State Bar *of* Texas
Commission for Lawyer Discipline
— Annual Report —

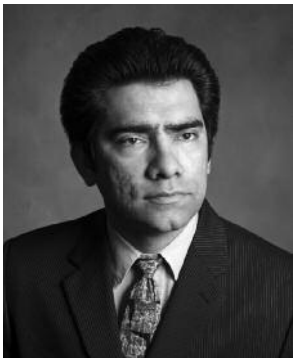
June 1, 2017 – May 31, 2018

The Lawyer's Oath

"I do solemnly swear that I will support
the Constitutions of the United States,
and of this State; that I will honestly demean myself
in the practice of law; that I will discharge my duties
to my clients to the best of my ability;
and, that I will conduct myself with integrity
and civility in dealing and communicating
with the court and all parties.
So help me God."

From the Chair of the Commission for Lawyer Discipline

August 31, 2018



On behalf of the Commission for Lawyer Discipline, the information contained in this report is submitted on the attorney disciplinary system for the State of Texas for the period of June 1, 2017, through May 31, 2018. Some of the highlights from the past year are:

- The Commission successfully resolved 490 complaints through the imposition of 332 sanctions and collected $294,763 in attorneys' fees;
- The Commission continued its efforts to combat professional misconduct in the area of immigration by resolving 46 complaints through the imposition of nine sanctions.
- The Chief Disciplinary Counsel assisted the Client Security Fund Subcommittee in reviewing 222 applications and approving more than $900,000 in grants;
- CDC implemented online access to public disciplinary judgments via attorneys' state bar profile pages;
- CDC developed a procedure for obtaining regular reports from the ABA National Lawyer Regulatory Data Bank for potential reciprocal discipline actions;
- Chief Disciplinary Counsel Linda Acevedo published an article discussing the statutory changes that were put in place as a result of the most recent legislative session; and
- CDC created a centralized system for inquiries and any required action regarding cessation of a lawyer's practice.

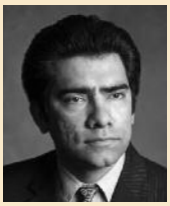
The volunteer members of the Commission continued to strive to protect the public and to ensure the disciplinary process is as fair and as consistent as possible. It is an honor to serve with them.

Pablo J. Almaguer
Chair of the Commission for Lawyer Discipline

Commission for Lawyer Discipline

The Commission for Lawyer Discipline is a standing committee of the State Bar of Texas and serves as the client in the Texas attorney discipline system. The Commission provides oversight to the Office of Chief Disciplinary Counsel, which administers the attorney discipline system. The Commission works closely with the State Bar Board of Directors and makes quarterly reports to the board on the administrative functions of the Commission as well as important issues within the grievance process. Professional responsibility and public protection are priorities of the State Bar of Texas, and oversight, funding, and support of the disciplinary system is in the best interest of all Texas attorneys as they provide ethical representation to their clients. State Bar directors play a critical role in the discipline system as they recommend both lawyers and non-lawyers to the State Bar president for appointment to local grievance committees. The Commission is composed of 12 members: six attorneys appointed by the president of the State Bar and six public members appointed by the Supreme Court of Texas.

ATTORNEY MEMBERS



Pablo Javier Almaguer, Chair of the Commission, is the director of private bar and government relations for Texas RioGrande Legal Aid Inc. He earned his B.A. in political science from the University of Texas-Pan American in 1994 and his law degree from Chicago-Kent College of Law in 1997. In 2017, he received an honorary degree from Wheelock College for his advocacy on behalf of women, children, and families. He served as president of the Hidalgo County Bar Association/Hidalgo County Bar Foundation from 2007 to 2008, and previously served as president of the board of directors of the Texas Civil Rights Project. He was the first legal services attorney to serve on the board of directors of the State Bar of Texas, from 2008 to 2012, and was the first legal services attorney to serve as chair, from 2010 to 2011.

Noelle M. Reed, vice chair, heads the Houston litigation practice for Skadden, Arps, Slate, Meagher & Flom. She has extensive experience representing clients in complex litigation in state and federal trial and appellate courts and arbitrations. She obtained her B.A. from Boston University in 1991 and her law degree from Harvard Law School in 1996.

John Neal is a graduate of Georgia State University and Cumberland School of Law at Samford University. He began his legal career in the firm of Neal, Neal, Richie and Hill, which emphasized litigation in state and federal court. He served as district attorney of the 90th Judicial District from 1986 to 1996. He was named chief of the criminal prosecutions division in 1996 and served under Attorneys General Dan Morales, John Cornyn, and Greg Abbott. Neal served as chief disciplinary counsel for the State Bar of Texas from 2005 to 2009 and as first assistant district attorney for the Travis County District Attorney's Office. He is certified in criminal law by the Texas Board of Legal Specialization.

Bruce Ashworth is a solo practitioner in Arlington, where his practice focuses on criminal and personal injury law. He is certified in criminal law by the Texas Board of Legal Specialization. Ashworth previously served as a local grievance committee member and as president of the Tarrant County Bar Association and the Arlington Bar Association. He earned his law degree from Texas Southern University Thurgood Marshall School of Law in 1982.

Gena Bunn is a solo practitioner in Longview, where she practices criminal defense with a particular emphasis on criminal appeals. She previously served as chief of the Capital Litigation Division and the Postconviction Litigation Division at the Attorney General's Office in Austin, representing the state in federal court appeals of state court convictions. Bunn argued numerous federal habeas corpus cases in the United States Supreme Court and the 5th U.S. Circuit Court of Appeals in New Orleans. She graduated from the University of Texas with a Bachelor of Journalism and received her law degree from Baylor Law School.

Magali Suarez Candler is certified in immigration and nationality law by the Texas Board of Legal Specialization and is a member of the American Immigration Lawyers Association, or AILA. She serves on the AILA Executive Office for Immigration Review Liaison Committee, advocating on a national basis. She is a past chair of the Texas Chapter of AILA and previously served as vice chair, treasurer, secretary, asylum office liaison, and liaison for the Houston Executive Office for Immigration Review. She served on the State Bar of Texas Laws Relating to Immigration and Nationality Committee from 1998 to 2003. She also served on the University of Houston Law Foundation Board from 1999 to 2003.

PUBLIC MEMBERS

Teresa Acosta of El Paso was appointed to the Commission in 2012. She retired from the U.S. Courts, Western District of Texas, as assistant deputy chief U.S. probation officer. She previously was employed by the U.S. House of Representatives in the office of the congressman for the 16th Congressional District of Texas. Currently, she is employed as adjunct faculty at El Paso Community College, where she teaches American government and politics. Acosta earned an M.P.A. and a B.A. in journalism from the University of Texas at El Paso. From 2008 to 2012, she served on the District 17 Grievance Committee.

Dave Obergfell was appointed to the Commission in 2014. He retired from banking in 1995 after a 25-year career in the corporate trust department of several banks. He began a consulting career in 1995, advising parties in various bankruptcy situations, and retired from consulting in December 2014.

William Skrobarczyk is a partner in the CPA firm of Skrobarczyk & Partridge. Prior to his appointment to the Commission in 2014, he served on the District 11 Grievance Committee from 2008 to 2014. He earned an M.B.A. and a B.A. from Texas A&M University-Corpus Christi.

Vance Goss works in the commercial real estate business in the Bryan-College Station area with Clark Isenhour Real Estate Services LLC. Previously, he owned and operated Brazos Record Storage, a commercial records management and destruction business. Prior to his appointment to the Commission in 2015, Goss served on the District 8 Grievance Committee.

Javier S. Vera is a CPA, a U.S. licensed custom broker, and CFO of Roser & J. Cowen Logistical Services, Ltd., in Brownsville. He began his career working for Grant Thornton International, an international public accounting firm, and was a senior audit manager. He serves as an alderman for the town of Rancho Viejo. He has also served on various boards, nonprofits, and civic organizations. Prior to his appointment to the Commission in 2015, Vera served on the District 12 Grievance Committee from 2010 to 2015. Vera graduated from the University of Texas at Austin with a B.B.A. in accounting in 1982.

Sheri Roach Brosier has lived in Amarillo all her life and is married with three children. She is a third-generation rancher, helping operate T.L. Roach & Son Allen Creek Ranch near Clarendon. She loves serving her community and volunteering for various civic organizations. She served on the District 13 Grievance Committee from 2001 to 2007.

Ethics Helpline — (800) 532-3947

The Ethics Helpline received more than 6,000 contacts from Texas lawyers seeking advice regarding conflicts, confidentiality, safekeeping property, termination of representation, candor to the tribunal and fairness in adjudicatory proceedings, communicating with represented persons, fee-splitting or engaging in business with non-lawyers, advertising and solicitation, and the duty to report misconduct.

2017-2018 Highlights

LEGISLATIVE CHANGES TO DISCIPLINARY PROCESS

Effective June 1, 2018, the Texas Supreme Court adopted the Texas Legislature's revisions to the State Bar Act through amendments to the Texas Rules of Disciplinary Procedure. These amendments are all designed to improve the attorney discipline system and to enhance public protection through increased access and oversight and will apply to grievances filed on or after June 1, 2018.

Early Referral to the Client-Attorney Assistance Program: Referral of grievances to CAAP, the State Bar's voluntary mediation and dispute resolution division, during the initial screening process is designed to foster earlier resolution of disputes.

Codification of the Grievance Referral Program: GRP is CDC's diversionary program within the discipline system designed to identify and assist lawyers who have impairment or performance issues. Codification of GRP's parameters in the Texas Rules of Disciplinary Procedure will allow the program to be utilized prior to litigation.

New Disciplinary Sanction Guidelines: Disciplinary sanction guidelines for grievance committees and district courts follow the basic structure of the American Bar Association Standards for Imposing Sanctions. Specifically, when determining a sanction, the trier of fact will consider the ethical duty violated; the respondent's level of culpability; potential or actual injury caused by the respondent attorney's misconduct; and the existence of aggravating or mitigating factors.

Investigation of Complaints: During the investigation of a complaint, CDC can issue subpoenas approved by the grievance committee chair, set a matter for an investigatory hearing, and enter into a negotiated sanction with the respondent lawyer before the matter reaches litigation. The respondent or witness may object to a subpoena, and investigatory hearings held are non-adversarial in nature and cannot result in any sanction being entered against a respondent lawyer without his or her consent.

Other legislative directives aimed at improved access, transparency, and accountability include:

Public Access to Disciplinary Records: Public disciplinary records may now be accessed via a lawyer's public profile page on the bar's website, including a copy of the actual judgment against the attorney.

Ombudsman for the Attorney Discipline System: This new position will answer questions from the public about the disciplinary process and respond to complaints to help ensure that CDC followed proper procedures in addressing grievances. This attorney will report directly to the Texas Supreme Court.

New Reporting Requirements: Under the new legislation, the commission and CDC will include information associating rule violations with the sanction imposed, whether the sanction aligns with the new sanction guidelines, specifying the grievance committee panel or district court that entered the sanction, figures regarding race and gender, and other sufficient information to evaluate and track disciplinary trends over time. In addition, data relating to the number and final disposition of grievances filed, dismissed, investigated, and disciplinary decisions issued relating to barratry-related grievances will be reported, as well as CDC's cooperation with local, state, and federal agencies in barratry investigations and prosecutions of civil or criminal offenses related to barratry.

Self-Reporting Rule and Additional Monitoring Tools: The amended rule requires a lawyer to notify CDC when the lawyer has been convicted or placed on probation with or without an adjudication of guilt by any court for barratry, any felony, or for certain crimes. It also requires a lawyer to notify CDC when the lawyer has been disciplined by the attorney-regulatory agency of another jurisdiction within 30 days of the judgment.

PROTECTING THE PUBLIC 2017-2018 SNAPSHOT

Total Disciplinary Sanctions 332

***Total Complaints Resolved 490**

Disbarments 21

Resignations in Lieu of Discipline 23

Suspensions 116

Public Reprimands 25

Private Reprimands 70

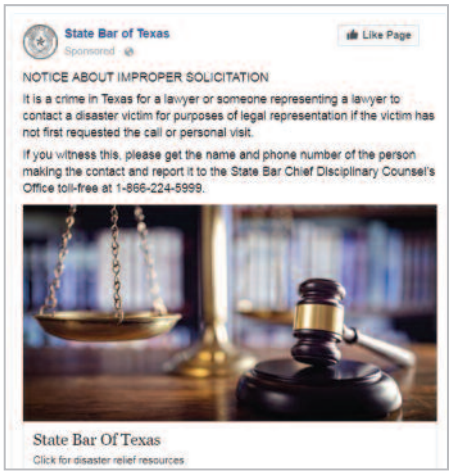
Grievance Referral Program 77

- $294,763 in attorneys' fees collected from respondent attorneys as part of a sanction
- $901,718.68 in funds approved for victims of attorney misconduct by the State Bar of Texas Client Security Fund
- More than 6,000 ethics calls were handled by the State Bar of Texas Ethics Helpline
- 17,868 calls to the grievance helpline were handled by the State Bar Client-Attorney Assistance Program
- More than 3,300 lawyer advertisements reviewed by the State Bar Advertising Review Committee

* Each sanction entered may have involved complaints filed by more than one complainant.

HURRICANE HARVEY FACEBOOK AD

For three months in 2017, after the flooding in Houston following Hurricane Harvey, CDC ran a Facebook ad designed to warn the public about the possibility of barratry. The ad was quite effective for a minimal amount of money, reaching more than 30,000 people in the Houston area.



HOSTING THE NCPO ANNUAL WORKSHOP

Texas hosted the annual workshop for the National Client Protection Organization on September 26-27, 2017. The NCPO is an association of and educational resource for the exchange of information among law client protection funds throughout the United States and Canada. Topics at the workshop included ways in which fund administrators can cooperate with disciplinary counsel and the increasing need to collaborate with states' lawyer assistance programs. The topic that drew the most discussion, however, was the presentation on lawyer misconduct in immigration law, given by CDC's San Antonio regional counsel James Ehler. CDC's attorneys have significant experience in investigating grievances regarding immigration attorneys and have forged strong relationships with immigration authorities and the courts. As the legal issues surrounding immigration start to affect the rest of the country, fund administrators from other jurisdictions look to Texas for assistance and support when it comes to investigating claims and navigating the intricacies of immigration law.

Deputy Counsel for Litigation speaks to members of the National Client Protection Organization regarding misconduct in immigration-related cases.

GRP ADMINISTRATOR OUTREACH

In March 2018, the *Texas Bar Journal* ran an article written by Diana Reinhart, CDC's administrator for the Grievance Referral Program. The article provided readers with information on self-assessment tools that allow attorneys to measure whether their law practices are running effectively and ethically.

UPLC PARTICIPATION AT ABA CONFERENCE

On October 26-27, 2017, members of the Unlicensed Practice of Law Committee spoke in Chicago at the American Bar Association's third annual school on the unauthorized practice of law. Bill Gameros and Leland de la Garza spoke at two sessions, "UPL Across State Borders" and "Litigation Strategies."

CENTRALIZED COORDINATION OF CESSATION OF PRACTICE

CDC has historically provided assistance to attorneys that are looking to end their law practices or attorneys that are assuming the law practices of other attorneys after death or disability. During the past bar year, CDC centralized its assistance with these issues by providing one point of contact, CDC attorney Dean Schaffer. In the first 8 months of the program, communications to the cessations docket prompted action on 125 law practices. In some instances, the only action item was a brief phone call; in other instances, the law practice was taken to court-ordered custodianship. Of the law practices that were the subject of calls, 62 percent pertained to deceased attorneys; 16 percent to attorneys who were disbarred, suspended, or resigned in lieu of discipline; and 3 percent to attorneys who were inactive or had voluntarily resigned. In addition, 18 percent concerned situations to evaluate for "prospective" cessation.

As the profession confronts massive change brought on by technology and the evolution of legal markets—and the concomitant challenge of lawyer wellness issues—bar associations throughout the country are trying to come to terms with succession planning. CDC's pilot program highlights the need to finish, emphasizing that effective cessation is an achievement, while at the same time exploring new ground for interventional and positive discipline.

IMMIGRATION

Immigration-related attorney misconduct continues to be one of the biggest concerns for CDC. Given the growing national focus on immigration, this is unlikely to change in the near future. As a result, CDC has formed close relationships with immigration officials, local law enforcement, and the Spanish-language press, in an effort to raise awareness about what to do when an immigration attorney engages in misconduct.

In 2017-2018, CDC resolved 46 complaints regarding immigration attorneys, by obtaining two private reprimands, two public reprimands, three suspensions, and two resignations in lieu of discipline, as well as disposing of one case via CDC's remedial and rehabilitative Grievance Referral Program.

GENDER AND RACE 2017-2018 SNAPSHOT

Total Disciplinary Sanctions 332

GENDER:

Male Respondents 77%

Female Respondents 23%

RACE:

White/Caucasian 62%

Hispanic/Latino 14%

Black/African American 12%

Asian 1%

Other/Not Specified 9%

The information regarding race and gender is based on information voluntarily provided by bar membership in the attorney profiles maintained by the State Bar of Texas and is therefore not a complete picture of gender and racial statistical information.

Dave Obergfell, public member of the Commission for Lawyer Discipline, passed away on July 29, 2018. He was an integral part of the Commission, approaching his duties with compassion, integrity and humor. He left behind his wife of 48 years, Jackie, as well as three children and ten grandchildren. He will be greatly missed.

Members of the 2017-2018 Commission for Lawyer Discipline.

From left: Chief Disciplinary Counsel Linda Acevedo, Deputy Counsel for Litigation James Ehler, Dallas Regional Counsel Tonya Harlan, Houston Regional Counsel Bill Moore, and Deputy Counsel for Administration Laura Popps.

"Your approach to my situation and the handling of it has been excellent. I found our phone conversations helpful. Your suggestions on handling clients will be followed from here forward."

Recognizing Volunteers

Currently, 344 Texans serve on local grievance committees.

Two-thirds are lawyers.

One-third are public members.

Collectively, they volunteer thousands of hours each year to protect the public.

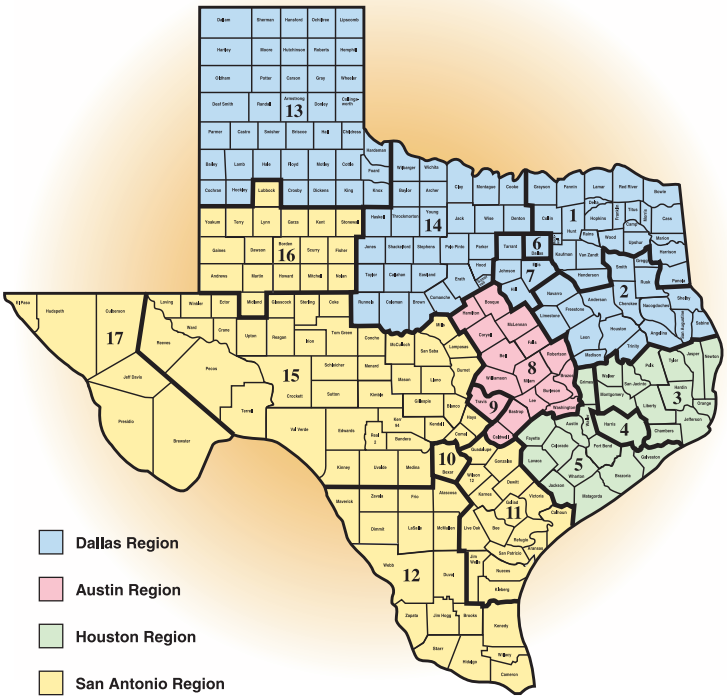
Office of Chief Disciplinary Counsel

The Texas attorney discipline system is administered by the Office of Chief Disciplinary Counsel, which is designed to be the "bar's law office," and whose work is overseen by the Commission for Lawyer Discipline. CDC represents the Commission in disciplinary litigation. Professionalism and results are directly tied to the public's perception of the ability of the State Bar of Texas to discipline its own lawyers and protect the public from unethical practitioners. In recognition of this close connection, emphasis is placed on the quality of disciplinary prosecutions, identification of disability or impairment problems, solutions for attorneys in need of law practice management or other basic skills, and innovative ways to maintain open communication between the public and the bar.

STAFFING AND TRAINING

The Office of Chief Disciplinary Counsel operates the discipline system with 94 full-time employees, including 36 lawyers, 12 investigators, 32 legal support staff members, 10 administrative support staff members, and four administrative managers.

In addition to its headquarters in Austin, CDC has regional offices in San Antonio, Dallas, and Houston. Each regional office is responsible for the investigation and prosecution of disciplinary matters within its region and is managed by a regional counsel. CDC provides two comprehensive in-house orientation programs for all newly hired employees statewide — one for lawyers and one for non-lawyer staff. The orientation is held on the employee's first day of work and provides an overview of the core functions of the organization as a whole, as well as a detailed review of the work of CDC.



On October 4-6, 2017, CDC held an attorney workshop for its attorneys in San Antonio. The workshop included presentations by outside speakers in the areas of immigration and family law, as well as the Texas Lawyers' Assistance Program; an ethics opinion update; an appellate law update; a discussion on the client security fund; an update on grievance referrals; and detailed discussion of the new rules.

In addition, on April 4-6, 2018, CDC held a workshop for investigators. Presentations included talks by outside speakers in the areas of use of social media in investigations; digital forensics; the exoneration of Michael Morton and the associated legislation; and the new rules.

Criminal defense attorney Jorge Aristotelidis speaks to CDC attorneys about the interplay between criminal and immigration law.

Chris Ritter from the Texas Lawyers' Assistance Program briefed CDC attorneys on updates to the program.

ATTORNEY ETHICS HELPLINE

CDC maintains, as a service to the members of the bar, a toll-free Attorney Ethics Helpline, operated from 8 a.m. to 5 p.m. Monday through Friday.

The helpline is designed to assist Texas attorneys who have questions about their ethical obligations to clients, courts, and the public under the Texas Disciplinary Rules of Professional Conduct. The information disseminated is designed to give attorneys access to rules, ethics opinions, and caselaw so that an attorney can make an informed decision about an ethics issue. Pursuant to the policy of the State Bar Board of Directors, the chief disciplinary counsel and her staff are not permitted to issue written opinions or advice.

The Attorney Ethics Helpline does not provide legal assistance to the general public and cannot address questions concerning pending grievances.

During the 2017-2018 bar year, two ethics attorneys returned more than 6,000 calls to the Ethics Helpline. Brad Johnson, an ethics attorney since 2016, left the State Bar, and Rita Alister was hired to fill the position. She has several years of experience with the Office of Chief Disciplinary Counsel and is knowledgeable about the disciplinary rules. Ellen Pitluk continues to serve as an ethics attorney with more than 10 years of experience in this position and as the staff liaison to the Professional Ethics Committee.

THE ATTORNEY ETHICS HELPLINE NUMBER IS (800) 532-3947.

STATEWIDE COMPLIANCE MONITOR

Disciplinary judgments often require that respondents refund all or part of the attorneys' fees paid to them by clients harmed by misconduct and pay the Commission for the attorneys' fees and costs incurred in prosecuting the disciplinary action. Terms of license suspension may also contain requirements directed toward changing lawyer behavior, for example, completing additional continuing legal education in the area of law practice management, assigning of a law practice monitor, auditing of the lawyer's trust account, or participating in treatment programs for mental health or substance use disorders. This results in frequent referrals to other bar programs such as TexasBarCLE and the Texas Lawyers' Assistance Program.

The statewide compliance monitor, Heather White, is housed in the Austin office, which enables her to manage the compliance caseload in a centralized and more consistent manner. She is assisted by Diana Reinhart, the Grievance Referral Program administrator, in cases involving rehabilitative terms of suspension. At the close of the 2017-2018 bar year, White had 260 active cases and had resolved 274 cases. As a matter of office policy, immediate payment of restitution is required in most cases involving agreed disciplinary judgments. An additional $130,059 in restitution was collected in the 2017-2018 bar year in cases involving agreed judgments, non-agreed judgments, respondent defaults, and reinstatements. The centralized compliance process contributed to $294,763 in attorneys' fees collections for 2017-2018.

MEDIA INQUIRIES REGARDING THE DISCIPLINARY SYSTEM SHOULD BE DIRECTED TO:

Claire Reynolds
Public Affairs Counsel
Office of Chief Disciplinary Counsel
(512) 427-1354
creynolds@texasbar.com

CLIENT SECURITY FUND

Every state in the U.S. and province in Canada has some form of client protection fund. Texas' fund is called the Client Security Fund and holds more than $2 million in its corpus. Payouts are funded through an annual appropriation from the bar, interest on the corpus, and any restitution received.

Unless the lawyer is already disbarred, resigned in lieu of discipline, or deceased, eligible applicants must file a grievance that results in findings that the lawyer stole the client's money or failed to refund an unearned fee. Applicants must present proof of their losses and meet the statute of limitations for the fund, which is 18 months following the date of the disciplinary judgment.

Applications to the fund are reviewed and acted upon by the Client Security Fund Subcommittee, a standing subcommittee of the State Bar Board of Directors. CDC, through Claire Reynolds, serves as the administrator and legal counsel to the fund.

Reynolds is responsible for conducting investigations on applications and presenting recommendations to the subcommittee. In the 2017-2018 bar year, Reynolds presented 222 applications to the subcommittee. Of the 222 reviewed, 148 were approved, resulting in grants totaling $901,718.68.

Time Period	Applications Presented	Applications Approved	Total Grants Approved
2017-2018	222	148	$901,718.68
2016-2017	157	113	$976,114.94
2015-2016	171	115	$814,616.72
2014-2015	138	102	$639,581.09
2013-2014	134	118	$1,232,355.00

BARRATRY

This past bar year, 32 barratry-related grievances were filed. Twelve were dismissed after investigation and 20 were still pending at the end of the bar year. During the same period, CDC obtained three suspensions.

CDC also worked with local law enforcement, district attorneys, the Attorney General's Consumer Protection Division, the National Insurance Crime Bureau, Texas Rangers, and U.S. Citizenship and Immigration Services on barratry-related investigations, as disciplinary and other investigations of barratry often overlap. Two consistent difficulties faced in investigating barratry-related grievances are the need to rely on co-conspirator testimony and the fact that monies paid for the soliciting of clients are often made in cash and cannot be tracked.

"I am so appreciative of your support and understanding. I feel blessed for your advice and feedback. You have inspired me to become a better attorney in my career."

District Grievance Committees

Texas is proud of its tradition of utilizing local volunteers to serve on grievance committees. The commitment of the district grievance committee members is vital to the success and effectiveness of the attorney discipline system. Currently, 344 volunteer grievance committee members serve on 17 committees throughout the state. Members are nominated by State Bar directors and appointed by the State Bar president.

The district grievance committees are composed of two-thirds lawyer members and one-third public members, each of whom serve a three-year staggered term and are eligible to serve two consecutive terms. Public members may not have, other than as consumers, a financial interest, direct or indirect, in the practice of law. Lawyer members must be licensed and in good standing in the state of Texas.

ROLE OF GRIEVANCE COMMITTEES

The district grievance committees perform two critical roles in the discipline system: (1) review complaints presented by CDC and determine whether the case should be dismissed or proceed to prosecution; and (2) sit as an administrative tribunal to determine whether professional misconduct was committed and assess an appropriate sanction.

LOCAL TRAINING

Local training of each district grievance committee is conducted annually throughout the state. This MCLE-approved training is conducted by regional counsel and their staff. Emphasis is placed upon the procedural and substantive rules governing the attorney discipline system, duties and authority of the grievance committees, and the importance of attendance and participation at scheduled hearings. In addition to these efforts, CDC has developed and produced several online training sessions addressing evidentiary hearings, common rule violations, issues related to the imposition of sanctions, attorneys' fees, and a grievance symposium that addressed a variety of issues related to the discipline process. The sessions were designed to provide grievance committee members with a more in-depth analysis of key issues in disciplinary cases in order to facilitate their work on the grievance committees. Additionally, the State Bar offers free continuing legal education courses for members of the grievance committees.

The Dallas Regional Office conducted six annual training sessions; the San Antonio Regional Office conducted 11 annual training sessions; the Houston Regional Office conducted three annual training sessions; and the Austin Regional Office conducted two annual training sessions.

DIVERSITY OF GRIEVANCE COMMITTEE MEMBERS

Acknowledging the importance to the public and the lawyers of Texas for the members of the district grievance committees to fairly represent the racial, ethnic, and gender makeup of the districts they serve, the State Bar directors work with CDC to make appointments that maintain this diversity in membership, including the goal that lawyer members reflect various practice areas and law firm size. The most common areas of practice by committee membership are general practice, criminal law, family law, personal injury law, and probate law, which are also the most common types of law related to filed grievances.

2017-2018 DIVERSITY SURVEY OF GRIEVANCE COMMITTEE MEMBERSHIP COMPARED WITH STATE BAR MEMBERSHIP

Gender	Committee	Attorney Committee Membership	SBOT Membership
Male	63%	64%	64%
Female	37%	36%	36%

Ethnicity	Committee	Attorney Committee Membership	SBOT Membership
White	76%	77%	80%
Asian/Pacific Islander	0%	0%	4%
African-American	7%	3%	5%
American Indian/Alaska Native	1%	1%	<1%
Hispanic/Latino	15%	18%	9%
Other	1%	<1%	1%

"I feel that the program you provided and the work that I have done has provided significant value to me and to my practice. The program has given me reassurance in certain areas, has empowered and encouraged me in others, and has provided valuable tools to improve my practice in numerous areas."

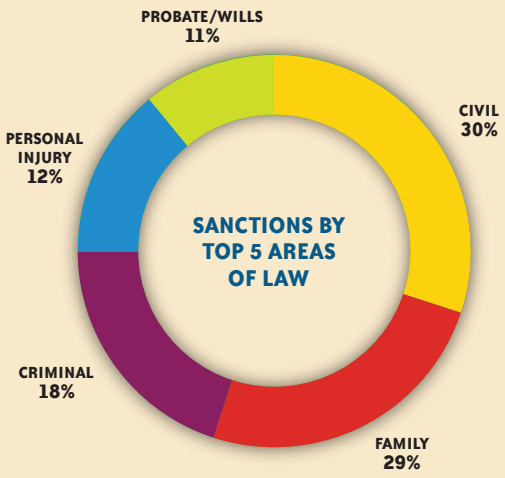
Overview of the Attorney Discipline Process

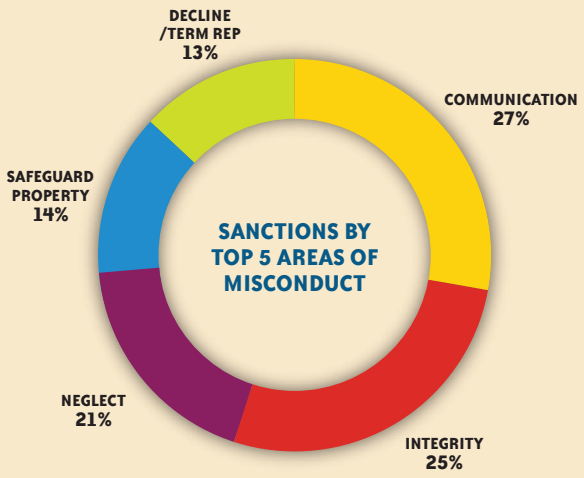
The State Bar of Texas is dedicated to improving and advancing the quality of legal services to the public, protecting the public through the discipline system, and fostering integrity and ethical conduct in the legal profession.

The Texas attorney discipline system is governed by the Texas Disciplinary Rules of Professional Conduct (ethics rules) and the Texas Rules of Disciplinary Procedure (procedural rules). The ethics rules define proper conduct for purposes of professional discipline. The procedural rules provide the mechanism by which grievances are processed, investigated, and prosecuted.

The Texas Rules of Disciplinary Procedure and Texas Disciplinary Rules of Professional Conduct are available at texasbar.com/ethics.

Statistical Data





Grievance Procedure

Those who believe they have been a witness to attorney misconduct—clients, members of the public, members of the legal community, and judges—have the right to file a grievance against a Texas attorney. The grievance form is available on the State Bar website (in Spanish and English), in each of CDC's regional offices, through the State Bar Client-Attorney Assistance Program, and at courthouses, law libraries, legal aid organizations, and local bar associations across the state. In addition, complainants can now file grievances directly online via the State Bar website. A video with detailed instructions on how to file a grievance can be found on the bar website under "For the Public—Watch How to File a Grievance."

CLASSIFICATION

The filing of a written grievance with any one of CDC's regional offices initiates the disciplinary process. Lawyers are subject to discipline only if they have violated the ethics rules (Texas Disciplinary Rules of Professional Conduct). Upon receipt of the grievance, CDC determines whether the grievance, on its face, alleges professional misconduct. This determination is referred to as classification of the grievance and is made within 30 days of the filing of the grievance. During the 2017-2018 bar year, 7,640 grievances were filed.

If the grievance does not allege professional misconduct, it is classified as an inquiry and dismissed. If the grievance alleges professional misconduct, it is classified as a complaint and sent to the respondent lawyer for a response.

IF: The grievance **does not** allege professional misconduct.
THEN: It is dismissed as an inquiry.

IF: The grievance **does** allege professional misconduct.
THEN: It is classified as a complaint and sent to the lawyer who is alleged to have committed the professional conduct for a response.

WHY ARE GRIEVANCES DISMISSED?

Of the grievances considered between June 1, 2017, and May 31, 2018, 5,096 were dismissed as inquiries. Grievances are dismissed for various reasons, including the following:

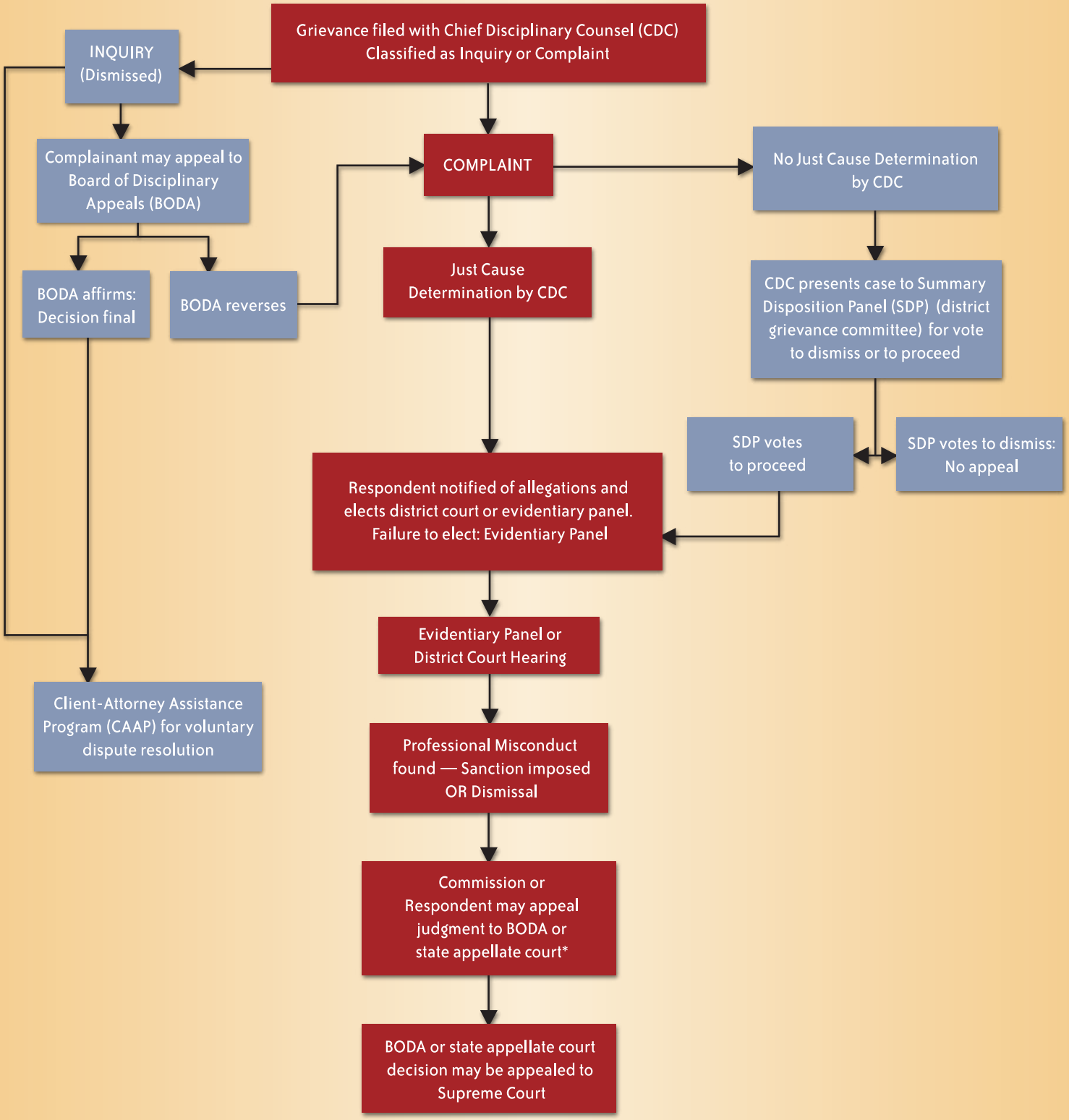
- The grievance concerns the outcome of a case but does not specify a violation of an ethics rule.
- The grievance does not involve a lawyer's conduct in his or her professional capacity.
- The grievance is filed too late.
- The grievance is duplicative or identical to a previous filing.
- The grievance concerns a lawyer who has been disbarred, has resigned, or is deceased.
- The grievance concerns a person who is not licensed as an attorney (handled by the Unauthorized Practice of Law Committee).
- The grievance is filed against a sitting judge (handled by the State Commission on Judicial Conduct).

CHECK IN THE SYSTEM — AN APPEALS PROCESS

The person who filed the grievance has the right to appeal CDC's classification decision to dismiss the grievance as an inquiry to the Board of Disciplinary Appeals. BODA is an independent 12-attorney tribunal, appointed by the Texas Supreme Court.

During the 2017-2018 bar year, there were 1,325 appeals by complainants from classification decisions. Of the 1,325 appeals, BODA reversed 135 classification decisions, resulting in an overall reversal rate of 10 percent. When BODA reverses a classification decision, the grievance is sent back to CDC and is processed as a complaint.

— Processing a Grievance —



*Evidentiary judgments are appealed to BODA
District court judgments are appealed to state appellate court

COMPLAINT STATISTICS

During the 2017-2018 bar year, 2,357 of the grievances filed were classified as complaints. A majority of these complaints involved the areas of criminal law, family law, and personal injury. Among the most common allegations were neglect, failure to communicate, and complaints about the termination or withdrawal of representation.

JUST CAUSE DETERMINATION

Once the grievance is classified as a complaint, it is sent to the respondent lawyer, who has 30 days from receipt to respond. Within 60 days of the response deadline, CDC, through its investigation, must determine whether there is just cause to believe that professional misconduct occurred. This investigation may include the following:

- Requests for additional information from the complainant
- Information from corroborative witnesses
- Receipts
- Hourly records or billing statements
- Correspondence to and from client
- Message slips, telephone logs, or records of long distance telephone calls and emails
- Court records, such as pleadings, motions, orders, and docket sheets
- Copies of settlement checks and/or disbursement statements
- IOLTA or trust account records, such as monthly bank statements, deposit slips, deposit items, and disbursement items
- State Bar Membership Department records, including records of current or past administrative suspensions
- Client file
- Witness interviews and sworn statements

NO JUST CAUSE FINDING

If CDC determines that there is no just cause to proceed on the complaint, the case is presented to a Summary Disposition Panel, which is a panel of local grievance committee members composed of two-thirds lawyers and one-third public members. The Summary Disposition Panel is an independent decision maker and has the discretion to either accept or reject CDC's determination.

Information and results regarding CDC's investigation are presented to the panel at a docket hearing without the presence of either the complainant or respondent. If the panel accepts CDC's determination, the complaint will be dismissed. If the panel rejects CDC's determination, the panel votes to proceed on the complaint.

During the 2017-2018 bar year, 1,728 cases were presented to Summary Disposition Panels of local grievance committees for consideration. The panels voted to dismiss in 1,697 of those cases.

TRIAL OF THE COMPLAINT

If CDC finds just cause or the Summary Disposition Panel votes to proceed on the complaint, the respondent lawyer is given written notice of the allegations and rule violations. The respondent has 20 days to notify CDC whether he or she chooses to have the case heard before an evidentiary panel of the grievance committee or by a district court, with or without a jury. This choice is referred to as the respondent's election. A respondent who fails to elect will have the case tried before an evidentiary panel of the grievance committee.

2017-2018 BAR YEAR		2016-2017 BAR YEAR	
Elected Evidentiary	253	Elected Evidentiary	273
Defaulted into Evidentiary	285	Defaulted into Evidentiary	259
Elected District Court	50	Elected District Court	50

Evidentiary panel hearings are confidential and allow for a private reprimand, the least sanction available, to be imposed. District court proceedings are public and the least sanction available is a public reprimand. In both types of proceedings, the parties are the Commission for Lawyer Discipline represented by CDC and the respondent lawyer. It is the Commission's burden to prove the allegations of professional misconduct by a preponderance of the evidence.

If no professional misconduct is found, the case is dismissed. If professional misconduct is found, a separate hearing may be held to determine the appropriate discipline. In evidentiary panel proceedings, the panel may also find that the respondent suffers from a disability and forwards its finding to the Board of Disciplinary Appeals.

During the 2017-2018 bar year, CDC resolved 490 complaints before grievance committee evidentiary panels, district courts, and the Board of Disciplinary Appeals and disposed of more than 1,700 cases before Summary Disposition Panels of the local grievance committees.

GRIEVANCE REFERRAL PROGRAM

Implemented in 2007, the Grievance Referral Program is an important component of the attorney discipline system. It was designed to help identify and assist lawyers who have impairment or performance issues and who enter the disciplinary system as a result of minor misconduct. GRP allows the Commission for Lawyer Discipline to refer to the program lawyers who have engaged in minor misconduct and who otherwise meet the GRP eligibility criteria. In exchange for a dismissal of the underlying complaint by the Commission, the respondent lawyer agrees to complete a program individually tailored to the respondent lawyer's needs. If the lawyer does not fully complete the terms of the agreement in a timely manner, the underlying complaint moves forward through the usual disciplinary process.

GRP presents an opportunity for respondent lawyers to address the issues that contributed to the misconduct, including issues of law practice management, substance abuse, and mental health. In this way, the public is better protected from future misconduct by the lawyer.

During 2017-2018, the GRP administrator helped 77 attorneys successfully complete GRP and worked with more than 100 respondents.

"I have such a great appreciation for this system, and I can truly say it was a wonderful process for refining my daily practice."

Punishment for Professional Misconduct

The term "sanction" refers to the level of discipline imposed against a respondent attorney. In determining the appropriate sanction to be imposed, an evidentiary panel or district court considers the following:

- Nature and degree of the professional misconduct
- Seriousness of and circumstances surrounding the professional misconduct
- Loss or damage to clients
- Damage to the profession
- Assurance that those who seek legal services in the future will be insulated from the type of professional misconduct
- Profit to the attorney
- Avoidance of repetition
- Deterrent effect
- Maintenance of respect for the legal profession
- Conduct of the respondent during the course of the disciplinary proceeding
- Respondent's disciplinary history

The different types of sanctions, or levels of discipline, include the following:

PRIVATE REPRIMAND

A private reprimand is available only if the case is tried before an evidentiary panel of the grievance committee. This sanction is not available in a case heard before a district court. A private reprimand is the least level of discipline that can be given. It is not public and this information is not published in connection with the specific lawyer and is not released upon inquiries from the public. However, this sanction remains a part of the lawyer's disciplinary history and may be considered in any subsequent disciplinary proceeding. The Texas Legislature and Commission for Lawyer Discipline have established limitations on the use of private reprimands. A private reprimand is not available if:

- A private reprimand has been imposed upon the respondent lawyer within the preceding five-year period for a violation of the same disciplinary rule; or
- The respondent lawyer has previously received two or more private reprimands, whether or not for violations of the same disciplinary rule, within the preceding 10 years; or
- The misconduct includes theft, misapplication of fiduciary property, or the failure to return, after demand, a clearly unearned fee; or
- The misconduct has resulted in a substantial injury to the client, the public, the legal system, or the profession; or
- There is a likelihood of future misconduct by the respondent lawyer; or
- The misconduct was an intentional violation of the ethics rules; or
- The respondent is a prosecutor that has failed to disclose exculpatory evidence.

PUBLIC REPRIMAND

This type of discipline is public and is published together with the name of the respondent lawyer. A public reprimand is not available if:

- A public reprimand has been imposed upon the respondent lawyer within the preceding five-year period for a violation of the same disciplinary rule; or
- The respondent lawyer has previously received two or more public reprimands, whether or not for violations of the same disciplinary rule, within the preceding five-year period.

SUSPENSION FOR A TERM CERTAIN

Commonly referred to as an "active suspension," this public discipline means that the respondent lawyer is prohibited from practicing law for the length of the suspension. If the lawyer practices law during an active term of suspension, the conduct is a separate basis for further discipline and/or for contempt of the judgment. Upon the conclusion of an active suspension, the lawyer is eligible to practice law, provided that all other requirements for eligibility, such as payment of bar dues and compliance with continuing legal education, are current.

FULLY PROBATED SUSPENSION

This type of discipline is public and is for a term certain; however, the suspension is "probated," which means that the respondent lawyer may practice law during the period of suspension, but the lawyer must comply with specific "terms of probation" throughout the probated suspension period.

Terms of probation typically require that the respondent lawyer refrain from engaging in further misconduct; not violate any state or federal criminal statutes; keep the State Bar notified of current mailing, residential, and business addresses; comply with continuing legal education requirements; comply with the rules for maintaining trust accounts; and respond to any requests for information by CDC in connection with an investigation of allegations of misconduct.

Probation terms may also include, depending upon the facts of a particular case, that the respondent lawyer take additional continuing legal education, submit to a psychological evaluation, attend substance abuse counseling, practice law under the supervision of a designated monitor, or pay restitution and attorneys' fees by a certain date. A fully probated suspension is not available if:

- A public reprimand or fully probated suspension has been imposed upon the respondent lawyer, whether or not for violations of the same disciplinary rule, within the preceding five-year period for a violation of the same disciplinary rule; or
- The respondent lawyer has previously received two or more fully probated suspensions, whether or not for violations of the same disciplinary rule, within the preceding five-year period; or
- The respondent lawyer has previously received two or more sanctions of public reprimand or greater imposed for conflict of interest, theft, misapplication of fiduciary property, or the failure to return, after demand, a clearly unearned fee.

In the event a fully probated suspension is not available, any sanction imposed must be for no less than 30 days of active suspension.

PARTIALLY PROBATED SUSPENSION

This type of discipline is a combination of an active suspension followed by a period of probated suspension and is public.

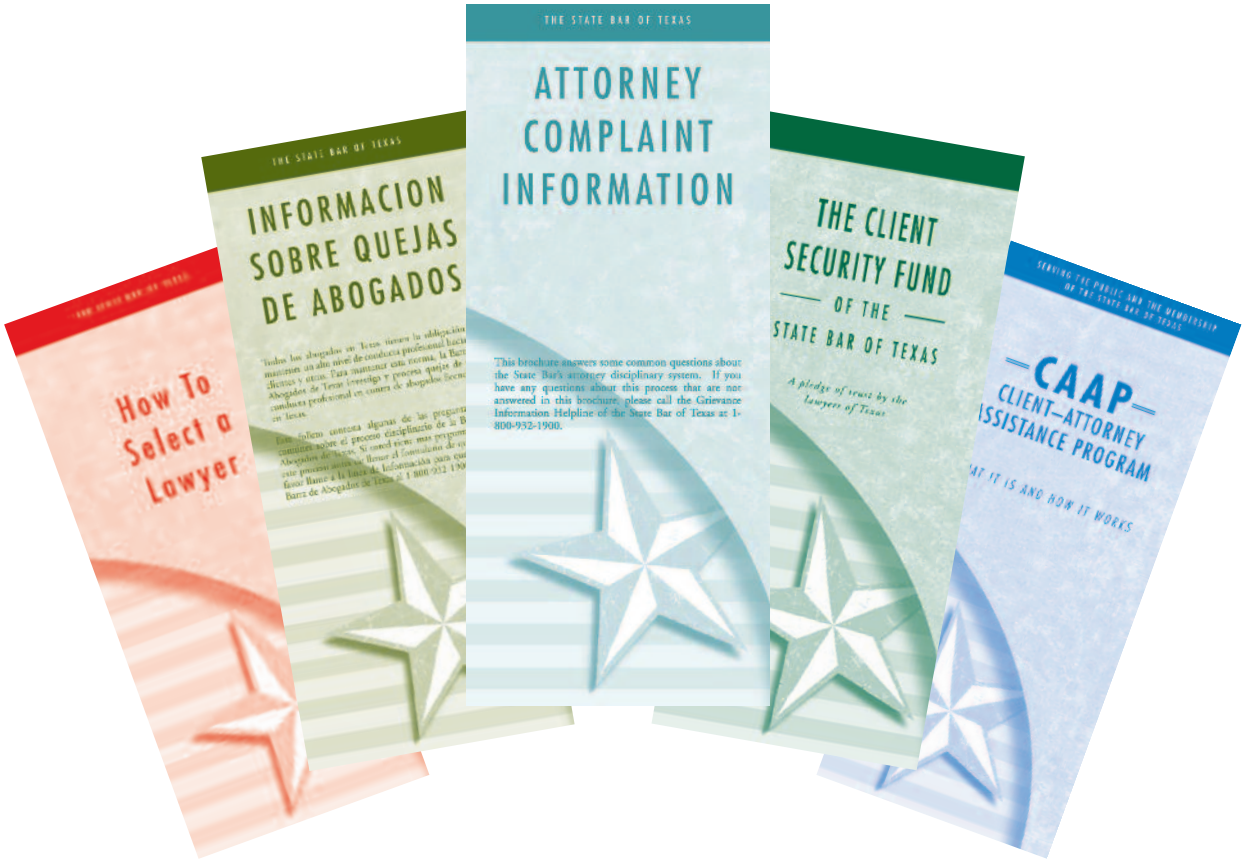
DISBARMENT

This is the most severe discipline resulting in a complete loss of a respondent lawyer's license to practice law. Once disbarred, the lawyer's name is removed from the membership rolls of the Supreme Court and the lawyer is required to remit his or her law license and bar card.

After five years, a disbarred lawyer may petition a district court to be reinstated to the practice of law. The disbarred lawyer must prove that reinstatement is in the best interest of the public and the profession, as well as the ends of justice. If such an application is granted, the disbarred lawyer is not automatically granted a law license. The disbarred lawyer must still pass the bar exam administered by the Texas Board of Law Examiners.

ANCILLARY SANCTIONS

Finally, the term "sanction" may include as an ancillary requirement: (1) restitution (which may include repayment to the Client Security Fund of the State Bar of any payments made by reason of the respondent lawyer's misconduct); and (2) payment of reasonable attorneys' fees and all direct expenses associated with the disciplinary proceedings.



Other Disciplinary Proceedings

COMPULSORY DISCIPLINE

If an attorney has been convicted of or pleaded nolo contendere to, or has been put on probation, with or without an adjudication of guilt, for a serious or intentional crime (as those terms are defined in the TRDP), CDC will seek compulsory discipline.

Crimes that subject a lawyer to compulsory discipline include barratry; any felony involving moral turpitude; any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or property; any crime involving misapplication of money or other property held as a fiduciary; and any attempted conspiracy or solicitation of another to commit any of these crimes.

These proceedings are filed with the Board of Disciplinary Appeals. The criminal judgment or order of deferred adjudication is conclusive evidence of the attorney's guilt of the commission of the crime. If the criminal conviction of a serious or intentional crime is on appeal, the lawyer's license shall be suspended during the pendency of the appeal. Where the sentence includes any period of incarceration other than as a condition of probation, the lawyer shall be disbarred. Where the criminal sentence is fully probated, BODA has the discretion to either suspend for the period of criminal probation or disbar the attorney. A party appeals from a compulsory discipline decision to the Texas Supreme Court. During the 2017-2018 bar year, nine of the sanctions entered were a result of compulsory discipline cases.

ASSUMPTION OF PRACTICE

Any interested person, including CDC or a client, may petition the district court in the county of the attorney's residence to assume jurisdiction of the attorney's law practice under certain circumstances. A district court can be petitioned to appoint a custodian for an attorney's files in the event that the attorney has died; disappeared; resigned; become inactive; been disbarred or suspended; or become physically, emotionally, or mentally disabled and cannot, as a result, provide legal services necessary to protect the interests of clients.

Upon the filing of a verified petition, the court issues a show cause order to the attorney or his or her personal representative or, if none, the person having custody of the lawyer's files, directing him or her to show cause why the court should not assume jurisdiction of the attorney's law practice. Upon establishment of grounds for the assumption, the court enters an order appointing one or more lawyers as custodians and ordering what must be done with respect to the files.

INTERIM SUSPENSION

If CDC determines during the course of investigating a complaint that one or more grounds exist to support seeking an interim suspension of the respondent's law license, CDC can seek authority from the Commission to pursue an interim suspension. During 2017-2018, CDC obtained one interim suspension.

If such authority is given, a petition is filed in a district court of proper venue, service is obtained on the respondent, and the court is to set a hearing within 10 days. The court may suspend the attorney pending final disposition of the disciplinary action if the court finds by a preponderance of the evidence that the respondent poses a substantial threat of irreparable harm to clients or prospective clients. Any of the following elements conclusively establishes such a substantial threat of irreparable harm:

- Conduct that includes all elements of a serious crime (as that term is defined in the disciplinary rules); or
- Three or more acts of professional misconduct as defined in the rules, whether or not there is harm; or
- Any other conduct that, if continued, will probably cause harm to clients or prospective clients.

RECIPROCAL DISCIPLINE

If an attorney is disciplined in another jurisdiction where the attorney is licensed to practice law, CDC may seek the identical or "reciprocal" discipline. These proceedings are filed with the Board of Disciplinary Appeals. CDC files a petition for reciprocal discipline, which includes a certified copy of the order of discipline from the other jurisdiction and requests that the lawyer be disciplined in Texas. BODA notifies the attorney, who has 30 days to show why imposition of the identical discipline in Texas would be unwarranted. Defenses available to the attorney include the following:

- The procedure in the other jurisdiction was so lacking in notice or opportunity to be heard that the attorney was deprived of due process.
- There was such an infirmity of proof in the other jurisdiction that the conclusion that was reached should not be accepted as final.
- Imposition of identical discipline would result in grave injustice.
- That the misconduct established in the other jurisdiction warrants a substantially different discipline in this state.
- That the misconduct for which the attorney was disciplined in the other jurisdiction does not constitute professional misconduct in this state.

Absent establishment of a defense, BODA shall impose discipline identical, to the extent practicable, with that imposed by the other jurisdiction. A party appeals a reciprocal discipline decision to the Texas Supreme Court. During the 2017-2018 bar year, 15 of the sanctions entered were a result of reciprocal discipline cases.

DISABILITY SUSPENSION

A disability is any physical, mental, or emotional condition that results in an attorney's inability to practice law or to carry out his or her professional responsibilities. No substantive rule violation is required to find that an attorney has a disability.

If CDC during a just cause investigation, or an evidentiary panel during the course of an evidentiary proceeding, believes that an attorney is suffering from a disability, the matter is forwarded to BODA for appointment of a district disability committee. The district disability committee determines whether the respondent is, in fact, suffering from a disability and, if so, indicates such to BODA, which then enters an order suspending the attorney for an indefinite period.

The disability process tolls the four-year statute of limitations for disciplinary matters.

REVOCATION

Violation of any term of the probated portion of a suspension may subject a respondent lawyer to a "revocation" of the probation resulting in an active suspension from the practice of law. When a judgment is entered by an evidentiary panel of the grievance committee, the revocation proceeding is filed before BODA. When a judgment is entered by a district court, the revocation proceeding is filed with the district court. If CDC proves a violation of probation by a preponderance of the evidence, the probation is revoked and the respondent attorney is suspended from the practice of law without credit for any probationary period served. An order revoking a probated suspension cannot be superseded or stayed pending an appeal. During 2017-2018, CDC obtained two revocations of probation.

Grievance Support

The Office of Chief Disciplinary Counsel in its administration of the Texas attorney discipline system is greatly supported by a number of other State Bar programs, departments, and Supreme Court-appointed committees. The work of these groups impacts the number of grievances filed against lawyers and/or provides rehabilitative assistance to lawyers who are disciplined.

CLIENT-ATTORNEY ASSISTANCE PROGRAM

The Client-Attorney Assistance Program, or CAAP, is a voluntary confidential dispute resolution service of the State Bar of Texas. Its objective is to facilitate communication and the transfer of appropriate documents, as well as foster productive dialogue to help Texas lawyers and their clients resolve minor concerns, disputes, or misunderstandings impacting the attorney-client relationship.

Last year, CAAP began increasing reliance on technology upgrades to streamline workflow and data processing to improve efficiency in providing information to the public about the Texas Disciplinary Rules of Procedure and the disciplinary process; educating the public about various self-help options for navigating the legal process; and intervening in the attorney-client relationship on the client's behalf when necessary.

CAAP handled 17,868 calls to the Grievance Helpline and responded to more than 4,652 requests for forms, information, or resources while providing dispute resolution services for 1,077 Texas attorney-client relationships, successfully re-establishing productive communication in 87 percent of its cases.

Criminal cases continue to be the overwhelming concern of Texas legal clients, and CAAP assisted 2,685 Texas inmates, furthering the bar's commitment to making justice accessible for all. Family law issues rank second in concern for CAAP clients, followed closely by civil/personal injury cases. The most common complaints about Texas attorneys for 2017-2018 were the lack of comprehensive communication, followed by concerns about the extent to which attorneys were prepared to handle their cases, and concerns about attorney integrity.

ADVERTISING REVIEW COMMITTEE

The Advertising Review Committee is responsible for reviewing lawyer advertisements and written solicitations as required by the Texas Disciplinary Rules of Professional Conduct. The ARC, through the State Bar's Advertising Review Department, manages the filing and review process for attorneys that market their services to the public to ensure that lawyers are complying with established ethical requirements.

In the 2017-2018 bar year, the department reviewed more than 3,300 submissions, with the largest category being electronic filings. Electronic media continues to be the focal point for Ad Review. To further the department's educational outreach, the department provides a free one-hour ethics credit presentation focused on attorneys using social media to disseminate information about their legal services. The department is also responsible for distributing non-filer notices to attorneys who have not filed an advertisement.

LAW PRACTICE MANAGEMENT

The Law Practice Management Program was implemented by the State Bar of Texas to assist solo and small firm practitioners in the delivery of legal services by developing and promoting competent, professional, efficient, effective, economical, and innovative law office management practices. Often, a referral to the bar's Law Practice Management resources will be incorporated as a term of a disciplinary judgment, as many complaints stem from a lawyer's lack of knowledge in the appropriate management of his or her law practice.

For the 2017-2018 bar year, the program assisted more than 27,500 lawyers through online classes, live and video seminars, webcasts, website resources, and telephone and email inquiries. The Law Practice Management Program webpage received more than 16,000 visitors, with nearly 41,000 page views. The website provides online resources to help attorneys start, maintain, and grow their law practices, including webcasts, articles, forms, and checklists available to aid attorneys in acquiring the skills they need to manage a law office effectively and avoid further practice management-related complaints.

MINIMUM CONTINUING LEGAL EDUCATION DEPARTMENT

The State Bar of Texas requires that every attorney complete 15 hours of continuing legal education each year to maintain an active law license, three of which are required to be in the area of ethics. This requirement is known as Minimum Continuing Legal Education.

The State Bar MCLE Department ensures that attorneys comply with the regulations and also approves courses for MCLE credit. Attorneys may access and update their MCLE records on the State Bar of Texas website. The department also offers an MCLE course search, which allows attorneys to search all approved CLE-accredited courses by date, topic, location, or sponsor.

Failure to comply with MCLE requirements can result in an administrative suspension from the practice of law. Practicing while on an administrative suspension is a violation of the Texas Disciplinary Rules of Professional Conduct.

TEXAS LAWYERS' ASSISTANCE PROGRAM

The State Bar of Texas established the Texas Lawyers' Assistance Program in 1989. TLAP's mission is to assist lawyers challenged by substance abuse and other mental health disorders that are interfering or may interfere with their ability to practice law in an ethical and professional manner. All assistance is confidential and may be accessed by calling (800) 343-8527.

In addition to educating law students, lawyers, and judges about the types of impairments studies show disproportionately impact the legal profession, TLAP offers a variety of intervention, assessment and referral, and rehabilitative services to impaired lawyers. Calls to TLAP come either directly from the lawyer challenged by a substance use disorder or by another disorder such as depression or cognitive impairment, or from a "concerned other," usually a friend, colleague, judge, or family member.

In the 2017-2018 bar year, TLAP serviced a population of 148,566 lawyers and law students by assisting 717 callers, five percent more than the 684 callers assisted in the prior bar year. TLAP gave 115 presentations to 11,462 members, and engaged with 913 volunteers last year and provided four volunteer training sessions. The Sheeran-Crowley Trust distributed $147,380 in grants, an increase from $132,008 in the prior bar year.

STATE BAR OF TEXAS PUBLIC PROTECTION DOLLARS ACTUAL EXPENDITURES (UNAUDITED) FY2017-2018

Commission for Lawyer Discipline	**$94,299**	Texas Lawyers' Assistance Program	**$431,360**
Office of Chief Disciplinary Counsel	**$9,754,650**	Client-Attorney Assistance Program	**$532,809**
UPL Committee	**$163,564**		
Grievance Oversight Committee	**$44,194**	Total General Fund	**$12,454,932**
Professional Ethics Committee	**$12,272**		
Board of Disciplinary Appeals	**$574,001**	Client Security Fund - Claims Paid	**$894,456**
Advertising Review	**$183,473**		
Minimum Continuing Legal Education	**$664,310**	Total State Bar Public Protection Dollars	**$13,349,388**

GRIEVANCE OVERSIGHT COMMITTEE

The Grievance Oversight Committee is charged to study, review, and advise the Texas Supreme Court regarding the structure, function, and effectiveness of the discipline system. The GOC is composed of six attorneys and three public members appointed by the Supreme Court. The committee is not part of the State Bar disciplinary process and neither considers nor resolves individual complaints involving attorney-client issues. The committee maintains a website, txgoc.com, and welcomes comments and suggestions from all interested parties.

During the 2017-2018 bar year, the Commission and CDC provided the GOC with the following information:

- Statistical data for the discipline system, including the number of grievances received, classification decisions, classification appeals, just cause determinations, summary disposition decisions, and elections to evidentiary or district court;
- Quarterly reports provided to the State Bar Board of Directors regarding the disposition of disciplinary proceedings by bar district and statistics of sanctions imposed;
- Written consumer complaints and responses;
- Responses to disciplinary system questionnaires received by CDC;
- Portions of minutes from the Commission's meetings regarding non-case-specific topics.

UNAUTHORIZED PRACTICE OF LAW COMMITTEE

The Unauthorized Practice of Law Committee is appointed by the Texas Supreme Court and is charged with preventing the unauthorized practice of law. The UPLC is composed of nine volunteer lawyers and laypersons appointed to three-year terms.

The practice of law by persons who are not authorized to do so frequently hurts the clients they may be trying to help, resulting in the loss of money, property, or liberty. The State of Texas limits the practice of law to persons who have demonstrated their knowledge of the law through education; who have passed a rigorous examination on the laws of Texas, including the rules of ethics; and who have passed a character review. The UPLC is prohibited from giving advisory opinions.

To ensure the public is protected from those who practice law illegally, the UPLC has divided the state into five regions: Northern, Central, Southern, Eastern, and Western. The UPLC has created 38 district subcommittees within the regions. Chairpersons are appointed to head the regional and district subcommittees. The busiest district subcommittees are Houston, Dallas, Austin, San Antonio, and Fort Worth. The UPLC maintains a website at txuplc.org, where individuals can fill out a complaint online and learn more about the workings of the committee.

"I am happy that I had the opportunity to be a part of the Grievance Referral Program. The process of completing the program has forced me to take an inventory of my life and the way in which I conduct business as an attorney, and as a result, I feel that it has improved my life."

PROFESSIONAL ETHICS COMMITTEE

The Professional Ethics Committee is a nine-member committee appointed by the Texas Supreme Court pursuant to Texas Government Code section 81.091. The committee is charged with the responsibility of expressing opinions to questions regarding the propriety of professional conduct, which arise either upon a request for opinion by a State Bar member or upon the committee's own initiative. These opinions are published in the *Texas Bar Journal*. During the 2017-2018 bar year, the PEC issued five opinions on the following subjects, all of which can be found online at legalethicstexas.com:

OPINION 668 (NOVEMBER 2017)

Under the Texas Disciplinary Rules of Professional Conduct, when an insurance company staff attorney undertakes the representation of a client who is insured by the staff attorney's employer, his or her duty is to that client and not to any other person insured by the employer. Like all lawyers, a staff attorney must zealously represent his or her client. Also, like all lawyers, a staff attorney has a duty of loyalty to his client and a duty to exercise independent judgment on behalf of that client, regardless of the fact that his employer is the client's insurance company. If, during the representation, a staff attorney's representation of the insured client becomes adversely limited by his own interests or the interests of the employer, the insurance company, the staff attorney must not continue the representation unless he is able to obtain consent from each affected or potentially affected client in accordance with the requirements of the Texas Disciplinary Rules of Professional Conduct. If, during the representation, a staff attorney cannot exercise independent professional judgment on behalf of his client, he must withdraw from the representation.
https://www.legalethicstexas.com/Ethics-Resources/Opinions/Opinion-668

OPINION 669 (MARCH 2018)

Under the Texas Disciplinary Rules of Professional Conduct, if an insured fails to communicate with a lawyer who is retained to defend the insured, the lawyer may withdraw from the representation. In that event, the lawyer must protect the insured's confidential information and may not, in the absence of the insured's consent, disclose to the insurance company the reason for the withdrawal. In connection with moving to withdraw from the suit, the lawyer should avoid disclosing, either to the court or to the insurance company, the specific reason for the withdrawal. The lawyer instead should provide only a general explanation that professional considerations require withdrawal, although there are circumstances in which a court may require that additional information be provided to the court.
https://www.legalethicstexas.com/Ethics-Resources/Opinions/Opinion-669

OPINION 670 (MARCH 2018)

Under the Texas Disciplinary Rules of Professional Conduct, a lawyer who leaves a law firm may, at the lawyer's expense, make and retain copies of former clients' documents generated in matters in which the lawyer personally represented the clients. The lawyer must, however, comply with his obligation under the Rules to preserve the confidentiality of such documents by preventing the former clients' confidential information from being improperly used or revealed to others.
https://www.legalethicstexas.com/Ethics-Resources/Opinions/Opinion-670

OPINION 671 (MARCH 2018)

Under the Texas Disciplinary Rules of Professional Conduct, Texas lawyers, and their agents, may not anonymously contact an anonymous online individual in order to obtain jurisdictional or identifying information sufficient for obtaining a deposition pursuant to Rule 202 of the Texas Rules of Civil Procedure.
https://www.legalethicstexas.com/Ethics-Resources/Opinions/Opinion-671

OPINION 672 (MARCH 2018)

Under the Texas Disciplinary Rules of Professional Conduct, a lawyer's written, electronic or digital communication with a nonclient that purports to seek information may be treated as a written solicitation subject to the provisions of Rule 7.05(b) if statements in the letter are made with the intent to seek professional employment. When none of the exceptions under Rule 7.05(f) apply, communications for the purpose of obtaining professional employment must comply with the provisions of Rule 7.05(d).
https://www.legalethicstexas.com/Ethics-Resources/Opinions/Opinion-672

"I have such a great appreciation for this system, and I can truly say it was a wonderful process for refining my daily practice."

State Bar of Texas — A Few Stats

102,044	Active members
90,485	In-state attorneys
49	Median age of in-state attorneys
1:311	Ratio of all in-state attorneys to Texans
1:585	Ratio of in-state private practitioners to Texans
65	Percentage of in-state attorneys who are private practitioners
10	Percentage of in-state attorneys who are government lawyers
11	Percentage of in-state attorneys who are corporate/in-house counsel
84	Percentage of in-state attorneys in the four largest metropolitan areas
7	Percentage of in-state private practitioners who work in firms with 200 or more attorneys
40	Percentage of in-state private practitioners who work in firms with five or fewer attorneys
$120,811	Median income for full-time Texas attorneys
$119,145	Median income for full-time solo practitioners

NOTE: Texas attorney data in this report is based on the State Bar of Texas membership records as of December 31, 2017, of each of the cited years. Texas general population data is based on July 2017 Census population estimates. Texas attorney income data is based on the 2017 State Bar of Texas Attorney Survey.

A Tool for Consumers

The State Bar of Texas website includes a ***"Find-a-Lawyer"*** *function that allows consumers to access information about Texas lawyers. More than 375,000 searches are conducted each month, by about 170,000 unique visitors. Each attorney profile lists public disciplinary actions in which there was a final judgment. The site lists only the type of action and its term (i.e., public reprimand, suspension, etc.). Users are directed to contact the Office of Chief Disciplinary Counsel for more details on the sanction.*

STATE BAR *of* **TEXAS**
Commission For Lawyer Discipline
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texasbar.com

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