



**COLORADO SUPREME COURT
ATTORNEY REGULATION ADVISORY COMMITTEE**

MEETING MINUTES

May 11, 2018, 12:05 p.m. – 1:15 p.m.

Extra Large Conference Room

Office of Attorney Regulation Counsel

1300 Broadway, Suite 500

Denver, Colorado 80203

Members present: Chair David W. Stark, Alexander (Alec) Rothrock, Brian Zall, Cheryl Martinez-Gloria (via teleconference), Daniel Vigil, Dick Reeve, Mac Danford, and Richard Nielsen.

Members absent: Barbara Miller, Cynthia Covell, David Little, Nancy Cohen, and Steven Jacobson.

Liaison Justices present: Justice Nathan Coats and Justice Monica Márquez.

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

Guests: Christopher Ryan, State Court Administrator.

Staff present: James C. Coyle, Attorney Regulation Counsel; Margaret Funk, Chief Deputy Regulation Counsel; Greg Sapakoff, Deputy Regulation Counsel; Ryann Peyton, Director, Colorado Attorney Mentoring Program (CAMP); Barbara Ezyk, Executive Director, Colorado Lawyer Assistance Program (COLAP); Sarah Myers, Clinical Director, COLAP; Melissa Meirink, Staff Attorney, Colorado Supreme Court; Jonathan White, Professional Development Counsel, Office of Attorney Regulation Counsel.

I. Approval of March 9, 2018, Meeting Minutes

The Chair convened the meeting and asked if members had read the minutes from the March 9 meeting. Mr. Reeve moved to approve the March meeting minutes. Mr. Danford seconded the motion. The minutes were approved.

II. Announcement – Attorney Regulation Counsel and Executive Director of Colorado Lawyer Assistance Program

Mr. Stark said that there were many excellent applications for Attorney Regulation Counsel for and a new executive director of COLAP. Jessica Yates has been selected by the Colorado Supreme Court to serve as Attorney Regulation Counsel following Mr. Coyle's retirement. Ms. Myers has been selected to be Executive Director of COLAP following Ms. Ezyk's retirement.

III. Annual Budget

Mr. Coyle provided the Advisory Committee with a detailed review of the proposed budget for the Colorado Supreme Court's regulatory offices for FY 2019. He began by reviewing a summary of revenue and expenditures. He noted that FY 2018 revenue is projected to be approximately \$121,000 greater than initially budgeted. He said that overall revenue may begin to decline in coming years due to retirements as the lawyer population ages. This has not transpired as of yet. Colorado continues to see a significant number of on-motion applications as its population grows. This helps contribute to the sound financial condition of the regulatory offices.

Mr. Coyle informed the Advisory Committee that the regulatory offices will make a \$300,000 payment to the fund to support the Colorado Supreme Court Law Library in the current fiscal year. This continues contributions made by the offices in past years. It is important because the library is a resource for all Colorado lawyers. The library will continue to need this funding until it is self-sufficient. Accordingly, the FY 2019 budget factors in a similar contribution. With that contribution, projected revenue for FY 2019 for the offices is \$11,911,000.

Employee salaries and benefits comprise the largest expenditure for the offices. Mr. Coyle mentioned that the legislature has approved a three percent pay raise for state employees, and there is the potential that state judicial will compensate top performers further. The regulatory offices will follow what state judicial decides. Mr. Coyle will be evaluating the potential to offer such increases with Mr. Ryan, the State Court Administrator. Mr. Coyle asked the Advisory Committee to approve a budget with a five percent pay raise for employees in the hopes that there will be an opportunity to award a greater salary increase based on state judicial decisions. He will also ask for approval of a budget factoring in only a three percent raise in the event that state judicial does not authorize a salary increase beyond three percent.

Turning to specific categories, Mr. Coyle reported that the Supreme Court Advisory Committee costs are under budget for FY 2018. The annual dinner in December will take place this year. The FY 2019 budget funds the dinner.

CAMP's FY 2019 budget includes an additional attorney position. CAMP has been in existence for five years. The number of mentors engaged in the program has grown appreciably, and Ms. Peyton needs additional support so that the program can continue to expand.

COLAP will see its budget decline in FY 2019 due to employee retirements. COLAP's operating expenses for the current fiscal year are ahead of projections. Ms. Ezyk explained that this is in part due to implementation of a new software platform that works much better for COLAP. She reminded the Advisory Committee that COLAP's FY 2017 operating expenses came in under budget.

Mr. Coyle discussed the budget for the Commission on Judicial Discipline. He said that the Court took over funding for the Commission in 2011. The budget proposal for FY 2019 for the Commission represents continuation funding. No new expenses are contemplated. Similarly, the FY 2019 budget for the Office of the Presiding Disciplinary Judge reflects solely continuation funding.

For the Office of Attorney Regulation Counsel, the payroll budget for FY 2018 is lower than expenditures owing to staff retirements, resignations, and payouts. Mr. Coyle reports that there will be no significant changes in operating expenses for the Office of Attorney Regulation Counsel in FY 2019. He requests a \$15,000 allocation to the Colorado Supreme Court Task Force on Lawyer Well-Being, chaired by Justice Márquez, for expenses associated with bringing in national experts and travel for members who may reside in the southern part of the state or on the Western Slope. Mr. Coyle indicated that the FY 2019 Information and Technology Services budget also contains exclusively continuation funding.

The Office of Admission to the Practice of Law will have some staffing changes. Deb Ortiz, who initially began with the office as an investigator 37 years ago, will retire. A full-time employee will replace Ms. Ortiz. That search is underway. In addition, Sharon Orlowski will replace Susan Gleeson as the bar exam administrator. Ms. Gleeson will retire from the office and her service as Director of Examinations this fall. A new full-time employee will replace Ms. Orlowski. This person's title will be "license analyst." Mr. Coyle said that the increase in on-motion applications necessitates an employee dedicated to examination of their credentials. Mr. Coyle further commented that the new dashboard system for admissions is efficient, but employees still spend a lot of time answering questions. Further, with cyclical exams, on-motion applicants, uniform bar examination (UBE) transfers, Mr. Coyle said that the Office of Admission to the Practice of Law would benefit from insight on whether resources are being used in their best capacity. He has asked the State Court Administrator's Office for guidance on expert review.

Office of Attorney Registration & Continuing Legal Education: This office will see a slight payroll increase. The office looks to train a current employee to assist Elvia Mondragon, Clerk of Attorney Registration, in some of her duties rather than hire a new full-time employee.

The Attorney Client Protection Fund ("Fund") currently has \$5,600,000 in trust. Relatedly, Mr. Coyle reported that inventory counsel expenses continue to grow. The trial attorney spending half his time on inventory counsel, as well as the full-time staff member coordinator and the 2/3 time assistant devoted to inventory counsel, are all very busy. Mr. Coyle said that because of the client protective nature of the Fund, it makes sense for the Fund to take

over salary costs for inventory counsel employees. The trustees of the Fund agree. This arrangement can change at any time, including if the Fund faces a significant claim or set of claims. Even with the Fund covering these staff salaries for the Office of Attorney Regulation Counsel, the Fund will continue to grow by a comfortable margin. \$650,000 goes into the Fund annually. The Fund averages approximately \$250,000 in paid claims annually.

Overall, Mr. Coyle reported that the regulatory offices are in strong financial shape. He does not anticipate a need for a raise in registration fees for potentially another three years.

Mr. Reeve motioned to approve the FY 2019 budget for all regulatory offices at both a three percent and potentially five percent salary increase. Mr. Danford seconded the motion. The Advisory Committee approved the proposed budget. Mr. Rothrock abstained from voting.

IV. Other Updates

CAMP: CAMP published its annual report. It documents the program's success, including that the program has surpassed the expected number of mentees by 83 percent. Ms. Peyton encouraged members to review the annual report. The report contains feedback narratives from participants discussing the impact CAMP has had on their professional development.

CAMP's "Circle Mentoring" program is up and running. This gives mentees the opportunity to form a mentoring relationship around specific, relevant topic areas. Further, Ms. Peyton reported CAMP's programming and outreach efforts have proven successful. CAMP's current 2018 metrics show a 15 percent increase in applications over 2017. CAMP has also conducted international outreach. In March, Ms. Peyton served as an ambassador for Colorado's legal profession on an invitation to the Beijing Institute of Technology School of Law. Joining her on this trip to Beijing were Colorado Supreme Court Justice Richard Gabriel, Scott Meiklejohn, Vice Chair of Colorado Lawyers Helping Lawyers, as well as Ms. Funk and Ms. Ezyk.

Last, Ms. Peyton mentioned that CAMP's website now includes a "Wellness" page with a number of resources for mentees and as well as a link to COLAP.

COLAP: COLAP has been in contact with recent bar applicants following the applicants' receipt of an email from Ms. Gleason. Ms. Ezyk said she appreciates, and the applicants appreciate, this email. Ms. Ezyk said it demonstrated the value of the court's regulatory offices working together.

COLAP continues to search for a replacement to fill Ms. Myers' position. Ms. Ezyk also mentioned that she discussed the Colorado Lawyer Self-Assessment Program tool at a recent Board of Governors meeting of the Colorado Bar Association, once again emphasizing the "better together" approach of working with other regulatory offices. She concluded by thanking the Advisory Committee for their support.

Office of Attorney Regulation Counsel: Ms. Yates's first day will be June 18. Mr. Coyle looks forward to working side-by-side with her for two weeks. They have started meeting and will continue to meet between now and June 18.

Mr. Coyle will present to the Wisconsin Supreme Court next Tuesday, May 15, on formal disciplinary procedures in Colorado. Justice Coats and Presiding Judge Lucero will also participate. This will give the Wisconsin court ideas for potentially making changes to its disciplinary system.

Mr. Coyle reported that the February 2018 bar exam produced the lowest passage rate in many years. The overall passage rate was 51%. Based on LSAT scores, which tend to correlate with bar passage results, Mr. Coyle said that bar passage rates will most likely continue to show a dip for the next two years before rising. Ms. Funk said that the Office started a dialogue with both of the state's law schools following these results to better understand why the results are so low. This includes looking at the impact of new learning styles and different information processing among the current law school generation.

Mr. Coyle said that the Office seeks to aggressively contact lawyers who have failed to pay their annual registration dues or who have not complied with mandatory continuing legal education requirements. As a result, the number of lawyers on administrative suspension has declined. He hopes that trend will continue.

Elsewhere, implementation of the new C.R.C.P. 250 requirements continues to go smoothly. The Colorado Task Force on Lawyer Well-Being, chaired by Justice Márquez, looks towards a launch later this summer or early fall. The intake and trial divisions of the Office are very busy right now as well.

Proactive Management-Based Program (PMBP) Subcommittee: Mr. White reported that as of last Friday, May 4, the Office of Attorney Regulation Counsel has received 145 affidavits from lawyers for continuing legal education credit for completing the Colorado Lawyer Self-Assessment Program. 334 people have completed at least one section. Based on responses to voluntary demographic questions, 50 percent of users are either in solo or small firm practice, a target audience. The majority of users have practiced between 6 and 20 years. Mr. White, along with members of the subcommittee, have engaged in a number of recent outreach efforts. These include presentations to the University of Denver Sturm College of Law's Professional Mentoring Program, the Pueblo County Bar Association's "Law Day," the Modern Law Practice Initiative's all-day seminar on provision of limited scope representation, and ongoing programming through the Office of Attorney Regulation Counsel's Professionalism, Trust Account, and Ethics Schools. Upcoming presentations will highlight a partnership with the Denver-Boulder Better Business Bureau in a June 7 presentation as part of the BBB's "Boost Your Business" series. They also include a presentation to the Cherry Creek Solo/Small Firm Section.

Mr. Coyle commented that he and Ms. Ezyk addressed concerns about the program's confidentiality at a presentation recently in Gunnison. Several lawyers in the audience who have defended lawyers in professional liability matters discouraged the survey's use because of confidentiality concerns. Mr. Coyle said that proposed C.R.C.P. 256 is pending with the Court and would address these concerns.

Providers of Alternative Legal Services (PALS) Subcommittee: Mr. Rothrock said that the subcommittee has spent a significant amount of time studying the Navigators program and debating a proposal for the Court. He anticipates a proposal coming together in the near future with a focus on assisting self-represented parties in collections and evictions matters.

V. Law Committee Opening

Laura Maresca, Vice-Chair of the Law Committee, will be stepping down from the Committee. Mr. Coyle, Ms. Funk, and Mr. Nielsen, chair of the Law Committee, recently interviewed Heather Kelly as a potential replacement. Ms. Kelly is an Assistant Attorney General with the Civil Litigation and Employment section of the Office of the Colorado Attorney General. She has a broad practice background beyond her current position, which includes work for Gordon & Rees. Prior to the meeting, Mr. Nielsen and Mr. Coyle circulated Ms. Kelly's resume and requested the Advisory Committee approve her nomination. Mr. Reeve so moved and Mr. Danford seconded. The Advisory Committee approved the nomination.

VI. Recognition of Mr. Coyle and Ms. Ezyk

This meeting was Mr. Coyle and Ms. Ezyk's final meeting prior to their retirements. The chair, Mr. Stark, praised Mr. Coyle's stewardship of the Office of Attorney Regulation Counsel, his commitment to protecting the public, and the compassionate approach to lawyer regulation that he has taken. Mr. Stark mentioned that jurisdictions nationwide consider the Office of Attorney Regulation Counsel a model and this is in no small part due to Mr. Coyle's tremendous efforts. Mr. Stark also praised Ms. Ezyk's leadership of COLAP. In just a few years Ms. Ezyk's energy and vision has resulted in the creation a vital, dynamic program. COLAP is also a national model. Mr. Stark further thanked Executive Assistant Cheryl Lilburn for her service to the Advisory Committee.

VII. Executive Session

The full meeting adjourned at 1:15 p.m. The Advisory Committee then met in Executive Session to consider a confidential matter per the Supreme Court rules.

VIII. Other Business

The Advisory Committee will meet again on the following dates in 2018:

- September 7;
- December 7.

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