

**CIVIL LEGAL AID OVERSIGHT
COMMITTEE**

MEETING OF JUNE 19, 2020

MATERIALS

**CIVIL LEGAL AID OVERSIGHT COMMITTEE
MEETING OF JUNE 19, 2020**

MEETING MATERIALS

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TAB 1

CIVIL LEGAL AID OVERSIGHT COMMITTEE

June 19, 2020

11:30 a.m. – 1:00 p.m.

Via Zoom Link

AGENDA

1. Introductions of Members and Guests
2. Approval of March 27, 2020 Virtual Meeting Minutes
3. Executive Session (update on OCLA Director Performance Review; subject to separate virtual meeting for Oversight Committee Members only)
4. Committee Member Reflections on George Floyd's Murder and National Response; What the Current Moment Means for Our Work
5. OCLA COVID-19 Emergency Civil Legal Aid Programs Update
6. FY 2021 and FY 2021-23 Biennial Budget Planning in Light of State Fiscal Crisis
7. Other Business
8. Adjourn

TAB 2

CIVIL LEGAL AID OVERSIGHT COMMITTEE

MISSION STATEMENT

To ensure that all people in Washington share in the fundamental right to civil justice, the Civil Legal Aid Oversight Committee, consistent with its statutory authority, shall oversee and support the Office of Civil Legal Aid and shall periodically make recommendations to the Supreme Court, the Access to Justice Board and the Legislature as to the most efficient and effective use of state-appropriated civil legal aid funds on behalf of low-income people.

TAB 3

**CIVIL LEGAL AID OVERSIGHT COMMITTEE
MEETING OF MARCH 27, 2020
DRAFT MINUTES**

Pursuant to notice duly provided in advance and in response to the COVID-19 Public Health Emergency, the spring quarterly meeting of the Civil Legal Aid Oversight Committee was held virtually through Zoom.us on Friday, March 27, 2020.

Members Participating: Chair Taylor Wonhoff, Judge G. Helen Whitener, Judge Rebecca Pennell, Chalia Stallings-Ala'ilima, Judge Faye Chess, Representative Christine Kilduff; Sen. Frockt

Members Not Participating: Vice-Chair Sarah Augustine, Sen. Rivers; Rep. Stokesbary;

OCLA Staff: James Bamberger, Director, Office of Civil Legal Aid (OCLA); Hope Hough, Senior Administrative Assistant, (OCLA); Jill Malat, OCLA, Dana Boales, (OCLA)

Other Participants: César Torres (NJP), Vanessa Hernandez (NJP), Will Livesley-O'Neill (Legal Foundation of Washington), Catherine Brown (Pro Bono Council by phone); Kirsten Barron (Equal Justice Coalition), Chach Duarte-White (LCYC) Elizabeth Fitzgearld (CCVLS), Linda Inagawa (IFJC); John Tirpak (ULP); Eloise Barshes (CD VLS); Sharonda Amamilo (private attorney)

Mr. Wonhoff called the meeting to order at 10:46 a.m.

1. Welcome and Introductions

Mr. Wonhoff thanked members and guests for taking the time to participate in the meeting despite their very busy schedules and heightened responsibilities during the current public health emergency. He invited members and guests to unmute and identify themselves, starting with Oversight Committee Members. He then invited Mr. Bamberger to provide guidance on how best to participate using Zoom.

Mr. Wonhoff invited members to share how they and their organizations were handling the emergency Stay Home Stay Healthy orders. Members explained the emergency responses they and their respective courts and organizations had taken since and challenges they are facing to maintain operations in light of the Governor's March 12th emergency order.

Mr. Wonhoff invited guests to introduce themselves and, if they wanted to, share how they and their organizations are addressing the COVID-19 emergency. Mr. Torres, Ms. Fitzgearld, Ms. Barshes, Ms. Inagawa, Ms. Barron, Ms. Swarthout, Ms. Duarte-White, Mr. Livesley-O'Neill, and Mr. Tirpak introduced themselves and shared what they and their organizations were doing in response to the public health emergency.

2. Review and Adopt Minutes of September 20, 2019

Mr. Wonhoff asked if there were any suggested changes to the draft minutes of the September 20, 2019 Oversight Committee meeting.

Motion: By Ms. Ala'Ilima to approve the minutes of the September 20, 2019 meeting

Second: By Rep. Kilduff

Action: Approved unanimously

3. Report on OCLA's COVID-19 Related Activities

Mr. Bamberger noted that these are fast changing times for all of us at OCLA. We are trying to make sure not only that our providers have the resources that they need today, but are working directly with them to anticipate the needs of tomorrow and position the resources, to the extent that we can acquire them, to address those needs. He referred members to the updated outline of COVID-19 related activities in the supplemental materials.

Mr. Bamberger noted that OCLA was also working with the Chief Operating Officer at the Employment Security Department, appropriate staff in the Military Department, NJP, the Unemployment Law Project (ULP), the Legal Foundation of Washington (LFW), the private bar, the Office of Administrative Hearings, and the Office of Financial Management to make sure that civil legal aid is understood to be a frontline component of the emergency response system for the state. He advised that the Governor, in his request to the President for Declaration of an Emergency, specifically included disaster legal aid as a component of the state's response; and OCLA is working with leads in many of the referenced executive branch agencies to make sure that a) civil legal aid is included in the planning, b) that appropriate responses are developed to meet urgent and emerging civil legal needs, and c) make sure that OCLA and emergency civil legal aid needs are in the cue for federal stimulus and FEMA funds that become available to the state for the impact of services for individuals and families who are directly and indirectly affected by the COVID-19 public health crisis, and the corresponding and numerous orders of the Governor in response to that leading to the 'Stay Home, Stay Healthy' order that is currently in place.

Mr. Bamberger described early efforts to develop emergency capacity to meet the overwhelming needs of unemployment insurance claimants whose claims are denied and tenants who are facing eviction due to the loss of income as a result of the emergency, and briefed members on the succeeding waves of legal problems that are anticipated.

Mr. Bamberger briefed members on the series of judicial orders issued by the Supreme Court and local courts in response to the emergency and the very different approaches that superior courts and courts of limited jurisdiction have approached the treatment of criminal and civil cases. He noted that OCLA supported efforts of NJP and a range of other stakeholders to offer a number of

suggestions for additional provisions to the Supreme Court's emergency order, particularly as it relates to practices that effectively deny access to justice for people who are limited English proficient and need interpreter services but do not have the resources to pay for mandatory charges that clerks and courts are imposing. He commended NJP and NJP's Director of Advocacy, Vanessa Hernandez, for the work they have done to take the lead on this by preparing a recommendation that is pending before the court.

On the child welfare front, Mr. Bamberger explained that he and Ms. Malat had been observing a lot of practices in various juvenile courts that are harming the child clients and the substantive and procedural due rights of parents in these cases. In response, OCLA has been working with the Office of the Attorney General, the Washington Defender Association, King County Department of Public Defense, Legal Counsel for Youth and Children (LCYC), and many other stakeholders to develop a uniform order for the court to adopt that effectively protects the preservation of meaningful contact between parents, children, and siblings while observing adherence to necessary public health and safety criteria that the Governor has officiated and public health officials are recommending.

He reported that on March 26, Governor Inslee issued Proclamation 20-33, a directive to the Department of Children, Youth and Family (DCYF), asking Secretary Ross Hunter to develop an emergency regulation regarding virtual visitation and making resources available for parents, children, and foster families so that meaningful visitation can continue. OCLA is working with partners at the Office of Public Defense to integrate the Governor's orders and the anticipated emergency rule into a new Supreme Court emergency order that protects judicial authority and avoids the perception or reality of a separation of powers difficulty between the Governor's emergency orders and the judicial branch responsibilities of the Supreme Court.

4. Status of OCLA Director Performance Review

Mr. Wonhoff explained that one of the tasks of the Oversight Committee is to evaluate the OCLA director every three years or so. Having been a little over three years since the Oversight Committee last evaluated Mr. Bamberger's performance, it was time to do a new review. He reported that over the last several weeks, Ms. Sarah Augustine (the Committee's Vice-Chair) and he have been interviewing several key stakeholders to try to inform what will become the performance evaluation report. The Oversight Committee will have a chance to review it, and it will be issued to Mr. Bamberger once it is complete.

He noted that initial timelines have slipped as a result of the legislative session and the COVID-19 emergency. He expressed hope that interviews will be concluded and a draft report will be assembled for the Committee to review by the June meeting, if not before.

5. June 2020 Meeting Agenda

The June meeting is currently scheduled for June 19, 2020, at 10 a.m. It will be held in the offices of Gordon, Thomas, Honeywell in Tacoma. The goal will be to identify the problems that people are experiencing across multiple fronts statewide. A number of state-funded and support providers will be invited to speak to their efforts to identify and address racial and other disproportionalities as it relates to impact and response. It will be more of a race equity listening session than a hands-on session. The health emergency is having a disparate impact on communities of color and other marginalized communities, and it's important to get a sense from our providers to determine how they are identifying these and what they are doing to address them.

6. Other Business

Mr. Bamberger asked if anyone wanted to supplement their introductory comments.

Ms. Ala'Ilima addressed issues with landlords taking advantage of the COVID-19 health emergency. Their office has heard that landlords are requesting digital payments and requiring fees that aren't viable for tenants. The Civil Rights Division of the Attorney General's Office has been responding to those on a case-by-case basis and attempting to address them quickly. She encouraged anyone statewide who may be experiencing this issue to contact her or the intake line located at www.atg.wa.gov.

Senator Frockt thanked everyone that is helping people navigate the COVID-19 health emergency. He suggested that if any organization affiliated through OCLA wants to send to him or his staff a link or short description of help that might be available to people, his office would be happy to circulate it throughout the legislature to post on websites or newsletters so that people can know who to contact.

Mr. Bamberger responded that in the days following the meeting he would work with Will Livesley-O'Neill and the leadership of the Pro Bono Council and NJP to develop an accessible one-page document that highlights the kinds of problems and the availability of resources.

Representative Kilduff agreed with what Senator Frockt said, indicating that any resources they can push out to their constituents would be appreciated. They have been responding to inquiries regarding unemployment insurance, landlord-tenant laws, small businesses, and consumer protection. Anything that can be shared with legislators is appreciated because they have the ability to disseminate the information to people so they have the resources available to them.

Mr. Torres said that NJP, LFW, and OCLA have partnered to shift some of their currently allocated resources to the Unemployment Law Project so that it can hire two attorneys to respond to the spike in challenging unemployment issues that are expected. Similarly, they are trying to actively identify and fine-tune the way some of their local offices are going to be making themselves available to assist people with unemployment claims. He said that the CLEAR hotline is also getting overwhelmed.

Mr. Bamberger followed up on Mr. Torres's comment explaining that the Legislature appropriated funding during this biennium for two cohorts of additional civil justice and reinvestment attorneys. In recognizing the emergency, OCLA worked with NJP, the Legal Foundation of Washington, and the Unemployment Law Project to effectively borrow two of those attorneys from NJP and move them over to the Unemployment Law Project (ULP) on a temporary basis, effective April 1, so they ULP would have more boots on the ground to deal with the influx of cases.

Mr. Wonhoff thanked everyone for joining the call in the midst of everything else that is going on, and said he looked forward to seeing everyone in person in June.

With no other business, the meeting was adjourned at 11:32 a.m.

TAB 4

CIVIL LEGAL AID OVERSIGHT COMMITTEE ROSTER (July 2019)

Position 1 (BJA 1):

Name: Hon. Rebecca Pennell
Address: Court of Appeals, Div. 3
500 N Cedar St
Spokane, WA 99201-1905
Phone: 509-456-3920
E-mail: j_r.pennell@courts.wa.gov
Appointing Entity: Board for Judicial Administration
Term Expires: June 30, 2021; eligible for reappointment

Position 2 (BJA 2):

Name: Hon. Faye Chess
Address: Seattle Municipal Court
600 5th Ave.
Seattle, WA 98104
Phone: 206-684-5600
E-mail: faye.chess@seattle.gov
Appointing Entity: Board for Judicial Administration
Term Expires: June 30, 2022; eligible for reappointment

Position 3 (Supreme Court 1):

Name: Hon. G. Helen Whitener
Address: Washington State Supreme Court
Temple of Justice
415 12th Ave SW
Olympia, WA 98501-2314
Phone: 360-357-2025
E-mail: helen.whitener@courts.wa.gov
Appointing Entity: Supreme Court (on recommendation of the Access to Justice Board)
Term Expires: June 30, 2020; eligible for reappointment

Position 4 (Supreme Court 2):

Name: Sarah Augustine
Address: 132 North 1st Ave.
Yakima, WA 98902
Phone: 509-453-8949
E-mail: director@drcyakima.org
Appointing Entity: Supreme Court (on recommendation of the Access to Justice Board)
Term Expires: June 30, 2020; eligible for reappointment

Position 5 (Supreme Court 3 – Client Eligible):

Name: Theodore Grammount
Address: 2345 Beach Street
Longview, WA 98632
Phone: 360-355-4628
E-mail: theodoregrammount@rocketmail.com;
grammount@gmail.com
Appointing Entity: Supreme Court (on recommendation of the Access to Justice Board)
Term Expires: June 30, 2022; not eligible for reappointment

Position 6 (Senate Republican Caucus):

Name: Senator Ann Rivers
Address: 204 Newhouse Legislative Building
Olympia, WA 98504
Phone: 360-786-7634
E-mail: ann.rivers@leg.wa.gov
Appointing Entity: Senate Republican Caucus
Term Expires: June 30, 2020; eligible for reappointment

Position 7 (Senate Democratic Caucus):

Name: Senator June Robinson (Appt. Pending)
Address: 236 John Cherberg Building
PO Box 40433
Olympia, WA 98504-0443
Phone: 360-786-7674
E-mail: june.robinson@leg.wa.gov
Appointing Entity: Senate Democratic Caucus
Term Expires: June 30, 2021; eligible for reappointment

Position 8 (House Republican Caucus):

Name: Representative Drew Stokesbary
Address: 426 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504-0600
Phone: 360-786-7846
E-mail: drew.stokesbary@leg.wa.gov
Appointing Entity: House Republican Caucus
Term Expires: June 30, 2019; request for reappointment pending

Position 9 (House Democratic Caucus):

Name: Representative Christine Kilduff
Address: 334 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504-0600
Phone: 360-786-7958
E-mail: christine.kilduff@leg.wa.gov
Appointing Entity: House Democratic Caucus
Term Expires: June 30, 2020; (completing term of Speaker Jenkins; eligible for reappointment)

Position 10 (Office of the Governor):

Name: Taylor (“Tip”) Wonhoff
Address: Office of the Governor
PO Box 40002
Olympia, WA 98504-0002
Phone: 360-902-4132
E-mail: taylor.wonhoff@gov.wa.gov
Appointing Entity: Office of the Governor
Term Expires: June 30, 2021; not eligible for reappointment

Position 11 (Washington State Bar Association):

Name: Chalia Stallings-Ala’ilima
Address: Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
Phone: 206-326-5480
E-mail: chalia.stallingsalailima@atg.wa.gov
Appointing Entity: Washington State Bar Association
Term Expires: June 30, 2021; eligible for reappointment

TAB 5

CIVIL LEGAL AID OVERSIGHT COMMITTEE OPERATING RULES AND PROCEDURES

(Revised 4-23-07)

I. Name

The name of this body shall be the Civil Legal Aid Oversight Committee (hereafter Oversight Committee)

II. Membership

The membership of the Committee is established by RCW 2.53.010 and includes:

- (a) Three persons appointed by the supreme court from a list of nominees submitted by the access to justice board, one of whom at the time of appointment is income eligible to receive state-funded civil legal aid;
- (b) Two persons appointed by the board for judicial administration;
- (c) Two senators, one from each of the two largest caucuses, appointed by the president of the senate; and two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives;
- (d) One person appointed by the Washington state bar association; and
- (e) One person appointed by the governor.

III. Terms of Membership

Pursuant to RCW 2.53.010, the terms of membership of the Oversight Committee shall be staggered so that, after the first three years of the committee's existence, the terms of one-third of the members expire each year. To this end, a term of membership shall be allocated to each position as follows:

A. Judicial Branch

BJA 1	Initial term -- 1 year, expiring June 30, 2006 Eligible for two full additional terms (through June 30, 2012)
BJA 2	Initial term -- 2 years, expiring June 30, 2007 Eligible for one full additional term (through June 30, 2010)
Supreme Court 1 (attorney)	Initial term -- 3 years, expiring June 30, 2008 Eligible for one full additional term (through June 30, 2011)

Supreme Court 2 (attorney) Initial term -- 1 year, expiring June 30, 2006
Eligible for two full additional terms (through June 30, 2012)

Supreme Court 3 (client eligible) Initial term -- 2 years, expiring June 30, 2007
Eligible for one full additional term (through June 30, 2010)

B. Legislative Branch

Senate Republican Caucus Initial term -- 3 years, expiring June 30, 2008
Eligible for one full additional term (through June 30, 2011)

Senate Democratic Caucus Initial term -- 1 year, expiring June 30, 2006
Eligible for two full additional terms (through June 30, 2012)

House Republican Caucus Initial term -- 2 years, expiring June 30, 2007
Eligible for one full additional term (through June 30, 2010)

House Democratic Caucus Initial term -- 3 years, expiring June 30, 2008
Eligible for one full additional term (through June 30, 2011)

C. Other

WSBA Initial term -- 1 year, expiring June 30, 2006
Eligible for two full additional terms (through June 30, 2012)

Office of the Governor Initial term -- 2 years, expiring June 30, 2007
Eligible for one full additional term (through June 30, 2010)

IV. Officers

There shall be a Chair and a Vice-Chair/Chair-Elect. The Chair and Vice-Chair/Chair-Elect shall be selected by the full membership of the oversight committee.

A. Term

The term of the Chair and Vice-Chair/Chair-Elect shall run commensurate with the state fiscal calendar, commencing on July 1st of the odd numbered year and ending on June 30th of the succeeding odd numbered year. The Chair and Vice-Chair/Chair-Elect shall not be eligible to serve more than one biennial term, *provided that*, the initial Chair and Vice-Chair/Chair Elect may serve up to one additional biennial term.

B. Authority/Responsibility of Officers

1. Chair

The Chair shall preside over all meetings of the Civil Legal Aid Oversight Committee. The Chair shall also serve as the spokesperson for the Oversight Committee, execute official documents (including, but not limited to, statutorily required reports) and represent the Oversight Committee on matters relevant to the Oversight Committee's work as circumstances require. The Chair shall be the primary point of contact for the Director of the Office of Civil Legal Aid. The Chair shall serve as the chair of the Executive Committee.

2. Vice-Chair/Chair-Elect

In the event of the Chair's absence or unavailability, the Vice-Chair/Chair-Elect shall perform all functions of the chair on an as-needed basis. The Vice-Chair/Chair-Elect shall serve as a member of the Executive Committee.

V. Committees

There shall be an Executive Committee. The Executive Committee shall consist of three members, the Chair, the Vice-Chair/Chair-Elect and one of the Oversight Committee's legislative members.

A. Appointment of Legislative Member; Succession

The legislative member of the Executive Committee shall be selected by the four legislative members of the Oversight Committee. The first legislative member shall serve from the date of the first meeting through June 30, 2007. In the event that a legislative member is no longer eligible to serve on the Civil Legal Aid Oversight Committee by reason that he or she no longer serves as an elected state senator or representative, such legislator shall submit his or her resignation to the Chair of the

Oversight Committee and the legislative caucus that appointed him or her to the Oversight Committee. Upon appointment of a successor by the appropriate legislative caucus, the legislative members shall meet and select a member to serve on the Executive Committee.

B. Responsibilities

The Executive Committee shall develop procedures and criteria to review the performance of the Director of the Office of Civil Legal Aid and perform such other responsibilities as the Oversight Committee deems appropriate.

The Oversight Committee may establish such other committees as it determines appropriate to perform its statutory functions.

VI. Staffing

The Oversight Committee, the Executive Committee and any other committees established by the Oversight Committee shall be staffed by the Director of the Office of Civil Legal Aid.

VII. Regular and Special Meetings, Notice, Committee Member Attendance

The Oversight Committee shall meet not less than quarterly at dates and times determined in advance by the Committee. Notice of regular meetings of the Oversight Committee shall be provided to the Supreme Court, the Access to Justice Board, the Chairs of the judiciary committees of the Washington State Legislature, the Office of the Governor and the Washington State Bar Association, and shall also be published in the State Register in manner that substantially conforms to the requirements of RCW 42.30.075.

A special meeting may be called at any time by the Chair or by a majority of the members of the Oversight Committee by delivering personally or by mail written notice to each member of the Oversight Committee. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice. Notice of a special meeting may be supplemented by an electronic notice transmitted via e-mail to all members of the Oversight Committee. Such notice shall not be deemed a substitute for the personal notice or mailed notice otherwise required by this section. The call and notice shall specify the time and place of the special meeting and the business to be transacted. The Oversight Committee shall limit its business in any special meeting to those matters included in the call and notice.

Regular meetings of the Oversight Committee shall be open and public and all persons shall be permitted to attend any meeting of the Oversight Committee. The Oversight Committee may adjourn to executive session for the following purposes:

- A. To receive and evaluate complaints or charges brought against the Director of the Office of Civil Legal Aid. However, upon the request of the Director of the Office of

- Civil Legal Aid, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;
- B. To review the performance of the Director of the Office of Civil Legal Aid; or
 - C. To review the status of investigations carried out by the Director of the Office of Civil Legal Aid which involve matters protected by the attorney-client privilege and where public disclosure could substantially prejudice the interests of client(s) being represented by a legal aid provider that receives funding from the Office of Civil Legal Aid; and
 - D. To discuss with legal counsel representing the Oversight Committee or the Office of Civil Legal Aid matters relating to litigation or potential litigation to which the Oversight Committee or the Office of Civil Legal Aid or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the Oversight Committee or the Office of Civil Legal Aid.

All members are expected to attend regular meetings of the Civil Legal Aid Oversight Committee unless they have good cause not to attend and have been excused from attendance by the Chair. In the event that a member misses two consecutive meetings without sufficient cause, the Chair shall discuss the member's lack of attendance directly with the member. If the Chair determines that the member is not likely to meaningfully and regularly participate in the work of the Oversight Committee, the Chair may notify the appointing entity of the member's lack of attendance and request the appointment of a replacement member.

VIII. Quorum

The presence of six (6) voting members of the Oversight Committee shall constitute a quorum for the purpose of enabling the Oversight Committee to take official action. Upon establishment of a quorum, the Oversight Committee shall have full power to conduct the scheduled business of the meeting even if a member whose presence was necessary to establish the quorum in the first instance subsequently becomes unavailable.

IX. Voting

Each member of the Oversight Committee shall have one vote. All decisions of the Oversight Committee shall be made by majority vote of those present and voting. Telephonic or electronic attendance shall be permitted but no member shall be allowed to cast a vote by proxy.

X. Amendment or Repeal

Amendments and/or repeal of any or all of these Operating Rules and Procedures shall be made by majority vote at a regular or special meeting of the Oversight Committee. The notice of the meeting shall include a statement of proposed action to amend or repeal these Operating Rules and Procedures and shall include an interlineated version of the full text of any section subject to proposed amendment or repeal.

TAB 6

CIVIL LEGAL AID OVERSIGHT COMMITTEE RESOLUTIONS

Number	Date	Subject Matter	Status	Further Action Required
2008-01	18-Jan-08	Regarding Recommendations Relating to the Provision of State Funded Civil Legal Aid	approved	
2008-02	21-Feb-08	Acceptance of Tull Report and Related Recommendations	approved	
2009-01	27-Mar-09	Endorsing Temporary Surcharge on Attorney License Fees	approved	
2009-02	11-Dec-09	Endorsing ATJ Board Performance Standards	approved	
2009-03	11-Dec-09	Endorsing JusticeNet	approved	
2010-01	10-May-10	Endorsing Judicial Branch Whistleblower Policy	approved	
2010-02	3-Dec-10	Relating to Oversight Committee Meeting Expenditures	approved	
2010-03	3-Dec-10	Resolution Urging Adequate Funding of the Judicial Branch	approved	
2010-04	10-Dec-10	Regarding the Importance of the Office of Civil Legal Aid and Funding for Essential Civil Legal Aid Services in Washington State	approved	
2011-01	7-Sep-11	Regarding Funding for the Federal Legal Services Corporation	approved	
2011-02	7-Oct-11	Affirming the Authority of the Director of the Office of Civil Legal Aid to Engage in Travel Necessary or Appropriate to the Discharge of the Director's Official Responsibilities	approved	Annual Report to the Oversight Committee detailing destination, costs, and purpose of each trip taken in the prior fiscal year the total cost of which exceeded \$100 and which was incurred at agency expense.
2015-01	12-Jun-15	Regarding Funding for the Federal Legal Services Corporation	approved	
2016-01	25-Mar-16	Resolution Re: OCLA Director's Travel -- Revising Resolution 2011-02	approved	Increased threshold for reporting from \$100 per travel event to \$500 per travel event
2016-02	30-Sep-16	Endorsing the Civil Justice Reinvestment Plan and Recommending Legislative Funding of the Same	approved	Encourages Legislature to establish tax or surcharge to generate dedicated funding for civil legal aid
2016-03	28-Dec-16	Endorsing the Civil Justice Reinvestment Plan and Recommending Legislative Funding of the Same -- Revised	approved	Encourages Legislature to fund the Civil Justice Reinvestment Plan, recommends state general fund, proposes alternative of tax or surcharge if general funds not available.
2017-01	5-Apr-17	Opposing Elimination of federal Legal Services Corporation and asking Congress to maintain funding	approved	Requests state congressional delegation to oppose administration's proposal to eliminate LSC effective FFY 2018
Policy Directions and Statements				
	8-Jun-12	Policy Regarding OCLA Involvement in Promoting or Opposing Bills Before the Washington State Legislature	approved	Notice to OC before taking positions on policy bills not directly affecting OCLA or judicial branch budgets or statutes
	18-Apr-13	Endorsing Policy on Use of State Owned Mobile Telecommunications Devices	endorsed via e-mail	
	15-Dec-17	Embracing the Race Equity and Justice Initiative Acknowledgments and Commitments and directing that race equity discussions be a standing agenda item in future meetings	Approved by motion in open meeting	Requires a standard agenda item for discussion and/or training

TAB 7



Washington State Office of Civil Legal Aid

1206 Quince St. SE
Olympia, WA 98504
MS 41183
360-704-4135

James A. Bamberger, Director
jim.bamberger@ocla.wa.gov

To: Civil Legal Aid Oversight Committee

From: Jim Bamberger

Re: Director's June Quarterly Report

Date: 6-12-2020

Greetings and I hope this finds you all safe and well. Before moving into a discussion of OCLA work over the past three months, I think it important to take a moment to note the twin crises that have taken hold in our nation, our state, and our local communities – (1) the COVID-19 public health emergency and resulting economic meltdown caused by mandatory social distancing orders; and (2) the public murder of George Floyd and the heartfelt rage and renewed demands across our state and nation (and the world) to dismantle structurally racialized law, justice, corrections, health, housing, educational, and economic systems. The COVID-19 pandemic has caused substantial disproportionate numbers of infections and deaths among communities of color, a predictable impact given the subtle but discriminatory impact of the economic meltdown on these communities and our definition of “essential workers”. Specifically, low wage working people of color are, from a health risk perspective, among those most vulnerable to infection from the novel coronavirus; have been laid off in disproportionate numbers; disproportionately hold positions classified as “essential” notwithstanding they are high risk (e.g., food processing and agricultural jobs); have disproportionately fewer resources upon which to rely (a function of the racial wealth gap); have been disproportionately unable to engage in remote work; have fewer child care resources available; have less access to technology needed to enable their children to learn remotely; etc. And the murder of George Floyd (and so many others, including many in our state) by police officers simply reopens our eyes to the ongoing legacy of 400 years of institutionalized racism in our nation.

Whatever our identity and whatever our politics, we must take note, responsibility, and bear witness to these dynamics. As we all affirmed in the [Race Equity and Justice Initiative Commitments](#), we must recommit ourselves and our institutions to dismantling structurally racialized systems and squarely address overt and subtle racism. Only then will we be successful in delivering on our Founders’ commitment to “a more perfect union.”

With these thoughts in mind, I turn to the work of the Office of Civil Legal Aid over the past three months. Not surprisingly, it is all COVID-19 all the time.

1. Emergency COVID-19 Agency Responses

By mid-March Washington State was fully immersed in the COVID-19 public health emergency. The Governor's first social distancing emergency proclamations were issued on March 11th, with the initial suspension of school commencing on March 16th. I monitored the situation closely and, on March 12, 2020, invoked OCLA's Continuity of Operations Plan, directing staff to avoid all in-person meetings and requiring operations to be conducted exclusively from home.

Thankfully, OCLA was well prepared to ensure continuity of basic operations and address the exigencies of the COVID-19 emergency.

- a. We had a sound Continuity of Operations Plan on the books, ensuring our ability to perform all critical functions, continue to receive and timely process invoices, and respond to new challenges within the core areas of our programmatic operations.
- b. We have a robust, cloud-based technology platform that allows for uninterrupted access to e-mail, agency files, communications systems, etc. All staff have up-to-date laptop computers and docking stations with double monitors. The only technology purchase we made was the addition of two Zoom licenses.
- c. We have an excellent working relationship with AOC fiscal staff, ensuring active engagement on the budgeting, invoicing, accounts payable, and HR fronts. AOC initiated its Continuity of Operations Plan in mid-March (we are parties to that plan as well) and moved most of its fiscal and administrative operations off-site by March 23rd.
- d. Since mid-March, OCLA staff have been meeting at least one hour each week via-Zoom to keep each other informed about matters to which they are attending.

Recognizing the impact that both the public health emergency and the resulting economic crisis would have on low-wage workers and families, we immediately sought to position ourselves to secure access to emergency funding for COVID-19 related legal aid services. To this end, I initiated a multi-faceted effort to identify, anticipate and quantify the need for, and position OCLA to secure emergency state and federal funding. Ongoing in nature, these efforts include:

- a. A comprehensive communications effort to brand civil legal aid as a critical component of the state's "front-line" response to the crisis. Our messaging first publicly appeared in the April 14th [op-ed](#) by former Chief Justice Mary Fairhurst and Seattle Mariners GC Fred Rivera. A second op-ed will be published this weekend in the Tacoma News Tribune co-authored by former Attorney General Rob McKenna and Access to Justice Board Chair Sal Mungia. A week ago, Shawn Vestal of the Spokesman Review wrote an [excellent piece](#) on the heightened importance of civil legal aid during the COVID-19 crisis.

Working with OCLA's communications consultant, Randy Pepple, and the Legal Foundation of Washington's communications lead, Will Livesley-O'Neill, and the team at [Voices for Civil Justice](#), we developed strong communications guidelines and provided training to civil legal aid program leaders and line staff who will be engaging with the

press in coming weeks and months. We also worked with the Governor's communication staff leading to very important remarks by the Governor in his April 9th press conference, followed up with a tweet about the importance of civil legal aid for COVID-19 affected households and inclusion of links to WashingtonLawHelp.org and NJP's COVID-19 webpage on the Governor's COVID-19 resources list.

- b. Identify any and all potential sources of emergency funding; monitor, review and digest the federal stimulus bills in order of their passage to determine whether, and to what degree, they might offer opportunities to secure funding; pursue FEMA funding that might be available (as it turns out, the President did not include Disaster Legal Assistance in his approval, despite the Governor's request that he do so); and submit initial and subsequently revised requests for both state (Disaster Response Account (DRA)) and federal (CARES Act Sec. 15001) funding.

On April 30th, we were notified that OFM approved \$3M in DRA funding for emergency civil legal assistance to unemployment insurance (UI) claimants and tenants facing eviction after the emergency moratoria are lifted. After that approval, we resubmitted a request for \$3.17 M in federal CARES Act funding to expand the scope of emergency services (Attachment 1), which was later reduced to \$2.3M. We received initial confirmation that this request is likely to be approved; final approval is pending. This will allow us to expand emergency COVID-19 related services to include matters addressing individual and family safety and a broader range of employment and re-employment related legal problems, and carry all programs through June 30, 2021.

- c. We have been reaching out to relevant state executive agency branch leaders at the Employment Security Department and the Department of Commerce with the goal of ensuring timely consideration of civil legal aid as a resource to meet common strategic policy and program objectives, expand interagency collaboration, foster collaborative working relationships between relevant agency staff and civil legal aid providers, and identify and develop new tools that will help individuals adversely affected by the crisis to self-identify and access critically needed services. Through these efforts we have, among other things, ensured that civil legal aid is recognized by Commerce as an authorized use of regular and pandemic federal community development block grant (CDBG) funding. We are now working with ESD leadership to embed information about civil legal aid services into the ESD website and notices to claimants, and to establish and make available an informal redetermination review process to OCLA-funded attorneys representing UI claimants. A number of these conversations are ongoing, but significant progress continues to be made.
- d. Recognizing that we needed to respond quickly and with out-of-the-box approaches, we developed and are now commencing operations of new emergency legal aid programs for both the UI and Eviction Defense programs. The UI program will lean heavily on more than 80 private attorneys across the state who have offered to accept not less than 20 claimant referrals at a contract rate of \$100/hr. Information about our private attorney recruitment effort can be found [here](#). (Thanks to VOCA Program Manager Dana Boales who designed our [recruitment poster](#).)

In late March we worked with NJP and the Legal Foundation to temporarily redirect funding for two Civil Justice Reinvestment Plan attorney positions from NJP to the Unemployment Law Project (ULP) to help ULP address the immediate wave of UI claimant needs. In addition, we are using a portion of emergency DRA funding to upgrade capacity at both NJP and ULP to expand claimant intake, prioritization, and referral capacity; upgrade internal staff capacity to represent UI claimants; and expand training for cooperating private attorney contractors.

Recognizing that I cannot do this alone and that other OCLA staff members are fully extended, I recruited and hired former NJP attorney, Leslie Owen, on a part-time temporary basis to manage the COVID-19 UI Claimant Representation Program. Ms. Owen started work on May 13th and is fully engaged.

Our emergency Eviction Defense Program involves a commitment of \$1.36M in funding for Housing Justice Programs (HJP's) at ten community-based volunteer attorney programs so that they will be prepared to meet the flood of client service demand from tenants when the eviction moratoria (federal, state, local) are lifted. Efforts differ by program but for most will include a mix of upgrades to internal staff capacity and below-market-rate contracts with private attorneys. OCLA has also entered into a contract with NJP to provide expanded eviction defense services in regions of the state not served by a volunteer attorney program's Housing Justice Project.

- e. In anticipation of additional emergency funding, we are designing an emergency statewide COVID-19 individual and family safety program that will provide expanded legal assistance to victims of violence and others whose are at risk of further violence to themselves and/or family members as a result of mandatory social distancing (that, for some victims, resulted in effective incarceration in their homes with their abusers), economic dislocation, heightened family stress, or other dynamics directly or indirectly related to the COVID-19 emergency. We are working with leaders of the legal aid, domestic violence and sexual assault support communities, and the private bar to ensure equity of expanded access to these victims.
- f. Similarly, in anticipation of additional emergency support, we are designing a statewide effort to expand the scope of COVID-19 related employment information, advice, limited assistance, and extended representation. We are working with legal aid providers and the private bar to define, recruit attorneys, and deploy capacity to assist individuals facing problems ranging from on-the-job health and safety issues to re-employment discrimination, enforcement of leave rights and rights to reasonable accommodation for those in high risk cohorts, etc.

Washington State stands alone in having identified and secured significant emergency COVID-19 related funding for civil legal aid. In April and May, I was asked to consult with national organizations including the ABA's COVID-19 Task Force (led by former LSC President Jim Sandman), the Chairs of state-based Access to Justice Commissions (who meet via Zoom once per month; I was the featured presenter on April 22nd), and state-based legal aid support organizations and funders. Representatives from other states regularly seek advice and assistance with their efforts to follow our example.

2. Judicial Branch Related COVID-19 Efforts

Over the course of the past three months, OCLA has been involved in a number of initiatives spawned in response to the COVID-19 crisis and the Governor's emergency orders. These include:

a. Emergency Dependency and Termination Case Management Orders

Shortly after the Supreme Court issued its first court closing/remote proceedings [Order](#) on March 4, 2020, Governor Inslee issued a Directive and later a [Proclamation](#) (which was later extended and modified) directing, among other things, that most in-person visitation between parents and children and among siblings involved in dependency and termination cases be suspended in favor of virtual visitation. Both the Court's and the Governor's orders were not consistently interpreted by Department of Children, Youth, and Families (DCYF) staff or juvenile court officials, and confusion began to reign. Attorneys representing both parents and children expressed strong concerns about systemic due process violations that could substantially harm the substantive rights of their clients. Over the course of a three week period in March and April, Jill Malat and I worked with our colleagues in the children's representation community, the Office of Public Defense and the parents representation community, the Office of the Attorney General, and DCYF leadership to forward a consensus Order to address the conduct of dependency and termination cases and visitation protocols during pendency of the Governor's the Stay Home Stay Healthy orders. With the active involvement of Justice Madsen who was asked to facilitate these efforts by Chief Justice Stephens, consensus was achieved and on April 3rd the Supreme Court unanimously adopted [Order No. 25700-614](#). The Order effectively stayed all but emergency proceedings (such as shelter care hearings) and provided guidance as to how virtual proceedings should be conducted. Default orders were prohibited and termination proceedings were effectively stayed by the Order. Specific guidance was provided as to how courts should consider motions seeking in-person visitation. After another round of negotiations, this Order was [amended](#) on April 30th in anticipation of the reopening of courts and courthouse-based judicial hearings.

b. Dependency and Termination Rules and Work Group

Anticipating further the resumption of virtual dependency and termination proceedings and in light of significant concerns raised by the King County Department of Public Defense and others as to the fairness of virtual dependency and termination hearings and trials, the Chief Justice asked Justice Madsen, in her capacity as Co-Chair of the Supreme Court Commission on Children in Foster Care, to convene a special work group to develop rules, guidelines and best practices to guide practice and procedure in dependency and termination cases including whether, and if so, under what circumstances virtual hearings and trials should be allowed to proceed. Jill Malat will represent OCLA on this work group.

c. Unlawful Detainer Work Group

In late May, the Northwest Justice Project and King County Bar Association Housing Justice Project, supported by the Pro Bono Council, asked the Supreme Court to adopt a rule requiring

plaintiffs in unlawful detainer cases to disclose whether the property involved was subject to the notice requirements of section [4024\(c\) of the CARES Act](#). This provisions established a 30 day notice requirement that preempts the state's 14 day notice rules for certain properties that are financed, insured by, or otherwise supported with federal funds. Chief Justice Stephens asked me for advice on how to proceed, noting that she did not think the matter appropriate for a general Supreme Court order. After some discussion, the Chief determined that issues regarding unlawful detainer practice and procedure would be best handled by the Superior Court Judges Association (SCJA), and asked SCJA President and King County Superior Court Judge Judith Ramseyer to convene a work group to address these issues. After a Zoom conference among the three of us (the Chief, Judge Ramseyer, and me), it was agreed that SCJA would convene such a work group and invite a limited number of representatives from the legal aid and landlord communities and a number of judicial officers. The initial meeting of this work group was held on June 11, 2020. A copy of the Proposed Work Group Road Map is attached (Attachment 2).

d. Court Recovery Task Force

Like many other institutions, our court systems were unprepared for the consequences of the pandemic and the resulting court closures. While the Supreme Court and local courts issued myriad emergency orders attempting to maintain critically needed court services, critical cases, including non-emergency motions, criminal and civil trials, special proceedings, etc., were effectively stayed.

As the trial courts anticipate reopening and addressing the extraordinary backlog of cases on all dockets, it is necessary that strategic and consistent guidance be provided. To that end, the Board for Judicial Administration established a Court Recovery Task Force to guide these efforts on a statewide basis and for all levels of court. The Task Force's charge is to assess current court impacts from COVID-19; develop and implement strategies to ensure that every court can provide fair, timely, and accessible justice; and provide recommendations for ongoing court operations and recovery after the public health emergency subsides. While I will participate in Task Force meetings, I have asked Vanessa Hernandez, NJP's Director of Advocacy, to serve as OCLA's representative on the Task Force.

3. COVID-19 Budget Crisis, Executive Branch Directives, and Judicial Branch Planning

The economic consequences of the COVID-19 crisis has blown a hole in the state budget. According to the Office of Financial Management (OFM), the anticipated budget deficit will be between \$7 and \$8 Billion between now and June 30, 2023. OFM has asked executive branch agencies to develop plans to reduce near-general fund outlays by 15% over the coming years (Attachment 3).

Judicial branch agencies are engaged high level conversations about how to prepare for significant budget reductions. We have reviewed our efforts during the 2010 and 2014 budget crises. When faced with threats of potential percentage reductions each agency was directed to prepare an analysis of the constitutional, near-constitutional, and discretionary components of our appropriations. Using an approach common to all branch agencies, percentage cut scenarios

protected constitutional and near-constitutional functions, and focused on remaining discretionary expenditures.

There are three relevant time frames for which expenditure reduction planning must occur: (1) the balance of FY 2020; (2) FY 2021; and (3) the FY 2021-23 biennium. At this point, OCLA does not anticipate significant savings in FY 2020. All funds have been obligated by contract. There may be some minor expenditure shortfalls (money left unspent) that revert to the state, but they will represent a very small portion of our budget. For FY 2021, we anticipate making some intentional reductions, the most significant of which will be a reduction in anticipated Children's Representation Program spending as a result of recent declines in the caseloads of legally free children for whom attorneys must be appointed.

Because civil legal aid is broadly recognized as an essential front-line component of the state's response to the COVID-19 crisis, and in light of OFM's commitment of emergency COVID-19 funding for the legal aid initiatives outlined above, OCLA cannot justify and will not offer voluntary reductions to the core civil legal aid program either in FY 2021 or in our FY 21-23 biennial budget request. As of now, we anticipate submitting a request that the Legislature continue funding at "carry-forward" levels. We will not ask for additional funding for the Civil Justice Reinvestment Plan or other policy related programs. Between now and October we will monitor the impact and effectiveness of the programs funded with emergency state and federal funds, and make a determination as to whether we might seek some continued funding to maintain these programs beyond June 30, 2021. I will keep the Oversight Committee informed and request members' input before submitting the final budget request.

As we stand at this critical national moment, the Office of Civil Legal Aid and each staff member privileged to do the justice work we do reaffirm our commitment to race equity and inclusion for Black and African American communities, and all communities of color – the members of which rightly demand justice and accountability.

ATTACHMENT 1



Washington State Office of Civil Legal Aid

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James A. Bamberger, Director
jim.bamberger@ocla.wa.gov

To: David Schumacher, OFM Director
Nona Snell, OFM Assistant Director - Budget
Garry Austin, OFM Senior Budget Assistant
Gaius Horton, OFM Budget Assistant

CC: Sonja Hallum, OFM Policy Advisor
Keith Phillips, Governor's Policy Director
Kathryn Leathers, Governor's General Counsel

From: Jim Bamberger

Re: Request for Federal Emergency COVID-19 Legal Aid Funding

Date: May 3, 2020

The Office of Civil Legal Aid (OCLA) appreciates OFM's approval and authorization to use \$3M in Disaster Response Account (DRA) funds to address emergent COVID-19 related unemployment insurance and eviction defense needs. We are moving quickly to stand up both initiatives, with the [Emergency Unemployment Insurance Claimant Representation Program](#) scheduled to start on May 15th, and the community-based Emergency Eviction Defense Program on June 1st. We are pleased to report an extraordinary early response from private attorneys across the state to our [request for help](#) with the UI Program. These attorneys will provide legal assistance to COVID-19 affected families and individuals at rates substantially below prevailing markets.

OFM's commitment of DRA funding is a solid down payment on Washington State's responsibility to ensure a robust response to the waves of legal problems facing Washingtonians newly displaced from employment and income streams as a result of the COVID-19 emergency. But, as outlined in our April 24, 2020 memo, more is urgently needed now.

With this memo we reaffirm our request for \$3.17M in federal CARES Act or other appropriate sources of federal funding (*e.g.*, Byrne-JAG) to fully fund the Emergency COVID-19 Civil Legal Aid Program outlined in our April 24th memo. Such funding will ensure a comprehensive response to the problems and corresponding civil legal needs of families and individuals in four core areas of primary need:

1. **Employment** including health and safety conditions of employment for workers during the emergency, unemployment, and re-employment needs;
2. **Shelter preservation** including, but not limited to, eviction defense, foreclosure prevention, access to local and state rent assistance, and other homelessness prevention related legal problems;
3. **Individual and family safety and security** including, but not limited to, civil protection for the [increasing number of domestic victims](#) who are much more vulnerable as a result of the family and economic stresses associated with the emergency and mandatory social distancing Stay Home Stay Healthy orders; and
4. **Economic security** for families and individuals who have lost employment and must replace income by looking to federal and state assistance programs.

This comprehensive response will substantially mitigate hardships experienced by nearly 14,000 households that have been directly and indirectly affected by the COVID-19 emergency, including those who are ineligible for federal emergency assistance and stimulus payments. It will also reduce potential future demands on state- and local-funded social, health, and human service programs by protecting rights and prerogatives of COVID-19 affected families and individuals before their problems deteriorate even further.

OFM's April 29th commitment of \$3M in DRA funding is consistent with the Governor's recognition that civil legal aid is a critical component of our state's front-line response to this crisis. We look forward to your prompt and favorable review of the balance of our request for \$3.17M in federal emergency funding to underwrite the full emergency civil legal aid program through June 30, 2021.

Please feel free to contact me with any questions or for additional information you will need relative to this request.

ATTACHMENT 2



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June 8, 2020

TO: Eviction/Unlawful Detainer Work Group Members

FROM: Judith Ramseyer, SCJA President

RE: Eviction/Unlawful Detainer Work Group Charge & Road Map

POST-MORATORIUM EVICTION/UNLAWFUL DETAINER JUDICIAL PROCESS WORK GROUP

The statewide emergency moratorium on evictions has been extended through August 1, 2020. Accordingly, under state law new unlawful detainer actions may commence as of August 3, 2020.

This Work Group is being convened by the Superior Court Judges Association in the hope that primary stakeholders will help guide judicial officers on the best practices to follow once the moratorium is lifted. The outline below is offered as a vehicle to frame and guide the substance of our work and to offer an initial road map for the Work Group's activities.

1. Work Group Objective

To prepare and, to the extent possible, ensure that post-moratorium unlawful detainer proceedings are conducted fairly; efficiently; fully informed by applicable federal, state, and local laws, ordinances, and emergency orders; and that judicial decisions are based on relevant facts as well as the proper application of judicial discretion where allowed by law.

2. Context

Once the state moratorium is lifted (presumably effective August 2nd), eviction practice will be governed by basic landlord-tenant and unlawful detainer statutes (as recently amended by the Legislature) as well as – in some jurisdictions – local laws, ordinances, and emergency orders. In addition, recent changes in federal law (Sec. 4024(c) of the CARES Act) imposes a moratorium on evictions from certain properties funded, financed, or the loans for which are guaranteed by the federal government and creates an extended pre-eviction notice requirement for such properties that preempts state unlawful detainer laws. The state of the law applicable in any unlawful detainer proceeding therefore will depend on:

- a. The location of the property at issue (judicial district, county, city)
- b. The eviction laws, ordinances, emergency orders applicable in that jurisdiction
- c. A determination of whether the property is subject to sec. 4024(c) notice requirements

- d. Judicial process and procedure in the judicial district in which the unlawful detainer is filed (e.g., whether the court is holding in-person or virtual show cause and evidentiary hearings; procedures applicable to civil motion practice; and, if proceedings are held virtually, the means by which counsel and parties (including parties without technology or who experience other barriers) can meaningfully participate).

3. Charge to the Work Group

Develop model pleading suggestions and guidelines, bench cards for judicial officers, and possibly suggested local court rules to guide the unlawful detainer process in a manner that assures landlords and tenants that such cases will be conducted fairly and efficiently; are fully informed by applicable federal, state, and local laws, ordinances, and emergency orders; and that judicial decisions are based on relevant facts as well as the proper application of judicial discretion where allowed by law.

4. Small Groups

- a. Pleadings Practice/Discovery
- b. Hearing Process/Pre-hearing mediation
- c. Local Rules
- d. Practice Guidelines/Bench Cards
- e. Other?

Small groups to include one rental housing industry representative, one tenant defense representative, and one judicial officer promote timely completion of work on this accelerated schedule, but are offered as one model the group may use.

5. Timeline

- a. Initial meeting defining charge and tasks – June 11
- b. Small groups engage on assigned tasks and develop recommendations for final work product(s) – June 12 – June 26
- c. Virtual meeting and small group report out; receive guidance and feedback – June 30
- d. Small groups finalize work product and provide written recommendations – by July 17 (consensus is preferred but minority reports will be accepted)
- e. Final meeting of full Work Group -- July 21
- f. Implementation efforts – July 22 and ongoing

cc: SCJA Board
Crissy Anderson

ATTACHMENT 3



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

Insurance Building, PO Box 43113 • Olympia, Washington 98504-3113 • (360) 902-0555

May 13, 2020

TO: Agency Directors

FROM: David Schumacher
Director

A handwritten signature in blue ink, appearing to be "DS", written over the printed name of David Schumacher.

SUBJECT: IMMEDIATE ACTIONS TO CAPTURE OPERATING BUDGET SAVINGS

It has been more than six weeks since Washington began taking sweeping actions to combat the worst global pandemic in more than a century. The good news is these actions appear to be working to “flatten the curve” of COVID-19 cases and we are saving lives.

Unfortunately, these necessary efforts to combat the deadly coronavirus are taking a significant toll on our economy. We recently got our first glimpse of how state revenue collections will be impacted. As expected, the news was grim.

In an unofficial update to the state’s revenue forecast, the state’s chief economist projected that revenue collections over the next three fiscal years will be about \$7 billion lower than was forecast less than three months ago. The unofficial revenue update on April 30 is based on incomplete data, and we won’t have official projections until the next state revenue forecast in June.

It is clear, however, that we must start taking steps now to confront this fiscal crisis. Even using all of the reserves, if the unofficial forecast holds true, we estimate the state would still face a \$4.1 billion shortfall over the next three years.

Therefore, I am directing agencies to identify operating budget savings options from their fiscal year 2021 appropriations. OFM’s immediate combined savings options target is \$1.9 billion. (See the attachment for specific agency targets.) All agencies are not listed because they have little opportunity for Near General Fund savings. However, all agencies should identify savings they can make on their own or which require legislation and must be included in a second supplemental budget.

In addition, all agencies should be planning to propose reductions as part of their 2021–23 budget submittals. Any reductions taken in a second supplemental budget may help alleviate the scale of the budget problem next biennium.

Today the governor issued a directive requiring agencies to place a freeze on new hires, personal services contracts and equipment purchases, effective May 18, 2020. Some agency savings will be realized by complying with the freeze.

In looking for additional savings, agencies should:

- Identify under-expenditures, premium adjustments and efficiencies
- Focus mainly on Near General Fund accounts, but consider all accounts for savings
- Use other funds in lieu of General Fund-State whenever possible

- Reduce, delay or eliminate programs
- Identify programs or services that do not meet your core mission
- Look for opportunities to immediately realize savings through program changes that you anticipate proposing in your 2021–23 budget requests

During this exercise, please also consider the following:

- Central services charge programs (would the action drive up central service costs?)
- Offsets to savings (does the reduction to one program move the problem and cost to another program?)
- Overlapping programs (does the reduction cross programs and/or agencies?)
- Timing of savings (how long would implementation of reductions actually take?)
- Are legislative changes required to implement any of the savings options?

Please work with your [OFM budget analyst](#) so they are prepared with options by June 1. Use this [savings template](#) to identify your savings options and send it to ofm.budget@ofm.wa.gov and your budget analyst. Any savings that can be realized now will require agencies to submit allotment amendments that reflect the reductions.

Although this budget savings options exercise applies to cabinet agencies, I urge the presidents of higher education institutions, boards and commissions, and our separately elected officials to undertake a similar budget savings exercise within their agencies and jurisdictions.

Thank you for your efforts on this challenging task.

Attachment: Targeted Reduction Amount by Agency