

Discipline System Oversight Committee

State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016

February 12, 2024
1:00 p.m. – 3:00 p.m.
Location: State Bar of
Arizona

Open Session Minutes

MEMBER ATTENDANCE:

P = present in person; T = present telephonically; A = absent; Z = present Zoom

Justice Lopez (Chair)	Z
Mr. Dave Byers	Z
Mr. Joel F. England	P
Mr. Ted Schmidt	Z
Mr. Cortez Smith	Z
Ms. Robyn Austin	A
Mr. Ben Taylor	A

OTHER ATTENDEES: Judge David Cunanan

Guests:

State Bar Staff: Maret Vessella, Amy Rehm, Lori Palmer

Minutes taken by: Lori Palmer

Meeting Agenda

1. Welcome 1:01 p.m.
2. Call to the Public- No public joined.
3. Approve Minutes from September 15, 2023: Approved

4. Update on the discipline survey of the membership: Maret advised that the survey closed December 2023 and there was a 13% return rate. Preliminary data in March 2024 and complete report in April 2024.
5. Report from Independent Bar Counsel concerning elections cases: Judge Cunanan stated that in 2023 he had 5 cases and Judge McCarville had 11 or 12 cases that were passed the investigative stage. The goal is to get these cases closed. The election cases were filed in 2020 and 2022 and contain political overtones. These cases are not part of the regular discipline system and due to a conflict had to go to the Independent Bar Counsel. The IBC is not set up for this kind of volume of cases and that contributed to the delay in processing the cases. To date Judge Cunanan has 1 dismissed, 1 resolved by a consent agreement with 2 more working on consents and one that is going to be stayed due to personal issues with the Respondent. Once issues are resolved the case will be concluded. Judge McCarville has 1 dismissed with 2 more pending dismissal at the March ADPCC meeting and another 2 up for dismissal in the April ADPCC meeting. 2 of the cases the local jurisdictions are taking over. 1 or 2 more cases are going forward, with reprimands as this is the only discipline sanction that can be given in these cases.
6. Discussion of Bias Claims: Discussion about perceived bias in the discipline process and how Lawyer Regulation Department handles the claims. Rule 48 Ariz. R. S. Ct. details how a complaint can be filed against Bar Counsel. The complaint goes to the Attorney Discipline Probable Cause Committee and if they find probable cause the complaint goes to the IBC for further investigation. There have been only 1 or 2 bias complaints on Bar Counsel a year.
7. Executive Session: Discussion of Discipline Case
8. Schedule next Discipline System Oversight Committee meeting & discuss agenda: Next meeting to be in May 2024. Agenda for that meeting:
 1. Look at survey results.
 2. Follow up on executive session.
 3. IBC follow up on election cases.
 4. Mr. Taylor to bring one or two attorneys that are complaining about the discipline system and discuss their concerns. Will go into executive session for the discussion.
 5. Rule 53 Ariz. R. S. Ct rule change for complainants. Making the State Bar the complainant instead of third-party public members with no connection to the Respondents.
 6. Rule 48 Ariz. R. S. Ct. change to clarify the process of filing a complaint against Bar Counsel. Draft to DSOC and to court in April for court retreat.

End 2:32 pm