

From: [OFFICE RECEPTIONIST, CLERK](#)
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Subject: FW: Comments on proposed changes to APR 6 and APR 9
Date: Wednesday, March 16, 2022 2:48:39 PM
Attachments: [22.03.16 Email from Deane W. Minor to Rules Committee regarding proposed rule changes to APR 6 and 9.docx](#)

From: Deane Minor [mailto:Deane@tuohyminor.com]
Sent: Wednesday, March 16, 2022 2:48 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Tina Waldo <tina@tuohyminor.com>; Emily Rose Mowrey <emily@limitlesslaw.com>
Subject: RE: Comments on proposed changes to APR 6 and APR 9

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Thank you. My comments below are the same as set forth in the attachment – I was not sure which would be easier to forward.
Deane W. Minor

To: Clerk of the Supreme Court

From: Deane W Minor, WSBA# 12756; and also the current tutor and supervising attorney for Kristine Marie Waldo, a rule 6 law clerk (4th year) and a licensed legal intern under rule 9, WSBA #9889353

Dated: March 16, 2022

Re: proposed changes to APR 6 and APR 9

Dear Clerk of the Court:

I wish to comment on the proposed changes to APR 6 and APR 9.

APR 6

I strongly support the proposed changes to APR 6.

FIRST: New subparagraph (b)(8) will enable other willing tutors to participate in this incredible opportunity for aspiring lawyers.

I also would like to plant the seed for future discussion: in a similar vein, if lawyers from different law firms share common space and share a common interest in being co-tutors, the rule should allow this to occur with appropriate safeguards/under certain circumstances. This opinion is based upon my own experience. A few years ago, another attorney, who conducted a separate law firm and rented in my law office building, and I were willing to serve as co-tutors for a paralegal who wished to engage in this program. This other attorney and I had a close working relationship and had different areas of expertise that would have enhanced the educational experience of the proposed rule 6 intern. The law clerk program was unable to accommodate our willingness to serve in this joint capacity because we were in different law firms. Just as the rule should be expanded through adoption of new subparagraph (b)(8), in my opinion the rule should be expanded to accommodate the situation from a few years ago.

SECOND: The suggested change to subparagraph (e)(2) makes sense on the face of it. However, I must say I am puzzled by the comment under the “purpose” commentary where it says, “This proposed change would prevent clerks from being too far into the next month of study before completing their exams for the prior month of study.” This comment seems to be in conflict with subparagraph (e)(2) which is not subject to a proposed change:

(1) Examinations. At the end of each month, the law clerk shall complete a written examination prepared, administered, and graded by the tutor. The examination shall be answered without research, assistance, or reference to source materials during the examination. The examination shall be graded pass/fail. (Emphasis added)

Throughout the 3+ years of involvement in the rule 6 program with Ms. Waldo, I have always assumed that the phrase, “at the end of each month,” meant that the written examination was required to be taken by tutee Waldo on or before the last day of the month of study. This has often been less than convenient, but we knew that was the rule when we started the program and so we have always abided by it. *The comment above seems to suggest otherwise.* A clarification of this comment might be helpful. Parenthetically, whether I have misunderstood the rule and imposed a more stringent requirement on the deadline for the administration of the exam, the comment will not change my practice of striving to have the exam administered on or before the last day of the month of study. (Ms. Waldo is 39 for 39 thus far, having completed 3 months of the 4th year of the program.)

I strongly support the proposed change to APR 9.

FIRST: The change under subparagraph (b)(1)(A) to expand the eligibility to become a Licensed Legal Intern if enrolled in a law school clinic program is excellent.

My work as a rule 9 intern in 1980 when I was a summer intern with a private law firm in Everett was a memorable and valuable part of my experience that summer. I also worked in a law clinic at UW law my 3rd year. The clinic was designed to assist students at the UW. I remember vividly a bus trip down to King County Superior Court seeking a name change for a transgender student whose doctor required the name change before performing surgery. These experiences helped me become familiar with the courtroom and allowed need to become a functioning lawyer much more quickly.

The secondary point of this trip down memory lane is to confirm that with appropriate supervision, I would have had the opportunity for even more courtroom experiences before becoming a lawyer that would have helped inform my decisions on what areas of practice I was best suited for.

The primary point of these comments is this: to plant the seed for future discussion on the expansion of the following subsection of APR 9(b):

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

(2) Be an enrolled law clerk who:

(A) is certified by Bar staff to be in compliance with the provisions of [APR 6](#) and to have successfully completed not less than five-eighths of the prescribed 4-year course of study; and

(B) has the written approval of the primary tutor; . . . (Emphasis added)

For the same reason that the eligibility for a law student to participate in the rule 9 program should be enhanced to include those who are involved in an appropriate clinical program, the eligibility to participate in the rule 9 program should be expanded to include rule 6 interns who are working in a private law firm and have completed one half – or even less – of the four-year program. My experience with my current rule 6/rule 9 intern, Ms. Waldo, informs my opinion.

Reason Number 1: Ms. Waldo gets a greater amount of supervision from the undersigned and my 3 law partners than I imagine would be economically feasible through a law school clinical program. Everything Ms. Waldo has ever done in court since becoming a rule 9 intern has been thoroughly vetted and scrutinized by at least one of my law partners and/or me. Simply put, the only difference between the work she has

performed in court for our clients v. the work that a lawyer in our office would have performed in court has been to lower the cost of providing the same high quality legal services.

Reason Number 2: Ms. Waldo has had an opportunity to experience real lawyering in a supervised educational setting. Allowing her to do this for a longer period of time during her rule 6 experience would make her a better lawyer when her time comes to shine.

In making this recommendation, I am mindful of the 2nd subsection of this particular rule: APR (b)(2)(B) requires the written approval of the primary tutor. As anyone reading these comments knows, the primary tutor as a bull's-eye on their back: if the rule 9 tutor commits malpractice and/or an ethical violation, it will come home to roost on the primary tutor. That sobering fact, coupled with the presumption of integrity and sense of ethics that a rule 6 tutor deserves, is ample protection against a rule 6 intern serving as a rule 9 intern before their time. As an example, in my particular circumstances given my particular intern, Ms. Waldo, even if it had been for her possible to be a rule 9 intern after completion of one third of the rule 6 program, I may well have required her to wait until the completion of a full one half of the program. In short, like any responsible rule 6 tutor, I would have taken my responsibility under APR (b)(2)(B) seriously.

SECOND: I recommend approval of the other proposed revisions to APR 9 because they will enhance the ability of the program to positively impact the lives of clients and interns by broadening the opportunity to serve as a rule 9 intern.

THIRD: My final comment concerns the change to APR 9(f) and (h) to utilize more inclusive language. While these provisions do not change the substantive beating of the rule, they are in important part of the effort to make our bar more inclusive, and I appreciate the attention to detail by whomever has been ferreting out and suggesting changes to the non-inclusive lan

Deane W. Minor

Pronouns: He/his/him

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From: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>

Sent: Wednesday, March 16, 2022 2:05 PM

To: Deane Minor <Deane@tuohyminor.com>

Subject: RE: Comments on proposed changes to APR 6 and APR 9

Yes, you can submit your comments to this email address and I will forward them to the rules committee.

Thank you,

Receptionist

Supreme Court Clerk's Office

360-357-2077

From: Deane Minor [<mailto:Deane@tuohyminor.com>]

Sent: Wednesday, March 16, 2022 1:16 PM

To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>

Subject: Comments on proposed changes to APR 6 and APR 9

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Is this the correct email address for comments on proposed rule changes?

Thanks for letting me know,

Deane W. Minor

Pronouns: He/his/him

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