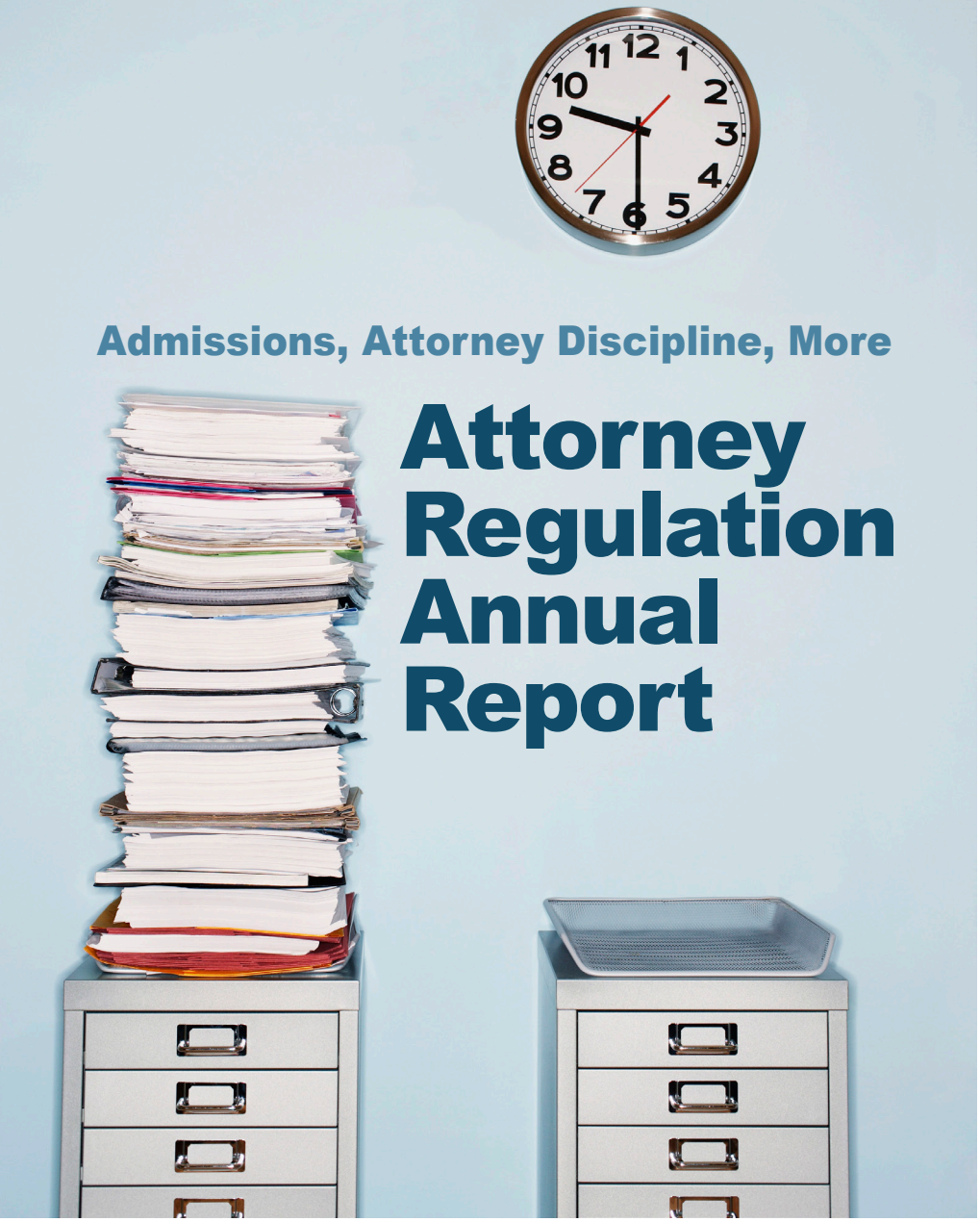
STATE BAR OF ARIZONA



Admissions, Attorney Discipline, More

Attorney Regulation Annual Report

In 2009, the Chief Justice of the Supreme Court of Arizona established a Lawyer Discipline Task Force to review the lawyer discipline system. At the conclusion of its work, the Task Force recommended in part that the Court create an advisory committee to monitor the implementation of the new discipline process and to regularly review the attorney exam and admissions process and the discipline system to make recommendations regarding any further changes. Upon this recommendation the Supreme Court issued Administrative Order 2011-44 which established the Attorney Regulation Advisory Committee ("ARC") and set forth its purpose:

> "The Committee shall review rules governing attorney examination, admissions, reinstatement, and the disability and disciplinary process and make recommendations to the Supreme Court on how these rules of the attorney regulation system can be revised to reinforce lawyer competency and professionalism and strengthen the Supreme Court's oversight of the regulation and practice of law in this state…"

The Court also directed ARC to submit an annual report by April 30 of each year, and the report is to include case statistics on the processing of attorney examinations and admissions, attorney discipline cases and any recommendations on specific issues addressed by ARC during the year. ARC's annual report was filed on April 27, 2017, and the following are excerpts from that report.

The Examination/Admission Process and Statistics Update

Arizona adopted the Uniform Bar Examination ("UBE") in 2012 and has testing opportunities twice a year in February and July. A total of 505 applicants passed the Arizona Uniform Bar Examination in 2016, yielding an overall pass rate of 51 percent. **725 new attorneys were admitted in 2016**: 192 by admission on motion, 53 via imported UBE scores earned elsewhere, 1 military spouse admission and 479 by exam.

ARC Action Related to Admission Issues

In 2016, the Committee on Character and Fitness focused on implementation of the 2015 Rule changes and Guidelines. An additional Rule change adopted in 2016 provided for the ability of parties to request documents, primarily medical and psychological reports, be sealed by the Clerk of the Supreme Court.

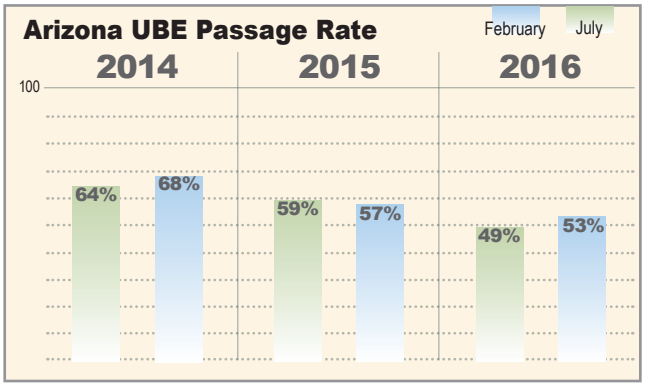
Guidelines

In June 2015, the Supreme Court issued specific guidance to the Committee on Character and Fitness regarding substance abuse and financial irresponsibility. In response, the Committee on Character and Fitness began implementing the Guidelines while evaluating whether an applicant met the application burden to demonstrate fitness to be admitted to the Bar. While the Guidelines caused no noticeable change in the number of hearings in 2015, informal inquiries triggered by a history of substance abuse and financial issues increased by 10 in 2016. The Guidelines are available at: www.azcourts.gov/Portals/26/admis/2015/NewCFGuidlines72015WebPostingFINAL.pdf

Other Admissions Issues

Early Examination. In 2012, the Court approved a pilot program of early testing for law students in their last semester of law school, provided the semester was structured to allow for study and student engagement. In June 2016, ARC filed a supplemental report

Read the complete attorney regulation report online:
www.azcourts.gov/Portals/108/pdf/04-27-17%20ARC%20Report%20for%202017%20FINALTOCOURT.pdf



with final recommendations regarding early testing as ordered by the Supreme Court. The report can be found online at: www.azcourts.gov/arc/Meetings/June-Meeting-Materials

The Supreme Court officially amended Rule 34 to allow early testing as a permanent admission option effective January 1, 2017.

Lawyer Regulation

The following comparative statistics are provided by the State Bar of Arizona, the Attorney Discipline Probable Cause Committee ("ADPCC") and the Presiding Disciplinary Judge ("PDJ"). (The State Bar, ADPCC and the PDJ have distinct responsibilities and capture data in slightly different ways to best reflect the performance of those responsibilities.) The statistics provide a snapshot of the regulatory process, from intake and processing of complaints, investigation and resolution, either through closure, consent, presentation to and disposition by the ADPCC, and through the formal complaint process with orders issued by the PDJ, and review by the Arizona Supreme Court.

Number of Attorneys Licensed to Practice

2014	2015	2016
23,426	23,794	24,088

Intake and Investigative Process

The Intake process is designed to achieve two specific goals: (1) resolve the greatest number of inquiries/charges at the earliest stage of the process, and (2) expeditiously move the most serious charges of misconduct into the investigation phase.

Complainants are encouraged to talk with an Intake lawyer before submitting a written charge. This approach has personalized the process and has allowed for a better and timelier evaluation of the complainant's concerns. Many charges received by Lawyer Regulation represent allegations of low-level misconduct (such as lack of communication with the client) that can be appropriately resolved by means of providing instruction to the lawyer, or directing the lawyer to resources that will quickly resolve the issue. The system provides for immediate outreach to complainants and lawyers, which provides opportunities for lawyers to resolve the issue and complainants to receive an expedient resolution.

In all cases where the State Bar decides not to proceed to investigation, the rules require an explanation to complainants regarding that decision.

The charges that are not resolved in Intake are moved on to investigation. The process of determining what charges are referred for investigation usually includes securing a written statement from the complainant and often includes gathering additional information.

Intake and Investigation

	2014	2015	2016
Total charges received	3,549	3,127	3,569
Number of charges referred to investigation	751	664	744
Number of lawyers investigated relative to the charges referred	422	391	499
Percentage of complaints resolved in Intake (closed)	71%	81%	71%
Average days to resolve complaints in Intake (closed)	29	27	27
Average days to refer from Intake to Investigation	24	27	28
Average days for investigation	247	200	161

Attorney Discipline Probable Cause Committee

The Attorney Discipline Probable Cause Committee is a permanent committee of the Supreme Court. (*See* Rule 50.) The ADPCC has three public members and six attorney members, and it meets monthly to review the Bar's recommendations on charges. This committee is the gatekeeper for the discipline system, and it benefits from the public members' participation and their insight. After deliberation, the ADPCC may direct bar counsel to conduct further investigation, dismiss the allegations, or order one or more of the following: diversion, admonition, probation, restitution, and assessment of costs and expenses.

In addition, if the committee believes the ethics violation(s) in question could justify the imposition of a reprimand, suspension or disbarment, it can authorize the State Bar to file a formal complaint with the Presiding Disciplinary Judge.

Before each monthly meeting, the State Bar provides each respondent with a written report of investigation that includes the Bar's recommendation on the case. Respondent may provide a written response to the ADPCC. Pursuant to Rule 55(b)(2)(B), the State Bar also informs the complainant of the recommendation and the right to submit a written objection to that recommendation.

At each meeting, the Bar presents its cases orally and ADPCC members may ask questions, request additional facts, challenge the Bar's recommendations or offer their own recommendations. In 2016, the ADPCC rejected or modified the State Bar's recommendation in 22 cases. In 10 cases, the ADPCC increased the severity of the recommended sanction or disposition. In 12 cases, it decreased the State Bar's recommended sanction or disposition. The ADPCC meetings are confidential, and are not open to respondents, complainants or the public.

Formal Cases

Office of the Presiding Disciplinary Judge

The Presiding Disciplinary Judge

presides over attorney regulation proceedings. The Chief Justice appoints a pool of volunteer attorney and public members to serve on hearing panels. Each three-member hearing panel is composed of the Presiding Disciplinary Judge, one volunteer attorney member and one public member assigned by the disciplinary clerk. The hearing panels have statewide jurisdiction over proceedings on complaints of misconduct, applications for reinstatement, contempt and any other matters designated by the Court. In those matters, the hearing panels prepare findings of fact and conclusions of law. In discipline proceedings the hearing panel issues a final judgment, subject to appeal to the Court. While their judgments are final they do not serve as *stare decisis* precedent for future cases nor constitute law. In reinstatement matters, the hearing panel makes a report and recommendation to the Court. The disposition of the matter by the Court establishes the finality of each particular report and recommendation. The Office of the Presiding Disciplinary Judge is comprised of three individuals, Judge William J. O'Neil, Paralegal Michele Smith and Disciplinary Clerk Amanda McQueen.

Under Rule 46(f)(1), the Disciplinary Clerk is designated by the Court to be the custodian of the record in all discipline, disability, and reinstatement proceedings and maintains the record. Under Supreme Court Rule 51, the PDJ may impose discipline on an attorney, transfer an attorney to disability inactive status and serve as a member of a hearing panel in discipline, disability proceedings and reinstatement hearings. Formal matters include complaints, direct consent agreements, petitions for reinstatement, petitions for interim suspension and petitions for transfer to disability. The PDJ, also reviews and issues orders on reciprocal proceedings and affidavit- based reinstatement requests under Rule 64. Rule 64 reinstatements do not require a hearing, however they allow State Bar objection and require the approval of the PDJ.

Using hearing panels has provided additional public insight and participation for the lawyer regulation system that protects the public and provides transparency. The PDJ has the authority to issue a final judgment or order imposing any sanction, including disbarment. Statistically, using the PDJ has streamlined the processing of formal proceedings.

Number of Formal Matters, Consent Agreements, Interim Suspension, and Reciprocal Cases for the Past Three Years

	2014	2015	2016
Formal Matters	67	97	85
Pre-Complaint Consent Agreements	18	41	26
Post-Complaint Consent Agreements	32	32	22
Interim Suspension	3	3	6
Reciprocal Discipline	1	4	6

Average Time to Order for Formal Matters: These include both formal complaints and pre-complaint consent agreements. Pre-complaint consent agreements may be filed in lieu of a formal complaint. Pre-complaint consent agreements are a subset of the numbers in the formal-matters row. The charts below describe the average time from formal Complaint to order for all cases, contested cases, consent agreements and defaults.

Sanctions or Outcomes for Formal Matters: Matters handled by the PDJ may result in various sanctions or outcomes including discipline, diversion or dismissal; protective orders; resignation orders; and reinstatements. The charts on this page describe the sanctions or outcomes for the last three years.

Average Time From Formal Complaint to Decision Order for All Types of Cases

	2014	2015	2016
Number of Days	96	91	108

Average Time From Formal Complaint to Decision Order for Contested Cases

	2014	2015	2016
Number of Days	151	131	148

Average Time From Formal Complaint to Final Order for Consent Agreements

	2014	2015	2016
Number of Days	85	52	107

Sanctions and Outcomes[1]

	2014	2015	2016
Disbarment	13	13	14
Suspension	38	39	41
Reprimanded	18	25	24
Hearing Panel Dismissals	2	2	2
Informal Sanctions by ADPCC	39	80	66
Diversions by ADPCC	73	86	71

1. This chart provides statistics of orders issued by the Presiding Disciplinary Judge as of Dec. 31, 2016, and may include orders that were on appeal to the Supreme Court.

Potential Issues for ARC in 2017

ARC has identified the following issues in the attorney discipline and admissions areas that it intends to explore for the upcoming year:

- Review of Rule 38 and, in particular, the requirements related to the registration of and subsequent regulation of legal service organizations.
- Such other matters as may be referred to the Committee by the Supreme Court.