Maine Commission on Indigent Legal Services – Commissioners Meeting
January 25, 2022
Zoom

Minutes

Commissioners Present: Donald Alexander, Meegan Burbank, Michael Carey, Robert Cummins, Roger Katz, Matthew Morgan, Ronald Schneider, Joshua Tardy
MCILS Staff Present: Justin Andrus, Ellie Maciag

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Declaration of Emergency	Chair Tardy cited the increase in COVID infection rates as the emergency requiring remote participation for the meeting.	
Approval of December 28, 2021 & January 10, 2022 Commission Meeting Minutes	No discussion	Commissioner Alexander moved to approve. Commissioner Katz seconded. All voted in favor. Approved.
Public Hearing Policy Memorandum Discussion and Vote	Director Andrus asked the Commission to consider and decide policy on the following issues: (1) does information obtained or gathered by the Commission during an evaluation or investigation of an attorney become public under current statute; (2) is public notice as defined by the APA required before an appellate hearing; and (3) may the public attend an appellate hearing and, if so, how will confidentiality be upheld. Director Andrus noted that most or all appellate hearings would have a confidential aspect. Following a discussion on confidentiality concerns and what constitutes a substantial public interest, Chair Tardy proposed that the public has a substantial interest in billing issues and that the hearing officer should decide what portions of the hearing are confidential under section 1806 and closed to the public. Commissioner Cummins moved for	

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	the Commission to adopt a policy that all appellate hearings are of a substantial public interest so that the public has a right to access and attend hearings, subject to the hearing officer's ability to protect testimony that would be privileged based on statutory provisions. Commissioner Carey seconded. All voted in favor.	
Report of the Executive Director	Director Andrus gave an update on case numbers, explaining that the trend has been reasonably good and that the summer surge has tapered and continues to taper. Director Andrus added that the Commission has not seen the full conversion of vouchers to solely at the $80/hr rate.	
Legislative Update	Director Andrus and Chair Tardy will be testifying at the Judiciary Committee later in the week to present the Commission's annual report. Director Andrus previewed his approach, explaining that the Commission's statute allows for employed attorneys but will need money from the Legislature to fund it before moving forward in that direction, that public defender offices would be a compliment to the existing delivery model, and that the essential theme will be one of parity with the prosecution function. Director Andrus also noted that his preference would be for local employed attorneys since local knowledge is important and sending remote attorneys would be a second choice. Commissioner Cummins urged Director Andrus to emphasize the need for parity. Commissioner Alexander suggested that if the decision is to go the employed defender route, that the Commission should first try employed attorneys in areas of greatest need, including Aroostook and Washington counties, since travel to those areas from Augusta would be difficult. The discussion then turned to the proposed CLAC amendments to the bill prohibiting prosecutors from having contact with unrepresented defendants. The Commission took no position on the CLAC amendment and it was decided that Director Andrus will endorse from his position.	

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Strategic Planning/Biennial Budget Discussion	Director Andrus solicited feedback about potential budget initiatives for the biennial budget, explaining that it will take time for the staff to prepare proposals and the Commission will need ample time to discuss prior to the August/September submission deadline to the Budget Office.	
Specialized Contracts	Director Andrus explained that there were several initiatives that failed to pass during the last legislative session but are still important to a properly functioning defense system, including appellate and mitigation/diversion work. Director Andrus outlined his approach, including contracting with individuals to perform these functions, with some work being billed through defenderData as direct client services and a portion of the work being systems development and support. Director Andrus urged Commission support for these proposals since they are necessary defense functions, and the Commission needs to be focused on the issue of the aging bar and replenishment of attorneys and the need for rostered counsel to be well trained and have access to specialists.	
Public Comment	Robert Ruffner, Esq. Attorney Ruffner renewed his suggestion that Maine hire a chief public defender to act as the head of the defense function in Maine. Attorney Ruffner cautioned the Commission from hiring employed attorneys to work in remote areas of the state where there are few attorneys since it might be good way to forestall a real public defender system that has some influence.	
Executive Session	None	
Adjournment of meeting	The next meeting will be held on Monday, February 28 at 1 pm via Zoom.	