



Utah Supreme Court's Oversight Committee for the Office of Professional Conduct

Approved Meeting Minutes

February 6, 2024

Meeting held through Webex

12:00 – 1:00 p.m.

Arthur B. Berger, presiding

Attendees:

Arthur Berger, Chair

Judge Laura Scott

Roger Smith

Magistrate Judge Brooke Wells

Margaret Plane

Elizabeth Wright, Ex-officio member

Staff:

Nick Stiles, Appellate Court Administrator

Amber Griffith, Recording Secretary

1. Welcome: (Arthur Berger)

Arthur Berger welcomed everyone to the meeting. In accordance with UCJA Rule 11-503(a)(2) each committee member provided a brief introduction and disclosed the general nature of their legal or other practice.

2. Discussion concerning process for recommendation of new Chief Disciplinary Counsel: (Arthur Berger)

Mr. Berger informed the Committee that the job posting for the Chief Disciplinary Counsel was sent out to all lawyers and the Court will be accepting applications through February 29th. Additionally, it is this Committee's duty to provide the Supreme Court with a recommendation for a new Chief Disciplinary Counsel.

While attending a Supreme Court Conference, Mr. Berger asked the Court for any guidance on a process for reviewing the applications and submitting the recommendation. The Court advised that the Committee could follow a similar process that was used by the Innovation Office when they were in the process of hiring a program director. The Court also suggested that Justice Hagen be part of the selection process.

Mr. Berger suggested that the current committee members and a few outside participants could review the applications and provide the Committee with their input. Afterwards, the Committee could hold a vote for who to recommend to the Supreme Court.

- Judge Scott thought it would be helpful to have a subcommittee. The subcommittee could include public members who have served on screening panels, a couple of the attorneys that practice in the attorney discipline area, and this committee. Mr. Berger agreed and added that the Court thought it may be helpful to include former an Ethics and Discipline Committee Chair. Margaret Plane also agreed with Judge Scott on who should be included to review the applicants but does not believe it needs to be a subcommittee or two step process.
- Elizabeth Wright volunteered to get a list of current and former Ethics and Discipline public members who could be included to review the applications.
- Mr. Berger asked if the non-committee participants should have a vote on who to recommend for the Chief Disciplinary Counsel. Ms. Wright stated that for the Innovation Office everyone that participated in reviewing the applications voted. Nick Stiles added that if the participants will be reviewing the applications and sitting in on the interviews, they deserve to have a vote. Ms. Plane was in favor of allowing the outside participants to vote.
- Judge Scott noted that it would be helpful if the Supreme Court let the Committee know how many people the Committee should be recommending. Mr. Stiles informed the Committee that when the Court is appointing members to a committee, they ask for multiple nominations.
- Mr. Berger noted that this committee's meetings are presumed to be open to the public and questioned when we could go into executive session. Ms. Plane replied that per the open and public meetings act you can close a meeting for a discussion of the character or professional competency of an individual. Based on that, Ms. Plane believes the interviews could be held in a closed session. Mr. Stiles agreed and stated that other committees do not review personnel information or have conversations about personnel in a public meeting.

The Committee discussed possible attorneys, public members, and former Ethics and Discipline Committee Chairs and Vice Chairs who could participate in the hiring committee in addition to the members of the Committee, Justice Hagen, and Mr. Stiles. Mr. Berger volunteered to reach out to a few of the individuals discussed to see if they would be willing to participate.

3. Discussion concerning process for recommendation of interim or acting Chief Disciplinary Counsel: (Arthur Berger)

Mr. Berger suggested that the Committee recommend to the Supreme Court an interim Chief Disciplinary Counsel.

The Committee voted on the interim Chief Disciplinary Counsel and will provide the recommendation to the Supreme Court.