

Alaska Commission on Judicial Conduct

February 14, 2019

M E M O R A N D U M

TO: Senate Finance Sub-Committee on Courts Budget

FROM: Marla N. Greenstein
Executive Director, Alaska Commission on Judicial Conduct

RE: Budget Overview FY 2020

Alaska's Commission on Judicial Conduct was created by amendment to the state Constitution in 1968. The Commission is composed of three state court judges, three attorneys who have practiced law in the state for at least ten years, and three members of the public. This group of nine individuals from differing backgrounds and geographical areas addresses problems of judicial conduct and disability. Any person may file a complaint alleging judicial misconduct. The Commission also may initiate investigations on its own motion.

Unique Role of the Commission

Judicial ethics commissions, like the Alaska Commission on Judicial Conduct, were created in the late sixties and early seventies to address the unique issues of judicial ethics and discipline. These commissions provided vehicles for public participation in judicial discipline through membership on the commission and today every state and the District of Columbia has a judicial ethics commission. By providing an independent agency from the court system, the Commission has freedom to objectively receive and investigate ethics complaints against the judiciary. There is no other agency that fills this function in our state.

We also undertake educational activities that, hopefully, prevent to some extent future ethical lapses by judges. The Commission issues advisory opinions to judges, and participates in statewide judicial conferences. Staff also conducts "ethics orientation" sessions for new judges.

Mission

Our Mission, as set out in the Constitution and enabling legislation, is to inquire into allegations of judicial misconduct by judges and impose private sanctions or proceed

to hearing that could result in a recommendation of discipline by the Alaska Supreme Court.

Staff

Our Commission has a full-time staff of two: an executive director and an administrative assistant. As needed, the Commission hires Special Counsel when a complaint proceeds to a point that it creates an adversarial relationship between the Commission and the judge. The staff contributes to the Mission of our agency by responding to inquiries by the public, investigating all written complaints that raise an issue outlined in our enabling legislation (AS 22.30.011), and providing detailed investigative reports and a public annual report. Meeting quarterly, the Commission has set a 90-day time standard for completion of an initial investigation of any new complaint.

Budget

We maintain an operating budget line of \$26,000 to allow us to hire Special Counsel when the need arises, recognizing that supplemental funding will be needed should the matter proceed to formal hearing. Case law requires that the Executive Director hire outside Special Counsel to prosecute any matter that proceeds beyond probable cause to ensure due process for the accused judge. In FY18 and to date in FY19 we were fortunate to have no contested disciplinary matters. We had one disability matter that, because it was uncontested, the Executive Director could resolve without outside counsel. We did use some of the funds in that line (\$4000) to obtain independent medical records reviews to assess the disability claim.

This year we are seeking funding that would maintain our current staffing level of 2 full-time employees and the ability to contract a prosecuting Special Counsel as needed. We have maintained this same funding/staffing structure for most of the history of the Commission. Because the Alaska Constitution defines our function, we are staffed to carry out that mandated function. Our budget reflects the personal services costs of a 2-person staff (70% of our budget, close to 80% if include the costs of Special Counsel), with corresponding office space and travel funds for quarterly meetings of the Commission.

Unlike agencies with hundreds or thousands of employees, our 2-person staff that carries out the constitutional function of processing ethics complaints against state court judges has no ability to absorb budget cuts through staff vacancy rates or limiting discretionary functions. While we have lapsed the funds allocated for Special Counsel in years we have not required those services, without those funds, we are hampered from fulfilling our Constitutionally mandated purpose of prosecuting serious judicial misconduct.

Commission Complaint Process

