

From: [Guthrie, Stephanie](#)
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Subject: Comment on proposed amendment to RAP 18.17
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I have no objection to the proposal to provide guidance on when overlength briefs are and are not appropriate, but I think the proposed language needs to be clarified, because it is very confusing or ambiguous in certain places. Proposed RAP 18.17(d)(1) says:

(d)(1) Motions for Overlength Filings. Overlength motions and briefs are disfavored. The specified length limits in RAP 18.17(c) already anticipate complex appeals and those with significant records. Requests to exceed the length limitations must be based on a showing of due diligence, concise editing, and compelling need. A motion for permission to exceed the applicable page or type-volume limits must be filed on or preferably before the filing's due date and shall be accompanied by a single copy of the overlength document that the applicant proposes to file.

Areas that would benefit from clarification include:

1. "the applicable page or type-volume limits" – The RAPs now primarily use word limits, not page limits, so it seems odd to reference page limits instead of word limits. Also, despite being an experienced appellate practitioner, I have no idea what is meant by "type-volume limits." If just saying "the applicable length limits" would accomplish the intent of the provision, that would be much clearer.
2. It's not entirely clear what kind of "showing of due diligence, concise editing, and compelling need" the Court wishes to receive. As written, I would assume the provision simply requires litigants to describe in the motion their efforts at concise editing and the reasons why an overlength filing is needed (something that I assume most practitioners already do). If the Court intends to require more, that should be explicitly stated and described.
3. "and shall be accompanied by a single copy of the overlength document that the applicant proposes to file" – It is unclear whether "accompanied by" means the motion should have a copy of the brief attached as an appendix, or that the proposed brief should be simultaneously with the motion rather than appended to the motion. The reference to "a single copy" suggests that the latter is the intended meaning. If so, It would be much clearer to say "...on or before the filing's due date, ~~and shall be accompanied by a~~ A single copy of the overlength document that the applicant proposes to file shall be filed separately, simultaneously with the motion, rather than appended to the motion."

Thank you,

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