

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

**Meeting Minutes DRAFT**

November 14, 2019

Scott M. Matheson Courthouse

Judicial Council Room

Administrative Office of the Courts, Suite N31

450 South State Street

Salt Lake City, Utah 84111

4:00 – 5:30 p.m.

*Judge Diana Hagen, Presiding*

**Attendees:**

Judge Diana Hagen, Chair

Art Berger

Margaret Plane

Roger Smith

John Baldwin, Ex-officio member

**Staff:**

Larissa Lee

Marina Kelaidis, Recording Secretary

**Guests:**

Billy Walker, Office of Professional Conduct

**Excused:**

Magistrate Judge Brooke Wells

**1. Welcome, introductions and approval of minutes:** (Judge Diana Hagen)

Judge Diana Hagen welcomed everyone to the meeting and introduced Larissa Lee as the new staff member for the committee and the new Appellate Court Administrator.

*Margaret Plane moved to approve the June 19, 2019 minutes. Art Berger seconded the motion, and it passed unanimously.*

**2. Discussion and Action – OPC Annual Report overview and update from the OPC:**  
(Billy Walker)

Billy Walker presented the OPC's request to change the annual reporting period to an annual basis (January 1 – December 31). With this change, the report would be prepared in January and distributed by February. Mr. Walker suggested the committee revise Rules 11-501 and 14-503(i) accordingly. Judge Hagen agreed to take this request under advisement before the committee.

Mr. Walker presented the OPC's most recent annual report and findings. The annual report includes information on the termination of the Ethics Hotline (now offered through the Bar). The report notes that the OPC interprets Rule 14-504 as not specifically requiring the OPC to provide informal guidance through an Ethics Hotline.

Mr. Walker presented the OPC's new website to the committee: <https://www.opcutah.org/>.

3. **Discussion - Update on reports to the Supreme Court regarding: (1) the budget, (2) the Ethics Hotline and (3) amendments to Rule 14-515:** (Judge Diana Hagen)

Judge Hagen reported that the Supreme Court voted to approve the budget, although it is unclear in the Rule if the Supreme Court is required to vote to approve the budget for the OPC. Judge Hagen reported that the Supreme Court did not object to this committee's proposal that the OPC will no longer be responsible for staffing or conducting the Ethics Hotline. John Baldwin reports that the Utah State Bar Commission and Elizabeth Wright, General Counsel, have taken on the responsibility of providing the Ethics Hotline.

4. **Discussion – Scope of authority for the Oversight Committee:** (Judge Diana Hagen)

Judge Diana Hagen proposed that the Oversight Committee review the Guardian Ad Litem Oversight Committee Rule (4-906) for ideas of how to measure the scope of this committee's authority. The main takeaway being that anything affecting the OPC itself is under the purview of the Chief Disciplinary Counsel (prosecutorial discretion), and anything affecting anyone outside of the OPC falls under the purview of the Committee and the Committee can work with the OPC's various stakeholders. If the Committee disagrees on a particular issue, Judge Hagen suggested that the disagreement be put before the Supreme Court for decision. All other rules and decisions may be passed by the committee.

Judge Hagen and Larissa Lee will draft a proposal formalizing this scope of authority to be presented at the next committee meeting. Ms. Lee will also contact the Bar Commission to see about adding Judge Hagen to the next commissioners' meeting to speak about the Oversight Committee.

5. **Discussion – Committee responsibilities (CJA Rule 11-501(2)(B)): Developing performance metrics and formal policies and conducting a needs assessment:** (Judge Diana Hagen):

Judge Hagen asked the committee for any suggestions for additional metrics that would be informative to include in the OPC's annual report. Mr. Walker presented how the OPC is currently tracking and measuring the aging of cases from the initial filing of a complaint to how quickly it moves through the various OPC processes within the reporting year up to case resolution. Judge Hagen presented a proposal to obtain more accurate metrics of the time periods in which the OPC has control over, barring external factors over which the OPC has limited control. Judge Hagen identified three potential time periods:

- I. The time between when the complaint is made and the time the complaint is either dismissed or a notice is sent to the attorney.
- II. The time between when the attorney responds to the notice of complaint and the time the complaint is either dismissed or referred to a screening panel.
- III. The time between when the screening panel votes for a case to become formal to the time the case is moved to the district court.

The committee and Mr. Walker identified possible factors that may potentially delay the accurate measurement of these metrics including scheduling conflicts for hearings and continued hearings. Mr. Walker reported that the OPC has software for tracking these case management metrics. Mr. Walker will create a baseline of metrics for the committee to review at a future meeting.

Art Berger recommended including more than one year's metrics into the pie chart featured on page 28. Margaret Plane recommended including more than two years for comparison in the annual report. Judge Hagen agreed and offered that the Supreme Court may be interested in learning from a more longitudinal comparison report once the committee and the OPC have identified the most meaningful metrics to include in the report. John Baldwin informed the committee that the American Bar Association uses this report to educate lawyers on the purpose of the OPC. Judge Hagen asked Mr. Baldwin if he can expand on pages 23-34 of the report for an article to be published in the Bar Journal.

**6. Adjournment and scheduling the next meeting:**

The meeting adjourned at 5:30 p.m. The next meeting will be held December 17, 2019 from 4:00 p.m.–5:30 p.m. in the Judicial Council room at Matheson Courthouse.