

WASHINGTON STATE
BAR ASSOCIATION

Report and Recommendations for Admission by Portfolio Evaluation

WSBA LICENSURE PATHWAYS IMPLEMENTATION STEERING COMMITTEE – APRIL 2026



WASHINGTON STATE BAR ASSOCIATION

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Contents

I. Introduction	1
II. Background	1
III. Input Gathering	4
IV. Defining Core Competencies for New Lawyers	5
V. Summary of Proposed Portfolio Evaluation Requirements	8
A. Overview of Requirements	8
B. Required Pathway Activities	9
C. Required Portfolio Submissions.....	10
VI. Participant Eligibility and Timing	10
A. Candidate Eligibility.....	10
B. Supervisor Eligibility.....	11
C. Supervised Practice Hours.....	12
D. Application Process and Timing	14
VII. Assessment of Core Competencies Through Required Activities and Portfolio Submissions	15
A. Assessing Understanding Legal Processes, Sources of Law, and Threshold Concepts.....	15
B. Assessing Professional Responsibility.....	17
C. Assessing Client Interactions.....	19
D. Assessing Written Legal Work	20
E. Assessing Communications with Adjudicators and Other Lawyers and Parties.....	21
F. Assessing Legal Research and Factual Development	21
VIII. Portfolio Parameters	22
A. Word Count Requirements	22
B. Addressing Distinct Legal Issues.....	23
C. AI and Template Use	24
D. Confidentiality	24
E. Attestation Cover Page	25
IX. Supervisor Rubrics and Portfolio Grading	25
A. Grading Process.....	25
B. Validity, Reliability, and Fairness in Assessments.....	27
X. Next Steps	29
XI. Conclusion	30
Appendix A.....	31
Appendix B.....	32
Appendix C.....	45

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.¹ Based on its research and public input, the Task Force issued a report² 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,³ 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.⁴ The Steering Committee and its Core Competencies and Supervised Practice Subcommittees have devoted significant energy to developing proposals to implement an experiential-based pathway to licensure. The experiential pathway in Washington under the Committee's proposal is referred to as the portfolio evaluation. The proposals for the portfolio evaluation are outlined below.

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II. Background

Washington, like several other states adopting new licensing methods, was motivated to pursue an experiential-based pathway to licensure by a commitment to equity and fairness and to an inclusive, highly competent legal profession. Presently, taking the bar exam is the only avenue for applicants not already licensed in another jurisdiction to be admitted to practice law in Washington. As the Washington

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1. Washington Courts, Washington Bar Licensure Task Force, https://www.courts.wa.gov/appellate_trial_courts/SupremeCourt/?fa=supremecourt.LicensureTaskForce (last visited Mar. 19, 2026).
2. Washington State Bar Licensure Task Force, *A Proposal for the Future of WA State Bar Admissions, Updated Following Public Comment (Feb. 28, 2024)* (avail. at <https://www.courts.wa.gov/content/publicUpload/Washington%20Bar%20Licensure%20Task%20Force/A%20Proposal%20for%20the%20Future%20of%20WA%20State%20Bar%20Admissions%20Updated%20Following%20Public%20Comment%20022824.pdf>).
3. Washington Supreme Court Order No. 25700-B-711, *In the matter of the Adoption of the Recommendations of the Bar Licensure Task Force (Mar. 15, 2024)* (avail. at <https://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20Orders/Orders%2025700B710%20and%2025700B711.pdf>).
4. Steering committee members include Chair Zaida Rivera, WSBA Governor Tom Ahearne, WSBA Governor Jordan Couch, Greg Crowder, Alfredo González Benitez, 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.

Bar Licensure Task Force described in its report, however, the bar exam has long been subject to critiques that it does not test many of the skills essential to legal practice while unnecessarily and disproportionately excluding underrepresented populations from the legal profession.⁵

As many practicing lawyers would likely attest, the bar exam—with its multiple choice questions, essay responses with provided case files, and emphasis on speededness and memorization—bears little resemblance to the actual practice of law.⁶ In fact, multiple studies of the bar exam conclude that performance on the bar exam does not predict whether a person will later be an effective or ethical lawyer. A 2024 study, for example, examined “whether candidates with higher bar exam scores [were] likelier to exhibit the traits associated with effective lawyering.”⁷ Researchers asked newly admitted Nevada lawyers and their supervisors, peers, and judges to evaluate the new lawyers’ performance on 26 measures of lawyering effectiveness, and compared the results to participants’ bar exam scores.⁸ The results of these surveys “suggest[ed] that the bar exam does not meaningfully predict the demonstration of competencies to be an effective lawyer.”⁹ Similarly, a 2020 study comparing state bar exam cut scores to the rate of lawyer disciplinary complaints and actions, found “no evidence that higher bar exam cut scores produce[d] fewer complaints, charges, or disciplinary actions.”¹⁰

Rather, for many, financial means is a greater predictor of success on the exam than possession of legal skills or knowledge.¹¹ Unsurprisingly, test takers with the means to purchase expensive bar preparation courses and to take time away from work and family obligations perform better on the exam. As one study put it, “[t]o a large degree, the bar exam tests whether one has the luxury of engaging in full-time bar study.”¹²

C O N T I N U E D >

5. See Washington Bar Licensure Task Force, *supra* note, 2 at 3-4. See also Andrea Anne Curcio, Carol L. Chomsky, & Eileen R. Kaufman, *Testing, Diversity, and Merit: A Reply to Dan Subotnik and Others*, 9 U. Mass. L. Rev. 206, 235, 239-242 (2014); Joan W. Howarth, *The Professional Responsibility Case for Valid and Nondiscriminatory Bar Exams*, Georgetown J. of Legal Ethics 931 (2020).

6. See, e.g., *Samantha Totten, The Bar Exam: An Ineffective Measure of Lawyer Competency*, 39 Thomas M. Cooley L. Rev. 1, 5 (2024) (itemizing the ways in which the bar exam do not reflect how lawyers practice law.); Joan W. Howarth, *What Law Must Lawyers Know?*, 19 Conn. Pub. Interest L.J. 1, 2 (2019) (“Numerous reports and studies over decades present a consistent message about what skills or abilities are necessary for competence in practicing law. Yet current bar exams continue to require memorization of extensive knowledge, while ignoring most of what we know lawyers must be able to do,” and “Bar examiners test legal analysis by requiring applicants to memorize the online equivalent of thick books of rules. Memorization of these rules is unnecessary and, worse, directly contrary to the habits of relentless authority checks required for competence in law practice.”).

7. Jason M. Scott, et al., *Putting the Bar to the Test: An Examination of the Predictive Validity of Bar Exam Outcomes on Lawyering Effectiveness*, 1(2) J. of L. and Empirical Analysis 313 (2024).

8. *Id.*, at 317.

9. *Id.*, at 321.

10. Michael B. Frisby, Sam C. Erman, and Victor D. Quintanilla, *Safeguard or Barrier: An Empirical Examination of Bar Exam Cut Scores*, 70:1 J. of Legal Educ. 125, 141 (2020).

11. AccessLex, *Analyzing First-Time Bar Exam Passage on the UBE in New York State*, 11 (2021) (avail. at <https://www.accesslex.org/NYBOLE>) (“first-time candidates who reported larger household sizes and those who reported higher employment hours during bar exam preparation were less likely to pass.”).

12. Frisby *supra* note 10 at 149.

Compounding these concerns, racial disparities stubbornly persist in bar exam passage rates.¹³ For example, in 2023, 84 percent of first-time test takers who were white passed the bar exam.¹⁴ “By comparison, 74% of Asian first-time test-takers passed, 71% of Hispanics, 68% of Native Americans and 58% of Black” test takers passed on their first try.¹⁵ These differences have changed little from year to year.¹⁶ Moreover, such disparities translate to disparities in the legal profession. In 2024, people of color made up just 23 percent of practicing attorneys in the United States, as compared to 41.6 percent of the total U.S. population.¹⁷

On the other hand, experts in lawyer licensing commend licensing based on experiential assessments as a “valid, feasible, and fair pathway[] that can protect the public better than a two-day written exam, make our profession more inclusive, and expand access to justice.”¹⁸ “Assessments conducted in clinics, simulations, or the work place carry a high degree of face validity. That is, their authentic context suggests that they are good measures of a candidate’s competence. As one group of highly regarded psychometricians wrote: ‘The time-honored way to find out whether a person can perform a task is to have the person try to perform the task.’”¹⁹

In studies of experiential-based licensing pathways, study participants often report that attorneys licensed through the experiential track are better prepared and more competent than those who became licensed by passing the bar exam.²⁰ In one study of the Daniel Webster Scholars (DWS) program, New Hampshire’s experiential licensing pathway, “members of the [legal] profession and [DWS] alumni said they believe that students who graduate from the program are a step ahead of new law school graduates” and “[w]hen evaluated based on standardized client interviews, students in

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13. See Cecil J. Hunt, II, *Guests in Another’s House: An Analysis of Racially Disparate Bar Performance*, 23 Fla. St. U. L. Rev. 721, 724 (1996).

14. ABA Profile of the Legal Profession, <https://www.americanbar.org/news/profile-legal-profession/legal-education/> (last visited Feb. 17, 2026).

15. *Id.*

16. In 2021, for example, 84.91% of white first-time examinees passed, compared to 78.54% of Asian examinees, 71.92% of Hispanic examinees, 60.89% of Black examinees, and 76.14% of multiracial examinees. 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, 105 (2024).

17. ABA, Profile of the Legal Profession, Demographics, <https://www.americanbar.org/news/profile-legal-profession/demographics/> (last visited Mar. 19, 2026).

18. Merritt, et al., *supra* note 16 at 97 (“(1) Licensing programs rooted in supervised practice allow states to assess a broader range of lawyering skills and doctrinal knowledge than can be assessed on a two-day, written exam. (2) Candidates readily find supervisors, and both parties reap many benefits from the program. (3) Supervised practice is fully accessible to first-generation candidates, candidates of color, women, and candidates who live with disabilities. [. . . And,] (4) Supervised practice licensing paths can expand access to justice by increasing the number of lawyers who work for legal services providers and in rural parts of a state.”).

19. Deborah Jones Merritt, *Client-Centered Legal Education and Licensing*, 107 Minn. L. Rev. 101, 125 (2023).

20. See Merritt, et al., *supra* note 16 at 125 (“The PLP survey did not ask supervisors to compare the validity of the bar exam with the validity of assessments made during supervised practice, but numerous supervisors made that comparison spontaneously. ‘Our [candidate],’ one law firm supervisor wrote, ‘has been the best “associate” that we have had at our firm, better than associates that have passed the bar exam.’ [. . .] Other supervisors elaborated on these comparisons, noting that the hands-on work done by candidates made them more competent than peers who had studied for and taken the bar exam.”).

the program outperformed lawyers who had been admitted to practice within the last two years.”²¹

Undoubtedly, the bar exam will continue to fit the needs of some prospective lawyers. Some individuals may be excellent test-takers and possess the resources to devote to full-time study before the exam. Others may prefer the exam because it offers greater certainty that they could later be admitted to practice in another state. But for many people, the concerns described above indicate that another option would be beneficial—for both individuals and the Washington legal community.

With this background in mind, the Steering Committee and subcommittees sought to develop an experiential pathway to licensure in Washington that would maintain rigorous admission standards while expanding Washington’s legal profession to people for whom a legal career was previously out of reach.

III. Input Gathering

To begin with, the Steering Committee and subcommittees gathered input on these proposals from a variety of sources at multiple points in the development process. First, the Core Competencies Subcommittee heard from several experts on lawyering competencies when defining the core competencies new lawyers must possess to become licensed through the portfolio evaluation. These experts included Joan W. Howarth, Emerita Professor of Law at the University of Nevada Las Vegas’ William Boyd School of Law. Professor Howarth authored *Shaping the Bar: The Future of Attorney Licensing* (2022). The Subcommittee also spoke with Logan Cornett, Director of Research Legal Education and Licensure at the Institution for the Advancement of the American Legal System and co-author of *Building a Better Bar: The Twelve Building Blocks of Minimum Competence* (Dec. 2020),²² and Gina Alexandris, Lawyer Consultant and Coach and former Senior Director of the Law Practice Program at Toronto Metropolitan University. These experts offered insights from their studies and experiences articulating key lawyer competencies.

In addition, the Subcommittee conducted several interviews with the deans of academic affairs, international and graduate studies faculty, and LL.M. program faculty from each of the three Washington law schools; a Washington lawyer with significant mentoring experience; APR 6 law clerks and tutors; and foreign-trained legal practitioners seeking admission in Washington. These individuals reviewed the draft core competencies and generally offered positive feedback. Where they indicated they had questions about the proposed competencies, the Subcommittee sought to add more clarity to the proposals.

C O N T I N U E D >

21. Alli Gerkman, Elena Harman, *Ahead of the Curve: Turning Law Students into Lawyers*, 1 (Jan. 2015) (avail. at https://iaals.du.edu/sites/default/files/documents/publications/ahead_of_the_curve_turning_law_students_into_lawyers.pdf).

22. Deborah Jones Merritt, Logan Cornett, *Building a Better Bar: The Twelve Building Blocks of Minimum Competence* (Dec. 2020) https://iaals.du.edu/sites/default/files/documents/publications/building_a_better_bar.pdf (hereinafter *Building a Better Bar*).

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Second, during development of these proposals, the Supervised Practice Subcommittee sought input from individuals who had participated in a comparable licensing pathway in Oregon and in Washington's APR 6 law clerk program and from 2024 Director of Heritage University's LSAC Plus Program Marthy Hernandez.

Once recommendations for the full experiential pathway had been developed, the Steering Committee and Supervised Practice Subcommittee members held nine input-gathering sessions in January and February 2026. Each session focused on a different stakeholder segment, including Seattle University and Washington University law students,²³ supervisors of Seattle University Law School externs, APR 6 law clerks and tutors, small town and rural practitioners, Gonzaga Law School faculty, recently admitted lawyers, and the WSBA Board of Bar Examiners. Participants in each session learned about the proposed portfolio evaluation requirements and, based on those requirements, were asked to comment on the feasibility of accomplishing those requirements and their confidence in the competence of lawyers licensed through the pathway.

Again, participants generally had a favorable impression of the recommended requirements, while also noting where they thought there might be barriers to finding opportunities to accomplish some of the requirements. The Steering Committee and subcommittees revised the recommendations as needed to address these concerns. In all, more than 80 individuals participated in these sessions and offered detailed input. This input was invaluable in finalizing the recommendations.

IV. Defining Core Competencies for New Lawyers

One of the first steps for implementing the portfolio evaluation was to identify the core competencies new lawyers must demonstrate to practice law in Washington.²⁴ 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.²⁵

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*

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²³. A session was also scheduled to speak to Gonzaga law students but was canceled due to low attendance.

²⁴. See Merritt, *supra* note 19 at 125-26. (To assure valid assessments "the requirements of the licensing path must track an evidence-based definition of minimum competence.").

²⁵. See Merritt, et al., *supra* note 16 at 100 ("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.*").

Building Blocks of Minimum Competence.²⁶ The Subcommittee also looked to IAALS' Foundations for Practice project,²⁷ the NCBE's Testing Task Force's 2021 *Final Report*,²⁸ other jurisdictions' efforts to frame core competencies,²⁹ and interviews with experts in lawyer competencies and licensing³⁰ and Washington practitioners to inform the proposed core competencies.

Accordingly, to be licensed to practice law in Washington, candidates seeking admission through the portfolio evaluation 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.³¹
- > **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.”**³² 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.”³³ 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.’”³⁴
- > **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

C O N T I N U E D >

26. *Building a Better Bar*, *supra* note 22.

27. IAALS, Foundations for Practice: The Whole Lawyer and the Character Quotient, <https://iaals.du.edu/publications/foundations-practice-whole-lawyer-and-character-quotient> (last visited Mar. 20, 2026).

28. NCBE, Final Report of the Testing Task Force, <https://nextgenbarexam.ncbex.org/reports/final-report-of-the-ttf/> (last visited Mar. 20, 2026).

29. [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.

30. As noted in the section above, 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.

31. *Building a Better Bar*, *supra* note 22 at 35. See also, Howarth, *supra* note 6 at 11 (“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.”).

32. *Building a Better Bar*, *supra* note 22, at 37.

33. *Id.* at 38.

34. *Id.* at 37.

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.³⁵

- > **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.³⁶
- > **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.³⁷
- > **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.³⁸
- > **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.³⁹
- > **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.⁴⁰

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35. See *id.* at 3234, 5862; Alli Gerkman, Logan Cornett, *Foundations for Practice: The Whole Lawyer and The Character Quotient*, 1315, 1718, 28 (July 2016), 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.

36. *Building a Better Bar*, *supra* note 22, 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>.

37. See *Building a Better Bar*, *supra* note 22, 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 (hereinafter NCBE, *2019 Practice Analysis*).

38. See *Building a Better Bar*, *supra* note 22, at 48; NCBE, *2019 Practice Analysis*, *supra* note 37, at App’x B, D.

39. See NCBE, *2019 Practice Analysis*, *supra* note 37, at App’x B, D.

40. See *Building a Better Bar*, *supra* note 22, at 51-55; NCBE, *2019 Practice Analysis*, *supra* note 37, at App’x D.

> **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.⁴¹

These core competencies form the basis for the portfolio evaluation requirements. The competencies apply to all candidates in this 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.

V. Summary of Proposed Portfolio Evaluation Requirements

In the portfolio evaluation, 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 an experienced lawyer. Candidates 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 portfolio evaluation, 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;

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⁴¹. See *Building a Better Bar*, *supra* note 22, at 40-44.

2. If a candidate completed their legal education more than six years prior to applying to participate in the portfolio evaluation, 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. Either:
 - A. Pass the Multistate Professional Responsibility Exam (MPRE), or
 - B. Engage in two discussions with their supervisor of real-life ethics issues that arise during their supervised practice. The candidate must submit a reflection documenting each discussion that will be submitted as part of their portfolio. In addition, the candidate must submit one written response to a prompt provided by the Bar posing issues related to legal ethics in law office operations and management;
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
 - Engaging in two discussions with their supervisor of real-life ethics issues that arise during their supervised practice and submit as part of their portfolio a reflection documenting each discussion. The candidate must also submit one written response to a prompt provided by the Bar posing issues related to legal ethics in law office operations, 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.

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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 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.

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, two reflections on discussions with their supervisor of professional responsibility matters and one response to a prompt 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.

VI. Participant Eligibility and Timing

A. Candidate Eligibility

The portfolio evaluation will be open to candidates who are currently enrolled in a program of legal education, whether in a law school or the 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

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a law school approved by the WSBA Board of Governors⁴² 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 Rule 3(b)(3) and (4) of the Admission and Practice Rules (APR).⁴³

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 mirror the requirements for supervisors of licensed legal interns under APR 9.⁴⁴ Supervisors must be active Washington lawyers in good standing and have

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⁴². Presently, the WSBA Board of Governors approves law schools that meet ABA accreditation standards.

⁴³. 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.

⁴⁴. 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.

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 resembles the licensed legal intern program. In comparison to the four years APR 6 law clerks usually 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.

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 portfolio evaluation. 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 a candidate'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 portfolio evaluation. 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 portfolio evaluation. Candidates will perform the required activities and develop their written portfolio submissions during their supervised practice time. Supervisors will observe and assess a candidate's performance on the required activities, while the WSBA Board of Bar Examiners will assess a candidate's written materials.

All candidates must complete 825 hours of supervised practice time.⁴⁵ 825 hours equates to

C O N T I N U E D >

45. 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. Under that proposal, 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 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.

approximately six months of case time allowing for typical holidays, leave, and non-case related activities. Candidates may accrue up 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 courses⁴⁶ 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.⁴⁷ 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 APR 9.⁴⁸ 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 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 portfolio evaluation 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.

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46. Experiential courses include clinics, externships, and simulation courses.

47. See Appendix A for an illustration of how law students could potentially complete their supervised practice time within the three years of law school.

48. Requiring a Rule 9 license during the supervised practice time does not mean candidates must spend their time only on activities for which a Rule 9 license is required, for instance 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.

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 supervised practice takes place at non-profit organization or government agency; or
5. The candidate is providing pro bono services to the supervisor's clients and the supervising lawyer 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 Washington lawyer willing to supervise their work in the experiential pathway prior to applying to participate. The 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, the WSBA will review the application to determine if the candidate possesses good moral character and fitness to engage in the limited practice of law as part of the portfolio evaluation. If the candidate and supervisor meet the necessary eligibility requirements, the WSBA will approve the candidate to participate in the pathway. Upon approval to participate in the experiential pathway, the 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 the WSBA to participate. Candidates may not use work product generated, activities performed, or time accrued prior to approval to participate to satisfy portfolio evaluation requirements. This limitation ensures candidate work and activity is observed by their supervisor and assessed using the appropriate standardized grading and assessment tools.

Once a candidate is approved to participate, they have 24 months in which to complete all 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 portfolio evaluation during their third

C O N T I N U E D >

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 the 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 portfolio evaluation.

VII. Assessment of Core Competencies Through Required Activities and Portfolio Submissions

As described in the summary above, candidates in the portfolio evaluation must perform a specified set of required activities which their supervisors assess using standardized rubrics provided by the WSBA. Candidates must also submit a portfolio to the WSBA containing specific required written work product generated during their supervised practice. The WSBA Board of 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.”

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These competencies 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 designed to introduce students to a range of doctrinal subjects and threshold concepts.⁴⁹

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.⁵⁰ 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.⁵¹

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 an entire course of legal study

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49. 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 16, at 123.

50. See, e.g., Howarth, *supra* note 6, 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:").

51. 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.

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:

1. Graduation with a J.D. degree from an approved⁵² 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,

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⁵². 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."

candidates participating in the portfolio evaluation may demonstrate this competence by passing the MPRE. However, in keeping with the emphasis of the portfolio evaluation on experiential 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 portfolio evaluation must demonstrate competence in professional responsibility by either:

1. Taking and passing the MPRE with a minimum passing score of 85; or
2. Engaging in two discussions with their supervisor of issues of professional responsibility that have come up in the course of the supervised practice. Candidates will write a reflection on each discussion identifying the ethical question they encountered, the applicable rules of professional responsibility, and how they resolved the question. The reflections will be submitted to the Board of Bar Examiners with the candidate's portfolio.

In addition, the WSBA will develop a prompt posing a scenario related to legal ethics in law office management, such as billing or trust account practices. Candidates will submit a written essay responding to the prompt as part of their portfolio. Like with the reflection papers, candidates' essays must address the ethical issues posed by the prompt, the applicable rules of professional responsibility, and how they would resolve the ethical issues.

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 the 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.⁵³ These activities may include speaking with a client on the phone or participating in a client meeting. This requirement touches on a candidate's ability to manage a law-related workload and cope with the stress of legal practice by exposing candidates to dynamic client interactions.

Third, candidates must keep detailed, contemporaneous timekeeping records. This requirement

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⁵³ 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.

**Candidates
must devote
ten hours to
client-facing
activities.**

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 WSBA 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 a 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.⁵⁴

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.

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 demonstrate. For that reason, during supervised practice candidates will be required to:

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⁵⁴. 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.

1. Conduct two verbal client interviews or counselling sessions. The supervisor will observe the interview or counselling sessions and complete a rubric assessing the experiences. 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.

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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 the Board of 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 persuasive argument.

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In addition, this core competency specifically includes negotiation as a distinct communication style in which lawyers should be proficient. Researchers for IAALS report in *Building a Better Bar*, that lawyers emphasized the importance of negotiating skills as a separate type of lawyerly communication. Accordingly, candidates for licensure through the portfolio evaluation 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 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 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.

VIII. Portfolio Parameters

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

A. Word Count Requirements

In total, candidates' portfolios should include enough of their work to accurately assess their competence, while simultaneously not creating too great a burden for graders or barriers for candidates

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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.⁵⁵ Taken together with requirements for the number of portfolio submissions, these requirements mean each candidate will submit a minimum of 4400 words—around 15 pages—of material for assessment.

B. 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 core competencies. Perfunctory analyses would not be graded as passing.⁵⁶

The WSBA will make this guidance and additional illustrations publicly available, such as in a program

Candidates' portfolios should include enough of their work to accurately assess their competence.

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⁵⁵ These word limits are drawn from limits used by other licensing jurisdictions and limits imposed on the length of court filings. 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.

⁵⁶ 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). 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.

guide or FAQ webpage, to help candidates assess whether their submission includes a distinct legal issue and the necessary depth of analysis.

C. 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 do not start from scratch when drafting documents. 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.

D. Confidentiality

Supervisors and candidates in the portfolio evaluation have ethical obligations to protect confidential client information.⁵⁷ It is highly likely work product submitted by candidates will contain client information. Accordingly, the portfolio evaluation 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 additional context is needed due to the redactions.

In addition, candidates will be submitting their own personal information to the WSBA when they apply to participate in the portfolio evaluation and submit portfolio items. That information will

C O N T I N U E D >

⁵⁷ 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. See 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).

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 items 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 the WSBA.⁵⁸ These rules encompass applications for the portfolio evaluation, 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 WSBA 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.

E. Attestation Cover Page

Lastly, the 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 candidate's own work. The candidate will note any use of AI or templates as needed; identify 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. The WSBA may also request that candidates and supervisors provide additional information on the attestation form if needed.

IX. Supervisor Rubrics and Portfolio Grading

A. Grading Process

As described above, candidates' competence to practice law will be assessed by the WSBA Board of

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⁵⁸. GR 12.4(d)(2)(E).

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 written professional responsibility items, their midpoint portfolio must include six of the required portfolio items. The candidate will submit the remaining items for the final portfolio.

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

**Portfolio items
will be assessed
by the WSBA
Board of Bar
Examiners on a
periodic basis.**

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 the WSBA.⁵⁹ 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 replace deficient items.⁶⁰ Providing some ability to replace items is an important component of the assessment. One of the goals of the portfolio evaluation 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 learn from deficient items and to submit replacement items enhances the validity and reliability of the assessment.

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⁵⁹. 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.

⁶⁰. Permitting candidates to replace 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 items could create an incentive for candidates to submit a high volume of items 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 is a better use of participant's time and resources.

Therefore, if any item submitted with the midpoint portfolio is deemed not passing, candidates may replace the item for the final portfolio. If any item submitted as part of the final portfolio is graded not passing, the candidate will have two subsequent opportunities to replace that item. This requirement would not preclude a candidate from reapplying and making a successive attempt to become licensed through the portfolio evaluation 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 portfolio evaluation 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.⁶¹ 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.⁶²

While measuring the validity of the portfolio evaluation assessments is challenging before the portfolio evaluation has been implemented, the portfolio evaluation design supports the validity of the assessments. Clearly identifying the core competencies that will be used as minimum measures of a candidate's ability to practice law provides one such element of validity. Here, the core competencies ground all the pathway requirements and the rubrics and bar examiner grading tools. Thus, all participants in the portfolio evaluation will be aware of the standards to which candidates will be held and the requirements and assessments directly assess those standards.

Moreover, allowing candidates to replace portfolio items "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."⁶³

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⁶¹. Merritt, et al., *supra* note 16, at 100.

⁶². See *id.*, at 101-02.

⁶³. Merritt, *supra* note 19, at 131.

Next, four elements establish the reliability of experiential assessments: “multiple assessments, multiple assessors, well designed rubrics, and effective training.”⁶⁴ The portfolio evaluation 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.”⁶⁵ Here, candidates will be assessed over multiple required activities and portfolio submissions, and these activities and written work will be graded by 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 practice settings.

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.”⁶⁶ In the portfolio evaluation, all assessments will be performed with standardized rubrics or grading tools designed by the 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.”⁶⁷ The portfolio evaluation 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 portfolio evaluation. 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.”⁶⁸

Each piece of work will be graded by two examiners, meaning up to twelve different bar examiners may grade a candidate’s work.

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⁶⁴ *Id.* at 132.

⁶⁵ *Id.* at 133.

⁶⁶ *Id.* at 134.

⁶⁷ *Id.* at 135.

⁶⁸ *Id.* at 136-37.

X. Next Steps

Several next steps are required following submission of these proposals and suggested court rule amendments to the Washington Supreme Court (“Court”). First, the WSBA will begin developing the practical and logistical 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. The WSBA will do its best to prioritize the order in which the materials are developed so as to open applications as soon as feasible. The WSBA will also conduct outreach to educate bar members and the public about the proposed admission by portfolio evaluation and to encourage bar members to participate as supervisors when the portfolio evaluation opens for applications. Assuming the Court approves the proposed portfolio evaluation, the WSBA’s goal is to begin accepting applications in early 2027.

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

Finally, a few possible ways may exist to expand availability of the portfolio evaluation in the future. 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 portfolio evaluation requirements, there was some concern among Washington law school faculty who work with LL.M. students that the ability to juggle ethically participating in the pathway with successfully completing 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 the WSBA’s regulatory jurisdiction.

A few possible ways may exist to expand availability of the portfolio evaluation in the future.

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It would also require the WSBA to develop a system for verifying candidates are licensed by the appropriate non-Washington authority.

These do not appear to be insurmountable challenges and the 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. The WSBA, therefore, has reserved these conversations so as not to delay implementation further and to allow the WSBA an opportunity to review implementation of the proposals above. Implementing the portfolio evaluation as currently proposed involves many policy changes and many moving parts. The WSBA believes it will be beneficial to gain experience implementing the portfolio evaluation as proposed and work out any issues prior to exploring expansion.

XI. Conclusion

These proposals represent the work of many dedicated volunteers and are the product of careful consideration.⁶⁹ These requirements are designed to rigorously assess the competency of prospective lawyers, to permit individuals to become lawyers who might otherwise have been excluded, and to enhance the validity, fairness, and reliability of admissions in Washington. The Steering Committee has confidence the portfolio evaluation will ably assess candidates' capacity to practice law and will contribute to a more representative profession.

⁶⁹. See [Appendix C](#) for a compilation of the people involved in this project.

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					
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

Needs Improvement	Satisfactory	Proficient	NA
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

Needs Improvement	Satisfactory	Proficient	NA
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

Topic	Working Towards Minimum Competence	Has Achieved Minimum Competence	Exceeds Minimum Competence	NA
Issue Identification	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
Knowledge	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
Stating Legal Principles	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
Focus	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
Audience	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
Citing Sources of Law	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
Applying Legal Principles to Facts	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

Topic	Working Towards Minimum Competence	Has Achieved Minimum Competence	Exceeds Minimum Competence	NA
Use of Model or Template	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
Organization	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
Conclusion (at Beginning or End)	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
Format, Grammar, and Spelling	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

	Working Towards Minimum Competence	Has Achieved Minimum Competence	Exceeds Minimum Competence	NA
Issue Identification	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	
Knowledge	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	
Use of Model or Template (if appropriate)	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	
Customization	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	
Organization	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	
Word Choice and Definitions	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	
Format, Grammar, and Spelling	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.)

	Working Towards Minimum Competence	Achieves Minimum Competence	Exceeds Minimum Competence	NA
Identifying Issues	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	
Stating Legal Principles	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	
Applying Legal Principles to Facts	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	
Focus	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	
Citing Sources of Law (if appropriate)	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	
Organization	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	
Audience	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	
Format, Grammar & Spelling	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	
Conclusion (at Beginning or End)	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
Pre-Negotiation Planning	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	
Professionalism During Negotiation	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	
Communication During Negotiation	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:** _____

Appendix C

Creating a new pathway to lawyer licensure is no small effort. Many people were involved in developing the recommendations outlined in this report. These individuals saw the potential for an experiential licensing pathway to create a more diverse and skilled legal community in Washington and graciously offered their time, expertise, and personal experiences to turning potential into reality. WSBA thanks the following people for their contribution to this project:¹

WSBA Licensure Pathways Implementation Steering Committee:

Tom Ahearne	<i>WSBA Board of Governors; Foster Garvey</i>
Jordan Couch	<i>WSBA Board of Governors; Palace Law</i>
Greg Crowder	<i>Seattle University School of Law, Law Student</i>
Alfredo González Benítez	<i>Washington State Office of the Attorney General</i>
Judge Cathy Helman	<i>Washington Office of Administrative Hearings</i>
Vivian Hernández	<i>University of Washington School of Law, Law Student</i>
Dusty Weber LaMay	<i>Northwest Justice Project</i>
Dr. Lori Larsen	<i>WSBA Character and Fitness Board; Stevens County Auditor</i>
Tamara Lawson	<i>Dean of University of Washington School of Law</i>
Julia McGann	<i>Staff Attorney to Hon. Frederick P. Corbit</i>
Justice Raquel Montoya-Lewis	<i>Washington Supreme Court</i>
Terra Nevitt	<i>Executive Director of the Washington State Bar Association</i>
Judge Leone Reinbold	<i>WSBA Law Clerk Board; Chief Judge Colville Tribal Court</i>
Professor Zaida Rivera, Chair	<i>Seattle University School of Law</i>
Jacob Rooksby	<i>Dean of Gonzaga School of Law</i>
Serena Sayani	<i>Stokes Lawrence, P.S.</i>
Yuriko Hannali Styles	<i>Bountiful Law, APR 6 Law Clerk</i>
Anthony E. Varona, Co-Chair	<i>Dean of Seattle University School of Law</i>

1. Affiliations listed here are as of the date of the individual's involvement in the project.

CONTINUED >

Licensure Pathways Implementation, Core Competencies Subcommittee:

Jordan Couch	<i>WSBA Board of Governors; Palace Law</i>
Caesar Kalinowski	<i>Davis Wright Tremaine</i>
Efrem Krisher	<i>WSBA MCLE Board; Buckley & Associates</i>
Professor Jeff Minneti, Chair	<i>Seattle University School of Law</i>
Professor Carrie Sanford	<i>University of Washington School of Law</i>
Mei Shih	<i>Shih Legal</i>
Professor Sandra Simpson	<i>Gonzaga University School of Law</i>
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Licensure Pathways Implementation, Supervised Practice Subcommittee:

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In addition to the individuals listed above, many people outside of these committees contributed their input on the pathway recommendations. Thank you to the following people for their insights:

Gina Alexandris	<i>Former Senior Director, Toronto Metropolitan University Law Practice Program</i>
Helen Boyer	<i>WSBA Mentor; Law Office of Helen A. Boyer</i>
Colin Byrne	<i>King County Department of Public Defense</i>
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