



IPS International Practice Section

Washington State Bar Association
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WSBA International Practice Section

2015-2016 Executive Committee

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January 22, 2016

William Hyslop
President
Washington State Bar Association

Re: Objection by the International Practice Section to the Policy Proposals of the Workgroup's Memorandum distributed December 31, 2015

Dear Mr. Hyslop,

On behalf of the members of the International Practice Section we hereby request that the Board of Governors: (1) reject the report of the Workgroup's "Phase 1 Report: Draft Sections Charter and Fiscal Policy" dated December 30, 2015 and distributed on December 31, 2015 (the "Sections Proposals") and, (2) reconstitute a Workgroup that includes representatives of each of the Sections to address any concerns raised by WSBA staff or others.

We understand that there might be issues related to administration of the Sections that should be addressed. Once those issues are properly identified in a clear, transparent, inclusive and consensus-like manner, then adjustments to our current operations may or may not be in order. Until such a process has been undertaken, however, implementing the Sections Proposals is rash, and risks creating significant dissent within the membership of the Bar.

One of the fundamental objections we have to the Sections Proposals is the process by which the Workgroup was constituted and subsequently developed the proposals. When the WSBA Board of Governors (BOG) initially formed the Workgroup, many of us received the impression that it was to examine administrative improvements related to programming and CLEs. At that time, many Section leaders asked for representation on the Workgroup since any result would affect the Sections. This request was denied, and the end result was that the Workgroup did not include any active Section chairs, Section officers or other Section appointed representatives.

We also object to the timing for release of the Sections Proposals. The Sections Proposals were emailed on New Year's Eve, during the holiday season when many attorneys were on holiday and spending time with their families. The subsequent comment period of 14 business days is short, and occurs at a traditionally busy time of the year for attorneys. We understand that other Sections did not even have the opportunity to discuss the Sections Proposals at their regularly scheduled executive committee meetings. Considering the scope and

severity of the Sections Proposals, designating such an abbreviated comment period gives the appearance that the Workgroup is trying to sneak the Sections Proposals through without substantive comment.

From a process perspective, it is improper that the Sections Proposals, which fundamentally alter the administration, organization and financing of the Sections, should be undertaken without representation of the Sections. Our Executive Committee views the lack of representation, lack of transparency, and the release of the Sections Proposals with limited time for comment as reflecting an attempt to move the Sections Proposals forward under the radar.

Beyond our strong objections to the process, we have strong objections to the substance of the Sections Proposals.

With respect to the proposed uniform Sections Charter, the Sections Proposals indicate that there could be administrative inconvenience resulting from 28 separate sets of Bylaws (which we understand were all approved in consultation with WSBA staff and approved by the BOG). We have not heard this raised as an issue before. If specific problems are publicly disclosed by the Workgroup, then perhaps the many astute legal minds that constitute the state Bar could assist in crafting a tailored solution to those problems. Absent some concrete demonstration of harm caused by the current Sections structures, we are opposed to any proposal that would take away the Sections' self-governance.

With respect to fiscal policies, the Sections Proposals state vague generalities regarding fiscal imbalances, poor fiscal controls, and unequal distribution of funds among the Sections. This mentality apparently ignores the fact that attorneys voluntarily choose to join Sections based on their specific practice interests and how they wish to spend their time and money. This mentality also ignores the fact that individual Sections have been responsive to their members' demands and have created programming, networking, and public outreach programs. Most importantly, this misses the fact that the Sections are staffed by volunteer attorneys who are experts in their particular fields, and are therefore in the best position to understand what benefits their members actually want, what actions may be most useful for raising funds, and how those funds can be used most productively. Creating a "one size fits all" fiscal policy, programming policy, and events policy would destroy the vibrancy reflected in the Sections today. Each Section reflects a separate and distinct community of interests which has evolved in response to demands from its membership; for the BOG to dispense with the diversity reflected in the Sections would appear to be a contradiction of oft-espoused policy of encouraging diversity within the Bar.

If there are financial issues that arise from the administration of the Sections, then these need to be identified with transparent and verifiable evidence, and then should be addressed in an inclusive consensus manner. The Sections Proposals state in vague terms that the WSBA has been covering expenses for running the Sections. This information was not previously made available to the Sections, nor was it reflected in the WSBA budgets that have been generally available to the members. At this point, looking at the publicly available WSBA budget, it reflects that the Sections are revenue-positive; if this is not the case, then it means that the WSBA needs to adjust its accounting procedures to properly reflect the actual costs of the Sections *and then the WSBA needs to make that information available to the Sections*. Until now, we have not been aware of any administrative difficulties associated with the International Practice Section. We have also not had any indication that the WSBA-prepared financial reports were dramatically inaccurate. At this point, based on the information we have seen so far, there is no reason to adopt, and we oppose the adoption of, any of the fiscal policies contained in the Sections Proposals.

Ultimately, the WSBA is an organization with two mandates that are not always mutually compatible. One part of the WSBA is the mandatory organization under the Washington Supreme Court. As such, it is responsible for admission to practice, ongoing licensing, discipline, and mandatory minimum continuing education. The other part of the WSBA is the voluntary membership organization which is composed of the Sections, committees and voluntary boards. This part of the WSBA is composed of those members who make the choice to contribute their money and their time to specific communities of interest, which creates a healthy and

diverse environment for members to be practicing attorneys. The Sections Proposals would strip the Sections of their autonomy, which risks harming the vitality of the voluntary portion of the Bar and encourages members to take their scarce time (and dollars) to other organizations.

The International Practice Section views itself as consistently and effectively executing on its mission – providing benefits to its members, conducting continuous and ongoing outreach to foreign lawyers and foreign legal organizations, cooperating with other Sections, complying with requirements of the WSBA as a whole, and operating on a fiscally prudent basis. To the extent there are administrative problems or budgeting issues, we are open to cooperatively identifying them with the State Bar and other sections, and once identified resolving them as quickly as possible with appropriate, transparent, and tailored solutions. To this end, we recommend reconstituting a Workgroup that includes representatives of each of the Sections to address any concerns raised by WSBA staff or others. Solving problems is what we, as lawyers, do for a living. But unless there is any concrete evidence about such problems, we oppose in the strongest possible terms any change to “fix” what isn’t broken.

Sincerely,



Fraser Mendel, Chair

Bernard Shen, Chair-Elect

James Clack, Past Chair

Leonid Kisselev, Treasurer/Secretary

cc: Robin Lynn Haynes | President-elect
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