

Summary of 2020 House of Delegates Actions October 30, 2020

Passed	Failed	Other
<p>Increase 2021 Fees for Active Members Under Two Years and for Active 50-Year Members to the same fee as that for other Active Members; Increase Fees for Inactive, Retired, and Pro Bono 50-Year Members to the same fee as that for Inactive, Retired and Pro Bono Members; Implement a fee reduction for Active Membership based on income (BOG Resolution No. 1)</p>	None.	
<p>Increase 2021 Fees for Active Members by \$45 and Inactive and Pro Bono Members by \$25 (BOG Resolution No. 2)</p>	None.	
<p>Remote Court Appearances Via Video and Tele Conferencing for Routine Court Appearances (Delegate Resolution No. 1)</p>		
<p>Lawyer Support by Paralegals (Delegate Resolution No. 3)</p>		
<p>Adequate Funding for Legal Aid (Delegate Resolution No. 4)</p>		
<p>Judicial Review of Agency Proceedings to include Basis of Decision (Delegate Resolution No. 5)—as amended- Exh. A</p>		
<p>Support for Public Defense Providers. (Delegate Resolution No. 6)</p>		
<p>In Memoriam (BOG Resolution No. 3)</p>		
<p>Veterans Day Remembrance extending gratitude to those serving in the military service and offering condolences to the families of those who have died in service to their country (BOG Resolution No.4)</p>		

Judicial Review of Agency Proceeding to include Basis of Decision

Whereas, “The mission of the Oregon State Bar is to serve justice by promoting respect for the rule of law, by improving the quality of legal services and by increasing access to justice.”
Oregon State Bar Bylaw 1.2 – Article 1, Purpose of Bar and Definitions; Section 1.2 Purposes;

Whereas, Chief Justice Martha L. Walters, in her address to the 2018 House of Delegates, recognized the importance of ***Public Trust in Oregon Courts***;

Whereas, Administrative Agency Proceedings in contested cases often implicate Orders that rely upon determinations by Agency Staff, Officials, and Members of Boards, who are often not Members of the Oregon State Bar, and do not always have equivalent Legal Education, Training, and Experience;

Whereas, Civil Procedure Discovery methods are often not readily available during Administrative Agency Proceedings;

Whereas, Administrative Agency Managers and Appointees are not subject to Public Trust scrutiny that is implicated by Judicial Elections;

Whereas, Judicial Review of Administrative Agency Proceedings implicate significant Appellate Legal Fees and Costs that financially restrict Access to Justice for 80% of Oregonians in Civil Cases; and have an even greater adverse disproportionate impact upon Racial, Ethnic, and Other Minorities;

Whereas, deference to Administrative Agency Determinations, that involve a Rule, Policy, or a Decision, often adversely impact Fundamental Due Process Rights, guaranteed by the Fifth Amendment and the Fourteenth Amendment of the Federal Constitution;

Whereas, the lack of transparency in Appellate Judgments of “affirmance without opinion” [“AWOP”] adversely affects ***Public Trust in Oregon Courts*** and the Rule of Law;

Whereas, improved ***Access to Justice and Public Trust in Oregon Courts*** will benefit by issuance of an Appellate Court Opinion [instead of affirmance without Opinion] of an Order in a contested case involving Judicial Review of Administrative Agency Proceedings;

Whereas, an Appellate Court issuance of an Opinion [instead of affirmance without opinion] is needed to satisfy the Remedy Clause of the Oregon Constitution [Article 1, Bill of Rights – Section 10]; now, therefore, be it

Resolved, that the House of Delegates ~~recommends to the Oregon Rules of Appellate Procedure Committee to look at an amendment to their procedure for issuance of an Appellate Court Opinion in a contested case involving Judicial Review of Administrative Agency~~

Proceedings directs the Administrative Law Section to organize a work group of practitioners, administrative law judges, court staff and others as appropriate to review and consider issues involving judicial review of final orders in contested case proceedings with the intent of making recommendations to the House of Delegates at its next meeting in 2021.

Financial Impact

None stated.

Presenter:

Daniel Robert Lang, HOD, Region 3