

**ANNUAL REPORT
OF THE
ATTORNEY REGULATION
ADVISORY COMMITTEE
TO THE
ARIZONA SUPREME COURT**

APRIL 30, 2021

ARIZONA SUPREME COURT
ATTORNEY REGULATION ADVISORY COMMITTEE (ARC)
Committee Member List
As of January 2020

Hon. Ann A. Scott Timmer, *Chair*
Vice Chief Justice, Arizona Supreme Court

Hon. Lawrence F. Winthrop
Court of Appeals

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Attorney Member

Evelyn R. Hernandez
Attorney Member

Maria Hubbard
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Attorney Member

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Attorney Member

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Attorney Member

Lisa Panahi
Attorney Member

J. Scott Rhodes
Attorney Member

George Riemer
Attorney Member

Karen Ryan
Public Member

Elaine Sweet
Public Member

Maret Vessella
Attorney Member

Staff Support

Kathy Curry
Supreme Court Staff Attorney's Office
1501 W. Washington
Phoenix, AZ 85007
Phone: 602-452-3391
Fax: 602-452-3482
KCurry@courts.az.gov

Mark Wilson
Brianna Farmer
Certification and Licensing Division
1501 W. Washington, Suite 104
Phoenix, AZ 85007
Phone: 602-452-3378
MAWilson@courts.az.gov
Bfarmer@courts.az.gov

ATTORNEY REGULATION ADVISORY COMMITTEE **2020 ANNUAL REPORT**

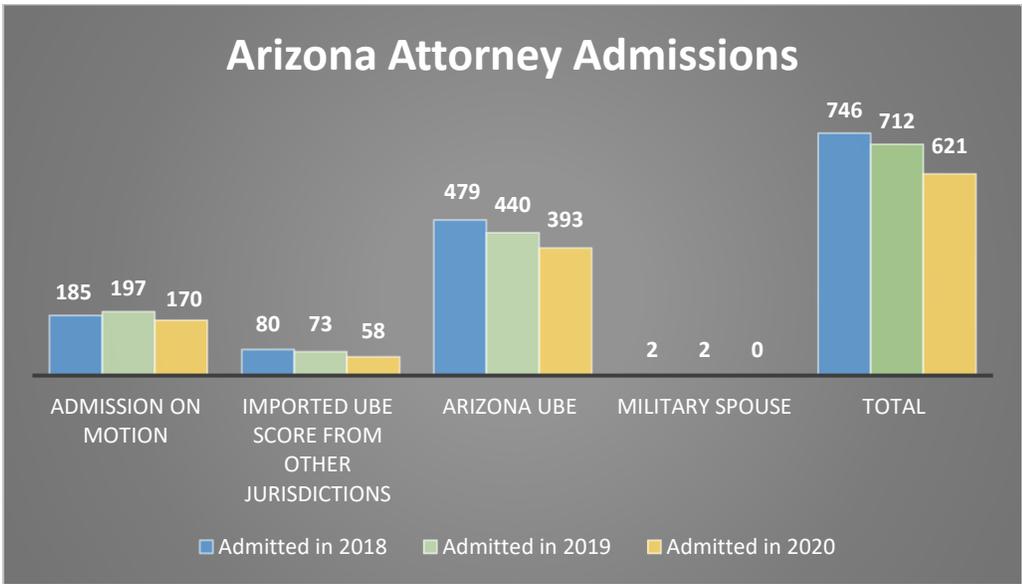
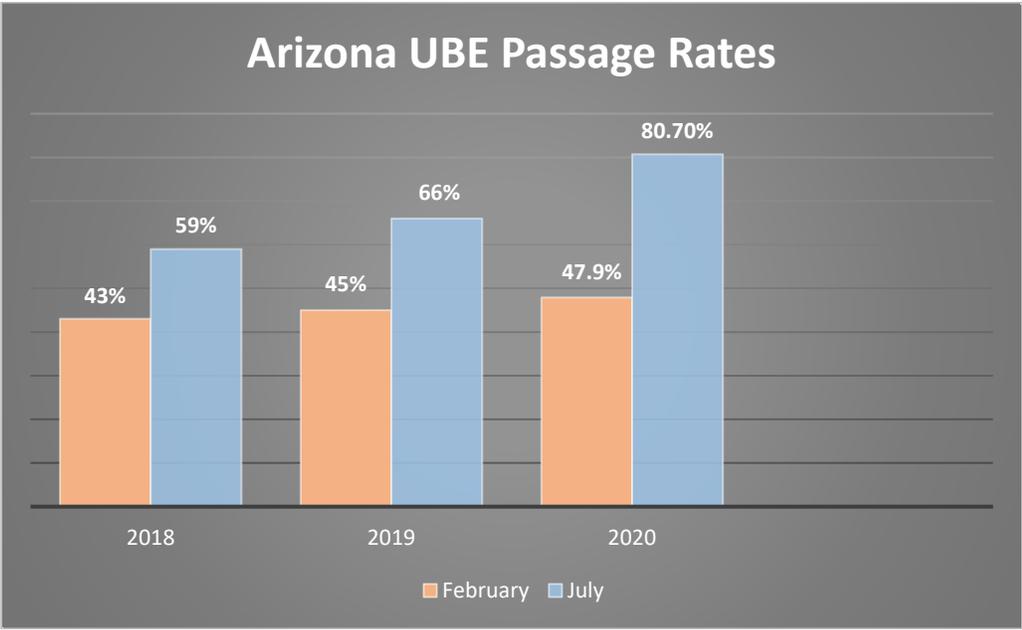
The Attorney Regulation Advisory Committee (“ARC”) was established by the Supreme Court of Arizona to periodically review the entire attorney admission and discipline system for the Court and make recommendations for any further needed changes. (Administrative Order No. 2011-44). ARC’s purpose is to review the rules governing attorney examination, admissions, reinstatement, and the disability and disciplinary processes and make recommendations regarding these rules “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 directed ARC to submit an annual report each year by April 30. That report “shall contain case statistics on the processing of attorney admission and discipline cases and recommendations on specific issues addressed by the Committee”. This report is respectfully submitted for the 2020 calendar year.

In 2020, the nation was impacted by the Coronavirus pandemic. In response, the Governor of Arizona declared a statewide emergency pursuant to A.R.S. § 26-303 and in accordance with A.R.S. §26-301(15). Although the judicial branch and other regulation entities remained opened, the effects of the pandemic fundamentally altered the daily operations in order to comply with the new restrictions. As reflected in this report, the impact of the pandemic on attorney admission and the discipline system can be seen in the overall decline in the case statistics.

I. The Examination/ Admission Process and Statistics

Arizona adopted the Uniform Bar Examination (“UBE”) in 2012 and typically has testing opportunities twice a year in February and July. In 2020, as a result of the pandemic, Arizona also offered a “remote” non-UBE examination in October. In addition, in 2020 the Supreme Court authorized recent law school graduates to “practice pending admission” under certain conditions. 12 individuals were certified to “practice pending admission”.

A total of 450 applicants passed the Arizona Uniform Bar Examination in 2020, yielding an overall pass rate of 67.5 %. A total of 85 applicants passed the non-Uniform Bar Examination in October, yielding an overall pass rate of 45%. 622 new attorneys were admitted in 2020: 170 by admission on motion, 58 via imported UBE scores earned elsewhere, 1 law professor, 0 military spouse admission, 0 foreign legal consultants and 393 by exam.



In 2020, a total of 248 applicants who tested in Arizona requested their UBE scores be transferred to 25 different jurisdictions, the most frequently to:

- New York 54
- New Mexico 40
- Texas 30

A total of 129 UBE applicants requested their scores be transferred into Arizona. Jurisdictions with the most frequently imported scores were:

New York 20
 Colorado 18
 New Mexico 13

Character and Fitness

Each applicant for admission must submit a detailed Character and Fitness Report. The Committee on Character and Fitness is charged with reviewing and, as necessary, investigating issues raised by these reports. As part of that process, and in compliance with the 2015 guidelines established by the Arizona Supreme Court, the Committee held a total of 51 informal proceedings in 2020, with the following results:

Informal Inquiries in 2020	
Outcomes	Number of Inquiries
Regular Admission	38
Conditional Admission	5
Referred for Formal Hearing	6
Withdrew Application	2
Total	51

16 investigations in 2020 resulted in formal proceedings, with the following results:

Hearings in 2020	
Outcomes	Number of Hearings
Regular Admission	6
Conditional Admission	4
Denied Admission	4
Withdrew Application	0
Conditional Admission Revocation	2
Total	16

In 2020, the Chairs of the Character and Fitness and Examinations Committees responded to petitions for review regarding the following issues:

Committee on Character and Fitness Response to Petitions for Review		
Issues	Requests	Action by Supreme Court
Waiver of ABA JD Requirement	2	1 Granted/1 Denied
Motions to Extend Five-Year Requirement for Admission	8	7 Granted/ 1 Withdrew
Waiver AOM Practice Requirement	2	1 Granted/1 Denied
Motion to Reduce Five-Year Under 34(m)	1	1 Denied
Comply with MPRE	1	1 Denied
Petition of Committee Denial Decision	1	1 Pending
Waiver of 5 year UBE Transfer score /MPRE	1	1 Granted
Waiver of UBE Score requirement	1	1 Denied
AOM eligibility	1	1 Granted
Total		11 Granted/ 5 Denied/ 1 Withdrew/ 1 Pending

Committee on Examinations Response to Petitions for Review		
Issues	Requests	Action by Supreme Court
Accommodations	1	1 Denied
Extraordinary Circumstance, Overturn Failing Exam Score	3	3 Denied
Total	4	4 Denied

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. The Supreme Court officially amended Rule 34 to allow early testing as a permanent admission option effective January 1, 2017. Applicants from any law school, certifying the student qualifies as an early tester may apply to sit as a third-year student. Of the two Arizona law schools, the University of Arizona consistently has the highest number of applicants apply as early testers. The overall statistics for 2020 are indicated in the chart below.

EARLY EXAM	Total Participants	Passed Exam	Pass Rate
February 2020	25	22	88%
University of Arizona	15	14	93%
Arizona State University	8	6	75%
Non-Arizona Law School	2	2	100%

Early tester applicants are eligible to sit for the exam; however, they are not eligible for admission in accordance with Rule 34(b)(2)(F) until satisfactory proof of an award of juris doctor degree is received by the Committee on Character and Fitness. In addition to earning the minimum passing score on the bar exam, early testers must satisfy the character and fitness requirement in order to be admitted to practice law.

February UBE scores are released the second week in May and many law schools conferred degrees after such date; therefore, not all February 2020 early testers were recommended for admission at the time of score release. Of the 25 early testers who sat for the February 2020 bar exam, 22 achieved successful scores. 8 of the 25 early testers filed a character and fitness application prior to the February UBE administration. After receipt of graduation and completion of other requirements was confirmed, 4 early testers were admitted in May. Of the remaining early testers who filed a character and fitness application sometime after the bar exam, 100% were admitted by the end of the year. 5 early testers have not yet filed a character and fitness application to complete admission.

October Remote Examination

In response to the COVID-19 pandemic, the Supreme Court offered bar exam applicants an opportunity to take an online exam in October 2020. The results of this exam are only valid for admission in Arizona. The overall statistics are indicated in the chart below.

REMOTE EXAM	Total Participants	Passed Exam	Pass Rate
October 2020	189	85	45%
University of Arizona	19	8	42.1%
Arizona State University	41	21	51.2%
Arizona Summit Law School	44	8	18.2%

II. Lawyer Regulation

Administrative Order 2011-44 directs that the annual ARC report shall contain case statistics on the processing of attorney regulation cases.

Statistical Summary

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 differences in the manner in which data has been captured are described in footnotes. 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		
2018	2019	2020
24,500	24,809	24, 977

Summary of Regulatory Action Taken¹			
	2018	2019	2020
Disbarred	15	18	8
Suspended	20	36	36
Reprimanded	29	21	24
Number of Informal Sanctions	34	47	24
Number of Diversions ²	88	127	122
Number of Dismissals with Comment	219	253	191

¹ This chart represents all final orders through appeal as of December 31 of each respective year.

² This includes all diversion agreements entered by the State Bar and orders issued by the Attorney Discipline Probable Cause Committee.

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 the State Bar's Lawyer Regulation Department 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 by the State Bar 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			
	2018	2019	2020
Total charges received	3,047	2,874	2,285
Number of charges referred to investigation	555	480	403
Number of lawyers investigated relative to the charges referred	437	371	305
Percentage of complaints resolved in Intake (closed)	75%	79%	70%
Average days to resolve complaints in Intake (closed)	25	22	19
Average days to refer from Intake to Investigation	27	26	23
Average days for investigation	216	197	202

Unauthorized Practice of Law

Intake and Investigative Process

Bar counsel/Unauthorized Practice of Law Counsel initially reviews all charges alleging that a disbarred lawyer or nonlawyer has engaged in the unauthorized practice of law in Arizona. If the allegations taken as true, do not constitute the unauthorized practice of law, counsel may request additional information or may dismiss the charge.

If the allegations taken as true, would constitute the unauthorized practice of law, counsel will conduct an investigation. The respondent is provided with a copy of the allegations and directed to submit a written response. At the same time, counsel may obtain additional information or documents from other sources. When the investigation has been completed, the charge may be dismissed, a consent to cease and desist may be filed, or a complaint may be filed in superior court.

Formal Proceedings

Complaints alleging the unauthorized practice of law are filed in the superior court for the county in which the respondent has engaged in the unauthorized practice of law. The Rules of Civil Procedure apply in superior court proceedings, except as otherwise designated in the Supreme Court rules. Bench trials are held, as respondents are not entitled to a jury trial. Agreements to cease and desist (which may include other sanctions) must be approved by the superior court. Default proceedings are handled by a superior court judge or commissioner, depending on the county in which the case was filed.

Willful disobedience or violation of a court order requiring the individual to do or forbear an act connected with the unauthorized practice of law may result in the filing of a petition for contempt in superior court.

Appeals

A superior court's final order or judgment may be appealed by either party to the Court of Appeals. Following the entry of a decision or opinion by the Court of Appeals, either party may file a petition for review with the Arizona Supreme Court.

Sanctions or Outcomes for Formal Matters

In 2020, cases resolved through superior court included any combination of the following sanctions: cease and desist order, injunction, finding of civil contempt, restitution, or imposition of the costs and expenses of the proceeding. Beginning in 2021, in addition to the aforementioned sanctions, a civil penalty up to \$25,000 may also be imposed.

SBA UPL Data		
	2019	2020
Total UPL charges received	86	58
Number of UPL charges referred to investigation	49	32
Percentage of UPL charges resolved in Intake (closed)	41%	38%
Average days to resolve UPL charges in Intake (closed)	19	15
Average days to refer from Intake to Investigation	17	13
Formal UPL Complaints	11	8
Dispositions		
Cease and Desist Order	10	3
Cease and Desist Order with Restitution	4	3
Dismissed	3	2
Pending	3	3
Contempt Proceedings	1	3
Dispositions		
Civil Contempt	-	1
Civil Contempt and Fines	-	1
Civil Contempt, Restitution, and Fines	1	1

Attorney Discipline Probable Cause Committee

The Attorney Discipline Probable Cause Committee (ADPCC) 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 State 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.

Additionally, 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 State Bar’s recommendation on the case. Pursuant to Rule 55(b)(2)(B), the State Bar also informs the complainant of the right to submit a written response and objection to the State Bar’s recommendation.

The ADPCC meetings are confidential, and are not open to respondents, complainants or the public. At each meeting, the State Bar presents its cases orally and ADPCC members may ask questions, request additional facts, challenge the State Bar’s recommendations or offer their own recommendations. In 2020, the ADPCC rejected or modified the State Bar’s recommendation in 24 cases. In 5 cases, the ADPCC increased the severity of the recommended sanction or disposition. In 6 cases, it decreased the State Bar’s recommended sanction or disposition.

In 2020 there was a reduction in the number of matters ADPCC considered. This was a consequence of a Rule amendment that allowed the State Bar to impose diversion without a finding of probable cause by ADPCC. The ADPCC organizes its statistics in a slightly different format from that of the State Bar, tracking the number and types of orders issued:

Number of Matters³ the ADPCC Reviewed and Number of Orders Issued			
	2018	2019	2020
Number of Matters Reviewed	321	296	185
Number of Probable Cause Orders Authorizing a Formal Complaint	129	68	90 ⁴
Number of Orders of Admonition	33	41 ⁵	24

³ A “matter” is defined as a State Bar action that results in an ADPCC order and may involve multiple charges. The statistics in this chart are calculated on a calendar year.

⁴ This includes four Probable Cause Orders from Independent Bar Counsel.

⁵ This includes two admonitions from Independent Bar Counsel.

Number of Orders of Restitution	4	12	4
Number of Orders of Diversion	86 ⁶	107	17
Denial of Appeals from State Bar Orders of Dismissal	38	33	25 ⁷
Granted Appeals from State Bar Orders of Dismissal	4	4	0
ADPCC increased recommended sanctions or disposition (by charge)	6	5	5
ADPCC decreased recommended sanctions or dispositions (by charge)	15	15	6

Contested ADPCC Orders and Disposition

Pursuant to Rule 55(c)(4)(B), attorneys receiving an order of diversion, stay, probation, restitution, admonition or assessment of costs and expenses may contest that order by demanding formal proceedings be instituted. In that event, the ADPCC order is vacated, and the State Bar files a formal complaint with the PDJ. In 2020, the following orders were appealed and converted to formal cases, with the following results:

- 19-1227 Contested Admonition with Probation Order, **result: Admonition**
- 19-2254 Contested Admonition with Probation Order, **result: Admonition with Probation**
- 20-0466 Contested Admonition with Probation Order, **result: Admonition**
- 20-0662 Contested Admonition with Probation Order, **result: Still Pending**

Formal Cases

Office of the Presiding Disciplinary Judge

The Presiding Disciplinary Judge presides over attorney regulation proceedings including transfers to disability status and discipline and reinstatement matters. The PDJ individually rules on interim suspension requests, agreements for discipline by consent, reciprocals, petitions for transfer to disability inactive status, Rule 64 affidavit-based requests for reinstatement, and requests for protective orders. Other matters are decided by a hearing panel. The Chief Justice appoints a pool of volunteer attorney and public members to serve on hearing panels. Each three-member hearing panel is comprised of the Presiding Disciplinary Judge, one volunteer attorney member and one volunteer public member assigned by the disciplinary clerk. The hearing panels

⁶ This includes one diversion from Independent Bar Counsel.

⁷ This includes three Denial of Appeals from Independent Bar Counsel.

have statewide jurisdiction over any 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. In transfers to disability, the PDJ issues an appealable order regarding the request for transfer except when an agreement is entered. The disposition of the matter by the Court establishes the finality of each 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, Susan P. Hunt. The decisions of the PDJ or the hearing panels can be found online at <http://www.azcourts.gov/pdj>.

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 chair of a hearing panel in discipline, disability proceedings and reinstatement hearings.

The use of hearing panels has provided 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 Various Filings by Category for the Past Three Years			
	2018	2019	2020
Formal Complaints	56	44	48
Pre-Complaint Consent Agreements	29	19	22
Post Complaint Consent Agreements	27	34	30
Interim Suspension	8	2	1
Probation Violations	3	5	7
Disability Petitions	4	3	3
Reciprocal Discipline	10	4	5

Average Time to Order for Formal Matters

The charts below describe the average time from formal Complaint to Decision for all cases, contested cases, consent agreements and defaults.

Average Time from Formal Complaint to Decision Order for All Types of Cases			
	2018	2019	2020
Number of Days	106	112	98

Average Time from a Formal Complaint to Decision Order for Contested Cases			
	2018	2019	2020
Number of Days	186 ⁸	161	180

Average Time from a Formal Complaint to Decision Order for Default Cases			
	2018	2019	2020
Number of Days	86	82	95

Average Time from a Formal Complaint to Final Order for Consent Agreements			
	2018	2019	2020
Number of Days	107	111	91

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 below describe the sanctions or outcomes for the last three years. Diversions are not listed. ADPCC informal sanctions include Orders of Admonition, Restitution and Probation.

Sanctions & Outcomes⁹			
	2018	2019	2020
Disbarment	16	19	8
Suspension	21	38	35
Reprimand	29	21	23
Hearing Panel Dismissals	0	0	0

Protective Orders Issued by PDJ¹⁰			
	2018	2019	2020
Number of Protective Orders	69	87	76

⁸ 3 cases in 2018 extended this number: Rocco (224 days); Carter (221 days); and Harris (200 days).

⁹ This chart provides statistics of decisions issued by the Presiding Disciplinary Judge as of December 31 of the corresponding year and may include orders that were on appeal to the Supreme Court.

¹⁰ Protective Orders typically address concerns of public disclosure of confidential or personal information.

Resignation Orders in Lieu of Reinstatement Issued by PDJ			
	2018	2019	2020
Number of Resignation Orders	7	11	7

Rule 64 & Rule 65 Reinstatement Applications			
	2018	2019	2020
Rule 64 (e) ¹¹	15	12	12
Rule 65 ¹²	12	4	18

Rule 64 and 65 Reinstatements Filed in 2020 with Status			
Cause Number*	Applicant	Recommendation by Hearing Panel	Status (As of date of report)
2020-9011-R	Ventura, Marc	Reinstatement	Reinstated
2020-9013-R+	Edwards, Stephen	+	Reinstated
2020-9023-R	White, Alexandra	Reinstatement	Reinstated
2020-9027-R	Whipple, Rory	-	Withdrawn by Party
2020-9039-R	Shannon, John	Under Advisement	-
2020-9035-R	Bayles, Seth	-	Withdrawn by Party
2020-9037-R	Charles, Joseph	Deny	Pending
2020-9043-R	DeVito, Scott	-	Withdrawn by Party
2020-9054-R	Inserra, Daniel	Pending Hearing	-
2020-9057-R	Ponath, Bill	-	Withdrawn by Party
2020-9059-R	Bermudez, Felisa	Pending Hearing	-
2020-9062-R	Mouser, Andrea	-	Withdrawn by Party
2020-9082-R+	Green, Kristen (Brady)	+	Reinstated
2020-9084-R+	Raymond, Aileen	+	Reinstated
2020-9086-R+	Paynter, Kristen	+	Reinstated
2020-9089-R+	Leonard, Jo-Ann	+	Reinstated
2020-9090-R	Vernon, Courtney	Pending Hearing	-
2020-9102-R+	Barrabee, JonPaul	+	Reinstated
2020-9002-R*	Hogle, N	-	Reinstated
2020-9005-R*	Rocco, Joseph	-	Reinstated
2020-9020-R*	Bryant, Tori	-	Reinstated
2020-9030-R*	Don, David	-	Reinstated
2020-9074-R*	Baldwin, Michael	-	Reinstated
2020-9048-R*	Hogle, D	-	Reinstated

¹¹ Suspensions of six months or less.

¹² Suspensions of six months and one day or more or administrative suspensions exceeding two-years.

2020-9056-R*	Dick, David	-	Reinstated
2020-9041-R*	Gmuca, Joseph	-	Reinstated
2020-9071-R*	Anderson, Carl	-	Reinstated
2020-9077-R*	Bracamonte, Jose	-	Reinstated
2020-9115-R*	Keating, Kevin	-	Reinstated
2020-9119-R*	Sodaro, Jennifer	-	Reinstated

* Rule 64 reinstatements are by affidavit and ruled upon by the PDJ without the hearing panel.

+ AO 2020-182 allows the PDJ to issue orders of reinstatement based on consent agreements in reinstatements from an administrative suspension without prior discipline of suspension or disbarment.

Appeals to the Supreme Court

Sanctions or outcomes of matters handled by the PDJ may be appealed to the Supreme Court. The chart below describes the notices of appeal either filed or concluded in 2020.

2020 Notice of Appeals filed with Disciplinary Clerk with Status			
Cause Number	Case Name	Action or Sanction	Status (As of Date of Report)
2019-9044	Levy, Douglas	Reprimand with Probation	Pending/Remanded to PDJ
2019-9058	Williams, Mark	6 Months and 1 Day Suspension	30-day Suspension and Probation
2019-9054	Urbano, Michael	3 Years Suspension	Dismissed
2019-9096	Clark, Greg	6 Months and 1 Day Suspension	Dismissed
CV-20-0035-SA	Martinez, Juan	Special Action	Resolved
CV-20-0219-SA	Raynak, Daniel	Special Action	Jurisdiction Declined

Certificates of Good Standing and Discipline History Reports

Certificates of Good Standing (COGS) and Discipline History (DH) Reports are processed by the Administrative Office of the Courts' Certification and Licensing Division and then they are reviewed and issued by the Disciplinary Clerk, pursuant to Ariz. Sup. Ct. Rule 74.

Certificates of Good Standing & Discipline History Requests			
	2018	2019	2020
COGS	1719	1662	1582
DH	551	655	677

Independent Bar Counsel

In 2001, the State Bar Board of Governors created a volunteer Conflict Case Committee (“Committee”) to timely process, investigate and prosecute all aspects of disciplinary matters that, because of the involvement (as applicants, complainants, respondents, material witnesses, or otherwise) of lawyers or others connected with the lawyer discipline system or the State Bar Board of Governors, should not be handled by counsel in the State Bar Lawyer Regulation Office due to conflict of interest concerns. Effective January 1, 2011, the Arizona Supreme Court substantially modified Arizona’s lawyer discipline system, eliminating the Hearing Officer and Disciplinary Commission positions that generated much of the Committee’s work, and replacing the State Bar Probable Cause Panelist with the Attorney Discipline Probable Cause Committee. The Court further determined that the timely, fair and impartial resolution of the cases previously assigned to the Committee and similar cases would be improved by devoting personnel and administrative resources in addition to those available using volunteers.

Accordingly, by Administrative Orders 2014-11 and 2018-20, the Court established the position of Independent Bar Counsel (“IBC”) and appointed a volunteer attorney panel to assist as necessary with the investigation and prosecution of matters assigned to IBC by the State Bar. The IBC reports quarterly to the chair of the ADPCC as to the status of all matters pending, and issues a report annually generally describing the nature and disposition of qualifying matters resolved during the preceding year.

The annual report also allows IBC to make any recommendations for improving Arizona’s lawyer admission, discipline, disability and reinstatement procedures. The following is the IBC report for 2020.

Independent Bar Counsel’s Report Pursuant to Admin. Order 2018-20

General description of the nature and disposition of Qualifying Matters resolved by Independent Bar Counsel during the preceding year.

This report includes cases for calendar year 2020. During that time, Independent Bar Counsel (“IBC”) received a total of thirty-two (32) new complaints¹³. Below is a breakdown showing detail regarding the nature of the qualifying matter:

4(a)(i) (Board member)	4(a)(ii) (State Bar staff)	4(a)(iii) (ADPCC member)	4(a)(iv) (Lawyer previously with the State Bar)	4(a)(v) (Hearing Panel member)	4(b) (Other matters assigned by Chief Justice)	4(c) (Related matter)
21	4	1	0	0	0	6

Eight (8) matters were carried over. All remaining matters remain under investigation.¹⁴

¹³ Previously, IBC received the following number of new complaints:
 2019 - 12
 2018 - 13
 2017 - 8
 2016 - 4
 2015 - 15
 2014 - 21

¹⁴ On January 13, 2021, the Supreme Court issued Admin. Order 2021-05, appointing Ret. Judge Lisa Flores to serve as Deputy Independent Bar Counsel (“DIBC”) for the purpose of resolving all charges related to the November 2020 election. The Order contemplates that DIBC will “utilize State Bar Counsel and investigators to assist”, but that DIBC “shall” remain the decision maker “as authorized by applicable rules, including the decision to dismiss or charge.”

A total of four (4) cases were resolved in 2020 with the following breakdown:

Disbarment	Suspension	Reprimand	Admonition	Diversion or “other appropriate action” per Rule 55(a)(2)(B)	Dismissal with Comment	Dismissal
0	0	0	0	0	0	4

Of those four matters resolved in 2020, the average length of investigation¹⁵ was 184 days.

IBC’s recommendations for improvements to Arizona lawyer admission, discipline, disability and reinstatement procedures.

IBC has not yet had an opportunity to become involved in matters of lawyer admission, disability or reinstatement proceedings and consequently has no recommendations other than to remind those involved with lawyer admission, disability or reinstatement that she is available to assist. Currently, IBC does not have any recommended improvements to the attorney discipline system.

III. Review by the Arizona Supreme Court

The Arizona Supreme Court has exclusive authority over the regulation of attorneys. *Scheehle v. Justices of the Supreme Court of the State of Arizona*, 211 Ariz. 282, 289 (2005). “[T]he practice of law is a matter exclusively within the authority of the Judiciary. The determination of who shall practice law in Arizona and under what condition is a function placed by the state constitution in this court.” *Hunt v. Maricopa County Employees Merit Sys. Comm'n*, 127 Ariz. 259, 261–62 (1980). In addition to overseeing the attorney discipline and admissions procedures in Arizona, the Court reviews specific cases that come before it for review. The Court considers appeals in formal attorney disciplinary matters, reviews recommendations of hearing panels in reinstatement cases, considers petitions for review from decisions of the Committee on Character and Fitness and the Committee on Examinations in admissions matters, and reviews recommendations for the conditional admission of applicants. Below are statistics for attorney discipline and admission cases that came before the Court in the past three years.

¹⁵ The IBC position was created as a part-time position, limiting the number of workdays available per month. Workdays, subject to this limitation, were used for the purpose of calculating the average length of investigations, rather than business days or calendar days.

DISCIPLINARY APPEALS			
	2018	2019	2020¹⁶
Filed	8	5	4
Concluded	10	6	6
Pending at year end	5	4	2
Average Days to Conclusion	161	182	285

REINSTATEMENTS			
	2018	2019	2020
Filed	11	3	4
Concluded	10	6	5
Pending at year end	4	1	0
Average Days to Conclusion	77	83	65

PETITIONS FOR REVIEW (ADMISSION)			
	2018	2019	2020
Filed	23	18	16
Concluded	24	19	16
Pending at year end	9	8	8
Average Days to Conclusion	57	64	61

CONDITIONAL ADMISSIONS			
	2018	2019	2020
Filed	9	12	8
Concluded	10	11	10
Pending at year end	2	3	0
Average Days to Conclusion	57	46	44

IV. ARC Action on Rule-Change Petitions

During 2020, ARC participated in drafting portions of proposed rule changes or provided comments on the following rule petitions:

- R-19-0044 Amending Rules 33, 34, 35 and 37
- R-20-0003 Amending Rule 39(a)
- R-20-0007 Amending Rule 38(d)
- R-20-0020 Amending Rules 34-37
- R-20-0026 Amending Rule 32

¹⁶ The 2020 statistics include an appeal that required a remand to the hearing panel.