



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

Meeting Minutes

March 25, 2025

Meeting held through Webex and in person

Matheson Courthouse

Judicial Council Room

450 S. State St.

Salt Lake City, UT 84111

4:30–5:30 p.m.

Arthur B. Berger, presiding

Attendees:

Arthur Berger, Chair

Mark Hindley

Eric Jenkins

Aeryn Murphy

Margaret Plane

Judge Laura Scott

Roger Smith

Lara Swensen

Elizabeth Wright, Ex-officio member

Guests:

Christine Greenwood, Office of Professional Conduct

Staff:

Nick Stiles, Appellate Court Administrator

Amber Griffith, Recording Secretary

1. Welcome, Annual Disclosure, and Approval of June 3, 2024 minutes: (Arthur Berger)

Arthur Berger welcomed everyone to the meeting and in accordance with UCJA 11-503(a)(2) had all committee members introduce themselves and disclose their general practice area.

Following those introductions Mr. Berger asked for approval of the minutes from the June 3, 2024 meeting.

Margaret Plane moved to approve the minutes. Judge Scott seconded that motion, and the minutes were unanimously approved.

2. Discussion—Review of Committee Purpose and Responsibilities per UCJA 11-503(b): (Arthur Berger)

Mr. Berger informed the Committee that UCJA Rule 11-503 was recently amended to increase the number of meetings the Committee held per year from at least one to three. The first meeting, being held today, will discuss the OPC's annual report. The second meeting will be to review and approve the OPC's budget. The third meeting will be for rule amendments that Christine Greenwood is currently working on. If needed the Committee will meet a fourth time.

Mr. Berger then provided a brief explanation of the Committee's responsibilities as outlined in UCJA Rule 11-503(b).

3. Discussion—OPC Annual Report: (Christine Greenwood)

Ms. Greenwood provided an overview of the OPC's annual report for 2024, noting that there was an increase of 100 outstanding cases from the beginning of the year to the end. They also had an increase of 166 cases that were filed, for a total of 797 cases. Ms. Greenwood added that the OPC had an almost 50% turnover rate from the end of 2023 to the beginning of 2024 and suggests that adding another attorney may help.

Aeryn Murphy questioned whether there are other factors that may be contributing to the increase in cases. Ms. Greenwood replied that in general as the number of members increases at the bar, the number of complaints also increases. Mr. Berger asked if there has been advertising on how individuals go about filing a complaint. Ms. Greenwood isn't aware of any advertising but noted that the OPC has its own website.

Lara Swensen questioned what phase of the process takes the most time. Ms. Greenwood stated that most of the delay comes when the case is filed in court. Additionally, the phase between either dismissing an appeal or going forward to a screening panel is also slow. This delay is sometimes caused by complainants not responding, as the OPC wants to give complainants adequate chance of responding they typically send out two to three letters. Roger Smith asked if these letters were sent by mail or by email. Ms. Greenwood replied that they are through email unless the individual does not have access to email.

Ms. Greenwood reported that one place where there is not a lot of backlogged cases is the phase after the screening panel decides that the OPC should file an action on a case. That phase is typically completed within three months.

Mr. Berger questioned if there was something that the Committee needs to work on to help with the retention of people. Ms. Greenwood replied that compensation needs improvement and explained that recently while trying to hire another attorney some individuals stated they weren't interested in the position because of what the salary was. Ms. Murphy asked if compensation is why so many people left the OPC in 2023/2024. Ms. Greenwood stated that was before being hired as the Chief Disciplinary Counsel, but

believes another aspect to individuals leaving is due to not receiving the training and support they need.

Judge Scott remarked on being surprised by the amount of administrative tasks that the OPC does and asked if there was a fee for requesting a disciplinary history. Ms. Greenwood stated that there is not a fee, but that may be something they should consider, Ms. Wright agreed. Judge Scott wondered if charging a fee for those histories could help fund additional resources.

The Committee then discussed the goals for the OPC. Mark Hindley questioned if they were reasonable goals. Mr. Berger thought they were and pointed out that for cases filed in 2024 the OPC was meeting those goals. Ms. Swensen noted that when you consider all notices filed in 2024 the average is closer to 12 months and the goal is set at 8 months.

Ms. Swensen noted that 32% of the cases that went to a screening panel were dismissed and questioned if there was a way to make OPC more efficient in which cases it decides to proceed with. Ms. Greenwood noted that it may be due to different approaches by the attorneys as to which cases should proceed.

Ms. Swensen added that there was only one mention of diversion in the report, and it appears that only eight cases completed diversion last year. Ms. Greenwood explained that there are a few more individuals currently in the program but believes the program needs to be redone. As it is currently set up, it is only appropriate for cases where the OPC thinks the sanction should be higher than an admission. Ms. Swensen added that it cannot be a formal action, and it must be invoked by OPC or the respondent before it goes to a screening panel. Mr. Berger asked if that was one of the areas that the ABA suggested improvement. Ms. Plane confirmed it was and asked if that was something the Committee should take up. Ms. Greenwood noted that she is working on amendments to discipline by consent which is similar to diversion, in that OPC can reach a negotiated solution with the respondent, but discipline by consent can be completed before or after a screening panel.

Mr. Hindley asked if there were other structural improvements that need to be made. Ms. Greenwood reported a plan to overhaul the procedures within OPC, including creating a new process for how cases are assessed when filed.

Following this discussion Mr. Berger noted that the next meeting will be in about a month to go over the OPC's proposed budget. The meeting was then adjourned.