

Annual Report
The Disciplinary Board of the Supreme Court of Pennsylvania
For the Year 2015

Budget

For Fiscal Year 2014-2015, the Board's revenues totaled \$9,728,233 and expenses totaled \$10,965,005. After factoring in the unrealized gain on investments of \$395,081, expenditures exceeded revenues by \$841,691. The Board's invested funds experienced unrealized losses of \$288,119 in 2007-2008 and \$140,000 in 2011-2012 and saw gains of \$1,476,300 in 2009-2010, \$1,481,533 in 2010-2011, \$987,152 in 2012-2013, and \$1,400,895 in 2013-2014, respectively.

On November 24, 2014, the annual Lawyer Assessment Committee telephone conference call took place. At that time, the Board submitted a tentative Budget for Fiscal Year 2015-2016, which proposed a 1.28% increase in its Budgeted Revenues and a 1.75% increase in its Budgeted Expenses. The submitted Budget projected that expenses would exceed revenues by \$1,322,715, or approximately 13% of revenue, based on an annual fee allocation to the Disciplinary Board of \$125.00 per Active Pennsylvania Attorney.

By Supreme Court Order dated February 9, 2015, and remaining in place through the date of this report, the Court revised the annual fee allocations to provide \$125.00 per Active Pennsylvania attorney to the Disciplinary Board, \$45.00 per Active Pennsylvania attorney to the PA Lawyers Fund for Client Security, and \$30.00 per Active Pennsylvania attorney to the IOLTA Board. The current fee allocation structure is a significant reduction from the 2008-2011 Fiscal Years in which the Disciplinary Board was allocated \$140.00 per Active Pennsylvania attorney. As such, the Disciplinary Board had to draw down \$1,000,000 from its reserve fund in 2014-2015 and expects to do the same in 2015-2016.

General Statistics

The attorney population in Pennsylvania has increased dramatically since the Board began its operations. The number of active paid attorneys for the 1972-1973 Fiscal Year was **13,057** as compared to **64,509** active and **10,951** inactive paid attorneys as of December 31, 2015.

The efficient disposition of complaints is a matter that the Board is continually required to keep under review. During the year 2015, **4,145** new complaints were received by the ODC. **4,120** complaints were disposed of during the year, **265** of which resulted in discipline. A tabulation of the disciplinary actions taken since the beginning of the Board's operations in 1972 is set forth on the attached chart. In 2015, the Supreme Court ordered the disbarment of **37** attorneys and suspension of **38** attorneys for periods ranging up to five years (this does not include **21** attorneys who received interim temporary suspensions). Due to the fact that a number of disciplinary matters involve multiple complaints of misconduct against an attorney, the number of complaints resulting in discipline will not equal the total disciplinary actions taken in any given year.

Discipline on Consent

Effective June 11, 2005, the Supreme Court approved amendments to Rule 215, Pa.R.D.E. In July 2005, the Board established a procedure for three-member panels to review Joint Petitions for Discipline on Consent. When Joint Petitions are filed with the Board, they are assigned to three-member panels to review and either approve or deny the Joint Petitions. When a decision is made, the Panel Chair returns the signed Recommendation page to the Board Secretary. If the Joint Petition is approved, the Secretary's Office notifies the respondent-attorney of the approval and that the necessary expenses must be paid as a condition to the grant of the Petition. The respondent-attorney is given ten days in which to do so. If the joint recommendation is for some form of public discipline, the Panel's recommendation is forwarded to the Supreme Court upon receipt of payment.

During the 2015 year, **25** Joint Petitions in Support of Discipline on Consent were filed with the Board. **8** of those joint petitions were filed prior to scheduled disciplinary hearings. **23** joint petitions were approved and **1** was denied. Of those approved, all of them resulted in public discipline. As of December 31, 2015, **1** of the joint petitions filed in 2015 was not yet final.

Since consent discipline was adopted in Pennsylvania in 2005, **323** Joint Petitions in Support of Discipline on Consent have been filed with the Board.

Board Activities

During the year 2015, the Disciplinary Board met in person four (4) times. All of these meetings combined administrative and executive business. At its executive sessions, the Board adjudicated **36** proceedings involving formal charges. Of the 36 major adjudications, **30** were referred to the Supreme Court, together with the Board's Report and Recommendations. In addition to regularly scheduled meetings, three-member Board panels heard oral argument in **5** matters. Three-member review panels considered recommendations for summary Private Reprimands in **6** cases, and summary Public Reprimands in **18** cases. **10** respondents appeared before three-member Board panels and received private reprimands and **15** respondents received public reprimands. Finally, **1** Board Member conducted a hearing on a petition to dissolve a temporary suspension, **3** members held hearings on probation violation matters and **7** Board Members reviewed and approved the filing of petitions for emergency temporary suspension with the Supreme Court.

In May 2009, Rule 218, Pa.R.D.E. was amended to provide a new procedure for attorneys petitioning for reinstatement from inactive or retired status for more than three years. The Rule provides that if ODC has no objection to the reinstatement and files a certification with the Board Secretary stating that, after review of the petition and reasonably diligent inquiry, they have determined that there is no impediment to reinstatement and the petitioning attorney would meet his or her burden of proof under the Rule if the petition were to proceed to hearing, the petition and certification are referred to a member of the Board for review and issuance of a report and recommendation in accordance with the Rule. If the assigned Board Member approves the reinstatement, the matter is forwarded to the Deputy Prothonotary of the Western District of the Supreme Court.

In 2015, Board Members reviewed and approved **89** reinstatements from attorneys on inactive status, retired status or administrative suspension for more than three years. In addition, this new procedure cuts down the processing time on these types of reinstatements from an average of six months to about three months. The costs charged to the petitioning attorney are also drastically reduced due to the elimination of the need for a hearing and the reduced number of copies being filed with the Court.

At the request of the Board, the Chief Disciplinary Counsel, the Executive Director and the Board Secretary have taken steps to speed up the disposition of complaints. The Board is cognizant of the fact that complainants and respondents deserve to have cases handled in a timely manner. A number of changes in procedures and productivity have served to significantly cut down the time it takes to process a case.

Board Committee Activities

Rules Committee

During 2015, the following proposed amendments were approved:

RPC 1.7, 1.8, 1.15, 5.7 and 5.8 and Pa.R.D.E. 208, 213, 215, 217, 218, 219 and 221 – Amended by Order dated December 30, 2014, effective February 28, 2015, to reduce loss resulting from the misappropriation of client and third party funds.

Pa.R.D.E. 502(b) and RPC 1.15(u) – Amended by Order dated February 9, 2015. The Court directed that the Rules be amended to change annual fee allocations for the 2015-2016 annual attorney registration period.

Amendments to Board Rules of Organization and Procedure – Order No. 76 adopted effective March 2, 2015, made conforming amendments consistent with the amendments made to Pa.R.D.E. 208, 213, 215, 217, 218, 219 and 221 to reduce loss resulting from the misappropriation of client and third party funds.

Amendments to Board Rules of Organization and Procedure – Order No. 77 adopted effective June 22, 2015, shortened the length of time informal admonitions are deemed relevant from six to four years and changed the location of the District I Office in Philadelphia.

Amendments to Board Rules of Organization and Procedure – Order No. 78 adopted effective December 14, 2015, to provide that probation is self-terminating upon the filing of the final quarterly report and upon the expiration of the fixed period of probation.

In addition to the above Rule changes, the Board published a Notice of Proposed Rulemaking soliciting comments on proposed amendments to the following Rule:

RPC 1.17 – Sale of a Law Practice – Published for comment on November 14, 2015 – one comment received. The Board proposed amending RPC 1.17 to change the strict requirement that the seller must cease to engage in the private practice of law in Pennsylvania and permits a lawyer who wishes to cease practice in one area of law to do so, but allows that lawyer to continue to practice in other areas of law. The amendments also eliminate the current requirement that a practice be sold in its entirety to a single lawyer, and permits the sale of an entire area of practice, in addition to an entire practice, to one or more lawyers or law firms and places the responsibility on the seller to give written notice to each of the seller’s clients.

Finance & Pension Committee

The Finance & Pension Committee reviewed and approved the proposed Budget for Fiscal Year 2015-2016. The Committee also reviewed the audit performed by the Board’s auditors, KPMG LLP.

In January 2015, the Committee recommended and the Board approved the assessment of an automatic late payment penalty of \$150.00 on attorneys who fail to complete registration by July 31. A second, non-waivable late payment penalty of \$150.00 was recommended and approved by the Board to be added to the delinquent account of any attorney who fails to complete registration by August 31st.

In July 2003, the Board was notified by the Supreme Court of the establishment of the Investment Advisory Board (“IAB”). The IAB developed an investment policy and selected an investment firm to implement the policy. Effective July 1, 2005, the Administrative Office of the Supreme Court began investing the Board’s funds in the consolidated account through PNC Advisors. The IAB consists of one representative from each of the participating Boards and four members appointed by the Supreme Court. The four Court-affiliated Boards involved are the Disciplinary Board, the PA Lawyers Fund for Client Security Board, the PA Continuing Legal Education Board, and the Pennsylvania Board of Law Examiners.

Board Member Brian John Cali is currently the Board’s representative on the IAB.

Education Committee

The Education Committee designed the program for the Board’s Educational Meeting in July 2015.

The program was titled “How We Do Business” and focused on how the various offices within the disciplinary system operate. It began with the Board Vice-Chair presenting an overview of the role of the Board, including the key staff in the Office of the Secretary and the Executive Offices and what they do.

The introduction to the Office of Disciplinary Counsel (ODC) was presented by the Chief Disciplinary Counsel, who gave an overview of the role ODC plays in the process, ODC operations and the ODC staff, and identified attorneys at risk. The Deputy Chief Disciplinary Counsel reviewed the complaint process beginning with where complaints originate, investigations, review and recommendation procedures and procedures for considering consent discipline.

The procedures used in the Office of the Secretary were presented by the Counsel to the Board and the Assistant Secretary of the Board. They summarized filings made with the Board, the hearing process, adjudication by the Board and actions taken after discipline is determined.

The program concluded with the Board Secretary providing a historical look at the types of probation, what works and does not work, and making some recommendations on rule amendments that would streamline the probation process.

This program was extremely beneficial to the many newer Board Members and it was determined that it should be revisited from time to time when newer members outnumber the experienced members.

The Education Committee was not called on to design a program for training of new hearing committee members as no current members retired in 2015 and no new members were appointed.

Communications Committee

The role of the Communications Committee is to provide oversight to the Board's website to increase visibility, and to explore ways of improving communications with the general public, attorneys, law students and others.

In July 2008, the Board retained Suasion as its communications firm. Their primary function is to provide support for the Board's website and distribute the monthly Attorney E-Newsletter. As of December 31, 2015, there were 78,921 subscribers to the monthly Attorney E-Newsletter.

During 2015, the Communications Committee met monthly to review the statistics on the number of subscribers to the Attorney E-Newsletter, and the Board's Twitter page @DboardPa, which now has 750 followers. In 2014, the Board launched a mobile app for use on android phones and iPhones. In 2015, the Board joined LinkedIn to broaden its online presence and as of the end of 2015, already had 190 followers.

In 2015, Suasion also updated a number of items and Rules on the website at the request of staff. They wrote and distributed press releases and articles concerning online attorney registration, as well as appointments and reappointments to the Disciplinary Board. They also drafted and distributed two email blasts to attorneys concerning deadlines for attorney registration and how to register online.

In October 2015, the Communications Committee continued discussions on ways to better communications with law schools and their students. They approved the distribution of post cards and posters using the logo “Keep Calm and Follow the Rules” and began making contact with the Pennsylvania law schools to discuss communications and arrange for distribution of the written materials to the students.

Disciplinary Board Website

On June 25, 2003, the Disciplinary Board launched its Website at www.padisciplinaryboard.org. In 2005, the Board purchased two additional domain names (www.padboard.org and www.padb.us) in an effort to provide easier access to the site.

In June 2006, the Board launched its redesigned website with the goal of making it more consumer friendly. The site features an attorney section, a consumer section, and an attorney look up section. The attorney section provides forms for registration and reinstatement, information on registration and reinstatement procedures, options to look up attorneys, frequently asked questions, current copies of the Rules, and other attorney-related information. The consumer section allows consumers to look up attorneys, explains the process for filing a complaint, provides downloadable copies of the complaint form and informational brochures, and provides information to better understand how the disciplinary system works. The attorney look up section, which can be accessed directly from the Home page, allows users to easily search registered Pennsylvania attorneys to verify public address information, the attorney’s current status, date of admission, a history of public discipline, if any, and whether there are any public proceedings pending against that attorney.

In 2007, the Board added a new component to its website to assure the public is informed of recent Supreme Court actions taken against attorneys. The new Recent Supreme Court Action tab is on the Board’s Home page, and one click on the tab takes users to a Table which lists the discipline against attorneys during the last 60 days. The table contains the attorney’s name, the date of the order, action taken, and, where available, a link to the Board’s report or joint petition for discipline on consent. Within 24 business hours after a Supreme Court Order is entered, the case will be added to the table. Users can also access discipline going back to 2011, and these tables can easily be sorted by date, attorney last name, type of action taken, the county where the attorney is located and attorney ID number.

In the Fall of 2012, the Board launched a new mobile-friendly website. The new website is now more accessible on various devices, including PCs, smartphones, iPads and more.

During the 2015 year, the top pages visited were: Look up Attorney, Attorney Home Page, Recent Supreme Court Actions, Online Address Change, Attorney FAQ and Consumers Home Page. 73% of the visits were made from Pennsylvania.

Hearings and Hearing Committees

In October 2004, the hearing committee organization was re-structured to give the Board the ability to assign formal hearings to committees within a disciplinary district using all available committee members. Members were ranked based on their experience. In addition to reorganizing the Hearing Committees, the Board also made changes in the procedures for scheduling hearings. At the same time the three Committee members are selected, they are contacted by telephone and prehearing and hearing dates are set. If one of the members is not available, the staff in the Secretary's Office can call another member to find someone available on the dates selected. The Notices of Prehearing and Hearing are sent to the parties and the Committee at the same time the assignment is made. This has eliminated the undue delays in scheduling the Board experienced in the past.

New procedures were put in place to try to eliminate overdue Hearing Committee Reports. After the briefing schedule has passed, the members of the Hearing Committee are sent a reminder letter by the Board Secretary giving them the due date for the Report. In addition, a week or two before the Report is due, Counsel to the Board places a reminder phone call or sends an email to the Committee Chair reminding him or her of the upcoming due date and offering assistance, if needed. Since the establishment of this new procedure, there have been very few Board Meetings where any Hearing Committee Reports were reported as overdue.

In August 2005, the Board launched a page on its website exclusively for the use of Hearing Committee Members and Board Members. This section offers sample hearing committee reports, orders and other documents, Word templates for the preparation of all types of committee reports, as well as travel expense and other forms. The section also includes a research page which contains links to published Board Reports, a bank of Supreme Court Opinions and current copies of the Rules.

As of December 31, 2015, there are **143** Hearing Committee Members, consisting of **96** Senior members, **34** Experienced members and **13** New members appointed by the Disciplinary Board who serve on a pro bono basis to conduct hearings.

Other Highlights in 2015

New SharePoint Extranet Website for Board Members – The new website was provided by the Administrative Office of PA Courts (AOPC) to those Courts and Boards of the Unified Judicial System (UJS) who previously used the internal SharePoint Website provided by the UJS. Board Members can access the new site from their pc, laptop or any mobile device. It makes it much easier for Members to access their Board Meeting materials.

Relocation of District I Office – In April 2015, the District I Office of Disciplinary Counsel and Deputy Chief Disciplinary Counsel moved from 1635 Market Street to 1601 Market Street in Philadelphia.

Changes to Attorney Registration Electronic Filing – In 2015, improvements were made to electronic filing (eFiling) to address safety and security concerns expressed by those hesitant to register electronically using credit or debit card information. There are now two ways to pay annual fees — by credit card or by voucher. Both methods require the attorney or his/her proxy to complete the online registration form, but when it comes time to pay the annual fee, an attorney now has the new option to print a voucher and mail in a check or money order.

New Case Management System – In July 2015, the Board’s new case management system (CMS) was launched. It is integrated with the Board’s document management software and the Office of Disciplinary Counsel now receives copies of filings made with the Office of the Secretary by electronic means. There is also a new electronic method for hearing committee members to receive assignments to review case files and recommendations by ODC.

National Meetings – In February 2015, Board Members, Howell K. Rosenberg, Douglas W. Leonard, David A. Fitzsimons, Board Secretary Elaine Bixler and Assistant Secretary Marcee Sloan attended the Twelfth Annual Meeting of the National Council of Lawyer Disciplinary Boards (NCLDB) in Houston, Texas. Board Member Leonard also made a presentation on Motivational Drivers during that Meeting.

THE DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA
Calendar Years

Calendar Years	Informal Admon.	Private Reprimand	Public Reprimand	Probation	Public Censure	Suspend	Disbar	Grant Rein.	Deny Rein.	Year-end Totals
1973	37	0		0	0	3	3	1	1	45
1974	55	7		0	2	12	4	2	2	84
1975	95	8		0	5	12	6	2	2	130
1976	81	9		0	8	8	5	3	0	114
1977	96	7		2	10	10	13	3	0	141
1978	102	14		1	7	13	6	4	3	150
1979	121	5		0	6	17	12	2	1	164
1980	98	5		0	1	8	12	6	5	135
1981	113	4		0	1	17	21	42	4	202
1982	156	6		0	2	12	33	21	0	230
1983	137	9		0	6	7	24	22	0	205
1984	125	21		0	1	7	21	25	2	202
1985	123	19		0	3	16	16	21	0	198
1986	101	27		0	2	5	29	17	2	183
1987	110	17		0	3	10	23	24	1	188
1988	106	25		0	0	17	32	34	1	215
1989	123	31		0	2	17	18	27	0	218
1990	98	26		1	1	18	26	34	1	205
1991	115	46		1	4	10	27	35	0	238
1992	82	42		7	1	20	38	27	1	218
1993	85	30		5	0	12	20	29	1	182
1994	75	41		5	1	23	32	24	0	201
1995	74	48		7	6	26	35	44	1	241
1996	70	31		3	3	37	41	31	0	216
1997	106	46		8	3	33	40	35	2	273
1998	88	43		5	7	24	33	33	1	234
1999	48	26		7	4	23	29	45	4	186
2000	45	29		3	0	30	32	35	2	176
2001	40	35		10	2	27	31	55	3	203
2002	54	32		8	2	29	42	64	4	235
2003	58	36		8	1	31	38	58	4	234
2004	106	34		20	1	38	37	75	2	313
2005	109	26		24	2	51	37	72	1	322
2006	77	22		11	4	65	39	93	1	312
2007	85	16		6	3	48	25	64	2	249
2008	90	25		15	5	45	38	82	1	301
2009	62	23		9	4	40	29	84	3	254
2010	55	16		8	2	34	45	106	1	267
2011	75	19		15	3	49	32	105	2	300
2012	56	15	9	11	5	50	36	88	2	272
2013	48	13	9	8	1	32	40	80	2	233
2014	76	6	8	10	0	42	46	107	1	296
2015	58	10	24	16	2	38 ¹	37 ²	106 ³	1 ⁴	292
Total	3,714	950	50	234	126	1,066	1,183	1,867	67	9,257

¹ This figure includes **18** suspensions on consent (Rule 215 Pa.R.D.E.) but does not include **11** temporary suspensions (Rule 214 Pa.R.D.E.) and **10** temporary suspensions (Rule 208(f) Pa.R.D.E.)

² This figure includes **19** disbarments on consent (Rule 215 Pa.R.D.E.)

³ This figure includes **89** reinstatements to active status after being inactive, retired or administratively suspended three or more years, **15** reinstatements after having been suspended and **2** reinstatements after having been disbarred.

⁴ This figure includes **1** reinstatement denied after being disbarred.