARD OF GOVERNORS MEETINGS

Date	Activity	Percentage of Meeting Time
November 7, 2024	Discussion of Legislative activity	10.32%
November 8, 2024	2025 WSBA Legislative priorities	7.74%
November 8, 2024	Legislative Review Committee recommendations	10.32%