

NOTICE TO THE BAR

Proposed 2019 Attorney Discipline Budget

The Report of the Supreme Court's Disciplinary Oversight Committee on the proposed 2019 Attorney Discipline Budget has been submitted to the Supreme Court for action. The Court has directed that the Report and an Overview of the proposed 2019 Attorney Discipline Budget be published for comment. Those documents are attached.

Please send any comments in writing by Monday, November 5, 2018 to:

Clerk of the Supreme Court
Comments on Proposed Disciplinary Budget
Hughes Justice Complex; P.O. Box 970
Trenton, New Jersey 08625-0970

Comments may also be submitted via Internet email to the following address:

Comments.mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address and those submitting comments by email should include their name and email address. Comments submitted in response to this notice are subject to public disclosure.

/s/ Glenn A. Grant

Glenn A. Grant, J.A.D.
Acting Administrative Director
of the Courts

Dated: October 11, 2018

**SUPREME COURT OF NEW JERSEY
DISCIPLINARY OVERSIGHT COMMITTEE**

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September 24, 2018

The Honorable Chief Justice Stuart J. Rabner and
Associate Justices of the Supreme Court
Richard J. Hughes Justice Complex
P.O. Box 970
Trenton, New Jersey 08625

Re: 2019 Attorney Discipline Budget

Dear Chief Justice Rabner and Associate Justices:

The Supreme Court's Disciplinary Oversight Committee ("DOC" or "Committee") considered and approved the proposed 2019 Attorney Discipline Budget and Budget Narrative (enclosed). R. 1:20B-4(a)(2). In this Budget Report, the Committee presents the Court with an overview of expenses, annual assessment, revenues, and reserve projections. The Budget Report also highlights issues that may be of particular interest to the Court. The Committee respectfully requests the Court's approval for publication of the Budget Report and the 2019 Disciplinary Budget Overview (page 6 of the Budget Narrative). Included among the enclosures are budget reserve projections through fiscal year 2021. As discussed below, the Committee recommends that the disciplinary system component of the attorney registration fee remain at \$148 for 2019.

The 2019 budget was prepared in consultation with the Administrative Office of the Court's Office of Management and Administrative Services ("OMAS"). As always, the Committee greatly appreciates the assistance and guidance of OMAS Director Shelley Webster and Assistant Chief Linda McAdams. The Committee is especially thankful to Charles Centinaro, Esq., Director of the Office of Attorney Ethics ("OAE"); Susan Fleming, OAE

Administrator; Ellen Brodsky, Esq., Chief Counsel of the Disciplinary Review Board (“DRB”); and the staffs of the OAE and DRB. The budget before the Court reflects their careful planning and hard work.

In addition to OMAS, OAE and DRB, the Committee thanks its Budget Subcommittee, whose dedicated members worked diligently to ensure thoughtful review and analysis of the proposed budget. Of course, the Committee is thankful for the wise guidance and counsel of its Justice Liaison, the Honorable Jaynee LaVecchia.

I. Overview.

The disciplinary budget year runs from January 1 to December 31. The proposed 2019 budget is \$13,648,506, representing a 2% increase from the budget approved for 2018. As discussed in greater detail below (Section II(A)), the primary core expense is salaries and benefits, again comprising approximately 80% of the budget. Salary costs are expected to decrease by \$26,608 or approximately .4% when compared with projected figures for 2018. The fringe benefit rate (FBR) is projected to be 52.35%, an increase of 3% from the rate used for the 2018 budget. Overall personnel costs for 2019, including salaries and fringe benefits, are expected to increase by .01% when compared to the latest estimate for 2018. Total operating expenses are expected to rise by 3.3% over the latest estimate for 2018, but will likely experience a slight decrease from the budget approved for 2018.

As discussed in Section III, the DOC is recommending that the disciplinary system component of the 2019 fee assessment remain the same as in 2018: \$148 for plenary admitted attorneys practicing three to forty-nine years. As explained in Section IV, that registration fee is projected to generate revenues of \$10,656,000. Attorneys practicing two years or less pay \$25, yielding another \$42,500. Thus, total revenues from plenary admitted attorney registration fees are anticipated to be \$10,698,500. When other fees are added (\$2,326,802), total projected revenues for 2019 are estimated to be \$13,025,302. Thus, revenues from registration fees and other sources are expected to increase by approximately 1% (\$129,086) when compared to the latest estimate for 2018.

With total projected revenues of \$13,025,302 and total expenses of \$13,648,506, there will be a budgeted deficit for 2019 of \$623,204. There was a budgeted deficit of \$524,391 in 2018, but the latest estimate for 2018 shows a deficit of \$664,117. At the end of 2018, the reserve is projected to be \$3,283,661 or 24.2% of the budget. For the four-year period from 2014 to 2017, actual reserves have averaged 29%. The reserve at the end of 2019 is projected to be

\$2,660,457 or 19.5% of the operating budget. The budget reserve for 2020 is projected to be 12.1%, reducing further to 3.1% at the end of 2021, which would be below the Committee's stated goal of 10% (See Section III below for further discussion on the annual assessment and reserve projections).

II. Expenses.

A. Salaries and Benefits.

The Department of the Treasury Office of Management and Budget has advised that the fringe benefit rate is projected to increase by 3% for 2019, from 49.35% to 52.35%. Based on available information, salary costs for 2019 are projected at \$7,261,998 (approximately a .4% decrease when compared to the latest estimate for 2018) and benefits are projected at \$3,782,030 (a .75% increase from the latest estimate for 2018). Thus, salaries and benefits for 2019 are projected to be \$11,044,027 (85 full-time positions) or approximately 80% of the budget. As in 2018, and in keeping with actual averages, this budgeted number assumes a 3.5% vacancy rate.

B. Operating Costs.

Operating expenses for 2019 total \$2,604,479 or approximately 20% of the budget, representing a 3.3% increase from the latest estimate for 2018. When compared to the latest estimate for 2018, some budget categories are unchanged, including shorthand reporters, investigations, and fee arbitration/ethics emoluments. Other categories will experience slight increases, for example travel (3%), data processing (3%), transcripts (8%), and office rental (1%). While it appears that the cost for "Attorney Trustees" and "AG Representation" may have increased significantly when compared to the latest estimate for 2018, the amounts requested are identical to the amounts requested and approved for 2018.

Following are some noteworthy expenses.

1. Meetings. The attorney disciplinary system is heavily dependent on volunteers. In the past, the OAE has held receptions to honor the attorneys and public members who serve on District Ethics Committees and District Fee Arbitration Committees. It has been three years since the last receptions. In 2019, the OAE will hold two receptions in venues that will accommodate northern and southern districts.

2. Conferences, Education, and Training. The increase in this category is due, in part, to the National Organization of Bar Counsel (NOBC) weeklong training. The training is offered only on odd-numbered years and did not figure in the 2018 budget. Three OAE attorneys, including the Director, will attend the 2019 training, at a cost of \$3,000 each, for a total of \$9,000. In addition, the cost of travel and hotel accommodations has increased.

3. Equipment/General Maintenance. The DRB is requesting additional funding to replace cabinets (and counter space) that are literally falling apart from age, wear and tear. The cost includes the demolition, removal, and disposal of existing cabinets.

4. Other Equipment. In 2018, the OAE undertook the significant expense and effort of transitioning its telephone service to Voice over Internet Protocol (VoIP). Because it was a one-time expense and isolated to 2018, the amount of funding requested for equipment in 2019 is almost \$100,000 less than that requested for 2018.

The budget narrative fully addresses all operating budget categories and any variances of note.

III. The Annual Assessment and the Reserve.

The DOC recommends that the annual assessment remain at \$148, where it has been for the last five years. As is the case every year, New Jersey's annual assessment is reasonable in relation to other states. With a registration fee of \$148, the reserve is projected to decrease from \$3,283,661 or 24.2% of the budget, the latest estimate for 2018, to \$2,660,457 or 19.5% of the operating budget for 2019. It is estimated that, should the registration fee remain at \$148 for 2020 and 2021, reserves will decrease to 12.1% and 3.1%, respectively. As noted above, the goal has been a 10% reserve.

The DOC is mindful that reserves have averaged over 20%, and recently were as high as 32%. Over the years, the Bar Association has expressed its concern over the level of reserves. Paris P. Eliades, Esq., who has superbly represented the Bar Association on the DOC for fifteen years, is ever mindful of this issue and continues to engage the Committee in constructive dialogue. The Committee will continue to engage in discussions about what is budgeted vis-à-vis

what is actually spent and the potential impact adjustments to the registration fee may have on reserves.

Having said that, the OAE and DRB always strive to keep expenses reasonable, understanding that some expense variables, in particular those related to negotiated salaries and fringe benefits, are difficult to predict. As in the past, the 2019 budget features a deficit that is anticipated to further reduce the reserve. If the projections bear out, the reserve should be below the 10% goal by the end of 2021. As noted above, the fringe benefit rate is projected to increase from 49.35% to 52.35%, an increase of 3%. The rate is subject to negotiations with the federal government, which are ongoing, and the rate is usually determined towards the end of the year. This is a major variable in the budget projections.

IV. Revenue Projections.

Based on an annual assessment of \$148, the total revenue projected for 2019 is \$13,025,302. This is a 1% increase ((\$129,086) from the latest estimate for 2018. It is estimated that 72,000 attorneys practicing three to forty-nine years will pay the \$148 fee while 1,700 attorneys practicing two years or less will pay the \$25 fee. Thus, total receipts from plenary admitted attorneys paying the registration fee are projected to be \$10,698,500, or approximately 82% of revenue.

Pro hac vice fees are estimated to be paid by 6,000 attorneys in 2019, generating \$888,000 or approximately 6.8% of all revenue. Approximately 1,350 attorneys are projected to pay for in-house counsel licenses in 2019, generating \$199,800 in revenue. Other significant sources of revenue include late fees for attorneys who fail to register in a timely manner (\$270,000), prior year assessments that attorneys failed to pay (\$300,000), and the recovery of the costs of disciplinary investigations and proceedings from disciplined attorneys (\$275,000).

V. Conclusion.

The DOC has carefully reviewed the proposed 2019 Attorney Discipline Budget and it is confident that the budget is fiscally responsible. The budget will provide the OAE and DRB with the resources needed to continue serving the public, the profession, the disciplinary system, and the judiciary as a whole. The Committee is proud of the work of the OAE, DRB, and volunteers as they continue to make New Jersey's disciplinary system one of the best in the country.

The DOC respectfully requests that the Court permit the publication of this Budget Report and the Budget Overview. Following the public comment period, the Committee will resubmit the 2019 Attorney Discipline Budget for the Court's approval.

Respectfully Submitted,

/s/ *Joel B. Rosen*

Joel B. Rosen, Esq.
Chair

Enclosures

cc: Members of the Disciplinary Oversight Committee
Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of New Jersey Courts
Steven Bonville, Esq., Chief of Staff, AOC
Mark Neary, Esq., Clerk of the Supreme Court
Gail G. Haney, Esq., Deputy Clerk of the Supreme Court
Shelley R. Webster, Director, Mgmt. & Adm. Svcs.
Linda McAdams, Ass't Chief, Mgmt. & Admin. Svcs.
Ellen Brodsky, Esq., Chief Counsel, DRB
Charles Centinaro, Esq., Director, OAE
Isabel McGinty, Esq., Statewide Ethics Coordinator, OAE
Susan Fleming, Office Administrator, OAE

REVENUES:**Attorney Registration Fees:**

Practicing 3 - 49 years (@ \$148)	\$ 10,656,000
Practicing 2 years (@ \$25)	42,500
Total Registration Fees	\$ 10,698,500

Other Fees

Prior Year Payments	300,000
Fee Arbitration Filing Fees	58,000
Interest on Funds	236,962
Disciplinary Costs Recovered	275,000
In-House Counsel	199,800
Pro Hac Vice Fees	888,000
Multi-Jurisdictional Practice	15,540
Reinstatement Fees	80,000
Late Fees	270,000
Other Revenue	3,500
Total Other Fees	\$ 2,326,802

Total Projected Revenues 2019	\$ 13,025,302
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EXPENSES:**Salaries & Benefits:**

Salaries at 96.5%	\$ 7,261,998
(Allows for 3.5% vacancy rate)	
Fringe Benefits at 52.35%	\$ 3,782,030

Total Salaries & Benefits	\$ 11,044,027
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Operating Expenses:

OFFICE EXPENSE	594,567
HEARING FEES	183,500
OTHER EXPENSES	201,125
MAINTENANCE & FIXED EXPENSES	404,700
SPECIAL PURPOSE	1,127,587
Emoluments	539,500
Contingencies	7,500
Attorney Registration Costs	580,587
EQUIPMENT	93,000
Total Operating Expenses	\$ 2,604,479

Total Projected Expenses 2019	\$ 13,648,506
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Revenues Less Expenses 2019	\$ (623,204)
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ADD: Reserve, End of 2018	\$ 3,283,661
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Reserve, End of 2019	\$ 2,660,457
	19.5%