

Discipline System Oversight Committee

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

September 15, 2023
1:00 p.m. – 3:00 p.m.
Location: State Bar of
Arizona

**Open Session
Minutes**

MEMBER ATTENDANCE:

P = present in person; T = present telephonically; A = absent.

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

OTHER ATTENDEES: Marcus Reinkensmeyer

Guests: Dr. Tammi Walker

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

Minutes taken by: Lori Palmer

Meeting Agenda

1. Welcome Dr. Tammi Walker: 1:01 p.m.

2. Call to the Public: No public joined.
3. Approve Minutes from 5.10.23: Approved
4. Rule 59(c) draft petition: The committee is asking the Supreme Court to amend rule 59(c) by adding in the four elements the court outlined in the *Gagic v. Downey, State Bar of Arizona Real Party in Interest*. Motion to move forward to the rules committee passed.
5. Update on racial disparity in discipline study and follow up information from Joel's meeting with Tammi Walker.

Ms. Walker appeared via Zoom to discuss the difference between racial disparity and racial disproportionality and the feasibility of a study to be conducted by the State Bar in the area of racial disparity. The California State Bar conducted a study and found that they had a gender/race disparity between white and black male attorneys with sanctions of probation and disbarment. The California State Bar's study included 116,363 attorneys with race/ethnicity data availability for 95% of the attorneys.

The State Bar of Arizona lacks approximately 30% of race/gender/ethnicity information for its members. Dr. Walker voiced concern about a study being done with that much missing data, as it would cause the study to produce less accurate numbers. Additionally, the numbers in certain areas are so low that an accurate result may not be able to be obtained. Currently the Bar does not know the data points that any future

study of the discipline process would need to include in order to provide accurate results.

There are no complaints of bias in the disciplinary system, but a perceived bias could exist in membership's views of the Bar and its discipline system. It is important to decide what will the Bar do with the information once the study is complete, but first the problem of missing data has to be resolved before a study can be conducted. Starting with the next membership dues payment cycle the attorneys will have to click through a pop up asking them to update their race/gender/ethnicity before paying their dues. The Bar could also do that same pop up for the attorney's race/gender/ethnicity when they enter their MCLE information. It was suggested that the Arizona Bar contact other state bars that had done similar studies and read their reports to help get some ideas of what to study and how to focus that study and what solutions did the other bars implement.

6. Continued discussion regarding Independent Bar Counsel resources including plans and options for moving forward to generate an action item to forward to the board or court.

We now have a new Independent Bar Counsel Judge Cunanan. Judge Cunanan is working more hours than the previous Independent Bar Counsel and making progress with the election cases.

7. Discipline Survey (Benjamin Taylor)

Mr. Taylor contacted Dr. Portillo, a professor at ASU, to prepare and conduct a discipline survey for the Board of Governors. The survey should give data about how the membership views the discipline process. Hopefully the survey will also provide more gender/race/ethnicity data. Dr. Portillo's survey may highlight some areas of the discipline process that could be modified or changed.

8. Schedule next committee meeting & discuss agenda.

The next meeting will be in January of 2024. The agenda will include an update of the data collection efforts, update on how the survey is going and how far along in the process are, and an update from IBC concerning the election cases.

Meeting ended at 2:55 p.m.