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**To:** [Farino, Amber](#)  
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**Subject:** FW: Comment to proposed amendments to appellate standards: CrR 3.1  
**Date:** Wednesday, April 30, 2025 2:21:51 PM

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**From:** Sara Taboada <Sara@washapp.org>  
**Sent:** Wednesday, April 30, 2025 12:10 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Comment to proposed amendments to appellate standards: CrR 3.1

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Dear Justices,

I write in support of the proposed interim caseload standards for appellate public defenders. The current standards do not fully consider the professional, ethical, and personal obligations of appellate public defenders.

First, the current standards are neither realistic nor sustainable for most attorneys. The standards presume that appellate counsel should file three opening briefs per month and handle a total of 36 appeals per year. This assumes that appellate counsel will never take any sick days, any vacation days, or attend any trainings.

Second, the current standards do not fully consider the work that is not ultimately reflected in the opening briefs. For example, as counsel for the appellant, we must identify the issues that should be raised on appeal. This requires research into the issues trial counsel raised in order to evaluate whether we should raise the issues in the brief. We also research issues that trial counsel did not raise and evaluate whether we should raise these issues for the first time on appeal. After hours of exhaustive research into numerous issues, we often determine that several issues are not worth raising. Appellate counsel's process of elimination appears to be useful to the court, as another rule has been proposed that seeks to limit the number of overlength briefs submitted to the court.

Third, the current standards do not fully regard the number of hours necessary to file reply briefs and petitions for review. Reply briefs are critical to effective advocacy, as they illustrate the weaknesses in the State's position and provide an opportunity to respond to any novel points. By not responding to the State's counterarguments in a reply, appellate counsel might leave the court with the impression that the State's contentions are so strong that they are not worth disputing. Furthermore, petitions for review may sometimes take longer than expected to draft, particularly in

circumstances where the court affirms on grounds the parties did not raise. Yet, because the current standards are unsustainable, many appellate public defenders feel pressured to forego writing reply briefs and petitions for review.

The current standards have and will continue to result in talented appellate public defenders leaving the practice. This Court should adopt the proposed interim standards to stop this and ensure that indigent individuals receive the effective assistance of appellate counsel.

Thank you for considering this comment.

Sincerely,

Sara S. Taboada  
Attorney at Law  
Washington Appellate Project