



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

Meeting Minutes

December 9, 2025

Meeting held through Webex and in person

Matheson Courthouse

Judicial Council Room

450 S. State St.

Salt Lake City, UT 84111

4:30–6:00 p.m.

Arthur B. Berger, presiding

Attendees:

Arthur Berger, Chair

Mark Hindley

Eric Jenkins

Aeryn Murphy

Margaret Plane

Judge Laura Scott

Roger Smith

Elizabeth Wright, Ex-officio member

Guests:

Christine Greenwood, Office of Professional Conduct

Beth Kennedy, Chair-Ethics & Discipline Committee

Staff:

Nick Stiles, Appellate Court Administrator

Amber Griffith, Recording Secretary

Excused

Lara Swensen

1. Welcome and Approval of April 9, 2025 minutes: (Arthur Berger)

Arthur Berger welcomed everyone to the meeting and asked for approval of the minutes from the April 9, 2025 meeting.

Mark Hindley moved to approve the minutes. Roger Smith seconded that motion, and the minutes were unanimously approved.

2. Action – UCJA Rule 11-530: (Christine Greenwood, Beth Kennedy)

Christine Greenwood explained to the Committee that unprofessional conduct complaints are one of the largest number of complaints that the OPC receives each year. This year they have received over 1,000. These appeals are easy to file and require a *de novo* review. Beth Kennedy added that the proposed changes will help guide the review process.

Aeryn Murphy questioned whether some of these complaints are individuals who are seeking damages from harm and wondered if it should be noted in the rule how damages may be sought. Ms. Greenwood stated that the information is included in their first letter that they send complainants, but perhaps it should be clarified in the rule.

Ms. Kennedy noted that they have spoken with the Supreme Court on whether complainant is currently being defined as a complainant or the OPC, but they will need to do research on that. If they determine the term needs to be clarified, they will need to make global changes throughout the rules.

The Committee reviewed the proposed amendments and made the following edits and suggestions.

- Changed “unprofessional conduct” to “professional misconduct” to make the proposed name change in the title of the rule consistent throughout the rule.
- “As set forth in paragraph (i) of this rule” was added to line 28 to clarify that potential reasons OPC may decline to prosecute a complaint is outlined in a later paragraph.
- Margaret Plane questioned whether the OPC was opening the door for individuals to request additional investigations being completed by splitting out initial and additional investigations. Possible language to be added was “at OPC’s discretion additional investigation may be completed.”
- Judge Scott suggested creating a new paragraph that at any point in the process the OPC can request additional information instead of having this information noted in numerous paragraphs throughout the rule.
- Mr. Berger noted that throughout the rule we state we will contact parties by mail or email. The Committee discussed the issue and decided the best course of action would be to create a definition of service. References to mail and email throughout the rule was changed to serve. Ms. Greenwood and Ms. Kennedy will work on a proposal for Rule 11-502 that will include a definition of service.
- “the” was added before OPC to be consistent throughout the rule.

- Concerns were raised on the language in paragraph (i)(2)(B). Ms. Greenwood explained that this paragraph refers to instances when an attorney is already suspended or disbarred. Ms. Kennedy suggested that they could change “an additional sanction” to a “more serious sanction”. Ms. Murphy suggested changing the language to “if a previous sanction obviates the need for any additional sanctions.” Judge Scott suggested that if what we are referring to are instances where an attorney is already suspended, then why don’t we just state that. Ms. Greenwood and Ms. Kennedy will review the paragraph and work on further language to clarify.
- Changed “additional evidence” to “new evidence” in paragraph (i)(5).
- Ms. Greenwood noted in paragraph (j) they are trying to create a standard of review instead of the current *de novo* standard. Ms. Murphy questioned how an abuse of discretion standard is applied if OPC has complete discretion to dismiss a case. Ms. Greenwood and Ms. Kennedy will review to see if they can clarify that when it is a declination to prosecute the complainant’s burden is to show an abuse of discretion. When it is a dismissal the complainant’s burden is to show an error occurred.
- In paragraph (j)(6) language was changed to show that the following list was not an exhaustive list.
- “In all other respects, the matter will proceed in accordance with this article” was deleted from paragraph (j)(8).

Following this discussion Mr. Berger suggested that Ms. Kennedy and Ms. Greenwood can make the above suggested edits following this meeting. Once completed those edits can be emailed to the Committee for an email vote. If the Committee approves by email the additional changes the rule will be submitted to the Supreme Court on a recommendation that it be posted for public comment.

3. New/old business

Ms. Greenwood informed the Committee that the Discipline by Consent proposed amendments will be revisited. These rules were previously approved by the Committee and submitted to the Supreme Court, and they received feedback from Justice Pohlman on the proposed amendments. Ms. Greenwood will work with Ms. Kennedy on a new draft of the rule for a future committee meeting.

The meeting then adjourned.