

MONTANA SUPREME COURT PUBLIC MEETING MINUTES

Tuesday, June 23, 2026, 1:00 p.m.

Joseph P. Mazurek Justice Building

215 North Sanders, Helena

Attorney's Lounge, 4th floor | Also Available via Zoom Conference

Chief Justice Swanson called the meeting to order at 1:00 p.m. In attendance were Justices Baker, Bidegaray, McKinnon, Rice, and Shea. Justice Gustafson attended via Zoom.

Also present were Bowen Greenwood, Clerk of the Montana Supreme Court; Dave McAlpin, Court Administrator; Cathy Pennie, Financial Services Director of the Court Administrator; Jeanine Blaner, Montana Supreme Court Staff Attorney; John Mudd, Executive Director of the State Bar of Montana; Kathie Lynch, Admissions Administrator of the State Bar of Montana; Melissa Dyess Hartze, Admissions Assistant of the State Bar of Montana; and Ayden Auer and Rachel Garwin, Law Clerks of the Montana Supreme Court. Attending via Zoom were Dia Lang, Office Administrator for the Commission on Practice; and Gary Bjelland, Chair of the Board of Bar Examiners.

Item 1: Approval of Revised Minutes from the May 5, 2026 Public Meeting

- Chief Justice Swanson introduced the matter, noting the initial draft of the minutes received edits.
 - Justice Baker explained that revisions were necessary to indicate that two Justices seconded the motion to adopt the proposed interim budget strategy and proposed budget and that the Justices spoke favorably of both proposals, although a formal vote did not occur.
- Justice Baker moved to approve the revised minutes.
 - Chief Justice Swanson explained he thought the Justices assented to moving to adopt the proposed interim strategy and proposed budget at the May 5, 2026 public meeting.
 - Justice Gustafson stated she did not perceive that any Justices disfavored the motion. Justice Gustafson noted that improving compensation for positions across the judicial branch, including positions not slated for a raise this year, is of importance to the Court.
 - Justice Bidegaray supported increasing compensation for positions as proposed in the proposed interim strategy and proposed budget and supported increasing compensation for positions not listed in the proposals, including judicial assistants.

- Justice Baker asked Dave McAlpin, Court Administrator, to clarify whether the proposed budget will facilitate a long-term strategy that increases the competitiveness for judicial branch position compensation. McAlpin explained the proposed interim strategy increases the salary for certain positions between now and the 2027 legislative session, while the proposed budget requests funding to hire a third party to evaluate and reset the judicial pay plan before the 2029 legislative session.
- Chief Justice Swanson agreed with Justice Gustafson and Justice Bidegaray, noting that compensation for judicial branch positions have become non-competitive with other state agencies.
- Justice Baker supported establishing a long-term strategy that improves compensation for judicial branch positions.
- McAlpin noted that H.B. 13 will increase compensation for all state employees. Chief Justice Swanson and Justice Bidegaray expressed that the raise won't improve competitiveness for judicial branch position compensation because all state employees will receive the same increase.
- The Justices unanimously approved the revised minutes from the previous public meeting.

Item 2: Establishment of a Workers' Compensation Court Commission on Local Rules

- Chief Justice Swanson introduced the matter, noting that Judge Lee Bruner of the Workers' Compensation Court (WCC) petitioned to establish the WCC Commission on Local Rules because the WCC was transferred from the Executive Branch to the Judicial Branch.
 - Justice Baker noted the Court did not receive any public comment. Justice Baker explained that the Petition proposes to establish a commission, identifies members, and defines the commission's responsibilities.
 - Justice Shea explained that a WCC committee existed when the WCC was part of the Executive Branch so the Petition effectively transforms the existing committee into a Montana Supreme Court Commission.
 - Justice Shea explained the Court does not need to direct the WCC to submit proposed local rules because the WCC possesses rules that it promulgated and has perpetually reviewed pursuant to the Administrative Rules of Montana.
- Justice Shea moved to create the WCC Commission on Local Rules, composed of members as identified in Judge Bruner's Petition and Errata.
 - In response to Chief Justice Swanson's request for clarification, Justice Shea stated the proposed order should grant the WCC Commission authority to establish, adopt, amend, review, and repeal the WCC's local rules.

- The Justices unanimously approved the motion to establish the WCC Commission on Local Rules composed of members as proposed in Judge Bruner's Petition and Errata and to grant it authority over the WCC's local rules.

Item 3: Amendments to Rules for Admission to Bar of Montana Regarding Adoption of the NextGen Uniform Bar Examination

- Chief Justice Swanson introduced the matter, noting the Montana Board of Bar Examiners and the State Bar's Joint Petition and Brief in Support of Adoption of the NextGen Uniform Bar Examination.
- Justice Baker invited John Mudd or Gary Bjelland to introduce the Petition after noting its thoroughness and helpful background.
- Mudd described the evolution of the bar exam, noting that Montana was on the cutting edge of adopting the Uniform Bar Exam (UBE), which caused some early issues that the Court had to address. Montana is on the trailing end of adopting NextGen, as it will be among the last group of states to initially administer NextGen. Mudd expressed hope that being a late-adopter will help avoid some of the issues presented by early adoption of the UBE.
- Mudd expressed confidence that NextGen can accurately and validly assess competence (as far as bar exams can), as demonstrated by California's adoption of NextGen despite being a longstanding outlier by not adopting previous uniform bar exams.
- Bjelland expressed that the Petition thoroughly introduces and explains the need to adopt NextGen and that Greg Murphy, past chair of the Montana Board of Bar Examiners, did terrific work on the Petition as well.
- Bjelland stated that the Montana Board of Bar Examiners unanimously recommends adopting NextGen and acknowledged that at this point, Montana has no choice. Bjelland expressed confidence that NextGen will be a better exam than the UBE and that exam reliability and accuracy have improved over time.
- Bjelland noted that the Petition proposes February 2028 as Montana's initial NextGen implementation date. Bjelland explained that Dean Elaine Gagliardi at the Alexander Blewett III School of Law at the University of Montana (ABIII School of Law) is comfortable with the proposed implementation date, and Bjelland noted that ABIII School of Law has enough time to prepare for a seamless transition. Bjelland expressed that Kathie Lynch, Admissions Administrator, and Melissa Dyess Hartze, Admissions Assistant, will be instrumental in transitioning between the UBE and NextGen.
- Justice Baker expressed full support of adopting NextGen and the February 2028 implementation date. Justice Baker requested clarification regarding the Petition's request that the Court use the Standing Committee of stakeholders on admission matters to address implementation details, including the establishment of a minimum passing score and necessary steps and timeline to begin accepting NextGen scores from other states, which will start this summer.

- Lynch responded that the National Conference of Bar Examiners (NCBE) Taskforce has calculated a NextGen passing score (616) equivalent to Montana's current UBE passing score (266).
- Justice Baker clarified that the Court will still need to adopt a NextGen minimum passing score, meaning that the Standing Committee will need a short deadline to make its recommendation to the Court in order to accept July 2026 NextGen scores from other states. Lynch and Bjelland discussed the timing of the July 2026 bar exam results and the Standing Committee's availability, and Bjelland suggested setting a deadline for the end of August to receive the Standing Committee's proposal. Bjelland expressed his expectation that the Standing Committee will adopt the equivalent of the current UBE minimum passing score as recommended by NCBE; otherwise, an entirely new standard-setting process would be required.
- Justice Shea observed that NCBE's proposed equivalent NextGen passing score is in the middle of NCBE's recommended range of minimum passing scores.
- Justice Baker observed that there was controversy among other states surrounding the decision to not include trusts and estates as a NextGen tested topic. Noting that states can require their own state-specific educational modules, Justice Baker asked whether Montana should add trusts and estates to the Montana Law Seminar (MLS), which is a condition of admission to the Montana Bar. Justice Baker expressed that doing so might be worthwhile, as many general practice attorneys in rural areas engage in trusts and estates work.
- Bjelland shared that he does a lot of trust and estate work and thought it would be appropriate for the MLS to instruct admittees to the Montana Bar on trusts and estates. Bjelland expressed that considering its inclusion in the MLS would be a good idea, but that it does not have to be part of the Court's NextGen order.
- Justice Baker asked for Justice Rice's input as the Court's expert on these issues, and Justice Rice noted that NextGen is the result of many years of work, that this is the natural next step from the UBE, and Montana will not really have a choice but to adopt NextGen.
- Justice McKinnon recommended directing the question about whether to include trusts and estates in the MLS to whoever organizes and convenes the MLS, rather than including it in the Court's order adopting NextGen. Justice Baker agreed that the question should be posed to the MLS organizers.
- Bjelland stated that they would be updating the MLS curriculum and content, and Lynch agreed that including trusts and estates could be considered during that process. Lynch explained that when a new topic is included in the MLS, they usually identify a competent person to compile the materials and hopefully deliver the presentation.
- Bjelland and Lynch discussed potential candidates for helping update the MLS curriculum, including Cindy Thiel. Lynch assured the Court that updating the MLS is not hard, and that admittees who do not attend ABIII School of Law find it

helpful. Justice McKinnon recommended Professor Constance Van Kley to provide the constitutional law component.

- Mudd requested clarification from the Justices about whether the Court would prefer to simultaneously address multiple sets of proposed amendments to the Rules for Admission (Community Justice Workers, NextGen adoption, Character and Fitness, etc.), or whether the Court prefers to consider them separately.
- Justice Baker responded that she would prefer not to delay the process surrounding the Community Justice Workers proposal unless public comment requires otherwise. Justice Baker expressed that the fairly small revisions to the Rules for Admission necessary to adopt NextGen could be included with the Community Justice Workers order.
- Justice McKinnon noted that it might even be easier to review the proposed revisions individually, rather than taking them up together.
- Justice Shea requested clarification regarding the overlap between NextGen administration starting in July 2026, the continuation of the UBE through the end of 2028, and Montana's first NextGen administration. Mudd and Lynch explained that Montana's first NextGen administration would be in February 2028, but that the last national administration of the UBE would be in July 2028. Montana's last UBE administration would be in July 2027.
- Justice Baker moved to approve the Petition to adopt the NextGen Uniform Bar Examination effective February 2028; to refer to the existing Standing Committee the recommendations for the minimum passing score and any other implementation matters, with a deadline for proposal to the Court by the end of August 2026 or earlier; and to begin accepting other states' NextGen scores as those states begin implementing NextGen according to the passing score adopted by the Court.
 - Justice Shea seconded the motion.
 - In response to Chief Justice Swanson's request for clarification, Justice Baker confirmed that the Court would have to set the NextGen passing score before accepting NextGen scores from other states.
 - The Court unanimously approved the motion.
- The Justices thanked the State Bar, the Board of Bar Examiners, and Greg Murphy for their years of hard work on this matter.

Item 4: Appointments to the District Court Council

- Chief Justice Swanson introduced the matter, noting that the terms for the following members will expire at the end of June 2026: Judge Amy Eddy, Judge Brenda Gilbert, Flathead County Commissioner Randy Brodehl, Court Reporter Tom Sapp.
 - Chief Justice Swanson stated that the Montana Judges Association voted to reappoint Judge Eddy. Chief Justice Swanson explained that Judge

Gilbert's position will become vacant because Judge Gilbert retired. Chief Justice Swanson stated that the Montana Judges Association voted for Judge Adam Larsen to fill the vacancy.

- Chief Justice Swanson stated that Brodehl expressed he would like to continue serving and that the Montana Association of Counties recommended that Brodehl continue serving.
- Chief Justice Swanson stated Sapp expressed he would like to be reappointed and that the Montana Court Reporters Association recommended reappointment.
- The Justices unanimously accepted the recommended appointments to the District Court Council.

Item 5: Appointments to the Commission on Practice

- Chief Justice Swanson introduced the matter, noting that the terms for the chair and two members will expire at the end of June 2026: Ward E. "Mick" Taleff (Chair), Elinor Nault, and Pat Leikam.
- Chief Justice Swanson recommended to reappoint Taleff because he expressed interest in continuing to serve as the chair and because it would promote continuity as new members join the Commission.
 - Justice Baker supported reappointment and moved to reappoint Taleff because of Taleff's dedication, expertise, and quality of work.
 - The Justice unanimously reappointed Taleff as chair of the Commission.
- Chief Justice noted that Leikam is a non-attorney member that expressed interest and would like to continue serving on the Commission.
 - Justice Baker moved to reappoint Leikam, speaking favorably of Leikam's work experience and dedication.
 - The Justice unanimously reappointed Leikam as a member of the Commission.
- Chief Justice Swanson noted that Elinor Nault is a non-attorney member whose position will be vacant because she does not have an interest in continuing in her position.
 - Justice Baker explained that she and the Chief Justice Swanson each reached out to potential candidates so she proposed to table issue for one to two weeks. Chief Justice Swanson agreed to table the issue so he can confirm the candidate's interest in serving on the Commission.
- Chief Justice Swanson and Justice Baker agreed without opposition from the Court that the Court should issue an order appointing Taleff and Leikam before filling the third vacancy.

Item 6: Appointments to the Board of Bar Examiners

- Chief Justice Swanson introduced the matter, noting that Cynthia Thiel had resigned from the Board. The Chief Justice stated that Bjelland recommended Kathryn Brautigam to fill Thiel's seat and that Brautigam had expressed interest.
- Justice Baker invited Bjelland to discuss his recommendation. Bjelland explained that he solicited suggestions from the Members of the Board, reached out to Justice Rice for suggestions, considered the current geographic and gender makeup of the Board, and talked with Brautigam after she was recommended. Bjelland spoke highly of Brautigam's credentials, interest in serving, and more recent experience taking the bar exam than other Members of the Board.
- Justice Rice echoed Bjelland's support of Brautigam, who clerked for Justice Rice.
- Justice McKinnon asked Bjelland for clarification regarding how long Brautigam had practiced law in Montana. Bjelland believed that Brautigam had practiced in Montana for the last 5-7 years, and Justice Rice confirmed that Brautigam had taken the Montana Bar.
- In response to a question from Justice Bidegaray, Bjelland confirmed that the other potential candidates from Billings had not been contacted and expressed that Brautigam was currently a better fit for the Board.
- Justice Rice expressed his strong recommendation of Brautigam, especially due to her enthusiasm. Justice Baker echoed the value of Brautigam's excitement.
- Justice Rice moved to appoint Kathryn Brautigam to the Board of Bar Examiners for an indefinite term.
 - Justice Shea seconded, and the Court unanimously approved the motion.
- The Court expressed its gratitude to Bjelland.

Item 7: Judicial Branch Policies (Guardian Ad Litem Costs)

- Chief Justice Swanson introduced the matter and invited McAlpin to address the proposed changes to Policy 820: Guardian Ad litem/ Child Advocate - Judicial Branch Costs.
- McAlpin explained that the most substantive proposed change to Policy 820 is to increase the reimbursement rate for contracted guardians ad litem (GALs) to increase long-term retention of GALs. McAlpin explained that the proposed changes also would update Policy 820 to reflect H.B. 464's amended language, which replaces the term "guardian ad litem" with variations on the term "child special advocate."
- McAlpin noted that the Court had discussed proposed changes in November 2025 but tabled the matter to give McAlpin time to respond to Justice Bidegaray's questions. The current proposal included additional changes, but McAlpin emphasized that the budget will support the increased reimbursement rate, at least in the short-term based on new CASA programming coming online, which will reduce the need for contracted GALs. McAlpin expressed that this is a responsible

incremental increase in the reimbursement rate for GALs to be more competitive with public defenders, and requested its adoption.

- Justice Gustafson expressed that the Thirteenth Judicial District has a significant number of child welfare cases, CASA cannot meet the demand for GALs, and relies on appointed counsel to fill the large gap, many of whom have been essentially donating their services. Justice Gustafson hoped that the increased reimbursement rate would improve access to competent GALs.
- Justice Bidegaray noted that the proposed revisions inconsistently replaced the GAL term with different terms (e.g., “special advocates,” “volunteer special advocate,” “special advocate volunteer,” etc.), which caused confusion. Justice Bidegaray requested clarification regarding the reasoning behind the different terms. McAlpin explained that the revised language is modeled on the new statute (H.B. 464), which did not consistently amend the existing statute. Justice Bidegaray advocated that the Judicial Branch’s policy use a single, consistent term to facilitate implementation. McAlpin agreed a consistent term would make implementation easier.
- Justice Baker recommended making at least one clarification to consistently use “volunteer special advocate” rather than “special advocate volunteer.” The Justices identified other examples of inconsistent terms.
- Justice Gustafson noted the proposed revised language of 3.1(c), which allows the judge to appoint “an attorney or other qualified person on an hourly basis” if a volunteer child advocate is not available. Justice Gustafson shared background about the historic preference to appoint an attorney as a GAL when a CASA volunteer was not available, and questioned whether the “other qualified person” is a third category of person, in addition to a “volunteer child advocate” and an “attorney.” McAlpin and Justice Baker expressed their beliefs that this language comes from the statute, and Justice Gustafson wondered whether the statute defines what “other qualified person” means.
- Justice Bidegaray recommended postponing consideration of this issue until the Justices could review the statutory language. The Chief Justice and Justice Baker agreed.
- Justice McKinnon commented that CASA volunteers go through extensive training and expressed concern that people besides CASA volunteers or attorneys would not be effective GALs.
- The Chief Justice moved to table the matter, and the Court agreed unanimously.

There being no other business, Chief Justice Swanson adjourned the meeting at 1:59 p.m.

Submitted by: Ayden Auer and Rachel Garwin on June 29, 2026.