

NOTICE TO THE BAR

Proposed 2018 Attorney Discipline Budget

The Report of the Supreme Court's Disciplinary Oversight Committee on the proposed 2018 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 2018 Attorney Discipline Budget be published for comment. Those documents are attached.

Please send any comments in writing by Monday, November 6, 2017 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.


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

Dated: October 5, 2017

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

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September 25, 2017

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: 2018 Attorney Disciplinary Budget

Dear Chief Justice Rabner and Associate Justices:

The Supreme Court's Disciplinary Oversight Committee ("DOC" or "Committee") considered and approved the proposed 2018 Attorney Disciplinary Budget, pursuant to R. 1:20B-4(a)(2) (enclosed). In this Budget Report, the Committee presents the Court with an overview of revenues and expenses and highlights budget categories that may be of particular interest to the Court. The Committee requests the Court's review and approval for publication of this Budget Report and the 2018 Disciplinary Budget Overview. Enclosed for the Court's consideration are budget reserve projections through fiscal year 2020. As discussed below, the Committee recommends that the attorney registration fee remain at \$148 for 2018.

The 2018 budget was prepared in consultation with the Administrative Office of the Court's Office of Management and Administrative Services ("OMAS"). The Committee greatly appreciates the assistance of OMAS Director Shelley Webster and Assistant Chief Linda McAdams. The Committee thanks 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 for preparing the budget in a professional and timely manner. As usual, the DOC Budget Subcommittee worked diligently to ensure careful review and analysis of the proposed budget.¹

I. Overview.

The disciplinary budget year runs from January 1 to December 31. The proposed 2018 budget is \$13,376,536, representing a .6% decrease from the budget approved for 2017. As discussed in greater detail below (Section II(A)) the primary core expense is salaries and benefits, comprising approximately 80% of the budget. Salary costs are expected to increase by approximately 3.62% (\$250,755) over projected figures for 2017. The fringe benefit rate (FBR) is projected to drop from 51.52% to 49.35%, a decrease of 2.17% over the 2017 rate. Overall personnel costs (salaries and fringe benefits) for 2018 are expected to increase by 3.07% when compared to the latest estimate for 2017. Total operating expenses are expected to rise by 8.8% over the latest estimate for 2017.

As discussed in Section III, the DOC is recommending that the fee assessment for 2018 remain the same as in 2017, \$148 for plenary admitted attorneys practicing three to forty-nine years. As explained in Section IV, a \$148 registration fee is projected to generate revenues of \$10,685,600.² 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 \$10,728,100. When other fees are added (\$2,124,045), total projected revenues for 2018 are estimated to be \$12,852,145. Thus, revenues from registration fees and other sources are expected to increase by approximately 1% (\$156,740) when compared to the latest estimate for 2017.

1 The Budget Subcommittee members are Co-Chairs Richard Sackin, CPA, and Joel B. Rosen, Esq., Paris P. Eliades, Esq., Spencer V. Wissinger, III, CPA, Daniel D. Lynn, Matthew P. O'Malley, Esq., and James Kravitz, Esq.

2 The fee discussed in this Report is for the disciplinary system only. Additional sums are collected for the Lawyers' Fund for Client Protection, the Lawyers Assistance Program, and the Mandatory Continuing Legal Education Program.

With total projected revenues of \$12,852,145 and total expenses of \$13,376,536, there will be a budgeted deficit for 2018 of \$524,391. There was a budgeted deficit of \$789,965 in 2017, but the latest estimate for 2017 shows a deficit of \$147,254. At the end of 2017, the reserve is projected to be \$3,360,616 or 26.2% of the budget. The reserve was as high as 35.5% in 2012 and has since decreased by 9.3%. The reserve at the end of 2018 is projected to be \$2,836,225 or 21.2% of the operating budget. Depending on the accuracy of current projections, budget reserves for 2019 and 2020 are projected to be 15.8% and 10.8%, respectively, thus approximating the DOC's goal of a 10% reserve. (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 there will be a decrease in the fringe benefit rate, and as a result, the DOC will benefit from a reduction in the rate from 51.52% of payroll costs in 2017 to 49.35% in 2018. Based on available information, salary costs for 2018 are projected at \$7,177,617 (a 3.62% increase over the latest estimate for 2017)³ and benefits are projected at \$3,523,390 (a 1.96% increase from the latest estimate for 2017). Thus, salaries and benefits for 2018 are projected to be \$10,701,007 (85 full time positions) or approximately 80% of the budget.⁴ As in 2017, and in keeping with actual averages, this budgeted number assumes a 3.5% vacancy factor.⁵

B. Operating Costs.

Operating expenses for 2018 total \$2,675,529 or approximately 20% of the budget, representing a 9% increase from the latest estimate for 2017. When compared to the latest

3 Salaries for represented staff in the disciplinary system are established through negotiated labor contracts. As of the writing of this Budget Report, these contracts have yet to be renegotiated and ratified.

4 Salaries and benefits have historically constituted approximately 80% of the budget.

5 Since 2005, except for 2012 when there were an unusual number of planned retirements and a 5% rate was used, the vacancy rate was budgeted at 2%. A 3.5% rate has been used since 2016.

estimate, there is no change with respect to the totals for a number of categories, including equipment leases, recruitment, telephone, postage, and investigations, to name a few. Some other categories will experience slight increases, for example travel (8%), transcripts (3%), and office rental (2%). Conferences /education/training will experience a 3% increase when compared to the latest estimate, but is 14.5% (\$9,000) lower than the amount approved for FY 2017. The reason for this is that the weeklong "Litigation Skills Boot Camp" is available only on odd numbered years. Following are some of the more notable expenses.

1. **Telephone and Equipment.** In 2017, \$38,000 was budgeted for DRB-related telephone expenses and \$40,000 for the OAE. The latest estimates are \$18,000 and \$40,000, respectively. \$58,000 is budgeted for 2018. The DRB transitioned to Voice Over Internet Protocol (VOIP), as required of all Judiciary offices statewide. VOIP is expected to yield long-term savings. However, the DRB has received only one monthly bill since transitioning, so it is difficult to estimate cost savings at this time.

The OAE plans to transition to VOIP in 2018. This transition will result in an increase in equipment-related expenses by more than 150% to cover the cost of wiring, hardware, software, and installation expenses. These expenses are detailed at p. 56 of the budget narrative. The total projected cost of the OAE's transition to VOIP is \$95,000. When other computer hardware and office equipment expenses, and the cost of replacing one vehicle is added, the total OAE equipment expense is projected to be \$163,000. DRB equipment expenses (replacement of six computers) is estimated at \$29,000, bringing the equipment total to \$192,000, representing a 104% increase over the latest estimate for 2017.

2. **Attorney Trustees.** Costs related to Attorney Trustees appear to have risen dramatically when compared to the latest estimate for FY 2017 (243%), but that is not the case. As with prior budgets, \$12,000 is being proposed for 2018. Attorney Trustees are volunteers appointed to safeguard clients' rights when an attorney is suspended, disbarred or transferred to disability-inactive status, has abandoned a law practice, or has died with no one to carry out his or her affairs. Funds under this category are "seed" money for out of pocket expenses, in particular early on in the proceedings, when no other assets are

available. There is a \$3,000 limit but, in recent years, the DOC has received requests for amounts as high as \$8,000.

3. Hearing Expenses. This category includes transcripts, shorthand reporters, expert services, and special hearing fees. The 2018 budget amount is \$26,000 higher than the amount approved for 2017. There are three reasons for this increase. First, there is a greater need for shorthand reporters due to the scarcity of CourtSmart-equipped rooms. That scarcity will continue with the addition of new judges. Second, the cost for expert services (physicians, handwriting analysts, interpreters, etc.) is higher than usual. Third, pursuant to an amendment to the Rules of Court, Special Ethics Masters will be paid for writing opinions, in addition to hearing time, not to exceed the number of hearing days. An additional \$15,000 is being budgeted for 2018, offset somewhat by the decrease in the cost of transcripts (\$10,000 less than that approved for 2017).

4. Data Processing. The 2017 total data processing budget is \$245,411, \$47,500 for the DRB and \$197,911 for the OAE. For 2018, the proposed amounts are \$86,000 for the DRB and \$180,911 for the OAE, for a total of \$266,911. In 2018, the DRB looks to upgrade its electronic case management system to InfoShare 3.0 at a cost of \$48,500. InfoShare 3.0 is more streamlined and efficient than the current 2.2 version and will allow the DRB to better adapt to future technologies. For example, Edge is replacing Internet Explorer and InfoShare 2.2 was designed for Internet Explorer. In 2018, the OAE is aiming to reduce its data processing expenses (by 8%) to buffer the impact of the pending VOIP project. Data processing expenses will increase in subsequent budgets as VOIP is implemented and InfoShare upgrades are completed.

III. The Annual Assessment and the Reserve.

The DOC recommends that the annual assessment remain at \$148, where it has been for the last four years. With a registration fee of \$148, the reserve is projected to decrease from \$3,360,616 or 26.2% of the budget, the latest estimate for 2017, to \$2,836,225 or 21.2% of the operating budget for 2018. It is estimated that, should the registration fee remain at \$148 for 2019 and 2020, reserves will decrease to 15.8% and 10.8%, respectively.

As is the case every year, New Jersey's annual assessment is reasonable in relation to other states. New Jersey's fee ranks 9th lowest out of the eighteen "voluntary" states, which do not require mandatory bar association membership or impose malpractice insurance fees.⁶ Of those states with lower registration fees, only one state regulates more attorneys than New Jersey.

The DOC is mindful that, over the years, reserves have averaged over 20%, and were as high as 35.5% in 2012. The OAE and DRB 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 2018 budget features a deficit of \$524,391 that should help further reduce the reserve. As noted above, the fringe benefit rate is projected to drop from 51.52% to 49.35%, a decrease of 2.17% over the 2017 rate. The rate is subject to contract negotiations, which are ongoing, and the rate is usually determined towards the end of the year.

Over the years, the Bar Association has expressed its concern over the level of reserves. Bar Association representative, Paris P. Eliades, Esq., has presented the Committee with valuable perspective and guidance. The Committee will continue to engage in discussions about what is budgeted vis-à-vis what is actually spent for various categories, in particular salaries and benefits, and the impact of adjustments to the registration fee on reserves.

IV. Revenue Projections.

Based on an annual assessment of \$148, the total revenue projected for 2018 is \$12,852,145. This is a 1% increase (\$156,740) from the latest estimate for 2017. It is estimated that 72,200 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 \$10,728,100, or approximately 83% of revenue.

Pro hac vice fees are estimated to be paid by 6,600 attorneys in 2018, generating \$976,800 or approximately 7.6% of all revenue. Approximately 1,250 attorneys are projected to pay

⁶ The average annual fee nationwide is \$324, compared to only \$212 in New Jersey, which includes other assessments as noted in footnote two.

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for in-house counsel licenses in 2018, generating \$185,000 in revenue. Other significant sources of revenue include late fees for attorneys who fail to register in a timely manner (\$265,000), prior year assessments that attorneys failed to pay (\$275,000), and the recovery of the costs of disciplinary investigations and proceedings from disciplined attorneys (\$220,000).

V. Conclusion.

The DOC is confident that the proposed 2018 Attorney Disciplinary Budget is fiscally responsible and 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 strive 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 2018 Attorney Disciplinary Budget for the Court's approval.

Respectfully Submitted,



Richard Sackin, CPA
Chair

RS/et
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.

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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

1.1 2018 DISCIPLINARY BUDGET OVERVIEW

REVENUES:

Attorney Registration Fees:

Practicing 3 - 49 years (@ \$148)	\$ 10,685,600	
Practicing 2 years (@ \$25)	42,500	
Total Registration Fees	\$ 10,728,100	

Other Fees

Prior Year Payments	275,000	
Fee Arbitration Filing Fees	62,500	
Interest on Funds	52,000	
Disciplinary Costs Recovered	220,000	
In-House Counsel	185,000	
Pro Hac Vice Fees	976,800	
Multi-Jurisdictional Practice	13,320	
Reinstatement Fees	70,925	
Late Fees	265,000	
Other Revenue	3,500	
Total Other Fees	\$ 2,124,045	

Total Projected Revenues 2018

\$ 12,852,145

EXPENSES:

Salaries & Benefits:

Salaries at 96.5%	\$ 7,177,617	
(Allows for 3.5% vacancy rate)		
Fringe Benefits at 49.36%	\$ 3,523,390	

Total Salaries & Benefits \$ 10,701,007

Operating Expenses:

OFFICE EXPENSE	597,561	
HEARING FEES	185,000	
OTHER EXPENSES	166,425	
MAINTENANCE & FIXED EXPENSES	369,000	
SPECIAL PURPOSE	1,165,543	
Emoluments	539,500	
Contingencies	7,500	
Attorney Registration Costs	618,543	
EQUIPMENT	192,000	

Total Operating Expenses \$ 2,675,529

Total Projected Expenses 2018

\$ 13,376,536

Revenues Less Expenses 2018 \$ (524,391)

ADD: Reserve, End of 2017 \$ 3,360,616

Reserve, End of 2018 **\$ 2,836,225**

21.2%