



**COLORADO SUPREME COURT
ATTORNEY REGULATION ADVISORY COMMITTEE**

MEETING MINUTES

May 12, 2017, 12:07 p.m. – 1:47 p.m.

Extra Large Conference Room

Office of Attorney Regulation Counsel

1300 Broadway, Suite 500

Denver, Colorado 80203

Members present: Chair David W. Stark, Nancy L. Cohen, Cynthia F. Covell, Steven Jacobson, Barbara Miller, Melissa Meirink, Rich Nielson, Dick Reeve, Daniel Vigil, and Mac Danford. Brian Zall attended via teleconference.

Members absent: Alec Rothrock, Cheryl Martinez-Gloria, and David Little.

Liaison Justices present: Justice Nathan Coats. Justice Monica Márquez attended via teleconference.

Office of the Presiding Disciplinary Judge: Presiding Disciplinary Judge William Lucero.

Staff present: James C. Coyle, Attorney Regulation Counsel; Matthew A. Samuelson, Chief Deputy Regulation Counsel; Margaret Funk, Senior Deputy Regulation Counsel; Ryann Peyton, Director of Colorado Attorney Mentoring Program (CAMP); Barbara Ezyk, Director, Colorado Lawyer Assistance Program (COLAP); Jonathan White (Staff Attorney, Office of Attorney Regulation Counsel).

I. Approval of March 10, 2017, meeting minutes.

The Chair convened the meeting and asked if members had read the minutes from the March 10 meeting. A member suggested edits to the March minutes to reflect that the subcommittee considered and approved “proposed amendments” to C.R.C.P. 208.4, 208.5, 209, 211, 211.2, and 251.28 to create a conditional admissions process. In addition, members agreed that the minutes should not identify the names of individual members with their comments but instead should read “[a] member commented” The committee approved the minutes with these edits.

II. Presentation of FY 2017-18 Budget

Mr. Coyle presented the projected FY 2018 budget for the Regulatory Offices. He stated that the Regulatory Offices have a total revenue projection of over \$11,000,000 for FY 2017 with a surplus of \$577,126 once expenditures are taken into account. This resulted in part from the inability to give any staff raises for FY17, and the Offices working diligently to keep costs down. The offices should remain in the black for FY18. Accordingly, there will be no request for an increase in registration fees in 2018.

Mr. Coyle explained that salaries in the Offices may be re-adjusted, as allowed by the legislature. These re-adjustments may range from three percent to seven percent, depending on the position. The legislature also authorized a 2.5% salary increase for certain employees. Currently, Mr. Coyle is working with the Clerk of Court to determine which salaries are eligible for re-adjustment.

The number of active lawyers in Colorado rose by 300 this year. That rate of growth is likely to continue into the next fiscal year. Mr. Coyle anticipates that on-motion admissions will continue to grow as they have in the past several years as Colorado remains an attractive place to live and relocate. Additionally, revenue has increased as CLE registration fees have been changed and are now in-line with higher average fees charged by other states. Both in the current and upcoming fiscal year, the Offices' revenue includes \$650,000 in revenue for the client protection fund based off the \$25 per attorney fee collected with registration. In sum, revenue remains healthy going into the new fiscal year, and revenue should increase because the Offices will now collect *pro hac vice* fees and apply them to the budget. In the past several years, that revenue has been used to support resources at the Supreme Court Law Library. The Library no longer requires that help with funding.

Mr. Coyle acknowledged that at some point in the future, the revenue situation for the Offices may change as the baby-boomer lawyer population start to retire in greater numbers. In addition, the Offices expect that applications for admission may decrease as law school enrollment is forecast to decline. Mr. Coyle stated that the Offices are assessing when that tipping point may be. He noted that as Colorado continues to absorb new residents, including lawyers being admitted on motion, the impact of retirement and any decline in law school admissions may be lessened. Further, the proactive programs offered by Office of Attorney Regulation Counsel, the Colorado Lawyer Assistance Program, and the Colorado Attorney Mentoring Program, all of which seek to address practice issues before they lead to a complaint, can combat the need for more staff and resources dedicated to investigating allegations of misconduct.

Mr. Coyle then addressed specific portions of the proposed budget as follows:

a. The Supreme Court Advisory Committee

The projected budget contemplates a \$500 increase in expenditures for the Supreme Court Advisory Committee. The advisory committee will operate at a profit because an annual holiday party will not take place in December 2017.

b. Colorado Attorney Mentoring Program (CAMP)

CAMP expenditures will increase in the upcoming fiscal year. There are anticipated payroll increases and expenditures for new software. Mr. Coyle said that the increase in expenditures support an extremely important, thriving program that is doing innovative work to enhance overall attorney competence in Colorado. CAMP's 2016 annual report showcases this innovative work.

c. Colorado Lawyer Assistance Program (COLAP)

COLAP will have a modest rise in expenditures reflecting a payroll increase, an increase in rent, and changes in accounting for Eco-Passes for employees, an issue which will impact all branches of the Offices this upcoming year. COLAP has emerged as a leader in lawyer assistance programs nationwide. The expenditure increase will help it maintain its pioneering status.

d. Commission on Judicial Discipline

The Commission used to be funded by the legislature. The Court overtook funding in 2011/2012 using attorney registration fees. Expenditures for the Commission will rise to reflect payroll increases and greater travel costs. In addition, dues for memberships to organizations that the Commission needs to maintain are increasing.

e. Office of the Presiding Disciplinary Judge

The projected budget contemplates a modest expenditure increase to account for payroll increases, Eco-Pass accounting changes, and increased trial costs. The number of formal trials, including contested hearings, unauthorized practice of law matters, sanctions hearings, and disability proceedings, has risen in recent years.

f. Management and Administrative Services

The projected budget continues a process that started in the previous fiscal year, which is to establish a collective budget for shared management expenses involving operations, IT and accounting for all of the Offices. This portion of the proposed budget includes eleven salaried positions. The increase in such budget accounts for Eco-Pass costs, payroll increases, and other expenses.

g. Information Technology Services

The upcoming fiscal year budget shows decreased expenditures for information technology. The Offices have completed hardware upgrades, including replacing servers, and will not need to incur those expenses in FY18. In the upcoming year, the Offices will undertake additional website improvements. They will also be the host the portal to the proactive management-based program platform. The projected budget includes expenses related to the design and roll-out of that platform.

A member asked when the Office of the Presiding Disciplinary Judge will be able to accept pleadings through ICCES e-filing. Mr. Coyle checked with the Clerk of the Court and

learned that e-filing for disciplinary matters is feasible but it still several years away. Certain other state court branches have priority for conversion to accepting e-filed pleadings.

h. Admission to the Practice of Law

The projected budget includes an increase in expenditures for admissions in the form of anticipated payroll increases. The price to administer the bar exam, including the cost of purchasing the exam and administering it, remain the same in the projected budget as in the previous fiscal year.

i. Attorney Registration & Continuing Legal Education

The projected budget accounts for changes to attorney registration and MCLE if the proposed new CLE rules are adopted. Included in this budget, as in previous budgets, is the cost of printing and mailing registration cards to all licensed attorneys, both active and inactive. Members discussed whether sending a new card to every lawyer in Colorado every year is necessary. Certain members observed that the cards are essential for attorneys to gain access to jails for client interviews or to move quickly through courthouse security in certain counties. They are also a way to connect attorneys to COLAP's services. However, other members mentioned that depending on an attorney's practice area, the cards may not be necessary. Mr. Coyle said that he and his staff will investigate the possibility of making the cards optional.

j. Attorney Regulation

The projected budget for attorney regulation encompasses the following areas in the office: intake, trial services, inventory counsel, and educational outreach. It includes an additional \$20,000 for inventory counsel services. Mr. Coyle reported that the volume of files and associated duties handled by inventory counsel increases each year with more lawyers approaching the end of practice. Mr. Coyle also reported that the office will continue to see the costs of obtaining independent medical examinations for respondents slightly increasing. Expert witness costs are on the uptick as well, reflecting the increasing complexity of cases brought to trial by the office.

k. Client Protection Fund

The budget projections for the client protection fund include hard costs but not awards since those cannot be estimated. There are approximately \$115,000 of fixed expenses to operate the fund.

l. Unauthorized Practice of Law

The projected budget for FY 2018 includes basic operating expenses for handling unauthorized practice of law issues.

Mr. Coyle asked for approval of the projected fiscal year 2018 budget, including up to a potential 5.5 percent salary increase due to potential salary readjustments. Mr. Reeve motioned for approval and Mr. Danford seconded. The committee approved the proposed budget.

III. Other Updates

a. Colorado Attorney Mentoring Program (CAMP)

Ms. Peyton mentioned that CAMP has published its 2016 annual report. It is a longer report than in previous years, reflecting the growth of the program as well as the transitional nature of 2016. There has been a 195% increase in the number of mentees. The program is operating at capacity and has unveiled new initiatives. These include a rural virtual mentoring program that connects established attorneys in rural areas of the state with mentees in the Front Range metropolitan area. This introduces new attorneys to the practice through the mentorship of an established attorney, helps bridge the urban-rural divide, and is a way to address unmet legal services needs in rural parts of the state. The first rural virtual mentoring partnerships will launch soon utilizing attorney mentors in Montezuma County. Another CAMP initiative is a partnership with the University of Denver Law School and the New Lawyer Working Group to help more students enter the practice of law with the skills needed to be successful. In addition, CAMP is implementing mentoring circles to expand peer-to-peer mentoring and bring more mentors and mentees together to address common practice issues.

Ms. Peyton reported that CAMP continues its strategic planning initiative, which includes an assessment of national best practices in attorney mentoring. CAMP issued a community needs assessment in Marsh that was well-received. On June 20, 2017, the Denver Bar Association will recognize CAMP as a “best new program.” CAMP is also serving as a model for a new California attorney mentoring program.

b. Colorado Lawyer Assistance Program (COLAP)

Ms. Ezyk reported that COLAP’s 2016 annual report has been published. The report noted that in 2016, COLAP had, on average, 40 calls per month for assistance, an increase from 2015. Ms. Ezyk projects an increase in 2017 based on the volume of calls received so far this year. COLAP is averaging 53 calls/month in 2017. She attributes this growth to COLAP’s message reaching more lawyers and law students and to COLAP’s emphasis on prevention. Ms. Ezyk mentioned that both law schools in the state are embracing the need to de-stress their students and prioritizing wellness as an essential component of competence and professionalism. Ms. Ezyk highlighted the “better together” approach between her office and the Office of Attorney Regulation Counsel as another reason for the growth of the program and an essential means of connecting lawyers in need of help to resources. She strongly promoted this philosophy at a recent meeting of the National Organization of Bar Counsel in Miami. She said she has already received positive feedback from her colleagues in other states from her remarks in Miami.

c. Office of Attorney Regulation Counsel

Mr. Coyle reported that his office’s annual report will be published soon. He, along with Mr. Samuelson and Ms. Funk, continue to give presentations to national conferences of attorney regulators, with ten presentations scheduled in the next four to five months. Mr. Coyle mentioned that the National Task Force on Lawyer Well-Being will issue a report in July. That report will highlight the proactive programs adopted by the Supreme Court, its Advisory Committee and the Office of Attorney Regulation Counsel.

d. Providers of Alternative Legal Services (PALS)

The PALS subcommittee continues to meet. The subcommittee is evaluating ongoing pilot projects and assessing what type of alternative legal services program would be most helpful in addressing the unmet need for legal services in Colorado.

e. Office of the Presiding Disciplinary Judge

The Presiding Disciplinary Judge reported that there has been an increase in both the number of adversarial hearings and the complexity of cases. Motions practice has expanded as well. The Presiding Disciplinary Judge also discussed that his office has developed a new website that will launch in the near future. Further, he has been traveling around the state, most recently to Delta and Montrose, to educate the legal community about the disciplinary process in Colorado.

f. Proactive Management-Based Program (PMBP)

Mr. Stark reported that the subcommittee will meet next Wednesday, May 17, to discuss developing a privilege to protect lawyers and law firms that engage in the self-assessments developed by the subcommittee. He mentioned that he has discussed self-assessment privilege issues with Professor Susan Fortney, who has written extensively on proactive management programs in the legal profession. He and Professor Fortney believe that some form of self-assessment privilege is necessary in order to encourage lawyers to participate in the self-assessments and avoid the situation where a self-assessment could be discoverable in a civil litigation matter. Mr. Coyle mentioned that his office has recently engaged a platform designer, Standpoint Decisions, to develop an online, interactive platform using the work of the subcommittee.

The meeting adjourned at 1:47 p.m. The next meeting is September 8, 2017, at 12:00 p.m.

Respectfully submitted,

/s/ James C. Coyle
James C. Coyle
Attorney Regulation Counsel