

IN THE SUPREME COURT, STATE OF WYOMING

April Term, A.D. 2011

**IN THE MATTER OF ADOPTING THE)
RULES AND REGULATIONS FOR THE)
ORGANIZATION AND GOVERNMENT OF)
THE WYOMING CENTER FOR LEGAL AID)**

**ORDER ADOPTING THE RULES AND REGULATIONS OF THE
WYOMING CENTER FOR LEGAL AID**

This matter came before the Court on its own motion. The 2010 Wyoming Legislature passed Original House Bill 61, Chapter 109 Wyoming Session Laws 2010, thereby creating the Indigent Civil Legal Services Program. Pursuant to Wyo.Stat. Ann. § 5-2-122, the Wyoming Supreme Court is directed to develop a comprehensive plan for funding a statewide program of civil legal services. In addition, pursuant to Wyo.Stat. Ann. § 5-2-122 (a)(iii), the Supreme Court is directed to adopt rules and regulations for the operation of the program. The Court has fully considered the attached Rules and Regulations for the Wyoming Center for Legal Aid and finds they should be adopted. It is therefore,

ORDERED that the Rules and Regulations of the Wyoming Center for Legal Aid, attached hereto, are hereby adopted, to be effective immediately; and it is further

ORDERED that this Order and the Rules be published in the advance sheets of the Pacific Reporter; this Order and the Rules be published in the Wyoming Court Rules Volume; and that this Order and the Rules be made available online at the Wyoming Judicial Branch's website, <http://www.courts.state.wy.us>. The Rules shall thereafter be spread at length upon the journal of this Court.

DATED this 19th day of April, 2011.

BY THE COURT:

/s/

MARILYN S. KITE
Chief Justice

RULES AND REGULATIONS FOR THE WYOMING CENTER FOR LEGAL AID

PREAMBLE

These Rules and Regulations provide for the organization and operation of the Wyoming Center for Legal Aid and are adopted by the Supreme Court of the State of Wyoming pursuant to the Wyoming Constitution and the 2010 Wyoming Session Laws Chapter 109, §§ 1-4 (Wyoming Civil Legal Services Act), enacted during the 2010 Legislative Budget Session (Wyo.Stat.Ann. §§ 2-2-401, 5-2-121 through 5-2-122, 5-2-202, 5-2-205 through 5-2-206, 5-6-108, 5-6-204, 5-6-303, 5-9-135, 5-9-144, 6-10-102 through 6-10-103). Operated through the Wyoming Supreme Court, the Wyoming Center for Legal Aid exists to promote access to justice throughout the State of Wyoming in accordance with the directives of the Wyoming Civil Legal Services Act. The Center will have the duty of carrying out those functions which are delegated to it by the Wyoming Supreme Court through these Rules. The Wyoming Supreme Court (Supreme Court) has the ultimate authority to ensure those powers and duties delegated to the Center pursuant to these Rules are fully and faithfully executed.

Rule 101. Name.

The name of the program shall be the Wyoming Center for Legal Aid (the Center).

Rule 102. Purposes.

The purposes of the Center are to improve access to justice in Wyoming and fulfill the requirements and expectations of the Wyoming Legislature described in the Wyoming Civil Legal Services Act (the Act).

Rule 103. Powers.

As an instrument of the judicial branch of the State of Wyoming, the Center shall be afforded all of the rights, powers, privileges, benefits and protections that attain the judicial branch under law. The Center may enter into contracts and acquire, hold, encumber and dispose of real and personal property as necessary and appropriate to implement the Center, and may exercise such powers as are lawful and reasonably necessary to accomplish the objectives and duties of the Center set forth in these Rules.

Rule 104. Location.

The principal office and place of business of the Center shall be in Cheyenne, Wyoming, but the Board of Commissioners (hereinafter defined) may authorize offices to be located at other places within the state of Wyoming.

Rule 105. Implementation.

The Center will implement the Wyoming Civil Legal Services Act. At the request of the Supreme Court, funds for the Center will be appropriated by the Wyoming Legislature from the indigent civil legal services account pursuant to Wyo.Stat. Ann. § 5-2-121, or from donations, and the Center shall be administered to fully utilize authorized funds. Pursuant to these Rules, the Supreme Court is the final authority in administering, auditing, and operating the Center. The Center may employ such office space, administrative support and services of the Supreme Court and its personnel as are available and necessary to establish the Center, and to coordinate on an annual basis with the Supreme Court.

Rule 106. Board of Commissioners.

The Center shall be initially developed, and thereafter administered, by a Board of Commissioners (the Board) who shall act to ensure that statutory priorities and objectives of the Act are fully and faithfully executed. The Board shall number no fewer than seven (7) and no more than sixteen (16), and shall be appointed by, and shall serve at the pleasure of the Supreme Court. The term of Board membership shall be three (3) years, and Board members may be reappointed by the Supreme Court as it deems appropriate. The members of the Board shall receive no compensation for services to the Center, but they may authorize and approve for themselves and for employees and contractors of the Center, reimbursement of reasonable and necessary expenses incurred in the performance of duties for the Center. The Board may, in its discretion, appoint additional Board members ex-officio.

Rule 107. Duties of the Board.

The Board shall have general charge of the affairs and activities of the Center. It shall ensure that the terms, priorities and objectives of the Act and these Rules are fully and faithfully executed. It shall:

- a. Make and authorize disbursements, and/or periodically monitor and ratify proper disbursements reviewed, approved and authorized by the Executive Director from the funds of the Center in payment of the necessary expenses of the Center;
- b. Cause proper books of accounts to be kept and to procure an annual audit thereof to be filed with the Supreme Court;
- c. Engage and define the duties of contractors, employees and others providing services to the Center or its clients and fix their compensation;
- d. Address vacancies however arising in the membership of the Board by notifying the Supreme Court and recommending replacement members to the Court for its consideration;
- e. Adopt policies not inconsistent with these Rules and the Act for the orderly administration of the Center's affairs and activities;

- f. Submit annual and biannual budget requests to the Supreme Court for its approval and submission to the legislature as part of the appropriation process for the Center;
- g. Prepare and submit an annual report to the Supreme Court on Center activities, plans, strategies and accomplishments;
- h. Oversee and supervise the development of Center services, priorities, plans and development;
- i. Consider and approve requests submitted to the Center for grants to assist in providing or enhancing civil legal services;
- j. Oversee the establishment of uniform standards for the delivery of civil legal services;
- k. Ensure the establishment of programmatic and fiscal management procedures to ensure accountability for all state funds;
- l. Propose to the Supreme Court additions, modifications, and changes to these Rules as appropriate;
- m. Act as a liaison between the Supreme Court and the Center; and
- n. Act as a liaison between all stakeholders and the Center.

Rule 108. Committees.

There shall be an Executive Committee of the Board consisting of the president, vice-president and secretary-treasurer. The Executive Committee may exercise all the powers and perform all the duties of the Board between the meetings of the Board subject to ratification by the Board. The Executive Committee shall prepare an annual budget for submission to the Board, and shall perform such other duties as the Board may prescribe. There shall be such other committees as the Board may prescribe.

Rule 109. Officers.

a. The officers of the Center shall be a president, a vice-president, and a secretary-treasurer. The officers shall be elected by vote of the Commissioners. The term of office of the president, vice-president and secretary-treasurer shall be two (2) years. The term of each office shall run until the qualification of his or her successor.

b. Duties.

President - The president shall be the chief executive officer of the Center, a member of the Executive Committee and a member of the Board. The president shall preside at all meetings of the Board and of the Executive Committee. Additionally, this officer shall make the appointments to, and designate the chairpersons of, all standing committees; create and appoint special committees; and be a member, ex-officio, of every committee.

Vice-president - The vice-president shall be a member of the Board and a member of the Executive Committee; and shall perform all other duties assigned by the president or Board.

Secretary-treasurer - The secretary-treasurer shall be a member of the Board and a member of the Executive Committee. In this office, the secretary-treasurer shall assist the Executive Committee in preparing the annual budget and in presenting it to the Board which shall be prepared by June 30, and circulated as soon thereafter as practicable among the Board. The secretary-treasurer shall advise the Executive Director about procedures for:

- i. Maintenance of proper minutes and records;
- ii. Maintenance of correct membership files and mailing lists;
- iii. The methods and procedures used in the receipt, collection and safekeeping of all funds;
- iv. The procedures for disbursement and audit of such funds; and
- v. The general operation of the headquarters office.

Rule 110. Executive Director.

When appropriate, the Board shall retain an Executive Director of the Center who shall be in direct charge of the Center's administrative staff, office, its records, property and equipment. The Executive Director shall be hired by the Board under terms of employment and compensation fixed by the Board. All employees of the Center are at-will contract employees. Subject to the general control of the officers, Executive Committee, and Board, and as appropriate and consistent with the requirements of these Rules, the Executive Director shall:

- a. Attend meetings of the Executive Committee and Board, and keep and disseminate the minutes of such meetings;
- b. Collect, deposit and disburse funds pursuant to the budget and the direction of the Executive Committee;
- c. Oversee the day to day operation of the Center, its plans, priorities, accounting, budgeting and reporting, employees and contractors;
- d. Advise and assist the officers, commissioners and committees;
- e. Make the arrangements for Center meetings;
- f. Review, approve and authorize proper disbursements;
- g. Perform such other duties as may be directed by the Board or officers, or as prescribed by these Rules.

Rule 111. Policy.

- a. The Center shall follow the requirements of the Act.
- b. The following excerpts from the American Bar Association's "Principles of a State System for the Delivery of Civil Legal Aid" are to inform policy objectives of the Center. The Center shall strive to:
 - i. Provide services to the income eligible and vulnerable populations in Wyoming.

ii. Provide a full range of services in all forums. A full range of services includes information about legal rights and responsibilities; options for services; outreach and community legal education; legal advice and brief services; support and assistance for individuals capable of representing themselves; representation in negotiation and alternative dispute resolution; transactional assistance; and representation in administrative and judicial proceedings.

iii. Provide services of high quality in an effective and cost-efficient manner.

iv. Provide services in sufficient quantity to meet the need by seeking and making the most effective use of financial, volunteer, and in-kind resources dedicated to those services.

v. Fully engage all entities and individuals involved in the provision of those services. Wyoming's system for the delivery of civil legal aid should fully engage in the delivery of civil legal aid services all those who are involved in the provision of law-related services, including legal aid providers, private attorneys (working pro bono or for compensation), court personnel, law school clinics, human services agencies, paralegals, lay advocates and other public and private individuals and entities that provide legal services to income eligible and other vulnerable people who cannot afford counsel in the state.

vi. Make services fully accessible and uniformly available throughout the state. The ability of income eligible and vulnerable people to obtain civil legal assistance consistent with these principles does not depend on where that person resides in the state.

vii. Engage with clients and populations eligible for civil legal aid services in planning and in obtaining meaningful information about their legal needs, and treat clients, applicants and those receiving services with dignity and respect.

viii. Engage and involve the judiciary and court personnel in reforming their rules, procedures and services to expand and facilitate access to justice.

ix. Be supported by an organized bar and judiciary that is providing leadership and participating with legal aid providers, law schools, the executive and legislative branches of government, the private sector and other appropriate stakeholders in ongoing and coordinated efforts to support and facilitate access to justice for all.

x. Engage in statewide planning and oversight of the system for the delivery of civil legal aid to coordinate and support the delivery of services and to achieve the principles set forth above. Wyoming's system for the delivery of legal aid should develop and maintain the capacity to plan and oversee its civil legal assistance delivery system so that the principles set forth above are achieved. Planning and oversight should be open and inclusive. Participants should work together in a coordinated and collaborative manner to provide a full range of high-quality services efficiently and in a manner that maximizes available resources and eliminates barriers to access.

Rule 112. Center priorities.

a. Consistent with and subject to Wyo.Stat. Ann. § 5-2-122(a)(iii)(A), the following priorities for the management and operation of the Center are established.

b. The Center shall endeavor to represent or assist eligible clients or persons in the following non-exclusive list of cases:

i. Cases in which an income eligible individual is a defendant in a lawsuit;

ii. Cases in which an income eligible individual is seeking to enforce a court order;

iii. Cases involving domestic relations and family law;

iv. Matters involving general legal advice to income eligible individuals; and

v. All other civil cases for income eligible clients that are consistent with the Act.

c. The Center shall not provide legal services or representation in cases involving:

i. Claims seeking tort damages;

ii. Criminal defense;

iii. Claims against public agencies or political subdivisions, where those claims seek to change or overturn existing rules, regulations or policies (this prohibition shall not limit the Center's ability to represent income eligible individuals who are seeking benefits that may be owed to them by public entities or agencies).

Rule 113. Eligibility standards for Center clients.

a. The Center shall provide civil legal services to only those individuals whose total household income does not exceed two hundred percent (200%) of the current federal poverty level, as determined and published annually in the Federal Register by the U.S. Department of Health and Human Services.

b. The Center shall develop intake procedures applicable to all prospective clients that will require those prospective clients to establish their eligibility.

Rule 114. Center administration.

a. The Center shall provide necessary administrative support and supervisory oversight of civil legal services in Wyoming. Consistent with and subject to Wyo.Stat. Ann. § 5-2-122(a)(iii), the Center shall be operated and administered in coordination with other publicly or privately funded Centers providing civil legal services to the Income Eligible. The Center shall coordinate with the Wyoming State Bar and other entities on private attorney involvement, pro bono civil legal services and educational centers.

b. The Center shall establish or coordinate a statewide single point of entry for Income Eligible civil legal services, or establish other operations that allow for simplified and easily available access to the Center and its programs.

c. The Center shall require any attorney who seeks to contract with or be employed by the Center for legal representation of clients to meet the standards for attorneys established by the Center.

d. The Center shall set standard fee schedules for attorneys who provide civil legal services funded by the Center.

e. The Center shall establish written standards for attorneys providing civil legal services that will ensure that the work of all attorneys employed by or under contract with the Center is cost effective and designed to best achieve the efficient administration of justice for all parties involved within the State of Wyoming. This subsection shall not prohibit attorneys from representing income eligible individuals who are seeking benefits that may be owed to them by State of Wyoming entities or agencies.

f. The Center will develop a case management system to track and keep records of all cases handled by or through the Center.

g. The Center shall maintain a list of qualified attorneys with whom it has contracted.

h. The Center shall establish protocols to determine and resolve conflicts of interest.

i. The Center may negotiate and enter into contracts or memoranda of understanding with any individual or entity as necessary or convenient to facilitate the Center's duties and to adequately and sufficiently maintain, operate and administer the Center. The Center and Board shall establish written criteria for entering into contracts.

j. The Center's Executive Director shall evaluate each attorney and contractor providing services to the Center or to clients. As part of the evaluation process, the Executive Director may seek the opinion of judges before whom the attorneys and contractors regularly appear, and may also seek the opinion of any other stakeholders the Center may identify. Said evaluations will be considered when renewing contracts, evaluating attorneys, and determining compensation each year.

Rule 115. Annual Budget.

The Center shall draft and adopt annual and biannual budget requests for its operations. The Center's fiscal year shall track the fiscal biennium (July 1 through June 30) and the Center's budget shall be kept on an accrual basis. The Center shall provide the budget request to the Board and the Supreme Court for approval on or before July 1 of the year prior to the budget year.

Rule 116. Funding.

The State Legislature has appropriated funds to the Supreme Court each biennium for administration and operation of the Center. This appropriation shall be expended for

only the purposes of the Center described in the Act. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose. A request for this appropriation shall be included in the Center's standard annual or supplemental budget requests to the Supreme Court.

Rule 117. Annual Report.

The Center shall prepare and submit an annual report of operations to the Supreme Court on or before July 31 of each year. The report will describe the Center's operations in detail. The report shall include, but shall not be limited to, a description of: (a) the number of cases handled by the Center; (b) the number and compensation to all Center attorneys and contractors; (c) the amount of all other monies expended by the Center during the year; and (d) any other information requested by the Supreme Court. The annual report will also summarize the types of cases handled by the Center and shall identify the number of each type of case handled by the Center.

Rule 118. Website.

The Center shall establish and maintain, or coordinate the establishment and maintenance of a website which shall include, but shall not be limited to the following information: (a) detailed contact information for the Center and all civil legal service providers in the State of Wyoming; (b) key documents including the Act and these Rules; (c) a schedule of the meetings of the Board; and (d) any other information requested by the Supreme Court or the Board.

Rule 119. Grants.

a. Pursuant to Wyo.Stat. Ann. § 5-2-122(a)(viii), subject to approval by the Board, the Center may grant funds to eligible programs to assist in providing civil legal services in Wyoming. The funding shall be consistent with the Act and may be used to enhance the civil legal services that existing programs are providing. The Executive Director may recommend grant expenditures to the Board for approval.

b. Pursuant to Wyo.Stat. Ann. § 5-2-122(a)(ix), the Center may receive grants and donations from outside parties.

c. The Center and Board shall establish written criteria for making grants and for receiving grants and donations.

Rule 120. Audits.

The Center shall comply with all audits conducted or directed by the Supreme Court under Wyo.Stat. Ann. § 5-2-121(c). The Center shall respond to any inquiry made by the Supreme Court, Wyoming Legislature or legislative committee, or by the Board.

Rule 121. Client's Payment of Costs in Certain Cases.

The Center may, at its discretion, require a client to pay court costs for the client's case. When deciding whether to require a client to pay court costs, the Center shall consider, among other issues, the client's ability to pay those costs, and whether requiring payment would strengthen the attorney-client relationship and the client's dedication to the case.

Rule 122. Confidentiality.

All attorney-client privileged information provided on a confidential basis to the Center, Center attorneys and/or the Center's staff may be kept confidential by the Center. Center attorneys will comply with all ethical rules governing Wyoming attorneys, including all confidentiality rules.

Rule 123. Other legal protections or sanctions.

The protections provided by these Rules do not exclude any protection or sanction that the law otherwise provides.

Rule 124. Amendment of Rules.

Proposals for amendment or abrogation of provisions of these Rules may be presented to the Supreme Court by written request of the Board or by the Executive Committee. Amendment shall be accomplished by order of the Supreme Court.

Rule 125. Interpretation of Rules.

The order in which the provisions of these Rules appear is not to be construed to mean that any one provision is more or less important than any other provision.

Rule 126. Superseding effect.

These Rules supersede all prior rules or policy statements issued by the Center, which may be inconsistent with these Rules.

Rule 127. Severability.

If any portion of these Rules is found to be invalid or unenforceable, the remainder shall continue in full force and effect.