

# **INDIGENT LEGAL SERVICES BOARD**

## **AGENDA**

**June 7, 2013**

**Association of the Bar of the City of New York**

- I. Opening Remarks by the Chief Judge**
- II. Approval of Minutes from March 5, 2013 Board Meeting**
- III. Board Member Reappointments (Breslin, DiTullio, Dunne, Gray, John)**  
(See Attachment A - Executive Law §833)
- IV. Status Report on Distributions and Grants**
  - Quality Improvement Distribution #3
  - Counsel at First Appearance RFP
  - Upstate Quality Improvement and Caseload Reduction RFP
  - Padilla Regional Resource Center RFP
- V. Status Report on Chief Defender Advisory Group and Proposal for a White House Commission on the Fair Administration of Justice for the Indigent Accused**
- VI. Advance Discussion of Potential FY 2014-2015 Budget Proposals**
- VII. Remaining 2013 Board Meetings**
  - Friday, September 27
  - Friday, November 22
- VIII. Concluding Remarks**

Westlaw.

McKinney's Executive Law § 833

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Effective: June 22, 2010

McKinney's Consolidated Laws of New York Annotated Currentness  
Executive Law (Refs & Annos)

▣ Chapter Eighteen. Of the Consolidated Laws

▣ Article 30. Indigent Legal Services (Refs & Annos)

→ → § 833. Indigent legal services board

1. There is hereby created the indigent legal services board hereinafter referred to in this section as the "board". The purpose of such board shall be to monitor, study and make efforts to improve the quality of services provided pursuant to article eighteen-B of the county law. No active prosecutor, law enforcement official or person providing prosecution-related services, or employee of such a prosecutor, official or person, shall be appointed to or serve on such board. The board shall consist of nine members who shall be appointed as follows:

- (a) one shall be the chief judge of the court of appeals, who shall be the chair of the board;
- (b) one shall be appointed by the governor on the recommendation of the temporary president of the senate;
- (c) one shall be appointed by the governor on the recommendation of the speaker of the assembly;
- (d) one shall be appointed by the governor from a list of at least three attorney nominees submitted by the New York state bar association;
- (e) two shall be appointed by the governor from a list of at least four nominees submitted by the New York state association of counties;
- (f) one shall be appointed by the governor and shall be an attorney who has provided public defense services for at least five years;
- (g) one attorney who shall be appointed by the governor; and
- (h) one shall be appointed by the governor, from a list of no more than two nominees submitted by the chief administrator of the courts, each of whom shall be a judge or justice, or retired judge or justice, who was elected to the supreme, county or family court, or appointed to the criminal court or family court in the city of New York, and has substantial experience presiding as such a judge or justice in trial matters before such court.

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2. All members of the board shall be appointed for terms of three years such terms to commence on August first, and expire July thirty-first, provided, however, that the chief judge of the court of appeals shall serve ex officio; and provided further, that the initial term of the member appointed pursuant to paragraph (d), the first of the two members appointed pursuant to paragraph (e) and the member appointed under paragraph (g) of subdivision one of this section shall be for two years. Initial appointments must be made within sixty days of the effective date of this subdivision. Any member chosen to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member whom he or she is to succeed. Vacancies caused by expiration of a term or otherwise shall be filled promptly and in the same manner as original appointments. Any member may be reappointed for additional terms.

A member of the board shall continue in such position upon the expiration of his or her term until such time as he or she is reappointed or his or her successor is appointed, as the case may be.

3. Membership on the board shall not constitute the holding of an office, and members of the board shall not be required to take and file oaths of office before serving on the board. The board shall not have the right to exercise any portion of the sovereign power of the state.

4. The board shall meet at least four times in each year. The first meeting of the board shall be held within thirty days of the appointment of the full board or within sixty days after the effective date of this subdivision, whichever occurs earlier. Special meetings may be called by the chair and shall be called by the chair upon the request of five members of the board. The board may establish its own procedures with respect to the conduct of its meetings and other affairs; provided, however, that the quorum and majority provisions of section forty-one of the general construction law shall govern all actions taken by the board.

5. The members of the board shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.

6. No member of the board shall be disqualified from holding any public office or employment, nor shall he or she forfeit any such office or employment, by reason of his or her appointment pursuant to this section, notwithstanding the provisions of any other general, special or local law, ordinance or city charter.

7. The board shall have the following duties and responsibilities:

(a) To evaluate existing indigent legal services programs and determine the type of indigent legal services that should be provided in New York state to best serve the interests of persons receiving such services;

(b) To consult with and advise the office of indigent legal services in carrying out the duties and responsibilities of such office;

(c) To accept, reject or modify recommendations made by the office of indigent legal services regarding the al-

location of funds and the awarding of grants, including incentive grants, from the indigent legal services fund created pursuant to section ninety-eight-b of the state finance law. When acting on such a recommendation, the board shall set forth the basis for its determination; and

(d) To advise and to make an annual report to the governor, legislature and judiciary.

CREDIT(S)

(Added L.2010, c. 56, pt. E, § 1, eff. June 22, 2010.)

McKinney's Executive Law § 833, NY EXEC § 833

Current through L.2013, chapter 16.

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## **Minutes for ILS Board Meeting**

**March 5, 2013**

**11:00 A.M.**

**Association of the Bar of the City of New York**

**Board Members Present:** Chief Judge Lippman, Sheila DiTullio, John Dunne, Joe Mareane, Lenny Noisette and Gail Gray

**ILS Office Attendee(s):** Bill Leahy, Joseph Wierschem, Matt Alpern, Angela Burton, Andrew Davies, Tammeka Freeman, Risa Gerson, Karen Jackuback and Joanne Macri

### **I. Opening Remarks by the Chief Judge**

The Chief Judge welcomed and thanked everyone for attending, especially the ILS staff. He also indicated that he recently met with Bill to get an update on the work that is being done by the Office. The Chief also discussed the 50<sup>th</sup> Anniversary of Gideon and that both he and Bill will participate in a program at the Justice Department. Finally, he remarked that despite a few "natural" bumps in the road, the office and board are doing okay.

### **II. Approval of Minutes from September 28, 2012 Board Meeting**

The Chief Judge inquired whether the board members present had received a copy of the minutes from the prior meeting. The board members acknowledged that they had in fact received the minutes. Bill noted a correction in Section III. Karen Jackuback was appointed in July 2012. After noting the correction, the Chief asked the Board to vote to approve the minutes.

**Joe Mareane moved to approve the minutes; his motion was seconded by Sheila DiTullio and unanimously approved.**

### **III. Director's Report on FY 2013-2014 Budget Status**

Bill began by introducing his staff to the board. The only staff member not in attendance due to a prior work-related commitment was Peter Avery, Manager of Information Systems.

Bill explained that the ILS budget proposal includes an additional \$10 million in Local Aid funding, an increase from \$81 to \$91 million. That includes \$4 million to supplement upstate caseload reduction grants; \$3 million to supplement counsel at arraignment grants; and \$3 million to assist counties in moving toward compliance with newly established ILS standards. In addition, the ILS proposed budget includes \$3

million in funding for the ILS Office.

Bill explained the response in the Executive budget was somewhat disappointing in that it cut the \$91 million request to \$77 million and left the office with a \$1.5 million budget despite the fact that the office now has a staff of 10.

Bill has been reaching out to legislative officials and OCA to garner support for the Office's proposal. He also noted an oddity in the Executive budget proposal wherein \$3 million was included to support counsel at first appearance but NOT in the ILS budget. Rather, the funds would be administered by OCA and a 3-member board with a representative from ILS, OCA and the Governor's office.

The Chief Judge noted that he didn't think the proposal was a negative reflection on ILS. He did note that the Executive may just need to look more carefully at the work of the Office and see the commonality of purpose.

Bill then summed up the prospects regarding his budget proposal as being generally good but there are potential issues.

Joe Mareane inquired if there is a possibility of removing money already in county budgets. Bill responded "no" but noted that if the Executive proposal stands, the RFP for upstate caseload relief could only be one year and would stop the office in its tracks as far as making progress.

Bill also expressed some concern about the ILS Fund and the discussion about using it for "other" things.

#### **IV. Status of Non-Competitive Distributions and Competitive Grants**

Bill noted that 25 counties responded to the RFP for counsel at first arraignment. There are 4 reviewers looking at their requests.

Bill said that local people can move the ball forward in an intelligent way if there is adequate state funding to support them.

Sheila DiTullio noted that some of the town courts in her district have counsel at arraignment and others that do not are beginning to ask why.

Bill explained that the caseload relief notion is about quality so it applies to assigned counsel (e.g., Tompkins). The RFP will be tailored to all 57 non-NYC counties.

Bill noted that 52 proposals for Distribution #2 - the non-competitive distribution - were approved. He also stated that while there has been some back and forth with contracts, the office has always provided positive support to the counties in getting them done.

Joe Mareane agreed that Bill and his staff have really used TLC with the counties and that the NYSAC counties really appreciate it.

John Dunne inquired about centralized arraignments and who will make the decision about having them. OCA? Who has the authority?

Bill responded that in Ontario, for example, there is a local informal agreement.

#### **V. Statements by Members of ILS Office Staff**

Bill took much pride in introducing his staff members individually and expressed how lucky he is to have such a talented group. He noted that the board is already familiar with Joe Wierschem, Counsel to ILS, since he has been present at most of the meetings since his appointment. Bill then gave each of his other staff members an opportunity to introduce him/herself to the board and highlight the work they have been doing since their respective appointments.

Angela Burton, Director of Quality Enhancement for Parent Representation  
Matthew Alpern, Director of Quality Enhancement for Criminal Defense Trials  
Joanne Macri, Director of Regional Initiatives  
Tammeka Freeman, Executive Assistant  
Karen Jackuback, Grants Manager  
Andrew Davies, Director of Research  
Risa Gerson, Director of Quality Enhancement, Appellate and Post-Conviction Litigation  
Peter Avery (not present), Manager of Information Systems

Joe Mareane expressed how helpful it is to hear from the members of the staff. He also noted how important quality is and stressed the work of Andy Davies.

The Chief Judge agreed and noted that empirical markers tell us a lot.

Bill added that Andy is part of a national effort.

The Chief stated that New York should be a model for the country.

#### **VI. Status of Board Reappointments**

Bill announced that Lenny Noisette had been officially reappointed as a board member. He is a NYSBA nominee and was confirmed by the Governor. Joe Mareane was re-nominated by NYSAC, but has not yet been confirmed. And, Sue Sovie, the prior Governor's appointee has sought reappointment, but as yet there has been no action by the current administration.

The remainder of the board members, with the exception of the Chief Judge are up for reappointment on July 31, 2013.

Bill spoke briefly at this juncture about his remarks at the Attorney General Holder's Gideon event. He discussed reform at the federal level and his hope that the AG will support a national office of criminal indigent legal services. Regarding state-level reform, he noted that 28 states have 100% financing and 28 states have complete state oversight. Finally, he mentioned overcriminalization and punitization.

**VIII. Schedule of Remaining 2013 Board Meetings**

- Friday, June 7
- Friday, September 27
- Friday, November 22

**IX. Concluding Remarks**

The Chief Judge once again thanked the ILS staff for joining the board meeting and explaining their work to the members. He closed by saying that while there is some concern surrounding budget issues, there is a concerted effort to make sure the office gets what it needs to operate and be effective.

The meeting adjourned at 12:45 P.M.