

**Utah Supreme Court Oversight Committee for the
Office of Professional Conduct
Meeting**

Minutes

June 19, 2019

**Judicial Council Room
Matheson Courthouse
450 S. State St.
Salt Lake City, Utah 84111
4:00 p.m. - 5:30 p.m.**

Attendees:

Judge Diana Hagen, Chair
John Baldwin
Art Berger
Margaret Plane
Roger Smith
Billy Walker
Magistrate Judge Brooke Wells

Staff:

Cathy Dupont
Nancy Sylvester

Guests:

Jeff Hunt, Ethics and Discipline Committee
Herm Olsen, President elect, Utah State Bar
Dickson Burton, President Utah State Bar

1. Welcome and Approval of Minutes: (Judge Diana Hagen)

Judge Diana Hagen, Chair, welcomed the members and called the meeting to order.

Motion: Art Berger moved to approve the April 23, 2019 committee minutes. Margaret Plane seconded the motion and it passed unanimously.

2. Discussion of OPC Ethics Hotline (Dixon Burton and Herm Olsen)

Herm Olsen and Dickson Burton discussed the Bar's concern with the loss of the Ethics Hotline that had been offered by OPC. They discussed the termination of the hotline without having an alternative in place for the numerous bar members who use the service. Billy Walker explained that the hotline required a ½ FTE from his office and it created conflicts with the role of the OPC as the investigator because calls to the hot line are not meant to provide safe harbors. Dickson Burton believes that Rule 14-504 requires OPC to provide ethics guidance to member attorneys and suggested other methods to deal with the potential conflict with the investigative role of OPC. It was suggested that Rule 14-504 could be amended to protect communications with the hotline from being discoverable. The committee discussed the ethics hotline and the concerns of both the OPC and the state bar.

Motion: Judge Hagen moved that the ethics hotline should reside with the State Bar and not with OPC because of the inherent conflict with the investigative/prosecutorial function of OPC. Magistrate Judge Wells seconded the motion and it passed unanimously.

3. Consideration of Comments to Proposed Amendments to Rule 14-515: (Jeff Hunt)

Rule 14-515 was amended by the ABA/OPC Committee and approved by the Supreme Court for publication. The ABA/OPC Committee completed its work and after the comment period ended, the rule came to this committee for consideration of the comments. Jeff Hunt, who served on the ABA/OPC subcommittee that worked on the amendments, explained to the committee that the amendments to the confidentiality provisions of the rule are necessary to address constitutional first amendment issues with the current rule. The committee considered the comments to the rule.

Motion: Judge Hagen made a motion that was seconded by Magistrate Judge Wells to recommend to the Supreme Court that Rule 14-515 be approved. The motion passed unanimously.

4. OPC Budget Overview: (John Baldwin)

The committee considered the revised budget for the Office of Professional Conduct, which included the line items requested by the committee. Jeff Hunt also reported that the Ethics and Discipline Committee had enough funding for training. Billy Walker mentioned that there is a national conference for Bar Council that might be beneficial for the adjudicators. They will consider whether OPC can send the chairs of the Ethics and Discipline Committees.

Motion: Margaret Plane made a motion to approve the OPC Budget and report to the Supreme Court that the OPC Oversight Committee approved the budget under the provisions of Rule 11-501. The motion passed unanimously.

5. Meeting Schedule

The next meeting will be held on August 28, 2019 and September 9, 2019 at 4 p.m. The next agenda should include amendments to appeal standards in Rule 14-515.

6. Adjournment

The meeting was adjourned.