

Discipline System Oversight Committee
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016

January 30, 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. David K. Byers	T
Mr. Joel F. England	P
Mr. Jonathan Martone	A
Ms. Jessica Sanchez	P
Ms. Jennifer Rebholz	P
Ms. Robyn Austin	T

OTHER ATTENDEES: None

Guests: None

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

Minutes taken by: Lori Palmer

Meeting Agenda

1. CALL TO ORDER – Added another Item to the Agenda #5

Time 1:04 p.m.
2. Call to the Public: No public joined.
3. Meeting minutes approved from 3.4.22 with minor corrections.

4. State Bar Racial Bias and Inclusion Task Force-

The Task Force has made several recommendations including possibly studying the discipline system to determine whether there is inherent bias. Currently, the Lawyer Regulation department has no access to the State Bar's demographic information so it may be unknown in many cases. Demographic information is only collected voluntarily when a person joins the Bar. The Bar does not currently solicit for demographic information at any other time. There is roughly 30% of the membership that does not report demographic information.

Joel England along with others talked with the California Bar about the study they did on racial bias. The study was a large undertaking and the California Bar hired a Ph.D. to help facilitate the study. They looked for disparities in disbarments and probation. The variables included whether the lawyer had a disciplinary history and if the attorney was represented or not.

There is some concern as to whether a study here could yield accurate results based on the variables in each case. The more variables used, the more accurate any report will be. There was other concern expressed as to whether there is enough demographic data collected to yield an accurate result. If we moved forward, the Bar will need to partner with an outside organization to help with the study. The undertaking is too large just to have Bar staff work on the report. The cost of hiring a Ph.D. or other third party to supervise and generate the study is a consideration. Joel contacted the ABA as a possible partner, as they have staff and the knowledge for doing a bias study. They provided some initial feedback. The Bar needs to pick an outside partner carefully and vet the company and the staff doing the work. There is a need to start getting better demographic information now for future studies. The bias and task force should study the California study to make sure we don't make the same mistakes that California made in their study. This will be a multiyear project and the cost and feasibility of the study needs to be considered. How the study would be used and presented to the public requires thoughtful consideration.

5. SB1092- The court and State Bar will be opposing this bill. The bill proposes that the State Bar of Arizona and the Arizona Supreme Court are prohibited from infringing or impeding the political speech rights of any attorney or the attorney's clients by disciplining or revoking an attorney's license for bringing a good faith, nonfrivolous claim that is based in law and fact to court. The bill establishes penalties for violations.

6. Agenda for next meeting-

- A. Follow up on the study of racial disparity in discipline.
- B. Look at the Independent Bar Counsel resources for cases and the volume, type of cases. Maret will present the numbers for the IBC case load.
- C. Next meeting in May 2023

Meeting ends 2:19 p.m.