

SOUTH DAKOTA OFFICE OF INDIGENT LEGAL SERVICES

South Dakota Commission on Indigent Legal Services Meeting

Wednesday, September 23, 2026, 10:00 a.m.

Members Present

- Betsy Hogden
- Judge Bobbi Rank
- Joe Kippley
- Judge Larry Long
- Heather Lammers-Bogard
- Dick Travis

Excused

- Rep. David Kull
- Senator Jim Mehlhaff
- Dean Neil Fulton

Guests

- Chris Miles

Call to Order:

Mr. Kippley called the meeting to order at 10:00 a.m. and established a quorum.

Approval of Minutes of Prior Meeting

A motion to approve the minutes was made by Judge Long. Seconded by Judge Rank. Motion carried.

Open Meeting Law Review – SD 74

Mr. Kippley provided the annual review as required. The Commission is subject to South Dakota's open meeting laws. Requirements include 24-hour agenda posting, public access via teleconference, and a public comment period. Executive session may be used only for narrow purposes such as legal advice or HR matters. Email communications should avoid "reply-all" discussions to prevent creating an unpublicized meeting. Mr. Kippley offered to send out the Attorney General's guide after the meeting to anyone who requests it.

Budget Requests and Trial Level Representation

Mr. Miles introduced a tentative budget proposal to begin a controlled, incremental expansion into trial-level indigent defense. The FY28 Budget Proposal for Trial Level Expansion (Informational purposes only) was discussed.

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Salary ranges are modeled after the Attorney General's Trial Division to maintain parity. The proposed trial attorneys would handle high-level felony cases statewide, focusing on resource-intensive matters. Collaboration with the appellate division would improve issue preservation and reduce potential habeas litigation. The initiative would not overhaul current county-based systems but would support areas with attorney shortages, especially rural counties.

Mr. Miles noted the proposal would not likely be implemented immediately, but would be presented to the Joint Committee on Appropriations (JCA) to signal future direction.

Mr. Kippley clarified that this proposal would be supplemental to the existing appellate budget. Mr. Miles confirmed this understanding.

Ms. Hogden cautioned that expert expenses vary widely and may include competency evaluations. She recommended gathering data from UJS regarding state reimbursement for cases originating in the penitentiary. Mr. Miles agreed and noted operating expenses could be supplemented with existing budget reserves.

Judge Long recommended exploring reimbursement options via the County Catastrophic Fund which is used by counties for high-cost cases. Mr. Miles agreed to research fund mechanisms.

Mr. Kippley encouraged deeper analysis into caseload per attorney, geographic distribution, rural county prioritization, second-order cost impacts and county savings. He recommended developing a decision-tree triage process for assigning cases and establishing objective criteria.

Judge Long noted that unlike the attorney general's office, who cannot be appointed by judge, Mr. Miles should consider how judicial appointment authority interacts with trial-level expansion. Mr. Miles indicated overflow could be handled through contract attorneys, mirroring current appellate conflict-case practice.

Mr. Miles expressed appreciation for feedback and confirmed this proposal is a starting point that will be refined.

Case Handling and Status Update

Mr. Miles provided a caseload overview for the appellate division. There are currently 125 open appeal files, 109 clients, approximately 25 cases in briefing which is about 5 per attorney. The appellate team is beginning to experience time-crunch issues; an

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additional appellate attorney may be justified in future budget requests. The office currently is scheduled for the upcoming October oral arguments which will be held at USD Law School. Mr. Miles and Mr. Friese each have a case on October 7th and Ms. Avtjoglou will present her oral argument on October 8th.

Mr. Kippley inquired if there were any current employment vacancies. Mr. Miles indicated there is currently one legal office assistant position which remains open. The office is currently using approximately 95% of its personal services budget. Budget adjustments or reallocation may be needed to offer a competitive salary.

Mr. Kippley questioned if the USD Pathways program could be used to recruit staff. Mr. Miles indicated it does not align well with appellate practice (lacks courtroom exposure) but could be viable if trial-level services are created.

Ms. Lammers-Bogard inquired if attorney performance was generally satisfactory. Mr. Miles indicated he is very satisfied with attorney performance. Attorneys thoroughly review records and thoughtfully select issues. Weekly team meetings help evaluate issue merit and strategy. Draft briefs are shared early for collaborative editing and review. Occasional extensions occur, but the team strives to meet deadlines and avoid case stagnation.

Other Business

Mr. Miles and Ms. Henze (paralegal) met with the clerks of court in Chamberlain recently. The meeting was positive and helped clerks better understand when and how to involve the office. The meeting strengthened communication. The clerks were encouraged to contact Mr. Miles or Ms. Henze for appointment-procedure assistance.

Public Comment

Mr. Kippley opened the floor for public comment. No public comments were offered.

Adjourn

Motion to adjourn made by Mr. Travis. Seconded by Judge Long. Motion carried.

The meeting adjourned at 10:48 AM.