

Washington Supreme Court: Open Public Meetings Act does not apply to bar association

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The Washington state Supreme Court announced its ruling Thursday that the state bar association is not subject to the Open Public Meetings Act. (Rachel La Corte / The Associated Press) Less

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The state Supreme Court ruled Thursday that the Washington State Bar Association (WSBA) is not a “public agency” subject to the Open Public Meetings Act, overturning a lower court’s ruling that state transparency laws apply to the bar.

The decision helps finalize the legal battle over former longtime executive director Paula Littlewood’s unceremonious firing from the bar association.

In a closed-door session in 2019, the bar's governing board decided to fire Littlewood with no public explanation other than the wish "to go in a different direction."

Bar members Lincoln Beauregard and Steve Fogg sued the WSBA, contending the governing board broke the state's Open Public Meetings Act (OPMA) — a transparency statute that ensures all meetings of the governing body of a public agency are open and public — when deciding in secret to fire Littlewood.

The bar's lawyers argued that only the Supreme Court has authority over legal matters involving the organization.

King County Superior Court Judge Roger Rogoff, however, ruled in April 2019 that WSBA is a public agency subject to state transparency laws. Saying that the bar "enforces rules that affect the general public every day," Rogoff concluded the organization answers not only to its members but "is accountable to the public it serves."

At the time, Fogg called Rogoff's ruling a "big victory for transparency."

But the state Supreme Court's review of the Rogoff's decision concluded quite the opposite, reasoning that because the court maintains authority over the WSBA, the "Board of Governors, acting in this area, is an arm of the court, independent of legislative direction."

The WSBA has existed since 1888, before Washington became a state, but it was not until the state bar act of 1933 that it became an "agency of the state" and membership became mandatory to practice law.

Because the WSBA was a voluntary association until 1933, the Supreme Court says in its ruling, it was not created in accordance with the Open Public Meetings Act. The court found the WSBA only violated its own bylaws.

WSBA President Kyle Sciuchetti said the opinion "aligns with and clarifies our understanding about the unique nature, history, and structure of the State Bar, operating under the delegated authority of the Supreme Court.

"WSBA remains committed to openness and transparency; that is our value as well as our protocol, outlined in WSBA's bylaws, which we will continue to honor."

Beauregard said in an email to The Seattle Times: "The Court did its best to reach a fair resolution. I respectfully disagree with the reasoning and ruling. However, I hope that Mr. Fogg and I advanced the principles underlying transparency and governance by bringing this lawsuit. That was the big picture goal."

Fogg could not be reached for comment.

The Supreme Court opinion was 8-1, with Justice Barbara Madsen dissenting, writing, “The mission of the Washington State Bar Association is to protect and serve the public by regulating legal practitioners in the state.

“To carry out this mission, WSBA, just like any other governing institution, must be transparent.”

Staff writer Lewis Kamb contributed to this report.

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