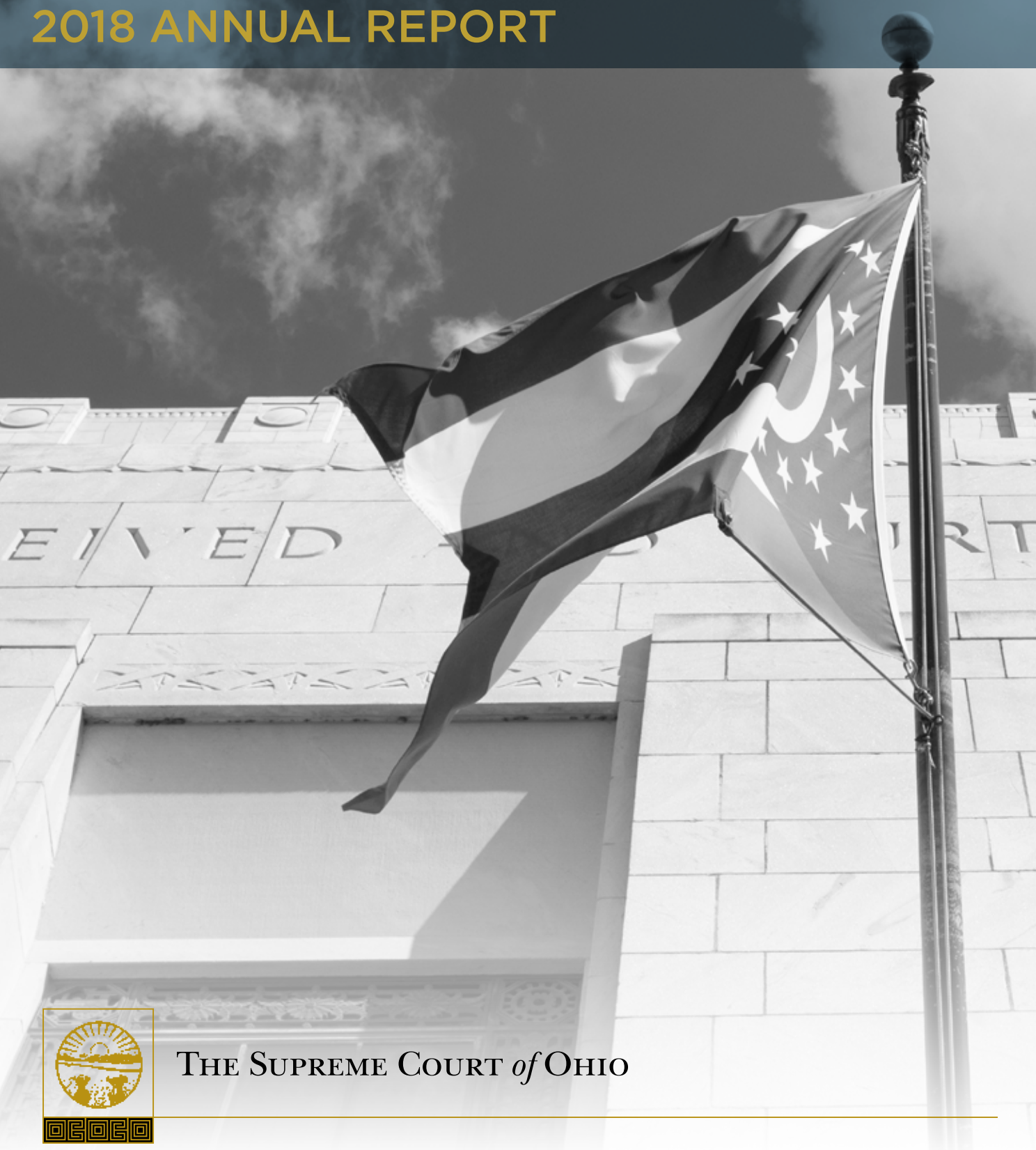


ATTORNEY SERVICES FUND 2018 ANNUAL REPORT



THE SUPREME COURT *of* OHIO



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ATTORNEY SERVICES FUND ANNUAL REPORT

Summary of Activity for Fiscal Year 2018
And Report on Allocations for Fiscal Year 2019

OCTOBER 2018



PRESENTED TO

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CHIEF JUSTICE

TERRENCE O'DONNELL

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PRESENTED BY

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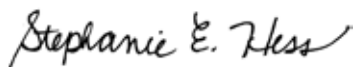
THE SUPREME COURT *of* OHIO

To: Chief Justice Maureen O'Connor and Justices
Members of the Ohio Bar
Members of the Public

This Annual Report on the Attorney Services Fund provides a summary of the activity of the Attorney Services Fund for Fiscal Year 2018 (July 1, 2017 – June 30, 2018), and sets out budget allocations from the fund as approved by the Supreme Court for Fiscal Year 2019 (July 1, 2018 – June 30, 2019).

The report includes a review of the fund's balance and projections, audit information, and investment policy. This information is provided for informational purposes only and is not to be considered a final or complete audit or financial statement of fund activity during the period covered in the report. The Auditor of State conducts an audit of the fund as part of the regular biennial audit of the Supreme Court of Ohio.

Respectfully submitted,



Stephanie E. Hess, Esq.
Interim Administrative Director



Gina White Palmer, Esq.
Director of Attorney Services



I. Attorney Services Fund; Registration Requirements and Fees

Biennial Registration Requirements and Fees

Article IV of the Ohio Constitution vests plenary authority with the Supreme Court of Ohio to regulate all aspects of the practice of law in Ohio, including admission to the practice of law, the discipline of persons admitted to the practice of law, and all other matters relating to the practice of law. In furtherance of this responsibility and in order to maintain an independent and self-funded regulatory system, the Supreme Court assesses and collects various fees and other moneys pursuant to the Supreme Court Rules for the Government of the Bar of Ohio. All moneys collected pursuant to the rules, other than those related to the bar admissions process, are deposited in the Attorney Services Fund.

Rule VI of the Supreme Court Rules for the Government of the Bar of Ohio (Gov. Bar R. VI) imposes a biennial registration requirement on each attorney practicing law in the state of Ohio. Each attorney licensed to practice law in the state, except for attorneys who are on inactive or retired status, and each non-Ohio attorney registered for corporate counsel status, must register with the Court on or before the first day of September in each odd-numbered year and pay a \$350 registration fee for active status. Effective September 15, 2016, Emeritus Pro Bono status became available as a registration status for attorneys who wish to provide legal services solely on a pro bono basis with a qualified organization. The registration fee of Emeritus pro bono status is \$75. Further, effective July 1, 2017, attorney spouses of active duty members of the U.S. military stationed in Ohio may seek temporary admission to the practice of law in Ohio under certain conditions. The registration fee for military spouse attorneys is \$350.

Registration fees are reduced or waived for attorneys who are admitted to practice in the second year of the registration biennium. Attorneys may during the biennial attorney registration participate in a \$50 voluntary “add on” fee to fund civil legal aid services for low-income populations in Ohio. Revenues from attorney registration fees are significantly lower in odd-numbered fiscal years because attorneys are required to register with the Supreme Court during even-numbered fiscal years.

The Supreme Court imposes monetary sanctions on attorneys who fail to register timely. Gov. Bar R. VI imposes a late registration

fee of \$50 on any attorney who fails to register by the due date. An attorney who remains unregistered more than sixty days after the due date is summarily suspended from the practice of law and must register, pay all outstanding registration fees, and pay a \$300 reinstatement fee in order to be reinstated to the practice of law.

Attorney Services Fund

Gov. Bar R. VI registration, late registration, and reinstatement fees are paid into the fund. The fund also receives revenue from other sources pursuant to the Rules for the Government of the Bar, including cost reimbursements from disciplined attorneys and civil penalties and costs assessed against persons who are found to have engaged in the unauthorized practice of law.

Pursuant to Gov. Bar R. VI, Section 14, the moneys in the fund are used to (1) investigate complaints alleging misconduct pursuant to Gov. Bar R. V or Gov. Jud. R. II and alleging unauthorized practice of law pursuant to Gov. Bar R. VII, (2) support the activities of the Lawyers' Fund for Client Protection, the Commission on Continuing Legal Education, and the Board on the Unauthorized Practice of Law; (3) fund any activity considered necessary by the Supreme Court for the government of the bar and the judiciary of Ohio; and (4) support any activities related to the administration of justice considered necessary by the Supreme Court.

Schedule 1 of this Report contains a summary of fund expenditures for Fiscal Years 2017 and 2018 and allocations for Fiscal Year 2019.

II. Summary of Fund Activity in Fiscal Year 2018

In Fiscal Year 2018, \$9,632,210 was expended from the Attorney Services Fund.

Disciplinary-Related Expenses

In Fiscal Year 2018, \$5,562,416 was used to fund the disciplinary process established by the Court in Gov. Bar R. V and Gov. Jud. R. II, "Disciplinary Procedure." This is 57.75% of total fund expenditures in FY 2018. Of this amount, \$3,013,300 was expended by the Office of Disciplinary Counsel, which accounts for the entire operational budget of that office.

A total of \$699,445 was expended by the Board on Professional

Lawyers' Fund for Client Protection

Conduct to fund the operations of the Board. An additional \$1,849,671 was expended by the Board to reimburse local bar association certified grievance committees for disciplinary related activities.

Since 1985, the Supreme Court has allocated moneys from the Attorney Services Fund to compensate clients who are victims of theft, embezzlement, or misappropriation by dishonest attorneys. The Lawyers' Fund for Client Protection is established in Gov. Bar R. VIII and is administered by an independent Board of Commissioners appointed by the Court. By rule, the Board may award a client up to \$75,000 to reimburse the client financial losses incurred as a result of the misconduct of his or her attorney. In Fiscal Year 2018, \$428,150 was expended by the Board of Commissioners of the Lawyers' Fund for Client Protection for its operations. In addition, the Supreme Court allocated \$1,400,000 to the Lawyers' Fund for Client Protection Trust Fund to replenish that fund. Together, these amounts represent 18.98% of Attorney Services Fund expenditures.

In Fiscal Year 2018, the Board awarded a total of \$648,504.85 from the Trust Fund to reimburse 107 eligible claimants. As of June 30, 2018, there were 92 claims pending representing a potential liability to the fund of \$2,937,017.62. For more information regarding claims filed with the Lawyers' Fund for Client Protection, please see the most recent annual report prepared by the Board of Commissioners of the Lawyers' Fund for Client Protection.

Attorney Services Administration

The Attorney Services Division of the Supreme Court is comprised of the Office of Attorney Services and the Office of Bar Admissions. These two offices are charged with supporting the Court in the exercise of its constitutional responsibility to regulate the practice of law in Ohio. The Office of Attorney Services has many responsibilities, including registering attorneys each biennium, verifying attorneys' statuses and issuing certificates of good standing, administering the Lawyer To Lawyer Mentoring Program, and maintaining attorney and judge attorney registration and continuing legal education records.

A total of \$1,156,644 was expended for the Attorney Services Division (excluding Office of Bar Admissions which is funded

separately) in Fiscal Year 2018. These moneys, which represent 12.01% of total fund expenditures, supported the Office of Attorney Services (\$1,018,443), the Commission on Certification of Attorneys as Specialists (\$1,527), the Commission on Professionalism (\$104,704), and the Board on the Unauthorized Practice of Law (\$6,468). Further, \$25,502 was expended on reimbursement of expenses related to investigation and prosecution of unauthorized practice of law matters. Commencing in FY 2018, compensation for four positions in the Office of Attorney Services were moved from the General Revenue Fund to the Attorney Services Fund. This transfer represents the majority of the increase in sums expended from Fiscal Year 2017 supporting the Office of Attorney Services and the Commission on Professionalism.

Discretionary Grants

The remaining \$1,085,000 in expenditures from the fund represented grants to two nonprofit organizations that assist the Supreme Court in providing oversight of the Ohio bench and bar and in the administration of justice. In Fiscal Year 2018, the Court awarded grants of \$400,000 to the Ohio Legal Assistance Foundation and \$685,000 to the Ohio Lawyers Assistance Program. These grants represent 4.15% and 7.11% respectively, of the expenditures from the fund.

The Ohio Legal Assistance Foundation is established pursuant to statutory authority and has, as its primary responsibility, the duty of administering and allocating various funds for Ohio's legal aid programs. These programs provide direct civil legal assistance to low income Ohioans who qualify for services. The moneys contributed from the fund to the foundation are used for pro bono development and enhancement, technology enhancement and support, and performance assessments of legal aid programs.

The Ohio Lawyers Assistance Program provides intervention and monitoring assistance to Ohio lawyers, judges, and law students who are suffering from alcoholism, substance abuse, or mental illness. In addition to moneys allocated from the fund, the program receives contributions from the Ohio State Bar Association, the Ohio Bar Liability Insurance Company, and other entities.

Figure 1—Fiscal Year 2018 Expenditures



Civil Justice Grant Program Fund

The Supreme Court amended two Rules for the Government for the Bar of Ohio, which became effective July 1, 2016, in response to recommendations of the Task Force on Access to Justice: (1) increasing the annual pro hac vice registration fee for out-of-state attorneys from \$150 to \$300, and directing \$150 of each such registration to help fund civil legal services for indigent Ohioans; and (2) including a \$50 voluntary add-on fee as part of the biennial attorney registration required of Ohio attorneys. The funds generated from these amendments are deposited into the Civil Justice Grant Program Fund, which was established in Fiscal Year 2017. In Fiscal Year 2018, \$30,000 was voluntarily donated by attorneys and judges as part of the biennial attorney registration process. The fund’s purpose is to provide grants to non-profit organizations and agencies dedicated to providing civil legal services to Ohio’s indigent population through innovative programs aimed at increasing access to justice. This fund held \$568,813 as of June 30, 2018, of which \$314,703 was reserved for the balance of encumbered grants. The available fund balance was \$254,110 as of June 30, 2018.

During Fiscal Year 2018, the Supreme Court awarded grants totaling \$327,040 from the Civil Justice Grant Program to eight different non-profit organizations or agencies.

Fund Income and Balance

The fund realized income and revenue of \$16,899,671 in Fiscal Year 2018 from the following sources:

- biennial registration fees, including late fees, reinstatement fees, and fees collected pursuant to Gov. Bar R. XIV (Certification of Attorneys as Specialists) (\$15,960,875)
- reimbursement of costs in Gov. Bar R. V (Disciplinary



Procedure) and reimbursement of costs and payment of civil penalties in Gov. Bar R. VII (Unauthorized Practice of Law) cases (\$108,182)

- investment income of \$52,394; however, there was also an increase in credit card processing fees and associated bank fees totaling \$260,835 for FY 2018. The result was a net cost of (-\$208,441) to the fund.
- revenue collected pursuant to Gov. Bar R. X (Attorney Continuing Legal Education) (\$442,955)
- revenue collected pursuant to Gov. Bar R. XII, Sec. 2(A)(4) (*Pro Hac Vice*) (\$566,100) of which \$281,400 was transferred to the Civil Justice Grant Program Fund and \$284,700 was transferred to the Bar Admissions Fund and are not part of Attorney Service's cash balance.
- voluntary donations to the Civil Justice Grant Program Fund (\$30,000) by attorneys and judges as part of the biennial attorney registration process.

The fund had an estimated average monthly cash and investment balance of \$15,991,514 in Fiscal Year 2018.

III. Report on Allocations for Fiscal Year 2019

The Supreme Court allocated \$10,040,033 from the Attorney Services Fund for the fiscal year beginning July 1, 2018. The allocations are made to nine entities representing twelve separate funds or activities.

Disciplinary-Related Expenses

The Court allocated \$6,085,867 (60.62% of total fund allocations) to support the operation of the disciplinary process. This figure includes separate allocations of \$3,271,080 to fund the Office of Disciplinary Counsel; \$864,787 to fund the operations of the Board on Professional Conduct; and \$1,950,000 to reimburse certified local grievance committees for their work in investigating and prosecuting disciplinary matters.

Lawyers' Fund for Client Protection

The operations of the Lawyers' Fund for Client Protection is funded by an allocation of \$451,208. An additional \$1,000,000 is allocated to replenish that entity's Trust Fund and ensure a sufficient fund balance. These allocations represent 14.45% of the total fund allocations.



Attorney Services Administration

A total of \$1,337,958 (13.33% of total fund allocations) was allocated to fund the activities of the Attorney Services Division of the Supreme Court. This allocation includes: (1) \$1,072,187 to the Office of Attorney Services; (2) \$8,500 to support the operation of the Board on the Unauthorized Practice of Law and an additional \$80,000 to reimburse bar associations for costs incurred in investigating and prosecuting allegations of the unauthorized practice of law; (3) \$172,071 to support the activities of Commission on Professionalism; and (4) \$5,200 to support the activities of the Commission on Certification of Attorneys as Specialists.

Discretionary Grants

The Court approved a grant of \$400,000 to the Ohio Legal Assistance Foundation for its work in supporting the delivery of civil legal services to indigent persons. The Court also awarded a grant of \$765,000 to the Ohio Lawyers Assistance Program for alcohol, substance abuse, and mental health intervention programs. Together, these grants represent 3.98% and 7.62%, respectively, of the fund allocations for Fiscal Year 2019.

Figure 2—Fiscal Year 2019 Allocations





IV. Fund Balance and Projections

On June 30, 2018, the fund had a balance of \$12,909,671. In Fiscal Year 2019, the fund is projected to realize income of \$1,034,412 (including fees, reimbursements, and interest income) and expend an estimated \$10,039,133. On June 30, 2019, the fund will have an estimated balance of \$3,904,950.

V. Audit

The Auditor of State conducts a complete audit of the Attorney Services Fund on a regular basis. The audit occurs at the same time as the audit of other funds that are appropriated to or collected by the Supreme Court. The most recent audit was conducted in the summer of 2018 for the two-year fiscal biennium ending June 30, 2018. At this point we are not aware of any findings or instances of noncompliance or internal control weaknesses reported for the Attorney Services Fund. The audit report is not expected to be released by the Auditor of the State until December 2018.

VI. Investment Policy

Attorney registration fees are deposited directly into a bank lockbox maintained by U.S. Bank where they are invested in financial instruments. U.S. Bank was selected to maintain the fund's lockbox through a competitive bid process for moneys deposited and collected in FY 2018.

The fund's moneys are managed in a conservative, risk-averse manner through investments made in compliance with the Uniform Depository Act, as set forth in Ohio Revised Code Chapter 135, and amended by the Investment Reform Act of 1996. These and other state and federal laws require that the fund's moneys not be placed at risk in the marketplace through investments in derivatives, reverse

purchase agreements, or any method of leveraging.

The fund's investments are primarily in federal money market accounts avoiding high bank insurance charges. The fund continues to seek more optimal investment options, as permitted by statute.

VII. Summary

The Attorney Services Fund allows the Supreme Court to maintain an effective and the practice of law, consistent with its responsibility under the Ohio Constitution. The fund also provides important financial resources to organizations that aid in the provision of legal services to the poor and assist lawyers who are suffering from alcoholism, substance abuse, or mental illness. All activities supported by the fund are invaluable in ensuring the public's continued trust and confidence in our legal system.

The fund is in a solid financial position and it is expected that it will maintain that position throughout Fiscal Year 2019.

VIII. Comments and Inquiries

Any comments and inquiries regarding this report or the fund may be directed to Stephanie E. Hess, Interim Administrative Director, or Gina White Palmer, Director of Attorney Services, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215-3431.

Schedule 1

Fund Expenditures FY 2017 and 2018/Allocations FY 2019

Office, Board, Commission	FY 2017 Expenditures	FY 2018 Allocations	FY 2018 Expenditures	% of FY 2018 Allocations Expended	FY 2019 Allocations	% of Total FY 2019 Allocations
Office of Disciplinary Counsel						
-Operations Budget	\$2,818,739	\$3,161,629	\$3,013,300	95.3%	\$3,271,080	32.6%
Board on Professional Conduct						
-Operations Budget	\$686,475	\$842,000	\$699,445	83.1%	\$864,787	8.6%
-Reimbursement of Expenses	\$1,923,718	\$1,950,000	\$1,849,671	94.9%	\$1,950,000	19.4%
Lawyers' Fund for Client Protection						
-Operations Budget	\$398,044	\$436,295	\$428,150	98.1%	\$451,208	4.5%
-Trust Fund	\$1,400,000	\$1,400,000	\$1,400,000	100.0%	\$1,000,000	10.0%
Office of Attorney Services						
-Operations Budget (1)	\$555,331	\$1,030,793	\$1,018,443	98.8%	\$1,072,187	10.7%
Board on the Unauthorized Practice of Law						
-Operations Budget	\$4,212	\$7,300	\$6,468	88.6%	\$8,500	0.1%
-Reimbursement of Expenses	\$74,344	\$85,000	\$25,502	30.0%	\$80,000	0.8%
Commission on Professionalism						
-Operations Budget	\$19,998	\$163,324	\$104,704	64.1%	\$172,071	1.7%
Commission on Certification of Attorneys as Specialists						
-Operations Budget	\$110	\$5,200	\$1,527	29.4%	\$5,200	0.1%
Ohio Legal Assistance Foundation						
-Grant	\$400,000	\$400,000	\$400,000	100.0%	\$400,000	4.0%
Ohio Lawyers Assistance Program						
-Grant	\$685,000	\$685,000	\$685,000	100.0%	\$765,000	7.6%
General/Miscellaneous						
	\$0	n/a	\$0	n/a	\$0	n/a
TOTAL	\$8,965,971	\$10,166,541	\$9,632,210	94.7%	\$10,040,033	100.0%

(1) For purposes of FY2018 Expenditures and FY2019 Allocations a total of four positions within the Office of Attorney Services were moved from the General Revenue Fund to the Operational Budgets of the Office of Attorney Services and the Commission on Professionalism, which accounts for the increase for FY2018 and FY2019 from those FY2017 Operational Budgets.



