



Annual Report 2016

The Disciplinary Board of the Supreme Court of Pennsylvania

Tel 717.231.3380
Fax 717.231.3381

601 Commonwealth Avenue, Suite 5600
PO Box 62625
Harrisburg, Pennsylvania 17106-2625

www.padisiplinaryboard.org

Contents

Executive Summary	1
Office Highlights	3
Committee Progress Reports	7
Finance and Budget	10
Independent Auditor's Report	13
Organizational Information	14
Further Inquiries	15

MISSION:

Protect the public, maintain the integrity of the legal profession, and safeguard the reputation of the courts.

Executive Summary

Organizational Highlights

The second half of this year brought significant change to the Disciplinary Board of the Supreme Court of Pennsylvania. Effective August 2016, Elaine Bixler assumed *Emerita* status, thereafter retiring following 38 years of devoted service, 26 of those years as Secretary. Concurrently, Julia M. Frankston-Morris, Esquire, was appointed as the new Secretary of the Board. This appointment was part of a larger restructuring of duties and responsibilities which resulted in the Board Secretary's oversight of Board Counsel, Attorney Registration and the Office of the Secretary, as well as the changes reflective in the organizational hierarchy (see the chart on page 14). This organizational change was led and has been embraced by the entire Board. The Board remains committed to fulfilling its mission to protect the public, maintain the integrity of the legal profession, and to safeguard the reputation of the courts. In furtherance of this mission, the Board is committed to collaborating and cooperating with its fellow Court-appointed Boards and Committees and redefining operational strategy throughout the organization.

Board Membership

Jane G. Penny, Esquire (<i>Board Chair</i>)	David E. Schwager, Esquire (<i>Board Vice Chair</i>)
Brian J. Cali, Esquire	John F. Cordisco, Esquire
David A. Fitzsimons, Esquire	John P. Goodrich, Esquire
James C. Haggerty, Esquire	P. Brennan Hart, Esquire
Lawrence M. Kelly, Esquire	Douglas W. Leonard
Tracey M. Lewis, Esquire	Stefanie B. Porges, M.D.
Andrew J. Trevelise, Esquire	



Staffing Highlights

Office of Disciplinary Counsel

Chief Disciplinary Counsel
Deputy Chief Disciplinary Counsel
Counsels-in-Charge (4)
Disciplinary Counsel (27)
Auditors (10)
Support Staff (16)

Executive Offices

Secretary of the Board
Director of Finance
Board Counsel
Board Prothonotary and Hearing Coordinator
Attorney Registrar
Support Staff (4)

Office of Disciplinary Counsel District Offices

District I Office

1601 Market Street, Suite 3320
Philadelphia, PA 19103
215.560.6296

District II Office

820 Adams Avenue, Suite 170
Trooper, PA 19403
610.650.8210

District III Office

601 Commonwealth Avenue, Suite 5800
Harrisburg, PA 17120
717.772.8572

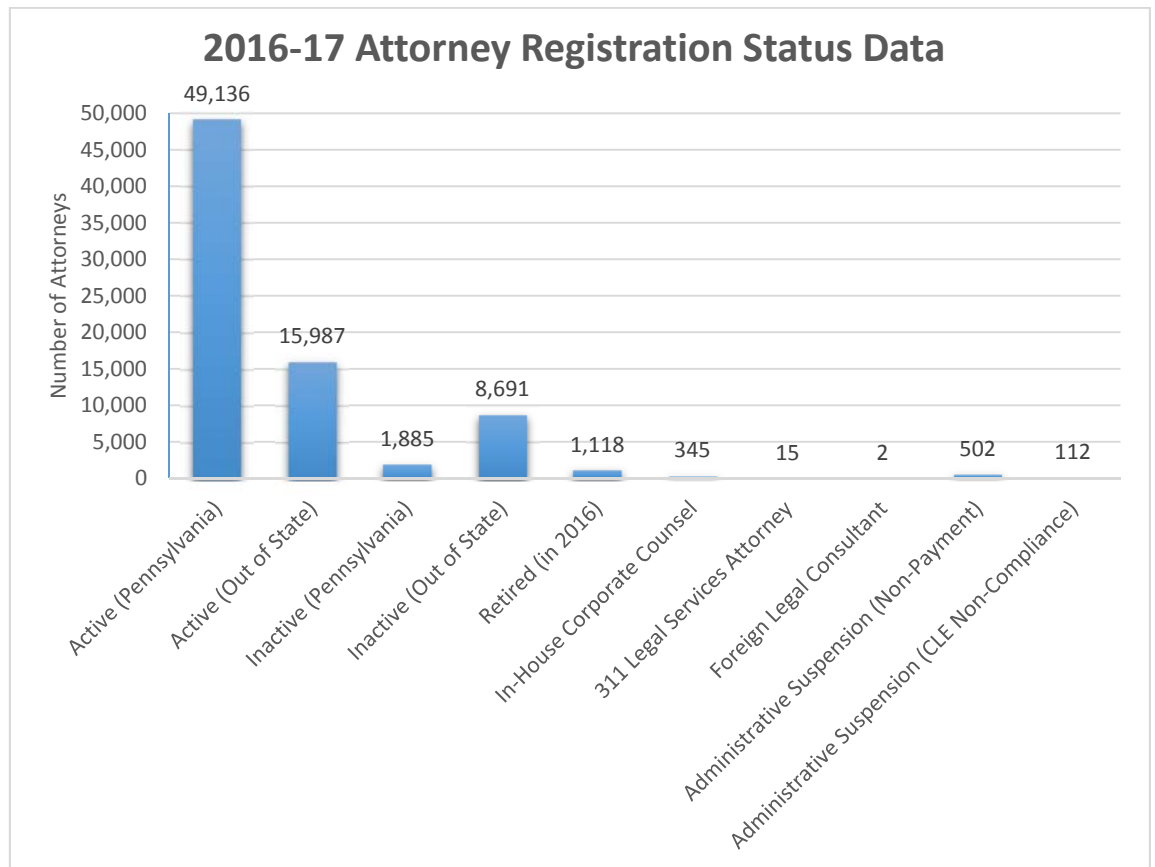
District IV Office

437 Grant Street, Suite 1300
Pittsburgh, PA 15219
412.565.3173

Office Highlights

Attorney Registration Highlights through December 31, 2016

By amendment to the Pennsylvania Rules of Disciplinary Enforcement (Pa.R.D.E.) in 2016, annual attorney registration must be completed electronically through the Court’s Unified Judicial System (UJS) Portal. The initial mandatory e-filing registration season was efficient. The Board is committed to continuing its cooperative working relationship with the AOPC, who develops and hosts the UJS Portal, to ensure the registration process remains current and effective.

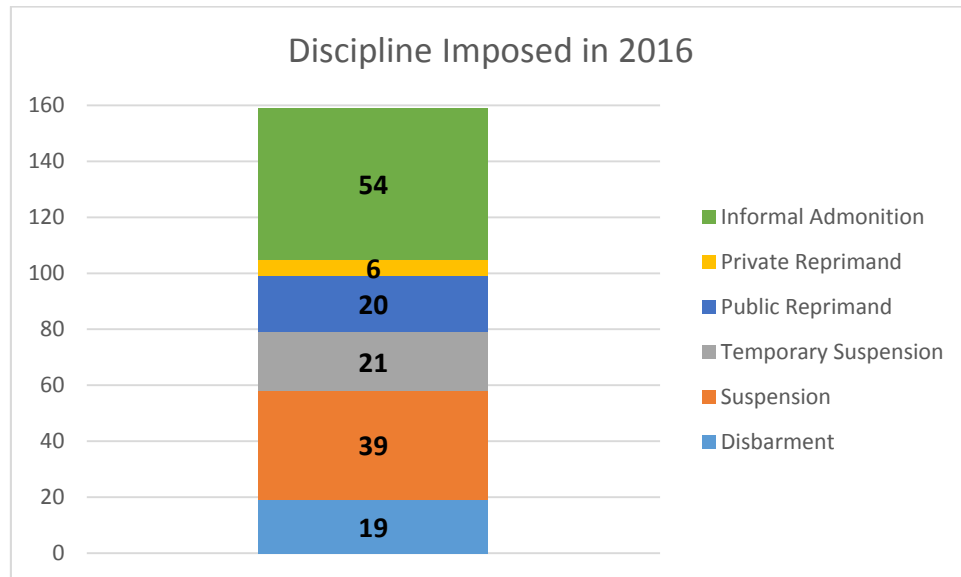


Active Attorneys in the Most Populous Counties

Pennsylvania Counties	Active Attorneys
Philadelphia	14,039
Allegheny	9,146
Montgomery	5,010
Dauphin	2,480
Delaware	2,462
Chester	2,347
Bucks	1,720

Discipline Imposed

The Board remains committed to efficient resolution of complaints. In 2016, the Office of Disciplinary Counsel received 3,900 complaints and resolved 3,667, of which 240 resulted in discipline.*



**Please note that any disciplinary matter involving a single respondent may actually consist of multiple complaints; as such, the number of complaints resulting in discipline does not equal the number of attorneys disciplined.*

In 2016, the Disciplinary Board met four times, in person, combining both administrative and executive business. During its executive session, the Board adjudicated 43 matters involving formal charges. Of these adjudications, 36 were referred to the Supreme Court along with the Board's Reports and Recommendations.

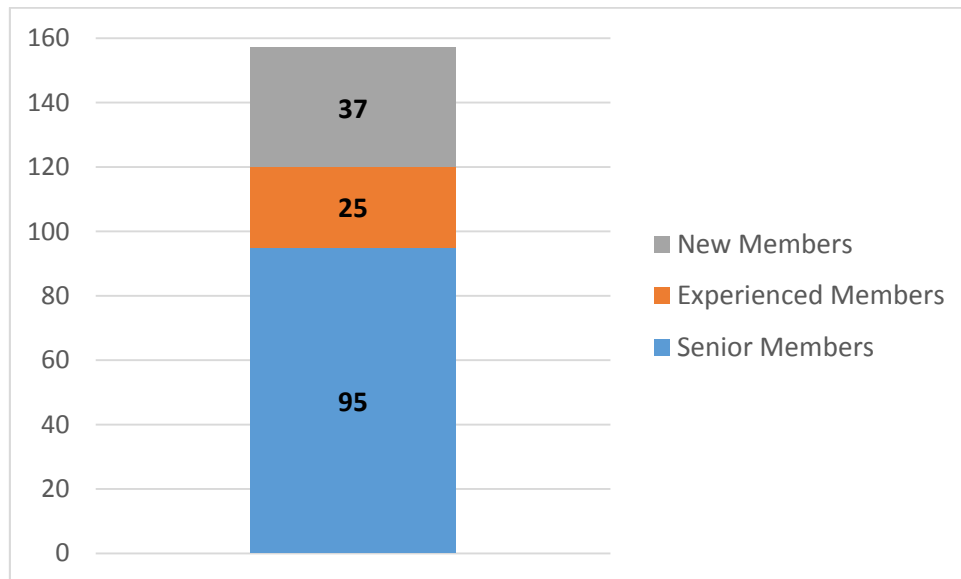
Three-member Board panels heard oral argument in 10 matters, considered recommendations for summary private reprimands in 3 cases and summary public reprimands in 21 cases, and imposed private reprimands on 6 respondents and imposed public reprimands on 20 respondents. Further, individual Board members reviewed and approved the filing of petitions for emergency temporary suspension with the Supreme Court in 3 cases and handled an additional 34 motions of various types including, but not limited to, motions for deferment, motions for continuance and to quash subpoenas, and applications to terminate probation.

During 2016, 29 Joint Petitions in Support of Discipline on Consent were filed with the Board, 26 of which were approved and 2 were denied, one by the Board and one by the Court. Of those approved, 22 resulted in public discipline and 4 in private discipline. As of December 31, 2016, 1 of the joint petitions had not yet been approved by the Court, but was approved in early 2017.

Further, the Board approved 96 reinstatements to active status from those on inactive, retired, or administrative suspension status for more than three years. As for reinstatement to active status from the above-described statuses for periods less than three years, the Attorney Registration Office processed 597 such requests in 2016.

Hearing Committee Membership

Hearing Committee Members serve the Board as volunteers to conduct hearings and act as a formal reviewing body to determine if a case can move forward in pursuit of a particular course of discipline. In 2016, 114 Hearing Committee Members presided over 25 disciplinary hearings, 14 reinstatement hearings, and 2 other miscellaneous matters.



Technology Advancements

Advancements and modifications by AOPC to the SharePoint Extranet site for Board Members to allow for single-member and three-member panel assignments has enhanced the workflow. With this heightened functionality, the Office of the Secretary is able to assign matters for resolution electronically, and members are able to receive and make determinations promptly.

The Attorney Registration Office implemented a new Attorney Registration System to more effectively manage the attorney rolls. As the former system was built in the late 1980s, there was significant room for improvement. The new system allows the Attorney Registration Office to run more efficiently.

The Finance Office implemented a new accounting system (Sage) to more efficiently and accurately manage the fiscal operations of the organization. This system is robust and provides the Board with greater operational control over the reporting process.

The Board further expanded its use of electronic document management using the DocuWare storage system. Now in place throughout the organization, the system allows for prompt and immediate retrieval of documents, as well as maintaining a thorough audit trail for any changes or access.

Committee Progress Reports

Board members also serve on at least one Board Committee. Each of the committees undertook significant and meaningful projects and assignments this year. In addition to the appointed committee members, Board Chair Jane G. Penny, Esquire and Vice-Chair David E. Schwager, Esquire serve as voting members of all committees.

Rules Committee

The Rules Committee oversees the consideration of amendments to existing rules and the drafting of new rules in the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement. Andrew J. Trevelise, Esquire is the Chair of this Committee and additional members are Lawrence M. Kelly, Esquire, and P. Brennan Hart, Esquire. The following rule changes were approved by the Supreme Court of Pennsylvania in 2016:

Pa.R.D.E. 219: Effective April 16, 2016, this amendment provided clarification to assist registering attorneys in determining which funds received by the attorney and belonging to a client or third person must be reported on the form. Conforming amendments were made to the Disciplinary Board Rules.

Pa.R.D.E. 219: Effective May 12, 2016, this amendment provided for the mandatory electronic annual registration of attorneys and provided an exemption process for good cause shown. Conforming amendments were made to the Disciplinary Board Rules.

RPC 1.17: Effective October 23, 2016, this amendment relaxed requirements on attorneys desiring to sell a law practice and clarified the responsibility of notification to clients in the case of a sale.

RPC 1.2: Effective November 25, 2016, this amendment permitted attorneys to counsel clients on conduct prohibited by Pennsylvania law, provided the attorneys advise of the legal consequences under other applicable laws; this rule change was in response to Pennsylvania's enactment of a Medical Marijuana Act.

RPC 3.5: Effective January 4, 2017, this amendment alerted lawyers that they should be familiar with the Rules Governing Standards of Conduct for Magisterial District Judges, in addition to the Code of Judicial Conduct.

RPC 8.2: Effective January 4, 2017, this amendment provided that attorney candidates for judicial office must comply with the applicable provisions of the codes governing the office being sought.

In addition to these rule changes, the Rules Committee drafted and published Notices of Proposed Rulemaking for 6 other rules during 2016. Concerning the drafting of all rules, the

Committee and the Board strive to collaborate with and elicit comments from fellow Court boards and interested parties.

Finance and Personnel Committee

The Finance and Personnel Committee oversees the Board's assets (both financial and human) to develop an appropriate fiscal and operational strategy that furthers the mission of the Board. Brian John Cali, Esquire serves as Chair of this Committee and additional members are Douglas W. Leonard, and James C. Haggerty, Esquire.

In pursuit of their task, the Committee reviewed and approved the proposed Budget for fiscal year 2016-2017 and reviewed the audit performed by the Board's newly engaged audit team, *Trout, Ebersole & Groff*. The Committee also reviewed and approved the implementation of newly developed job descriptions and performance evaluations for staff throughout the organization.

Committee Chair Cali serves as the Board's current representative to the Investment Advisory Board, established by the Supreme Court, and participated in the semi-annual meetings in April and December, 2016.

Notably, in January 2016, the Committee recommended and the Board approved the assessment of an automatic late payment penalty of \$200 on attorneys who fail to complete registration by July 31 and a second penalty of \$200 on attorneys who fail to complete registration by August 31. This late fee schedule was implemented during the 2016-2017 registration.

Education Committee

The Education Committee proposes and carries out educational and training opportunities for Hearing Committee Members and Board Members. Tracey McCants Lewis, Esquire, serves as Chair of this Committee and additional members include David Alan Fitzsimons, Esquire and John P. Goodrich, Esquire.

The Committee designed the program for the Board's Educational Meeting in July, during which Board Member Fitzsimons and other invited guest speakers delivered sessions on topics in line with the theme, "Access to Justice." This theme focused on the need for *pro bono* assistance to help meet the needs of those with limited access to legal services. The Education Committee also designed the program used at the Training Session and Refresher Course for all Hearing Committee members held in October in Hershey. A total of 116 Hearing Committee Members and Board Members attended the program. Board members and staff from the Executive Office and ODC presented much of the program, in addition to a presentation from a representative of Lawyers Concerned for Lawyers.

The National Council of Lawyer Disciplinary Boards (www.ncldb.org) is the “national forum for the exchange of information and ideas about the administration, conduct, and improvement of formal disciplinary and related proceedings.” Board Prothonotary and Hearing Coordinator Marcee Sloan is a member of the Board of Directors of the NCLDB. Several Board Members and staff attended the 13th annual meeting of the National Council of Lawyer Disciplinary Boards in February 2016, including four Members who presented at the conference.

Presenting Board Member	Presentation Title
Howell K. Rosenberg, Esquire	I Always Feel Like Somebody's Watching Me!
David A. Fitzsimons, Esquire	Attorney Disciplinary Sanctions: Consistent or Disparate? Prosecutors' Duties: Beyond Brady
Lawrence M. Kelly, Esquire	Nightmare on Board Street: What to Do When You are Sued
Andrew J. Trevelise, Esquire	Look into My Crystal Ball: Can We Predict Who's at Risk?

Communications Committee

The role of the Communications Committee is to provide oversight to the Board’s website and newsletter to increase visibility, and to explore ways of improving communications with attorneys, law students, and the general public. Stefanie B. Porges, M.D. serves as Chair of this Committee and is aided by fellow member John F. Cordisco, Esquire.

In furtherance of their task, the Communications Committee participated in telephone conferences monthly throughout 2016 to discuss the attorney e-newsletter, the Board’s Twitter page and other elements of its online presence. During 2016, our Twitter and LinkedIn following significantly increased as a result of the Board’s commitment to enhancing its online presence and accessibility. The Communications Committee provided direction to Suasion, the Board’s external communications vendor, who in turn writes and distributes press releases, and manages and disseminates the attorney newsletter and emails concerning registration.

Finance and Budget

Financial Highlights of FYE June 30, 2016

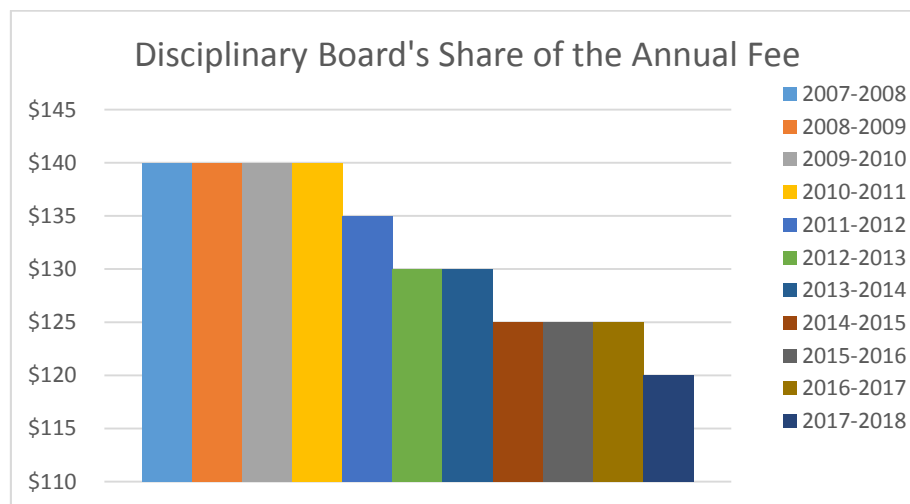
Revenue:	\$ 9,576,438.24
Expenses:	\$10,207,589.44
Change in Net Assets:	(\$ 631,151.20)
Reserve Funds (IAB):	\$10,510,263.85

Operating Income (Attorney Annual Fees)

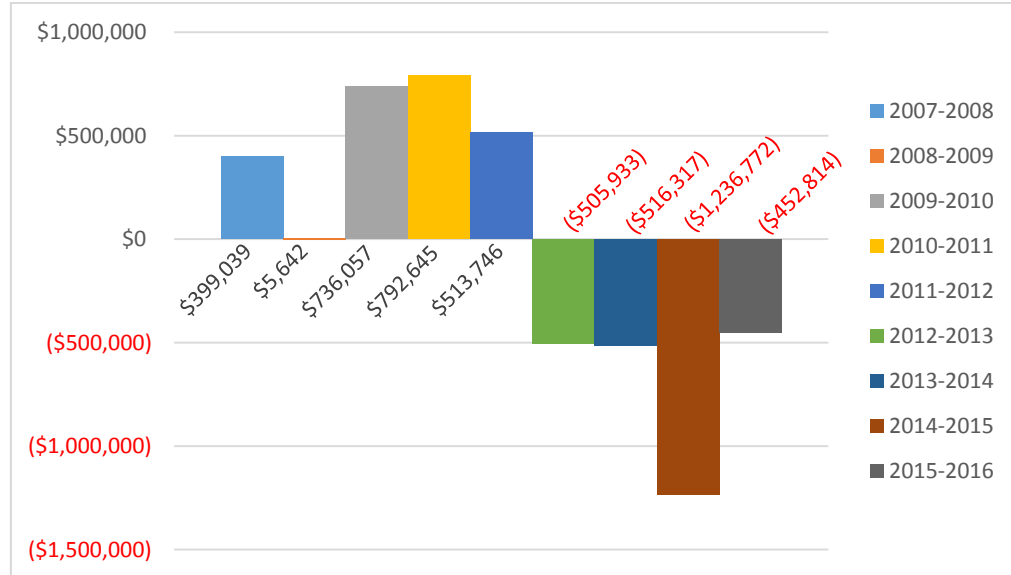
On November 19, 2015, the Board participated in the annual Lawyer Assessment Committee telephone conference call. At that time, the Board submitted a tentative Budget for Fiscal Year 2016-2017, proposing a 1.76% increase in its Budgeted Revenues and a 1.95% increase in its Budgeted Expenses. The submitted Budget projected that expenses would exceed revenues by \$1,368,235, or approximately 13% of revenue, based on an annual fee allocation to the Disciplinary Board of \$125 per Active Pennsylvania Attorney.

By Supreme Court Order dated February 9, 2015, and remaining in place through the fiscal year contained in this report, the Court kept the annual fee for Active attorneys of \$200 in place, and revised the allocations as follows: \$125 to the Disciplinary Board, \$45 to the PA Lawyers Fund for Client Security, and \$30 to the IOLTA Board.

By Supreme Court Order dated February 15, 2017, the Court revised the annual fee for Active attorneys to a total of \$225, which is shared as follows: \$120 to the Disciplinary Board, \$75 to the Pennsylvania Lawyers Fund for Client Security, and \$30 to the IOLTA Board. This Order also changed the fee for Inactive attorneys to \$100 from the previous \$70, a fee which provides income only to the Disciplinary Board.

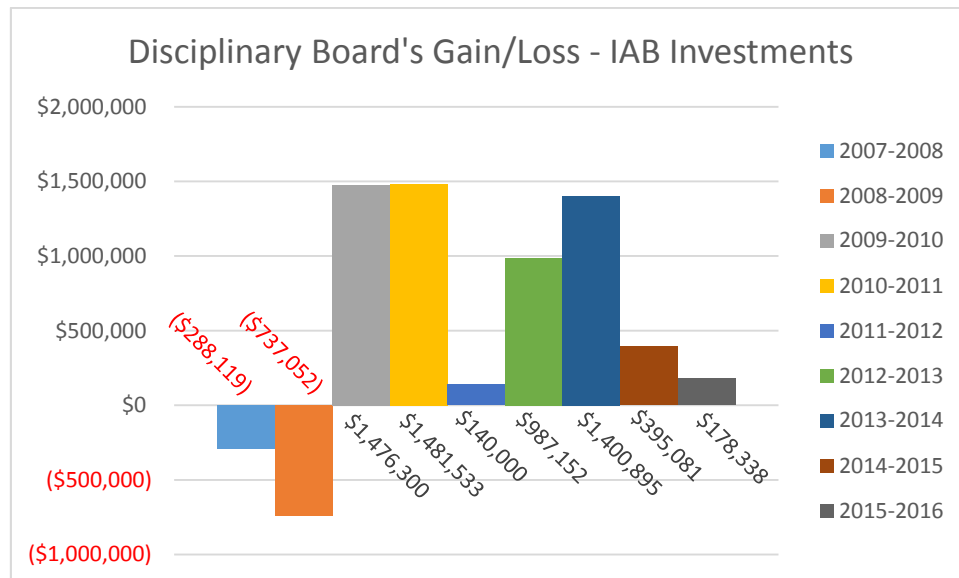


Historical Operating Gains/Losses

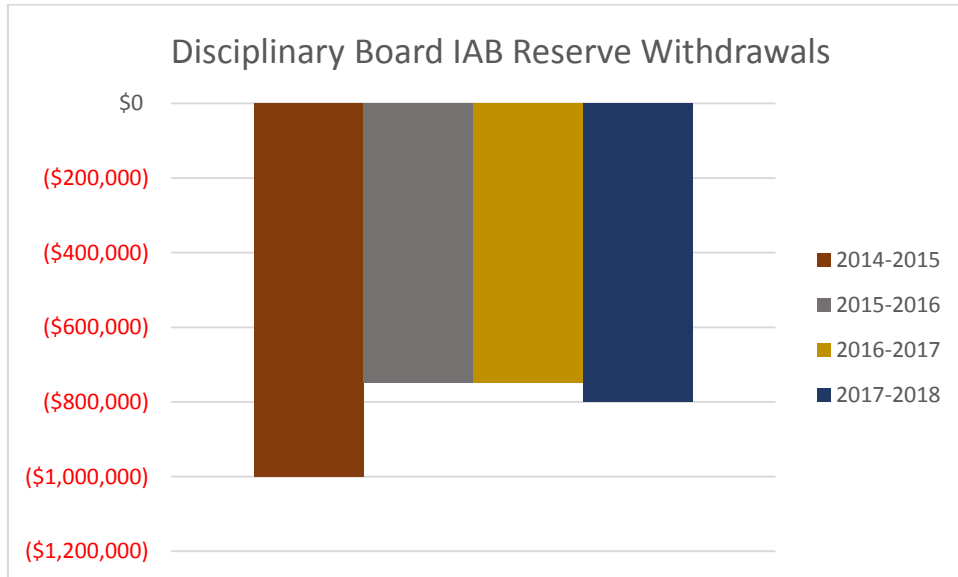


Investment Advisory Board

The Investment Advisory Board (IAB) was formed to pool the reserves of all the various Court agencies to allow for greater buying power. As such, the Board's reserve fund has been able to grow since its inception in 2005.



In recent years, however, the Board has needed to make significant withdrawals from the IAB reserve to fund operations.

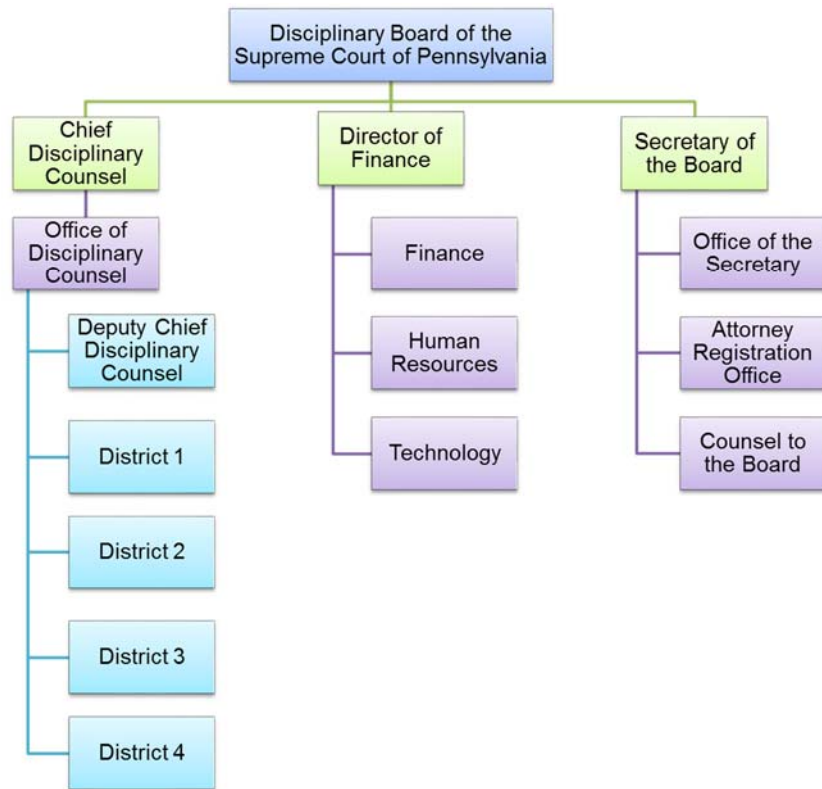


Independent Auditor's Report

See attached (for Court-use only).

Organizational Information

Organizational Chart



Contact Information

Office of Chief Disciplinary Counsel
Paul J. Killion, Esquire
601 Commonwealth Ave, Ste 2700
PO Box 62485
Harrisburg, PA 17106-2485
717.783.0990

Office of the Secretary
Julia M. Frankston-Morris, Esquire
601 Commonwealth Ave, Ste 5600
PO Box 62625
Harrisburg, PA 17106-2625
717.231.3380

Director of Finance
Jesse G. Hereda
601 Commonwealth Ave, Ste 5600
PO Box 62625
Harrisburg, PA 17106-2625
717.231.3380

Further Inquiries

The Disciplinary Board of the Supreme Court of Pennsylvania

601 Commonwealth Avenue, Suite 5600

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Harrisburg, Pennsylvania 17106-2625

Tel 717.231.3380

Fax 717.231.3381

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