

BOARD FOR JUDICIAL ADMINISTRATION



**WASHINGTON
COURTS**

MEETING PACKET

**FRIDAY, October 15, 2021
9:00 A.M.**

VIDEOCONFERENCE



VOTING MEMBERS:

Chief Justice Steven González, Chair
Washington State Supreme Court

Judge Tam Bui, Member Chair
District and Municipal Court Judges' Association
Snohomish County District Court

Judge Rachelle Anderson, President
Superior Court Judges' Association
Spokane County Superior Court

Judge Rebecca Glasgow
Court of Appeals, Division II

Judge Marilyn Haan
Superior Court Judges' Association
Cowlitz County Superior Court

Judge Dan Johnson
District and Municipal Court Judges' Association
Lincoln County District Court

Judge Mary Logan
District and Municipal Court Judges' Association
Spokane Municipal Court

Judge David Mann
Court of Appeals, Division I

Justice Raquel Montoya-Lewis
Washington State Supreme Court

Judge Rebecca Pennell
Court of Appeals, Division III

Judge Rebecca Robertson
District and Municipal Court Judges' Association
Federal Way Municipal Court

Judge Michael Scott
Superior Court Judges' Association
King County Superior Court

Judge Charles Short, President
District and Municipal Court Judges' Association
Okanogan County District Court

Judge Paul Thompson
Superior Court Judges' Association
Snohomish County Superior Court

Judge M. Scott Wolfram
Superior Court Judges' Association
Walla Walla Superior Court

NON-VOTING MEMBERS:

Judge Marlin Appelwick,
Presiding Chief Judge
Court of Appeals, Division I

Judge Jennifer Forbes, President-Elect
Superior Court Judges' Association
Kitsap County Superior Court

Commissioner Rick Leo, President-Elect
District and Municipal Court Judges' Association
Snohomish County District Court


Terra Nevitt, Interim Executive Director
Washington State Bar Association

Dawn Marie Rubio
State Court Administrator

Brian Tollesfson, President
Washington State Bar Association

The **Mission** of the Board for Judicial Administration is to provide leadership and develop policy to enhance the judiciary's ability to serve as an equal, independent, and responsible branch of government.

The **Vision** of the Board for Judicial Administration is to be the voice of the Washington State courts.

	<p>Board for Judicial Administration (BJA) Friday, October 15, 2021 (9 a.m. – noon)</p> <p>Zoom Meeting</p>	
AGENDA		
<p>1. Call to Order Welcome and Introductions</p> <p>Interbranch Coordination and Communications</p>	<p>Chief Justice Steven González Judge Tam Bui</p>	<p>9:00 a.m.</p>
<p>2. Presentation: Racial Justice Consortium Information Sharing</p>	<p>Justice Mary Yu and Patricia Lally</p>	<p>9:10</p>
<p>3. Presentation: BJA Public Trust and Confidence Information Sharing</p>	<p>Justice Mary Yu and Nicole Ack</p>	<p>9:30 Tab 1</p>
<p>4. BJA Task Forces</p> <p>Court Recovery Midterm Highlights Report September 2021</p> <p>Court Security</p>	<p>Chief Justice Steven González / Jeanne Englert</p> <p>Judge Rebecca Robertson/Penny Larsen</p>	<p>9:45</p>
<p>5. Presentation: Coordinating Blake Funding Efforts Information sharing</p>	<p>Chris Stanley Juliana Roe Eric Johnson</p>	<p>9:55</p>
<p>Break</p>		<p>10:25</p>
<p>6. Judicial Retirement Plan Action: Motion to approve the amendment and restatement of the Judicial Retirement Plan as proposed by the AOC</p>	<p>Phil Brady</p>	<p>10:35 Tab 2</p>

<p>7. Standing Committee Reports</p> <p>Budget and Funding Committee</p> <p>Court Education Committee</p> <p>Legislative Committee Action: Motion to approve legislative agenda</p>	<p>Judge Mary Logan/Chris Stanley</p> <p>Judge Tam Bui/Judith Anderson</p> <p>Judge Kevin Ringus/Brittany Gregory</p>	<p>10:45 Tab 3</p>
<p>8. Small Group Discussions</p> <p>Review and discuss collaboration on the Gender and Justice Commission recommendations in meeting packet.</p> <p>Please answer the following and be prepared to share suggestions.</p> <p>1) What two recommendations should BJA prioritize first?</p> <p>2) What can BJA do to move these recommendations forward?</p> <p>3) What can courts do?</p>	<p>All</p>	<p>11:05 Tab 4</p>
<p>9. September 17, 2021 Meeting Minutes</p> <p>Action: Motion to approve the minutes of the September 17, 2021 Meeting</p>	<p>Chief Justice Steven González</p>	<p>11:40 Tab 5</p>
<p>10. Information Sharing</p>	<p>Chief Justice Steven González Judge Tam Bui</p>	<p>11:45</p>
<p>11. Adjourn</p>		<p>12:00</p>
<p>Persons who require accommodations should notify Jeanne Englert at 360-705-5207 or jeanne.englert@courts.wa.gov to request or discuss accommodations. While notice five days prior to the event is preferred, every effort will be made to provide accommodations, when requested.</p>		

Next meetings: Location TBD if not listed
November 19 – 9:00 – 12:00 Zoom Joint BJA and CMC Meeting
February 18 – 9:00 – 12:00
March 18 – 9:00 – 12:00
May 20 – 9:00 – 12:00
June 17 – 9:00 – 12:00

Public Trust and Confidence Committee
Update prepared for 10/15/2021 Board of Judicial Administration meeting

Completed projects:

- Presentations at Legislative Scholars program
- TVW-produced video and distribution to promote the established Judges in the Classroom Program to schools <https://youtu.be/7h9U7zfqhUg>
- Launch of “Spotlight on Civics” blog to highlight and supplement Judges in the Classrooms lesson plans: (https://medium.com/waciviclearning/diversity-in-juries-why-does-it-matter-and-why-is-it-so-hard-to-get-a835510620c0?source=friends_link&sk=d467e2fcc19d795e0d0e43998f782888)

Ongoing Projects:

- Development of Lesson Plan on Structural Racism
- Development of Webinar on Procedural Fairness
- Work on PSA to promote jury service
- Drafting PTC charter for BJA approval

Continuing Collaboration and Participation:

- Minority and Justice Commission
- Gender and Justice Commission
- Racial Justice Consortium

TAB 2

To: Board for Judicial Administration

From: Phil Brady, AOC Contracts Manager

Date: September 27, 2021

Re: Modernization of the Judicial Retirement Account Plan

The requirements for public pension systems have changed several times over the last decade, and the Judicial Retirement Account (JRA) needs updates and modernization to reflect changes in federal law. If the updated plan is approved, AOC will seek a letter of determination from the IRS.

AOC recommends that:

- 1) The BJA approve the amendment and restatement of the Plan Documents.

Judicial Retirement Background

Judicial retirement systems in the State of Washington are a relatively complex set of programs that have shifted over the years. Generally, judges are in the following plans:

- If a judge first entered service after January 1, 2007, they participate in PERS 2 or 3 as well as the Judicial Benefit Multiplier (JBM) plan.
- If they entered service after August 9, 1971 and before January 1, 2007, they participate in the Judicial Retirement System.
- If they entered service before August 9, 1971, they participate in the Judges' Retirement Fund (JRF).

In addition to primary retirement benefits, judges have historically had access to different supplemental retirement benefits depending on when they entered service. The JRA is one such plan, and was open to judges who newly entered service between 1988 and January 1, 2007.

The Judicial Retirement Account

The JRA is a 401(a) defined contribution plan established for Supreme Court Justices, Court of Appeals judges, and Superior Court judges.¹ It was open to members who first entered service between July 1, 1988² and January 1, 2007.³ It requires members to contribute 2.5% of their covered salary, with the state contributing an equal amount.⁴ AOC is the administrator of the plan under the direction of the Board for Judicial Administration,⁵ though investment duties are delegated to the Washington State

¹ RCW 2.14.030.

² 1988 SHB 1366 (Chapter 109, Laws of 1988)

³ 2006 SHB 2691 (Chapter 189, Laws of 2006). This act permitted members of the JRA to roll their accounts into the newly-created Judicial Benefit Multiplier (JBM), and this provision is codified at RCW 2.14.115.

⁴ RCW 2.14.090.

⁵ RCW 2.14.040.

Investment Board (WSIB)⁶ and the benefits management and accounting are delegated to the Washington Department of Retirement Systems (DRS).⁷ As of June 2020, there were one active and 102 inactive participants in the JRA.

The Plan documents (Plan) were last amended and updated in 2006. Amendments were drafted in 2008 but they do not appear to have been approved by the BJA or executed by either AOC or the Chief Justice of the Supreme Court. The IRS also has no record of a letter of determination having been filed regarding the JRA.

Because public pension law is a complex field with potentially substantial consequences for errors, AOC retained Ice Miller LLP (which also serves as counsel to DRS and the State Actuary's Office, and which drafted a prior version of the Plan) to draft an update to the Plan and prepare materials for presentation to the IRS.

Updated Plan

Ice Miller recommended a number of changes to the Plan, a markup of which is attached to this memoranda. Most are being made in order to comply with changes to Federal law, and some are updates to modernize the Plan and align with best practices. Ice Miller also recommends seeking an initial favorable determination letter from the IRS regarding the JRA, which AOC will do once the BJA has approved the revised and restated the Plan. A favorable determination letter is a document stating that the IRS has reviewed a plan and determined that it qualifies under Section 401(a). It would function as a safe harbor in case the JRA is ever challenged as not qualified.

Recommendation

AOC staff recommends that the BJA adopt and restate the Plan as drafted by Ice Miller and reviewed by AOC. If the BJA does so, AOC will seek a determination letter from the IRS.

⁶ RCW 2.14.080.

⁷ RCW 2.14.040.

~~STATE OF WASHINGTON~~

~~JUDICIAL RETIREMENT ACCOUNT~~

STATE OF WASHINGTON

JUDICIAL RETIREMENT ACCOUNT

401(a) PLAN ~~AND TRUST~~ AND TRUST

Amended and Restated as of ~~November 17, 2006~~ _____, 2021

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STATE OF WASHINGTON
JUDICIAL RETIREMENT ACCOUNT
401(a) PLAN AND TRUST

Pursuant to the Judicial Retirement Account Act ("Act") enacted by the Washington State Legislature in 1988 (1988 c 109) and amended in 1989, 1991, and 1996, and codified as chapter 2.14 RCW, the state of Washington has established a Judicial Retirement Account Plan ("Plan") as a supplemental retirement benefit for those judges who are elected or appointed under Chapter 2.04, 2.06, or 2.08 RCW and who are not active members of the Judicial Retirement System Act established by RCW 2.10.

WITNESSETH THAT:

WHEREAS, the Board for Judicial Administration implemented the Plan for eligible employees as a qualified plan under Code ~~Section~~ [§ 401\(a\)](#) and it is intended that the Plan remain a qualified plan under Code ~~Section~~ [§ 401\(a\)](#);

WHEREAS, the Washington State Legislature has amended the Act from time to time by the following enactments: 1989 c 139; 1991 sp.s. c 13; 1996 c 39; 1998 c 245; ~~and~~ 2005 c 282; [2006 c 189](#); and [2009 c 521](#);

WHEREAS, the Board for Judicial Administration has amended the Plan from time to time to comply with the Act and to make other changes permitted by the Act, with the last Restatement dated ~~June 18~~ [November 17, 2002](#) ~~2006~~;

~~WHEREAS, the Board for Judicial Administration desires to amend the Plan to include funding through a trust, which is contained in this Restatement;~~

WHEREAS, the Board for Judicial Administration desires to amend the Plan to make changes necessary to ensure that the Plan remains in compliance with the Internal Revenue Code of 1986, as amended;

WHEREAS, the Board for Judicial Administration desires to restate the Plan in its entirety;

NOW, THEREFORE, the Plan is amended and restated to read as follows:

ARTICLE I

PLAN

The Judicial Retirement Account 401(a) Plan established under the Act is hereby amended and restated effective the ____ day of _____, ~~2006~~2021, by the Board for Judicial Administration for the purpose of providing retirement benefits to judges as provided by the Act. The Plan is a money purchase pension plan and a governmental plan within the meaning of Code § 414(d).

ARTICLE II

DEFINITIONS AND CONSTRUCTION

Section 2.01. Construction and Governing Law.

~~(a)~~ The Plan shall be ~~construed~~interpreted, enforced, and administered ~~and the validity thereof determined~~ in accordance with the Code, the laws of the state of Washington, this Plan document, and ~~the~~any rules adopted by the Board. If any Applicable Form or other document conflicts with any of the foregoing, the Plan prevails.

~~(b) Words used herein in the masculine gender shall be construed to include the feminine gender where appropriate, and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate.~~

Section 2.02. Definitions. When the initial letter of a word or phrase is capitalized

Section 2.03. herein, the meaning of such word or phrase shall be as follows:

(a) "Accumulated Contributions" means the total amount deposited to a Member's ~~account~~JRA under RCW 2.14.090(1) and (2), adjusted until date of payment by income, increases,

or decreases in investment value, and any fees allocated to the account as authorized by RCW 2.14.060.

(b) "Administrative Account" means the judicial retirement administrative account established by RCW 2.14.070 from which all expenses of the Plan, including staffing and administrative expenses, may be paid.

(c) "Allocation Date" means December 31 of each Plan Year.

(d) "Applicable Form" means a document prescribed by the Plan Administrator ~~for purposes of transmitting a particular official communication to the~~ to make any election or provide any notice required by the Plan. In those circumstances where a written election or consent is not required by the Plan or the Code, the Plan Administrator, ~~the Department, the Board, and the WSIB~~ may prescribe an electronic or telephonic form in lieu of or in addition to a written form.

(e) "Beneficiary" means a person designated by the Member pursuant to ~~Section 6.04~~ Section 6.04 of this Plan, or if there is no such designated person or persons still living at the time of the Member's death, the Member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no such surviving spouse, then the Member's estate.

(f) "Board" means the Board for Judicial Administration created by rules promulgated by the Supreme Court of Washington.

(g) "Code" means the Internal Revenue Code of 1986, as amended from time to time.

(h) "Compensation" means the gross salary paid to a Member pursuant to RCW 43.03.012. However, Compensation shall not exceed \$290,000 for 2021, as adjusted for cost-of-living increases in accordance with Code § 401(a)(17).

(i) ~~(h)~~ "Department" means the Department of Retirement Systems created by RCW 41.50.020.

(j) ~~(i)~~ "Effective Date" means _____, ~~2006~~ January 1, 2021, unless otherwise stated herein.

(k) ~~(j)~~ "Employer" means the state of Washington, acting through the following state agencies: ~~the~~ The Administrative Office of the Courts, Court of Appeals, or Supreme Court, notwithstanding that the salary of one or more Members may have been shared between the state of Washington and a county.

~~(k) "Former Member" means a person who has been a Member, but who has ceased to be a Member for any reason.~~

(l) "Investment Option" means an investment option selected by the Washington State Investment Board and made available to the Members pursuant to ~~Section 13.02~~ Section 12.02.

(m) "Judge" means an individual serving as a superior, appellate, or supreme court judge elected or appointed under RCW Chapter 2.04, 2.06, or 2.08.

(n) "Judicial Retirement Account" or "JRA" means, ~~an~~ a bookkeeping account established by the Employer, Plan Administrator, or Department to account for a Member's Accumulated Contributions.

(o) "Member" means ~~any~~ a Judge ~~who has commenced participation~~ participating in the Plan under Article ~~HHII~~.

(p) "Participation Agreement" means an agreement on the Applicable Form executed and filed by a Member with the Department which allows the Member to participate in investment options made available through the Department.

(q) "Plan" means the Judicial Retirement Account Plan created and restated herein, as amended from time to time.

(r) "Plan Administrator" means the Administrator of the Courts as specified in RCW 2.14.040. To the extent that the Administrator of the Courts delegates any of the Administrator of the Courts' responsibilities as Plan Administrator, the person, department, or committee to whom such delegation is made shall be treated as the Plan Administrator to the extent of such delegation.

~~(r) "Plan Administrator" means the Administrator of the Courts as specified in RCW 2.14.040.~~

~~(s) "Plan Compensation" means the gross salary paid to a Member pursuant to RCW 43.03.012. However, Plan Compensation shall not exceed the maximum amount permitted under Code Section 401(a)(17) for the applicable Plan Year.~~

(s) ~~(t)~~ "Plan Year" means a calendar year.

(t) ~~(u)~~ "Principal Account" means the judicial retirement principal account established by RCW 2.14.060.

(u) ~~(v)~~ "RCW" means the Revised Code of the state of Washington.

~~(w) "Section" means a section of this Plan, unless it is immediately preceded by the word "Code."~~

(v) ~~(x)~~ "Separation from Service" means separation from judicial service as that term is interpreted for purposes of Code ~~Section~~ § 402(e)(4)(D)(i)(III).

(w) ~~(y)~~ "Trust" means the trust as created by this Plan.

(x) ~~(z)~~ "Trust Fund" means all the cash, securities, or other property together with income therefrom held by the Trustees pursuant to the terms of this Plan.

(y) ~~(aa)~~ "Trustees" means the members of the Board.

(z) ~~(bb)~~ "Washington State Investment Board" or "WSIB" refers to the Washington State Investment Board that is under contract with the Plan Administrator for investment and accounting services pursuant to provisions set forth in RCW 2.14.

ARTICLE III
PARTICIPATION

Section 3.01. Participation Standards. A Judge is eligible to participate upon becoming a member of any of those pension plans established under Title 41 of the ~~Revised Code of Washington~~ RCW. Members of the Board, who are otherwise eligible, shall participate in the Plan under the same terms and conditions applicable to other members but an individual member may not take part in any Board action taken with respect to that Member's participation in the Plan.

Section 3.02. Change in Employment Status.

(a) If a Member ceases to be eligible to participate in the Plan due to a change in employment status while remaining an employee of the Employer, the Member shall cease to actively participate in the Plan as of the date of such a change in status.

(b) If a Member described in paragraph ~~(a)~~(a) again is in an employment status allowing him to participate in the Plan, the Member shall immediately ~~be eligible to~~ participate in the Plan.

(c) If an individual who is not a Member becomes eligible to participate in the Plan due to a change in employment status, the individual shall immediately ~~be eligible to~~ become a Member upon the change in employment status.

(d) If a Member receives a distribution of Accumulated Contributions, the withdrawn Accumulated Contributions may not be returned to the Member's JRA.

Section 3.03. Completion of Forms by Members and Beneficiaries. Each Member and any Beneficiary eligible to receive, or claiming a right to receive, any benefits under the Plan

shall complete the Applicable Forms and furnish such proofs and information as may be required at any time by the Board, the Plan Administrator, the Department, or the WSIB.

ARTICLE IV

CONTRIBUTIONS

Section 4.01. Contributions.

(a) The contributions shall be collected by the Plan Administrator ~~and~~ deposited in ~~the Member's JRA within~~ the Principal Account and allocated to the Member's JRA.

(b) All benefits under the Plan shall be distributed solely from a Member's ~~individual~~ JRA, and the Employer shall have no liability therefor other than the obligation to make contributions as provided in ~~Section 4.03~~Section 4.03.

(c) Accumulated Contributions are exempt from any state, county, municipal or local tax.

Section 4.02. Member Contributions.

(a) The Member shall contribute into the Plan an amount equal to ~~two and one half percent (2½%)~~2.5% of the Member's Compensation, which shall be deducted from the Member's ~~compensation~~Compensation.

(b) Although designated as ~~Employee~~Member contributions, the Employer shall pick up and pay the Member's contribution in lieu of the Member. The Employer may pick up the contribution through a reduction in salary, an offset against future salary increases, or a combination of both. The Member has no option to receive the amounts picked up directly instead of having the amounts paid to the Plan.

(c) It is intended that a contribution will not be considered as current ~~compensation~~Compensation pursuant to Code ~~Section~~§ 414(h)(2) for purposes of federal income taxation. However, contributions shall be considered in determining a Member's benefits or rights

under the Employer's group insurance, other retirement plans, and for purposes of federal Social Security laws.

Section 4.03. Employer Contributions. The Employer shall make contributions equal to the Member's contribution. The Employer contribution shall be made on a monthly basis.

Section 4.04. Code Section § 415 Limitations on Contributions. Notwithstanding any provision of the Plan to the contrary, Member contributions to the Plan and additions to a Member's JRA shall be limited as provided in Code § 415 as provided in this Section 4.04:

~~(a) (Definitions.~~

(a) To the extent required under Code § 415(c), in no event shall the "annual addition," as defined in this Section 4.04 for a Member for any Plan Year, exceed the lesser of:

(1) \$58,000 for 2021, as adjusted under Code § 415(d) or

(2) 100% of the "compensation," as defined in this Section 4.04, such Member received during the Plan Year.

(b) For purposes of this Section 4.04 and subject to Code § 415(h), all defined contribution plans of the Employer are to be treated as a single defined contribution plan.

~~(c) (1)-~~For purposes of this ~~Section, the "Annual Addition" for any Member for any Plan Year means~~ Section 4.04, "annual addition" means the annual addition as defined in Code § 415(c). In general, Code § 415(c) defines the annual addition as the sum of the Employer contributions, and Member contributions considered to be picked up credited to a Member's JRA for the limitation year under this Plan and any other defined contribution plan maintained by the Employer under Code Section 414(h)(2).

~~(d) (2)-~~For purposes of this ~~Section~~ Section 4.04, "compensation" means annual salary as specified in RCW 43.03.012. However, compensation shall also include the amount of any

elective deferrals, as defined in Code ~~Section~~ § 402(g)(3), and any amount contributed or deferred by the ~~employer~~ Employer at the election of the Member and which is not includible in the gross income of the Member by reason of Code ~~Section~~ § 125, 132(f)(4) or 457.

~~(b) Notwithstanding anything in this Article to the contrary, in no event shall the Annual Addition for any Member exceed the lesser of:~~

~~(1) Forty thousand dollars (\$40,000) or any amount specified in Code Section 415(e)(1)(A), as adjusted for increases in the cost of living in accordance with Code Section 415(d), as in effect for the Plan Year; or~~

~~(2) One hundred percent (100%) of the compensation of such Member received from the Employer during the Plan Year.~~

~~(c) If, as a result of a reasonable error in estimating a Member's compensation for the Plan year or under other facts and circumstances which the Commissioner of the Internal Revenue Service finds justifiable~~ a Member has contributions to the Plan and contributions to another qualified defined contribution plan sponsored by the Employer for the Plan year, the Annual Addition for the Member, determined without regard to the limitation of paragraph ~~(b)~~(b), exceeds the Annual Addition for such Member as limited by paragraph ~~(b)~~(b), then the excess, ~~if will be corrected as~~ permitted under the Code, shall be retained in a separate JRA to reduce the amount of contributions of the Employer in succeeding Plan Years under this Article. Employee Plans Compliance Resolution System (or similar Internal Revenue Service correction program).

~~(f) A Member who is in qualified military service (within the meaning of Code § 414(u)(1)) shall be treated as receiving compensation from the Employer during such period of qualified military service equal to (1) the compensation the Member would have received during such period if the Member were not in qualified military service, determined based on the rate of~~

pay the Member would have received from the Employer but for the absence during the period of qualified military service, or (2) if the compensation the Member would have received during such period was not reasonably certain, the Member's average compensation from the Employer during the 12 month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

ARTICLE V

ACCOUNTING

Section 5.01. Member Accounts. To facilitate an orderly administration of the Plan, a Judicial Retirement Account for each Member shall be maintained by the Plan Administrator pursuant to the terms of the Plan. The Plan Administrator may cause the accounts to be maintained through an agreement with the Department. The JRA shall reflect the record of the Member's interest under the Plan attributable to the contributions of the Employer and Member.

Section 5.02. Allocation of Contributions. The Plan Administrator shall allocate the Employer's and Member's contribution to each Member's JRA, pursuant to Article ~~IV. Sub-account(s)~~ IV. A sub-account shall be maintained for each Member as may be necessary to properly account for the Investment Option~~(s)~~ selected by the Member.

Section 5.03. Determination of Judicial Retirement Account. The Plan Administrator shall determine the value of each Member's JRA as of the end of each Plan Year, or more frequently at the discretion of the Plan Administrator, based on the Investment Option(s) selected by the Member, pursuant to ~~Section 13.02~~ Section 12.02, and the fair market value of the JRA.

Section 5.04. Balance Value of Judicial Retirement Account. The ~~balance value~~ of ~~any~~ Member's JRA ~~on~~ as of any ~~specific~~ valuation date shall be the ~~balance value~~ of the JRA ~~on a~~

~~determination date, which coincides with or precedes that specific date~~[balance as determined by the Plan Administrator.](#)

Section 5.05. Termination of Agreement with Department. The agreement between the Plan Administrator and the Department may be terminated in accordance with the agreement or applicable laws. Plan investments held by the Department at the expiration or termination of the agreement with the Department shall, at the Department's option, be tendered in-kind or liquidated and tendered in cash to the Plan Administrator.

ARTICLE VI

BENEFITS

Section 6.01. Distribution of Benefits. The Plan Administrator shall distribute benefits upon a Member's Separation from Service or death. The Plan Administrator shall distribute to a Member or the Member's Beneficiary~~(ies)~~ any amount to which the Member or Beneficiary is entitled under the Plan. The Member must make an election to receive benefits on the Applicable Form. The Applicable Form must be received at least ~~thirty (30)~~ days before the distribution will commence. If a Member's Applicable Form is not received, distributions will commence to the Member according to the minimum distribution requirements of ~~Section 6.05~~[Section 6.05](#).

Section 6.02. Separation from Service Benefits. A Member who Separates from Service for any reason [other than death](#) is entitled to receive benefits in:

- (a) a lump sum distribution of the Member's Accumulated Contributions;
- (b) periodic payments; or
- (c) an annuity contract;

Commented [FA1]: [How is this paid? Is this part of the investment options?](#)

in accordance with the Investment Option~~(s)~~ elected by the Member or Beneficiary. A distribution may be made as an eligible rollover distribution to an eligible retirement plan as provided in Article ~~VIII~~6.06.

Section 6.03. ~~Death Benefits~~Required Minimum Distribution Rules.

(a) Notwithstanding any provision of this Plan to the contrary, the requirements of this Section 6.03 shall apply to any distribution of a Member's interest. All distributions under the Plan shall be made in accordance with Code § 401(a)(9) and the regulations thereunder, including the incidental benefit rules under Code § 401(a)(9)(G), and the changes under the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE Act"), and any regulatory guidance issued thereunder.

~~(a) If a Member dies before the Member's Accumulated Contributions are distributed, the Member's Accumulated Contributions shall be distributed, subject to Section 6.05, to the Beneficiary(ies) determined under Section 6.04. The distributions shall be made as follows:~~

~~(1) If the Member's Beneficiary is an organization, trust, or estate, the distribution shall be made in a lump sum in the second month following the date the Plan Administrator receives the Applicable Form.~~

~~(2) If the Member's Beneficiary is not an organization, trust, or estate, the following applies:~~

~~(i) If distributions to the Member have commenced, the Beneficiary must receive distributions at least as frequently and in at least the amount as were being made to the Member. The Beneficiary must file the Applicable Form for claiming the benefit and elect a distribution date that is not less than ninety (90) days from the date the Plan Administrator receives the Applicable Form. A Beneficiary may~~

~~choose a lump sum or periodic payments so long as the periodic payments occur more frequently and in a greater amount than the last distribution method chosen by the Member. The Beneficiary must choose a distribution method (amount and frequency) that allows for distribution of the Member's Accumulated Contributions balance during the Beneficiary's projected life expectancy as computed by the Department in accordance with Treasury Regulation Section 1.72.~~

~~(ii) If distributions to the Member have not commenced, the Beneficiary may elect a date when distributions will commence. The Beneficiary must file the Applicable Form for claiming the benefit and elect a distribution date that is not less than thirty (30) days from the date the Department receives the Applicable Form.~~

~~A. If the Beneficiary is the Member's spouse, the Beneficiary may choose to receive distributions over the Beneficiary's projected life expectancy as computed by the Department in accordance with Treasury Regulation Section 1.72.~~

~~B. If a Beneficiary is not the Member's spouse, the Beneficiary must choose a distribution method (amount and frequency) that allows for distribution of the Member's entire JRA during the Beneficiary's projected life expectancy as computed by the Department in accordance with Treasury Regulation Section 1.72.~~

(b) ~~If a Beneficiary dies before the [A](#) Member's Accumulated Contributions are completely distributed, the balance of the Beneficiary's interest [JRA](#) shall be distributed to the~~

~~Beneficiary's estate in the second month following the date the Department receives the Applicable Form indicated the Beneficiary's death,~~ or begin to be distributed, to the Member beginning no later than April 1 of the calendar year following the later of (1) the calendar year in which the Member reaches age 72 (age 70½ if the Member was born on or before June 30, 1949), or (2) the calendar year in which the Member has a Separation from Service.

(c) ~~If a Beneficiary does not survive the Member by at least thirty (30) days, the Beneficiary shall be treated as if the Member had not designated the Beneficiary. No payment option may be selected by a Member unless the amounts payable to the Member are expected to be at least equal to the minimum distribution required under Code § 401(a)(9).~~

(d) If the Member's interest is distributed in the form of periodic payments, the periodic payment must be at least \$50 per month (if paid monthly) or \$600 per year.

Section 6.04. Beneficiaries. Each Member may designate on the Applicable ~~Form~~Form filed with the Department one or more primary and contingent ~~beneficiaries~~Beneficiaries to receive any benefits payable under the Plan upon the Member's death. A contingent Beneficiary shall receive benefit payments only if there is no surviving primary Beneficiary. In the absence of such a designation by an unmarried Member, the benefits shall be paid to the Member's estate. If a Member is married, and has not designated a primary beneficiary other than the Member's spouse, the Member's primary beneficiary shall be the Member's spouse as if the Member designated the spouse. A Member may change the Member's beneficiary designation at any time by filing the Applicable Form with the Department. If a Beneficiary does not survive the Member by at least 30 days, the Beneficiary shall be treated as if the Member had not designated the Beneficiary.

Section 6.05. Payments to Beneficiaries. A Member's JRA or portion thereof to be received by a Beneficiary may be paid in the form of a single lump-sum payment, periodic payments, or annuity subject to the required minimum distribution rules in Section 6.06.

Section 6.06. ~~Section VI.05. Required Minimum Distribution~~ Requirements Distributions Upon Death of Member before January 1, 2022.

~~(a) For purposes of this Section, the following definitions apply:~~

~~(a) Member Death Before Distributions Begin. If a Member dies before distributions begin, the Member's Account will be distributed, or begin to be distributed, no later than as follows:~~

~~(1) "Designated Beneficiary" means the individual who is designated as the beneficiary under Section 6.04 and is the designated beneficiary under Code Section 401(a)(9) and Treasury Regulation Section 1.401(a)(9)-1, Q&A 4. If the designated Beneficiary is not the Member's surviving spouse, distributions after the Member's death must either (A) begin to be distributed no later than December 31 of the calendar year immediately following the year of the Member's death, payable over a period not to exceed the Beneficiary's life expectancy; or (B) be distributed no later than December 31 of the calendar year containing the fifth anniversary of the Member's death.~~

~~(2) If the designated Beneficiary is the Member's surviving spouse, distributions after the Member's death must begin to be distributed by the later of December 31 of the calendar year immediately following the year of the Member's death or December 31 of the calendar year in which the Member would have attained age 72 (if the Member was born after June 30, 1949) or age 70½ (if the Member was born before July 1, 1949). Payments to a surviving spouse must be made over a period not to exceed the surviving spouse's life expectancy. Alternatively, the surviving spouse may elect to receive a total~~

distribution of the Member's JRA by no later than December 31 of the calendar year containing the fifth anniversary of the Member's death.

~~(2) "Required Beginning Date" means the April 1 of the calendar year following the later of (i) the calendar year in which the Member attains age seventy and one half (70½) or (ii) the calendar year in which the Member retires.~~

~~(b) General Rules:~~

~~(1) The requirements of this Section take precedence over any inconsistent provisions of this Plan.~~

~~(2) All distributions required under this Section will be determined and made in accordance with the Treasury Regulations under Code Section 401(a)(9).~~

~~(3) Distributions to a Member and the Member's Beneficiaries shall only be made in accordance with the incidental death benefit requirements of Code Section 401(a)(9)(G) and the Treasury Regulations thereunder.~~

~~(c) Time and Manner of Distribution:~~

~~(3) (1) The~~ If there is no designated Beneficiary, the Member's entire interest will be distributed, ~~or begin to be distributed, to the Member no later than~~ by December 31 of the calendar year containing the fifth anniversary of the Member's ~~Required Beginning Date~~ death.

(b) Member Death After Distributions Begin. If required minimum distributions under Code § 401(a)(9) have begun prior to the death of the Member, the remaining portion of the Member's JRA shall be distributed to the Beneficiary at least as rapidly as under the method of distribution in effect prior to the Member's death. If the Member's Beneficiary is an organization,

trust, or estate, the distribution shall be made at least as rapidly as under the method of distribution in effect prior to the Member's death.

Section 6.07. Required Minimum Distributions Upon Death of Member on or after January 1, 2022.

(a) ~~(2)~~ If the Member dies before ~~distributions begin,~~ the distribution of the Member's ~~entire interest will be distributed, or begin to be distributed, no later than as follows~~ JRA (regardless of whether any distribution had begun before the Member's death) and the Member has a Designated Beneficiary:

(1) The entire JRA shall be distributed to the Designated Beneficiary by December 31 of the calendar year containing the tenth anniversary of the Member's death.

(2) ~~(i) If the Member's surviving spouse is the Member's sole~~ Notwithstanding paragraph (1), if the Designated Beneficiary is an Eligible Designated Beneficiary, then ~~distributions to the surviving spouse will begin by~~ the Eligible Designated Beneficiary may elect for the Member's JRA to be distributed (A) by December 31 of the calendar year containing the tenth anniversary of the Member's death, or (B) beginning no later than December 31 of the calendar year immediately following the calendar year in which the Member died, or by over the life of the Eligible Designated Beneficiary or over a period not exceeding the life expectancy of the Eligible Designated Beneficiary. If the Eligible Designated Beneficiary is the surviving spouse, payment under item (B) is not required until the later of December 31 of the calendar year immediately following the calendar year in which the Member died or December 31 of the calendar year in which the Member would have attained age 72 (age 70-1/2, if later, 1/2 if the Member was born on or before June 30, 1949). If the Eligible Designated Beneficiary does not elect a method of

distribution as provided above, the Member's JRA shall be distributed in accordance with item (B).

~~(ii) If the Member's surviving spouse is not the Member's sole Designated Beneficiary, then distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Member died.~~

(3) Upon either (A) the death of an Eligible Designated Beneficiary before distribution of the Member's JRA or (B) the attainment of the age of majority for an Eligible Designated Beneficiary who is a minor child, paragraph (2) shall no longer apply, and the remainder of the JRA shall be distributed under paragraph (1).

(4) ~~(iii) If there is~~ the Member dies before distributions of the Member's JRA begins and the Member has no Designated Beneficiary ~~as of September 30 of the year following the year of the Member's death,~~ the Member's ~~entire interest will~~ JRA shall be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death. If the Member dies after distribution of the Member's JRA begins and the Member has no Designated Beneficiary, any remaining portion of the JRA shall continue to be distributed at least as rapidly as under the method of distribution in effect at the time of the Member's death.

(5) Notwithstanding the foregoing, any payment to an estate, charitable organization, or a trust shall be made in a lump sum.

(b) For purposes of this Section 6.07, the following definitions apply:

(1) "Designated Beneficiary" means the individual who is designated as the Beneficiary under Section 6.04 and who meets the definition under Code § 401(a)(9)(E)(i) and Treas. Reg. §1.401(a)(9)-4.

(2) "Eligible Designated Beneficiary" means a designated Beneficiary who, as of the date of the death of the Member, is: (i) the surviving spouse of the Member; (ii) a child of the Member who has not reached the age of majority; (iii) disabled within the meaning of Code § 72(m)(7); (iv) chronically ill within the meaning of Code § 7702B(c)(2) (except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature); or (v) any other individual who is not more than ten years younger than the Member. Notwithstanding the preceding, a child described in (ii) above shall cease to be an Eligible Designated Beneficiary as of the date the child reaches the age of majority within the meaning of Code § 401(a)(9)(F).

~~(iv) If the Member's surviving spouse is the Member's sole Designated Beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin, this Section 6.05(e)(2), other than Section 6.05(e)(2)(i), will apply as if the surviving spouse were the Member.~~

~~For purposes of this Section 6.05(e)(2), unless Section 6.05(e)(2)(iv) applies, distributions are considered to begin on the Member's Required Beginning Date. If Section 6.05(e)(2)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 6.05(e)(2)(i). If distributions under an annuity purchased from an insurance company irrevocably commence to the Member~~

~~before the Member's Required Beginning Date (or to the Member's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 6.05(c)(2)(i)), the date distributions are considered to begin is the date distributions actually commence.~~

~~(3) If the Member's interest is distributed in the form of periodic payments, the periodic payment must be at least fifty dollars (\$50) per month (if paid monthly) or six hundred dollars (\$600) per year.~~

~~(4) If the Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury Regulations thereunder.~~

~~**Section VI.06. Survivor Rights.** After a Member receives the Member's total Accumulated Contributions under the Plan, the Member and the Member's beneficiaries are not entitled to any further benefits from the Plan.~~

~~**Section VI.07. Charge or Discount.**~~ **Section 6.08.** Notwithstanding anything in this Plan to the contrary, any surrender charge assessed against a Member's JRA by any Investment Option shall reduce the amount of the benefit payable to the Member.

~~**Section VI.08. Persons Under Legal Disability.**~~ **Section 6.09.** If any benefit is payable to a minor or other person under legal disability, the Plan Administrator shall direct that such payments shall be made to the legal guardian of such person or to such other person or organization as a court of competent jurisdiction may direct. The Employer, the Plan Administrator, the Trustees, and the Plan shall not be responsible for the application of such payments.

~~Section VI.09. Payments at Direction of the Plan Administrator.~~ Any benefit payable under the Plan shall be paid only by the Department at the written direction of the Plan Administrator following completion of ~~the any~~ Applicable ~~Form or~~ Forms. Benefits under the Plan

Section 6.10. will be paid only if the Plan Administrator decides in its discretion that the Member is entitled to benefits.

Section 6.11. Waiver of 2020 Required Minimum Distributions. A Participant or Beneficiary who would have been required to receive required minimum distributions for 2020 (or paid in 2021 for the 2020 calendar year for a Participant with a required beginning date of April 1, 2021) but for the enactment of Code § 401(a)(9)(I) ("2020 RMDs"), and who would have satisfied that requirement by receiving distributions that are either 1) equal to the 2020 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2020 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's Designated Beneficiary, or for a period of at least 10 years ("Extended 2020 RMDs") will receive these distributions unless the Participant or Beneficiary chooses not to receive the distributions. Participants and Beneficiaries will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. For purposes of the direct rollover provisions of the Plan, 2020 RMDs and Extended 2020 RMDs also will be treated as eligible rollover distributions in 2020.

ARTICLE VII

VESTING

A ~~Member's interest vests~~ Member shall be 100% vested in the Member's JRA ~~as contributions are made~~ at all times.

ARTICLE VIII

ROLLOVER DISTRIBUTIONS AND WITHHOLDING REQUIREMENTS FROM THE PLAN

Commented [KL2]: [Does the Plan accept rollover contributions and transfers into the Plan?](#)

Section 8.01. Definitions for the Article. For purposes of this Article, the following definitions apply:

(a) "Direct Rollover" means an Eligible Rollover Distribution that is paid directly to an Eligible Retirement Plan for the benefit of the Distributee.

(b) "Distributee" means ~~Member or Former~~ a Member, ~~or at~~ [the spouse of the Member](#), ~~the Member's or Former Member's surviving~~ [former](#) spouse who [is an alternate payee within the meaning of Code § 414\(p\)\(8\), and a Member's non-spouse Beneficiary, any of whom](#) is eligible to receive a distribution from the Plan.

(c) "Eligible Retirement Plan," as defined under Code ~~Section §~~ 402(c)(8)(B), means:

(1) an individual retirement account described in Code ~~Section §~~ 408(a);

(2) an individual retirement annuity (other than an endowment contract) described in Code ~~Section §~~ 408(b);

[\(3\) a simple retirement account described in Code § 408\(p\)\(1\) following the two-year period described in Code § 72\(t\)\(6\);](#)

~~(4) any annuity plan described in Code Section § 403(a); or~~

[\(5\) a plan described in Code § 403\(b\);](#)

~~(6) a qualified trust plan described in Code Section § 401(a);~~

~~(5) an annuity contract described in Code Section 403(b); and~~

~~(6) an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A) that accepts the Distributee's Eligible Rollover Distribution.~~

(7) a Code § 457(b) eligible deferred compensation plan which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; and

(8) a Roth individual retirement account described in Code § 408A(e), provided the Distributee's adjusted gross income does not exceed any limit applicable under federal law for the tax year in which the distribution occurs.

In the case of a distribution to a Member's non-spouse Beneficiary, an Eligible Retirement Plan means the plans described in subparagraphs (1) and (2) only, as an "Inherited IRA," to the extent consistent with the provisions of Code § 402(c)(11) and any guidance issued thereunder.

(d) "Eligible Rollover Distribution," as defined in Code ~~Section~~ § 402(f)(2)(A), means any distribution of all or any portion of the balance to the credit of the Distributee under the Plan, ~~excluding the following~~ except that an Eligible Rollover Distribution does not include:

(1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made over the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten years or more;

(2) any distribution to the extent to which such distribution is required under Code ~~Section~~ § 401(a)(9);

(3) any distribution which is made upon hardship of the employee; and

~~(4) elective deferrals, as defined in Code Section 402(g)(3), that, pursuant to Treasury Regulation Section §1.415-6(b)(6)(iv), are returned as a result of the application of the Code Section 415 limitations, together with the income allocable to these corrective distributions;~~

~~(5) corrective distributions of excess deferrals as described in §1.402(g)-1(e)(3), together with the income allocable to these corrective distributions~~

~~(6) the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation described in Code Section 402(e)(4)); and~~

~~(4) (7) additional~~ other items designated by regulations, or by the Commissioner of the Internal Revenue Service, in revenue rulings, notices, or other guidance, as items that do not constitute an eligible rollover distribution.

Section 8.02. Direct Transfer of Eligible Rollover Distribution. A Distributee may elect on an Applicable Form to have an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan as specified by the Distributee in a Direct Rollover, at the time and in the manner prescribed by the Plan Administrator. ~~An election may not be made for an amount that is less than two hundred dollars (\$200).~~ An Eligible Rollover Distribution that is paid to an Eligible Retirement Plan in a Direct Rollover is excludable from the Distributee's gross income under Code ~~Section~~ § 402; provided, however, if any portion of such Eligible Rollover Distribution is subsequently distributed from the Eligible Retirement Plan, that portion shall be included in gross income to the extent required under Code ~~Sections~~ § 402, 403, or 408. ~~An election may not be made for an amount that is less than \$200.~~

Section 8.03. Mandatory Withholding of Eligible Rollover Distributions.

(a) If the Distributee of an Eligible Rollover Distribution does not elect to have the Eligible Rollover Distribution paid directly from the Plan to an Eligible Retirement Plan in a Direct Rollover pursuant to Code ~~Section~~ § 401(a)(31), the Eligible Rollover Distribution shall be subject to a mandatory ~~twenty percent (20%)~~ federal income tax withholding under Code ~~Section~~ §

3405(c). Only that portion of the Eligible Rollover Distribution that is not paid directly from the Plan to an Eligible Retirement Plan in a Direct Rollover shall be subject to the mandatory withholding requirement under Code ~~Section~~§ 3405(e).

(b) If a Distributee elects to have an Eligible Rollover Distribution paid to the Distributee, the distribution may be excluded from gross income of the Distributee provided that said distribution is contributed to an Eligible Retirement Plan no later than the ~~sixtieth~~ (60th) day following the day on which the Distributee received the distribution.

(c) If the Plan distribution is not an Eligible Rollover Distribution, said distribution shall be subject to the elective withholding provisions of Code ~~Sections~~§§ 3405(a) and (b).

Section 8.04. Explanation of Plan Distribution and Withholding Requirements.

~~Each Distributee shall be provided, within a reasonable period of time~~ Not fewer than 30 days nor more than 180 days before ~~making~~ an Eligible Rollover Distribution, the Plan Administrator shall provide each Distributee a written explanation as required under Code § 402(f), which explains the rules:

- (1) under which a Distributee may elect to have an Eligible Rollover Distribution paid in a Direct Rollover to an Eligible Retirement Plan;
- (2) that require the withholding of tax on an Eligible Rollover Distribution if it is not paid in a Direct Rollover to an Eligible Retirement Plan;
- (3) that provide that a distribution shall not be subject to tax if the distribution is rolled over to an Eligible Retirement Plan within ~~sixty~~ (60) days after the date the Distributee receives the distribution; and
- (4) if applicable, certain special rules regarding taxation of the distribution as described in Code ~~Sections~~§§ 402(d) and (e).

~~Section VIII.05. Requirements and Procedures. The Plan Administrator shall prescribe procedures as allowed by the regulations to implement the provisions of this Article.~~

Notwithstanding the above, a distribution may begin fewer than 30 days after the notice discussed in the preceding sentence is given, provided that the Vendor clearly informs the Member that he or she has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution and the Member, after receiving a notice, affirmatively elects a distribution.

ARTICLE IX

LOANS

Loans from the Plan ~~shall~~are not ~~be~~ permitted.

ARTICLE X

TRUST

Section 10.01. **Trust.** The Board hereby establishes the Trust to hold the assets of the Plan. The Trust consists of the Principal Account and the Administrative Account. The Trust shall be deemed to form a part of the Plan and all rights of Members or others under this Plan shall be subject to the provisions of the Trust to the extent such provisions are not contradicted by specific provisions of this Plan.

Section 10.02. **Trust Fund.** The Trust Fund shall be received, held in Trust, and disbursed by the Trustees in accordance with the provisions of the Plan. No part of the Trust Fund shall be used for or diverted to purposes other than for the exclusive benefit of Members and their ~~beneficiaries~~Beneficiaries and contingent ~~beneficiaries~~Beneficiaries under this Plan prior to the satisfaction of all liabilities hereunder with respect to them. No person shall have any interest in or right to the Trust Fund or any part thereof, except as specifically provided for in this Plan. The

Trust shall (i) hold, invest, and reinvest the Trust Fund, and (ii) pay money from the Trust Fund, including payments to the ~~Participants~~Members or their ~~beneficiaries~~Beneficiaries under the Plan. A payment order shall specify the purpose or application to be made of payments so ordered, and the Trustees shall not be responsible in any way respecting the purpose of such payments or the application thereof. The Trustees shall be under no duty to enforce payment of any contribution from the Employer and shall not be responsible for the adequacy of the Trust Fund to meet and discharge any liabilities under the Plan. All benefits under the Plan shall be distributed solely from the Trust Fund, and the Employer shall have no liability therefor other than the obligation to make contributions to the Trust Fund as provided in the Plan.

Section 10.03. **Appointment of Trustees.** The Board shall serve as Trustees.

Section 10.04. **Powers of the Trustees.** In administering the Trust Fund, the Trustees have the power in their discretion:

(a) To exercise, or to refrain from exercising, all voting rights with respect to any stocks, bonds or other securities and to grant general or special proxies or powers of attorney with or without power of substitution whether discretionary or otherwise, and to enter into any voting trust or similar agreement;

(b) To register and hold any investment in the name of the Trustees, in the name of one or more of their nominees or in the name of one or more nominees of any system for the central handling of securities, with or without indication of the capacity in which the investment is held, and to hold any investment in bearer form, but the books and records of the Plan shall at all times show that such investments are part of the Trust Fund;

(c) To collect and receive any and all money and other property due to the Trust Fund and to give full discharge therefor;

(d) To employ suitable agents, counsel, and investment managers and to pay their reasonable expenses and compensation from the Trust Fund;

(e) To settle, compromise or submit to arbitration any claims, debts or damages due or owing to or from the Trust, to commence or defend suits or legal proceedings to protect any interest of the Trust, and to represent the Trust in all suits or legal proceedings in any court or before any other body or tribunal;

(f) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted; and

(g) Generally, to do all acts, whether or not expressly authorized, which the Trustees may deem necessary or desirable for the protection of the Trust Fund. However, the Trustees shall operate in compliance with Code ~~Section~~ § 503(b).

Section 10.05. Trustees and Investment Expenses. The expenses incurred by the Trustees in the performance of their duties, including fees for legal services rendered to the Trustees, and all other proper charges and disbursements of the Trustees, shall be paid by the Employer. All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws upon or in respect of the Trust Fund or the income thereof shall be paid from the Trust Fund unless the Employer elects to pay such expenses. Notwithstanding anything contained herein to the contrary, all expenses arising from investment of Plan assets shall be paid from the affected Member's JRA.

Section 10.06. Counsel. The Trustees may consult with counsel, who may be counsel for the Employer, and shall be fully protected in acting upon the reasonable advice of counsel.

Section 10.07. Resignation, Removal, and Appointment of a Board Member. A Board member will be deemed to have automatically resigned as a ~~trustee~~Trustee on the date the individual ceases to be a member of the Board. Whenever an individual becomes a member of the Board, the individual is appointed as a ~~trustee~~Trustee as of the date and time the individual becomes a member of the Board. This provision is self-executing, and no further action is necessary to effectuate a resignation or appointment.

Section 10.08. Limitations of Responsibility and Indemnification. The Trustees' responsibilities and liabilities are be subject to the following limitations:

(a) The Trustees have no duties other than those expressly set forth in this Plan and those imposed on the Trustees by applicable laws.

(b) The Trustees shall be responsible only for money and property actually received by the Trustees.

(c) The Trustees have no duty to make recommendations concerning actions to be taken hereunder or to question the propriety of any action they have been directed to take hereunder with respect to matters falling within the jurisdiction of the Employer, to the extent that the action is consistent with the Plan.

(d) The Trustees shall not be required to give any bond or other obligation to secure the due performance of the Trust by the Trustees, unless required by law.

(e) The Trustees have no liability for the acts or omissions of any predecessors or successors in office.

(f) The Trustees shall have no liability for (i) following directions, including investment directions of any Member, that are given to the Department in accordance with this

Plan; or ~~(h)~~ any loss of any kind that may result by reason of the manner of investment as directed by the Member.

ARTICLE XI

ADMINISTRATION OF THE PLAN

Section 11.01. Plan Administrator.

(a) The Plan Administrator shall be the Administrator of the Courts acting under the direction of ~~the~~ Board. The administration of the Plan is governed by RCW 2.14. The Plan Administrator has authority to control and manage the operation and administration of the Plan. The Plan Administrator shall be the named fiduciary of the Plan. The Plan Administrator has all powers necessary or convenient to enable it to exercise such authority and shall discharge its duties as provided in RCW 2.14.50. As provided in Section ~~16.04~~16.08, the Plan Administrator may delegate its duties under the Plan. The Plan Administrator is authorized to accept service of legal process for the Plan. The Plan Administrator shall represent the Employer in all matters concerning the administration of the Plan. Specifically, the Plan Administrator shall:

- (1) Deposit or invest contributions to the Plan consistent with RCW 2.14.080;
- (2) Credit investment earnings or interest to individual JRAs consistent with RCW 2.14.070;
- (3) Keep or cause to be kept full and adequate Plan records as required by ~~Section 13.03~~Section 12.03; and
- (4) Adopt rules and regulations under the direction of the Board that are necessary to carry out RCW 2.14.

(b) It is intended that the Plan remain a qualified plan under Code ~~Section~~§ 401(a).

Neither the ~~board~~Board, Employer, Plan Administrator, Department, nor WSIB represents or

guarantees that any particular federal or state income, payroll, personal property, or other tax consequence will occur because of a Member's participation in this Plan.

Section 11.02. Expenses of Plan. The expenses incurred by the Plan Administrator in the performance of its duties under this Plan, including staffing and administrative expenses, fees for legal services rendered to the Plan Administrator, and all other proper charges and disbursements of the Plan Administrator shall be borne by the Members and paid out of the Administrative Account. Any deficiency in the Administrative Account caused by an excess of administrative expenses disbursed from the Administrative Account over the balance of the Administrative Account shall be offset by a transfer from the Principal Account pursuant to RCW 2.14.070 to the Administrative Account. Any excess balance of the Administrative Account over administrative expenses disbursed from the Administrative Account shall be transferred to the Principal Account. Members may be charged no more than the same percentage as that charged to State Deferred Compensation Plan ~~participants~~Members for costs of administration. This amount shall be deducted from each Member's JRA and transferred to the Administrative Account as needed, but no more frequently than monthly. However, all expenses incident to the investment of Plan assets in particular types of Investment Option(s) shall be charged against and paid from the affected JRAs or reflected in the return on investment credited to these JRAs.

Section 11.03. Plan Administrator Action Fair and Reasonable.

(a) Every action by the Plan Administrator shall be presumed to be a fair and reasonable exercise of the authority vested in, or the duties imposed upon the Plan Administrator. The Plan Administrator, the Board, and its individual members shall be deemed to have exercised reasonable care, diligence, prudence, and to have acted impartially as to all persons interested, unless the contrary can be proven by affirmative evidence.

(b) The Plan Administrator shall not take any action with respect to any of the benefits provided hereunder or act otherwise in pursuance of the powers conferred herein upon it that would result (i) in benefiting one Member or group of Members at the expense of another, (ii) in discrimination as between Members similarly situated, or (iii) in the application of different rules to a substantially similar set of facts.

Section 11.04. Claims Procedure.

(a) Any person who believes:

- (1) any term or condition of the ~~plan~~ Plan has been incorrectly applied; or
- (2) that the person is denied benefits to which the person entitled to any benefits under the Plan;

shall present a claim in writing to the Plan Administrator. The Plan Administrator shall within ~~ninety (90)~~ days provide adequate notice in writing to any claimant extending the time required to make a decision or indicating the decision made on any such a claim. If such a claim has been denied, in whole or in part, the notice shall set forth (iA) the specific reasons for such denial, (iiB) the specific reference to any pertinent provisions of the Plan on which the denial is based, and (iiiC) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary. Such notice shall be written in a manner calculated to be understood by the Member. Within ~~sixty (60)~~ days after receipt by the claimant of notification of denial, the claimant shall have the right to present a written appeal to the Plan Administrator. If such an appeal is not filed within the required ~~sixty (60)~~ day period, the decision of the Plan Administrator shall be final and binding. The Plan Administrator shall act as a fiduciary in making a full and fair review of such a denial. The

claimant or his duly authorized representative may review any Plan documents that are pertinent to the claim and may submit issues and comments to the Plan Administrator in writing.

(b) A decision by the Plan Administrator shall be made promptly, and in any event not later than ~~sixty (60)~~ days after its receipt of the appeal; provided, however, if the Plan Administrator decides that a hearing, at which the claimant or the claimant's duly authorized representative may be present, is necessary and such a hearing is held, the decision shall be rendered as soon as possible, but not later than ~~one hundred twenty (120)~~ days after its receipt of the appeal unless mutually agreed upon by all parties. Any such decision of the Plan Administrator shall be in writing and provide adequate notice to the claimant setting forth the specific reasons for any denial and written in a manner calculated to be understood by a Member. Such a decision by the Plan Administrator shall be final.

~~**Section XI.05. Unclaimed Benefit Payments.** If any payment of a benefit hereunder, which has been mailed by regular United States first class mail to the last address of the payee is returned unclaimed to the Department, further payments to such payee shall be discontinued.~~

Section 11.05. ~~**Section XI.06. Questions of Interpretation.**~~ The Plan Administrator shall have the power to construe the Plan and to determine all questions of fact or law arising under the Plan. It may correct any defect, supply any omission or reconcile any inconsistency in the Plan in such manner and to such extent as it may deem expedient and subject to provisions of the Plan regarding claims to benefits, the Plan Administrator is the sole and final judge of such expediency. During any period that the Plan Administrator uses the investment resources of the Department, the Plan shall be interpreted, insofar as possible, in a manner consistent with the ~~Internal Revenue~~ Code as it applies to a qualified governmental defined contribution plan under Code ~~Sections~~§§ 401(a) and 414(d). The Plan Administrator or Department, if in doubt concerning an interpretation

regarding the correctness of making a distribution of Accumulated Contributions, may suspend distributions until satisfied that the amount or recipient of the distribution is correct. The suspension may continue so long as necessary to allow the filing of a state court civil action seeking a determination of the correct amount or recipient. The Plan Administrator and the Department shall comply with the court's final order and the Member and Member's Beneficiaries consent to be bound by the court's order. Whenever a suspension of distributions is in effect, the time for a Member or Beneficiary to make an election under Article VI is tolled until determination of the correct amount or recipient is made.

Section 11.06. ~~Section XI.07.~~ **Reliance.** If the Plan Administrator or any other fiduciary with respect to the Plan acts in reliance on an election, consent, or revocation made pursuant to the Plan, the election, consent, or revocation shall be treated as valid for purposes of discharging the Plan from liability to the extent of payments made pursuant to such acts.

ARTICLE XII

NONALIENATION OF BENEFITS

~~Section XII.01. Nonalienation. A benefit under the Plan, prior to actual receipt thereof by a Member or a Beneficiary, shall not be liable for any debt, liability, contract, engagement or tort of any Member or the Member's Beneficiary, nor subject to anticipation, sale, assignment, transfer, encumbrance, pledge, charge, attachment, garnishment, execution, alienation, or other voluntary or involuntary alienation or other legal or equitable process, nor transferable by operation of law, except as provided in this Article.~~

~~Section XII.02. Internal Revenue Service Levy. The Plan Administrator may pay from a Member's or Beneficiary's JRA the amount that the Plan Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Member or Beneficiary or~~

~~is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Member or Beneficiary.~~

~~ARTICLE XII~~ **ARTICLE XIII**

INVESTMENT OPTIONS

Section 12.01. ~~**Section XIII.01.**~~ **Investment Policy.** The investment policy of the Plan shall include allowing Members to direct investment of all of the Member's JRA under the Plan among Investment Option(s).

Section 12.02. ~~**Section XIII.02.**~~ **Investment Options.**

(a) The WSIB or the Department, at the request of the Plan Administrator, may invest moneys in the Principal Account. Moneys invested by the WSIB shall be invested in accordance with RCW 43.33A.140. Moneys invested by the Department shall be invested in accordance with applicable law. Except as provided in RCW 43.33A.160 or as necessary to pay a pro rata share of expenses incurred by the Department, one hundred percent (100%) of all earnings from these investments, exclusive of investment income pursuant to RCW 43.84.080, shall accrue directly to the Principal Account.

(b) The Plan Administrator has entered into an agreement with the WSIB for investment and accounting services pursuant to RCW 2.14.080. The WSIB shall be the sole provider of Investment Option(s). WSIB shall select a range of Investment Option(s) from time to time and make that range available to the Members for their selection. The WSIB is not required to invest any amount in the specific investment selected. The WSIB may:

- (1) open, change, or close investment options according to its investment policy; or
- (2) ~~change~~ investment managers for any investment option.

When an investment option is closed or substantially changed, the WSIB may transfer the funds invested in that option to the investment option that, in the Board's judgment, most closely represents the investment characteristics of the investment option being closed or changed.

(c) Each Member shall elect Investment Option(s) into which contributions on the Member's behalf shall be invested and the percentage of the contribution that shall be invested into each Investment Option. This election shall be made by completing the Participation Agreement and filing the Agreement with the Department in accordance with procedures established by the Plan Administrator or Department. If a Member does not make a valid election with respect to the Investment Option(s), the WSIB shall invest the Member's contributions on the Member's behalf into a fixed account.

(d) A Member may change an Investment Option after filing a valid Participation Agreement by using one of the following methods:

- (1) A Department Voice Response Unit.
- (2) Internet access.
- (3) By telephone to the Department's client services.

(e) Action by the WSIB or by the Department may not be considered an endorsement or guarantee of any Investment Option. Such an action may not be considered an attestation to the financial soundness or the suitability of any Investment Option for any purpose.

Section 12.03. Plan Records. The Plan Administrator shall keep, or cause to be kept, accurate and detailed account of all investments, receipts, disbursements, and other transactions of the Plan's assets, and all accounts, books and records relating thereto shall be open to inspection and audit at all reasonable times by any person designated by the Board. Following the close of each Plan Year, the Plan Administrator shall file with the Board a copy of the annual report

furnished by the WSIB within 60 days of receipt. The report shall be open to inspection during regular business hours by representatives of the Board for a period of 60 days immediately following the date on which the report is filed with the Board. Upon the expiration of such 60 day period, the Plan Administrator or designee shall be forever released and discharged from all liability and accountability to anyone with respect to the propriety of acts and transactions shown in the report, except with respect to any such acts or transactions as to which the Board shall have filed written objections with the Plan Administrator within such 60 day period.

Section 12.04. Prohibited Transactions. The Plan Administrator, WSIB, and the Trustees shall not engage in any action or make any investment that would violate the Code or any other applicable law.

ARTICLE XIII~~Section XIII.03. PLAN RECORDS.~~

TERMINATION OF PLAN

~~Section XIII.04. Prohibited Transactions.~~

So long as contributions are being made to the Plan at the rate established by law and matched by the State or being made by the Member, the Plan may not be terminated. The Plan may only be closed prospectively. In the case of the complete or partial termination of the Plan, including a termination arising from the complete discontinuance of contributions to the Plan, each affected Member or Member's Beneficiary shall be paid the Member's entire Accumulated Contributions balance in accordance with Article VI.

ARTICLE XIV

~~TERMINATION OF PLAN~~AMENDMENT PROCEDURE

~~ARTICLE XV~~

~~AMENDMENT PROCEDURE~~

Section 14.01. ~~**Section XV.01.**~~ **Amendment for Qualification of Plan.** It is the intent of the Employer that the Plan shall be and remain qualified for tax purposes under the Code. The Plan Administrator shall promptly submit the Plan for approval under the Code and all expenses incident thereto shall be borne by the Plan. The Board may make any modifications, alterations or amendments to the Plan necessary to obtain and retain approval of the Secretary of Treasury or his delegate as may be necessary to establish and maintain the status of the Plan as qualified under the provisions of the Code or other federal legislation, as now in effect or hereafter enacted, and the regulations issued thereunder. Any modification, alteration, or amendment of the Plan, made in accordance with this Section, may be made retroactively, if necessary or appropriate. A certified copy of the resolution of the Board making any amendment shall be delivered to the Members, and the Plan shall be amended in the manner and effective as of the date set forth in the resolution, and the Board, Employer, Members, Trustee, Beneficiaries, Plan Administrator, Department, the WSIB, and all others having any interest under the Plan shall be bound thereby.

Section 14.02. ~~**Section XV.02.**~~ **Other Amendments.** Subject to RCW 2.14, the Board has the right, in its sole and final discretion, to amend the Plan at any time and from time to time to any extent which it may deem advisable. A resolution of the Board is required, and the Plan shall be amended or terminated in the manner and effective as of the date set forth in such resolution, and the Board, Employer, Members, Trustee, Beneficiaries, Plan Administrator, Department, WSIB, and all others having any interest under the Plan shall be bound thereby; provided, however, that no such action shall operate to recapture for the Employer any contributions or payments previously made to the Plan.

Section 14.03. ~~Section XV.03.~~ **Member Rights.** A Member does not have a contractual or any other right to continued application of any rule or regulation. A Plan Amendment may not be applied retroactively unless necessary to comply with the law.

~~ARTICLE XV~~ **ARTICLE XVI**

MISCELLANEOUS

Section 15.01. ~~Section XVI.01.~~ ~~Nondiversion~~ **Nonalienation.**

(a) A member's JRA shall not be liable for any debt, liability, contract, engagement or tort of any Member or Beneficiary, nor subject to anticipation, sale, assignment, transfer, encumbrance, pledge, charge, attachment, garnishment, execution, alienation, or other voluntary or involuntary alienation or other legal or equitable process, nor transferable by operation of law.

(b) Notwithstanding paragraph (a), the Plan shall comply with any judgment, decree or other order (including approval of a property settlement agreement) ("domestic relations order") which establishes the right of an alternate payee within the meaning of Code § 414(p)(8) to all or a portion of a Member's benefit under the Plan to the extent that it is a "qualified domestic relations order" ("QDRO") under Code § 414(p). The Plan Administrator shall establish reasonable written procedures to determine whether a domestic relations order is a QDRO and to administer the distribution of benefits with respect to such orders, which procedures may be amended from time to time. Notwithstanding any other provisions in the Plan, the Plan may make an immediate distribution to the alternate payee pursuant to a QDRO.

(c) Notwithstanding paragraph (a), the Plan shall offset from the benefit otherwise payable to a Member or his or her Spouse such amounts as are permitted to be offset under a court order, civil judgment, or settlement agreement in accordance with Code § 401(a)(13)(C).

Section 15.02. **No Reversion.**

(a) ~~Except as provided in subsection (b), the assets of the Plan shall never~~Under no circumstances or conditions will any Employer contributions revert to, be paid to, or inure to the benefit of, directly or indirectly, the Employer ~~and~~but shall be held for the exclusive purposes of providing benefits to Members ~~in the Plan~~ and their ~~beneficiaries~~Beneficiaries and defraying the reasonable expenses of administering the Plan.

(b) ~~However, if in the case of a contribution which is~~Employer contributions are made by the Employer ~~under a~~by mistake of fact, ~~such contribution shall~~these amounts and, if applicable, any interest earned therein, may be returned to the Employer, ~~upon demand,~~ within one ~~(1)~~ year ~~after the payment~~ of the ~~contribution~~date that they were made.

(c) Contributions by the Employer and Member are conditioned on the initial qualification of the Plan under the Code and the continued qualification of the Plan as a result of Plan amendment, and if the Plan does not so qualify initially or as a result of amendment, then such contributions shall be returned to the contributing Employer or Member, upon demand, within one ~~(1)~~ year after the date of denial of qualification of the Plan.

Section 15.03. Missing or Lost Members. In the event that the Plan Administrator does not have current contact information for or is unable to identify a Member or Beneficiary under the Plan, the Plan Administrator shall make reasonable attempts to determine the address and identity of the Member or Beneficiary entitled to benefits under the Plan. A reasonable attempt to locate a missing or lost Member or Beneficiary shall include: (a) providing notice to the Member or Beneficiary at the last known address via certified mail; (b) determining whether the Employer's records or the records of another plan maintained by the Employer has a more current address for the Member or Beneficiary; (c) attempting to contact any named Beneficiary of the Member; and (d) searching for the missing Member or Beneficiary via free electronic search tools.

such as Internet search engines, public record databases, obituaries, and social media. If such search methods are unsuccessful, based on the facts and circumstances, the Plan Administrator may use other search methods, including using Internet search tools, commercial locator services, credit reporting agencies, information brokers, investigation databases, and analogous services that may involve charges. The Plan Administrator may charge missing Members and Beneficiaries reasonable expenses for efforts to find them.

Section 15.04. Military Service.

(a) Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with USERRA, HEART, Code § 414(u), and Code § 401(a)(37). For purposes of this Section, "qualified military service" means any service in the uniformed services as defined in USERRA by any individual if such individual is entitled to reemployment rights under USERRA with respect to such service.

(b) If a Member timely resumes employment with the Employer in accordance with USERRA, the Employer shall make the employer contributions that would have been made if the Member had remained employed during the Member's qualified military service. Employer contributions must be made no later than 90 days after the date of reemployment or when Employer contributions are normally due for the year in which the qualified military service was performed, if later.

(c) To the extent provided under Code § 401(a)(37), in the case of a Member whose employment is interrupted by qualified military service and who dies while performing qualified military service, the survivor of such Member shall be entitled to any additional benefit (other than

benefit accruals) provided under the Plan as if the Member timely resumed employment in accordance with USERRA and then, on the next day, terminated employment on account of death.

(d) Differential wage payments within the meaning of Code § 414(u)(12)(D) shall be treated as Compensation under the Plan.

Section 15.05. Erroneous Payments. If the Plan Administrator makes any payment that according to the terms of the Plan and the benefits provided hereunder should not have been made, the Plan Administrator may recover that incorrect payment, by whatever means necessary, whether or not it was made due to the error of the Plan Administrator, from the person to whom it was made or from any other appropriate party.

Section 15.06. ~~Section XVI.02.~~ Merger, Consolidation of Plans or Transfer of Plan Assets. In the case of any merger or consolidation with, or transfer of assets or liabilities to, any other plan, each Member in the Plan shall be entitled to a benefit (as if the Plan had been terminated) immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (as if the Plan had been terminated).

Section 15.07. ~~Section XVI.03.~~ Capacities. Any person or a group of persons may serve in more than one fiduciary capacity with respect to the Plan.

Section 15.08. ~~Section XVI.04.~~ Delegation of Authority. The Board, Plan Administrator, or the Department may delegate its functions to be performed under this Plan to any designee with legal authority to perform the function.

Section 15.09. ~~Section XVI.05.~~ Allocation of Fiduciary Responsibilities. Each fiduciary under the Plan shall be responsible only for the specific duties assigned under the Plan and shall not be directly or indirectly responsible for the duties assigned to another fiduciary. No

fiduciary of the Plan shall be liable for any act or omission in appropriately carrying out his responsibilities under the Plan.

[Section 15.10.](#) ~~[Section XVI.06.](#)~~ **No Right to Employment.** Nothing contained in the Plan shall confer on any Member a right to continue in the employ of an Employer as an employee or otherwise.

~~[Section XVI.07. Military Service.](#)~~ Notwithstanding any other provision in the Plan to the contrary, the Plan shall be administered and construed in a manner that complies with the applicable provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and Code Section 414(u).

[Section 15.11.](#) ~~[Section XVI.08.](#)~~ **Counterparts.** The Plan may be executed in any number of counterparts, each of which shall be deemed to be an original. All counterparts shall constitute but one and the same instrument and shall be sufficiently evidenced by any one counterpart.

IN WITNESS WHEREOF, the Board and the Plan Administrator has caused the Plan to be amended and restated as of the date ~~and year first above~~ written below, but effective as of _____, 2021.

"BOARD"

BOARD FOR JUDICIAL ADMINISTRATION
WASHINGTON STATE ADMINISTRATIVE
OFFICE OF THE COURTS
1206 Quince Street
P.O. Box 41170
Olympia, WA 98504-1170

By: _____

Title: Chair, Board for Judicial Administration

Name Printed: Chief Justice Gerry Alexander

ATTEST:

By: _____

Title: Interim State Court Administrator

Name Printed: N. A. Stussy

ATTEST:

By: _____

Title: _____

Summary report: Litera® Change-Pro for Word 10.9.2.0 Document comparison done on 7/27/2021 11:21:24 AM	
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Original filename: Washington JRA 401(a) Plan and Trust Amended and Restated as of November 17 2006-c.docx	
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Delete	408
Move From	28
Move To	28
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	862

STATE OF WASHINGTON

JUDICIAL RETIREMENT ACCOUNT

401(a) PLAN AND TRUST

Amended and Restated as of _____, 2021

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STATE OF WASHINGTON
JUDICIAL RETIREMENT ACCOUNT

401(a) PLAN AND TRUST

Pursuant to the Judicial Retirement Account Act ("Act") enacted by the Washington State Legislature in 1988 (1988 c 109) and amended in 1989, 1991, and 1996, and codified as chapter 2.14 RCW, the state of Washington has established a Judicial Retirement Account Plan ("Plan") as a supplemental retirement benefit for those judges who are elected or appointed under Chapter 2.04, 2.06, or 2.08 RCW and who are not active members of the Judicial Retirement System Act established by RCW 2.10.

WITNESSETH THAT:

WHEREAS, the Board for Judicial Administration implemented the Plan for eligible employees as a qualified plan under Code § 401(a) and it is intended that the Plan remain a qualified plan under Code § 401(a);

WHEREAS, the Washington State Legislature has amended the Act from time to time by the following enactments: 1989 c 139; 1991 sp.s. c 13; 1996 c 39; 1998 c 245; 2005 c 282; 2006 c 189; and 2009 c 521;

WHEREAS, the Board for Judicial Administration has amended the Plan from time to time to comply with the Act and to make other changes permitted by the Act, with the last Restatement dated November 17, 2006;

WHEREAS, the Board for Judicial Administration desires to amend the Plan to make changes necessary to ensure that the Plan remains in compliance with the Internal Revenue Code of 1986, as amended;

WHEREAS, the Board for Judicial Administration desires to restate the Plan in its entirety;

NOW, THEREFORE, the Plan is amended and restated to read as follows:

ARTICLE I

PLAN

The Judicial Retirement Account 401(a) Plan established under the Act is hereby amended and restated effective the ____ day of _____, 2021, by the Board for Judicial Administration for the purpose of providing retirement benefits to judges as provided by the Act. The Plan is a money purchase pension plan and a governmental plan within the meaning of Code § 414(d).

ARTICLE II

DEFINITIONS AND CONSTRUCTION

Section 2.01. Construction and Governing Law.

The Plan shall be interpreted, enforced, and administered in accordance with the Code, the laws of the state of Washington, this Plan document, and any rules adopted by the Board. If any Applicable Form or other document conflicts with any of the foregoing, the Plan prevails.

Section 2.02. Definitions. When the initial letter of a word or phrase is capitalized herein, the meaning of such word or phrase shall be as follows:

(a) "Accumulated Contributions" means the total amount deposited to a Member's JRA under RCW 2.14.090(1) and (2), adjusted until date of payment by income, increases, or decreases in investment value, and any fees allocated to the account as authorized by RCW 2.14.060.

(b) "Administrative Account" means the judicial retirement administrative account established by RCW 2.14.070 from which all expenses of the Plan, including staffing and administrative expenses, may be paid.

(c) "Allocation Date" means December 31 of each Plan Year.

(d) "Applicable Form" means a document prescribed by the Plan Administrator to make any election or provide any notice required by the Plan. In those circumstances where a

written election or consent is not required by the Plan or the Code, the Plan Administrator may prescribe an electronic or telephonic form in lieu of or in addition to a written form.

(e) "Beneficiary" means a person designated by the Member pursuant to Section 6.04 of this Plan, or if there is no such designated person or persons still living at the time of the Member's death, the Member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no such surviving spouse, then the Member's estate.

(f) "Board" means the Board for Judicial Administration created by rules promulgated by the Supreme Court of Washington.

(g) "Code" means the Internal Revenue Code of 1986, as amended from time to time.

(h) "Compensation" means the gross salary paid to a Member pursuant to RCW 43.03.012. However, Compensation shall not exceed \$290,000 for 2021, as adjusted for cost-of-living increases in accordance with Code § 401(a)(17).

(i) "Department" means the Department of Retirement Systems created by RCW 41.50.020.

(j) "Effective Date" means January 1, 2021, unless otherwise stated herein.

(k) "Employer" means the state of Washington, acting through the following state agencies: The Administrative Office of the Courts, Court of Appeals, or Supreme Court, notwithstanding that the salary of one or more Members may have been shared between the state of Washington and a county.

(l) "Investment Option" means an investment option selected by the Washington State Investment Board and made available to the Members pursuant to Section 12.02.

(m) "Judge" means an individual serving as a superior, appellate, or supreme court judge elected or appointed under RCW Chapter 2.04, 2.06, or 2.08.

(n) "Judicial Retirement Account" or "JRA" means, a bookkeeping account established by the Employer, Plan Administrator, or Department to account for a Member's Accumulated Contributions.

(o) "Member" means a Judge participating in the Plan under Article III.

(p) "Participation Agreement" means an agreement on the Applicable Form executed and filed by a Member with the Department which allows the Member to participate in investment options made available through the Department.

(q) "Plan" means the Judicial Retirement Account Plan created and restated herein, as amended from time to time.

(r) "Plan Administrator" means the Administrator of the Courts as specified in RCW 2.14.040. To the extent that the Administrator of the Courts delegates any of the Administrator of the Courts' responsibilities as Plan Administrator, the person, department, or committee to whom such delegation is made shall be treated as the Plan Administrator to the extent of such delegation.

(s) "Plan Year" means a calendar year.

(t) "Principal Account" means the judicial retirement principal account established by RCW 2.14.060.

(u) "RCW" means the Revised Code of the state of Washington.

(v) "Separation from Service" means separation from judicial service as that term is interpreted for purposes of Code § 402(e)(4)(D)(i)(III).

(w) "Trust" means the trust as created by this Plan.

(x) "Trust Fund" means all the cash, securities, or other property together with income therefrom held by the Trustees pursuant to the terms of this Plan.

(y) "Trustees" means the members of the Board.

(z) "Washington State Investment Board" or "WSIB" refers to the Washington State Investment Board that is under contract with the Plan Administrator for investment and accounting services pursuant to provisions set forth in RCW 2.14.

ARTICLE III

PARTICIPATION

Section 3.01. Participation Standards. A Judge is eligible to participate upon becoming a member of any of those pension plans established under Title 41 of the RCW. Members of the Board, who are otherwise eligible, shall participate in the Plan under the same terms and conditions applicable to other members but an individual member may not take part in any Board action taken with respect to that Member's participation in the Plan.

Section 3.02. Change in Employment Status.

(a) If a Member ceases to be eligible to participate in the Plan due to a change in employment status while remaining an employee of the Employer, the Member shall cease to actively participate in the Plan as of the date of such a change in status.

(b) If a Member described in paragraph (a) again is in an employment status allowing him to participate in the Plan, the Member shall immediately participate in the Plan.

(c) If an individual who is not a Member becomes eligible to participate in the Plan due to a change in employment status, the individual shall immediately become a Member upon the change in employment status.

(d) If a Member receives a distribution of Accumulated Contributions, the withdrawn Accumulated Contributions may not be returned to the Member's JRA.

Section 3.03. Completion of Forms by Members and Beneficiaries. Each Member and any Beneficiary eligible to receive, or claiming a right to receive, any benefits under the Plan

shall complete the Applicable Forms and furnish such proofs and information as may be required at any time by the Board, the Plan Administrator, the Department, or the WSIB.

ARTICLE IV

CONTRIBUTIONS

Section 4.01. Contributions.

(a) The contributions shall be collected by the Plan Administrator, deposited in the Principal Account and allocated to the Member's JRA.

(b) All benefits under the Plan shall be distributed solely from a Member's JRA, and the Employer shall have no liability therefor other than the obligation to make contributions as provided in Section 4.03.

(c) Accumulated Contributions are exempt from any state, county, municipal or local tax.

Section 4.02. Member Contributions.

(a) The Member shall contribute into the Plan an amount equal to 2.5% of the Member's Compensation, which shall be deducted from the Member's Compensation.

(b) Although designated as Member contributions, the Employer shall pick up and pay the Member's contribution in lieu of the Member. The Employer may pick up the contribution through a reduction in salary, an offset against future salary increases, or a combination of both. The Member has no option to receive the amounts picked up directly instead of having the amounts paid to the Plan.

(c) It is intended that a contribution will not be considered as current Compensation pursuant to Code § 414(h)(2) for purposes of federal income taxation. However, contributions shall be considered in determining a Member's benefits or rights under the Employer's group insurance, other retirement plans, and for purposes of federal Social Security laws.

Section 4.03. Employer Contributions. The Employer shall make contributions equal to the Member's contribution. The Employer contribution shall be made on a monthly basis.

Section 4.04. Code § 415 Limitations on Contributions. Notwithstanding any provision of the Plan to the contrary, Member contributions to the Plan and additions to a Member's JRA shall be limited as provided in Code § 415 as provided in this Section 4.04:

(a) To the extent required under Code § 415(c), in no event shall the "annual addition," as defined in this Section 4.04 for a Member for any Plan Year, exceed the lesser of:

(1) \$58,000 for 2021, as adjusted under Code § 415(d) or

(2) 100% of the "compensation," as defined in this Section 4.04, such Member received during the Plan Year.

(b) For purposes of this Section 4.04 and subject to Code § 415(h), all defined contribution plans of the Employer are to be treated as a single defined contribution plan.

(c) For purposes of this Section 4.04, "annual addition" means the annual addition as defined in Code § 415(c). In general, Code § 415(c) defines the annual addition as the sum of the Employer contributions and Member contributions credited to a Member's JRA for the limitation year under this Plan and any other defined contribution plan maintained by the Employer.

(d) For purposes of this Section 4.04, "compensation" means annual salary as specified in RCW 43.03.012. However, compensation shall also include the amount of any elective deferrals, as defined in Code § 402(g)(3), and any amount contributed or deferred by the Employer at the election of the Member and which is not includible in the gross income of the Member by reason of Code § 125, 132(f)(4) or 457.

(e) If a Member has contributions to the Plan and contributions to another qualified defined contribution plan sponsored by the Employer for the Plan year, the Annual Addition for

the Member, determined without regard to the limitation of paragraph (b), exceeds the Annual Addition for such Member as limited by paragraph (b), then the excess will be corrected as permitted under the Employee Plans Compliance Resolution System (or similar Internal Revenue Service correction program).

(f) A Member who is in qualified military service (within the meaning of Code § 414(u)(1)) shall be treated as receiving compensation from the Employer during such period of qualified military service equal to (1) the compensation the Member would have received during such period if the Member were not in qualified military service, determined based on the rate of pay the Member would have received from the Employer but for the absence during the period of qualified military service, or (2) if the compensation the Member would have received during such period was not reasonably certain, the Member's average compensation from the Employer during the 12 month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

ARTICLE V

ACCOUNTING

Section 5.01. **Member Accounts.** To facilitate an orderly administration of the Plan, a Judicial Retirement Account for each Member shall be maintained by the Plan Administrator pursuant to the terms of the Plan. The Plan Administrator may cause the accounts to be maintained through an agreement with the Department. The JRA shall reflect the record of the Member's interest under the Plan attributable to the contributions of the Employer and Member.

Section 5.02. **Allocation of Contributions.** The Plan Administrator shall allocate the Employer's and Member's contribution to each Member's JRA, pursuant to Article IV. A sub-account shall be maintained for each Member as may be necessary to properly account for the Investment Option selected by the Member.

Section 5.03. **Determination of Judicial Retirement Account.** The Plan Administrator shall determine the value of each Member's JRA as of the end of each Plan Year, or more frequently at the discretion of the Plan Administrator, based on the Investment Option(s) selected by the Member, pursuant to Section 12.02, and the fair market value of the JRA.

Section 5.04. **Value of Judicial Retirement Account.** The value of a Member's JRA as of any valuation date shall be the value of the JRA balance as determined by the Plan Administrator.

Section 5.05. **Termination of Agreement with Department.** The agreement between the Plan Administrator and the Department may be terminated in accordance with the agreement or applicable laws. Plan investments held by the Department at the expiration or termination of the agreement with the Department shall, at the Department's option, be tendered in-kind or liquidated and tendered in cash to the Plan Administrator.

ARTICLE VI

BENEFITS

Section 6.01. **Distribution of Benefits.** The Plan Administrator shall distribute benefits upon a Member's Separation from Service or death. The Plan Administrator shall distribute to a Member or the Member's Beneficiary any amount to which the Member or Beneficiary is entitled under the Plan. The Member must make an election to receive benefits on the Applicable Form. The Applicable Form must be received at least 30 days before the distribution will commence. If a Member's Applicable Form is not received, distributions will commence to the Member according to the minimum distribution requirements of Section 6.05.

Section 6.02. **Separation from Service Benefits.** A Member who Separates from Service for any reason other than death is entitled to receive benefits in:

- (a) a lump sum distribution of the Member's Accumulated Contributions;

- (b) periodic payments; or
- (c) an annuity contract;

in accordance with the Investment Option elected by the Member or Beneficiary. A distribution may be made as an eligible rollover distribution to an eligible retirement plan as provided in Article 6.06.

Section 6.03. **Required Minimum Distribution Rules.**

(a) Notwithstanding any provision of this Plan to the contrary, the requirements of this Section 6.03 shall apply to any distribution of a Member's interest. All distributions under the Plan shall be made in accordance with Code § 401(a)(9) and the regulations thereunder, including the incidental benefit rules under Code § 401(a)(9)(G), and the changes under the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE Act"), and any regulatory guidance issued thereunder.

(b) A Member's JRA shall be distributed, or begin to be distributed, to the Member beginning no later than April 1 of the calendar year following the later of (1) the calendar year in which the Member reaches age 72 (age 70½ if the Member was born on or before June 30, 1949), or (2) the calendar year in which the Member has a Separation from Service.

(c) No payment option may be selected by a Member unless the amounts payable to the Member are expected to be at least equal to the minimum distribution required under Code § 401(a)(9).

(d) If the Member's interest is distributed in the form of periodic payments, the periodic payment must be at least \$50 per month (if paid monthly) or \$600 per year.

Section 6.04. **Beneficiaries.** Each Member may designate on the Applicable Form filed with the Department one or more primary and contingent Beneficiaries to receive any benefits

payable under the Plan upon the Member's death. A contingent Beneficiary shall receive benefit payments only if there is no surviving primary Beneficiary. In the absence of such a designation by an unmarried Member, the benefits shall be paid to the Member's estate. If a Member is married and has not designated a primary beneficiary other than the Member's spouse, the Member's primary beneficiary shall be the Member's spouse as if the Member designated the spouse. A Member may change the Member's beneficiary designation at any time by filing the Applicable Form with the Department. If a Beneficiary does not survive the Member by at least 30 days, the Beneficiary shall be treated as if the Member had not designated the Beneficiary.

Section 6.05. Payments to Beneficiaries. A Member's JRA or portion thereof to be received by a Beneficiary may be paid in the form of a single lump-sum payment, periodic payments, or annuity subject to the required minimum distribution rules in Section 6.06.

Section 6.06. Required Minimum Distributions Upon Death of Member before January 1, 2022.

(a) **Member Death Before Distributions Begin.** If a Member dies before distributions begin, the Member's Account will be distributed, or begin to be distributed, no later than as follows:

(1) If the designated Beneficiary is not the Member's surviving spouse, distributions after the Member's death must either (A) begin to be distributed no later than December 31 of the calendar year immediately following the year of the Member's death, payable over a period not to exceed the Beneficiary's life expectancy; or (B) be distributed no later than December 31 of the calendar year containing the fifth anniversary of the Member's death.

(2) If the designated Beneficiary is the Member's surviving spouse, distributions after the Member's death must begin to be distributed by the later of December

31 of the calendar year immediately following the year of the Member's death or December 31 of the calendar year in which the Member would have attained age 72 (if the Member was born after June 30, 1949) or age 70½ (if the Member was born before July 1, 1949). Payments to a surviving spouse must be made over a period not to exceed the surviving spouse's life expectancy. Alternatively, the surviving spouse may elect to receive a total distribution of the Member's JRA by no later than December 31 of the calendar year containing the fifth anniversary of the Member's death.

(3) If there is no designated Beneficiary, the Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(b) Member Death After Distributions Begin. If required minimum distributions under Code § 401(a)(9) have begun prior to the death of the Member, the remaining portion of the Member's JRA shall be distributed to the Beneficiary at least as rapidly as under the method of distribution in effect prior to the Member's death. If the Member's Beneficiary is an organization, trust, or estate, the distribution shall be made at least as rapidly as under the method of distribution in effect prior to the Member's death.

Section 6.07. Required Minimum Distributions Upon Death of Member on or after January 1, 2022.

(a) If the Member dies before the distribution of the Member's JRA (regardless of whether any distribution had begun before the Member's death) and the Member has a Designated Beneficiary:

(1) The entire JRA shall be distributed to the Designated Beneficiary by December 31 of the calendar year containing the tenth anniversary of the Member's death.

(2) Notwithstanding paragraph (1), if the Designated Beneficiary is an Eligible Designated Beneficiary, then the Eligible Designated Beneficiary may elect for the Member's JRA to be distributed (A) by December 31 of the calendar year containing the tenth anniversary of the Member's death, or (B) beginning no later than December 31 of the calendar year immediately following the calendar year in which the Member died, over the life of the Eligible Designated Beneficiary or over a period not exceeding the life expectancy of the Eligible Designated Beneficiary. If the Eligible Designated Beneficiary is the surviving spouse, payment under item (B) is not required until the later of December 31 of the calendar year immediately following the calendar year in which the Member died or December 31 of the calendar year in which the Member would have attained age 72 (age 70½ if the Member was born on or before June 30, 1949). If the Eligible Designated Beneficiary does not elect a method of distribution as provided above, the Member's JRA shall be distributed in accordance with item (B).

(3) Upon either (A) the death of an Eligible Designated Beneficiary before distribution of the Member's JRA or (B) the attainment of the age of majority for an Eligible Designated Beneficiary who is a minor child, paragraph (2) shall no longer apply, and the remainder of the JRA shall be distributed under paragraph (1).

(4) If the Member dies before distributions of the Member's JRA begins and the Member has no Designated Beneficiary, the Member's JRA shall be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death. If the Member dies after distribution of the Member's JRA begins and the Member has no Designated Beneficiary, any remaining portion of the JRA shall continue to be distributed

at least as rapidly as under the method of distribution in effect at the time of the Member's death.

(5) Notwithstanding the foregoing, any payment to an estate, charitable organization, or a trust shall be made in a lump sum.

(b) For purposes of this Section 6.07, the following definitions apply:

(1) "Designated Beneficiary" means the individual who is designated as the Beneficiary under Section 6.04 and who meets the definition under Code § 401(a)(9)(E)(i) and Treas. Reg. §1.401(a)(9)-4.

(2) "Eligible Designated Beneficiary" means a designated Beneficiary who, as of the date of the death of the Member, is: (i) the surviving spouse of the Member; (ii) a child of the Member who has not reached the age of majority; (iii) disabled within the meaning of Code § 72(m)(7); (iv) chronically ill within the meaning of Code § 7702B(c)(2) (except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature); or (v) any other individual who is not more than ten years younger than the Member. Notwithstanding the preceding, a child described in (ii) above shall cease to be an Eligible Designated Beneficiary as of the date the child reaches the age of majority within the meaning of Code § 401(a)(9)(F).

Section 6.08. **Charge or Discount.** Notwithstanding anything in this Plan to the contrary, any surrender charge assessed against a Member's JRA by any Investment Option shall reduce the amount of the benefit payable to the Member.

Section 6.09. **Persons Under Legal Disability.** If any benefit is payable to a minor or other person under legal disability, the Plan Administrator shall direct that such payments shall be made to the legal guardian of such person or to such other person or organization as a court of competent jurisdiction may direct. The Employer, the Plan Administrator, the Trustees, and the Plan shall not be responsible for the application of such payments.

Section 6.10. **Payments at Direction of the Plan Administrator.** Any benefit payable under the Plan shall be paid only by the Department at the written direction of the Plan Administrator following completion of any Applicable Forms. Benefits under the Plan will be paid only if the Plan Administrator decides in its discretion that the Member is entitled to benefits.

Section 6.11. **Waiver of 2020 Required Minimum Distributions.** A Participant or Beneficiary who would have been required to receive required minimum distributions for 2020 (or paid in 2021 for the 2020 calendar year for a Participant with a required beginning date of April 1, 2021) but for the enactment of Code § 401(a)(9)(I) ("2020 RMDs"), and who would have satisfied that requirement by receiving distributions that are either 1) equal to the 2020 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2020 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's Designated Beneficiary, or for a period of at least 10 years ("Extended 2020 RMDs") will receive these distributions unless the Participant or Beneficiary chooses not to receive the distributions. Participants and Beneficiaries will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. For purposes of the direct rollover provisions of the Plan, 2020 RMDs and Extended 2020 RMDs also will be treated as eligible rollover distributions in 2020.

ARTICLE VII

VESTING

A Member shall be 100% vested in the Member's JRA at all times.

ARTICLE VIII

ROLLOVER DISTRIBUTIONS FROM THE PLAN

Section 8.01. **Definitions for the Article.** For purposes of this Article, the following definitions apply:

(a) "Direct Rollover" means an Eligible Rollover Distribution that is paid directly to an Eligible Retirement Plan for the benefit of the Distributee.

(b) "Distributee" means a Member, the spouse of the Member, the Member's former spouse who is an alternate payee within the meaning of Code § 414(p)(8), and a Member's non-spouse Beneficiary, any of whom is eligible to receive a distribution from the Plan.

(c) "Eligible Retirement Plan," as defined under Code § 402(c)(8)(B), means:

(1) an individual retirement account described in Code § 408(a);

(2) an individual retirement annuity (other than an endowment contract) described in Code § 408(b);

(3) a simple retirement account described in Code § 408(p)(1) following the two-year period described in Code § 72(t)(6);

(4) any annuity plan described in Code § 403(a);

(5) a plan described in Code § 403(b);

(6) a qualified plan described in Code § 401(a);

(7) a Code § 457(b) eligible deferred compensation plan which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; and

(8) a Roth individual retirement account described in Code § 408A(e), provided the Distributee's adjusted gross income does not exceed any limit applicable under federal law for the tax year in which the distribution occurs.

In the case of a distribution to a Member's non-spouse Beneficiary, an Eligible Retirement Plan means the plans described in subparagraphs (1) and (2) only, as an "Inherited IRA," to the extent consistent with the provisions of Code § 402(c)(11) and any guidance issued thereunder.

(d) "Eligible Rollover Distribution," as defined in Code § 402(f)(2)(A), means any distribution of all or any portion of the balance to the credit of the Distributee under the Plan, except that an Eligible Rollover Distribution does not include:

(1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made over the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten years or more;

(2) any distribution to the extent to which such distribution is required under Code § 401(a)(9);

(3) any distribution which is made upon hardship of the employee; and

(4) other items designated by regulations, or by the Commissioner in revenue rulings, notices, or other guidance, as items that do not constitute an eligible rollover distribution.

Section 8.02. **Direct Transfer of Eligible Rollover Distribution.** A Distributee may elect on an Applicable Form to have an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan as specified by the Distributee in a Direct Rollover, at the time and in the manner prescribed by the Plan Administrator. An Eligible Rollover Distribution that is paid to an Eligible

Retirement Plan in a Direct Rollover is excludable from the Distributee's gross income under Code § 402; provided, however, if any portion of such Eligible Rollover Distribution is subsequently distributed from the Eligible Retirement Plan, that portion shall be included in gross income to the extent required under Code § 402, 403, or 408. An election may not be made for an amount that is less than \$200.

Section 8.03. Mandatory Withholding of Eligible Rollover Distributions.

(a) If the Distributee of an Eligible Rollover Distribution does not elect to have the Eligible Rollover Distribution paid directly from the Plan to an Eligible Retirement Plan in a Direct Rollover pursuant to Code § 401(a)(31), the Eligible Rollover Distribution shall be subject to a mandatory 20% federal income tax withholding under Code § 3405(c). Only that portion of the Eligible Rollover Distribution that is not paid directly from the Plan to an Eligible Retirement Plan in a Direct Rollover shall be subject to the mandatory withholding requirement under Code § 3405(e).

(b) If a Distributee elects to have an Eligible Rollover Distribution paid to the Distributee, the distribution may be excluded from gross income of the Distributee provided that said distribution is contributed to an Eligible Retirement Plan no later than the 60th day following the day on which the Distributee received the distribution.

(c) If the Plan distribution is not an Eligible Rollover Distribution, said distribution shall be subject to the elective withholding provisions of Code §§ 3405(a) and (b).

Section 8.04. Explanation of Plan Distribution and Withholding Requirements.

Not fewer than 30 days nor more than 180 days before an Eligible Rollover Distribution, the Plan Administrator shall provide each Distributee a written explanation as required under Code § 402(f), which explains the rules:

(1) under which a Distributee may elect to have an Eligible Rollover Distribution paid in a Direct Rollover to an Eligible Retirement Plan;

(2) that require the withholding of tax on an Eligible Rollover Distribution if it is not paid in a Direct Rollover to an Eligible Retirement Plan;

(3) that provide that a distribution shall not be subject to tax if the distribution is rolled over to an Eligible Retirement Plan within 60 days after the date the Distributee receives the distribution; and

(4) if applicable, certain special rules regarding taxation of the distribution as described in Code §§ 402(d) and (e).

Notwithstanding the above, a distribution may begin fewer than 30 days after the notice discussed in the preceding sentence is given, provided that the Vendor clearly informs the Member that he or she has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution and the Member, after receiving a notice, affirmatively elects a distribution.

ARTICLE IX

LOANS

Loans from the Plan are not permitted.

ARTICLE X

TRUST

Section 10.01. **Trust.** The Board hereby establishes the Trust to hold the assets of the Plan. The Trust consists of the Principal Account and the Administrative Account. The Trust shall be deemed to form a part of the Plan and all rights of Members or others under this Plan shall be subject to the provisions of the Trust to the extent such provisions are not contradicted by specific provisions of this Plan.

Section 10.02. **Trust Fund.** The Trust Fund shall be received, held in Trust, and disbursed by the Trustees in accordance with the provisions of the Plan. No part of the Trust Fund shall be used for or diverted to purposes other than for the exclusive benefit of Members and their Beneficiaries and contingent Beneficiaries under this Plan prior to the satisfaction of all liabilities hereunder with respect to them. No person shall have any interest in or right to the Trust Fund or any part thereof, except as specifically provided for in this Plan. The Trust shall (i) hold, invest, and reinvest the Trust Fund, and (ii) pay money from the Trust Fund, including payments to the Members or their Beneficiaries under the Plan. A payment order shall specify the purpose or application to be made of payments so ordered, and the Trustees shall not be responsible in any way respecting the purpose of such payments or the application thereof. The Trustees shall be under no duty to enforce payment of any contribution from the Employer and shall not be responsible for the adequacy of the Trust Fund to meet and discharge any liabilities under the Plan. All benefits under the Plan shall be distributed solely from the Trust Fund, and the Employer shall have no liability therefor other than the obligation to make contributions to the Trust Fund as provided in the Plan.

Section 10.03. **Appointment of Trustees.** The Board shall serve as Trustees.

Section 10.04. **Powers of the Trustees.** In administering the Trust Fund, the Trustees have the power in their discretion:

(a) To exercise, or to refrain from exercising, all voting rights with respect to any stocks, bonds or other securities and to grant general or special proxies or powers of attorney with or without power of substitution whether discretionary or otherwise, and to enter into any voting trust or similar agreement;

(b) To register and hold any investment in the name of the Trustees, in the name of one or more of their nominees or in the name of one or more nominees of any system for the central handling of securities, with or without indication of the capacity in which the investment is held, and to hold any investment in bearer form, but the books and records of the Plan shall at all times show that such investments are part of the Trust Fund;

(c) To collect and receive any and all money and other property due to the Trust Fund and to give full discharge therefor;

(d) To employ suitable agents, counsel, and investment managers and to pay their reasonable expenses and compensation from the Trust Fund;

(e) To settle, compromise or submit to arbitration any claims, debts or damages due or owing to or from the Trust, to commence or defend suits or legal proceedings to protect any interest of the Trust, and to represent the Trust in all suits or legal proceedings in any court or before any other body or tribunal;

(f) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted; and

(g) Generally, to do all acts, whether or not expressly authorized, which the Trustees may deem necessary or desirable for the protection of the Trust Fund. However, the Trustees shall operate in compliance with Code § 503(b).

Section 10.05. Trustees and Investment Expenses. The expenses incurred by the Trustees in the performance of their duties, including fees for legal services rendered to the Trustees, and all other proper charges and disbursements of the Trustees, shall be paid by the Employer. All taxes of any and all kinds whatsoever that may be levied or assessed under existing

or future laws upon or in respect of the Trust Fund or the income thereof shall be paid from the Trust Fund unless the Employer elects to pay such expenses. Notwithstanding anything contained herein to the contrary, all expenses arising from investment of Plan assets shall be paid from the affected Member's JRA.

Section 10.06. **Counsel.** The Trustees may consult with counsel, who may be counsel for the Employer, and shall be fully protected in acting upon the reasonable advice of counsel.

Section 10.07. **Resignation, Removal, and Appointment of a Board Member.** A Board member will be deemed to have automatically resigned as a Trustee on the date the individual ceases to be a member of the Board. Whenever an individual becomes a member of the Board, the individual is appointed as a Trustee as of the date and time the individual becomes a member of the Board. This provision is self-executing, and no further action is necessary to effectuate a resignation or appointment.

Section 10.08. **Limitations of Responsibility and Indemnification.** The Trustees' responsibilities and liabilities are be subject to the following limitations:

(a) The Trustees have no duties other than those expressly set forth in this Plan and those imposed on the Trustees by applicable laws.

(b) The Trustees shall be responsible only for money and property actually received by the Trustees.

(c) The Trustees have no duty to make recommendations concerning actions to be taken hereunder or to question the propriety of any action they have been directed to take hereunder with respect to matters falling within the jurisdiction of the Employer, to the extent that the action is consistent with the Plan.

(d) The Trustees shall not be required to give any bond or other obligation to secure the due performance of the Trust by the Trustees, unless required by law.

(e) The Trustees have no liability for the acts or omissions of any predecessors or successors in office.

(f) The Trustees shall have no liability for (a) following directions, including investment directions of any Member, that are given to the Department in accordance with this Plan; or (b) any loss of any kind that may result by reason of the manner of investment as directed by the Member.

ARTICLE XI

ADMINISTRATION OF THE PLAN

Section 11.01. Plan Administrator.

(a) The Plan Administrator shall be the Administrator of the Courts acting under the direction of Board. The administration of the Plan is governed by RCW 2.14. The Plan Administrator has authority to control and manage the operation and administration of the Plan. The Plan Administrator shall be the named fiduciary of the Plan. The Plan Administrator has all powers necessary or convenient to enable it to exercise such authority and shall discharge its duties as provided in RCW 2.14.50. As provided in Section 16.08, the Plan Administrator may delegate its duties under the Plan. The Plan Administrator is authorized to accept service of legal process for the Plan. The Plan Administrator shall represent the Employer in all matters concerning the administration of the Plan. Specifically, the Plan Administrator shall:

- (1) Deposit or invest contributions to the Plan consistent with RCW 2.14.080;
- (2) Credit investment earnings or interest to individual JRAs consistent with RCW 2.14.070;

(3) Keep or cause to be kept full and adequate Plan records as required by Section 12.03; and

(4) Adopt rules and regulations under the direction of the Board that are necessary to carry out RCW 2.14.

(b) It is intended that the Plan remain a qualified plan under Code § 401(a). Neither the Board, Employer, Plan Administrator, Department, nor WSIB represents or guarantees that any particular federal or state income, payroll, personal property, or other tax consequence will occur because a Member's participation in this Plan.

Section 11.02. Expenses of Plan. The expenses incurred by the Plan Administrator in the performance of its duties under this Plan, including staffing and administrative expenses, fees for legal services rendered to the Plan Administrator, and all other proper charges and disbursements of the Plan Administrator shall be borne by the Members and paid out of the Administrative Account. Any deficiency in the Administrative Account caused by an excess of administrative expenses disbursed from the Administrative Account over the balance of the Administrative Account shall be offset by a transfer from the Principal Account pursuant to RCW 2.14.070 to the Administrative Account. Any excess balance of the Administrative Account over administrative expenses disbursed from the Administrative Account shall be transferred to the Principal Account. Members may be charged no more than the same percentage as that charged to State Deferred Compensation Plan Members for costs of administration. This amount shall be deducted from each Member's JRA and transferred to the Administrative Account as needed, but no more frequently than monthly. However, all expenses incident to the investment of Plan assets in particular types of Investment Option(s) shall be charged against and paid from the affected JRAs or reflected in the return on investment credited to these JRAs.

Section 11.03. Plan Administrator Action Fair and Reasonable.

(a) Every action by the Plan Administrator shall be presumed to be a fair and reasonable exercise of the authority vested in, or the duties imposed upon the Plan Administrator. The Plan Administrator, the Board, and its individual members shall be deemed to have exercised reasonable care, diligence, prudence, and to have acted impartially as to all persons interested, unless the contrary can be proven by affirmative evidence.

(b) The Plan Administrator shall not take any action with respect to any of the benefits provided hereunder or act otherwise in pursuance of the powers conferred herein upon it that would result (1) in benefiting one Member or group of Members at the expense of another, (2) in discrimination as between Members similarly situated, or (3) in the application of different rules to a substantially similar set of facts.

Section 11.04. Claims Procedure.

(a) Any person who believes:

- (1) any term or condition of the Plan has been incorrectly applied; or
- (2) that the person is denied benefits to which the person entitled to any benefits under the Plan;

shall present a claim in writing to the Plan Administrator. The Plan Administrator shall within 90 days provide adequate notice in writing to any claimant extending the time required to make a decision or indicating the decision made on any such a claim. If such a claim has been denied, in whole or in part, the notice shall set forth (A) the specific reasons for such denial, (B) the specific reference to any pertinent provisions of the Plan on which the denial is based, and (C) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary. Such notice shall be written in a

manner calculated to be understood by the Member. Within 60 days after receipt by the claimant of notification of denial, the claimant shall have the right to present a written appeal to the Plan Administrator. If such an appeal is not filed within the required 60-day period, the decision of the Plan Administrator shall be final and binding. The Plan Administrator shall act as a fiduciary in making a full and fair review of such a denial. The claimant or his duly authorized representative may review any Plan documents that are pertinent to the claim and may submit issues and comments to the Plan Administrator in writing.

(b) A decision by the Plan Administrator shall be made promptly, and in any event not later than 60 days after its receipt of the appeal; provided, however, if the Plan Administrator decides that a hearing, at which the claimant or the claimant's duly authorized representative may be present, is necessary and such a hearing is held, the decision shall be rendered as soon as possible, but not later than 120 days after its receipt of the appeal unless mutually agreed upon by all parties. Any such decision of the Plan Administrator shall be in writing and provide adequate notice to the claimant setting forth the specific reasons for any denial and written in a manner calculated to be understood by a Member. Such a decision by the Plan Administrator shall be final.

Section 11.05. Questions of Interpretation. The Plan Administrator shall have the power to construe the Plan and to determine all questions of fact or law arising under the Plan. It may correct any defect, supply any omission or reconcile any inconsistency in the Plan in such manner and to such extent as it may deem expedient and subject to provisions of the Plan regarding claims to benefits, the Plan Administrator is the sole and final judge of such expediency. During any period that the Plan Administrator uses the investment resources of the Department, the Plan shall be interpreted, insofar as possible, in a manner consistent with the Code as it applies to a

qualified governmental defined contribution plan under Code §§ 401(a) and 414(d). The Plan Administrator or Department, if in doubt concerning an interpretation regarding the correctness of making a distribution of Accumulated Contributions, may suspend distributions until satisfied that the amount or recipient of the distribution is correct. The suspension may continue so long as necessary to allow the filing of a state court civil action seeking a determination of the correct amount or recipient. The Plan Administrator and the Department shall comply with the court's final order and the Member and Member's Beneficiaries consent to be bound by the court's order. Whenever a suspension of distributions is in effect, the time for a Member or Beneficiary to make an election under Article VI is tolled until determination of the correct amount or recipient is made.

Section 11.06. **Reliance.** If the Plan Administrator or any other fiduciary with respect to the Plan acts in reliance on an election, consent, or revocation made pursuant to the Plan, the election, consent, or revocation shall be treated as valid for purposes of discharging the Plan from liability to the extent of payments made pursuant to such acts.

ARTICLE XII

INVESTMENT OPTIONS

Section 12.01. **Investment Policy.** The investment policy of the Plan shall include allowing Members to direct investment of all of the Member's JRA under the Plan among Investment Option(s).

Section 12.02. **Investment Options.**

(a) The WSIB or the Department, at the request of the Plan Administrator, may invest moneys in the Principal Account. Moneys invested by the WSIB shall be invested in accordance with RCW 43.33A.140. Moneys invested by the Department shall be invested in accordance with applicable law. Except as provided in RCW 43.33A.160 or as necessary to pay a pro rata share of expenses incurred by the Department, one hundred percent (100%) of all earnings from these

investments, exclusive of investment income pursuant to RCW 43.84.080, shall accrue directly to the Principal Account.

(b) The Plan Administrator has entered into an agreement with the WSIB for investment and accounting services pursuant to RCW 2.14.080. The WSIB shall be the sole provider of Investment Option(s). WSIB shall select a range of Investment Option(s) from time to time and make that range available to the Members for their selection. The WSIB is not required to invest any amount in the specific investment selected. The WSIB may:

- (1) open, change, or close investment options according to its investment policy; or
- (2) change investment managers for any investment option.

When an investment option is closed or substantially changed, the WSIB may transfer the funds invested in that option to the investment option that, in the Board's judgment, most closely represents the investment characteristics of the investment option being closed or changed.

(c) Each Member shall elect Investment Option(s) into which contributions on the Member's behalf shall be invested and the percentage of the contribution that shall be invested into each Investment Option. This election shall be made by completing the Participation Agreement and filing the Agreement with the Department in accordance with procedures established by the Plan Administrator or Department. If a Member does not make a valid election with respect to the Investment Option(s), the WSIB shall invest the Member's contributions on the Member's behalf into a fixed account.

(d) A Member may change an Investment Option after filing a valid Participation Agreement by using one of the following methods:

- (1) A Department Voice Response Unit.

- (2) Internet access.
- (3) By telephone to the Department's client services.

(e) Action by the WSIB or by the Department may not be considered an endorsement or guarantee of any Investment Option. Such an action may not be considered an attestation to the financial soundness or the suitability of any Investment Option for any purpose.

Section 12.03. Plan Records. The Plan Administrator shall keep, or cause to be kept, accurate and detailed account of all investments, receipts, disbursements, and other transactions of the Plan's assets, and all accounts, books and records relating thereto shall be open to inspection and audit at all reasonable times by any person designated by the Board. Following the close of each Plan Year, the Plan Administrator or designee shall file with the Board a copy of the annual report furnished by the WSIB within 60 days of receipt. The report shall be open to inspection during regular business hours by representatives of the Board for a period of 60 days immediately following the date on which the report is filed with the Board. Upon the expiration of such 60 day period, the Plan Administrator shall be forever released and discharged from all liability and accountability to anyone with respect to the propriety of acts and transactions shown in the report, except with respect to any such acts or transactions as to which the Board shall have filed written objections with the Plan Administrator within such 60 day period.

Section 12.04. Prohibited Transactions. The Plan Administrator, WSIB, and the Trustees shall not engage in any action or make any investment that would violate the Code or any other applicable law.

ARTICLE XIII

TERMINATION OF PLAN

So long as contributions are being made to the Plan at the rate established by law and matched by the State or being made by the Member, the Plan may not be terminated. The Plan

may only be closed prospectively. In the case of the complete or partial termination of the Plan, including a termination arising from the complete discontinuance of contributions to the Plan, each affected Member or Member's Beneficiary shall be paid the Member's entire Accumulated Contributions balance in accordance with Article VI.

ARTICLE XIV

AMENDMENT PROCEDURE

Section 14.01. **Amendment for Qualification of Plan.** It is the intent of the Employer that the Plan shall be and remain qualified for tax purposes under the Code. The Plan Administrator shall promptly submit the Plan for approval under the Code and all expenses incident thereto shall be borne by the Plan. The Board may make any modifications, alterations or amendments to the Plan necessary to obtain and retain approval of the Secretary of Treasury or his delegate as may be necessary to establish and maintain the status of the Plan as qualified under the provisions of the Code or other federal legislation, as now in effect or hereafter enacted, and the regulations issued thereunder. Any modification, alteration, or amendment of the Plan, made in accordance with this Section, may be made retroactively, if necessary or appropriate. A certified copy of the resolution of the Board making any amendment shall be delivered to the Members, and the Plan shall be amended in the manner and effective as of the date set forth in the resolution, and the Board, Employer, Members, Trustee, Beneficiaries, Plan Administrator, Department, the WSIB, and all others having any interest under the Plan shall be bound thereby.

Section 14.02. **Other Amendments.** Subject to RCW 2.14, the Board has the right, in its sole and final discretion, to amend the Plan at any time and from time to time to any extent which it may deem advisable. A resolution of the Board is required, and the Plan shall be amended or terminated in the manner and effective as of the date set forth in such resolution, and the Board, Employer, Members, Trustee, Beneficiaries, Plan Administrator, Department, WSIB, and all

others having any interest under the Plan shall be bound thereby; provided, however, that no such action shall operate to recapture for the Employer any contributions or payments previously made to the Plan.

Section 14.03. **Member Rights.** A Member does not have a contractual or any other right to continued application of any rule or regulation. A Plan Amendment may not be applied retroactively unless necessary to comply with the law.

ARTICLE XV

MISCELLANEOUS

Section 15.01. **Nonalienation.**

(a) A member's JRA shall not be liable for any debt, liability, contract, engagement or tort of any Member or Beneficiary, nor subject to anticipation, sale, assignment, transfer, encumbrance, pledge, charge, attachment, garnishment, execution, alienation, or other voluntary or involuntary alienation or other legal or equitable process, nor transferable by operation of law.

(b) Notwithstanding paragraph (a), the Plan shall comply with any judgment, decree or other order (including approval of a property settlement agreement) ("domestic relations order") which establishes the right of an alternate payee within the meaning of Code § 414(p)(8) to all or a portion of a Member's benefit under the Plan to the extent that it is a "qualified domestic relations order" ("QDRO") under Code § 414(p). The Plan Administrator shall establish reasonable written procedures to determine whether a domestic relations order is a QDRO and to administer the distribution of benefits with respect to such orders, which procedures may be amended from time to time. Notwithstanding any other provisions in the Plan, the Plan may make an immediate distribution to the alternate payee pursuant to a QDRO.

(c) Notwithstanding paragraph (a), the Plan shall offset from the benefit otherwise payable to a Member or his or her Spouse such amounts as are permitted to be offset under a court order, civil judgment, or settlement agreement in accordance with Code § 401(a)(13)(C).

Section 15.02. No Reversion.

(a) Under no circumstances or conditions will any Employer contributions revert to, be paid to, or inure to the benefit of, directly or indirectly, the Employer but shall be held for the exclusive purposes of providing benefits to Members and their Beneficiaries and defraying the reasonable expenses of administering the Plan. However, if the Employer contributions are made by the Employer by mistake of fact, these amounts and, if applicable, any interest earned therein, may be returned to the Employer within one year of the date that they were made.

(b) Contributions by the Employer and Member are conditioned on the initial qualification of the Plan under the Code and the continued qualification of the Plan as a result of Plan amendment, and if the Plan does not so qualify initially or as a result of amendment, then such contributions shall be returned to the contributing Employer or Member, upon demand, within one year after the date of denial of qualification of the Plan.

Section 15.03. Missing or Lost Members. In the event that the Plan Administrator does not have current contact information for or is unable to identify a Member or Beneficiary under the Plan, the Plan Administrator shall make reasonable attempts to determine the address and identity of the Member or Beneficiary entitled to benefits under the Plan. A reasonable attempt to locate a missing or lost Member or Beneficiary shall include: (a) providing notice to the Member or Beneficiary at the last known address via certified mail; (b) determining whether the Employer's records or the records of another plan maintained by the Employer has a more current address for the Member or Beneficiary; (c) attempting to contact any named Beneficiary of the

Member; and (d) searching for the missing Member or Beneficiary via free electronic search tools, such as Internet search engines, public record databases, obituaries, and social media. If such search methods are unsuccessful, based on the facts and circumstances, the Plan Administrator may use other search methods, including using Internet search tools, commercial locator services, credit reporting agencies, information brokers, investigation databases, and analogous services that may involve charges. The Plan Administrator may charge missing Members and Beneficiaries reasonable expenses for efforts to find them.

Section 15.04. Military Service.

(a) Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with USERRA, HEART, Code § 414(u), and Code § 401(a)(37). For purposes of this Section, "qualified military service" means any service in the uniformed services as defined in USERRA by any individual if such individual is entitled to reemployment rights under USERRA with respect to such service.

(b) If a Member timely resumes employment with the Employer in accordance with USERRA, the Employer shall make the employer contributions that would have been made if the Member had remained employed during the Member's qualified military service. Employer contributions must be made no later than 90 days after the date of reemployment or when Employer contributions are normally due for the year in which the qualified military service was performed, if later.

(c) To the extent provided under Code § 401(a)(37), in the case of a Member whose employment is interrupted by qualified military service and who dies while performing qualified military service, the survivor of such Member shall be entitled to any additional benefit (other than

benefit accruals) provided under the Plan as if the Member timely resumed employment in accordance with USERRA and then, on the next day, terminated employment on account of death.

(d) Differential wage payments within the meaning of Code § 414(u)(12)(D) shall be treated as Compensation under the Plan.

Section 15.05. Erroneous Payments. If the Plan Administrator makes any payment that according to the terms of the Plan and the benefits provided hereunder should not have been made, the Plan Administrator may recover that incorrect payment, by whatever means necessary, whether or not it was made due to the error of the Plan Administrator, from the person to whom it was made or from any other appropriate party.

Section 15.06. Merger, Consolidation of Plans or Transfer of Plan Assets. In the case of any merger or consolidation with, or transfer of assets or liabilities to, any other plan, each Member in the Plan shall be entitled to a benefit (as if the Plan had been terminated) immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (as if the Plan had been terminated).

Section 15.07. Capacities. Any person or a group of persons may serve in more than one fiduciary capacity with respect to the Plan.

Section 15.08. Delegation of Authority. The Board, Plan Administrator, or the Department may delegate its functions to be performed under this Plan to any designee with legal authority to perform the function.

Section 15.09. Allocation of Fiduciary Responsibilities. Each fiduciary under the Plan shall be responsible only for the specific duties assigned under the Plan and shall not be directly or indirectly responsible for the duties assigned to another fiduciary. No fiduciary of the

Plan shall be liable for any act or omission in appropriately carrying out his responsibilities under the Plan.

Section 15.10. **No Right to Employment.** Nothing contained in the Plan shall confer on any Member a right to continue in the employ of an Employer as an employee or otherwise.

Section 15.11. **Counterparts.** The Plan may be executed in any number of counterparts, each of which shall be deemed to be an original. All counterparts shall constitute but one and the same instrument and shall be sufficiently evidenced by any one counterpart.

IN WITNESS WHEREOF, the Board and the Plan Administrator has caused the Plan to be amended and restated as of the date written below, but effective as of _____, 2021.

"BOARD"

BOARD FOR JUDICIAL ADMINISTRATION
WASHINGTON STATE ADMINISTRATIVE
OFFICE OF THE COURTS
1206 Quince Street
P.O. Box 41170
Olympia, WA 98504-1170

By: _____

Title: _____

Name Printed: _____

ATTEST:

By: _____

Title: _____

TAB 3

October 6, 2021

TO: Board for Judicial Administration Members

FROM: Judge Tam Bui, BJA Court Education Committee Chair
Judge Douglas J. Fair, BJA Court Education Committee Co-Chair

RE: Court Education Committee Report

The CEC was approached by King County Superior Court Presiding Judge James E. Rogers regarding the need for term-limited pro tems to attend the 2022 Judicial College. King County Superior Court has secured federal ARPA funds from their county (for approximately a year) to pay full time pro tems to help with the backlog at King County Superior Court. They are using experienced pro tems who are trained and have been used for a number of years. They will work full-time from October to December 31, 2022. They will not be extended after December. They will preside over limited criminal plea hearings, evictions, family law and dependency. This will allow the judicial officers to focus on the backlog of criminal cases. Judge Rogers asked that these term-limited pro tems be exempt from attending the 2022 Judicial College. (See attached letter).

GR26 does not pertain to pro tems, since historically they were used to cover judicial officers who were on annual or sick leave, or attending meetings, education and training. They normally do not have a docket. However, this is a new type of pro tem who will have a docket for about 14 months. If a judicial officer (FT or PT) has a docket, they are under GR26. Pro tems usually do not have a docket, but this is something new, due to the impact of COVID-19 on cases.

The CEC has in the past given one-year waivers to newly elected judicial officers whose attendance at the Judicial College would be a hardship on them. We recommend that these term-limited pro tems be given a hardship waiver with the caveat that if they do continue past December 2022, they will have to attend the 2023 Judicial College or at least portions of it. Since the 2022 Judicial College is online this year and over a two-week period, we will also encourage Judge Rogers to allow them to attend, if possible, courses that specifically relate to their roles and responsibilities as a term-limited pro tem.

The CEC would like to move forward with this decision.

Although the Annual Washington Judicial Conference (Fall Conference) is not under the purview of the CEC, Justice G. Helen Whitener is a member of the CEC and we wanted to report on the 62nd Washington Judicial Conference, which was held virtually on September 12-14, 2021. The committee planned for an in-person program in Spokane and also to live stream the event. One hundred and forty two judicial officers registered to attend in-person. However, due to the increase of COVID-19 variant cases statewide, they made the decision to cancel the in-person portion and go completely virtual. It was a great success with approximately 200 plus judicial officers attending. All the programs were recorded and are now available on Inside Courts. The evaluations were very positive.

The Judicial Assistance Service Program (JASP) another non-CEC program, but an educational stakeholder, held a virtual JASP Peer Counselor training on October 1, 2021. Along with active listening practice, the content of the program focused on anger. The intent of the yearly peer counselor trainings is to provide time for peer counselors to come together to discuss their experiences and role as peer counselors and to practice their active listening skills. The content of the program changes each year and in the recent past has covered aging, grief, suicide and living in limbo (the impact of COVID-19).

The two remaining ad hoc committees working on CEC guidelines on Diversity, Equity and Inclusion and moving forward and will have a proposal for the CEC to review at their October 29, 2021 meeting. The Judicial College deans and educators have been working with all the faculty to develop course content that addresses DEI issues. Finally, the BJA approved proposed changes to GR26 as submitted to the Supreme Court Rules Committee.

Ms. Pam Dittman, lead educator for the Judicial College, has pulled together a stakeholders group to begin reviewing the current course content of the Judicial College and its current policies to determine if the content is outdated and needs to be updated. This will be a long-term project and any changes would not be seen until the 2023 Judicial College.

Since the last report, the Education team has completed the following webinars:

- *Innovation in Domestic Violence Intervention* – sponsored by the DMCJA Education Committee and the Gender and Justice Commission

Upcoming webinars:

- *Silence=Acceptance: Starting the Conversation* – October 21, 2021, sponsored by the District and Municipal Court Management Association and the Minority & Justice Commission. This webinar is a repeat from the spring workshops and is open to all court personnel and the AOC.

- *Norms for Courageous Conversations* – A workshop that will be offered four times throughout October: October 25, October 26, October 27 and October 29. It is sponsored by the Board for Judicial Administration’s Court Education Committee and the District and Municipal Court Management Association. It is open to all court personnel and AOC.
- *Institute for New Court Employees* – October 21 and October 28, 2021, sponsored by the Court Education Committee. The content focus is on *Stress Less: How to Manage Stress During Difficult Times* and *Time Management and Prioritization*. These two workshops are for new court employees and are part of a larger curriculum which will be given at a later date. The INCE programs given will become a basis for an online self-paced Institute for New Court Employees.
- *Adult UGA: What’s Next?* – November 5, 2021- Sponsored by SCJA Education Committee. This is a continuation of a series of past webinars focusing on the changes judicial officers need to be aware of regarding UGAs.
- The yearly *Search and Seizure* webinar – December 7, 2021 – sponsored by the Court Education Committee.

Work in Progress

The final recordings and narrations are finished for both the self-paced Institute for New Court Employees’ *Civics* course and the self-paced *For Those Who Escort Jurors* course.

Work continues on moving the *JC Court Media Relations* course into an online format. It will become a prerequisite course for Judicial College attendees.

Work has begun on updating the CEC’s current strategic plan.

**Superior Court of the State of Washington
for the County of King**

**JAMES E. ROGERS
Presiding Judge**

**King County Courthouse
Seattle, Washington 98104-2381
Jim.Rogers@kingcounty.gov
(206) 477-1597**

September 28, 2021

Hon Tam Bui
Snohomish County District Court

Via Email

Dear Judge Bui,

I am writing to you in your position on the Board of Judicial Administration's Educational Committee. I am writing on the issue of whether certain temporary judicial employees should be required to go to Judicial College. Our strong position is no. This is a temporary, time limited position designed to dig us out of a gigantic backlog, and we are using experienced pro tem judicial officers. We have seven such officers, and sending them all to judicial college would be a huge loss of time, close our dependency, part of family law, and plea and antiharassment calendars. It never crossed our minds that in using experienced, trained pro tems to address our backlog for a year, we would have to send them to judicial college and had we known this would arise, because of the disruption, we would not have structured our hiring this way.

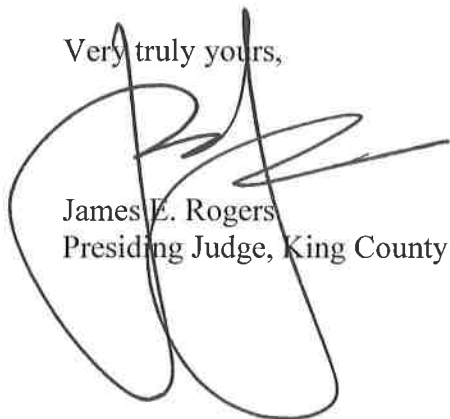
King County Superior Court responded to the backlog reduction crisis by requesting federal ARPA funds from our County government. The budget fight was not easy, but at the end, we were able to secure funding for additional criminal judges through 2022 only, despite the fact that our backlog prediction is that these judges would be required through 2024.

King County Superior Court is hiring pro tems that we have used for some years and trained previously to free up judges and commissioners in certain positions. We are hiring them on a temporary, time-limited basis to work full time from October to December 31, 2022. Their offers says just that-that they will be released at the end of that time and not extended. We have funding for six such temporary judicial officials (and many other FTEs that are being hired through 2022). They are doing criminal pleas, evictions, family law and dependency. They all have extensive pro tem experience and we did not hold a competitive process for them (although some went through a process and were not hired as full time, but remained on a list).

If these pro tem “TLTs” were to all be sent to judicial college, the effect would be terrible. King County Superior Court has over six thousand backlogged criminal cases. Many are violent or sexually violent. Many people have waited in jail for years for trials and we cannot get them out. We estimate that with six additional criminal judges, it will take three years to return to February 2020, pre-shutdown. Yet the County funded us for fourteen months, not three years. Every week lost, every day lost, sets us back. Already, we will be sending four new judges and a new commissioner to judicial college. If we send the pro tem TLTs, we would be sending 11 judicial officials to college. We don’t have money to hire pro tems for these officers. Their work will be shut down, causing great disruption.

Any decision you reach would presumably affect all counties.

Very truly yours,

A large, stylized handwritten signature in black ink, appearing to read 'James E. Rogers'. The signature is written over the typed name and title.

James E. Rogers
Presiding Judge, King County Superior Court



October 15, 2021

TO: Board for Judicial Administration (BJA) Members

FROM: Judge Kevin Ringus, BJA Legislative Committee Chair
Brittany Gregory, AOC Associate Director, Judicial and Legislative Relations

RE: BJA Legislative Committee Report and Action Items for the Board

On September 17, 2021, The BJA Legislative Committee (Committee) presented five legislative proposals to the BJA as possible BJA-request legislation for the 2022 legislative session. After presenting to the BJA, Brittany continued legislative and stakeholder engagement on the proposals on behalf of the Committee.

The legislative proposals and stakeholder positions are summarized as follows:

Juvenile Justice Criminal Civil Committee:

- 1) Request to broaden the exception for juvenile diversion agreements by allowing for diversion agreements to be extended an additional 6 months if additional time is necessary to complete the terms of the agreement **or** to pay restitution to a victim, at the request of a juvenile

Stakeholder Positions:

OPD: Support
WAPA: Neutral
SCJA: Neutral
WAJCA: Neutral

- 2) Request to eliminate the requirement in RCW 10.64.110 for juveniles to be fingerprinted at juvenile court dispositions

Stakeholder Positions:

OPD: Support
WAPA: Concerns
SCJA: Neutral
WAJCA: Neutral
Clerks: Neutral

Snohomish County Superior Court:

- 1) Request for an additional judicial position to account for an increase in need and caseload
- 2) Request to allow counties to explore the possibility of combining or reducing detention services based on costs

Stakeholder Positions:
WAJCA: Preliminary concerns, but willing to identify solutions and make further recommendations
SCJA: Defers to WAJCA
WSAC: Support, but defers to WAJCA

External Proposal:

- 1) Request to add mental health to list of mitigating circumstances a judge can consider under RCW 9.94A.535(1)

Stakeholder Positions:
OPD: Support
WAPA: Still soliciting feedback, but no preliminary concerns

The Committee also continued to examine the issue of continuity of operations in single judge courts statewide. Brittany drafted new bill language based on conversations with the Single Judge Work Group (Work Group) and Representative Dye, the prime sponsor. The new language was then shared with the Work Group, Representative Dye, and the Committee.

In lieu of the last proposal submitted to the BJA, the Work Group and Committee recommend the attached bill draft. The attached bill draft:

- a. Defines “single judge court” as a court or judicial district with only one judge;
- b. Authorizes the Chief Justice to appoint a Presiding Judge Pro Tempore when either the requisite predesignation under court rule has not occurred or the administration of justice would be served by a change to the Presiding Judge Pro Tempore;
- c. Addresses explicitly the scope and duration of the authority of the Presiding Judge Pro Tempore to fulfill certain functions, including appointment of commissioners;
- d. Creates a process for local legislative authorities to provide input on appointments made under the bill; and
- e. Clarifies that the Commission on Judicial Conduct determines if a judge is unfit/unable to serve.

The bill will work in conjunction with a court rule amendment that imposes the obligation on a judge in a single judge court to predesignate a Presiding Judge Pro Tempore to fulfill presiding judge duties in the case of illness, incapacity, resignation, death, or unavailability of the judge.¹

Based on all of the information reviewed, the Legislative Committee voted on recommendations to the Board regarding 2022 BJA-request legislation. Specifically, the Legislative Committee recommends the Board vote as follows:

ACTION ITEM #1: Adopt the following position regarding the proposal to broadening the extension for juvenile diversion agreements:

- 1) BJA supports the broadening of the extension for juvenile diversion agreements;
- 2) BJA will seek legislative sponsorship of “*BJA-request legislation*” to broaden the extension for juvenile diversion agreements;
- 3) BJA will testify in support of “*BJA-request legislation*” to broaden the extension for juvenile diversion agreements during the 2022 legislative session.

ACTION ITEM #2: Adopt the following position regarding eliminating fingerprinting at juvenile dispositions:

- 1) BJA supports eliminating fingerprinting at juvenile dispositions;
- 2) BJA will seek legislative sponsorship of “*BJA-request legislation*” to eliminate fingerprinting at juvenile dispositions;
- 3) BJA will testify in support of “*BJA-request legislation*” to eliminate fingerprinting at juvenile dispositions during the 2022 legislative session.

ACTION ITEM #3: Adopt the following position regarding the addition of an additional judicial position for the Snohomish County Superior Court:

- 1) BJA supports the need for a sixteenth judge in Snohomish County Superior Court;
- 2) BJA will seek legislative sponsorship of “*BJA-request legislation*” to adjust the number of Snohomish County Superior Court judges from fifteen to sixteen after AOC receives documentation of an approved local budget with funding for the county’s portion of the additional judge’s salary;
- 3) BJA will testify in support of “*BJA-request legislation*” that proposes to adjust the statutorily-authorized number of Snohomish County Superior Court judges from fifteen to sixteen during the 2022 legislative session.

ACTION ITEM #4: Adopt the following position regarding the proposal to allow counties to combine resources to fulfil juvenile detention obligations:

- 1) BJA supports counties combining resources to fulfil juvenile detention obligations;
- 2) BJA will seek legislative sponsorship of “*BJA-request legislation*” to allow counties to enter into inter-local agreements to combine resources to fulfil juvenile detention obligations;

¹ The court rule amendment is included in the meeting materials. This amendment was previously approved by the BJA.

- 3) BJA will testify in support of “*BJA-request legislation*” that allows counties to enter into inter-local agreements to combine resources to fulfil juvenile detention obligations during the 2022 legislative session.

ACTION ITEM #5: Adopt the following position regarding the proposal giving judges additional tools to consider a defendant’s mental health during sentencing:

- 1) BJA supports adding mental to the list of mitigating circumstances a judge can consider during sentencing;
- 2) BJA will seek legislative sponsorship of “*BJA-request legislation*” to add mental health list to the list of mitigating circumstances a judge can consider under RCW 9.94A.535(1);
- 3) BJA will testify in support of “*BJA-request legislation*” to add mental health list to the list of mitigating circumstances a judge can consider under RCW 9.94A.535(1) during the 2022 legislative session.

ACTION ITEM #6: Adopt the following position regarding BJA’s Single Judge Court proposal:

- 1) BJA supports the new draft language as “*BJA-request legislation*” addressing vacancies in single judge courts.

Legislative Committee Next Activities

Brittany will continue appropriate legislative and stakeholder engagement based on the Board’s votes on the foregoing action items.

AN ACT Relating to counties and juvenile detention facilities; amending RCW 13.04.135 and RCW 13.34.135, and adding a new section to chapter RCW 39.34.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 13.04.035 and 2017 c 278 s 1 are each amended to read as follows:

Juvenile court shall be administered by the superior court, except that by local court rule and agreement with the legislative authority of the county this service may be administered by the legislative authority of the county. Juvenile probation counselor and detention services shall be administered by the superior court, except that (1) by local court rule and agreement with the county legislative authority, these services may be administered by the county legislative authority; (2) for the consortium in existence on July 23, 2017, if a consortium of three or more counties, located east of the Cascade mountains and whose combined population exceeds two hundred thousand, jointly operates a juvenile correctional facility, the county legislative authorities may prescribe for alternative administration of the juvenile correctional facility by ordinance; and (3) in any county with a population of one million or more, probation and detention services shall be administered in accordance with chapter 13.20 RCW. The administrative body shall appoint an administrator of juvenile court, probation counselor, and detention services who shall be responsible for day-to-day administration of such services, and who may also serve in the capacity of a probation counselor. One person may, pursuant to the agreement of more than one administrative body, serve as administrator of more than one juvenile court. If a county participating in a consortium authorized under subsection (2) of this section withdraws from participation, the withdrawing county may rejoin the consortium at a later time so long as a majority of the consortium members agree.

Counties may enter into intergovernmental services agreements or interlocal agreements to provide juvenile probation counselor and detention services.

Sec. 2. RCW 13.04.135 and 1983 c 98 s 2 are each amended to read as follows:

Counties containing more than fifty thousand inhabitants shall, and counties containing a lesser number of inhabitants may, provide and maintain at public expense, a detention room or house

of detention, separated or removed from any jail, or police station, to be in charge of a matron, or other person of good character, wherein all children within the provisions of this chapter shall, when necessary, be sheltered.

Counties may enter into intergovernmental services agreements or interlocal agreements to provide and maintain a detention room or house of detention.

Sec. 3. A new section is added to chapter 39.34 RCW to read as follows:

Each superior court or county is responsible for the provision of probation counselor and detention services for the juvenile court and each county shall provide and maintain at public expense, a detention room or house of detention, wherein all children within the provisions of chapter 13.04 RCW shall, when necessary, be sheltered.

Counties may enter into intergovernmental services agreements or interlocal agreements to provide juvenile probation counselor and detention services and/or to provide and maintain a detention room or house of detention, wherein all children within the provisions of chapter 13.04 RCW shall, when necessary, be sheltered.

Nothing in this section is intended to alter the statutory responsibilities of each superior court or county as they relate to the provision of probation counselor and detention services for the juvenile court or the provision and maintenance of a detention room or house of detention, wherein all children within the provisions of chapter 13.04 RCW shall, when necessary, be sheltered.

The diversion statute RCW 13.40.080(5) can be amended to read:

(5) (a) A diversion agreement may not exceed a period of six months and may include a period extending beyond the eighteenth birthday of the divertee.

(b) If additional time is necessary for the juvenile to complete the terms of the agreement or restitution to a victim, the time period limitations of this subsection may be extended by an additional six months at the request of the juvenile.

(c) If the juvenile has not paid the full amount of restitution by the end of the additional six-month period, then the juvenile shall be referred to the juvenile court for entry of a civil order establishing the amount of restitution still owed to the victim. In this order, the court shall also determine the terms and conditions of the restitution, including a payment plan extending up to ten years if the court determines that the juvenile does not have the means to make full restitution over a shorter period. For the purposes of this subsection (5)(c), the juvenile shall remain under the court's jurisdiction for a maximum term of ten years after the juvenile's eighteenth birthday. Prior to the expiration of the initial ten-year period, the juvenile court may extend the judgment for restitution an additional ten years. The court may relieve the juvenile of the requirement to pay full or partial restitution if the juvenile reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay the restitution over a ten-year period. If the court relieves the juvenile of the requirement to pay full or partial restitution, the court may order an amount of community restitution that the court deems appropriate. The county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. A juvenile under obligation to pay restitution may petition the court for modification of the restitution order.

(d) A diversion agreement may be completed by the juvenile any time prior to an order terminating the agreement.

10.64.110. Fingerprint of a Defendant in Felony Convictions

(1) Following June 15, 1977, except as provided in subsection (3) of this section, there shall be affixed to the original of every judgment and sentence of a felony conviction in every court in this state ~~and every order adjudicating a juvenile to be a delinquent based upon conduct which would be a felony if committed by an adult~~, a fingerprint of the defendant ~~or juvenile~~ who is the subject of the order. When requested by the clerk of the court, the actual affixing of fingerprints shall be done by a representative of the office of the county sheriff.

(2) The clerk of the court shall attest that the fingerprints appearing on the judgment in sentence, ~~order of adjudication of delinquency~~, or docket, is that of the individual who is the subject of the judgment or conviction, order, or docket entry.

(3) Amended judgment and sentences issued pursuant to *State v. Blake*, No. 96873-0 (Feb. 25, 2021), are exempt from the fingerprinting requirements in subsection (1) of this section when there are no additional offenses of conviction from the original judgment and sentence and the defendant is in custody in a correctional facility. In such cases, the amended judgment and sentence shall reference the original judgment and sentence and the fingerprints affixed thereto.

General Rule 29
PRESIDING JUDGE IN SUPERIOR COURT DISTRICT AND
LIMITED JURISDICTION COURT DISTRICT

(a) Election, Term, Vacancies, Removal and Selection Criteria--Multiple Judge Courts.

(1) *Election.* Each superior court district and each limited jurisdiction court district (including municipalities operating municipal courts) having more than one judge shall establish a procedure, by local court rule, for election, by the judges of the district, of a Presiding Judge, who shall supervise the judicial business of the district. In the same manner, the judges shall elect an Assistant Presiding Judge of the district who shall serve as Acting Presiding Judge during the absence or upon the request of the Presiding Judge and who shall perform such further duties as the Presiding Judge, the Executive Committee, if any, or the majority of the judges shall direct. If the judges of a district fail or refuse to elect a Presiding Judge, the Supreme Court shall appoint the Presiding Judge and Assistant Presiding Judge.

(2) *Term.* The Presiding Judge shall be elected for a term of not less than two years, subject to reelection. The term of the Presiding Judge shall commence on January 1 of the year in which the Presiding Judge's term begins.

(3) *Vacancies.* Interim vacancies of the office of Presiding Judge or Acting Presiding Judge shall be filled as provided in the local court rule in (a)(1).

(4) *Removal.* The Presiding Judge may be removed by a majority vote of the judges of the district unless otherwise provided by local court rule.

(5) *Selection Criteria.* Selection of a Presiding Judge should be based on the judge's 1) management and administrative ability, 2) interest in serving in the position, 3) experience and familiarity with a variety of trial court assignments, and 4) ability to motivate and educate other judicial officers and court personnel. A Presiding Judge must have at least four years of experience as a judge, unless this requirement is waived by a majority vote of the judges of the court.

Commentary

It is the view of the committee that the selection and duties of a presiding judge should be enumerated in a court rule rather than in a statute. It is also our view that one rule should apply to all levels of court and include single judge courts. Therefore, the rule should be a GR (General Rule). The proposed rule addresses the process of selection/removal of a presiding judge and an executive committee. It was the intent of the committee to provide some flexibility to local courts wherein they could establish, by local rule, a removal process. Additionally, by delineating the selection criteria for the presiding judge, the committee intends that a rotational system of selecting a presiding judge is not advisable.

(b) Selection ~~and Term, and Designation of Presiding Judge Pro Tempore--Single Judge Courts.~~ In court districts or municipalities having only one judge, that judge shall serve as the Presiding Judge for the judge's term of office, and shall predesignate and prepare a Presiding Judge Pro Tempore to fulfill presiding judge duties in the case of illness, incapacity, resignation, death, or unavailability of the judge.

Commentary

In training and preparing the designated Presiding Judge Pro Tempore to fulfill presiding judge duties, a Presiding Judge from a single judge court should address the significant and non-delegable administrative, budgetary and personnel responsibilities of a presiding judge under this court rule, any obligations under collective bargaining agreement(s) or law(s) applicable to court personnel, interjurisdictional relations, and executive and legislative branch collaborations.

If it becomes necessary for the Chief Justice to appoint a Presiding Judge Pro Tempore for a single judge court pursuant to RCW 2.56.040(2) or other authority, then the State Court Administrator or the Chief Justice may consider consulting with the local executive or legislative authorities prior to the appointment.

(c) Notification of Chief Justice. The Presiding Judge so elected shall send notice of the election of the Presiding Judge and Assistant Presiding Judge, and in cases of single judge courts, the predesignated Presiding Judge Pro Tempore, to the Chief Justice of the Supreme Court within 30 days of election or any new or changed Presiding Judge or Presiding Judge Pro Tempore designations.

(d) Caseload Adjustment. To the extent possible, the judicial caseload should be adjusted to provide the Presiding Judge with sufficient time and resources to devote to the management and administrative duties of the office.

Commentary

Whether caseload adjustments need to be made depends on the size and workload of the court. A recognition of the additional duties of the Presiding Judge by some workload adjustment should be made by larger courts. For example, the Presiding Judge could be assigned a smaller share of civil cases or a block of time every week could be set aside with no cases scheduled so the Presiding Judge could attend to administrative matters.

(e) General Responsibilities. The Presiding Judge is responsible for leading the management and administration of the court's business, recommending policies and procedures that improve the court's effectiveness, and allocating resources in a way that maximizes the court's ability to resolve disputes fairly and expeditiously.

(f) Duties and Authority. The judicial and administrative duties set forth in this rule cannot be delegated to persons in either the legislative or executive branches of government. A Presiding Judge may delegate the performance of ministerial duties to court employees; however, it is still the Presiding Judge's responsibility to ensure they are performed in

accordance with this rule. In addition to exercising general administrative supervision over the court, except those duties assigned to clerks of the superior court pursuant to law, the Presiding Judge shall:

(1) Supervise the business of the judicial district and judicial officers in such manner as to ensure the expeditious and efficient processing of all cases and equitable distribution of the workload among judicial officers;

(2) Assign judicial officers to hear cases pursuant to statute or rule. The court may establish general policies governing the assignment of judges;

(3) Coordinate judicial officers' vacations, attendance at education programs, and similar matters;

(4) Develop and coordinate statistical and management information;

(5) Supervise the daily operation of the court including:

(a) All personnel assigned to perform court functions; and

(b) All personnel employed under the judicial branch of government, including but not limited to working conditions, hiring, discipline, and termination decisions except wages, or benefits directly related to wages; and

(c) The court administrator, or equivalent employee, who shall report directly to the Presiding Judge.

Commentary

The trial courts must maintain control of the working conditions for their employees. For some courts this includes control over some wage-related benefits such as vacation time. While the executive branch maintains control of wage issues, the courts must assert their control in all other areas of employee relations.

With respect to the function of the court clerk, generally the courts of limited jurisdiction have direct responsibility for the administration of their clerk's office as well as the supervision of the court clerks who work in the courtroom. In the superior courts, the clerk's office may be under the direction of a separate elected official or someone appointed by the local judges or local legislative or executive authority. In those cases where the superior court is not responsible for the management of the clerk's office, the presiding judge should communicate to the county clerk any concerns regarding the performance of statutory court duties by county clerk personnel.

A model job description, including qualification and experience criteria, for the court administrator position shall be established by the Board for Judicial Administration. A model job description that generally describes the knowledge, skills, and abilities of a court administrator would provide guidance to Presiding Judges in modifying current job

duties/responsibilities or for courts initially hiring a court administrator or replacing a court administrator.

(6) Supervise the court's accounts and auditing the procurement and disbursement of appropriations and preparation of the judicial district's annual budget request;

(7) Appoint standing and special committees of judicial officers necessary for the proper performance of the duties of the judicial district;

(8) Promulgate local rules as a majority of the judges may approve or as the Supreme Court shall direct;

(9) Supervise the preparation and filing of reports required by statute and court rule;

(10) Act as the official spokesperson for the court in all matters with the executive or legislative branches of state and local government and the community unless the Presiding Judge shall designate another judge to serve in this capacity;

Commentary

This provision recognizes the Presiding Judge as the official spokesperson for the court. It is not the intent of this provision to preclude other judges from speaking to community groups or executive or legislative branches of state or local government.

(11) Preside at meetings of the judicial officers of the district;

(12) Determine the qualifications of and establish a training program for Presiding Judges Pro Tempore predesignated under (c), pro tem judges and pro tem court commissioners; and

(13) Perform other duties as may be assigned by statute or court rule.

Commentary

The proposed rule also addresses the duties and general responsibilities of the presiding judge. The language in subsection (d), (e), (f) and (g) was intended to be broad in order that the presiding judge may carry out his/her responsibilities. There has been some comment that individual courts should have the ability to change the "duties and general responsibilities" subsections by local rule. While our committee has not had an opportunity to discuss this fully, this approach has a number of difficulties:

- It would create many "Presiding Judge Rules" all of which are different.
- It could subject some municipal and district court judges to pressure from their executive and/or legislative authority to relinquish authority over areas such as budget and personnel.

- It would impede the ability of the BJA through AOC to offer consistent training to incoming presiding judges.

The Unified Family Court subgroup of the Domestic Relations Committee suggested the presiding judge is given specific authority to appoint judges to the family court for long periods of time. Again the committee has not addressed the proposal; however, subsections (e) and (f) do give the presiding judge broad powers to manage the judicial resources of the court, including the assignment of judges to various departments.

(g) Executive Committee. The judges of a court may elect an executive committee consisting of other judicial officers in the court to advise the Presiding Judge. By local rule, the judges may provide that any or all of the responsibilities of the Presiding Judge be shared with the Executive Committee and may establish additional functions and responsibilities of the Executive Committee.

Commentary

Subsection (g) provides an option for an executive committee if the presiding judge and/or other members of the bench want an executive committee.

(h) Oversight of judicial officers. It shall be the duty of the Presiding Judge to supervise judicial officers to the extent necessary to ensure the timely and efficient processing of cases. The Presiding Judge shall have the authority to address a judicial officer's failure to perform judicial duties and to propose remedial action. If remedial action is not successful, the Presiding Judge shall notify the Commission on Judicial Conduct of a judge's substantial failure to perform judicial duties, which includes habitual neglect of duty or persistent refusal to carry out assignments or directives made by the Presiding Judge, as authorized by this rule.

(i) Multiple Court Districts. In counties that have multiple court districts, the judges may, by majority vote of each court, elect to conduct the judicial business collectively under the provisions of this rule.

(j) Multiple Court Level Agreement. The judges of the superior, district, and municipal courts or any combination thereof in a superior court judicial district may, by majority vote of each court, elect to conduct the judicial business collectively under the provisions of this rule.

(k) Employment Contracts. A part-time judicial officer may contract with a municipal or county authority for salary and benefits. The employment contract shall not contain provisions which conflict with this rule, the Code of Judicial Conduct or statutory judicial authority, or which would create an impropriety or the appearance of impropriety concerning the judge's activities. The employment contract should acknowledge the court is a part of an independent branch of government and that the judicial officer or court employees are bound to act in accordance with the provisions of the Code of Judicial Conduct and Washington State Court rules.

[Adopted effective April 30, 2002; Amended effective May 5, 2009.]

RCW 9.94A.535. Departures from the guidelines.

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the

requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The defendant was experiencing mental illness at the time of the offense.

(g) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(h) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(i) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(j) The defendant was making a good faith effort to obtain or provide medical assistance for someone who is experiencing a drug-related overdose.

(k) The current offense involved domestic violence, as defined in RCW 10.99.020, and the defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse.

(l) The defendant was convicted of vehicular homicide, by the operation of a vehicle in a reckless manner and has committed no other previous serious traffic offenses as defined in RCW 9.94A.030, and the sentence is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

1 AN ACT Relating to continuity of judicial operations in single judge
2 courts; amending RCW 2.56.040 and creating new sections.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4
5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this act unless the context clearly requires otherwise.

7 (1) "Single Judge Court" means court or judicial district that
8 has only one judge.

9
10 **Sec. 2.** RCW 2.56.040 and 2005 c 182 s 1 are each amended to read
11 as follows:

12 (1) The chief justice shall consider all recommendations of the
13 administrator for the assignment of judges, and, in the discretion of
14 the chief justice, direct any judge whose calendar, in the judgment of
15 the chief justice, will permit, to hold court (~~in any county or~~
16 ~~district~~) where need therefor exists, to the end that the courts
17 (~~of~~) in this state shall function with maximum efficiency, and that
18 the work of other courts shall be equitably distributed. It shall be
19 the duty of every judge to obey such direction of the chief justice
20 unless excused by the chief justice for sufficient cause.

21 (2)(a) If due to illness, incapacity, resignation, death, or
22 other unavailability the presiding judge in a single judge court is
23 unable to fulfill the duties of the office, and no person has been
24 previously designated by the presiding judge to serve as presiding
25 judge pro tempore, the chief justice may upon recommendation of the
26 administrator of the courts appoint another judicial officer or other
27 person who meets the qualifications of a judge pro tempore.

28 (b) After an appointment made under subsection 2(a) has been in
29 effect for 30 days, the chief justice shall consult with local
30 legislative authority about the continued appointment during the
31 remaining period of such illness, incapacity, or unavailability, or
32 until a vacancy in the position is filled as provided by law.

1 (c) The chief justice may appoint someone other than the
2 previously designated or appointed individual to serve as presiding
3 judge pro tempore in the event of illness, incapacity, resignation,
4 death, or unavailability of the presiding judge in a single judge court
5 whenever the chief justice determines that the administration of
6 justice would be better served by appointment of someone else to
7 fulfill the presiding judge duties.

8 (d) After an appointment made under subsection 2 (c) has been in
9 effect for 30 days, the chief justice shall consult with local
10 legislative authority about the continued appointment during the
11 remaining period of such illness, incapacity, or unavailability, or
12 until a vacancy in the position is filled as provided by law.

13 (e) Nothing in this section is intended to modify the role of
14 the Commission on Judicial Conduct as provided in Article IV, Section
15 31 of the Washington State Constitution and RCW 2.64.

16
17 **Sec. 3.** RCW 2.08.120 and 1955 c 38 s 5 are each amended to read
18 as follows:

19 (1) If a vacancy occurs in the office of judge of the superior
20 court, the governor shall appoint a person to hold the office until
21 the election and qualification of a judge to fill the vacancy, which
22 election shall be at the next succeeding general election, and the
23 judge so elected shall hold office for the remainder of the unexpired
24 term.

25 (2) During any vacancy that occurs pursuant to subsection (1) in
26 a single judge court, a presiding judge pro tempore who has been
27 predesignated pursuant to court rule or appointed pursuant to RCW
28 2.56.040(2) may fulfill presiding judge duties, and the authority of
29 the predesignated or appointed presiding judge pro tempore endures
30 until the chief justice appoints someone else to fulfill the presiding
31 judge duties pursuant to RCW 2.56.040(2)(c), or until a vacancy in
32 the position is filled as provided by law, whichever occurs first.

1 **Sec. 4.** RCW 2.24.010 and 2013 c 27 s 3 are each amended to read
2 as follows:

3 (1) There may be appointed in each county or judicial district,
4 by the judges of the superior court having jurisdiction therein or a
5 presiding judge pro tempore who is fulfilling presiding judge duties
6 for a single judge court pursuant to RCW 2.08.120(2), one or more court
7 commissioners for said county or judicial district. Each such
8 commissioner shall be a citizen of the United States and shall hold
9 the office during the pleasure of the judges making the appointment.

10 (2)(a) There may be appointed in counties with a population of
11 more than four hundred thousand, by the presiding judge of the superior
12 court having jurisdiction therein, one or more attorneys to act as
13 criminal commissioners to assist the superior court in disposing of
14 adult criminal cases. Such criminal commissioners shall have power,
15 authority, and jurisdiction, concurrent with the superior court and
16 the judges thereof, in adult criminal cases, to preside over
17 arraignments, preliminary appearances, initial extradition hearings,
18 and noncompliance proceedings pursuant to RCW 9.94A.6333 or 9.94B.040;
19 accept pleas if authorized by local court rules; appoint counsel; make
20 determinations of probable cause; set, amend, and review conditions of
21 pretrial release; set bail; set trial and hearing dates; authorize
22 continuances; accept waivers of the right to speedy trial; and
23 authorize and issue search warrants and orders to intercept, monitor,
24 or record wired or wireless telecommunications or for the installation
25 of electronic taps or other devices to include, but not be limited to,
26 vehicle global positioning system or other mobile tracking devices
27 with all the powers conferred upon the judge of the superior court in
28 such matters.

29 (b) The county legislative authority must approve the creation of
30 criminal commissioner positions.

31
32 **Sec. 5.** RCW 3.34.150 and 1989 c 227 s 7 are each amended to read
33 as follows:

1 (1) If a district has more than one judge, the supreme court
2 may by rule provide for the manner of selection of one of the judges
3 to serve as presiding judge and prescribe the presiding judge's duties.
4 If a county has multiple districts or has one district with multiple
5 electoral districts, the supreme court may by rule provide for the
6 manner of selection of one of the judges to serve as presiding judge
7 and prescribe the presiding judge's duties.

8 (2) Pursuant to court rule or RCW 2.56.040(2), a presiding judge
9 pro tempore may be predesignated or appointed to fulfill presiding
10 judge duties in case of the illness, incapacity, resignation, death or
11 unavailability of the presiding judge of a single judge court. In
12 such circumstances, the authority of the predesignated or appointed
13 presiding judge pro tempore endures until the chief justice appoints
14 someone else to fulfill the presiding judge duties pursuant to RCW
15 2.56.040(2)(c), or the period of such illness, incapacity or
16 unavailability ends, or until a vacancy in the position is filled as
17 provided by law, whichever occurs first.

18
19
20 **Sec. 6.** RCW 3.34.100 and 2003 c 97 s 3 are each amended to read
21 as follows:

22 (1) If a district judge dies, resigns, is convicted of a felony,
23 ceases to reside in the district, fails to serve for any reason except
24 temporary disability, or if his or her term of office is terminated in
25 any other manner, the office shall be deemed vacant. The county
26 legislative authority shall fill all vacancies by appointment and the
27 judge thus appointed shall hold office until the next general election
28 and until a successor is elected and qualified. However, if a vacancy
29 in the office of district court judge occurs and the total number of
30 district court judges remaining in the county is equal to or greater
31 than the number of district court judges authorized in RCW 3.34.010
32 then the position shall remain vacant. District judges shall be granted
33 sick leave in the same manner as other county employees. A district

1 judge may receive when vacating office remuneration for unused
2 accumulated leave and sick leave at a rate equal to one day's monetary
3 compensation for each full day of accrued leave and one day's monetary
4 compensation for each four full days of accrued sick leave, the total
5 remuneration for leave and sick leave not to exceed the equivalent of
6 thirty days' monetary compensation.

7 (2) During any vacancy that occurs pursuant to subsection (1) in
8 a single judge court, a presiding judge pro tempore who has been
9 predesignated pursuant to court rule or appointed pursuant to RCW
10 2.56.040(2) may fulfill presiding judge duties, and the authority of
11 the redesignated or appointed presiding judge pro tempore endures
12 until the chief justice appoints someone else to fulfill the presiding
13 judge duties pursuant to RCW 2.56.040(2)(c), or until a vacancy in
14 the position is filled as provided by law, whichever occurs first.

15

16 **Sec. 7.** RCW 3.34.130 and 1996 c 16 s 1 are each amended to read
17 as follows:

18 (1) In addition to the designation of a presiding judge pro
19 tempore for a single judge court as referenced in RCW 3.34.150(2),
20 each (~~Each~~) district court shall designate one or more persons as
21 judge pro tempore who shall serve during the temporary absence,
22 disqualification, or incapacity of a district judge or to serve as an
23 additional judge for excess caseload or special set cases. The
24 qualifications of a judge pro tempore shall be the same as for a
25 district judge, except that with respect to RCW 3.34.060(1), the person
26 appointed need only be a registered voter of the state. A district
27 that has a population of not more than ten thousand and that has no
28 person available who meets the qualifications under *RCW 3.34.060(2)
29 (a) or (b), may appoint as a pro tempore judge a person who has taken
30 and passed the qualifying examination for the office of district judge
31 as is provided by rule of the supreme court. A judge pro tempore may
32 sit in any district of the county for which he or she is appointed. A

1 judge pro tempore shall be paid the salary authorized by the county
2 legislative authority.

3 (2) For each day that a judge pro tempore serves in excess of
4 thirty days during any calendar year, the annual salary of the district
5 judge in whose place the judge pro tempore serves shall be reduced by
6 an amount equal to one-two hundred fiftieth of such salary: PROVIDED,
7 That each full time district judge shall have up to fifteen days annual
8 leave without reduction for service on judicial commissions
9 established by the legislature or the chief justice of the supreme
10 court. No reduction in salary shall occur when a judge pro tempore
11 serves:

12 (a) While a district judge is using sick leave granted in
13 accordance with RCW 3.34.100;

14 (b) While a district court judge is disqualified from serving
15 following the filing of an affidavit of prejudice;

16 (c) As an additional judge for excess case load or special set
17 cases; or

18 (d) While a district judge is otherwise involved in
19 administrative, educational, or judicial functions related to the
20 performance of the judge's duties: PROVIDED, That the appointment of
21 judge pro tempore authorized under subsection (2)(c) and (d) of this
22 section is subject to an appropriation for this purpose by the county
23 legislative authority.

24 (3) The legislature may appropriate money for the purpose of
25 reimbursing counties for the salaries of judges pro tempore for certain
26 days in excess of thirty worked per year that the judge pro tempore
27 was required to work as the result of service by a judge on a commission
28 as authorized under subsection (2) of this section. No later than
29 September 1 of each year, each county treasurer shall certify to the
30 administrator for the courts for the year ending the preceding June
31 30, the number of days in excess of thirty that any judge pro tempore
32 was required to work as the result of service by a judge on a commission
33 as authorized under subsection (2) of this section. Upon receipt of

1 the certification, the administrator for the courts shall reimburse
2 the county from money appropriated for that purpose.

3
4 **Sec. 8.** RCW 3.42.010 and 1984 c 258 s 30 are each amended to
5 read:

6 When so authorized by the districting plan, one or more district
7 court commissioners may be appointed in any district by the judges of
8 the district. Each commissioner shall be a registered voter of the
9 county in which the district or a portion thereof is located, and shall
10 hold office at the pleasure of the appointing judges. For purposes of
11 this section, "appointing judge" includes a presiding judge pro tempore
12 fulfilling presiding judge duties for a single judge court pursuant to
13 RCW 3.34.100(2) or 3.34.150(2). Any person appointed as a commissioner
14 authorized to hear or dispose of cases shall be a lawyer who is admitted
15 to the practice of law in the state of Washington or who has passed
16 the qualifying examination for lay judges as provided under RCW
17 3.34.060.

18
19 **Sec. 9.** RCW 3.50.090 and 2000 c 55 s 1 are each amended to read
20 as follows:

21 (1) The presiding municipal court judge may designate one or
22 more persons as judges pro tem to serve in the absence or disability
23 of the elected or duly appointed judges of the court, subsequent to
24 the filing of an affidavit of prejudice, or in addition to the elected
25 or duly appointed judges when the administration of justice and the
26 accomplishment of the work of the court make it necessary. The
27 qualifications of a judge pro tempore shall be the same as for judges
28 as provided under RCW 3.50.040 except that a judge pro tempore need
29 not be a resident of the city or county in which the municipal court
30 is located. Judges pro tempore shall have all of the powers of the
31 duly appointed or elected judges when serving as judges pro tempore of
32 the court. Before entering on his or her duties, each judge pro
33 tempore shall take, subscribe, and file an oath as is taken by a duly

1 appointed or elected judge. Such pro tempore judges shall receive
2 such compensation as shall be fixed by ordinance by the municipality
3 in which the court is located and such compensation shall be paid by
4 the municipality.

5 (2) If a presiding municipal court judge is the single judge of
6 the court, then pursuant to court rule or RCW 2.56.040(2), a presiding
7 judge pro tempore may be predesignated or appointed to fulfill
8 presiding judge duties in case of the illness, incapacity, resignation,
9 death or unavailability of the presiding judge. In such circumstances,
10 the authority of the predesignated or appointed presiding judge pro
11 tempore endures until the chief justice appoints someone else to
12 fulfill the presiding judge duties pursuant to RCW 2.56.040(2)(c), or
13 the period of such illness, incapacity or unavailability ends, or until
14 a vacancy in the position is filled as provided by law, whichever
15 occurs first.

16
17 NEW SECTION. **Sec. 10.** A new section is added to chapter 3.50
18 RCW to read as follows:

19 During any vacancy that occurs in a single judge court pursuant
20 to RCW 3.50.093 or 3.50.095, a presiding judge pro tempore who has
21 been predesignated pursuant to court rule or appointed pursuant to RCW
22 2.56.040(2) may fulfill presiding judge duties, and the authority of
23 the predesignated or appointed presiding judge pro tempore endures
24 until the chief justice appoints someone else to fulfill the presiding
25 judge duties pursuant to RCW 2.56.040(2)(c), or until a vacancy in
26 the position is filled as provided by law, whichever occurs first.

27
28 **Sec. 11.** RCW 3.50.075 and 2019 c 52 s 1 are each amended to read
29 as follows:

30 (1) One or more court commissioners may be appointed by a judge
31 of the municipal court.

32 (2) Each commissioner holds office at the pleasure of the
33 appointing judge.

1 (3) Except as provided in subsection (4) of this section, a
2 commissioner has such power, authority, and jurisdiction in criminal
3 and civil matters as the appointing judges possess, and must be a
4 lawyer who is admitted to practice law in the state of Washington or
5 a nonlawyer who has passed, by January 1, 2003, the qualifying
6 examination for lay judges for courts of limited jurisdiction under
7 RCW 3.34.060.

8 (4) On or after July 1, 2010, when serving as a commissioner, the
9 commissioner does not have authority to preside over trials in criminal
10 matters, or jury trials in civil matters unless agreed to on the record
11 by all parties.

12 (5) A commissioner need not be a resident of the city or of the
13 county in which the municipal court is created. When a court
14 commissioner has not been appointed and the municipal court is presided
15 over by a part-time appointed judge, the judge need not be a resident
16 of the city or of the county in which the municipal court is created.

17 (6) For purposes of this section, "appointing judge" includes a
18 presiding judge pro tempore fulfilling presiding judge duties for a
19 single judge court pursuant to RCW 3.50.090(2).

20
21 **Sec. 12.** RCW 3.50.080 and 2000 c 55 s 1 are each amended to read
22 as follows:

23 In addition to the designation of a presiding judge pro tempore
24 for a single judge court as referenced in RCW 3.50.090(2), the((The))
25 presiding municipal court judge may designate one or more persons as
26 judges pro tem to serve in the absence or disability of the elected or
27 duly appointed judges of the court, subsequent to the filing of an
28 affidavit of prejudice, or in addition to the elected or duly appointed
29 judges when the administration of justice and the accomplishment of
30 the work of the court make it necessary. The qualifications of a judge
31 pro tempore shall be the same as for judges as provided under RCW
32 3.50.040 except that a judge pro tempore need not be a resident of the
33 city or county in which the municipal court is located. Judges pro

1 tempore shall have all of the powers of the duly appointed or elected
2 judges when serving as judges pro tempore of the court. Before entering
3 on his or her duties, each judge pro tempore shall take, subscribe,
4 and file an oath as is taken by a duly appointed or elected judge.
5 Such pro tempore judges shall receive such compensation as shall be
6 fixed by ordinance by the municipality in which the court is located
7 and such compensation shall be paid by the municipality.

8

9

October 15, 2021

TO: Board for Judicial Administration (BJA) Members
FROM: Judge Rebecca Robertson, Chair, Policy and Planning Committee (PPC)
RE: REPORT OF POLICY AND PLANNING COMMITTEE

Committee Work Plan Update:

The committee on September 17, 2021. Below is a summary of the activities the committee is working on at this time.

Adequate Funding Project

The adequate funding work group reviewed the survey findings and draft report. The PPC will present the survey findings and lead a discussion on court funding at the November BJA meeting. Members discussed conducting a focus group or key informant interviews to get a deeper level of understanding of the budget process at the local level to augment the survey data. Members also discussed starting an examination of moving from fee-based funding at the next meeting.

Recruiting an At-Large PPC Member

The PPC is refining the recruitment flyer for the addition of an at-large member. At the last meeting, it was decided not to develop selection criteria to evaluate candidates, instead members will look at the applications without preconceptions, given the broad types policy issues that the PPC has under its purview.

2021-22 Work Plan

The PPC briefly discussed developing a process map/timeline of key policy and funding dates of the Judiciary and Legislative branches and when to look at facilitating the next round of strategic initiative proposals as the Court Recovery and Court Security Task Forces will be ending in 2022.

Recommendations for the Board for Judicial Administration

1. Data Collection

Goal 1: Improve data collection in every area of the law that this report covers: ensure collection and distribution of accurate, specific data, disaggregated by gender, race, ethnicity, and LGBTQ+ status, in the criminal, civil, and juvenile areas of law covered here.

Chapter 8 – Consequences of Gender-Based Violence: Domestic Violence and Sexual Violence

- To monitor the efficacy of laws and regulations that combat gender-based violence and to identify gaps in protection, statewide data on the following topics should be collected: the barriers to enforcement of firearms surrender orders; the efficacy of domestic violence perpetrator treatment (in light of our pilot project report on the value of DV-MRT treatment); the prevalence and consequences of sexual assault in prison – especially for understudied populations; the prevalence and consequences of coercion for sex and sexual assault in the workplace – especially for female workers in the farm labor, service, and related low-paying industries; and data on the investigation and processing of sexual violence cases, including time from the alleged assault to filing, to resolution via the court process, and the reasons for any delays. This work will require legislative funding.
 - One component of this data collection could be development of a statewide online dashboard where law enforcement reports its data, as it already does pursuant to the Safety and Access for Immigrant Victims Act (2018) and pursuant to SHB 1501 (2017) to track denied firearm transactions.
 - Requirements for the data could include the following: (1) data collected should include disaggregated demographic information, including gender information that goes beyond the male-female binary, and (2) that non-confidential data and information about the process should be transparent and available to the public to promote system accountability.

Chapter 11 – Incarceration of Women in Washington State

- Government data collection should follow the best practices recommended by the 2020 Incarceration of Women in Washington State pilot study commissioned by the Gender and Justice Commission. The pilot study sets forth comprehensive recommendations for improvements in data collection as well as additional analyses and research to be implemented by the Caseload Forecast Council, the Washington State Legislature, and the Department of Corrections (see pages 31-32 of the Incarceration of Women in Washington State pilot study).

Chapter 13 – Prosecutorial Discretion and Gendered Impacts

- To better understand and address disparities in charging, pretrial detention, bail, plea bargaining, and diversion or deferral decisions, the Washington State Legislature should work with the appropriate statewide and county prosecutorial agencies to fund the creation of a statewide system for data collection and publication. This group should also determine the best way to ensure that individual jurisdictions collect and submit data from charging, bail, pretrial detention, plea bargain, and diversion or deferral decisions, and that this data is disaggregated by gender, race, ethnicity, sexual orientation, and disability. Data should be made available to the public in a timely and accessible manner.

Chapter 15 – The Gendered Impact of Legal Financial Obligations

- The Washington State Legislature recently named WSIPP as the justice system partner responsible “to study legal financial obligations,” and provided WSIPP with funding to do so. The scope of the LFO study includes some of the data gathering recommended above, though there is no provision for collecting or analyzing data specific to gender. WSIPP should consult with stakeholders, including the Gender and Justice Commission, immediately about conducting this study. The Gender and Justice Commission should (1) recommend to WSIPP that their data collection and analysis include gender and intersectionality with other demographics, and (2) offer the Gender and Justice Commission’s assistance with the study.

Chapter 16 - Gendered Consequences of Incarceration and Criminal Convictions, Particularly for Parents, Their Children, and Families

- The Washington State Legislature should, consistent with RCW 72.09.495, RCW 74.04.800, RCW 43.216.060, and RCW 43.63A.068, receive data from DOC, the DCYF, Department of Early Learning, Office of Superintendent of Public Instruction, and Department of Commerce on how many children in Washington are impacted by parental or primary caregiver's incarceration, as well as data on available programs and resources to support the specific needs of the children of incarcerated parents, so that Washington has a comprehensive understanding of the needs, available support, and identified gaps in data collection and services.

Recommendations to the Caseload Forecast Council

- The Caseload Forecast Council (CFC) should write a report outlining: (1) the current limitations of data from Felony Judgment and Sentencing (FJ&S) forms, and (2) possible solutions. For FJ&S data, it would be beneficial for the CFC to immediately begin coding “Hispanic/Latinx” as a separate ethnicity variable rather than as a race, so that CFC’s data is comparable to Office of Financial Management population estimates and would allow for accurate disproportionality analyses. CFC should also issue corrections to past reports which have included inaccurate disproportionality analyses for the Latinx population. We recommend considering legislative changes, changes to and standardization of the FJ&S forms, education and outreach to courts to support more standardized and complete data collection, changes to coding methodologies and internal documentation of coding methodologies, and needed updates to CFC databases.

2. Remote Access, Flexible Hours, Childcare, Navigators

Goal #2: Improve access to the courts in every area of the law that this report covers: expand remote access, adopt more flexible hours, increase access to legal help, reduce communication barriers, and ensure that courts treat all court users in a trauma-responsive manner.

- Support broadband wifi access throughout the state.

Chapter 1 – Gender and Financial Barriers to Accessing the Courts

- Low-income care givers often lack access to safe, affordable, quality, childcare, and this limits their ability to access courts. To remove such barriers and improve all court users’ ability to conduct court business using remote means.

- Courts should retain and expand the best of the remote access opportunities that the courts adopted during the COVID-19 pandemic (e.g., digital platforms accessible via computer or smart phone) – the ones that maximize communication and language access without penalizing litigants for using remote means. Publish (electronically) accessible directions on how to access court business and documents remotely, and limit fees for accessing court business and documents remotely.
 - Courts should consider more flexible hours of operation or, with increased funding, expanded hours of operation.
 - Stakeholders should explore additional way to improve access opportunities such as funding and distributing devices (laptops, tablets, phones, etc.) that can support remote access in community and childcare centers, women’s shelters, schools (as appropriate in individual jurisdiction); expanding on-site childcare centers at courthouses; or supporting other means (such as vouchers) to access childcare to attend court.
- The Washington State Legislature should consider funding “navigators” in courts in all counties to assist those seeking help with family law issues, and should also consider funding them for other areas of law.

Chapter 3 – Gender and Barriers to Jury Service

- In order to enhance jury participation by Black, Indigenous, women of color, women in poverty, and LGBTQ+ people, by the end of 2023, the jury diversity workgroup should encourage courts to consider creative alternatives that accommodate jurors with caregiving responsibilities. Courts should consider whether they can accommodate parenting schedules for jurors who need to pick up children after school or childcare. The workgroup and Supreme Court Commissions should seek funding with court partners to develop creative pilot projects and measure their success. The workgroup should develop best practices for judges to account for the effects on jury diversity when evaluating juror hardship, and train judges on these best practices.
 - Apply the remote practices recommendation described in “Chapter 1: Gender and Financial Barriers to Accessing the Courts” for voir dire (jury selection).
 - Apply the childcare access recommendation described in “Chapter 1: Gender and Financial Barriers to Accessing the Courts” to jurors.
 - Apply the flexible hours recommendation described in “Chapter 1: Gender and Financial Barriers to Accessing the Courts” to jurors.
 - By the end of 2022, the jury diversity workgroup should develop best practices for courts to account for the barriers to service for LGBTQ+ jurors, including adding nonbinary gender choices to all forms and referring to jurors by their correct pronouns and chosen names. Train judges and court staff on these best practices.

3. Sentencing Changes

Goal 3: Address the impacts of the vast increase in convictions and detentions over the last generation: (a) recognize and remedy the increase in conviction rates and incarceration length of women, especially Black, Indigenous, and other women of color, and (b) recognize and remedy the consequences that the increased incarceration of Black, Indigenous and other men of color over the last generation has had on women and other family members.

Chapter 14 – Sentencing Changes and Their Direct and Indirect Impact on Women

- To decrease disparities in sentencing, study what evidence-based programs work to educate the judiciary, the bar, and court partners on how to identify and avoid gender and race bias. Based on the results, the education programs, bench cards, and other resources that have proven to be effective should be continued, expanded, and made mandatory.
- For policy-makers: Consider legislation amending RCW 9.94A.535(1) to recognize that primary caregiving constitutes a mitigating sentencing factor. It is a mitigating factor because family structures can provide support to rehabilitating offenders; courts should therefore be able to consider the role of the offender within their family when determining sentences. Failing to recognize ‘primary caregiving’ as a mitigating factor also adversely impacts those who generally carry the burden of caregiving, that is, predominately women and families without resources. This should be done in the next two years or as soon as possible.
- For policy-makers: To reduce the disproportionate effect of mass incarceration and lengthy sentencing regimes, the legislature should consider responding to the Commission’s findings about disparities in prison populations, and trauma to prison pipeline, in a meaningful way – consider increasing good time, such as was proposed by HB 1282 in the 2021 regular session, or other ways of addressing these historical problems.

Chapter 16 - Gendered Consequences of Incarceration and Criminal Convictions, Particularly for Parents, Their Children, and Families

- The Washington State Legislature may want to consider ways to equitably increase access to and eligibility for Parenting Sentencing Alternatives to prison confinement, so more parents can serve more of their sentences in the community with their children. Specific consideration should be given to any racial, ethnic, or gender disparities within the existing Family and Offender Sentencing Alternative (FOSA) and the Community Parenting Alternative (CPA) programs.

Recommendations to the Caseload Forecast Council

- The Caseload Forecast Council (CFC) should write a report outlining: (1) the current limitations of data from Felony Judgment and Sentencing (FJ&S) forms, and (2) possible solutions. For FJ&S data, it would be beneficial for the CFC to immediately begin coding “Hispanic/Latinx” as a separate ethnicity variable rather than as a race, so that CFC’s data is comparable to Office of Financial Management population estimates and would allow for accurate disproportionality analyses. CFC should also issue corrections to past reports which have included inaccurate disproportionality analyses for the Latinx population. We recommend considering legislative changes, changes to and standardization of the FJ&S forms, education and outreach to courts to support more standardized and complete data collection, changes to coding methodologies and internal documentation of coding methodologies, and needed updates to CFC databases.

4. User Fees & LFOs

Goal 4: Reduce reliance on revenue from court users to fund the courts.

Chapter 1 – Gender and Financial Barriers to Accessing the Courts

- Stakeholders should propose an amendment to GR 34 to allow fee waivers based solely on the litigant’s attestation of financial status, without additional proof. Allowing presentation of such waivers to the Clerk or other designated non-judicial officer should also be considered to help streamline the procedure. Information about fee waivers should be prominently displayed (in multiple languages) at the courthouse and online.
- Stakeholders should convene a workgroup to analyze the application of GR 34 fee waivers to name change recording fees. The workgroup should consider ways to reduce barriers to name change recording for indigent individuals.
- GR 34 is not always interpreted to extend fee waivers to fees associated with parenting classes, family law facilitators, and other family law costs and fees. GR 34 should be amended to explicitly extend waivers to all such fees.

Chapter 15 – The Gendered Impact of Legal Financial Obligations

- To facilitate a single place to access statewide Legal Financial Obligation (LFO) data, by December 2021, stakeholders should be convened to: (1) assess what LFO data is currently available from each level of court; (2) assess what LFO data is not available; (3) assess how stakeholders (e.g., researchers) currently access available data; and (4) recommend ways to (i) fill in the missing data, and (ii) create a single portal for accessing statewide data. Any analysis should first consider the reliability of the underlying data, e.g., the sources of that data and how it was collected in the first instance. The data should include impact of LFO’s by gender, race, and ethnicity as overlapping categories; it should also strive to include who is making the payments (i.e., the sentenced defendant or another family member).
- To ensure that LFOs do not pose a barrier to completing a sentence, exiting the criminal legal system, and successfully reentering the community, the legislature should consider enacting the following Washington State Criminal Sentencing Task Force LFO recommendations:
 - Address interest on restitution:
 - Change current law to give judges the discretion to waive or suspend interest on restitution, rather than it being mandatory, based on a finding of current or likely future ability to pay.
 - If restitution is imposed, allow accrual of interest to begin following release from the term of total confinement.
 - Lower the current 12% interest rate on restitution.
 - Waive existing non-restitution interest.
 - Victim Penalty Assessment (VPA):
 - Provide trial court judges with the discretion to reduce or waive the VPA upon a finding by the court that the defendant lacks the present and future ability to pay.
 - Provide trial court judges with the discretion to eliminate stacking of multiple VPAs (multiple VPAs imposed at same time) based on a finding that the defendant lacks the present and future ability to pay.

- Convene stakeholders to collaborate on legislation requiring, at a minimum, that superior courts means-test LFOs which are currently mandatory, including, for example, the victim penalty assessment.
- Convene stakeholders to propose draft revisions to CrR 3.4(d) and CrRLJ 3.4(d) concerning the necessity of an individual's presence at a hearing ordered solely to address LFO collection, and the advisability of issuing warrants when an individual fails to appear at such a hearing. Stakeholders should consider whether warrants should still be permitted where, for example, there is proof by a particular standard (e.g., preponderance) that the failure to pay is willful.
- Convene stakeholders to make recommendations concerning the use of collection agencies to collect LFO debt. Stakeholders should examine, at a minimum: (1) whether LFOs should be exempt from referral to collection agencies; (2) whether to increase the minimum collection referral period (currently 30 days under RCW 19.16.500(2)); and (3) whether to reduce collection agency fees (currently up to 50% of the first \$100,000 under RCW 19.16.500(1)(b)).
- To ensure that LFOs do not pose barriers to completing a sentence, exiting the criminal legal system, and successfully reentering the community, and to stop dependence on LFO revenue to fund the courts and victim services, by mid-2022, convene stakeholders to: (1) assess what portion of court funding and victim services funding is supported by LFOs; (2) assess the impact of means-testing LFOs currently supporting court funding and victim services funding; (3) assess the economic and social impact of eliminating referral of debts to collection agencies; and (4) recommend alternative sources of funding for courts and victim services.

5. Combatting Harassment inside the Judicial Branch

Chapter 4 – The Impact of Gender and Race in the Courtroom and the Legal Community

- To develop a more inclusive and respectful work environment, the judicial branch and its leaders should take explicit steps to promote equity, diversity, and inclusion, and to foster a culture that values individual differences in age, gender, sexual orientation, gender identity or expression, disability, race, and ethnicity.
- The judicial branch should deliver regular workplace harassment prevention trainings that drive real changes.
- The judicial branch and its leaders should follow best practices to design and deliver prevention trainings for all types of workplace harassment, including harassment based on gender, race, ethnicity, or LGBTQ+ status.
- These trainings should focus on changing behavior, not on changing beliefs. Anti-harassment programs should encourage the support of certain populations that are more likely to experience workplace harassment than others (including, but not limited to sexual and gender minorities; women; Black, Indigenous, and employees of color). These training programs should be evaluated to determine whether they are effective and what aspects of the training(s) are most important to changing culture.
- To improve transparency and accountability, the judicial branch and its leaders should be as transparent as possible (while respecting the rights of the accused person) about how they are handling reports of workplace harassment. Decisions regarding disciplinary actions, if required, should be made in a fair and timely way. This accountability can ensure that the court workforce feels supported by their

organizations, because perceived organizational support is significantly associated with lower rates of workplace harassment.

- To measure progress, the judicial branch and its leaders should work with researchers to evaluate their efforts to create a more diverse, inclusive, and respectful environment. Conducting regular surveys will help to track whether planned processes have been implemented and whether an anti-harassment policy is producing the desired effects. The survey methodology, when fully implemented, will enable the judicial leadership to monitor the sustainability and effectiveness of the anti-harassment efforts. The methodology should allow the branch to disaggregate the data by race, ethnicity, sexual orientation, and gender identity or expression to reveal different experiences across populations. The results of surveys should be shared publicly to demonstrate that the branch takes the issue seriously.
- The Gender and Justice Commission should partner with the associations representing Washington courts and clerks' offices to educate and advocate for the adoption of the Model Anti-Harassment Policy by courts across Washington. AOC should track the progress on adopting the policy and should develop a method for evaluating outcomes of the policy.
- Every Washington court should publicize its procedure for filing complaints of sexual and other types of discrimination and harassment, and include this procedure on its website.
- By not later than 2022, the Court Education Committee of the Board for Judicial Administration (BJA) should partner with the Gender and Justice Commission to develop a training for judges on how to model and, if necessary, control their courtrooms in ways that immediately address inappropriate gender-biased conduct on the part of attorneys and court personnel.

6. Supporting Successful Court-based Programs

Chapter 8 – Consequences of Gender-Based Violence: Domestic Violence and Sexual Violence

- Given that the evaluation of Domestic Violence Moral Reconciliation Therapy (DV-MRT) showed it to be a promising practice in reducing domestic violence recidivism, and that litigants bear significantly lower costs to participate in the program, more courts in Washington State should consider implementing court-based DV-MRT programs.



Board for Judicial Administration (BJA) Meeting
Friday, September 17, 2021, 9:00 a.m. – 12:00 p.m.
Videoconference

DRAFT MEETING MINUTES

BJA Members Present:

Chief Justice Steven González
Judge Tam Bui, Member Chair
Judge David Estudillo
Judge Jennifer Forbes
Judge Rebecca Glasgow
Judge Marilyn Haan
Judge Dan Johnson
Judge Mary Logan
Judge David Mann
Terra Nevitt
Commissioner Rick Leo
Justice Raquel Montoya-Lewis
Judge Rebecca Pennell
Judge Rebecca Robertson
Dawn Marie Rubio
Kyle Sciuchetti
Judge Michael Scott
Judge Charles Short
Judge Paul Thompson

Guests Present:

Kim Allen
Jim Bamberger
Esperanza Borboa
Timothy Fitzgerald
Chris Gaddis
Justice Sheryl Gordon McCloud
Robert Mead
Dennis Rabidou
Dr. Dana Raigrodski
Sierra Rotakhina
Judge Kevin Ringus

Administrative Office of the Courts (AOC) Staff Present:

Kelley Amburgey-Richardson
Crissy Anderson
Judith Anderson
Jeanne Englert
Heidi Green
Brittany Gregory
Penny Larsen
Dirk Marler
Stephanie Oyler
Christopher Stanley
Caroline Tawes

Call to Order

Chief Justice González called the meeting to order at 9:00.

Presentation: Gender and Justice Commission’s Gender Justice Report

Justice Gordon McCloud discussed the 2021 Gender Justice Study that was published September 16, 2021. Justice Gordon McCloud reviewed the focus and findings of the study, and how the study’s five goals tie into the BJA goals to recover from the COVID pandemic, advocate for consistent funding for courts, and improve court security. Assisting in the presentation was report co-chair Dr. Dana Raigrodski, Kelley Amburgey-Richardson, and Sierra Rotakhina.

BJA Member Orientation

Small group discussion

The groups were asked to answer the following questions and briefly report back to the larger Board.

- What is one thing I can do to improve morale and well-being in the judicial branch?
- What is one way in which I can help promote the Board's goals this year?

A summary of the small group discussions included:

1. What is one thing I can do to improve morale and well-being in the judicial branch?

Ideas included reaching out to other staff and doing things socially; working on maintaining a work/life balance; working on communication and making sure the right people are at the table when making decisions; communicating outside of video meetings; make connections with others; decision making that is more transparent.

2. What is one way in which I can help promote the Board's goals this year?

Ideas included bringing a legislator to the court to show what happens in courts; implement the recommendations from the Judicial Leadership Summit; recognize common goals; increase communication; address security both in and outside the courthouse.

Participants were asked to send additional comments to the BJA organizers by e-mail.

BJA Task Forces

Court Recovery Task Force (CRTF)

The CRTF is assessing court issues and responses compiled by the Supreme Court to determine if court rules need to be changed.

Court Security

The Court Security Task Force received \$750,000 in grant pool funding for security equipment for priority sites. AOC is hiring a grant pool funds administrator. The next step will be to request \$4.6 million in the Supplemental Budget for equipment, audits, and labor to operate the equipment.

It was moved by Judge Robertson and seconded by Judge Mann to amend and readopt the BJA Resolution in Support of Court Security with the amended language "WHEREAS increases in security incidents and heightened threats in courthouses warrant urgent action to improve safety measures..." The motion carried unanimously.

There was a session at the Annual Conference on security. Information from the Annual Conference will be available on Inside Courts by the end of September. Tips were shared to address contact information on the internet including:

Joindeleteme.com to disassociate one's name with an address; Google may be contacted to blur an image of a home; and real estate sites such as Redfin, Zillow, Estantly, and Realtor may be contacted with a request to delete images of a home. Anyone may look up their name, address, and phone number on Google or other search site to find out what information is available to the public.

Standing Committee Report

Budget and Funding Committee (BFC):

The Supplemental Budget is normally submitted to fill funding gaps. Additional funding is available this year, and the Supplemental Budget request is \$30 million.

Christopher Stanley, Chief Financial & Management Officer at AOC, introduced himself and shared the three priority categories for decision package requests: secure the judicial branch, right-size staffing and salaries; and maintain IT infrastructure of the judicial branch. The state forecast has been exceeded by \$80 million, and this presents an opportunity to ask for what we need. The budget requests are defensible and appropriate. Christopher Stanley will be meeting with legislators in the next month. The requests in each category were reviewed.

It was moved by Judge Short and seconded by Justice González to adopt, prioritize, and vote on the supplemental budget requests as presented. The motion carried unanimously with one abstention.

Court Ed Committee (CEC):

Judge Bui reviewed the CEC information included in the meeting materials. The 2022 Judicial College will be virtual. The CEC will review strategy planning and what court education will look like in the future.

Proposed changes to GR 26 were included in the meeting materials. Credits would be required from programs that focus on equity, diversity, and inclusion principles. The amendments are supported by the Superior Court Judges' Association (SCJA), the District and Municipal Court Judges' Association (DMCJA), and other entities.

It was moved by Judge Bui and seconded by Judge Haan to approve the proposed changes to GR 26 and GR 26 standards. The motion carried unanimously.

Legislative Committee (LC):

The LC report was included in the meeting materials. Brittany Gregory, AOC Associate Director of Judicial and Legislative Relations, introduced herself. The 2022 Legislative session will run from January 10–March 11, 2022. It is unclear if the session will be

held in person or virtually. The focus will be on fixing some of the larger bills from the 2021 session, addressing court backlogs, and the Uniform Guardian Act (UGA). Brittany Gregory reviewed the bill proposals received by the LC. The BJA legislative agenda will be submitted for a vote at the October meeting.

The single judge court bill was not finalized last year. Brittany Gregory is working with the sponsor and stakeholders on the bill language and a new draft will be shared with the BJA in October.

Policy & Planning Committee (PPC):

The PPC report was included in the meeting materials. The PPC continues to work on the adequate funding project and recruiting an at-large member. The PPC plans to send a survey to gather information on courts' top funding needs and priorities, their experiences and needs for support with budget requests at the local level, and opinions on exploring alternate funding structures. Survey results will be presented at the October or November BJA meeting.

It was moved by Judge Robertson and seconded by Judge Scott to allow the Guardianship and Civil Legal Needs resolutions to expire. The motion carried unanimously.

Judicial Leadership Summit

Chief Justice González received a draft of legislation from Senator Pedersen resulting from the discussions at the Judicial Leadership Summit.

Sen. Pedersen drafted a bill to establish an interbranch coordinating committee. Brittany Gregory made some edits to the original bill draft that were included in the meeting materials. Chief Justice González asked the BJA members how they felt about establishing this kind of committee, what they thought about the proposed changes in the bill, and if there were other options. BJA members were asked to either suggest changes to the draft or agree there needs to be regular communication with legislators but that a statute is not needed.

Members supported the idea of promoting communication, but had mixed feelings about making the committee a statutory requirement. Members supported the amendments.

Chief Justice González will have a conversation with Sen. Pedersen about the amendments and will report back to the BJA.

May 21, 2021 Minutes

It was moved by Justice González and seconded by Judge Bui to approve the May 21, 2021, BJA meeting minutes. The motion carried unanimously.

Information Sharing

The Court of Appeals Div. III held its first in-person Oral arguments, which went well. The Court of Appeals will have a retreat next month.

Dawn Marie Rubio thanked the voting members for supporting the work of the AOC. Cynthia Delostrinos has been hired as the manager of the Office of Court Innovations at AOC, which will contain the Supreme Court Commissions and the Washington State Center for Court Research and build the Family and Youth Justice, Behavioral Health, and Equity and Access programs.

Terra Nevitt announced this is Kyle Sciuchetti's last meeting and thanked him for his work. The next Washington State Bar Association (WSBA) president will be Brian Tollefson. The winter Bar exam in February will be in person. Following the Supreme Court order, the WSBA Board of Governors adopted a vaccine mandate for employees and for volunteers doing in-person work. Terra Nevitt and Kyle Sciuchetti are conducting an annual listening tour, and Kyle Sciuchetti discussed information from the tour.

All three divisions of the Court of Appeals have adopted a vaccine mandate. Division I started live oral arguments on Wednesday, and participants were required to be vaccinated.

This is Tim Fitzgerald's last BJA meeting. He thanked the BJA for allowing clerks to participate and introduced Kim Allen as new president of the Washington State Association of County Clerks. Chief Justice González thanked him for his service.

Kim Allen introduced herself and thanked the Chief Justice for allowing clerks to participate. Clerks are working with the courts on the right to counsel for the Eviction Resolution Pilot Program; they are working with the counties on processing *Blake* reimbursements; they are working with the new protection order work; and were involved in reviewing the GJC study.

Commissioner Leo announced today is Constitution Day.

Judge Short reminded members that the Therapeutic Courts funding applications are due September 28, and the survey of vaccine mandates are due September 24. A webinar on Domestic Violence – Moral Reconciliation Therapy (DV-MRT) is available on Inside Courts. A symposium series of webinars on DV is coming in October. Judge Short announced the death of Judge Eric Lucas, who played a large part in developing the DV webinar series.

Chief Justice González thanked the staff who organize and run the BJA meetings.

The SCJA is focusing on the Eviction Resolution Pilot Project (ERPP). All counties but one have adopted the program and are working with service providers in the counties and with the Office of Civil Legal Aid.

Chief Justice González thanked Judge Estudillo and congratulated him on his appointment to the Federal Court.

Dirk Marler confirmed that the AOC received \$1.1 million from the Washington Traffic Safety Commission to automate a process that will improve the exchange of data between trial courts, county clerks and the Department of Licensing.

Other

There being no further business, the meeting was adjourned at 12:01 p.m.

Recap of Motions from the September 17, 2021 Meeting

Motion Summary	Status
Amend and readopt the BJA Resolution in Support of Court Security with amended language “WHEREAS increases in security incidents and heightened threats in courthouses warrant urgent action to improve safety measures...”	Passed
Adopt, prioritize, and vote on the supplemental budget requests	Passed
Approve the proposed changes to GR26 and GR26 standards.	Passed
Allow the Guardianship and Civil Legal Needs resolutions to expire.	Passed
Approve the May 21, 2021, BJA meeting minutes.	Passed

Action Items from the September 17, 2021 Meeting

Action Item	Status
The single judge court bill was not finalized last year. A new draft will be shared with BJA in October.	
The PPC sent a survey to gather information on courts’ top funding needs and priorities, their experiences and needs for support with budget requests at the local level, and opinions on exploring alternate funding structures. Survey results will be presented at the October or November BJA meeting.	

Action Item	Status
Chief Justice González will have a conversation with Sen. Pedersen about the amendments made to the bill to establish an interbranch coordinating committee and will report back to the BJA.	
<u>May 21, 2021, BJA Meeting Minutes</u> <ul style="list-style-type: none"> • Post the minutes online • Send minutes to the Supreme Court for inclusion in the En Banc meeting materials. 	Done Done