

Discipline System Oversight Committee

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

March 18, 2024
1:30 p.m. – 3:30 p.m.
Location: State Bar of
Arizona

**Public 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. Benjamin Taylor	P

OTHER ATTENDEES:

Guests: Michael Kielsky- Zoom, Sherre Wright- Present, Kina Harding- Zoom, Linda Brown-Zoom, Patricia Sallen- Present, Nancy Greenlee- Present, Donald Wilson-Zoom, and Jessica Kokal-Zoom,

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

Minutes taken by: Lori Palmer

Meeting Agenda

1. Welcome: 1:33 p.m.

Justice Lopez gave a brief overview to the guests on why the Discipline System Oversight Committee was established by OA 2019-145. The mission of the committee is to discuss closed cases and possible rule changes to make the discipline process as transparent and timely as possible.

Justice Lopez cautioned the guests not to speak about current open cases, as these are confidential and the need to protect attorneys in these cases.

2. Call to the Public: 1:40 p.m. The following guests had comments for the committee.

Michael Kielsky: He was the defendant in a bar proceeding and believes that the discipline system is broken, there is no accountability for Bar counsel and Bar counsel are exempt from ethical rules. Mr. Kielsky is an outspoken critic of the State Bar and may have been targeted. He believes that the request for sanctions in his case was overreaching.

Kina Harding: Ms. Harding is concerned that no one can enforce the rules against Bar counsel. She was at the last board meeting, and she believes that someone from the State Bar gave information to the public that should not have been given. Ms. Harding expressed the opinion that Bar counsel wouldn't receive the same scrutiny as other lawyers when they receive a bar charge. The outcome is not the same for Bar counsel as it is for other attorneys.

Ms. Brown was just observing the meeting and did not have any comments.

Nancy Greenlee: Ms. Greenlee is respondent's counsel and worked at the State Bar as Bar counsel starting in 1990 for six years. Ms. Greenlee stated that when working with Bar counsel they are concerned about the conduct and nothing else. She does not believe that Bar counsel consider the race, sex, or ethnicity of the attorneys. Bar counsel do not bring cases based on whether attorneys are solo, have a small firm or work for a larger firm. Bar counsel are held accountable for their actions and bar charges have been filed against bar counsel and investigated. The system does work most of the time and Bar counsel are doing their jobs.

Patricia Sallen: Ms. Sallen represents respondents and formerly worked at the bar. She stated that she has never seen any bias of any kind at the State Bar. There is a concern that it can take a long time for a case to get through the investigation stage but that is dependent on several factors including short staffing at the Bar, and respondents who don't respond to the Bar's letters and emails for information. The State Bar is waiting on Respondent's counsel for information. She explained that large firms have more resources including accounting departments which offer more protection against bar charges.

Donald Wilson: Mr. Wilson represents respondents and agreed with Ms. Greenlee and Ms. Sallen that there is no bias at the State Bar. Bar counsel gives Respondent's counsel all the information they need to help resolve the bar charge. The time that it can sometimes take to get a case through investigation and to the Presiding Disciplinary Judge can take too long. Probably lack of staffing at the Bar is one of the reasons for delay. Mr. Byers asked Mr. Wilson to share his ideas for improvement of the system.

Jessica Kokal was just observing the meeting and did not have any comments.

Sheree Wright: She rejected the opinions of the respondents' counsel and stated that in light of the fact that they earn their living representing lawyers in discipline proceedings they were

protecting their livelihoods. They don't understand racism. Bar counsel who are overseeing cases don't have real life experience.

Ms. Greenlee read a statement from Jim Belanger (respondent's counsel): There is one concern about how long the screening investigation can take. The length makes it expensive for solo attorneys. There is not enough staffing at the Bar to help get the screening investigations done quicker. Big firms have their own processes to discipline their attorneys.

Justice Lopez suggests that someone from the Bar to talk to the committee about Bar counsel getting bar chargers and dispel the perception that Bar counsel don't get bar charges.

Ms. Vessella went over Rule48(m) which details the process of filing a bar charge against Bar counsel. The charge goes to the Attorney Discipline Probable Cause Committee who can docket the charge for screening and send it to the Independent Bar counsel for investigation.

3. Minutes passed from the February 12, 2024, meeting.
4. Executive Session: Follow up discussion of discipline cases.
5. Agenda for the May meeting:
 - A. Update on survey results.
 - B. Discuss Mr. Byers suggestion of doing a public survey about the State Bar.
 - C. Talk about ways to educate the Board of Governors about the discipline process.
 - D. IBC update on election cases.
 - E. Executive session to follow up from March meeting.

End 3:50 p.m.