



Access to Justice Board Meeting Agenda
Friday, May 25, 2018 – 10:30 AM to 12:00 PM (NOTE CHANGE IN START TIME)
 Washington State Bar Association, 1325 4th Ave, 6th Floor, Seattle
Call: 1-866-577-9294; Access: 52140#

Recognizing that access to the civil justice system is a fundamental right, the Access to Justice Board works to achieve equal access for those facing economic and other significant barriers.

4 min	Welcome and Introductions	Geoff Revelle		
1 min	April Board Meeting Minutes	Geoff Revelle	Action	pp 3-4
10 min	ATJ Board Staff and Chair Report	Geoff Revelle and Diana Singleton		
	<ul style="list-style-type: none"> • State Plan Update • Rules Committee New Member: Judge Chris Lanese 		Report Action	
5 min	Legal Services Corporation's Request for Comments re: 2020 Budget Request	Geoff Revelle	Action	pp 5-7
5 min	Report on ABA National Access to Justice Commissions Meeting	Judge Laura Bradley, Lindy Laurence, Sal Mungia, Bonnie Sterken and Diana Singleton	Report	
10 min	Rules Committee: Proposed Amendments to WAC 182-526-0284	Judge David Keenan	Action	pp 8-13
10 min	Pro Bono Council Update	Lindy Laurence, Catherine Brown, Eloise Barshes and Ben Haslam	Report	
15 min	Limited License Legal Technician Board Update	Renata Garcia and Sarah Bove	Report	pp 14-20
10 min	Housing Justice Project Update	Edmund Witter	Report	

10 min	Equal Justice Coalition and Legal Foundation of Washington Update	Jay Doran	Report	pp 21-25
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1 min	Other Updates, Upcoming Events	All	Report	
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- State Plan Collaboratory [Training](#): “Pathways Forward to New Community Partnerships”- May 29 & 30 at WSBA or webcast
- WSBA [Legal Lunchbox](#): “Hiring, Retention and Advancement of Underrepresented Groups in the Legal Profession” – May 29 via webcast
- Racial Justice [Summit](#) – June 9 at South Puget Sound Community College
- Alliance for Equal Justice Legal Intern Summer [Orientation](#) – June 15 at UW or GU
- To stay up to date on all upcoming events, trainings and gatherings, visit the [Alliance for Equal Justice event calendar](#).

The next ATJ Board meeting is on July 13, 2018 at WSBA.



Access to Justice Board Meeting Minutes

April 20, 2018, 10:30am – 12:00pm

Four Points by Sheraton, 714 Lakeway Dr, Bellingham, WA 98229

Call: 1-866-577-9294; Access: 52140#

Present: Geoff Revelle (chair), Judge Laura Bradley, Lindy Laurence, Francis Adewale, Sal Mungia, Hon. Fred Corbit, Michelle Lucas, Hon. David Keenan, Andy Sachs, Lynn Greiner and Mirya Muñoz-Roach

Absent:

WSBA Staff: Diana Singleton, Bonnie Sterken,

Guests: Nikki D’Onofrio, Moonwater, Patrick Palace, Catherine Brown, Terry Schaberg, Stephen Gockley, Kristen Hanna, Maren Anderson, Jim Bamberger, Noah Samuels, Antonio Ginatta, David Miller, Don Saunders

Minutes: The March minutes were approved without edits.

Board Staff and Chair Report: Geoff reported on the recent meetings of the WSBA Board of Governors and noted that the ATJ Board continues to support the inclusion of public members and LLLT/LPO representatives on the BOG. Geoff reiterated that position at the recent special meetings of the BOG. Geoff also noted that he is running for President-elect of the WSBA.

Geoff reported on the Practice of Law Board’s project to create a legal checkup form. He reported that the ATJ Board has given feedback to the Practice of Law Board through a conversation with the Delivery System Committee.

Geoff also reported on the LLLT Board’s process to identify their next practice area.

Diana reported on the State Plan implementation process. She explained that a committee is hosting “goal of the month” activities to share resources and best practices. May will focus on Goal 3 of the State Plan. She also asked for interested individuals to volunteer to help with the planning of these activities.

Open Board Member Seats: Geoff reported that there are three individuals rolling off the Board this fall and two new positions to fill. Bonnie explained the process for recruiting and interviewing the candidates. Diana explained the backgrounds of the top two candidates, Esperanza Borboa and Rick Eichstaedt. The Board unanimously voted to forward Esperanza Borboa and Rick Eichstaedt to the BOG as nominees for the two positions.

Workers Comp A2J Project: Patrick Palace explained the Workers Comp A2J project. He explained what happens in workers comp cases and where there is a need for a systems change. He has a workgroup

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looking at the issues and that workgroup determined they need a study to get the objective data to show there is an access to justice issue and confirm why there is a gap. They have hired a doctoral student at the University of Washington and have received access to the agency databases with the needed information. They are looking at the data to compare who gets attorneys and who doesn't as well as the outcomes of cases with an eye towards disparity factors and who it is effecting. Patrick's ask to the ATJ Board is recognition for this project and support in seeking funding. Patrick addressed questions. Sal moved to authorize Judge Bradley to draft a letter supporting the investigation within two weeks to be approved by the Executive Committee at their May 16 meeting. Judge Corbit seconded. All approved the letter of support. Patrick will return with the final report to present to the Board for next steps.

GR 37 Update: Sal reported on April 5 the State Court passed General Rule 37, which will make it harder to exclude a person of color from serving on a jury. Sal gave a background on the purpose of the new rule.

Public Service Loan Forgiveness Program: David Miller, Policy Director at NLADA, and Don Saunders reported on the Public Service Loan Forgiveness Program (PSLF) and NLADA's efforts to protect it. David explained what the Public Service Loan Forgiveness Program is. They are concerned about the proposed elimination or significant revisions of the program coming out of D.C. The report from the NLADA in the meeting materials includes quantitative and qualitatively information about the program and its impact on legal aid. The Senate will be considering a higher-education package and they are looking at revisions to the PSLF program. The NLADA is worried about how the revisions might harm legal aid lawyers' ability to receive loan forgiveness. One of the most influential players is Patty Murray, who sits on the committee that is working on this legislation. David addressed questions. Judge Corbit noted that he has a meeting with Patty Murray soon and will follow up with David directly if he has questions. David will also share talking points. David asked the Board to take the public position to support the preservation of the PSLF program in its current form. Sal moved that the Board send a letter to Sen. Murray encouraging her to keep the status quo as it effects lawyers, and Judge Bradley seconded. Judge Corbit amended the motion to say we support the existing forgiveness for all professional types, and after discussion Sal seconded the amendment. All approved sending a letter to Senator Murray supporting the PSLF program as it is currently written. The letter will include information on how the program specifically impacts legal aid.

Meeting adjourned at 11:45am. The Board then transitioned into a listening session to learn about the work of the Whatcom Dispute Resolution Center, LAW Advocates, the Skagit Volunteer Lawyer Program, and the Northwest Justice Project's Bellingham office.



MEMBERS

Francis Adewale
Judge Laura T. Bradley
Hon. Frederick P. Corbit
Lynn Greiner
Hon. David S. Keenan
Lindy Laurence
Michelle Lucas
Salvador A. Mungia
Mirya Muñoz-Roach
Geoffrey G. Revelle, Chair
Andrew N. Sachs

STAFF

Diana Singleton
Access to Justice Manager
(206) 727-8205
dianas@wsba.org



May XX, 2018

Mr. David Richardson, Treasurer
Legal Services Corporation
3333 K Street NW, 3rd Floor
Washington, DC 20007

Re: LSC Budget Request for Fiscal Year 2020

Dear Mr. Richardson:

We write on behalf of the Washington State Access to Justice Board, Equal Justice Coalition, and Legal Foundation of Washington in response to the request for written comment regarding the FY 2020 LSC budget proposal. We appreciate being included in this process, and we are always happy to provide LSC with our feedback. We strongly support LSC's continued efforts to improve access to civil legal aid for the millions in our country for whom the cost of an attorney is out of reach. Thank you for your work.

Below, you will find the information you requested – data regarding the need for LSC-funded services, knowledge of non-LSC funding for legal aid, and other data-supported observations.

The Need in Washington State

There are approximately 1.25 million people live at or below 125% of the federal poverty level and more than 2 million people, representing one-third of our state's population, live at or below 200% of the federal poverty level. Additionally, Washington's unemployment rate is higher than the national average, and racial and ethnic minorities are disproportionately and increasingly within the cohort of Washingtonians living at or below 200% of the federal poverty level. Washington's legal aid system is underfunded and, therefore, not nearly able to meet the demand for civil legal aid. According to the *2015 Washington State Civil Legal Needs Study Update*, more than 70% of low-income Washingtonians experience at least one civil legal problem each year. Currently, there is only one basic field general services legal aid attorney for approximately every 8,300 residents eligible to receive services. As you know, the federal benchmark for "minimum access" to the civil justice system is one attorney for every 5,000 who are eligible. Civil legal aid services are more critical than ever.

Non-LSC Funding in Washington State

Federal and state funding comprises approximately 75% of the annual budget for Northwest Justice Project (NJP), with state funding accounting for roughly 50%. An increase in LSC funding is vital to expanding our ability to adequately provide civil legal aid to those who need it. Federal and state funding provide NJP with stability to support necessary statewide infrastructure and field attorney presence, which provide the foundation for Washington's coordinated delivery system. Federal and state funding allow NJP to effectively carry out its organizational responsibilities under our integrated state plan to meet client needs through system-wide

centralized intake and screening, an extensive public website to provide vital legal education resources to assist unrepresented litigants, and a robust field presence to provide extended legal representation in high priority cases.

In Washington State, the Legal Foundation of Washington (LFW) administers the state's IOLTA funds. In 2007, IOLTA generated more than \$9 million. As you know, IOLTA funds have dropped substantially since then. Even with a slight recent recovery, IOLTA funds were only \$2.3 million in 2017. LFW also organizes and manages a collaborative statewide private fundraising effort known as the Campaign for Equal Justice. In 2017, the Campaign for Equal Justice raised over \$1.5 million, which LFW uses to support 17 standalone volunteer attorney programs and six staffed specialized legal aid providers in Washington State. These organizations, along with NJP, are part of a statewide network of legal aid providers, funders, and supporters known as the Alliance for Equal Justice. While this coordinated effort by our State's network of providers and funders has proven to be an efficient way to deliver high quality legal aid, there is no question that to bridge the justice gap will take substantial additional resources, including an increase in public funding through LSC.

Other Data-Supported Observations

The Washington State Supreme Court commissioned a *Civil Legal Needs Study Update* that was published in 2015. The research was conducted by Washington State University's Social and Economic Science Research Center. The study is considered to be the most methodically rigorous study of its kind in the country, and the full report can be found at <http://bit.ly/CLNSUpdate>. While some of the findings are consistent with those of the original study conducted in 2003, there are notable changes in the types and quantity of civil legal problems that Washingtonians living in poverty face. Below are some of the key findings of the *2015 Washington State Civil Legal Needs Study Update*:

- **Civil legal issues are common.** Seven in ten low-income households in Washington face at least one significant civil legal problem each year. The average number of problems per household increased from 3.3 in 2003 to 9.3 in 2014.
- **The most common problem types have changed.** Health care, consumer/finance and employment now represent the three areas with the highest percentage of problems.
- **Race, ethnicity and other personal characteristics affect the number and type of problems people have.** These personal characteristics also affect the degree to which people experience discrimination or unfair treatment and the degree to which legal help is secured.
- **Victims of domestic violence and/or sexual assault experience the highest number of problems per capita of any group studied.**
- **There is a significant legal literacy problem.** A majority of those eligible to receive services do not understand that the problems they experience have a legal dimension and that they would benefit from legal advice and/or representation.
- **The vast majority of people face their problems alone.** More than three-quarters (76%) of those who have a legal problem do not get the help they need.

In response to the findings of the *Civil Legal Needs Study Update*, our community of providers and funders came together to create the "Civil Justice Reinvestment Plan." This plan is a rational approach to addressing the needs identified in the study with the ultimate goal of reaching minimum access in Washington State. Our community has been advocating for the Washington State Legislature to fully fund the Reinvestment Plan, which essentially doubles the state's current appropriation for legal aid. In

the past two state legislative sessions, the state has taken incremental steps at funding the plan – increasing funding for civil legal aid by more than \$5 million.

Given the information that we have outlined above, we recommend that the Legal Services Corporation propose, and Congress approve, a budget of no less than \$550,000,000 – a slight increase from LSC’s FY 2018 request. At this level of funding, NJP would receive a substantial grant increase that would allow it to restore lost capacity, adequately cover the increased cost of providing services, and, most importantly, serve thousands more Washingtonians in need of legal assistance. This level of funding is a critical step toward closing the justice gap in Washington State and nationally.

Additionally, given the findings of LSC’s 2017 Justice Gap Report, LSC may want to consider developing its own type of “Civil Justice Reinvestment Plan” that clearly articulates the services, dollar amounts, and policies that the federal government must enact in order to make good on the promise of “justice for all.”

If you have questions about the specifics of our Civil Justice Reinvestment Plan, please contact the Jay Doran of the Legal Foundation of Washington (jay@ejc.org; 206-447-8168). While we recognize the challenging federal budget situation, we urge the Legal Services Corporation to continue to educate Congress about the threat to families, communities and to the integrity of the rule of law when whole segments of our population cannot secure meaningful access to justice. We will continue to support you in this effort, and will continue working with our state’s Congressional delegation on these critical issues.

Thank you again for all of your work, and please reach out with any questions.

Sincerely,

Geoffrey Revelle, Chair
Washington State Access to Justice Board



Andrew Sachs, Chair
Equal Justice Coalition



Peter Jennings Grabicki, President
Legal Foundation of Washington

cc: Access to Justice Board
James J. Sandman, President, LSC
Paula Littlewood, Executive Director, Washington State Bar Association

HCA Rules Coordinator
P.O. Box 42716
Olympia, Washington 98504-2716

To Whom It May Concern,

We write to express our concern that proposed changes to WAC Sections 182-526-0284 (relating to orders of default) and 0285 (relating to orders of dismissal) would adversely impact low-income communities with significant civil legal needs. As a statewide entity created by the Washington Supreme Court to work for equal access to the civil justice system for those facing economic and other barriers, the Access to Justice (“ATJ”) Board and its Rule Committee review regulations for their impact on low-income individuals.

The proposed WAC changes could adversely impact an already very vulnerable population. The 2015 Washington Civil Legal Needs Study revealed that nearly two-thirds of low-income households in Washington experience civil legal problems each year, with the average such household dealing with nearly ten civil legal issues. Some thirty percent of those dealing with civil legal issues are facing difficulties accessing public benefits, and access to healthcare is the single largest category of civil legal problems facing poor people in Washington.¹ Thus, any regulatory changes making it more difficult for low-income individuals to secure public benefits, particularly as those benefits relate to healthcare, have the potential to hurt communities that are already suffering. In particular, when low-income individuals lose access to public benefits, they may suffer other civil legal needs in areas such as housing, and the result is that already scarce civil legal aid resources are further taxed.

As the ATJ Board understands it, the proposed WAC changes would allow orders of default and dismissal to become final when an appellant in proceedings relating to Medicaid benefits fails to appear at a prehearing conference scheduled to address a petition to vacate an order of default or dismissal. Low-income parties may fail to attend scheduled hearings for any number of reasons, especially when they are not represented by counsel and may be suffering from the same circumstances that underlie their need for benefits to begin with. Where a party has failed to appear, suffers an order of default or dismissal, and petitions to vacate the order, the proposed changes may present significant challenges for low-income individuals. At the time of the prehearing conference on the petition to vacate, such individuals may be unrepresented and still struggling with the circumstances that caused them to miss their hearing to begin with; making those orders final for failure to appear at a prehearing conference may adversely impact this vulnerable population.

The ATJ Board opposes the proposed changes because those changes may hurt low-income individuals in the civil justice system. We welcome the opportunity answer any questions you have.

¹ Washington Office of Civil Legal Aid, *Civil Legal Needs Study Update* (2015), available at http://ocla.wa.gov/wp-content/uploads/2015/10/CivilLegalNeedsStudy_October2015_V21_Final10_14_15.pdf.



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: March 15, 2018

TIME: 2:51 PM

WSR 18-07-059

Agency: Health Care Authority

☒ Original Notice

☐ Supplemental Notice to WSR _____

☐ Continuance of WSR _____

☒ Preproposal Statement of Inquiry was filed as WSR 18-01-066 ; or

☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or

☐ Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

☐ Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

WAC 182-526-0284 Orders of default

WAC 182-526-0285 Orders of dismissal

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
April 24, 2018	10:00 AM	Health Care Authority Cherry Street Plaza Sue Crystal Conf Room 106A 626 8 th Ave, Olympia WA 98504	Metered public parking is available street side around building. A map is available at: https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf or directions can be obtained by calling: (360) 725-1000

Date of intended adoption: Not sooner than April 25, 2018 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: HCA Rules Coordinator

Address: PO Box 42716, Olympia WA 98504-2716

Email: arc@hca.wa.gov

Fax: (360) 586-9727

Other:

By (date) April 24, 2018

Assistance for persons with disabilities:

Contact Amber Lougheed

Phone: (360) 725-1349

Fax: (360) 586-9727

TTY: (800) 848-5429 or 711

Email: amber.lougheed@hca.wa.gov

Other:

By (date) April 20, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is revising WAC 182-526-0284 to: (1) Clarify that the notice of default includes a notice of inquiry, (2) Add that an order of default becomes a final order by operation of law, (3) If an appellant fails to appear at a prehearing conference scheduled to address the petition to vacate, the order of default becomes a final order, and (4) The appellant may seek judicial review of a final order of default to the superior court.

The agency is revising WAC 182-526-0285 to: (1) Add that an order of dismissal becomes a final order by operation of law, (2) If an appellant fails to appear at a prehearing conference scheduled to address the petition to vacate, the order of

dismissal becomes a final order, and (3) add that the appellant may seek judicial review of a final order of dismissal to the superior court

Reasons supporting proposal: See purpose

Statutory authority for adoption: RCW 41.05.021, 41.05.160 42 CFR Part 431, Subpart E – Fair Hearings for Applicants and Beneficiaries

Statute being implemented: RCW 41.05.021, 41.05.160

Is rule necessary because of a:

Federal Law?

☐ Yes
☒ No

Federal Court Decision?

☐ Yes
☒ No

State Court Decision?

☐ Yes
☒ No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: (person or organization) Health Care Authority

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Vance Taylor	PO Box 42716, Olympia WA 98504-2716	360-725-1344
Implementation:	Evelyn Cantrell	PO Box 42716, Olympia WA 98504-2716	360-725-9970
Enforcement:	Evelyn Cantrell	PO Box 42716, Olympia WA 98504-2716	360-725-9970

Is a school district fiscal impact statement required under RCW 28A.305.135?

☐ Yes
☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

☒ No: Please explain: RCW 34.05.328 does not apply to Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

☐ RCW 34.05.310 (4)(b)
(Internal government operations)

☐ RCW 34.05.310 (4)(c)
(Incorporation by reference)

☐ RCW 34.05.310 (4)(d)
(Correct or clarify language)

☐ RCW 34.05.310 (4)(e)
(Dictated by statute)

☐ RCW 34.05.310 (4)(f)
(Set or adjust fees)

☒ RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☐ This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☐ No Briefly summarize the agency's analysis showing how costs were calculated. _____

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Date: March 15, 2018

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-526-0284 Orders of default. (1) An order of default may be entered when the appellant fails to attend a scheduled prehearing conference or hearing. The order of default will include ~~((an))~~ a notice of inquiry as to whether the appellant wants to petition to reinstate the hearing.

(2) The appellant may file a petition to vacate an order of default under WAC 182-526-0290.

(3) An order of default becomes a final order ~~((dismissing))~~ by operation of law, disposing of the appellant's request for a hearing under RCW 34.05.440 if:

(a) The appellant does not file a petition to vacate within twenty-one calendar days of the order being served (mailed) on the parties under WAC 182-526-0290 (2) and (5)(b); or

(b) If the appellant fails to appear at a prehearing conference scheduled to address the petition to vacate under WAC 182-526-0290 (3) and (4)(a).

(4) The health care authority or managed care organization action stands after an order of default becomes a final order.

(5) The appellant may seek judicial review of a final order of default to the superior court under WAC 182-526-0640.

WAC 182-526-0285 Orders of dismissal. (1) An order of dismissal may be entered when the appellant withdraws the request for hearing under WAC 182-526-0115.

(2) An appellant may file a petition (request) to vacate an order of dismissal under WAC 182-526-0290.

(3) An order of dismissal becomes a final order ~~((if))~~ by operation of law, disposing of the appellant's request for a hearing under RCW 34.05.440 if:

(a) The appellant does not file a petition to vacate the order within twenty-one calendar days of the order being served (mailed) on the parties under WAC 182-526-0290 (2) and (5)(b); or

(b) The appellant fails to appear at a prehearing conference scheduled to address the petition to vacate under WAC 182-526-0290 (3) and (4)(a).

(4) The health care authority or managed care organization action stands after an order of dismissal becomes a final order.

(5) The appellant may seek judicial review of a final order of dismissal to the superior court under WAC 182-526-0640.

Draft for Discussion and Comment:

Consumer, Money, and Debt Law
Proposed New Practice Area for Limited License Legal Technicians

Summary

The Limited License Legal Technician (LLLT) Board invites comment on a proposed new practice area: Consumer, Money, and Debt Law. This new practice area is designed to provide economic protection for the public and to provide legal assistance for certain financial matters, with a focus on consumer debt issues and other problems which contribute to consumer credit problems. For example, LLLTs licensed in this practice area would be able to assist clients with issues related to legal financial obligations, debt collection and garnishment defense, identity theft, preparing for small claims court, and filing protection orders.

Introduction

The practice area was developed by a New Practice Area Committee of the LLLT Board in a workgroup chaired by LLLT Board member Nancy Ivarinen. The workgroup is requesting input from other interested parties prior to formalizing the request to the Supreme Court.

While researching new practice areas for LLLTs, the workgroup considered:

- whether the new practice area would increase access to justice for potential clients with moderate or low incomes;
- whether there is a demonstrable unmet legal need in that area;
- whether it's possible to include consumer/client protection for those who use LLLTs;
- whether the new area would provide a viable practice so LLLTs can afford to maintain a business;
- whether the substantive practice area classes can be developed and taught by the law schools in a three-class series, one per quarter, for five credits each; and
- whether there are experts available to help develop the curriculum and teach the classes.

In order to appropriately vet the potential new practice areas, the workgroup considered:

- statistics and reports discussing the legal need;
- comments by invited subject matter experts who explained what the practice areas entail;
- comments by these experts on what the LLLT could potentially do;
- committee discussion about the LLLT being properly trained in a limited scope within the practice area; and
- whether the practice area could be regulated appropriately so that the needs of the clients would be met, while also assuring that the clients would be protected.

The Better Business Bureau (BBB), the Attorney General's Consumer Protection Division, the Federal Trade Commission, and some organizations funded by United Way offer services related to consumer debt, such as debt management, debt renegotiation; and changing the behavior of businesses that prey upon low and moderate income consumers.

These services have been in existence for decades, and yet the demonstrated need in the Civil Legal Needs Study clearly shows that consumers with debt related legal issues are unaware of these services, do not believe these organizations can or will help them, have not been helped when using these services, or have needs that exceed the scope of the services these organizations can provide.

The proposed practice area is intended to help meet these significant unmet legal needs while giving LLLTs additional practice area options for expanding their businesses.

Evidence of Unmet Need

The starting point of the workgroup's analysis was identifying the unmet need that could be addressed by LLLTs licensed in a consumer law practice area. The workgroup found convincing evidence supporting the existing legal need for consumer law assistance in studies conducted at both the state and national levels. The workgroup also looked at statistics received from county-based volunteer legal services providers and the statewide Moderate Means Program, which demonstrated a consistent legal need in the consumer law area among low and moderate income people.

Statistics from State and Federal Studies

- The 2003 (Statewide 0-400% of Federal Poverty Level) and 2015 (Statewide, 0-200% of Federal Poverty Level) Civil Legal Needs Studies identified Consumer, Financial Services, and Credit among the three most prevalent problems that people experience and seek legal help to address. There was an increase in legal need in this area from 27% to 37.6% between 2003 and 2014.
- The Legal Services Corporation June 2017 Report: The Justice Gap (National, 0-125% of Federal Poverty Level) identified consumer issues as the second highest problem area for people at this income level.

Moderate Means Program Data

- The WSBA Moderate Means Program (Statewide, 200-400% of Federal Poverty Level) identified consumer issues as the second highest problem area. In addition, data provided by the program showed that consumer law represented 10% of the 2,321 requests for service from October 26, 2016 to October 27, 2017. Of the 233 consumer law requests, 74 related to bankruptcy or debtor relief and 71 were in collections, repossession, and garnishment.
- Data from the Moderate Means Program on requests for service from January 1, 2015 through May 1, 2017, show 523 of 3,062 requests for service in consumer law matters, about 17% of the total requests over that 28 month period.

Statistics from Volunteer Legal Service Providers

- The King County Bar Association's Neighborhood Legal Clinics 2016 data showed that 15% (1,298 of 8,259) of legal issues addressed at the clinic were consumer law related.
- From 2012-2017 the King County based Northwest Consumer Law Center received 2,499 requests for service, all directly related to consumer law needs.
- Over the last three years, the Tacoma-Pierce County Bar Association Volunteer Legal Services had an average of 160 clients per year visit their Bankruptcy Clinic and an average of about 43 clients per year attend the Foreclosure – Home Justice Clinic.

How LLLTs Can Meet the Legal Need

When reviewing the Civil Legal Needs Studies, the workgroup noted that it was unclear whether or not legal assistance would materially address the consumer law problems the subjects were reporting, and if so, whether that assistance could be provided through some method other than direct representation exclusively by a lawyer.

The workgroup discussed many examples of consumer legal problems that may not have a legal remedy, such as a debt collection lawsuit where the money is owed. While discussing each example, the workgroup saw advantages to providing the consumer with legal advice, even if there did not appear to be a legal resolution to the issue. For example, in a debt collection lawsuit, the statute of limitations on collection of the debt may have passed, so the debtor may not be obligated to pay even though the debt is owed. For those debtors who do have defenses or where collection agencies are attempting to collect a legitimate debt in an unfair or illegal manner, a LLLT could be a valuable consumer protection tool. Even for consumers who have no defense to a lawfully pursued debt collection lawsuit, having the assistance of a LLLT throughout the process of responding to a lawsuit would speed judicial efficiency, as the defendant would understand the procedures and be able to respond in an appropriate and strategic way.

The extensive collection of self-help resources offered on washingtonlawhelp.org regarding consumer debt confirms that many consumers already face this issue pro se, and would undoubtedly benefit from consulting with an affordable provider of legal services in this area.

The workgroup enlisted the advice of practitioners and other experts in the various areas of law to identify the legal work which could be effectively performed by LLLTs and provide an economically sustainable practice area. The workgroup identified that Consumer, Money and Debt Law LLLTs should be able to:

- offer advice regarding all identified topics
- fill out certain forms
- engage in limited negotiation in regard to particular issues
- attend specific hearings to advise the client and assist in answering procedural questions

- attend depositions
- prepare paperwork for mediation, and
- attend any administrative proceeding related to the practice area.

The workgroup carefully weighed the pros and cons of each of the above actions and determined that allowing this range of actions would greatly increase the quality of service that LLLTs could provide to their clients.

Target Clients and Scope

The target clients of this practice area are moderate and low income people with consumer debt or credit problems, or those to whom a small amount of debt is owed. The workgroup narrowly prescribed the focus of the recommended scope in order to provide a maximum benefit to these clients. The workgroup also identified limitations designed to ensure that LLLTs will provide service to consumers who currently do not have resources in this area.

The *2015 Civil Legal Needs Study* noted that the average number of legal problems per household has increased from 3.3 in 2003 to 9.3 in 2014. In addition, the legal problems that low-income people experience are interconnected in complex ways. Consumer debt, for example, can be exacerbated by landlord/tenant issues, divorce, identity theft, lack of access to benefits, problems with an employer, lack of exposure to options such as bankruptcy, and domestic violence and other protection orders.

The workgroup thought holistically about this range of issues which often go hand in hand with consumer debt and credit problems and identified a range of actions which could appropriately be performed by a LLLT in the areas of protection orders, bankruptcy education, wage theft, and identity theft. Including these areas as part of the consumer law relief a LLLT will be able to provide will allow LLLTs to proactively help their clients to break the cycle of debt creation.

Proposed Consumer, Money, and Debt Law LLLT Practice Area

Scope	Proposed Permitted Actions & Proposed Limitations
Legal Financial Obligations (LFOs)	<i>Proposed Permitted Actions:</i> Assistance filling out forms (e.g., Motion for Order Waiving or Reducing Interest on LFO, Order to Waive or Reduce Interest on LFO)
Small Claims	<i>Proposed Permitted Actions:</i> Assistance preparing the Notice of Small Claim, Certificate of Service, Response to Small Claim, Small Claims Orders, Small Claims Judgment, and counterclaims Preparation for mediation and trial Obtaining and organizing exhibits

Student Loans	<p>Proposed Permitted Actions:</p> <p>Negotiation of debt or payment plans</p> <p>Modifications, loan forgiveness and debt relief</p> <p>Discharge</p>
Debt Collection Defense and Assistance	<p>Proposed Permitted Actions:</p> <p>Negotiation of debt</p> <p>Assistance filling out Complaints, Answers and Counterclaims</p> <p>Affirmative Defenses including Statute of Limitations defenses</p> <p>Reporting Fair Debt Collection Act violations, including statute of limitations and state collection agency statute violations</p> <p>Reporting to Regulatory Agencies</p> <p>Proposed Limitations:</p> <p>LLTs can assist only with debts valued at less than the jurisdictional limits set by the District Court (\$100,000)</p>
Garnishment	<p>Proposed Permitted Actions:</p> <p>Negotiation</p> <p>Voluntary Wage Assignments</p> <p>Assistance filling out forms (Application for Writ of Garnishment, Continuing Lien on Earnings, Return of Service, Notice Exemption Claim, Release of Writ of Garnishment, Motion and Cert. for Default Answer to Writ of Garnishment, Application for Judgment, Motion/Order Discharging Garnishee, Satisfaction of Judgment)</p> <p>Exemption Claims, including assistance at court hearings</p> <p>Proposed Limitations:</p> <p>LLTs can assist only with debts valued at less than the jurisdictional limits set by the District Court (usually \$100,000)</p> <p>LLTs may render legal services for debt collection only when there is a direct relationship with the original creditor and may not act as or render legal services for collection agencies or debt buyers as defined under RCW 19.16.</p> <p>No prejudgment attachments</p> <p>No executions on judgments</p>

Identity Theft	<p>Proposed Permitted Actions: Advise regarding identity theft Best practices for protecting information Contacting credit bureaus Reporting to law enforcement and other agencies such as Federal Trade Commission</p>
Wage complaints and Defenses	<p>Proposed Permitted Actions: Representation in negotiations or hearings with Labor and Industries Accompany and assist in court Advice and reporting regarding Minimum Wage Act Advice and reporting regarding Fair Labor Standards Act Actions permitted under RCW 49.48 (Wages-Payment-Collection) Actions permitted under RCW 49.52 (Wages-Deductions-Contributions-Rebates) Proposed Limitations: LLTs may not represent clients in wage claims which exceed the jurisdictional limit set by the District Court (\$100,000)</p>
Loan Modification & Foreclosure Defense and Assistance	<p>Proposed Permitted Actions: Accompany and advise in mandatory mediation process Assist with non-judicial foreclosure actions and defenses under RCW 61.24.040 Advise regarding power of sale clauses and the Notice of Sale Right of Redemption Proposed Limitations: LLTs would be prohibited from assisting with non-judicial foreclosures if the LLT does not meet the requirements of RCW 61.24.010. No judicial foreclosures</p>
Protection Orders	<p>Proposed Actions: Selecting and completing pleadings for Protection Orders for domestic violence, stalking, sexual assault, extreme risk, adult protection, harassment, and no contact orders in criminal cases</p>
Bankruptcy Awareness and Advice	<p>Proposed Actions: Explain the options, alternatives, and procedures as well as advantages and disadvantages Refer to budget & counseling agency Refer to bankruptcy attorney Proposed Limitation: No assistance with bankruptcy filing in court</p>

The LLLT Board will coordinate with the Washington law schools in the development of the practice area curriculum and ensure that appropriate faculty is available to teach the curriculum. The LLLT Board may modify the proposed practice area based on:

1. consideration of public comments;
2. issues discovered during the drafting of new practice area regulations; and
3. issues that arise during the law schools' development of the practice area curriculum.

Please provide comments to the LLLT Board via email to LLL@wsba.org by July 16, 2018.

Memorandum

1325 Fourth Avenue

Suite 1335

Seattle, WA

98101-2509

Ph: (206) 447-8168

Fax:(206) 382-3396

To: Access to Justice Board

From: Jay Doran

Date: May 18, 2018

Re: **EJC's 2018 D.C. Trip**

From April 10-12, we took our annual trip to Washington, D.C. as part of the American Bar Association's Advocacy Day, meeting with all 12 members of the Washington Congressional Delegation to advocate for LSC funding. This year's group included Bill Pickett (WSBA President), Ann Rivers (Washington State Senator), Washington State Supreme Court Justice Susan Owens, Carolyn Estrada (former civil legal aid recipient), Andy Sachs, Caitlin Davis, and me.

In February, for the second year in a row, the Trump Administration proposed the complete elimination of the Legal Services Corporation (LSC). However, there is strong bipartisan support of LSC in Congress. In late March, Congress passed the Fiscal Year 2018 budget, which included a \$25 million increase for LSC (bringing the total funding to \$410 million). This is the largest increase for LSC in recent years, and it is the highest appropriation level since 2010.



Left to right: Bill Pickett, Congressman Newhouse, Carolyn Estrada, Jay Doran, Senator Ann Rivers

During our meetings in D.C., we thanked our legislators for passing a budget that



Meeting with Congresswoman Jaime Herrera Beutler

increased funding for LSC, and we encouraged them to take another step in solving our civil justice crisis by increase funding to \$482 million, which is the inflation-adjust equivalent of the 2010 funding level. If LSC were funded at \$482 million, Washington State would receive approximately \$8 million, all of which is directed our state's LSC-grantee, the Northwest

Justice Project. While this increase would not solve this crisis, it would be a healthy step in the right direction, providing critical civil legal services for thousands more low-income families and individual across the state.

Our chances of receiving another increase in the Fiscal Year 2019 budget are encouraging as bipartisan support continues to grow. Days before we arrived in D.C., [181 members of the House of Representatives](#) (151 democrats and 30 republicans) signed a joint letter in support of funding LSC at \$482 million for Fiscal Year 2019. This was the largest number of members to ever sign such a letter, and six Washington Representatives were a part of that list – Suzan DelBene, Rick Larsen, Pramila Jayapal, Dave Reichert, Adam Smith, and Denny Heck. The Senate followed suit a few days later with a letter for their own, which included [44 Senators](#) (41 democrats and 3 republicans). Both Washington Senators – Maria Cantwell and Patty Murray – signed. Lastly, a group of [251 general counsels from companies around the country](#) submitted a letter to the chairs of the Congressional budget committees in support of the FY 2019 funding request. The general counsels of Washington-based Starbucks, Amazon, Microsoft, RealNetworks, and Alaska Airlines were among the 251 signers.

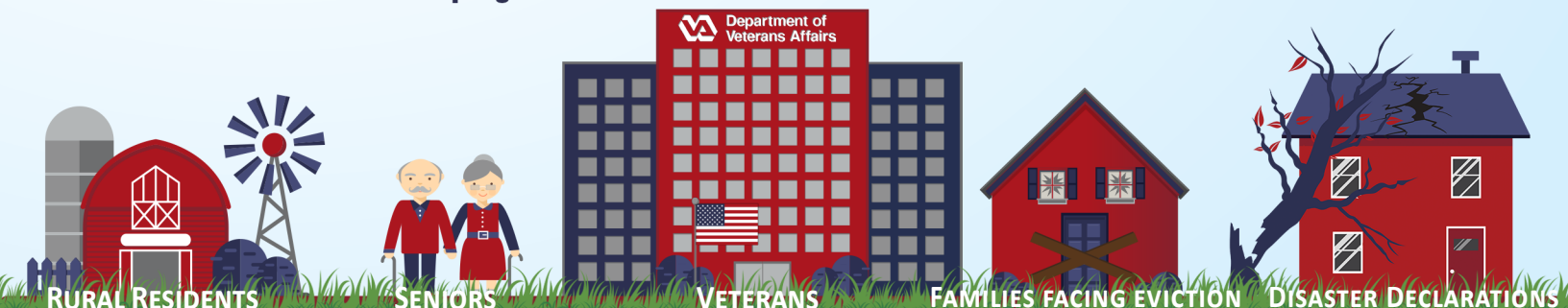


EJC delegation in front of U.S. Capitol Building

Washington Depends on Civil Legal Aid

FUND THE LEGAL SERVICES CORPORATION AT \$482M FOR FY19

People in
Washington
who can benefit from LSC programs:

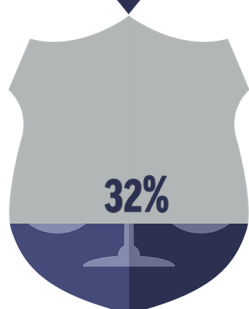


In Washington State, there are more than 1.25 million people who are income-eligible for civil legal aid. Approximately 7 out of 10 of our low-income residents will experience at least one civil legal crisis each year, but only 1 out of 4 will be able to get legal help to solve their problem.



Chances that a victim of domestic violence will obtain a restraining order:

Without Lawyer



With Lawyer



Justice should never depend on how much money a person has, because the protections of the law belong to everyone. Civil legal aid creates fairness in the justice system by providing access to legal help and information for the most vulnerable Americans.

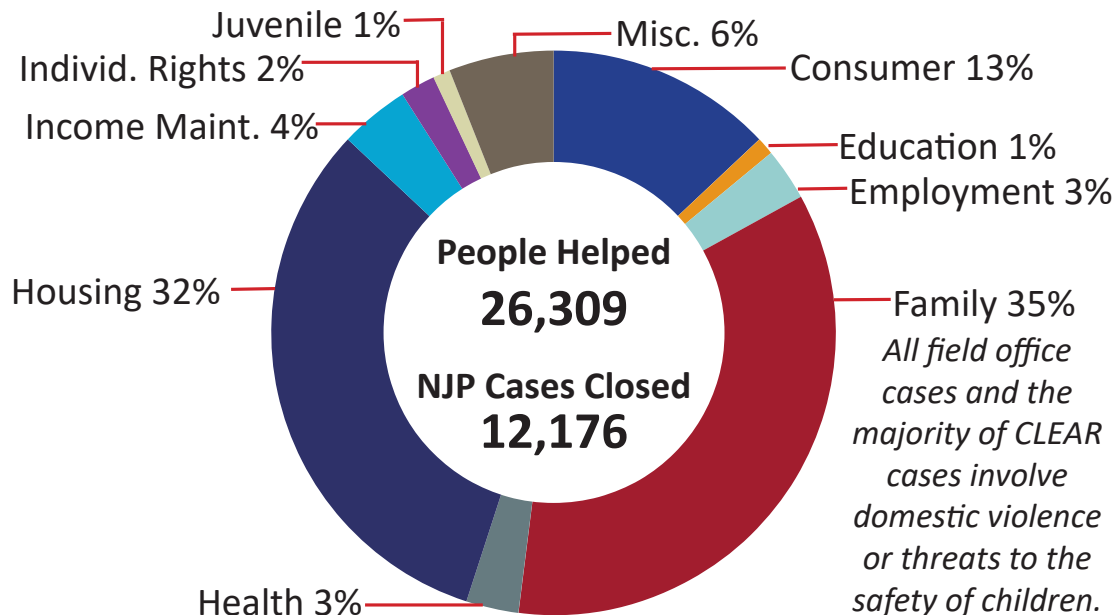
- ✓ **Investing in legal aid ensures fairness and justice in our society.** If our justice system does not work for all, then it really isn't a justice system. Legal aid ensures that the laws we pass are fairly enforced.
- ✓ **Investing in legal aid keeps families safe, housed, and healthy.** Every day, legal aid helps low-income people protect their livelihoods, property, health, and families.
- ✓ **Investing in legal aid is smart government.** More than 40 cost-benefit analyses from around the country demonstrate LSC's valuable return on investment, which is as high as \$11.21 per dollar invested.

NORTHWEST JUSTICE PROJECT

NJP is the core of Washington's nationally recognized civil legal aid system, which provides coordinated, effective, and technologically efficient legal services to eligible clients statewide.

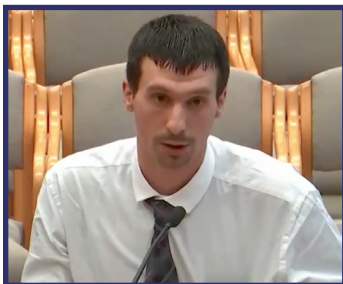
With help from NJP, families in crisis are able to preserve their homes, escape domestic violence, avoid fraudulent and predatory practices, and maintain financial security. Every day NJP secures justice and transforms the lives of people across Washington.

IN WASHINGTON STATE



2017 Closed Cases by Problem Type

IN 2017, NJP'S LEGAL ASSISTANCE HELPED 26,309 INDIVIDUALS, INCLUDING 11,700 CHILDREN, 1,188 VETERANS, AND 2,540 SENIORS.



"A little more than two years ago, I was homeless, I was struggling with addiction, I had a lot of debt, and I had a suspended license. While I was living at Oxford House, working on getting clean and sober, I was lucky to get connected with an attorney at the Northwest Justice Project. Within about a year, my attorney helped me get my license back. She help me work with the court to show I was making improvements in my life and to establish a plan to pay off my fines and interest from my traffic infractions. It may seem like a small thing, but getting my license back was huge.

When I got my license back, I was able to get a plumbing apprenticeship, because I needed a license to drive the company truck. I now am working full-time, I live with my girlfriend and her children, and I've been sober for more than 2 years. None of this would have been possible without the help of the Northwest Justice Project and civil legal aid."

- **Michael, Aberdeen, WA**



2018 Campaign Events

June 14	Vancouver Beer & Justice Heathen Brewing Public House – 5-7pm
July 13	Everett Beer & Justice Blue Water Distilling – 5-7pm
July 18	Tacoma Beer & Justice Harmon Tap Room Beer Garden – 5-7pm
July 19	Bellingham Beer & Justice Boundary Bay Brewery – 5-7pm
Sept 13	Seattle Beer & Justice Elysian Fields – 5-7pm
Sept 24	Yakima Beer & Justice Cowiche Canyon Kitchen & Ice House – 5-7pm
Oct 18	Olympia Beer & Justice Waterstreet Café & Bar – 5-7pm
Oct 25	Bellevue Wine & Justice Cast Iron Studios – 5-7pm
Nov 8	Mt. Vernon Beer & Justice Location TBD – 5-7pm

SAVE THE DATE: Goldmark Lunch February 15, 2019

RSVP to Leanne@legalfoundation.org