



**COLORADO SUPREME COURT  
ADVISORY COMMITTEE ON THE PRACTICE OF LAW**

**MEETING MINUTES**

May 19, 2023, 12:14 p.m. – 1:59 p.m.

Hybrid meeting conducted in person and via Zoom

**Members present:** Chair David W. Stark, David Beller, Cynthia Covell, Henry (Dick) Reeve

**Members present via Zoom:** Nancy Cohen, Hon. Adam Espinosa, Steve Jacobson, Dr. Carolyn Love, Hon. Andrew McCallin, Sunita Sharma, Alison Zinn

**Members absent:** Brian Zall

**Liaison Justices in attendance:** Justice Maria Berkenkotter, Justice Monica Márquez (via Zoom)

**Office of the Presiding Disciplinary Judge:** Presiding Disciplinary Judge Bryon Large

**Staff in attendance:** Jessica Yates, Attorney Regulation Counsel; Margaret Funk, Chief Deputy Regulation Counsel; Dawn McKnight, Deputy Regulation Counsel; Ryann Peyton, Executive Director, Colorado Attorney Mentoring Program (CAMP); Sarah Myers, Executive Director, Colorado Lawyer Assistance Program; Amy Phillips, Assistant Director, Colorado Lawyer Assistance Program (COLAP) (via Zoom); Jonathan White, Assistant Regulation Counsel

**Guests:** Lillie Ackerman (via Zoom), Ret. Hon. Angela Arkin

**1. Approval of the March 17, 2023 Meeting Minutes**

The Chair asked if members had suggested revisions to the draft minutes of the committee's March 2023 meeting. Hearing none, he requested a motion to approve the minutes. Mr. Beller so moved, and Mr. Reeve seconded. The committee unanimously approved the minutes.

**2. Approval of the Proposed Fiscal Year 2024 Budget**

Ms. Yates included information in the packet of materials distributed prior to the meeting concerning the fiscal year 2024 budget proposal and fiscal year 2023 expenditures for the Office of Attorney Regulation Counsel (OARC), the Office of the Presiding Disciplinary Judge, COLAP, CAMP, and this committee. She informed members that OARC announced this morning the increase in registration fees for active and inactive Colorado lawyers, along with increased late fees, beginning with the 2024 registration cycle later this year. The Colorado

Supreme Court approved the registration fee increase. It should help provide financial stability for the coming years.

Ms. Yates highlighted for members trends in attorney registration over the past several years. She discussed that OARC invariably comes in under-budget each fiscal year due to retirements and employees leaving.

Other details of the proposed budget Ms. Yates noted for members include a five percent salary increase across all offices in line with the long bill for the state judicial department. The proposed fiscal year 2024 budget factors in a two percent rent increase for office space. Current leases for the registration fee-supported offices in the Ralph Carr Building expire June 30. Those leases are being reviewed for renewal. Meanwhile, in light of the Colorado Supreme Court's approval of a licensed legal paraprofessionals (LLP) program, the proposed budget factors in a full-time employee position to direct and coordinate the program. Also in association with the LLP program, the budget accommodates expenses for a vendor to create an exam for prospective licensees. The proposed budget contemplates other necessary information technology expenditures, as well as costs associated with replacement of the continuing legal education (CLE) database. Also factored into the budget is a line item expense for moving to a cloud-based system for OARC's admissions system, which is needed because the current CiviCore system is unreliable. The proposed budget also includes multi-day targeted training on communications and conflict resolution for OARC staff as part of professional development.

Ms. Myers discussed COLAP's proposed fiscal year 2024 budget. COLAP plans to return to its pre-pandemic level of travel as part of its outreach and mission. The proposed budget factors in travel cost increases due to inflation. Ms. Myers mentioned COLAP's proposed budget also contemplates implementation of learning management software that will allow more remote training.

Ms. Peyton reviewed CAMP's proposed upcoming fiscal year budget. It includes outreach for the Colorado Supreme Court Well-Being Recognition Program for Legal Employers.

Judge Large discussed his office's proposed budget. He noted the office's technology budget increased in order to modernize the courtroom. Other budget increases are modest and in line with payroll increases and expanding the number of hours a part-time employee works.

Committee members discussed costs associated with the launch of the LLP program. Over the long-term, the LLP program should be self-sustaining with its own registration and admission fees.

Mr. Reeve moved to approve the proposed fiscal year 2024 budgets for the court-supported offices. Mr. Beller seconded. The motion passed unanimously. The budgets will be sent to the Colorado Supreme Court for its consideration.

### **3. Discussion re: Annual Review Relating to Productivity, Effectiveness, Efficiency, and Resources of Each Part of the Legal Regulation System**

C.R.C.P. 242.3(c) requires the Advisory Committee review the attorney regulation system for productivity, effectiveness, efficiency, and resources. The Colorado Supreme Court suggested this committee evaluate how a review might be accomplished in association with the court's efforts to increase public trust and promote accountability. Committee members shared ideas regarding such a review, including rotating the offices reviewed on an annual basis. Certain members suggested that the review might also address ways to explain to the public how the attorney regulation system works. Members created a subcommittee charged with evaluating how to conduct such a review. Dick Reeve, Cindy Covell, Judge Espinosa and Nancy Cohen volunteered to participate in the subcommittee, chaired by Dave Stark. Individual office heads will also participate.

#### **4. Consideration of Proposed Changes to C.R.C.P. 252, Attorneys' Fund for Client Protection Rule**

Ms. Yates and Judge Espinosa discussed proposed changes to C.R.C.P. 252. Members received a copy of the proposed changes with the materials distributed prior to the meeting. The rule to establish the Attorneys' Fund for Client Protection has not been significantly modified since promulgated in 1999. On a large scale, there is new language in the proposal that would define terms used in the rule, as well as changes to conform the rules to the Board of Trustees' guidelines and/or current practice. The proposed changes also detail how C.R.C.P. 252 applies to LLPs. The revisions also establish procedures for retention of minutes and claim information. Last, the revisions would expressly prohibit claims where the claimant knew of the lawyer's dishonesty and participated in or contributed to the loss.

Judge Espinosa thanked the volunteers on the subcommittee who worked on the proposed rule changes. The subcommittee members included Mr. Beller, Corelle Spettigue, Allison Gambill, as well as Ms. Yates and Ms. Funk.

Mr. Beller moved to approve the amendments to C.R.C.P. 252 and send them to the Colorado Supreme Court for the court's consideration. Mr. Reeve seconded. The motion carried unanimously.

#### **5. Consideration of Proposed Changes to C.R.C.P. 205.7, Student Practice Rule**

Ms. Yates detailed proposed changes to C.R.C.P. 205.7 recommended by a subcommittee formed to study changes to the rule. Members received a copy of the proposed changes in the packet of materials distributed before the meeting. Among the proposals Ms. Yates highlighted is language specifying the types of proceedings where students subject to the rule can appear. These include certain appellate proceedings before the Colorado Court of Appeals. The proposals also clarify procedures related to recent graduate externs. Members of the subcommittee included the Chair, Mr. Jacobson, Ms. McKnight, as well as Judge David Furman from the Colorado Court of Appeals, along with other volunteers that included appellate staff attorney Rami Jordan, Alexi Freeman from DU Law, Ann England and Denise DeForest from CU Law, Lucienne Ohanian from the Public Defender's Office, and Danielle Lewis from the Attorney General's Office.

After discussion, Ms. Covell moved to approve the proposed changes to C.R.C.P. 205.7 and recommend them for the court's consideration. Mr. Beller seconded. The motion carried unanimously.

## **6. Licensed Legal Paraprofessional Program Approval of Nominations to LLP Oversight Committee**

Judge Arkin reviewed the names of individuals nominated to serve on the LLP Oversight Committee. She provided these individuals' résumés in the packet of materials distributed to members prior to the meeting. The nominees are: Hon. Angela R. Arkin (Chair), Amy M. Goscha (Vice-Chair), Katherine Ellis, Hon. Rayna Gokli, Leslii Lewis, Magistrate Michal Lord-Blegen, Rebekah Pfahler, David Stark, Magistrate Marianne Tims, and Penny Wagner. Two of these individuals are non-lawyers, which meets requirements in C.R.C.P. 207.4(1) as to qualifications for individuals serving on the Oversight Committee.

Mr. Reeve moved to approve the full slate of nominees. Mr. Beller seconded. The motion carried unanimously. The names will be presented to the court for formal appointment to the Oversight Committee.

## **7. Update of 2023 Volunteer Celebration**

The annual volunteer celebration will take place Thursday, September 21 at the Denver Athletic Club.

## **8. Other Updates**

### **a. Office of the Presiding Disciplinary Judge**

Judge Large referred to members to his office's annual report, which was distributed to members in advance of the meeting. He said technological updates to the courtroom are on-track to take place in July.

### **b. Colorado Attorney Mentoring Program (CAMP)**

Ms. Peyton mentioned CAMP recently published its 2022 Annual Report. CAMP has a new Director of Mentoring, Kristen Belolan. Ms. Belolan is a former solo practitioner. She has also worked in the legal technology industry. She will be a valuable mentor to lawyers setting up their own law practice. Meanwhile, CAMP is fully-supporting the Colorado Supreme Court Well-Being Recognition Program for Legal Employers, which launched earlier this year. This program had its first "lunch-and-learn" in April. This drew 168 participants. The next event is June 22, which is sold-out. There will be an all-day event in association with the program in September at the Colorado Bar Association.

### **c. Colorado Lawyer Assistance Program (COLAP)**

Ms. Myers emphasized that contacts for assistance in 2022 increased for what used to be known as "compassion fatigue" and is now considered "empathetic strain," an issue shared among lawyer assistance programs nationally. COLAP continues to update its referral database and perform important vetting of professionals capable of assisting legal professionals with

behavioral health services. This is critical in light of the increasing numbers of individuals purporting to be able to help lawyers with well-being issues but lacking the necessary expertise through education and experience, and also the loss of medical and clinical professionals during the pandemic that has continued as burnout rates continue to increase in those industries.

d. Office of Attorney Regulation Counsel (OARC)

OARC has seen a rise in the number of complaints regarding attorneys. Historically, prior to the pandemic, the office saw around 3,400 to 3,500 complaints annually. The number rose to around 3,800 during the pandemic. At present, OARC is on track to see over 4,400 complaints this year.

The February 2023 bar exam pass rate was low for the Colorado bar examination with a 48 percent overall pass rate. This occurred after the Colorado Supreme Court lowered the cut-score for the exam. OARC has had conversations with recent law graduates that have resulted in changes to procedures surrounding the bar exam, including notifying candidates prior to publicly releasing the list of people who passed the exam. Ms. Yates said these conversations will continue. They have been constructive. CAMP hosted an event on “bouncing back” for individuals who were not successful passing the exam. OARC also continues its partnership with the University of Indiana to provide bar exam takers with strategies for success, as well as stories about success.

**9. 2023 Meeting Dates**

- September 22 and December 8

**10. Executive Session**

The meeting concluded at 1:59 p.m. after which members met in Executive Session pursuant to supreme court rules to discuss a confidential matter.

/s/ Jessica E. Yates  
Jessica E. Yates  
Attorney Regulation Counsel