

# WASHINGTON STATE BAR ASSOCIATION

April 4, 2022

Honorable Erin L. Lennon  
Clerk of the Supreme Court  
PO Box 40929  
Olympia, WA 98504

Sent via email: [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov)

Re: WSBA Diversity Committee's Comments on Proposed Amendments to Washington General Rules and Rule of Professional Conduct 8.4

Dear Clerk Lennon:

I am writing to share the Washington State Bar Association's Diversity Committee's comments regarding proposed amendments to Washington General Rules, and Rule of Professional Conduct 8.4. These proposed amendments would replace gendered language with more inclusive gender-neutral language, and would explicitly name gender identity and gender expression as protected classes. The Committee's comments on the amendments are attached. The Committee was authorized to comment by the Board of Governors at its March 10-11, 2022 meeting.

The Diversity Committee advocates within the Bar Association and its leadership for meaningful commitment to diversity, equity, and inclusion in the legal profession in Washington State. The WSBA Diversity and Inclusion Plan outlines the Committee's purpose.

The Committee appreciates the Court's consideration of this comment.

Sincerely,



Terra Nevitt  
Executive Director

cc: Brian Tollefson, President, Washington State Bar Association  
Nam Nguyen, Co-Chair, WSBA Diversity Committee  
Sunitha Anjilvel, Co-Chair, WSBA Diversity Committee

# WASHINGTON STATE BAR ASSOCIATION

## MEMO

**To:** Washington State Supreme Court

**From:** Nam Nguyen and Gov. Sunitha Anjilvel, Co-Chairs of the WSBA Diversity Committee

**Date:** February 22, 2022

**Re:** Support for Proposed Amendments to Washington General Rules and Rule of Professional Conduct 8.4

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The Washington State Bar Association's Diversity Committee respectfully submits the following comments in support of the proposed changes in the Washington General Rules of Practice and the Rules of Professional Conduct 8.4. These changes are outlined in two Orders signed by the Court on October 5<sup>th</sup>, 2021: Court Order No. 25700-A-1375 and Court Order No. 25700-A-1372. The Diversity Committee respectfully asks the Supreme Court to authorize these rule changes because they advance the WSBA's mission with respect to diversity and inclusion, particularly with respect to gender identity.

The first set of changes with respect to Washington General Rules will replace gendered language with more inclusive gender-neutral language. The rule changes would use more gender-neutral language when gendered language is not needed – i.e., there is no change to the meaning of the rule if the language is changed. These changes are varied and broad in scope, covering many general rules and comments to those rules.

The other proposed rule change addresses the Rule of Professional Conduct 8.4, which would add in language that explicitly names *gender expression* and *gender identity* as protected identities, like other protected classes such as race, sexual orientation, ethnicity, etc. named in the rule. Changing RPC 8.4 to include *gender expression* and *gender identity* as protected classes serves to define explicitly what has heretofore been implicit in the rule. Engaging in prejudicial conduct based on gender has always been included in the catchall provision 8.4 (d); however, having it defined makes it clear that discrimination based on gender is a violation of the rule. This will provide further enforcement mechanisms for persons whose gender identity or expression have been disrespected by an attorney, including by opposing counsel. We have known many attorneys who do not put enough effort in to ensure they use the correct pronouns, names, or gendered terms (mother/father) for parties in the practice of law, which inevitably harms the person who is being misgendered or called by the wrong name.

The legal system's failure to recognize diverse identities must be remedied. These rule changes constitute another step in the right direction towards inclusion of gender diverse persons in the legal system. The proposed amendments are a step in the right direction towards inclusion of gender diverse persons and advancing the WSBA's commitment to diversity and inclusion. Further, these proposed amendments would improve access to justice, providing a more inclusive legal system.

More inclusive language sends a message that gender diverse people are welcome and included in the legal profession. Having your gender respected increases accessibility in the judicial system at every level. It is

important that all facets of the legal field treat gender diverse people with respect and dignity – which includes the use of a person’s correct pronouns and name.

We ask the Supreme Court to adopt these changes to the Washington General Rules and to RPC 8.4.

#### Stakeholder Input

This comment comes from members of the Diversity Committee, who represent both diverse members and diverse member communities at large. Our members see the need for this rule change for clients, third parties, and witnesses who experience discrimination based on gender identity frequently. More inclusive language sends a message that gender-diverse people are welcome and included in the legal profession. Having one’s gender respected increases accessibility in the judicial system at every level. It is important that all facets of the legal field treat gender diverse people with respect and dignity – which includes the use of a person’s correct pronouns and name.

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Linford, Tera](#)  
**Subject:** FW: WSBA Diversity Committee Comments re Proposed Amendments to General Rules and RPC 8.4  
**Date:** Monday, April 4, 2022 2:35:05 PM  
**Attachments:** [image001.png](#)  
[Diversity Committee Letter re Comments to Proposed Amendments 4-4-2022.pdf](#)

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**From:** Imani Shannon [mailto:[imanis@wsba.org](mailto:imanis@wsba.org)]  
**Sent:** Monday, April 4, 2022 1:47 PM  
**To:** OFFICE RECEPTIONIST, CLERK <[SUPREME@COURTS.WA.GOV](mailto:SUPREME@COURTS.WA.GOV)>  
**Cc:** Brian Tollefson <[TollefsonBOG@outlook.com](mailto:TollefsonBOG@outlook.com)>; Sunitha Anjilvel <[sunitha@amlawseattle.com](mailto:sunitha@amlawseattle.com)>; Nam Nguyen <[nam.nguyen@atg.wa.gov](mailto:nam.nguyen@atg.wa.gov)>; Shelly Bynum <[Shellyb@wsba.org](mailto:Shellyb@wsba.org)>; Terra Nevitt <[terran@wsba.org](mailto:terran@wsba.org)>  
**Subject:** WSBA Diversity Committee Comments re Proposed Amendments to General Rules and RPC 8.4

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Dear Clerk Lennon,

Please find attached the WSBA Diversity Committee's comments in support of the proposed amendments to Washington General Rules, and Rule of Professional Conduct 8.4.

The Diversity Committee advocates within the Bar Association and its leadership for meaningful commitment to diversity, equity, and inclusion in the legal profession in Washington State.

Thank you for your time,

Warmly,



**Imani Shannon | Equity and Justice Lead**

**Gender Pronouns:** They/Them/Theirs

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*about accessibility or require accommodation please let me know.*