

# WASHINGTON STATE BAR ASSOCIATION

## LICENSURE PATHWAYS IMPLEMENTATION STEERING COMMITTEE MEETING MINUTES

**Virtual Meeting  
February 10, 2025**

### Call to Order and Welcome

The meeting of the Licensure Pathways Implementation Steering Committee of the Washington State Bar Association (WSBA) was called to order by Chair Zaida Rivera on Tuesday, February 10, 2026, at 1:00 p.m. Committee members in attendance were:

**Zaida Rivera  
Tom Ahearne  
Jordan Couch  
Alfredo González Benítez  
Judge Cathy Helman  
Vivian Hernández  
Dusty Weber LaMay  
Dean Tamara Lawson  
Julia McGann  
Yuriko Styles  
Dean Anthony Varona**

Also in attendance were WSBA Assistant General Counsel Catherine Schur; WSBA Chief Regulatory Counsel Renata Garcia; WSBA Associate Director Bobby Henry; Professor Gillian Dutton, and observers Daniel Szymanski, Cole Barron, Amir Khan, and Egor Redin.

### Approve Dec. 11, 2025 Meeting Minutes

Alfredo moved to approve the December 11, 2025 minutes; Jordan seconded. Minutes approved unanimously.

### Member and Public Comment

Members of the public asked questions regarding the timeline for implantation of the experiential licensing pathway. Committee members and WSBA staff explained that the Steering Committee aims to consider all recommendations at the upcoming March meeting and may take a vote on the recommendations at that time. The recommendations will be submitted to the Washington Supreme Court following approval by the Steering Committee. While the precise timing for opening applications will be dependent on the Court's schedule for considering the recommendations, the goal is to be able to accept applications in early 2027.

Members of the public also asked several questions about the NextGen bar exam. Committee members explained that the exam is intended to assess more practical skills and that more information can be found on NCBE's [NextGen webpage](#).

#### Update from Supervised Practice Subcommittee

Professor Gillian Dutton presented updates on the pathway recommendations from the Supervised Practice Subcommittee. Professor Dutton discussed recommendations for candidate compensation and methods for structuring requirements for the number of hours and credits required for candidate supervised practice time.

The Steering Committee provided input on these topics. Steering Committee members asked about the interaction between compensation requirements and labor and immigration law. Steering Committee members also discussed whether work generated prior to participation in the pathway could be counted, the extent to which law schools may set criteria for students to participate, and the feasibility of completing all supervised practice time prior to graduation from law school.

#### Discussion of Draft Rule Amendments

Catherine Schur noted for the Steering Committee that proposed draft amendments to the Washington Supreme Court's Admission and Practice Rules were included with this meeting's materials. Cate highlighted a few areas for committee members to keep in mind as they review the rules, including the use of the APR 9 limited license and application of the pathway to out-of-state participants.

#### **ADJOURNMENT**

There being no further business, meeting adjourned at 2:30 p.m. on February 10, 2026.

Respectfully submitted,

Catherine Schur  
Assistant General Counsel

**MEMO**

**To:** The Honorable Deborah Stephens, Chief Justice, and Justices of the Washington Supreme Court

**From:** Zaida Rivera, Chair, WSBA Licensure Pathways Implementation Steering Committee;  
Terra Nevitt, WSBA Executive Director; and  
Members of the WSBA Licensure Pathways Implementation Steering Committee

**Date:** March 5, 2026

**Re:** Proposals Implementing Experiential Licensing Pathway

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## I. Introduction

In November 2020, the Washington Supreme Court created the [Washington Bar Licensure Task Force](#) to assess the efficacy of licensing new attorneys through the bar exam and to explore alternative licensure methods. Based on its research and public input, the Task Force issued a [report](#) in early 2024 recommending that the Washington Supreme Court create experiential-based methods of licensing that did not require applicants to sit for the bar exam. This recommendation was based on research indicating that the exam was at best a limited proxy for competence to practice law while disproportionately excluding historically marginalized individuals from the legal profession.

In March 2024, the Washington Supreme Court [adopted](#) the Task Force’s recommendations in concept, and tasked the Washington State Bar Association (WSBA) with convening a committee to implement the recommendations. The WSBA assembled a Steering Committee of members from across Washington’s legal and law education communities.<sup>1</sup> The Steering Committee and its subcommittees have devoted significant energy to developing proposals to implement an experiential-based pathway to licensure. These proposals are outlined below.

## II. Defining Core Competencies for New Lawyers

One of the first steps for implementing the experiential pathway to licensure was to identify the core competencies new lawyers must demonstrate to practice law in Washington.<sup>2</sup> Core lawyer competencies are baseline-level demonstrable skills, professional behaviors, and areas of knowledge that a candidate for licensure must possess to protect the public from harm in the provision of legal services.<sup>3</sup>

The Steering Committee convened the Core Competencies Subcommittee, which conducted research, gathered expert and stakeholder input, and ultimately developed the core competencies listed below. The competencies are based primarily on research conducted by the Institute for the Advancement of the American Legal System (IAALS), as reported in [Building a Better Bar: The Twelve Building Blocks of Minimum Competence](#). The Subcommittee also looked to IAALS’ [Foundations for Practice](#) project, the NCBE’s Testing Task Force’s 2021 [Final Report](#), other jurisdictions’ efforts to frame core competencies,<sup>4</sup>

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<sup>1</sup> Steering committee members include Chair Zaida Rivera, WSBA Governor Tom Ahearne, WSBA Governor Jordan Couch, Greg Crowder, Alfredo González Benítez, Judge Cathy Helman, Vivian Hernández, Dusty Weber LaMay, Dr. Lori Larsen, Dean Tamara Lawson, Julia McGann, Justice Raquel Montoya-Lewis, WSBA Executive Director Terra Nevitt, Judge Leone Reinbold, Dean Jacob Rooksby, Serena Sayani, Yuriko Hannali Styles, and Dean Anthony Varona.

<sup>2</sup> See Deborah Jones Merritt, *Client-Centered Legal Education and Licensing*, 107 Minn. L. Rev. 101, 125-26 (2023). (To assure valid assessments “the requirements of the licensing path must track an evidence-based definition of minimum competence.”).

<sup>3</sup> See Deborah Jones Merritt, Andrea Anne Curcio, & Eileen Kaufman, *Enhancing the Validity and Fairness of Lawyer Licensing: Empirical Evidence Supporting Innovative Pathways*, 73 Wash. Univ. J. of L. & Pol’y 96, 100 (2024) (“One way to understand the ‘minimally competent’ threshold is to think of it as *the knowledge and skills needed to ensure that lawyers will not harm clients while continuing to develop their expertise.*”).

<sup>4</sup> [Minnesota](#), [Nevada](#), and [Utah](#) have undertaken similar efforts to define core lawyering competencies as part of their development of experiential-based licensure assessments or to align experiential-based licensing requirements with existing definitions of core lawyering competencies. The work of these states served as a useful point of comparison for Washington’s proposed core competencies.

and interviews with experts in lawyer competencies and licensing<sup>5</sup> and Washington practitioners to inform the proposed core competencies. Academic deans from all three Washington law schools and legal practitioners with experience in mentorship, APR 6 clerkships, and foreign legal education provided feedback on these competencies.

Accordingly, to be licensed to practice law in Washington, candidates seeking admission through the experiential licensing pathway must demonstrate the following core lawyering competencies:

**A licensure candidate must demonstrate an understanding of legal processes and sources of law.** Understanding legal processes and sources of law includes understanding the appropriate application of state and local law, federal law, administrative rules, and local court rules and understanding the channels of legal practice, including alternative dispute resolution processes, negotiation skills, legislative processes, administrative and regulatory processes, and court processes.<sup>6</sup>

**A licensure candidate must demonstrate an understanding of threshold concepts in many subjects.** A threshold concept is an “insight that transforms understanding of a subject.”<sup>7</sup> This competency “focuses on understanding principles and policies that govern the law, rather than memorizing specific black-letter rules” and “allow[s] lawyers to identify issues, search for the appropriate rule, and see nuances in the rule.”<sup>8</sup> Threshold concepts “distinguish individuals who have begun to master a subject from all others” and “allow new learners to understand the ‘how’ and ‘why’ of their field rather than simply the ‘what.’”<sup>9</sup>

**A licensure candidate must demonstrate the ability to act professionally and in accordance with the rules of professional conduct.** This competency includes the demonstrated ability to conduct oneself with respect for and in accordance with the law, including compliance with the requirements of applicable state, local, and federal constitutions, laws, rules and regulations, and any applicable court order. Components of this competency may include managing a law related workload, coping with the stress of legal practice, pursuing self-directed learning, understanding the business of maintaining a legal practice, and appropriately using technology in legal practice.<sup>10</sup>

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<sup>5</sup> These experts included Joan W. Howarth, Emerita Professor of Law at UNLV’s William S. Boyd School of Law and author of *Shaping the Bar, The Future of Attorney Licensing*; Logan Cornett, Director of Research Legal Education and Licensure at IAALS and co-author of *Building a Better Bar*; and Gina Alexandris, Lawyer Consultant and Coach and former Senior Director of the Law Practice Program at Toronto Metropolitan University.

<sup>6</sup> See Deborah Jones Merritt & Logan Cornett, *Building a Better Bar: The Twelve Building Blocks of Minimum Competence*, 35 (Dec. 2020), [https://iaals.du.edu/sites/default/files/documents/publications/building\\_a\\_better\\_bar.pdf](https://iaals.du.edu/sites/default/files/documents/publications/building_a_better_bar.pdf) (hereinafter *Building a Better Bar*).

See, also, Joan W. Howarth, *What Law Must Lawyers Know?*, 19 CONN. PUB. INTEREST L.J. 1, 11 (2019) (“A broad doctrinal knowledge base is highly relevant to attorney competence if we understand ‘knowledge’ to mean familiarity. Competent lawyers are adept at the categorical thinking or legal method we identify as ‘issue spotting.’ Exposure to multiple doctrinal subjects helps attorneys recognize categories of problems, or spot issues. In this way a wide doctrinal knowledge base is very useful for issue spotting, a foundational lawyering skill.”).

<sup>7</sup> *Building a Better Bar*, *supra* note 5, at 37.

<sup>8</sup> *Id.* at 38.

<sup>9</sup> *Id.* at 37.

<sup>10</sup> See *id.* at 32-34, 58-62; Alli Gerkman, Logan Cornett, *Foundations for Practice: The Whole Lawyer and The Character Quotient*, 13-15, 17-18, 28 (July 2016), [https://iaals.du.edu/sites/default/files/documents/publications/foundations\\_for\\_practice\\_whole\\_lawyer\\_character\\_quotient.pdf](https://iaals.du.edu/sites/default/files/documents/publications/foundations_for_practice_whole_lawyer_character_quotient.pdf); See also Comment 8 to APR 1.1; APR 1.2.

**A licensure candidate must demonstrate the ability to interpret legal materials.** This competency emphasizes the ability to understand and interpret constitutional provisions, statutes, judicial opinions, and regulations, and the ability to evaluate how legal documents, such as contracts, should be construed.<sup>11</sup>

**A licensure candidate must demonstrate the ability to identify issues.** This competency emphasizes the ability to identify legal principles and legally significant facts relevant to a client matter; understand the “big picture” of client matters; identify goals and objectives in client matters; identify legal claims and remedies that might address a client’s needs; identify legal and practical obstacles to achieving any proposed resolution; and develop strategies to guide client matters.<sup>12</sup>

**A licensure candidate must demonstrate the ability to conduct research.** This competency includes the ability to research answers to specific legal questions; recognize relevant and dispositive legal sources applicable to a client matter; appreciate the authoritative weight of sources of law relevant to a client matter; utilize strategies to update sources of law or find additional sources of law that are relevant to a client matter; acquire facts and non-legal information for client matters; develop the factual record; and locate information about local rules or practices.<sup>13</sup>

**A licensure candidate must demonstrate the ability to apply legal authority to the relevant facts in a client matter.** This competency emphasizes the ability to make logically sound arguments based on precedent, analogy, and policy; assess the strengths and weaknesses in a client’s position and an opposing party’s position; and forecast potential outcomes of a client matter.<sup>14</sup>

**A licensure candidate must demonstrate the ability to communicate as a lawyer.** This competency includes the ability to choose a method of communication appropriate to the circumstances and audience; communicate the application of legal authority to the facts in a written or oral form that is appropriate for the audience, including the client, opposing counsel, the courts, and other stakeholders; draft and edit legal documents and legal correspondence; work collaboratively with others, including opposing counsel, to address a client matter; and apply negotiation skills to advocate on behalf of a client.<sup>15</sup>

**A licensure candidate must demonstrate the ability to interact effectively with clients.** This competency emphasizes the ability to gain a client’s trust; recognize the importance of cross-cultural competence and seek available resources to understand the needs of their clients; gather relevant facts and identify client goals; communicate regularly with clients, convey information and options in terms that a client can understand, and help the client choose a strategy; manage client expectations, convey bad news, and cope with difficult clients.<sup>16</sup>

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<sup>11</sup> *Building a Better Bar*, *supra* note 5, at 39; NCBE, *Final Report of the Testing Task Force*, 15 (Apr. 2021), <https://nextgenbarexam.ncbex.org/themencode-pdf-viewer/?file=https://nextgenbarexam.ncbex.org/wp-content/uploads/TTF-Final-Report-April-2021.pdf#zoom=auto&pagemode=thumbs>.

<sup>12</sup> See *Building a Better Bar*, *supra* note 5, at 45-47, 56-57; NCBE, *2019 Practice Analysis: Testing Task Force Phase 2 Report*, 25, App’x B, D (Mar. 2020), [https://nextgenbarexam.ncbex.org/themencode-pdf-viewer/?file=https://nextgenbarexam.ncbex.org/wp-content/uploads/TestingTaskForce\\_Phase\\_2\\_Report\\_031020.pdf#zoom=auto&pagemode=thumbs](https://nextgenbarexam.ncbex.org/themencode-pdf-viewer/?file=https://nextgenbarexam.ncbex.org/wp-content/uploads/TestingTaskForce_Phase_2_Report_031020.pdf#zoom=auto&pagemode=thumbs) (hereinafter NCBE, *2019 Practice Analysis*).

<sup>13</sup> See *Building a Better Bar*, *supra* note 5, at 48; NCBE, *2019 Practice Analysis*, *supra* note 11, at App’x B, D.

<sup>14</sup> See NCBE, *2019 Practice Analysis*, *supra* note 11, at App’x B, D.

<sup>15</sup> See *Building a Better Bar*, *supra* note 5, at 51-55; NCBE, *2019 Practice Analysis*, *supra* note 11, at App’x D.

<sup>16</sup> See *Building a Better Bar*, *supra* note 5, at 40-44.

These core competencies form the basis for the experiential pathway requirements. The competencies apply to all candidates in the experiential licensure pathway, whether they are law students, APR 6 law clerks, or have already completed their legal education. The types of activities candidates must perform and written material that must be submitted as part of candidates' portfolio were developed to align with these core competencies, and candidates' performance and work will be graded based on whether they demonstrate these minimum competencies to practice law in Washington.

### **III. Summary of Proposed Experiential Pathway Requirements**

In the experiential licensing pathway, competence to practice law is determined from a candidate's real-life performance and work completed during a period of practical legal experience under the supervision of a licensed attorney. Candidates in the pathway must be current law students or APR 6 law clerks, or have completed their legal education. Supervisors must meet the requirements for a supervising lawyer under APR 9.

Candidates must complete specific lawyering activities, which will be observed and assessed by their supervisors using standardized rubrics, and must submit a portfolio containing those rubrics and required written work product to the WSBA Board of Bar Examiners. The bar examiners and supervisors will evaluate candidates' performance and work product to determine whether candidates demonstrate the nine core competencies defined above.

#### **a. Overview of Requirements**

To be admitted to practice law in Washington through the experiential licensing pathway, candidates must complete the following requirements:

1. Successfully complete their legal education by graduating from law school, completing the APR 6 law clerk program, or meeting additional educational requirements for foreign-trained candidates;
2. If a candidate completed their legal education more than six years prior to applying to participate in the experiential licensing pathway, complete WSBA's 15-credit Law and Practice Refresher CLE course;
3. Complete 825 hours of supervised practice time as a Rule 9 licensed legal intern;
4. Complete all required pathway activities;
5. Submit a portfolio of their work and supervisor rubrics and receive a passing score on all portfolio submissions.
6. Pass the Multistate Professional Responsibility Exam (MPRE), or receive passing scores on three written responses to prompts posing professional responsibility scenarios;
7. Pass the Washington Law Component open book exam; and
8. Undergo the character and fitness review required of all applicants to the Washington Bar.

#### **b. Required Pathway Activities**

Candidates will be required to complete the following activities during their supervised practice:

- Lead two client interviews or counselling sessions;
- Lead one negotiation;
- Demonstrate the use of research tools to develop the facts of a client matter;
- Demonstrate the ability to manage a law-related workload; and
- Demonstrate competence in professional responsibility by:

- Either:
  - Achieving a passing score on the Multistate Professional Responsibility Exam, or
  - Submit as part of their portfolio three written responses to prompts developed by WSBA on issues of professional responsibility. At least one response should respond to a prompt addressing the operations-side of legal practice, such as handling billing, trust accounts, and client payments.
- And completing the following activities:
  - Complete WSBA-provided training covering:
    - Common stressors in legal practice and strategies and resources available to manage them;
    - Strategies for managing a law-related workload;
    - Resources for answering ethics questions during practice; and
    - The intersection of technology tools, client privacy, and data security.
  - Spend 10 of their supervised practice hours on client-facing activities; and
  - Keep detailed, contemporaneous timekeeping records.

Other than completion of the MPRE, these activities must take place during the supervised practice time. The required activities—and the written portfolio materials described below—are intended to be adaptable to a variety of practice settings and provide opportunities for candidates to demonstrate and be evaluated on all nine core competencies.

Candidates’ supervisors will observe the client interviews or counselling sessions, negotiation, and candidates’ use of factual research methods and will complete standardized rubrics assessing candidates’ performance on these activities. Supervisors will also certify that candidates have completed the 10 hours of client-facing time and that candidates kept timekeeping records appropriate for their practice setting. WSBA will develop the required training and will record whether a candidate has completed it.

### **c. Required Portfolio Submissions**

Candidates will be required to submit a midpoint portfolio with half of their required materials and a final portfolio containing all required materials. Candidates will submit their own work for evaluation by the WSBA Board of Bar Examiners and will also include their supervisors’ rubrics assessing their performance on the above activities. In all, candidates must submit the following materials:

Candidates work product:

- Two written client counselling communications;
- Two persuasive legal documents;
- Two objective legal memoranda; and
- If electing not to take MPRE, three responses to prompts on professional responsibility issues.

Supervisor rubrics assessing the candidate’s performance on their:

- Client interview/counselling sessions;
- Negotiation;
- Use of research tools to develop the facts of a client matter; and
- Ability to manage a law-related workload, such as by spending their time appropriately, planning for and meeting deadlines, managing client files and multistep projects, and, if applicable, working with support staff.

## **IV. Participant Eligibility and Timing**

### **a. Candidate Eligibility**

The experiential licensing pathway will be open to candidates who are currently enrolled in a program of legal education, whether in a law school or WSBA's APR 6 law clerk program, and to those who have already completed their legal education.

For those currently pursuing their legal education, candidates must be enrolled in a JD program at a law school approved by the WSBA Board of Governors<sup>17</sup> or in the APR 6 law clerk program. Law school candidates must have completed one half of a three-year legal education or five-eighths of a four-year legal education; APR 6 law clerks must have completed five-eighths of the clerkship.

Candidates who already completed their education must have graduated with a JD from an approved law school or completed the law clerk program. If a candidate graduated from an unapproved law school or a law school outside the United States, they must meet the additional educational requirements in Admission and Practice Rule 3(b)(3) and (4).<sup>18</sup>

In addition, if a candidate completed their legal education more than six years before applying to the experiential licensing pathway, they must complete WSBA's 15-credit Washington Law and Practice Refresher CLE. This CLE is a refresher course on legal research and writing, recent significant changes in the law, law office management, and professional responsibility.

### **b. Supervisor Eligibility**

The eligibility requirements for supervisors participating in the experiential pathway mirror the requirements for supervisors of licensed legal interns under [Admission and Practice Rule 9](#).<sup>19</sup> Supervisors

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<sup>17</sup> Presently, the WSBA Board of Governors approves law schools that meet ABA accreditation standards.

<sup>18</sup> APR 3(b)(3) and (4) set out the requirements for an applicant to sit for the bar exam if they have graduated from an unapproved law school or law school outside the U.S. Those individuals must provide proof of:

(3) graduation from a university or law school in any jurisdiction where the common law of England is the basis for its jurisprudence with a degree in law that would qualify the applicant to practice law in that jurisdiction and admission to the practice of law in that same or other jurisdiction where common law of England is the basis of its jurisprudence, together with current good standing and active legal experience for at least three of the five years immediately preceding the filing of the application; or

(4)(A) graduation with a Master of Laws (LL.M.) degree for the practice of law as defined [in the APRs] and either: (i) graduation with a JD degree from a United States law school not approved by the Board of Governors, or (ii) graduation from a university or law school in a jurisdiction outside the United States, with a degree in law that would qualify the applicant to practice law as a lawyer or the equivalent in that jurisdiction.

<sup>19</sup> Although the Washington State Bar Licensure Task Force initially proposed that experiential pathway supervisors meet the requirements for law clerk tutors under APR 6, the Steering Committee ultimately determined for several reasons to recommend that supervisor requirements instead mirror the requirements for APR 9 supervisors.

First, the requirements for APR 6 law clerk tutors are substantially stricter than those for APR 9 supervisors. Tutors must have active legal experience for at least ten of the twelve years preceding application, two of which must have been in Washington. In addition, law clerk tutors must not have received any disciplinary sanction within the prior five years and it is within the Bar's discretion to reject someone as a tutor if the person has received a disciplinary sanction more than five years earlier or has a pending disciplinary proceeding.

must be active Washington bar members in good standing and have been actively engaged in the practice of law in any U.S. jurisdiction for at least three years preceding the date of application. Supervisors also may not have been disbarred or subject to disciplinary suspension in any jurisdiction within the preceding ten years, have a pending or imminent disciplinary proceeding, or have received a disciplinary sanction within the last three years.

Supervisors will play a significant role in supporting and assessing candidates' skills and knowledge in the experiential pathway. Supervisors will observe candidates' real-world performance and complete rubrics to be submitted as part of the final portfolio and ideally will impart their own knowledge and experience to the candidates. Given this role, these eligibility requirements are rigorous enough to ensure supervisors have the requisite experience to assess admittee's performance, but not so high as to restrict unnecessarily the number of potential supervisors.

Mirroring the APR 9 requirements has the additional benefit of streamlining administration of the experiential pathway. Experiential candidates will fulfill their supervised practice requirements while practicing with an APR 9 license. Creating a different standard for supervisors would increase administrative burdens for participants and the Bar, both of whom would need to navigate different rules applicable to similar, related programs.

### **c. Supervised Practice Hours**

Time spent in real-life practice under the supervision of an experienced lawyer is an essential element of the experiential licensing pathway. Candidates will perform the required pathway activities and develop their written portfolio submissions during their supervised practice time. Their supervisors will observe and assess candidate's performance on the required activities and written materials will be assessed by the WSBA Board of Bar Examiners.

All candidates must complete 825 hours of supervised practice time.<sup>20</sup> 825 hours equates to approximately six months of case time allowing for typical holidays and leave. Candidates may accrue up

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While these requirements may be appropriate for the law clerk program, they appeared overly limiting for the experiential licensing pathway. The program duration and relationship between supervisor and supervisee in the experiential pathway more closely resemble the licensed legal intern program. In comparison to the four years APR 6 law clerks typically spend in the program, candidates for licensing will spend a much shorter time in the program. Moreover, APR 6 tutors have a substantial role in guiding the law clerk's education and professional and ethical development over many years and do so with a large amount of independence. The relationship between supervisor and candidate in the experiential licensing pathway may involve some of these elements but, on balance, is more like the relationship between a supervisor and employee. Candidates for licensure in the experiential pathway will obtain the majority of their legal education outside the licensing program. For that reason, the Subcommittee concluded it was not necessary for supervisor requirements in the experiential pathway to be as stringent as those for APR 6 tutors.

Relatedly, the Subcommittee was concerned that requiring experiential pathway supervisors to meet the APR 6 tutor requirements would significantly narrow the available pool of supervisors. Permitting supervisors with three years of experience, instead of ten, allows many more lawyers to participate in the program while still protecting the public.

<sup>20</sup> In its February 2024 report, the Washington Bar Licensure Task Force originally proposed the creation of three separate experiential pathways with distinct requirements for supervised practice time and experiential learning credits depending on the status of the candidate. Law students would have been required to complete 500 hours of supervised practice time and 12 experiential law school credits, APR 6 law clerks would have been required to

to 40 hours per week. Imposing a limit on the number of weekly hours discourages candidates from working excessive hours and trying to speed through the requirements. The supervised practice time may be completed during law school, whether in law school experiential courses<sup>21</sup> or other employment; during an APR 6 clerkship; or in a post-graduate employment setting. Recorded time, however, must be spent on legal work in connection with a current or prospective client matter or while working on pathway requirements. While candidates may accrue this time in any type of experiential course, class time does not count towards the requirement.

Under these time requirements, APR 6 law clerks and traditional law student candidates can feasibly complete all required hours prior to graduation.<sup>22</sup> Given the other graduation requirements for law students, however, WSBA's guidance documents would encourage law students to consult with their law school advisors on how to fit the supervised practice hours into their schedule and the possible impact on their academics.

Candidates will complete their supervised practice time under a Rule 9 licensed legal intern license and candidates and supervisors will be subject to the requirements of Rule 9.<sup>23</sup> Rule 9 ensures candidates are subject to the Washington Rules of Professional Responsibility and Enforcement of Lawyer Conduct and that they do not unintentionally engage in the unauthorized practice of law during their supervised practice. Under Rule 9, supervisors, among other requirements, assume professional responsibility for the

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complete 500 hours of supervised practice, and graduates would have completed six months of supervised practice. APR 6 clerks and graduates did not have required experiential course credits.

The Steering Committee determined instead that single hours standard applicable to all candidates was preferable for several reasons. First, the difference in requirements for APR 6 law clerks and those for law students and graduates could compound perceptions that the law clerk program and the experiential licensing pathway are less valid than traditional legal education and licensing routes.

Basing the time requirements around three separate pathways could also limit flexibility in two ways—first, current students pursuing the pathway would be required to complete all pathway requirements before they graduate. Second, law students would be limited in the coursework they could take because there would be no flexibility in the number of experiential learning credits in which they must enroll. A law student, for instance, could not complete the pathway if they were only able to fit 9 credits of experiential learning into their schedule, even though they may be able to achieve significant supervised practice time through their coursework or other employment. Lastly, differing requirements for multiple pathways increases the potential for candidates to misunderstand the requirements applicable to them.

Given these concerns, the Steering Committee and subcommittees developed recommended time requirements that attempt to remain faithful to the proposed amounts of time from the Bar Licensure Task Force proposal, but that apply one standard to all candidates regardless of where they are in their legal education. The requirements are framed in hours, rather than law school credits into hours, because law schools do not necessarily employ one method for counting the amount of supervised practice time that corresponds to course credit.

<sup>21</sup> Experiential courses include clinics, externships, and simulation courses.

<sup>22</sup> See Appendix A for an illustration of how law students could potentially complete their supervised practice time within the three years of law school.

<sup>23</sup> Requiring a Rule 9 license during the supervised practice time does not mean candidates must complete their time in traditional practice settings that would require a Rule 9 license, such as in a litigation-focused practice. Candidates may complete all their requirements in a setting that may not otherwise require a Rule 9 license, such as in a practice focused on administrative or federal law. Issuing a Rule 9 license to all candidates and requiring compliance with Rule 9's provisions is an expedient method of ensuring candidates are subject to the professional responsibility rules and do not engage in the unauthorized practice of law while completing experiential pathway requirements.

candidate's work, take reasonable steps to ensure the candidate is adequately prepared to handle assignments, and agree to meet with candidates at least once a week to review cases and provide feedback and guidance.

Lastly, one of the goals of the experiential pathway is to make a legal career possible for those who may not be able to afford the bar exam, bar preparation courses, or to take time off from work to study for the exam. Compensating candidates while they work towards licensure is an important step towards this goal. Not all employment settings may be able to provide compensation, however, and candidates should not be discouraged from completing their supervised practice in those settings.

Therefore, supervisors must provide compensation to candidates during the candidate's supervised practice time, unless one of the exceptions below applies. The amount of compensation is determined by the supervisor and candidate, but must be no less than the equivalent amount provided by the supervisor to similarly qualified and experienced employees.

Supervisors will be encouraged, but not required, to provide compensation if:

1. The candidate is receiving credit for their work as part of a law school externship;
2. The candidate is performing the work as part of a law school clinic;
3. The candidate has a grant or stipend from a third party that will compensate them for their work;
4. The site is a non-profit organization or government agency; or
5. The candidate volunteers to provide pro bono services to the site's clients and the site does not bill the client for those services.

Supervisors must also comply with any applicable employment and immigration laws when employing candidates.

#### **d. Application Process and Timing**

Candidates are eligible to apply to participate in the portfolio evaluation after they have completed one half of a three-year J.D. program, five-eighths of a four-year J.D. program, or five-eighths of an APR 6 law clerkship.

Candidates will locate a licensed attorney willing to supervise their work in the experiential pathway prior to applying to participate. WSBA will provide an online application where candidates will enter the information necessary to determine their and their supervisor's eligibility to participate in the pathway. If they have not already been issued a Rule 9 limited legal intern license, candidates will also provide the information necessary to obtain a Rule 9 license. As with the current Rule 9 licensing process, WSBA will review the application to determine if the candidate possesses the moral character and fitness to engage in limited practice as part of the experiential pathway. If the candidate and supervisor meet the necessary eligibility requirements, WSBA will approve the candidate to participate in the pathway. Upon approval to participate in the experiential pathway, WSBA will issue candidates a Rule 9 license.

Candidates may begin accruing their required supervised practice time and completing the required activities and portfolio submissions after they receive approval from WSBA to participate. Candidates may not use work product generated, activities performed, or time accrued prior to approval to participate to satisfy pathway requirements. This limitation ensures candidate work and activity is observed by their supervisor and assessed using the appropriate standardized grading tools.

Once a candidate is approved to participate, they have 24 months in which to complete all pathway requirements. Candidates need not complete all their supervised practice time or all required activities and portfolio submissions in a single practice setting under one supervisor. Candidates may end up completing the experiential licensing pathway requirements over the course of a few experiences with

different supervisors. For instance, a candidate who starts the pathway during their third year of law school may complete some requirements in their law school clinic and finish the remainder of the requirements after graduation while employed in a law firm. Candidates will inform WSBA if they change practice settings or supervisors.

Just as with the bar exam, there is no limit on the number of times a person may attempt the experiential licensing pathway.

## V. Assessment of Core Competencies Through Required Activities and Portfolio Submissions

As described in the summary above, candidates in the experiential licensing pathway must perform a specified set of required activities which their supervisors assess using standardized rubrics provided by WSBA. Candidates must also submit a portfolio to WSBA containing specific required written work product generated during their supervised practice. The WSBA Bar Examiners assesses candidates' competence to practice law based on the portfolio and supervisor rubrics.

These required activities and portfolio submissions correspond to the nine core competencies above such that candidates will have an opportunity to demonstrate and be assessed on all competencies by the time they complete their period of supervised practice. The following sections describe how the required activities and portfolio submissions align with particular core competencies.

### a. Assessing Understanding Legal Processes, Sources of Law, and Threshold Concepts

**A licensure candidate must demonstrate an understanding of legal processes and sources of law.**

*Includes understanding the appropriate application of state and local law, federal law, administrative rules, and local court rules and understanding the channels of legal practice, including alternative dispute resolution processes, negotiation skills, legislative processes, administrative and regulatory processes, and court processes.*

**A licensure candidate must demonstrate an understanding of threshold concepts in many subjects.**

*A threshold concept is an "insight that transforms understanding of a subject." Threshold concepts "distinguish individuals who have begun to master a subject from all others" and "allow new learners to understand the 'how' and 'why' of their field rather than simply the 'what.'" This competency "focuses on understanding principles and policies that govern the law, rather than memorizing specific black-letter rules" and "allow lawyers to identify issues, search for the appropriate rule, and see nuances in the rule."*

These competences focus largely on knowledge and skills candidates acquire during their legal education, whether that is in law school or an APR 6 law clerkship. Legal education, whether in law school or the APR 6 law clerk program, is specifically designed to introduce students to a range of doctrinal subjects and threshold concepts.<sup>24</sup>

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<sup>24</sup> Research on California's Provisional Licensure Program (PLP) also suggests candidates will be exposed to a breadth of legal subjects during their supervised practice time, even when practicing in specialized areas. On average, participants in California's PLP reported using 5.5 different legal subjects during the program's supervised practice time and 25.5% of candidates said they used eight or more subjects. See Merritt, et al., *supra* note 2, at 123.

Specifically with regard to threshold concepts, examples of such concepts span many legal subject areas. Threshold concepts appear, for instance, in constitutional law topics, such as the allocation of federal and state powers and individual rights; common law topics such as the elements of negligence, contract formation and enforcement, and rights in real property; statutory topics, such as the principles underlying commercial and criminal law codes; and administrative law topics, including agency powers and limits, rulemaking, and adjudication.

Precisely identifying an exhaustive set of threshold concepts a candidate for licensure must understand to be competent to practice law, however, has proven challenging even for experts in attorney licensure.<sup>25</sup> Attempting to create and maintain a comprehensive list would likely pose significant administrative costs for licensing authorities. Nonetheless, consensus among experts holds that such threshold concepts are widely incorporated into law school curricula, particularly first-year law school courses, and in Washington's APR 6 law clerk coursework.<sup>26</sup>

Therefore, rather than attempt to create a list of required threshold concepts or required law school courses, these competencies are satisfied by candidates' completion of a course of legal study in the APR 6 law clerk program or law school. Candidates who obtained their legal education outside the United States will satisfy these competencies through completion of additional educational requirements. These requirements mirror existing requirements for individuals seeking admission through sitting for the bar exam.

Prior to admission to practice law in Washington, candidates must provide proof of:

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<sup>25</sup> See, e.g., Howarth, *supra* note 5, at 1 ("What constitutes the body of legal knowledge that every lawyer must possess? I use to know, or think I did, but no longer. I suspect no one else knows either.").

<sup>26</sup> As Joan W. Howarth explains in *What Law Must Lawyers Know?*, 19 CONN. PUB. INTEREST L.J. 1, 6 (2019),

The longstanding practice of naming courses after their doctrinal subject matter hides the truth that these courses may have methodological goals that are at least as important, probably even more essential, than goals related to doctrinal knowledge.

Consider Torts. Law schools require students to take Torts, typically in the first semester of law school. As a Torts professor, I believe that the Torts course includes some knowledge that every lawyer must understand. This necessary knowledge base includes differences between civil and criminal law; common law development; burdens of proof; standards of review; differences between standards and rules; distinctions between elements and factors; differing roles of judges and juries, and of courts and legislatures; burdens of production and proof; the impact of procedural context on doctrinal analysis; the purposes and limitations of systems for allocating the costs of accidents; the fault continuum of intentional, reckless, negligent conduct and strict liability; the elements of negligence, and of some intentional torts; causation principles; common defenses and privileges; theories of liability for injuries from products; and types of damages.

[. . .]

Law schools do not require Torts because attorneys will practice personal injury law or will use much Torts doctrine. The course is foundational because Torts makes an excellent platform for learning basic legal analysis, including the application of legal doctrine to facts, burdens of proof, elements versus factors, and arguments based on precedent, analogy, and policy considerations. Some professors use Torts as a platform for teaching legal theory, whether law and economics, theories of distributive justice, or something else. We teach Torts to everyone because we believe it to be an effective platform for introducing necessary skills of legal analysis.

- 1) Graduation with a J.D. degree from an approved<sup>27</sup> law school;
- 2) Completion of the APR 6 law clerk program;
- 3) Graduation from a university or law school in any jurisdiction where English common law is the basis for its jurisprudence, that they are admitted and in good standing to practice law in a jurisdiction where English common law is the basis for jurisprudence, and that they have active legal experience for at least three of the five years immediately preceding application to the program; or
- 4) Graduation from an unapproved law school or graduation with a law degree from a university or law school in a jurisdiction outside the United States, and graduation with an LL.M degree for the practice of law from an approved law school.

Candidates' portfolio submissions also provide an opportunity to demonstrate these competencies. The Washington Board of Bar Examiners will examine the contents of the portfolio to assess whether the candidate has demonstrated an understanding of legal processes and sources of law and of threshold legal concepts.

### **b. Assessing Professional Responsibility**

**A licensure candidate must demonstrate the ability to act professionally and in accordance with the rules of professional conduct.**

*Includes the demonstrated ability to conduct oneself with respect for and in accordance with the law, including compliance with the requirements of applicable state, local, and federal constitutions, laws, rules and regulations, and any applicable court order. A candidate for licensure may satisfy this competency by managing a law related workload; coping with the stress of legal practice; pursuing self-directed learning; understanding the business of maintaining a legal practice; and appropriately using technology in legal practice.*

Under current admission requirements, applicants who take the bar exam in Washington must also earn a passing score of 85 on the Multistate Professional Responsibility Exam (MPRE). Likewise, candidates participating in the experiential pathway may demonstrate this competence by passing the MPRE. However, in keeping with the emphasis of the experiential pathway on alternatives to exam-based assessments, candidates also have the option of demonstrating competency in professional responsibility outside of a timed exam.

Therefore, all candidates for admission through the experiential pathway may demonstrate competence in professional responsibility by either:

- 1) Taking and passing the MPRE with a minimum passing score of 85; or
- 2) Submitting three written essay answers responding to prompts provided by WSBA on professional responsibility issues as part of their portfolio. Candidates will address the ethical issues posed by the prompt, the applicable rules of professional responsibility, and how they would resolve the ethical issues. At least one response must respond to a prompt addressing the operations-side of legal practice, such as handling billing, trust accounts, and client payments.

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<sup>27</sup> APR 2(a)(5) provides that the WSBA Board of Governors "[a]pprove[s] law schools for the purposes of these rules and maintain[s] a list of such approved law schools."

All candidates will also be required to complete several additional activities to demonstrate their competency in the specifically-identified components of the professional responsibility core competency. First, candidates will attend a training developed by WSBA covering (1) common stressors in legal practice, including secondary trauma, and strategies and resources available to manage them; (2) strategies for managing a law-related workload; (3) resources for answering ethics questions during practice; and (4) the intersection of technology tools, client privacy, and data security.

Second, candidates must devote ten hours to client-facing activities.<sup>28</sup> This requirement touches on a candidate's ability to manage a law-related workload and cope with the stress of legal practice.

Third, candidates must keep detailed, contemporaneous timekeeping records. This requirement addresses candidates' workload management and understanding of the business of legal practice. While timekeeping practices may vary across practice areas, timekeeping is an essential skill in most practice areas and a good habit to develop in prospective lawyers. The time records need not be submitted to the Bar as part of the portfolio, but supervisors will review the records and certify that the records are appropriate for the area of practice.

Lastly, supervisors will complete a summative rubric that assesses the candidate's ability to manage a law-related workload, such as by spending their time appropriately, planning for and meeting deadlines, managing client files, managing multistep projects, and working with support staff. This rubric touches on many aspects of professional responsibility and the practicalities of legal practice, but primarily addresses the ability to manage a law related workload. The assessment will be based on a supervisor's holistic observation of the candidate's performance over the course of the supervised practice.<sup>29</sup>

### c. Assessing Client Interactions

**A licensure candidate must demonstrate the ability to interact effectively with clients.**

*Emphasizes the ability to gain a client's trust; recognize the importance of cross-cultural competence and seek available resources to understand the needs of their clients; gather relevant facts and identify client goals; communicate regularly with clients, convey information and options in terms that a client can understand, and help the client choose a strategy; manage client expectations, convey bad news, and cope with difficult clients.*

**A licensure candidate must demonstrate the ability to communicate as a lawyer.**

*Includes the ability to choose a method of communication appropriate to the circumstances and audience; communicate the application of legal authority to the facts in a written or oral form that is appropriate for the audience, including the client, opposing counsel, the courts, and other stakeholders; draft and edit legal documents and legal correspondence; work collaboratively with others, including opposing counsel, to address a client matter; and apply negotiation skills to advocate on behalf of a client.*

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<sup>28</sup> The Utah Supreme Court recently approved an experiential licensing pathway with a similar provision requiring 20 of a total of 240 supervised practice hours to be client facing.

<sup>29</sup> If a candidate completes their supervised practice time in multiple settings, they should plan ahead to determine which supervisor will be in the best position to complete this rubric.

In addition to the activities above, candidates will be required to engage in both verbal and written client interactions to demonstrate competence in the ability to interact effectively with clients and to communicate as a lawyer with respect to client communications. Verbal and written interactions with clients typically involve different skills, both of which are important for candidates to learn and demonstrate. For that reason, during supervised practice candidates will be required to:

- 1) Conduct two verbal client interviews or counselling sessions. The supervisor will observe the interview or counselling sessions and complete a rubric assessing the experience. The rubric will be submitted to the Board of Bar Examiners; and
- 2) Write two client counselling letters or emails. The communication will be submitted for evaluation by the Board of Bar Examiners as part of the candidate's portfolio.

While these activities primarily address the candidate's ability to interact effectively with clients and to communicate as a lawyer, they provide an opportunity for assessment of several other competencies. Conducting an initial client interview, for instance, involves identifying relevant issues in the case and asking questions of the client to gather the facts relevant to those issues. Rubrics and grading tools will account for these additional competencies.

#### **d. Assessing Written Legal Work**

**A licensure candidate must demonstrate the ability to communicate as a lawyer.**

*Includes the ability to choose a method of communication appropriate to the circumstances and audience; communicate the application of legal authority to the facts in a written or oral form that is appropriate for the audience, including the client, opposing counsel, the courts, and other stakeholders; draft and edit legal documents and legal correspondence; work collaboratively with others, including opposing counsel, to address a client matter; and apply negotiation skills to advocate on behalf of a client.*

**A licensure candidate must demonstrate the ability to interpret legal materials.**

*Emphasizes the ability to understand and interpret constitutional provisions, statutes, judicial opinions, and regulations and the ability to evaluate how legal documents, such as contracts, should be construed.*

**A licensure candidate must demonstrate the ability to apply legal authority to the relevant facts in a client matter.**

*Emphasizes the ability to make logically sound arguments based on precedent, analogy, and policy; assess the strengths and weaknesses in a client's position and an opposing party's position; and forecast potential outcomes of a client matter.*

**A licensure candidate must demonstrate the ability to conduct research.**

*Includes the ability to: research answers to specific legal questions; recognize relevant and/or dispositive legal sources applicable to a client matter; appreciate the authoritative weight of sources of law relevant to a client matter; utilize strategies to update sources of law and/or find additional sources of law that are relevant to a client matter; acquire facts and non-legal information for client matters; develop the factual record; and locate information about local rules or practices.*

**A licensure candidate must demonstrate the ability to identify issues.**

*Emphasizes the ability to understand the “big picture” of client matters; identify legal principles and legally significant facts relevant to a client matter; identify goals and objectives in client matters; identify legal claims and remedies that might address a client’s needs; identify legal and practical obstacles to achieving any proposed resolution; and develop strategies to guide client matters.*

The quintessential written legal documents, such as briefs and memoranda, provide one of the most comprehensive opportunities to assess a candidate’s foundational legal skills. Candidates will be required to submit with their portfolio:

- 1) Two persuasive written legal documents, such as a brief in support of a dispositive motion or pre-arbitration memorandum; and
- 2) Two objective written legal memoranda that apply relevant law to the facts of the case, assess the strengths and weaknesses of the client matter, and forecast potential outcomes.

As with the distinct types of client communication above, persuasive and objective writing generally require different perspectives and touch in different ways on several of the core competencies. Demonstrating competence in both methods of communication is important for candidates. These submissions will be assessed by Bar Examiners based on the elements of multiple core competencies, including the ability to identify issues, conduct research, interpret legal materials, apply legal authority to the facts of a client matter, advocate for a position, and communicate appropriately for the audience.

#### **e. Assessing Communications with Adjudicators and Other Lawyers and Parties**

**A licensure candidate must demonstrate the ability to communicate as a lawyer.**

*Includes the ability to choose a method of communication appropriate to the circumstances and audience; communicate the application of legal authority to the facts in a written or oral form that is appropriate for the audience, including the client, opposing counsel, the courts, and other stakeholders; draft and edit legal documents and legal correspondence; work collaboratively with others, including opposing counsel, to address a client matter; and apply negotiation skills to advocate on behalf of a client.*

In addition to communication with clients, discussed above, communicating as a lawyer necessarily involves communicating with adjudicators, opposing attorneys, and other parties. Bar examiners will assess this facet of the competency through candidates’ written work. Objective and persuasive legal documents provide an opportunity for candidates to demonstrate their ability to select the appropriate tone for the audience and to craft a well-constructed argument.

In addition, this core competency specifically includes negotiation as a distinct communication style in which lawyers should be proficient. Researchers for the Institute for the Advancement of the American Legal System (IAALS), also report in *Building a Better Bar: The Twelve Building Blocks of Minimum Competence*, that lawyers emphasized the importance of negotiating skills as a separate type of lawyerly communication. Accordingly, candidates for licensure through the experiential pathway must engage in one negotiation.

Negotiation is defined broadly to ensure such experiences would be available to candidates in a variety of practice settings. A negotiation includes any discussion aimed at reaching an agreement. It could occur in the context of litigation, transactional, regulatory, or other matters. The negotiation need not focus on final resolution of the matter and may address preliminary or interim matters. Negotiations need not be lengthy but must involve sufficient activity to allow the supervisor and Bar Examiners to assess the candidate's ability to express and advocate for their client's position and respond to opposing positions. The activity would be observed by the candidate's supervisor who would complete a rubric assessment and submit the assessment to the Board of Bar Examiners.

## **f. Assessing Legal Research and Factual Development**

**A licensure candidate must demonstrate the ability to conduct research**

*Includes the ability to: research answers to specific legal questions; recognize relevant and/or dispositive legal sources applicable to a client matter; appreciate the authoritative weight of sources of law relevant to a client matter; utilize strategies to update sources of law and/or find additional sources of law that are relevant to a client matter; acquire facts and non-legal information for client matters; develop the factual record; and locate information about local rules or practices.*

Lastly, as described above, legal research and writing would be assessed through evaluation of a candidate's persuasive and objective legal writing. This competency also includes development of facts and non-legal information relevant to a client matter. Accordingly, candidates must demonstrate their competence in using factual research tools, such as discovery requests, issuing subpoenas requesting information, sending FOIA requests, gathering facts from interviews with witnesses, or using other nonlegal research tools. Their supervisor will assess their research process using a rubric, which would be submitted to the Board of Bar Examiners.

## **VI. Portfolio Parameters**

To be submitted as part of the portfolio, all of the candidate's work product must meet the parameters outlined below.

### **a. Portfolio Parameters**

#### **i. Word Count Requirements**

In total, candidates' portfolios should include enough of their work to accurately assess their competence, while simultaneously not creating too high of a burden for graders or barriers for candidates to complete the requirements. Therefore, clear guidance for both minimum and maximum word count requirements is desirable.

All portfolio submissions must be between 350 and 4200 words and at least two submissions must be 1500 words or more.<sup>30</sup> Taken together with requirements for the number of portfolio submissions, these requirements mean each candidate will submit a minimum of 4400 words, or around 15 pages, of material for assessment.

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<sup>30</sup> Both Minnesota and Oregon require at least two submissions to be 1500 words or more and both jurisdictions will reject submissions if they are too short to permit evaluation. King County Superior Court's word limit for civil motions is 4200 words.

## ii. Addressing Distinct Legal Issues

Individual portfolio submissions must each address at least one distinct legal issue not addressed in the other portfolio submissions. This requirement is intended to ensure candidates demonstrate that they can apply the essential competencies across multiple legal issues. The portfolio submission, therefore, must include sufficient analysis of the distinct legal issue to permit assessment of the candidate's competency. Candidates will identify the unique legal issue in a cover page accompanying the piece of work.

For purposes of this requirement, application of the same legal standard, rule, or test to different facts would not be considered addressing a distinct legal issue. Rather, a submission must analyze some unique legal inquiry—such as application of a distinct statutory provision, administrative rule, or legal test—not present in other portfolio submissions. For example, a brief addressing dismissal under Fed. R. Civ. P. 12(b)(1) due to lack of subject matter jurisdiction presents a distinct legal issue from a brief addressing dismissal under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. In addition, the candidate's discussion of this distinct legal issue must have enough depth to allow bar examiners to assess the submission on the basis of the experiential licensing pathway core competencies. Perfunctory analyses would not be graded as passing.<sup>31</sup>

WSBA will make this guidance and additional illustrations publicly available, such as in a program guide or FAQ webpage, to help candidates assess whether their submission includes a distinct legal issue and the necessary depth of analysis.

## iii. AI and Template Use

Guidance will also be provided for use of generative AI, templates, or other models in creating portfolio submissions. Rather than simply prohibiting their use, the portfolio parameters take AI and template use into account for several reasons. First, the reality of legal practice is that lawyers often are not starting from scratch when drafting filings. They frequently begin with a template or model from a prior case and adapt it to the needs of their current case. Second, AI use is commonplace. A prohibition on AI use would not be useful because it is likely some candidates will use AI tools anyway and consistently detecting its use is difficult and likely to become even more so. Third, the ability to use these tools responsibly is a component of lawyer competence. The portfolios are an opportunity to turn AI and template use into additional skill development.

Candidates, therefore, must identify in a cover page whether they used AI, a template, or other model to create any portfolio submission, and, if so, the modifications they made to make the work their own. In addition, if they used an AI tool, they must describe how they ensured they met their ethical obligations in generating the work.

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<sup>31</sup> These parameters mirror similar requirements in Oregon's Supervised Practice Portfolio Examination (SPPE) and Minnesota's proposed Curricular Pathway. Oregon requires that each piece of work product address at least one legal issue that differs from the legal issues addressed in other pieces of work product. See Oregon SPPE Rules, 6.4(A)(3) (avail. at [https://www.osbar.org/\\_docs/sppe/4-CLEAN-SPPERulesTo-Court.pdf](https://www.osbar.org/_docs/sppe/4-CLEAN-SPPERulesTo-Court.pdf)). Oregon notes that application of the same issue to different fact patterns would not be sufficient to comply with their rule. Minnesota, likewise, has proposed requiring portfolio submissions to include discussion of at least one legal issue not present in other portfolio submissions and defines "distinct legal issue" in the same manner as Oregon. See Minnesota Curricular Pathway Report, Draft 9.18.2025, pg. 9 (avail. at <https://ble.mn.gov/wp-content/uploads/2025/09/Minnesota-Curricular-Pathway-Report-Draft-9.18.2025.pdf>). Minnesota's proposal also requires that the depth of analysis of the distinct legal issue unique to the submission be sufficient to provide a basis for the examiner to make a judgment about the applicant's competency.

#### **iv. Confidentiality**

Supervisors and candidates in the experiential pathway have ethical obligations to protect confidential client information. RPC 1.6 prohibits a lawyer from “reveal[ing] information relating to the representation of a client unless the client gives informed consent,” and requires a lawyer to “make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of the client.” In addition, evidentiary privileges protecting confidential client communications and attorney work product may be waived if the information is shared with a third party.<sup>32</sup> It is highly likely work product submitted by candidates in the experiential pathway will contain client information. Accordingly, the experiential pathway requirements must give participants the ability to protect confidential client information.

Candidates will be directed to redact all party names, including client and opposing party names, and other information that is reasonably likely to lead to identification of the client. If present in the material, candidates should also redact any other confidential information, such as trade secrets or proprietary information. Candidates may provide background for the work in the cover page if some additional context is needed due to the redactions.

In addition, candidates will be submitting their own personal information to the Bar when they apply to participate in the experiential pathway and submit portfolio material. That information will also be protected from disclosure. Some in the legal community and public may consider methods of licensure other than the bar exam to have less validity than the bar exam. Keeping licensure applications confidential will help encourage potential employers and clients to select lawyers based on demonstrable skills rather than license method. In addition, candidate information in the portfolio material must be protected to facilitate anonymous, unbiased grading.

Several Washington Supreme Court rules already protect license application material from disclosure. APR 1(d)(1) provides that all records relating to applications for any license type or for the law clerk program are confidential and privileged against disclosure except as necessary to conduct an investigation, hearing, and appeal or review pursuant to the Admission and Practice Rules, or if expressly authorized by the Washington Supreme Court or the applicant. Applications for licensure are likewise exempt from disclosure under General Rule 12.4, which governs public records requests directed to WSBA.<sup>33</sup> These rules will be applied to applications for the experiential licensure pathway, including the contents of candidate portfolios.

With respect to candidate information that may appear in portfolio submissions, candidates will redact their own identifying information and information identifying their supervisor and employer. The Bar presently uses a system for grading bar exam essays that anonymizes the material before it is sent to a bar examiner for grading by removing the test taker’s name and identifying the exam instead by number. This anonymization method will be applied to portfolio submissions, as well.

#### **v. Attestation Cover Page**

Lastly, WSBA will develop an attestation cover sheet that candidates will use to accompany each work product submitted as part of the portfolio. On the form, the candidate and supervisor will attest that the material is the candidates own work. The candidate will note any use of AI or templates as needed; identify

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<sup>32</sup> Restat. 3d of the Law Governing Lawyers, § 79; *Dietz v. Doe*, 131 Wn.2d 835, 850 (1997) (attorney-client privilege); *Kittitas Cty v. Allphin*, 190 Wn.2d 691, 700 (2018) (work product doctrine).

<sup>33</sup> GR 12.4(d)(2)(E).

the distinct legal issue addressed in the work; and will give additional context for the piece. Supervisors will also attest that the candidates' legal analysis is accurate to the best of the supervisor's knowledge. WSBA may also request that candidates and supervisors provide additional information on the attestation form if needed.

## VII. Supervisor Rubrics and Portfolio Grading

### a. Grading Process

As described above, candidates' competence to practice law will be assessed by the WSBA Board of Bar Examiners and their supervisors using standardized rubrics. Candidates must submit a midpoint and a final portfolio. If a candidate chooses to take the MPRE, the midpoint portfolio must contain at least five of the required portfolio items. If they elect instead to submit the three professional responsibility essays, their midpoint portfolio must include six of the required portfolio items. The candidate will submit the remaining items for the final portfolio.

Portfolio materials will be assessed by the WSBA Board of Bar Examiners on a quarterly basis. WSBA will provide candidates with an online platform where they can submit their supervisor's rubrics and portfolio materials. Candidates may submit materials to WSBA on a rolling basis and will be encouraged to submit materials as soon as they are complete. Once a candidate has submitted enough material to constitute a midpoint or final portfolio, it will be sent to the Bar Examiners for assessment at the next quarterly grading session.

The bar examiners will be randomly assigned pieces of work from candidates' portfolios and at least two bar examiners will grade each piece of work. Grading will be conducted anonymously so that bar examiners are not aware of the candidate's identity when grading. Using standardized assessment tools, bar examiners will assess whether each piece of work demonstrates the minimum competence necessary to practice law in Washington.

The rubrics and assessment tools used by both supervisors and the bar examiners will be developed by WSBA.<sup>34</sup> Supervisors and bar examiners will receive training on the use of the rubrics and assessment tools, including training on implicit bias.

Candidates will have a limited opportunity to correct deficient work.<sup>35</sup> Providing some ability to correct work is an important component of the assessment. One of the goals of the experiential licensing pathway is to provide an opportunity for candidates to demonstrate their competence to practice law without the artificial time pressure of the bar exam. The program, however, should be rigorous enough to protect the public and appropriately assess candidate competence. Moreover, the ability for candidates to fix work enhances the validity and reliability of the assessment.

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<sup>34</sup> See Appendix B for examples of rubrics and assessment tools used in other jurisdictions that have or are in the process of implementing experiential pathways to licensure.

<sup>35</sup> Permitting candidates to correct work is in keeping with the approaches of other jurisdictions implementing experiential licensure pathways. Oregon's SPPE program, for instance, permits candidates to substitute new work for any submissions that do not receive a passing score. See Oregon SPPE Rules, 7.4(B), 8.2(B). Oregon places no limit on the number of times a candidate may resubmit work. *Id.* Minnesota's proposed Curricular Pathway would also permit candidates to submit replacement work for materials that are deemed insufficient. See Minnesota Curricular Pathway Report, Draft 9.18.2025, pg. 5. However, Minnesota's program, which is open only to law students, requires all portfolio materials to be submitted by the deadline for the final assessment window prior to the candidate's graduation. If any materials in this final portfolio are deemed insufficient, candidates would have an opportunity to cure or provide replacement materials in the first evaluation window after their graduation. *Id.* at 15.

Nonetheless, unlimited opportunities to correct work could create an incentive for candidates to submit a high volume of work of questionable quality in the hopes of eventually meeting the passing threshold. Limiting the number of opportunities encourages candidates to submit their best work upfront and better uses of participant's time and resources.

Therefore, if any work submitted with the midpoint portfolio is deemed not passing, candidates may correct or replace the work for the final portfolio. If any work submitted as part of the final portfolio is graded not passing, the candidate will have two subsequent opportunities to correct or replace that work. This requirement would not preclude a candidate from reapplying and making a successive attempt to become licensed through the experiential pathway if they are unable to successfully complete all the program requirements within the 24-month timeframe.

### **b. Validity, Reliability, and Fairness in Assessments**

Taken as a whole, the experiential licensing requirements and assessment process are designed to enhance the validity, reliability, and fairness of the assessments to the greatest extent possible. Validity refers to the assessment's ability to "offer[] a useful measure of the characteristic or trait that it claims to measure," here minimum competence to practice law.<sup>36</sup> A reliable assessment "produces consistent results" and a fair assessment gives all candidates a chance "'to demonstrate their standing on the [competencies] the test is intended to measure,' without the interference of irrelevant conditions or characteristics," such as biases related to race, gender, or disability.<sup>37</sup>

While determining the validity of the experiential licensing pathway assessments is challenging before the pathway has been implemented, the experiential pathway design supports the validity of the assessments. One such element of validity is clearly identifying the core competencies that will be used as minimum measures of a candidate's ability to practice law. These core competencies ground all the pathway requirements and the rubrics and bar examiner grading tools. Thus, all participants in the pathway will be aware of the standards to which candidates will be held and the requirements and assessments will directly grade candidates based on those standards.

Moreover, allowing candidates to correct their work "helps avoid the 'failure to fail' syndrome in which examiners hesitate to fail a candidate who has become known to them. Examiners are more comfortable assigning failing grades to work product when they know that a candidate can try again. By providing these opportunities, [experiential licensing] systems produce more credible ratings from examiners. That credibility strengthens the validity of the system's claim to separate competent candidates from incompetent ones."<sup>38</sup>

Next, four elements establish the reliability of the experiential pathway assessments: "multiple assessments, multiple assessors, well designed rubrics, and effective training."<sup>39</sup> The experiential licensing pathway incorporates all four elements. To begin with, "multiple samples allow examiners to make a reliable determination of the candidate's overall competence" and "[u]sing multiple judges to review a candidate's work product further enhances reliability."<sup>40</sup> Here, candidates will be assessed over multiple required activities and portfolio submissions, and these activities and written work will be graded by

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<sup>36</sup> Merritt, et al., *supra* note 2, at 100.

<sup>37</sup> *See id.*, at 101-02.

<sup>38</sup> Merritt, *supra* note 1, at 131.

<sup>39</sup> *Id.* at 132.

<sup>40</sup> *Id.* at 133.

multiple assessors. With respect to written work, candidates must submit a minimum of six pieces of work that each address distinct legal issues. Each piece of work will be graded by two examiners, meaning up to twelve different bar examiners may grade a candidate's work. It is also likely candidates' performance on the required activities will be assessed by multiple supervisors because candidates may complete the requirements across multiple experiences.

In addition, rubrics improve reliability by "help[ing to] maintain consistency among graders and over time. They also focus judges on the essentials of minimum competence, pushing aside disagreements over more nuanced points."<sup>41</sup> In the experiential pathway, all assessments will be performed with standardized rubrics or grading tools designed by WSBA. These rubrics will be directly tied to the nine core competencies identified above. These rubrics will assist supervisors and bar examiners in producing consistent grading across varied candidate practice areas and experiences.

"Training offers a final aid to reliability."<sup>42</sup> The experiential learning pathway will incorporate grader training to orient supervisors and bar examiners to the appropriate use of the rubrics and grading tools and will specifically address the potential for bias to infect assessments.

Lastly, many of these grading measures also enhance the fairness of the pathway. For example, "[t]he use of multiple tasks can ease the unevenness of candidate experiences. [. . .] Multiple graders, similarly can help overcome favoritism or bias, no candidate will receive all of their assessments from a single judge. Rubrics further reduce bias by focusing judges on objective criteria—and the rubrics can be honed to eliminate criteria that might evoke bias. Training, finally, can both concentrate judges' attention on objectively defined elements of minimum competence and educate those judges about unconscious forms of bias that might taint their decisions."<sup>43</sup>

## **VIII. Next Steps**

First, following submission of these proposals and suggested court rule amendments to the Court, WSBA will begin developing the practical elements of the experiential pathway. These elements include the online application and portfolio submission platform, the supervisor rubrics and bar examiner grading tools, any required trainings for pathway participants, and any other materials to be used by participants such as the portfolio attestation sheets. WSBA will also conduct outreach to educate bar members and the public about the proposed pathway and to encourage bar members to participate as supervisors when the pathway opens for applications. Assuming the Court approves the proposed experiential licensing pathway, WSBA's goal is open the pathway for applications in early 2027.

Second, the Steering Committee has convened a Program Evaluation Subcommittee to identify measures of success for the experiential licensing pathway and to recommend methods for evaluating whether the pathway has met those measures of success. This subcommittee has identified several areas for evaluation, including whether the pathway produces competent attorneys and equitable outcomes for participants, whether the pathway impacts access to legal representation in underserved areas, whether pathway requirements impose unintended barriers to participation, employment outcomes for participants, and financial impacts of the pathway on participants. The subcommittee is in the process of identifying methods for collecting data about the experiential licensing pathway and drafting recommendations for implementing data collection. This subcommittee's work will continue following submission of this memorandum and suggested court rule amendments to the Court.

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<sup>41</sup> *Id.* at 134.

<sup>42</sup> *Id.* at 135.

<sup>43</sup> *Id.* at 136-37.

Finally, a few possible ways may exist to expand availability of the experiential licensing pathway. Under the current proposals, LL.M. graduates could participate in the pathway, but LL.M. students would not be able to participate. While some LL.M. students might be able to find time during their program to complete some experiential pathway requirements, there was some concern among Washington law school faculty who work with LL.M. students that the ability to ethically participate in the pathway and successfully complete their academic requirements would largely depend on the prior work and education experience of the LL.M. student.

In addition, the Bar Licensure Talk Force recommendations contemplate out-of-state students and supervisors participating in the pathway. Under the present proposal, candidates who are located out-of-state may participate, but must locate a supervisor licensed in Washington. Expanding the pathway to candidates who are located outside Washington and who have a non-Washington licensed supervisor poses challenges for ensuring participants fall within WSBA's regulatory jurisdiction. It would also require WSBA to develop a system for verifying that candidates are licensed by the appropriate non-Washington authority.

These do not appear to be insurmountable challenges and WSBA is interested in permitting LL.M. students and out-of-state candidates and supervisors to participate. However, expanding the pathway to these groups will be more complicated. WSBA, therefore, has reserved these conversations so as not to delay implementation further and to allow the Bar an opportunity to review implementation of the proposals above. Implementing the pathway as currently proposed involves many policy changes and many moving parts. WSBA believes it will be beneficial to gain experience implementing the pathway as proposed and work out any issues prior to exploring growing the pathway.

## **IX. Conclusion**

WSBA and the Licensure Pathways Steering Committee respectfully submit these proposals for implementing an experiential pathway to licensure in Washington and the accompanying suggested court rule amendments. The WSBA and Steering Committee look forward to the Court's consideration of these proposals and encourages the Court to contact WSBA and the Steering Committee with any questions or concerns.

## Appendix A

The tables below provide an example of how a candidate could complete their supervised practice time either entirely during law school or an APR 6 law clerkship, after graduation, or by combining time spent during law school or an APR 6 clerkship and post-graduation. These tables are intended only as a possible illustration of how candidates could divide their supervised practice time. Candidates are not required to follow this exact schedule.

Illustration of Law Student Supervised Practice Timeline:

	1L	Summer	2L Fall	2L Spring	Summer	3L Fall	3L Spring	Graduation	Post-grad	
As a law student				6-credit clinic: 210 hours	Summer internship: 350 hours		7-credit externships: 265 hours			
After graduating										Employment: 825 hours
Combination during law school and post-graduation					Summer internship: 350 hours		7-credit externships: 265 hours			Employment: 210 hours

Illustration of APR 6 Law Clerk Supervised Practice Timeline:

	Y1	Y2	Y3	Y4	Graduation	Post-clerkship	
As a law clerk			400 hours	425 hours			
After completing clerkship							825 hours
Combination during APR 6 clerkship and post-completion				400 hours			425 hours

## **Appendix B**

The following are publicly-available examples of rubrics and assessment tools developed by the Oregon State Bar Association for use in and the Minnesota for use in their experiential licensing pathways. **These materials are intended to be examples only to demonstrate the type of assessment tools WSBA may develop for its experiential licensing pathway. They are not final materials for use in the Washington experiential licensing pathway.**

## **Examples from Minnesota**

## Supervising Attorney Evaluation of Client Interaction

To be completed by the direct clinic or field placement supervisor who observed the client interaction or a recording of the interaction. After completing Part I of this rubric, the supervisor must review it with the applicant and then complete Part II of the evaluation. Part III provides additional information to prevent conflicts of interest in examiner review.

### Part I

#### Competency: Professionalism

Needs Improvement	Satisfactory	Proficient	NA
Does not disclose status as student attorney	Discloses status but does not invite questions	Discloses status and invites questions/ concerns from client	NA
Does not mention attorney client privilege	Mentions attorney-client privilege but fails to explain it fully	Explains attorney client privilege fully as applied to the client's situation	NA
Does not summarize next steps	Summarizes next steps, but omits one or more important details	Concludes meeting with a full summary of next steps	NA

#### Competency: Client Interaction and Communication

Needs Improvement	Satisfactory	Proficient	NA
Uses highly structured questions that prevent client from telling story or explaining situation fully	Allows client to tell story or explain situation but sometimes interrupts when unnecessary	Gives client opportunity to tell story or explain situation with only essential interruptions	NA
Does not explain options adequately to client	Explains options to client but omits detail client might find helpful	Fully explains options to client	NA
Does not ask or refer to client's goals and interests	Asks about client's goals and interests, but does not follow up	Fully explores client's goals and interests	NA
Frequently uses legal jargon without explanation	Clarifies legal jargon response to client questions	Explains legal concepts in understandable terms, explaining any necessary legal jargon without prompting	NA
Does not invite any questions from client	Sometimes invites questions from client	Repeatedly invites questions from client	NA
Does not respond to most of client's questions	Responds to some, but not all, of client's questions	Responds to all of client's questions	NA

**Competency: Knowledge and Issue Recognition**

<b>Needs Improvement</b>	<b>Satisfactory</b>	<b>Proficient</b>	<b>NA</b>
Misses major legal issues raised in the interaction	Identifies most legal issues raised by the interaction	Identifies all legal issues raised by the interaction	NA
States several points of law incorrectly	States one point of law incorrectly	States all points of law correctly	NA
Claims full knowledge of the law when research is necessary	Skirts over need for research rather than acknowledging need directly	Acknowledges need to check or research unfamiliar legal points	NA

**Competency: Research of Facts**

<b>Needs Improvement</b>	<b>Satisfactory</b>	<b>Proficient</b>	<b>NA</b>
Asks few questions to elicit important facts	Asks some questions to elicit important facts, but omits some areas of inquiry	Asks questions to elicit all important facts	NA

**Part II**

Complete this portion after reviewing Part I with the applicant.

**Please provide any comments that will help the grader understand the applicant's strengths and weaknesses:**

## Examiner Rubric for Portfolio Documents

<b>Topic</b>	<b>Working Towards Minimum Competence</b>	<b>Has Achieved Minimum Competence</b>	<b>Exceeds Minimum Competence</b>	<b>NA</b>
<b>Issue Identification</b>	The document fails to address a critical issue or omits 2 or more less critical issues	The document addresses all critical issues but misses a lesser issue	The document addresses all appropriate issues	NA
<b>Knowledge</b>	The document reflects insufficient knowledge of the legal principles affecting the matter	The document reflects knowledge of most legal principles relevant to the matter, but demonstrates need for improved knowledge on 1-2 principles	The document reflects sufficient knowledge of legal principles relevant to the matter	NA
<b>Stating Legal Principles</b>	The document misstates one or more legal principles	The document accurately states all legal principles although there is room for improvement on detail.	The document accurately states all legal principles	NA
<b>Focus</b>	The document includes many irrelevant issues, legal principles, and/or facts	The document includes some irrelevant issues, legal principles, and/or facts	The document focuses tightly on key issues, legal principles, and facts	NA
<b>Audience</b>	The document is poorly addressed to the audience	The document properly addresses the audience, but falls short in 1-2 minor ways	The document is fully appropriate for the audience	NA
<b>Citing Sources of Law</b>	The document fails to cite sources of law where needed or cites inappropriate sources	The document cites appropriate sources in most places, but could improve in 1-2 respects	The document cites appropriate sources in all places, giving them appropriate weight	NA
<b>Applying Legal Principles to Facts</b>	The document fails to apply more than 2 principles adequately to specific facts	The document applies most legal principles to specific facts, but application of 1-2 principles could be improved	The document adequately applies all legal principles to specific facts.	NA

<b>Topic</b>	<b>Working Towards Minimum Competence</b>	<b>Has Achieved Minimum Competence</b>	<b>Exceeds Minimum Competence</b>	<b>NA</b>
<b>Use of Model or Template</b>	The document fails to draw from an appropriate model or template	The document rests on an appropriate model or template, but a somewhat better model/template could have been chosen	The document rests on a well-chosen model or template	NA
<b>Organization</b>	The document is poorly organized, making it difficult for the reader to follow	The document is well organized, although organization could improve in 1-2 places	The document is very well organized, making it easy for the reader to follow	NA
<b>Conclusion (at Beginning or End)</b>	The document should have a conclusion and there is none, it is unclear, or it lacks important caveats	The document should have a conclusion and has one stated, but it lacks some clarity or caveats	The document should have a conclusion, and offers a clear one, with appropriate caveats	NA
<b>Format, Grammar, and Spelling</b>	The document is poorly formatted and/or contains many spelling or grammatical errors	The document is well formatted and is mostly free of spelling and grammatical errors	The document is properly formatted and has very few spelling or grammatical errors	NA

**Comments by Examiner:**

**Is this document qualified?** A document is “qualified” if, after excluding any elements marked “NA,” the remaining elements are all marked “achieved” or “exceeds” minimum competence.

**Yes:** \_\_\_\_\_ **No:** \_\_\_\_\_

## **Examples from Oregon**

**Examiner Rubric for Contracts, Leases, and Other Documents with the Force of Law**

	<b>Working Towards Minimum Competence</b>	<b>Has Achieved Minimum Competence</b>	<b>Exceeds Minimum Competence</b>	<b>NA</b>
<b>Issue Identification</b>	The document fails to address a critical issue or omits 2 or more other issues	The document addresses all critical issues but misses one lesser issue	The document addresses all issues appropriate for the client	
<b>Knowledge</b>	The document reflects insufficient knowledge of the legal principles affecting the client	The document reflects knowledge of most legal principles relevant to the client, but suggests need for improved knowledge on 1-2 principles	The document reflects knowledge of all legal principles relevant to the client	
<b>Use of Model or Template (if appropriate)</b>	The document fails to draw from an appropriate model or template	The document rests on an appropriate model or template, but a somewhat better model/template could have been chosen	The document rests on a well chosen model or template	
<b>Customization</b>	The document fails to reflect the client's distinctive concerns in several respects	The document appropriately reflects the client's distinctive concerns, but there is room for improvement on 1-2 points	The document fully reflects the client's distinctive concerns	
<b>Organization</b>	The document is poorly organized, making it difficult to find provisions	The document is well organized, although organization could improve in 1-2 places	The document is very well organized, making it easy to find provisions	
<b>Word Choice and Definitions</b>	The document uses a number of words that are inappropriate for the context and/or fails to define more than 2 key terms	The document generally uses appropriate words for the context and defines most key terms, but there is room for improvement in some places	The document uses appropriate words for the context and defines all key terms	
<b>Format, Grammar, and Spelling</b>	The document is poorly formatted and/or contains many spelling or grammatical errors	The document is well formatted and is mostly free of spelling and grammatical errors	The document is properly formatted and has very few spelling or grammatical errors	

**Continued on Reverse**

**Comments by Examiner:**

**Is this document qualified?** A document is “qualified” if, after excluding any elements marked “NA,” the remaining elements are all marked “achieved” or “exceeds” minimum competence.

**Yes:** \_\_\_\_\_

**No:** \_\_\_\_\_

**Licensee’s Identifying Number:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Examiner Rubric for All Other Writings (Emails, Memos, Motions, Etc.)**

	<b>Working Towards Minimum Competence</b>	<b>Achieves Minimum Competence</b>	<b>Exceeds Minimum Competence</b>	<b>NA</b>
<b>Identifying Issues</b>	The document fails to identify a critical issue— or omits 2 or more less critical issues	The document identifies all critical issues but misses a lesser issue	The document identifies all appropriate issues	
<b>Stating Legal Principles</b>	The document misstates one or more legal principles	The document accurately states all legal principles, although there is room for minor improvement on detail	The document accurately states all legal principles	
<b>Applying Legal Principles to Facts</b>	The document fails to apply more than 2 principles adequately to specific facts	The document applies most legal principles to specific facts, but application of 1-2 principles could be improved	The document adequately applies all legal principles to specific facts	
<b>Focus</b>	Includes many irrelevant issues, legal principles, and/or facts	Includes some irrelevant issues, legal principles, and/or facts	Focuses tightly on key issues, legal principles, and facts	
<b>Citing Sources of Law (if appropriate)</b>	The document fails to cite sources of law or cites inappropriate sources	The document cites appropriate sources in most places, but could improve in 1-2 respects	The document cites appropriate sources in all places, giving them appropriate weight	
<b>Organization</b>	The document is poorly organized, making it difficult for the reader to follow	The document is well organized, although organization could improve in 1-2 places	The document is very well organized, making it easy for the reader to follow	
<b>Audience</b>	The document is poorly addressed to the audience	The document properly addresses the audience, but falls short in 1-2 minor ways	The document is fully appropriate for the audience	
<b>Format, Grammar &amp; Spelling</b>	The document is poorly formatted and/or contains many spelling or grammatical errors	The document is well formatted and is mostly free of spelling and grammatical errors	The document is properly formatted and has very few spelling or grammatical errors	
<b>Conclusion (at Beginning or End)</b>	There is no conclusion, it is unclear, or it lacks important caveats	There is a conclusion, but it lacks some clarity or caveats	The document offers a clear conclusion, with appropriate caveats	

**Continued on Reverse**

**Comments by Examiner:**

**Is this document qualified?** A document is “qualified” if, after excluding any elements marked “NA,” the remaining elements are all marked “achieved” or “exceeds” minimum competence.

**Yes:** \_\_\_\_\_

**No:** \_\_\_\_\_

**Licensee’s Identifying Number:** \_\_\_\_\_

**Date:** \_\_\_\_\_

### Supervising Attorney Rubric for Negotiation

**Note:** This rubric includes pre-negotiation preparation, as well as the negotiation. The Supervising Attorney should discuss the Provisional Licensee's plans orally before the negotiation or review a written plan. "PL" means Provisional Licensee. "SA" means Supervising Attorney.

Competency	Needs Improvement	Satisfactory	Proficient	NA
<b>Pre-Negotiation Planning</b>	PL misses more than 2 client interests (as known to SA)	PL identifies most client interests (as known to SA) but misses 1-2	PL identifies all client's interests (as known to SA)	
	PL misses more than 2 of opponent's interests (as known to SA)	PL identifies most of opponent's interests (as known to SA) but misses 1-2	PL identifies all of opponent's interests (as known to SA)	
	PL misstates (or does not know) outcomes authorized by client	PL correctly identifies range of outcomes authorized by client		
	PL misstates (or does not know) BATNA	PL correctly identifies BATNA		
	PL is wrong (or uncertain about) more than 2 legal rules underlying the dispute	PL understands most legal rules underlying the dispute, but is wrong (or uncertain) about 1-2	PL understands all legal rules underlying the dispute	
<b>Professionalism During Negotiation</b>	PL misrepresents materially relevant facts	PL accurately states materially relevant facts		
	PL exceeds client authority	PL remains within the bounds of client authority		
	PL misstates more than 1 point of law	PL accurately states most points of law, but misstates 1	PL accurately states all points of law	
<b>Communication During Negotiation</b>	PL does not articulate any positions	PL articulates positions, but could be more clear on details	PL articulates positions clearly	
	PL does not mention or acknowledge parties' interests	PL mentions parties' interests, but could use them more effectively	PL uses parties' interests to seek resolution	
	PL is unable to adapt to unforeseen positions and interests	PL shows some flexibility, but could adapt more readily to unforeseen positions and interests	PL adapts to respond to unforeseen positions and interests	
	PL fails to articulate (or prompt from opponent) any summary—or misstates more than 2 details	PL articulates (or assents to) points resolved, open issues, and next steps—but omits 1-2 details	At end of discussion, PL articulates points resolved, open issues remaining, and next steps—or assents to opponent's articulation	

Continued on Reverse

**Please provide any comments that will help the grader understand the Provisional Licensee's strengths and weaknesses in this negotiation:**

**Provisional Licensee's Confidential Exam ID:** \_\_\_\_\_ **Date:** \_\_\_\_\_

[Please be sure to use the Provisional Licensee's Confidential Exam ID, not their Provisional License Number]

**I attest that the Provisional Licensee led the negotiation, with little or no assistance from me.**

**Your Confidential SPPE Supervising Attorney Number:** \_\_\_\_\_ **Date:** \_\_\_\_\_

# Suggested Amendment to Admission and Practice Rules, Portfolio Evaluation

APR 1

## IN GENERAL; SUPREME COURT; PREREQUISITES TO THE PRACTICE OF LAW; COMMUNICATIONS TO THE BAR; CONFIDENTIALITY; DEFINITIONS

(a) **Supreme Court.** The Supreme Court of Washington has the exclusive responsibility and the inherent power to establish the qualifications for admission to practice law, and to admit and license persons to practice law in this state. Any person carrying out the functions set forth in these rules is acting under the authority and at the direction of the Supreme Court.

(b) **Prerequisites to the Practice of Law.** Except as may be otherwise provided in these rules, a person shall not appear as an attorney or counsel in any of the courts of the State of Washington, or practice law in this state, unless that person ~~has passed an examination for admission,~~ has complied with the ~~other~~ requirements of these rules, and is an active member of the Washington State Bar Association (referred to in these rules as the Bar). A person shall be admitted to the practice of law and become an active member of the Bar only by order of the Supreme Court.

(c) **Communications to the Association.** Communications to the Bar, the Board of Governors, or any individual person, board, committee or other entity administered by the Bar or acting under authority of these rules, are absolutely privileged, and no lawsuit may be predicated thereon.

### (d) **Confidentiality.**

(1) Unless expressly authorized by the Supreme Court or by the applicant, all application records, including related investigation files, documents, and proceedings for admission or for a license to practice law or for enrollment in the law clerk program are confidential and shall be privileged against disclosure, except as necessary to conduct an investigation, hearing, and appeal or review pursuant to these rules.

(2) Unless expressly authorized by the Supreme Court, all examination questions, scoring keys for admission examinations and admission portfolios, and other ~~examination~~ data used by

1 the Bar to administer any examinations or to review and grade any portfolios for admission or  
2 licensing are not subject to public disclosure.

3 (3) Unless expressly authorized by the Supreme Court, the following records of the Board of  
4 Bar Examiners, Mandatory Continuing Legal Education Board, Limited Practice Board, Limited  
5 License Legal Technician Board, Law Clerk Board, Character and Fitness Board, and the Client  
6 Protection Fund Board are confidential and shall not be disclosed:

7 (A) Preliminary drafts, notes, recommendations, and intra-Board memorandums in which  
8 opinions are expressed or policies formulated or recommended;

9 (B) Records that are relevant to a controversy to which the Board is a party but which records  
10 would not be available to another party under the rules of pretrial discovery for causes pending  
11 in the superior courts.

12 (4) Motions for permission to practice law under APR 8(b) are not confidential and may be  
13 disclosed pursuant to a proper request.

14 (e) **Definitions.** The following definitions apply throughout these Admission and Practice  
15 Rules except where otherwise stated:

16 (1) “Active legal experience.”

17 (A) When used to describe a requirement for admission or licensure as, or otherwise  
18 regarding, a lawyer means experience in the active practice of law as a lawyer, including practice  
19 as a pro bono status lawyer licensed under APR 3(g), or as a teacher at an approved law school,  
20 or as a judge of a court of general or appellate jurisdiction or any combination thereof, in a state  
21 or territory of the United States or in the District of Columbia or in any jurisdiction where the  
22 common law of England is the basis of its jurisprudence;

23 (B) when used to describe a requirement for licensing as, or otherwise regarding, an LLLT,  
24 means active experience practicing law as an LLLT, including practice as a pro bono status LLLT  
25 licensed under APR 3(g);  
26

1 (C) when used to describe a requirement for licensing as, or otherwise regarding, an LPO  
2 means active experience practicing law as an LPO, including as a pro bono status LPO licensed  
3 under APR 3(g).

4 (2) “Bar” means the Washington State Bar Association, including Bar staff.

5 (3) “Bar counsel” means a staff lawyer employed by the Bar.

6 (4) “Board of Governors” means the Board of Governors of the Washington State Bar.

7 (5) “Clients” for purposes of the portfolio evaluation should be interpreted in the context of  
8 the applicant’s practice position. For applicants working in prosecutorial roles, complainants may  
9 constitute clients.

10 (56) “LLLT” means limited license legal technician.

11 (7) “LL.M. degree for the practice of law” means an LL.M. program at a law school approved  
12 by the Board of Governors that consists of a minimum of 18,200 minutes of total instruction to  
13 include at least 12,000 minutes of instruction on principles of domestic United States law, which  
14 must include:

15 (i) a minimum of 2080 minutes in United States Constitutional Law, including principles  
16 of separation of powers and federalism;

17 (ii) a minimum of 2080 minutes in the civil procedure of state and federal courts in the  
18 United States;

19 (iii) a minimum of 1400 minutes in the history, goals, structure, values, rules and  
20 responsibilities of the United States legal profession and its members; and

21 (iv) a minimum of 1400 minutes in legal analysis and reasoning, legal research, problem  
22 solving, and oral and written communication.

23 (68) “LPO” means limited practice officer.

24 (79) “Member” means a person who is identified as belonging to a group identified as  
25 members by the Bar’s Bylaws.



1 (6) Prescribe, subject to review by the Supreme Court, the amount of any fees required by  
2 these rules; and

3 (7) Perform any other functions and take any other actions provided for in these rules, or as  
4 may be delegated by the Supreme Court, or as may be necessary and proper to carry out its duties.

5 **(b) Written Request.** Any request to the Board of Governors for action on any subject under  
6 these rules shall be in writing and shall be ~~properly filed. For the purpose of these rules, filing~~  
7 ~~shall occur at the headquarters office of~~ mailed or emailed to the Executive Director of the Bar.

8  
9 **APR 3**

10 **APPLICANTS FOR ADMISSION TO PRACTICE LAW**

11 **(a) Prerequisite for Admission.** Every person desiring to be admitted to the Bar and the  
12 practice of law in Washington must be of good moral character and possess the requisite fitness  
13 to practice law, and must ~~qualify for and pass an examination except~~ meet the requirements for  
14 admission to practice law as provided for in these rules.

15 **(b) Qualification for Lawyer Bar Examination.** To qualify to sit for the lawyer bar  
16 examination, a person must not be eligible for admission by motion or Uniform Bar Examination  
17 (UBE) score transfer and must present satisfactory proof of:

18 (1) graduation with a Juris Doctor (JD) degree from a law school approved by the Board of  
19 Governors; or

20 (2) completion of the law clerk program prescribed by these rules; or

21 (3) graduation from a university or law school in any jurisdiction where the common law of  
22 England is the basis for its jurisprudence with a degree in law that would qualify the applicant to  
23 practice law in that jurisdiction and admission to the practice of law in that same or other  
24 jurisdiction where common law of England is the basis of its jurisprudence, together with current  
25 good standing and active legal experience for at least three of the five years immediately  
26 preceding the filing of the application; or

1 (4)(A) graduation with a Master of Laws (LL.M.) degree for the practice of law as defined  
2 below in APR 1(e) and either:

3 (iA) graduation with a JD degree from a United States law school not approved by the Board  
4 of Governors, or

5 (iiB) graduation from a university or law school in a jurisdiction outside the United States,  
6 with a degree in law that would qualify the applicant to practice law as a lawyer or the equivalent  
7 in that jurisdiction.

8 (B) ~~“LL.M. degree for the practice of law” means an LL.M. program at a law school approved~~  
9 ~~by the Board of Governors that consists of a minimum of 18,200 minutes of total instruction to~~  
10 ~~include at least 12,000 minutes of instruction on principles of domestic United States law, which~~  
11 ~~must include:~~

12 (i) ~~a minimum of 2,080 minutes in United States Constitutional Law, including principles of~~  
13 ~~separation of powers and federalism;~~

14 (ii) ~~a minimum of 2,080 minutes in the civil procedure of state and federal courts in the United~~  
15 ~~States;~~

16 (iii) ~~a minimum of 1,400 minutes in the history, goals, structure, values, rules, and~~  
17 ~~responsibilities of the United States legal profession and its members; and~~

18 (iv) ~~a minimum of 1,400 minutes in legal analysis and reasoning, legal research, problem~~  
19 ~~solving, and oral and written communication.~~

20 Applicants who graduated with an LL.M. degree from a law school approved by the Board of  
21 Governors but whose degree program did not include completion of the total instruction required  
22 for the LL.M. degree for the practice of law as set forth in ~~this subsection~~ APR 1(e) may qualify  
23 to sit for the lawyer bar examination by providing satisfactory proof that they have completed  
24 supplemental coursework at one or more law schools approved by the Board of Governors  
25 sufficient to satisfy the total required instruction as set forth above.

26 **(c) Lawyer Admission by Motion.**

1 (1) Lawyers admitted to practice law in other states or territories of the United States or the  
2 District of Columbia ~~are not required to sit for the lawyer bar examination~~ may be admitted by  
3 motion if they:

4 (A) file a certificate from that jurisdiction certifying the lawyer's admission to practice, and  
5 the date thereof, and current good standing or the equivalent; and

6 (B) present satisfactory proof of active legal experience for at least one of the three years  
7 immediately preceding the filing of the application.

8 (2) *Military Spouse Admission by Motion.* A lawyer admitted to practice law in another state  
9 or territory of the United States or the District of Columbia who is the spouse of an active duty  
10 service member of the United States Uniformed Services, as defined by the United States  
11 Department of Defense, ~~is not required to sit for the lawyer bar examination~~ may be admitted by  
12 motion if the applicant meets the following requirements:

13 (A) the applicant's spouse is stationed in Washington or will be stationed in Washington  
14 within six months of filing the application, and the applicant resides or will reside in Washington  
15 as the spouse of that member of the United States Uniformed Services within six months of filing  
16 the application;

17 (B) the applicant files a certificate from each jurisdiction in which the applicant is admitted  
18 certifying the applicant's admission to practice and the date thereof, and current good standing or  
19 the equivalent; and

20 (C) the applicant has no lawyer disciplinary sanctions or pending lawyer disciplinary or  
21 incapacity matters in any jurisdiction in which the applicant has been admitted.

22 (d) **Lawyer Admission by UBE Score Transfer.** Persons with a UBE score earned in another  
23 state or territory of the United States or the District of Columbia ~~are not required to sit for the~~  
24 lawyer bar examination in Washington may be admitted by UBE score transfer if they:

1 (1) file a transcript demonstrating that the applicant received a UBE score that is equal to or  
2 higher than the score required to pass the UBE in Washington, and it has been not more than 40  
3 months since the date of the administration of the UBE in which the score was earned; and

4 (2) file a transcript demonstrating that the applicant received a Multistate Professional  
5 Responsibility Examination (MPRE) score equal to or higher than the score required to pass the  
6 MPRE in Washington, and the score was received no earlier than three years prior to and no later  
7 than 40 months after the date of the administration of the UBE in which the applicant received  
8 the UBE score.

9 **(e) Lawyer Admission by Portfolio Evaluation.** Persons may be admitted by portfolio  
10 evaluation if they present satisfactory proof of fulfilling one of the qualifications for the lawyer  
11 bar examination in APR 3(b) and successfully complete the portfolio evaluation as set forth in  
12 APR 4(c).

13 To qualify to participate in the portfolio evaluation, a person must not be eligible for admission  
14 by motion or UBE score transfer and must present satisfactory proof of:

15 (1) current enrollment and good standing in a J.D. program at a law school approved by the  
16 Board of Governors and having successfully completed a course on evidence, a course on  
17 professional responsibility, and at least one-half of a required three-year J.D. curriculum or five-  
18 eighths of a required four-year J.D. curriculum; or

19 (2) current enrollment in the APR 6 law clerk program and having successfully completed a  
20 course on evidence, a course on professional responsibility, and at least five-eighths of the APR  
21 6 law clerk curriculum; or

22 (3) fulfillment of one of the qualification requirements in APR 3(b).

23 Applicants may not begin participation in the portfolio evaluation until receiving permission  
24 to participate from the Bar. All portfolio evaluation requirements, including all supervised  
25 practice hours, must be completed after being granted permission to participate in the portfolio  
26 evaluation.

1 **(e) Qualification for Limited License Legal Technician (LLLT) examination.** To qualify  
2 to sit for the LLLT examination, a person must;

3 (1) be at least 18 years of age and

4 (2) have the following education, unless waived through regulation:

5 (A) an associate level degree or higher;

6 (B) 45 credit hours of core curriculum instruction in paralegal studies pursuant to APR 28  
7 Regulation 3 with instruction to occur at an American Bar Association (ABA) approved law  
8 school, an educational institution with an ABA approved paralegal education program, or an  
9 educational institution with an LLLT core curriculum program approved by the LLLT Board; and

10 (C) in each practice area in which an applicant seeks licensure, instruction in the approved  
11 practice area based on a curriculum developed by or in conjunction with an ABA approved law  
12 school, covering the key concepts or topics and the number of credit hours of instruction required  
13 for licensure in that practice area, as determined by the LLLT Board.

14 **(f) Qualification for Limited Practice Officer (LPO) Examination.** [unchanged]

15 **(g) Pro Bono Admission.** [unchanged]

16 **(h) Qualification for Limited License Legal Technician (LLLT) examination.** To qualify  
17 to sit for the LLLT examination, a person must;

18 (1) be at least 18 years of age and

19 (2) have the following education, unless waived through regulation:

20 (A) an associate level degree or higher;

21 (B) 45 credit hours of core curriculum instruction in paralegal studies pursuant to APR 28  
22 Regulation 3 with instruction to occur at an American Bar Association (ABA) approved law  
23 school, an educational institution with an ABA approved paralegal education program, or an  
24 educational institution with an LLLT core curriculum program approved by the LLLT Board; and

25 (C) in each practice area in which an applicant seeks licensure, instruction in the approved  
26 practice area based on a curriculum developed by or in conjunction with an ABA approved law

1 school, covering the key concepts or topics and the number of credit hours of instruction required  
2 for licensure in that practice area, as determined by the LLLT Board.

3 **(hi) Withholding Approval or Permission to Take Examinations or to Participate in**  
4 **Portfolio Evaluation.** The Bar may, in its discretion, withhold approval of an application or  
5 withhold permission to take an examination, or withhold permission to participate in a portfolio  
6 evaluation for an otherwise qualified applicant, until the applicant establishes that all  
7 requirements have been met or until completion of an inquiry into the applicant's character and  
8 fitness.

9 **(ij) Applications; Fees; Filing.**

10 (1) Every applicant for admission shall:

11 (A) Execute and file an application, in the form and manner and within the time limits that  
12 may be prescribed by the Bar;

13 (B) Pay upon the filing of the application such fees as may be set by the Board of Governors  
14 subject to approval by the Supreme Court; and

15 (C) Furnish whatever additional information or proof may be required in the course of  
16 investigating the applicant's qualification for admission or licensure, and investigating the  
17 applicant's good moral character and fitness pursuant to APR 20-25.6.

18 (2) Refunds of any application fees shall be handled according to policies established by the  
19 Bar.

20 (3) Transfers of applicants from administration of one examination to administration of  
21 another examination shall be handled according to policies established by the Bar.

22  
23 **APR 4**

24 **EXAMINATIONS AND PORTFOLIO EVALUATIONS FOR ADMISSION;**

25 **NOTIFICATION OF RESULTS**

1       **(a) Examinations.** Examinations for admission to practice law shall be conducted by and  
2 under the direction of the Bar. Examinations shall be held at such times and places as the Bar may  
3 designate.

4       ~~**(b) Notification of Results.** As soon as practicable after the completion of an examination,~~  
5 ~~applicants will be notified of the results. The Bar may disclose publicly the names of those~~  
6 ~~applicants who have passed an examination, but not the names of those who failed an examination~~  
7 ~~unless authorized by the applicant or these rules. There shall be no appeal or review of~~  
8 ~~examination results.~~

9       ~~**(c) Repeating Examinations.** There is no limitation on the number of times an unsuccessful~~  
10 ~~lawyer or LPO applicant may apply for and take subsequent administrations of an examination~~  
11 ~~for admission. An LLLT applicant may repeat the examination for admission without limitation~~  
12 ~~on the number of times until the final administration of the LLLT examination after which no~~  
13 ~~examination will be administered.~~

14       ~~**(d) Lawyer Bar Examination.** Unless otherwise provided by these rules, a~~ Applicants for  
15 admission by bar examination to practice law as a lawyer must take and pass the National  
16 Conference of Bar Examiners' (NCBE) Uniform Bar Examination (UBE) and Multistate  
17 Professional Responsibility Examination (MPRE).

18       (1) Washington's minimum passing score for the legacy UBE is 260; the minimum passing  
19 score for the NextGen UBE is 610.

20       (2) Washington's MPRE minimum passing score is 85, which must be earned no earlier than  
21 three years prior to and no later than 40 months after the date of the administration of the UBE in  
22 which the applicant received the minimum passing score.

23       ~~(3) The Bar may disclose the results of the lawyer bar examination to an applicant's law school~~  
24 ~~and the NCBE.~~

25       **(c) Lawyer Portfolio Evaluation.**

26       (1) Applicants for admission to practice law as a lawyer by portfolio evaluation must:

1 (A) Complete 825 hours of supervised practice.

2 (i) To count towards the supervised practice time requirements, time must be spent on legal  
3 work performed in connection with a current or prospective client matter or adjudicative case that  
4 requires knowledge of legal concepts or lawyering skills and is customarily, but not necessarily,  
5 performed by a lawyer; or on completing portfolio evaluation requirements;

6 (ii) Applicants will perform their supervised practice under a licensed legal intern license and  
7 under the supervision of a supervising lawyer pursuant to APR 9;

8 (iii) At least ten of the total supervised practice hours must be spent on client-facing activities;

9 (iv) Applicants must record their supervised practice time and their supervising lawyer will  
10 certify the number of supervised practice hours the candidate completed under their supervision;  
11 and

12 (vi) Applicants must be compensated for their supervised practice unless exempted as set forth  
13 in policies established by the Bar. The compensation amount must be no less than the equivalent  
14 amount provided by the employer to similarly qualified and experienced employees.

15 (B) If it has been more than six years since the applicant graduated from or otherwise  
16 completed a qualifying program of education as set forth in APR 3(b), complete the WSBA  
17 Washington Law and Practice Refresher CLE course consisting of at least 15 MCLE credits;

18 (C) Engage in two client interviews or counselling sessions;

19 (D) Engage in one negotiation;

20 (E) Demonstrate competence in professional responsibility by:

21 (i) Taking and passing the MPRE. Washington's MPRE minimum passing score is 85; or

22 (ii) Submitting three written essay answers to three professional responsibility prompts  
23 provided by the Bar. Each answer must (1) identify the ethical issues posed by the prompt, (2)  
24 discuss the Washington Rules of Professional Responsibility or other professional responsibility  
25 principles applicable to the scenario, and (3) describe how they would resolve the ethical issues;

1 (F) Complete a course of at least two hours on professional responsibility topics relating to  
2 common stressors in legal practice, strategies for managing stressors and a law-related workload;  
3 legal ethics resources; and the intersection of technology tools and professional responsibility.

4 Course contents will be established by the Bar;

5 (G) Keep detailed, contemporaneous timekeeping records; and

6 (H) Submit a portfolio of the applicant's work and supervising lawyer rubrics demonstrating  
7 competence in and an understanding of the core competencies listed below:

8 (i) understanding of legal processes and sources of law;

9 (ii) understanding of threshold concepts in many subjects;

10 (iii) ability to act professionally and in accordance with the rules of professional conduct;

11 (iv) ability to interpret legal materials;

12 (v) ability to identify issues;

13 (vi) ability to conduct research;

14 (vii) ability to apply legal authority to the relevant facts in a client matter;

15 (viii) ability to communicate as a lawyer; and

16 (ix) ability to interact effectively with clients.

17 Detailed descriptions of the core competencies shall be included in policies established by the  
18 Bar.

19 (2) The portfolio must include:

20 (A) Two client counselling communications written by applicant;

21 (B) Two persuasive legal documents written by applicant;

22 (C) Two objective legal memoranda written by applicant;

23 (D) A rubric completed by the applicant's supervisor assessing the applicant's performance in  
24 a negotiation;

25 (E) Two rubrics completed by the applicant's supervisor assessing the applicant's  
26 performance in two separate client interviews or counselling sessions;

1 (F) A rubric completed by the applicant's supervisor assessing the applicant's ability to  
2 manage a law-related workload;

3 (G) A rubric completed by applicant's supervisor assessing the applicant's use of research  
4 tools to develop the facts of a client matter; and

5 (H) If the applicant does not have a qualifying MPRE score, three written essay answers to  
6 professional responsibility prompts.

7 Requirements for the form in which portfolio items are to be submitted shall be established  
8 by the Bar. Applicants must comply with all such requirements.

9 (3) Applicants must submit the required portfolio materials in a midpoint portfolio and final  
10 portfolio.

11 (i) An applicant with a qualifying MPRE score must submit a midpoint portfolio to include at  
12 least five of the required portfolio items. An applicant without a qualifying MPRE score must  
13 submit a midpoint portfolio to include at least six of the required portfolio items. Items (A), (B),  
14 (C), (D), (E), (G) and (H) above are eligible for inclusion in the midpoint portfolio.

15 (ii) An applicant must submit all remaining required portfolio items in the final portfolio.

16 (4) Each portfolio item will be reviewed and graded as either pass or fail by the Board of Bar  
17 Examiners under policies and procedures established by the Bar.

18 (5) There shall be no appeal or review of portfolio results including individual portfolio item  
19 results.

20 (6) An applicant may submit replacements for any portfolio items deemed not passing from  
21 the midpoint portfolio.

22 (7) An applicant will have no more than two opportunities to submit replacements for grading  
23 for any and all portfolio items deemed not passing from the final portfolio.

24 (8) Notwithstanding subsection (7) above, an applicant must successfully complete all  
25 portfolio evaluation requirements no later than 24 months from receiving notice of permission to  
26 participate in the portfolio evaluation.

1 **(ed) LLLT Examination.** [unchanged]

2 **(fe) LPO Examination.** [unchanged]

3 **(f) Notification of Results.** As soon as practicable after the completion of an examination or  
4 final portfolio evaluation, applicants will be notified of the results. The Bar may publicly disclose  
5 the names of those applicants who have passed an examination or final portfolio evaluation, but  
6 not the names of those who failed an examination or a portfolio evaluation unless authorized by  
7 the applicant or these rules. The Bar may disclose the results of the lawyer bar examination to an  
8 applicant's law school and the NCBE. The Bar may disclose the results of the final portfolio  
9 evaluation to the applicant's law school.

10 There shall be no appeal or review of examination or portfolio evaluation results.

11 **(g) Repeating Examinations and Portfolio Evaluations.** There is no limitation on the  
12 number of times an unsuccessful lawyer or LPO applicant may apply for and take subsequent  
13 administrations of an examination for admission. There is no limitation on the number of times  
14 an unsuccessful portfolio evaluation applicant may apply for and attempt the portfolio evaluation.  
15 An LLLT applicant may repeat the examination for admission without limitation on the number  
16 of times until the final administration of the LLLT examination after which no examination will  
17 be administered.

18  
19 **APR 5**

20 **PREADMISSION REQUIREMENTS; OATH; RECOMMENDATION FOR**  
21 **ADMISSION; ORDER ADMITTING TO PRACTICE LAW**

22 **(a) Preadmission Requirements.** Before an applicant who has ~~passed an examination for~~  
23 ~~admission, or who qualifies for admission without passing an examination,~~ completed the  
24 requirements for admission to practice law under APR 3 may be admitted, the applicant must:

25 (1) pay to the Bar the annual license fee and any mandatory assessments ordered by the  
26 Supreme Court for the current year;

1 (2) file any and all licensing forms required of active lawyers, limited license legal technicians  
2 (LLLTs), or limited practice officers (LPOs); and

3 (3) take the Oath of Attorney, the Oath of LPOs, or the Oath of LLLTs.

4 **(b) Lawyer applicants.** In addition to the requirements in subsection (a) above, lawyer  
5 applicants must:

6 (1) take and pass the Washington Law Component (WLC). The duration, form, and manner  
7 of the WLC shall be as prescribed by the Bar. The WLC minimum pass score is 80 percent; and

8 (2) complete a minimum of 4 hours of education in a curriculum and under circumstances  
9 approved by the Bar.

10 **(c) LLLT Applicants.** [unchanged]

11 **(d) LPO Applicants.** [unchanged]

12 **(e) Expiration of Preadmission Requirements.** The preadmission requirements must be  
13 completed:

14 (1) for lawyer applicants, within 40 months from the date of the administration of the  
15 examination or the date the applicant receives a passing grade on all required final portfolio  
16 items for lawyer applicants;

17 (2) by July 31, 2023, for LLLT applicants;

18 (3) within 12 months from the date of the administration of the examination for LPO  
19 applicants;

20 (4) within 12 months from the date of filing the application for lawyer applicants who apply  
21 by motion or Uniform Bar Examination (UBE) score transfer, except for good cause shown.

22 **(f) Oath of Attorney, Limited Practice Officer, and Limited License Legal Technician.**  
23 [unchanged]

24 **(g) Contents of Oath of Attorney.** [unchanged]

25 **(h) Oath for Limited Practice Officers—Contents of Oath.** [unchanged]

26 **(i) Contents of Oath of Limited License Legal Technician.** [unchanged]



1 (b) **Application.** [unchanged]

2 (c) **Tutors.** [unchanged]

3 (d) **Enrollment.** [unchanged]

4 (e) **Course of Study.** [unchanged]

5 (f) **Completion of the program.** A law clerk shall be deemed to have successfully completed  
6 the program when:

7 (1) All required courses have been completed and passed as certified each month by the tutor,  
8 and all book reports have been submitted;

9 (2) The tutor has certified that the law clerk, in the tutor's opinion, is qualified to take the for  
10 admission to practice law as a lawyer by bar examination or portfolio evaluation and is competent  
11 to practice law; and

12 (3) The Bar has certified that all program requirements are completed.

13 (g) **Termination.** [unchanged]

14 (h) **Effective Date.** [unchanged]

15 (i) **Confidentiality.** [unchanged]

17 **APR 7**

18 **[RESERVED]**

19 [unchanged]

21 **APR 8**

22 **NONMEMBER LAWYER LICENSES TO PRACTICE LAW**

23 [unchanged]

26 **APR 9**

1 **LICENSED LEGAL INTERNS**

2 **(a) Purpose.** Supervised professional practice plays an important role in the development of  
3 competent lawyers and expands the capacity of the Bar to provide quality legal services while  
4 protecting the interests of clients and the justice system. This rule authorizes supervised  
5 professional practice by qualified law students, enrolled law clerks, ~~and recent~~ graduates of  
6 approved law schools, and persons who have completed the law clerk program when they are  
7 licensed pursuant to this rule to engage in the limited practice of law as “Licensed Legal Interns.”  
8 The license granted pursuant to this rule is a limited license, ~~based in part on~~ recognition of the  
9 role practice experience plays in developing the competence of aspiring lawyers and ~~in part on~~  
10 ~~the fact~~ that the Licensed Legal Intern will be supervised by an experienced lawyer. Persons  
11 granted such a limited license and their supervising lawyers must comply with the obligations and  
12 limitations set forth in these rules.

13 **(b) Eligibility.** To be eligible to apply to be a Licensed Legal Intern, an applicant must have  
14 arranged to be supervised by a qualifying lawyer and:

15 (1) Be a student duly enrolled and in good academic standing in a J.D. program at an ~~approved~~  
16 law school approved by the Board of Governors who has:

17 (A) successfully completed a course on evidence, a course on professional responsibility, and  
18 ~~not less than two-thirds~~ one half of a law school’s prescribed 3-year course of study or five-eighths  
19 of a law school’s prescribed 4-year course of study for a J.D., and

20 (B) ~~obtained the written approval of the law school’s dean or a person designated by such~~  
21 ~~dean~~ and a certification by the law school’s dean or designee ~~other law school official designated~~  
22 by the law school’s dean that the applicant has met the educational eligibility requirements; ~~or~~

23 (2) Be an enrolled law clerk who:

24 (A) is certified by the Bar staff to be in compliance with the provisions of APR 6 and to have  
25 successfully completed a course on evidence, a course on professional responsibility, and not less  
26 than five-eighths of the law clerk program’s prescribed 4-year course of study; and

1 (B) has the written approval of the primary tutor if the supervising lawyer is not also the  
2 primary tutor; ~~or~~

3 (3) Be a J.D. graduate of an ~~approved~~ law school approved by the Board of Governors who  
4 has not been admitted to the practice of law in any state or territory of the United States or the  
5 District of Columbia, provided that the application is made within nine months of graduation; ~~or~~

6 (4) Have completed the APR 6 law clerk program and not been admitted to the practice of  
7 law in any state or territory of the United States or the District of Columbia, provided that the  
8 application is made within nine months of the completion of the APR 6 law clerk program; ~~or~~

9 (5) Be a graduate of an ~~approved~~ law school approved by the Board of Governors with an  
10 LL.M. that meets the requirements in APR 3(b)(4) and who qualifies under APR 3(b)(4) to take  
11 the Washington lawyer bar examination and who has not been admitted to the practice of law in  
12 any state or territory of the United States or the District of Columbia, provided that the application  
13 is made within nine months of graduation; ~~or~~

14 (6) Have applied for admission by portfolio evaluation under APR 3(e) and been granted  
15 permission to participate.

16 **(c) Qualifications To Be a Supervising Lawyer.** Except in the sections regarding the  
17 application for issuance of a limited license pursuant to this rule, references in this rule to  
18 “supervising lawyer” include both the supervising lawyer named in the application materials and  
19 on the Licensed Legal Intern identification card, and any other lawyer from the supervising  
20 lawyer’s office who meets the qualifications of a supervising lawyer and who performs the duties  
21 of a supervising lawyer. A supervising lawyer must be an active lawyer member in good standing  
22 of the Bar, who has been actively engaged in the practice of law in the State of Washington or in  
23 any state or territory of the United States or the District of Columbia for at least the 3 years  
24 immediately preceding the date of the application, who has not been disbarred or subject to a  
25 disciplinary suspension in any jurisdiction within the previous 10 years and does not have a  
26

1 disciplinary proceeding pending or imminent, and who has not received a disciplinary sanction  
2 of any kind within the previous 3 years.

3 **(d) Application.** The applicant must submit an application in a form and manner prescribed  
4 by the Bar.

5 (1) The applicant and the supervising lawyer must fully and accurately complete the  
6 application, and they have a continuing duty to correct and update the information on the  
7 application while it is pending and during the term of the limited license. Every applicant and  
8 supervising lawyer must cooperate in good faith with any investigation by promptly furnishing  
9 written or oral explanations, documents, releases, authorizations, or other information reasonably  
10 required by the Bar. Failure to cooperate fully or to appear as directed or to furnish additional  
11 information as required shall be sufficient reason for the Bar to recommend denial or termination  
12 of the license.

13 (2) The application must include:

14 (A) all requested information about the applicant and the Supervising Lawyer;

15 (B) the required certification ~~from the law school (or confirmation from the Bar, for APR 6~~  
16 ~~Law Clerks) as described in (b) above~~ that the applicant has the required educational  
17 qualifications; and

18 (C) certifications in writing under oath by the applicant and the supervising lawyer(s) that  
19 they have read, are familiar with, and will abide by this rule and the Washington Rules of  
20 Professional Conduct. (3) Full payment of any required fees must be submitted with the  
21 application. The fees shall be set by the Board of Governors subject to approval by the Supreme  
22 Court.

23 (4) Bar staff shall review all applications to determine whether the applicant and the  
24 supervising lawyer have the necessary qualifications, and whether the applicant possesses the  
25 requisite good moral character and fitness to engage in the limited practice of law provided for in  
26 this rule. Bar staff may investigate any information contained in or issues raised by the application

1 that reflect on the factors contained in APR 21(a), and any application that reflects one or more  
2 of the factors set forth in APR 21 shall be referred to Bar Counsel for review.

3 (5) Bar Counsel may conduct such further investigation as appears necessary, and may refer  
4 to the Character and Fitness Board for hearing any applicant about whom there is a substantial  
5 question whether the applicant possesses the requisite good moral character and fitness to practice  
6 law as defined in APR 20. Such hearing shall be conducted as provided in APR 20-24.3. Bar  
7 Counsel may require any disclosures and conditions of the applicant and supervising lawyer that  
8 appear reasonably necessary to safeguard against unethical conduct by the applicant during the  
9 term of the limited license. No decision regarding the good moral character and fitness to practice  
10 of an applicant made in connection with an application for licensing pursuant to this rule is  
11 binding on the Bar or Character and Fitness Board at the time an applicant applies for admission  
12 to practice law and membership in the Bar, and such issues may be reinvestigated and  
13 reconsidered by Bar staff, Bar Counsel, and the Character and Fitness Board.

14 (6) The Supreme Court shall issue or refuse the issuance of a limited license for a Licensed  
15 Legal Intern. The Supreme Court's decision shall be forwarded to the Bar, which shall inform the  
16 applicant of the decision.

17 (7) Upon Supreme Court approval of an applicant, the Bar shall deliver to the supervising  
18 lawyer, with a copy to the applicant, a confirmation of approval by the Supreme Court and a  
19 Licensed Legal Intern identification card. An applicant must not perform the duties of a Licensed  
20 Legal Intern before receiving the confirmation and identification card.

21 (8) Once an application is accepted and approved and a license is issued, a Licensed Legal  
22 Intern is subject to the Washington Rules of Professional Conduct and the Rules for Enforcement  
23 of Lawyer Conduct and to all other laws and rules governing lawyers admitted to the Bar of this  
24 state, and is personally responsible for all services performed as a Licensed Legal Intern. Any  
25 conduct by a Licensed Legal Intern that would subject a lawyer admitted to practice law in this  
26 state to discipline may result in the Bar taking action on the Licensed Legal Intern's license,

1 including termination of the Licensed Legal Intern’s license or requiring disclosures by or  
2 condition on the Licensed Legal Intern and supervising lawyer that may appear reasonably  
3 necessary to safeguard against unethical conduct by the Licensed Legal Intern during the term of  
4 the limited license.

5 (9) A Licensed Legal Intern may have up to two supervising lawyers in different offices at  
6 one time. A Licensed Legal Intern may submit an application for approval to add a supervising  
7 lawyer in another office or to change supervising lawyers any time within the term of the limited  
8 license. When a Licensed Legal Intern applies to add a concurrent supervising lawyer in another  
9 office, the Intern must notify both the current supervising lawyer and the proposed new  
10 supervising lawyer in writing about the application, and both the current and the new supervising  
11 lawyer must approve the addition and certify that such concurrent supervision will not create a  
12 conflict of interest for the Licensed Legal Intern. The qualifications of the new supervising lawyer  
13 will be reviewed by Bar staff who may approve or deny the supervisor. The Licensed Legal Intern  
14 will be notified of approval or denial of the new supervising lawyer as described above and must  
15 not perform the duties of a licensed legal intern before receiving a new confirmation containing  
16 notification of approval and a new identification card.

17 **(e) Scope of Practice, Prohibitions, and Limitations.** In addition to generally being  
18 permitted to perform any duties that do not constitute the practice of law as defined in GR 24, a  
19 Licensed Legal Intern shall be authorized to engage in the limited practice of law only as  
20 authorized by the provisions of this rule.

21 (1) A Licensed Legal Intern may engage in the following activities without the presence of  
22 the supervising lawyer:

23 (A) Advise or negotiate on behalf of a person referred to the Licensed Legal Intern by the  
24 supervising lawyer;

25 (B) Prepare correspondence containing legal advice to clients or negotiating on behalf of  
26 clients, pleadings, motions, briefs, or other documents. All such correspondence, pleadings,

1 motions, and briefs must be reviewed and signed by the supervising lawyer, as well as any other  
2 documents requiring the signature of a lawyer. On any correspondence or legal document signed  
3 by the Licensed Legal Intern, the Licensed Legal Intern's signature shall be followed by the title  
4 "Licensed Legal Intern" and the Licensed Legal Intern's identification number;

5 (C) Present to the court ex parte and agreed orders signed by the supervising lawyer, except  
6 as otherwise provided in these rules;

7 (D) After a reasonable period of in-court supervision or supervision while practicing before  
8 an administrative agency, which shall include participating with the supervising lawyer in at least  
9 one proceeding of the type involved before the same tribunal and being observed by the  
10 supervising lawyer while handling one additional proceeding of the same type before the same  
11 tribunal:

12 (i) Represent the State or the respondent in juvenile court in misdemeanor and gross  
13 misdemeanor cases;

14 (ii) Try hearings, nonjury trials, or jury trials, in courts of limited jurisdiction;

15 (iii) Represent a client in any administrative adjudicative proceeding for which nonlawyer  
16 representation is not otherwise permitted.

17 (2) In any proceeding in which a Licensed Legal Intern appears before the court, the Licensed  
18 Legal Intern must advise the court of the Intern's status and the name of the Intern's supervising  
19 lawyer.

20 (3) A Licensed Legal Intern may participate in Superior Court and Court of Appeals  
21 proceedings, including depositions, only in the presence of the supervising lawyer or another  
22 lawyer from the same office.

23 (4) A Licensed Legal Intern must not receive payment directly from a client for the Intern's  
24 services. A Licensed Legal Intern may be paid for services by the Intern's employer, and the  
25 employer may charge for the services provided by the Licensed Legal Intern as may be  
26 appropriate.

1 (5) A Licensed Legal Intern must not try any motion or case or negotiate for or on behalf of  
2 any client unless the client is notified in advance of the status as a Licensed Legal Intern and of  
3 the identity and contact information of the Licensed Legal Intern's supervising lawyer.

4 (6) A Licensed Legal Intern must not perform any of the actions permitted by this rule on  
5 behalf of or under the supervision of any lawyer other than the supervising lawyer or another  
6 lawyer employed in the same office who is qualified for such supervision under this rule.

7 (7) For purposes of the attorney-client privilege, a Licensed Legal Intern shall be considered  
8 a subordinate of the lawyer providing supervision for the Intern.

9 **(f) Additional Obligations of Supervising Lawyer.** Agreeing to serve as the supervising  
10 lawyer for a Licensed Legal Intern imposes certain additional obligations on the supervising  
11 lawyer. The failure of a supervising lawyer to comply with the duties set forth in this rule shall  
12 be grounds for disciplinary action pursuant to the Rules for Enforcement of Lawyer Conduct. In  
13 addition to the duties stated or implied above, the supervising lawyer:

14 (1) must provide training to all Licensed Legal Interns supervised by the supervising lawyer,  
15 regarding the Rules of Professional Conduct and how they relate to the limited practice of the  
16 Licensed Legal Intern. Such training may be waived if the supervising lawyer otherwise  
17 determines that the Licensed Legal Intern has previously received such training and the  
18 supervising lawyer deems such training sufficient for the limited practice that will be supervised;

19 (2) must direct, supervise, and review all of the work of the Licensed Legal Intern and shall  
20 assume personal professional responsibility for any work undertaken by the Licensed Legal Intern  
21 while under the lawyer's supervision;

22 (3) must ensure that all clients to be represented by the Licensed Legal Intern are informed of  
23 the intern's status as a Licensed Legal Intern in advance of the representation;

24 (4) must review and sign all correspondence providing legal advice to clients and all  
25 pleadings, motions, briefs, and other documents prepared by the Licensed Legal Intern and ensure  
26

1 that they comply with the requirements of this rule, and must sign the document if it is prepared  
2 for presentation to a court;

3 (5) must take reasonable steps to ensure that the Licensed Legal Intern is adequately prepared  
4 and knowledgeable enough to be able to handle any assigned matters performed outside the  
5 supervising lawyer's presence, but need not be present in the room while the Licensed Legal  
6 Intern is performing such duties unless such presence is specifically required by this rule;

7 (6) must supervise no more than:

8 (a) one Licensed Legal Intern at any one time if the supervising lawyer is in private practice  
9 not otherwise described below;

10 (b) four Licensed Legal Interns at any one time if the supervising lawyer is employed by a  
11 recognized institution of legal aid, legal assistance, public defense, or similar programs furnishing  
12 legal assistance to indigents, or by the legal departments of a state, county, or municipality; ~~or~~

13 (c) 10 Licensed Legal Interns at any one time if the supervising lawyer is a full-time clinical  
14 supervising lawyer or a member of the faculty of an approved law school for a clinical course  
15 offered by the law school where such course has been approved by its dean and is directed by a  
16 member of its faculty and is conducted within institutions or legal departments described in the  
17 section above or within the law school, provided that a supervising lawyer attends all adversarial  
18 proceedings conducted by the legal interns; or

19 (d) two Licensed Legal Interns at any one time if the Licensed Legal Interns are both enrolled  
20 in the APR 6 law clerk program, the supervising lawyer is in private practice, and the supervising  
21 lawyer is the primary tutor for both of the Licensed Legal Interns;

22 (7) must meet with the Licensed Legal Intern, in person, ~~or~~ by telephone, or remotely a  
23 minimum of one time per week, to review cases being handled and to provide feedback on  
24 performance, to provide additional guidance and instruction, and to answer questions or issues  
25 raised by the Licensed Legal Intern;

1 (8) must inform the Bar staff promptly if circumstances arise that cause the supervising lawyer  
2 to have concern about the good moral character or fitness to practice of a Licensed Legal Intern  
3 supervised by that lawyer, and cooperate in any investigation that may follow such a report;

4 (9) may terminate supervision of a Licensed Legal Intern under this rule at any time, with or  
5 without good cause, and must promptly notify the Bar staff of the effective date of the termination  
6 and the reasons for the termination;

7 (10) may be terminated as a supervising lawyer at the discretion of the Bar, and when so  
8 terminated, must take steps to ensure that any Licensed Legal Intern previously supervised by the  
9 supervising lawyer ceases to perform duties or hold him/herself out as though supervised by the  
10 supervising lawyer.

11 **(g) Additional Obligations and Limitations.** The following additional general obligations  
12 and limitations apply:

13 (1) A judge or administrative hearing officer may exclude a Licensed Legal Intern from active  
14 participation in a case in the interest of orderly administration of justice or for the protection of a  
15 litigant or witness. In such case, a continuance shall be granted to secure the attendance of the  
16 supervising lawyer, who must assume personal responsibility for that matter.

17 (2) A Licensed Legal Intern or the supervising lawyer must notify the Bar staff promptly if  
18 the supervising lawyer named on a Licensed Legal Intern's identification card terminates  
19 supervision of the Licensed Legal Intern, and such Licensed Legal Intern is prohibited from  
20 performing any of the actions described in these rules unless and until a change of supervising  
21 lawyer has been approved and a new identification card issued.

22 **(h) Term of Limited License.** A limited license issued pursuant to this rule shall ~~expire~~  
23 ~~valid, unless it is revoked or supervision is terminated, for a period of not more than 30~~  
24 ~~consecutive months, and in no case will it be valid if it has been more than 18~~ 24 months ~~since~~  
25 the Licensed Legal Intern graduated ~~ed~~ from law school with a J.D., or with an LL.M. that meets  
26 the requirements in APR 3(b)(4) and qualifies under APR 3(b)(4) to take the Washington lawyer

1 bar examination, or completed the APR 6 Law Clerk Program, unless application for the license  
2 is made after graduation or completion of the law clerk program for the purpose of participating  
3 in the portfolio evaluation in which case the license shall expire 24 months after the date it is  
4 issued.

5 (1) The approval given to a law student by the law school dean or the dean's designee or to a  
6 law clerk by the tutor may be withdrawn at any time by delivering notice to that effect to the Bar,  
7 and must be withdrawn if the student ceases to be duly enrolled as a student prior to graduation,  
8 takes a leave of absence from the law school or from the clinical program for which the limited  
9 license was issued, or ceases to be in good academic standing, or if the APR 6 law clerk ceases  
10 to comply with APR 6. When the approval is withdrawn, the Licensed Legal Intern's license must  
11 be terminated promptly.

12 (2) A limited license is granted at the sufferance of the Supreme Court and may be revoked at  
13 any time upon the court's own motion, or upon the motion of the Bar, in either case with or  
14 without cause.

15 (3) A Licensed Legal Intern must immediately cease performing any services under this rule  
16 and must cease holding themselves out as a Licensed Legal Intern upon:

17 (A) the termination for any reason of the Intern's limited license under this rule;

18 (B) the termination of the supervision for any reason or the upon the resignation of the Intern's  
19 supervising lawyer;

20 (C) the suspension or termination by the Bar of the supervising lawyer's status as a  
21 supervising lawyer;

22 (D) the withdrawal of approval of the Intern pursuant to this rule; or

23 (E) the failure of the supervising lawyer to maintain qualification to be a supervising lawyer  
24 under the terms of this rule.