



# THE STATE BAR OF CALIFORNIA

180 Howard Street. San Francisco. CA 94105-1639

**Senator Joseph L. Dunn, Ret.**  
*Executive Director/CEO*

Tel: (415) 538-2275  
E-mail: [joseph.dunn@calbar.ca.gov](mailto:joseph.dunn@calbar.ca.gov)

April 30, 2014

Honorable Tani G. Cantil-Sakauye  
Chief Justice of California  
Supreme Court of California  
455 Golden Gate Avenue  
San Francisco, CA 94102-3660

Honorable Jerry Brown  
Governor of California  
State Capitol, Suite 1173  
Sacramento, CA 95814

Honorable Darrell Steinberg  
Senate President pro Tempore  
State Capitol, Room 205  
Sacramento, CA 95814

Honorable John A. Pérez  
Speaker of the Assembly  
State Capitol, Room 219  
Sacramento, CA 94249-0046

Honorable Hannah-Beth Jackson  
Chair, Senate Committee on Judiciary  
State Capitol, Room 5080  
Sacramento, CA 95814

Honorable Bob Wieckowski  
Chair, Assembly Committee on Judiciary  
State Capitol, Room 4016  
Sacramento, CA 95814

Dear Chief Justice Cantil-Sakauye, Governor Brown, Senator Steinberg, Assemblyman Pérez, Senator Jackson, Assemblyman Wieckowski, Members of the Senate Judiciary Committee and Members of the Assembly Judiciary Committee:

Attached is the *Annual Discipline Report* of the State Bar of California for 2013 in fulfillment of the requirements of Business and Professions Code, section 6086.15.

The attorney discipline system is, by far, the largest component of the State Bar, and it plays an indispensable role in carrying out the bar's mission of public protection. It is the discipline system which receives complaints against attorneys, investigates those complaints, prosecutes them when warranted, and recommends sanctions against attorneys found culpable of misconduct. The performance of the discipline system is a crucial measure of the success of the State Bar as a public regulatory agency.

The *Annual Discipline Report* is a long-standing vehicle for transmitting objective statistical information about the activity and performance of the discipline system to key stakeholders: the Legislature, the Governor, the Supreme Court and, of course, the public. Since 1986, a key statutory measure for performance of the attorney discipline system is the six-month benchmark

for disposing complaints or completing investigations and filing disciplinary charges. Complaints not meeting this benchmark on December 31 in any year constitute the backlog of cases for that year and must be reported in the *Annual Discipline Report*. Historically, the *Annual Discipline Report* has focused on presenting a snapshot of the inventory of complaints at various stages of the discipline process as of December 31 of each year.

Three years ago, we began supplementing the traditional snapshot with data showing the number of days complaints spend in each stage of the discipline process, measured from when the complaints are received by the State Bar. This year's report also includes data to show the median time (by days) that complaints spend at each stage. By directly measuring this aspect of performance, we have been able to focus our efforts, not merely on eliminating "backlogs," but on improving the time required to investigate, prosecute, and adjudicate complaints.

To provide a more complete picture of the caseload and work of the discipline system, the report this year includes in the count of complaints additional matters opened by the State Bar that are reported from sources other than a complainant. The statistical tables for 2013 and the four prior years have been adjusted accordingly. This has increased the count of complaints shown in each stage of the discipline system. The report shows the effect on the backlog.<sup>1</sup>

In 2011, the State Bar also made significant changes in the operations of its Office of the Chief Trial Counsel, the prosecutorial arm of the State Bar's discipline system, to improve performance and, in particular, to address the substantial growth of the backlog in 2009 and 2010, spurred in large part by the thousands of complaints against lawyers involved home-loan modification scams. The results of those and other changes dramatically reduced the backlog in 2011 and 2012, and the numbers for 2013 show that the State Bar has been able to maintain that trend.

## **Backlog<sup>2</sup>**

- As of December 31, 2013, the number of backlog complaints still under inquiry or active investigation totaled 212. The comparable figures for 2009 and 2010 were 1,794 and 1,674, respectively.
- Also as of December 31, 2013, the number of active complaints in backlog, for which the investigation was complete but charges had not yet been filed, stood at 179, compared to 1,453 and 1,028 in 2009 and 2010, respectively.
- Finally, the number of backlog complaints, which were suspended because of pending actions against the same respondent in State Bar Court or in criminal or civil court was 1,386, compared to 929 and 2,535 in 2009 and 2010, respectively.

---

<sup>1</sup> The State Bar can provide on request similar breakdowns on the effect on the number of complaints reported for any of the stages in the discipline system.

<sup>2</sup> For purposes of the *Annual Discipline Report*, Business and Professions Code, section 6086.15 defines *backlog* to mean "the number of complaints as of December 31 of the preceding year that were pending beyond six months after receipt without dismissal, admonition, or the filing of a notice [of disciplinary charges]."

- Suspended investigations accounted for almost 70% of the total backlog (1,219 matters). Of those, more than 90% (1,127) pertain to respondents against whom disciplinary charges had been filed in other matters.
- Suspended pre-filing matters accounted for another 9% of the total backlog (167 matters). Of those, more than 70% (121) pertain to respondents against whom disciplinary charges had been filed in other matters.

### **Speed of Handling Complaints**

- In 2013, the median length of time from receipt of a complaint to completion of an investigations leading to a prosecution was 168 days, compared to 226 and 268 days in 2009 and 2010, respectively. .
- The median length of time between the completion of an investigation and the filing of a Notice of Disciplinary Charges or a Stipulation to Discipline (i.e. a “plea agreement”) was 97 days in 2013, compared to 260 and 191 days in 2009 and 2010, respectively.
- The median total time from the receipt of a complaint to the filing of either a Notice of Disciplinary Charges or a Stipulation to Discipline was 249 days after receipt, compared to 492 and 462 days in 2009 and 2010, respectively.

### **The Work Ahead**

The operational changes in the State Bar’s Office of Chief Trial Counsel the last three years have resulted in improved performance, as the data for 2013 show. However, we realize that more needs to be done to assure that the State Bar is fulfilling its mission to protect the public. The fact remains that half of complaints required 249 days (more than eight months), or even more days, to reach the point of filing disciplinary charges in the State Bar Court. The State Bar remains committed to making the changes needed to do better.

Yours truly,

A handwritten signature in blue ink that reads "Joseph L. Dunn". The signature is fluid and cursive, with the first name "Joseph" and last name "Dunn" clearly legible.

Senator Joseph L. Dunn, Ret.  
Executive Director/CEO



# THE STATE BAR OF CALIFORNIA

180 HOWARD STREET  
SAN FRANCISCO, CALIFORNIA 94105-1639  
TELEPHONE (415) 538-2000

---

**Title of Report:** Annual Discipline Report of the State Bar of California  
**Statutory Citation:** Business and Professions Code, section 6086.15  
**Date of Report:** April 30, 2014

The State Bar of California submitted its *Annual Discipline Report* to the Chief Justice of California, the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate and the Assembly and Senate Judiciary Committees in accordance with Business and Professions Code, section 6086.15. The *Annual Discipline Report* describes the performance and condition of its attorney discipline system in the previous calendar year. The following summary is provided under Government Code, section 9795.

In 2013, the State Bar received 16,389 new complaints against California lawyers. The Office of the Chief Trial Counsel, the State Bar's prosecutorial arm, opened 4,817 new investigations and filed disciplinary charges or stipulations to discipline in 1,169 complaints. Formal discipline was imposed in 1,065 complaints, resulting in the disbarment or suspension of 424 lawyers.

In 2013, the State Bar has continued its efforts to reduce the backlog of cases—defined by statute as those open complaints at year's end where the State Bar had not filed disciplinary charges or reached other disposition within six months after receipt of the complaints. As of December 31, 2013, the number of backlog complaints still under inquiry or active investigation was 212, as compared to 1,794 and 1,674 in 2009 and 2010. And the number of backlog complaints, for which the investigation was complete but charges had not yet been filed, was 179, significantly lower than the backlog of 1,453 and 1,028 cases in 2009 and 2010. Finally, the number of backlog complaints with suspended investigations because of pending actions against the same respondent in State Bar Court or in criminal or civil court, was 1,386, up from the prior year's figure of 1,271<sup>3</sup>.

More detailed information on the complaints, backlog, time for processing complaints, and disciplinary outcomes are contained in the *Annual Discipline Report*. In addition, the report presents summaries of (1) the cost of the discipline system, (2) the condition of the Client Security Fund, and (3) other programs of the State Bar directed at assuring attorney honesty and competency or preventing misconduct.

The full report is available at:

<http://www.calbar.ca.gov/AboutUs/Reports.aspx>

A printed copy of the report may be obtained by calling (916) 442-8018.

---

<sup>3</sup> The number of complaints were adjusted to include complaints without complainants that were opened by the State Bar based on information from other sources. These non-complainant matters were added to provide more comprehensive information on the workload and efficiency of the State Bar's discipline system.

# **Attorney Discipline Report For Year Ending December 31, 2013**



**The State Bar of California  
April 30, 2014**

# CONTENTS

Introduction.....	1
California's Attorney Discipline System.....	1
Stages of the Discipline System in Processing of Complaints .....	2
Inquiry.....	2
Investigation.....	2
Pre-Filing .....	3
Hearing and Review.....	3
Supreme Court .....	3
Discipline System Terminology .....	3
Changes in 2013 Statistical Reports .....	5
Statistical Overview of 2013.....	6
Caseload and Speed of Handling Complaints by Stage.....	9
Inventory of Matters .....	9
Flow of Matters.....	9
Disposition of Closed Matters .....	9
Age of Matters .....	10
Active and Suspended Matters.....	10
Inquiry Stage.....	11
Table 1: Inquiry Stage – Inventory of Active Matters as of December 31 .....	12
Table 2: Inquiry Stage – Case Flow of Active Matters January 1 – December 31.....	13
Table 3: Inquiry Stage – Disposition of Closed Matters (Active) .....	13
Table 4: Inquiry Stage – Age of Matters (Age at Exit).....	14
Table 5: Inquiry Stage – Age of Matters (Time in Stage) .....	14
Investigation Stage.....	15
Active Matters.....	16
Table 6: Investigation Stage – Inventory of Active Matters as of December 31.....	16
Table 7: Investigation Stage – Case Flow of Active Matters January 1–December 31 .....	17
Table 8: Investigation Stage – Disposition of Closed Matters (Active) .....	17
Table 9: Investigation Stage – Age of Matters (Active) by Age at Exit.....	18
Table 10: Investigation Stage – Age of Matters (Active) by Time in Stage.....	18
Suspended Matters .....	19
Table 11: Investigation Stage – Inventory of Suspended Matters as of December 31 .....	19
Table 12: Investigation Stage – Case Flow of Suspended Matters January 1–December 31.....	20
Table 13: Investigation Stage – Disposition of Closed Matters (Suspended) .....	20
Table 14: Investigation Stage – Age of Matters (Suspended) by Age at Exit .....	21
Table 15: Investigation Stage – Age of Matters (Suspended) by Time in Stage.....	21
Pre-Filing Stage .....	22
Active Matters.....	23
Table 16: Pre-Filing Stage – Inventory of Active Matters as of December 31 .....	23
Table 17: Pre-Filing Stage – Case Flow of Active Matters January 1–December 31 .....	24
Table 18: Pre-Filing Stage – Disposition of Closed Matters (Active).....	24
Table 19: Pre-Filing Stage – Age of Matters (Active) by Age at Exit .....	25
Table 20: Pre-Filing Stage – Age of Matters (Active) by Time in Stage .....	25

Suspended Matters .....	26
Table 21: Pre-Filing Stage – Inventory of Suspended Matters as of December 31 .....	26
Table 22: Pre-Filing Stage – Case Flow of Suspended Matters January 1–December 31 ...	27
Table 23: Pre-Filing Stage – Disposition of Closed Matters (Suspended) .....	27
Table 24: Pre-Filing Stage – Age of Matters (Suspended) by Age at Exit.....	28
Table 25: Pre-Filing Stage – Age of Matters (Suspended) by Time in Stage.....	28
Hearing & Review Stage .....	29
Active Matters .....	30
Table 26: Hearing & Review Stage – Inventory of Active Matters as of December 31 .....	30
Table 27: Hearing & Review Stage – Case Flow of Active Matters January 1–December 31.....	31
Table 28: Hearing & Review Stage – Disposition of Closed Matters (Active).....	31
Table 29: Hearing & Review Stage – Age of Matters (Active) by Age at Exit .....	32
Table 30: Hearing & Review Stage – Age of Matters (Active) by Time in Stage .....	32
Suspended Matters .....	33
Table 31: Hearing & Review Stage - Inventory of Suspended Matters as of December 31	33
Table 32: Hearing & Review Stage – Case Flow of Suspended Matters January 1 – December 31.....	34
Table 33: Hearing & Review Stage – Disposition of Closed Matters (Suspended) .....	34
Table 34: Hearing & Review Stage – Age of Matters (Suspended) by Age at Exit.....	35
Table 35: Hearing & Review Stage – Age of Matters (Suspended) by Time in Stage.....	35
Supreme Court .....	36
Table 36: Supreme Court Stage - Inventory of Matters as of December 31.....	37
Table 37: Supreme Court Stage – Case Flow of Matters January 1 – December 31.....	38
Table 38: Supreme Court Stage – Disposition of Closed Matters .....	38
Table 39: Supreme Court Stage – Age of Matters by Age at Exit.....	39
Table 40: Supreme Court Stage – Age of Matters by Time in Stage .....	39
Complaints in Backlog.....	41
Table 41: Backlog by Stage and Active and Suspended Status.....	42
Table 42: Backlog by Stage and Source .....	43
Disciplinary Outcomes.....	45
Table 43: Disciplinary Outcomes .....	45
Reportable Actions.....	47
Table 44: Reportable Actions by Source .....	48
Informal Discipline Outcomes.....	50
Definition of Terms.....	50
Table 45: Informal Disciplinary Outcomes .....	51
Costs of the Discipline System .....	53
Table 46: Direct Costs of the Discipline System by Function.....	53
Condition of the Client Security Fund .....	55
Table 47: Client Security Fund Activity .....	55
Assurance and Prevention Programs .....	57
Appendix A.....	61
Contents of the Annual Discipline Report.....	61
Text of Applicable Sections of the Business and Professions Code.....	62

# INTRODUCTION



## Introduction

Each April, the State Bar of California issues its *Annual Discipline Report*. The State Bar presents this report to the Chief Justice of California, the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, and the Assembly and Senate Judiciary Committees, for their consideration. It fulfills the requirements of Business and Professions Code, section 6086.15 that the State Bar report annually on the performance and condition of its discipline system.<sup>4</sup>

This report contains detailed statistics and other information about the State Bar's attorney discipline system. It presents data and tables on the numbers of complaints made against California lawyers and the average times for processing complaints through the discipline system for the preceding year. Statistical information is also presented for the four previous years to enable a year-to-year comparison and an overview of the workload and performance of the State Bar's attorney discipline system.

This report also contains information on the costs of the discipline system and the condition of the Client Security Fund, the program established under Business and Professions Code, section 6140.5 to provide some relief and mitigation to victims who have suffered pecuniary losses caused by the dishonest conduct of a California lawyer. Finally, the report includes descriptions of State Bar programs directed at assuring attorney honesty and competence and preventing acts warranting discipline.

The *Annual Discipline Report* is published on the State Bar's website at <http://calbar.ca.gov/AboutUs/Reports.aspx>.

## ***California's Attorney Discipline System***

In California, a lawyer is licensed when admitted as a member of the State Bar. Only active members of the State Bar may practice law. The State Bar is a constitutional agency established in the judicial branch. In administering the requirements for admission and discipline of California lawyers, the State Bar is an administrative arm of the California Supreme Court. Under its inherent judicial power to regulate admission and discipline, it is the Supreme Court that admits and disbars, or suspends a lawyer from the practice of law.

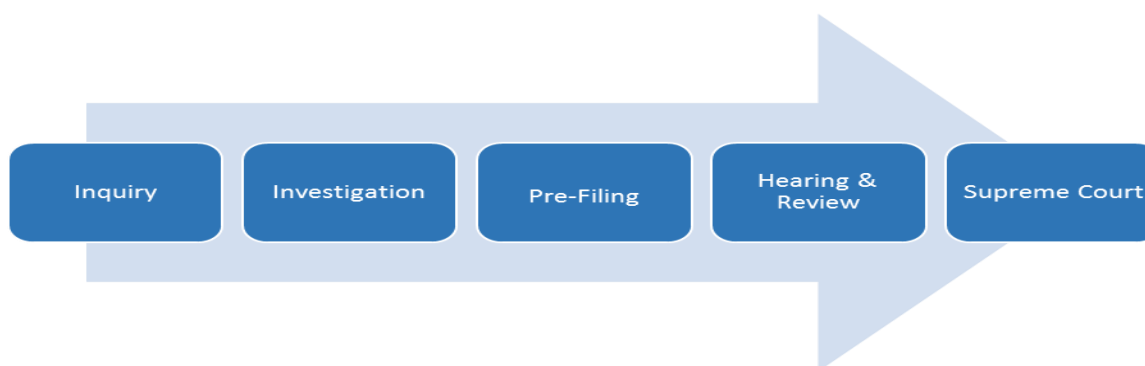
In California's attorney discipline system, all communications and information concerning the conduct of California lawyers are first received by the State Bar's Office of the Chief Trial Counsel (OCTC). OCTC investigates those complaints involving allegations of professional misconduct and may initiate and prosecute disciplinary proceedings in the State Bar Court. The Hearing Department of the State Bar Court conducts evidentiary hearings and renders a decision with findings and recommendations of discipline that are reviewable by the Review Department of the State Bar Court. The State Bar Court's final decision and accompanying record in each case are then transmitted to the Supreme Court. The Supreme Court undertakes an independent determination whether the lawyer should be suspended or disbarred as recommended. Discipline occurs with a final decision and order of the Supreme Court.

---

<sup>4</sup> A summary of the content required by Business and Professions Code, section 6086.15 and related statutes and the complete text of the provisions may be found in the Appendix.

To inform the Legislature, the Governor, and the Supreme Court on the performance of the discipline system, the tables in the *Annual Discipline Report* are organized to show the numbers and ages of complaints as they are processed through each stage of the attorney discipline system.

### ***Stages of the Discipline System in Processing of Complaints***



#### **Five Stages of the Attorney Discipline Process**

The attorney discipline system is described in the *Annual Discipline Report* in five major stages: **Inquiry, Investigation, Pre-Filing, Hearing & Review**, and finally, imposition of **Supreme Court**. The following briefly explains each of these stages and how a complaint proceeds from one stage to the next.

#### **Inquiry**

The process begins after receipt of a written complaint in OCTC's Intake Unit. OCTC then conducts an inquiry to review and evaluate the complaint, any supporting documents, and other information to determine whether a complaint merits a full investigation. A complaint that presents sufficient information or allegations of misconduct against a lawyer ("respondent"), which if proved could result in discipline, will be advanced to the investigation stage.

#### **Investigation**

At this stage, investigations are carried out by professional investigators in OCTC, with the guidance and supervision of OCTC attorneys. Investigators may interview witnesses and respondents, subpoena and analyze bank records, obtain court documents, and otherwise develop the evidence needed to determine whether to bring disciplinary proceedings in the State Bar Court. An OCTC attorney reviews the results of each investigation. After any determination to proceed with disciplinary proceedings, the complaint advances to the pre-filing stage.

When multiple complaints are made against the same respondent, OCTC may select and prosecute only some of the complaints likely to result in disbarment. In such investigations,

the remaining complaints may be suspended or “held.” If OCTC is successful in obtaining disbarment, prosecution of the suspended investigations will no longer be warranted and the remaining complaints will be closed. However, if the respondent is not disbarred, OCTC may re-open any suspended investigations.

If a respondent is the subject of a criminal prosecution or a related civil action for the same misconduct, OCTC may suspend its investigation until the criminal proceedings have been concluded.

### **Pre-Filing**

When OCTC determines that a completed investigation presents sufficient evidence to support the imposition of discipline against the respondent, a Notice of Disciplinary Charges is prepared for filing in the State Bar Court. Before filing charges, OCTC attempts to negotiate a stipulation to facts and proposed discipline. At this point, both OCTC and the respondent have the right to request an Early Neutral Evaluation Conference (ENE). To facilitate an early stipulated outcome, in an ENE, a State Bar Court judge orally evaluates the facts and charges, and potential for imposing discipline.

### **Hearing and Review**

After the filing of disciplinary charges, OCTC prosecutes the case in a trial in the Hearing Department of the State Bar Court. The Hearing Department’s decision with findings and a recommendation of discipline of the respondent may be appealed to the State Bar Court’s Review Department. If there is no appeal, or the appeal is unsuccessful, there is a final decision of the State Bar Court. When a final decision of the State Bar Court includes a recommendation that the respondent be suspended or disbarred, the State Bar Court’s decision and record of its proceeding is prepared and formally transmitted to the Supreme Court, and the case then passes to the next stage for the imposition of discipline.

### **Supreme Court**

Upon the filing of the State Bar Court’s decision and the record, the Supreme Court conducts its own independent determination and action. Discipline is imposed when the Supreme Court issues its final order or decision .

## ***Discipline System Terminology***

The State Bar Act (Bus. & Prof. Code, §§ 6000 et seq.) and Rules of Procedure adopted by the Board of Trustees of the State Bar to govern proceedings in the State Bar Court include definitions of many technical terms used in the State Bar’s discipline system. (See e.g., Rules of the State Bar, rule 5.4.) Definitions of some of those key terms as used in this report are presented here.

***Inquiry*** refers to the evaluation of a written complaint after its receipt by the Intake Unit of OCTC. The purpose of an inquiry is to determine whether an investigation or other action is warranted based on information relating to alleged professional misconduct. OCTC first assigns an inquiry number to each complaint and then a case number to each complaint when an investigation is opened.

**Complaint** refers to a written communication received by OCTC alleging misconduct by a California lawyer. When an inquiry determines that a complaint has sufficient allegations or information to show misconduct, which if proved, could result in discipline, an *investigation* may be opened. **Each complaint against a lawyer is counted as one complaint.** The terms *case* and *complaint* are used interchangeably in Business and Professions Code, section 6086.15 and in the *Annual Discipline Report*.<sup>5</sup> *Complaint* has also included a **State Bar initiated (SBI)** complaint, which is a matter opened by OCTC based on information about possible attorney misconduct received from anonymous sources or media reports. This year's report has added to the count of complaints other matters that are not reported by a **complainant**, but are opened by OCTC based on other information it receives. (See below.)

**Complainant** refers to the person who makes a written complaint against a lawyer.

**Investigation** is the process during which OCTC gathers, evaluates, and reviews evidence and information about a complaint against a lawyer.

**Respondent** is a California lawyer who is the subject of an inquiry, complaint, investigation or a disciplinary proceeding in the State Bar Court.

**Notice of Disciplinary Charges** (or "**disciplinary charges**") means the papers or "initial pleading" that is filed to begin the disciplinary proceeding in the State Bar Court against a lawyer. The Notice of Disciplinary Charges provides notice of the rules, statutes, or orders the lawyer is alleged to have violated. Notice of Disciplinary Charges has also been referred to by statute as a "*notice to show cause*" and "*formal charges*." Each filing of a Notice of Disciplinary Charges may consolidate and include multiple complaints against a lawyer.<sup>6</sup> For consistency of reporting the State Bar's process of handling complaints, **each complaint against a lawyer continues to be counted as one complaint** throughout the discipline system.

**Stipulation to Discipline** refers to settlement by the stipulation to facts, conclusions of law, and disposition reached between OCTC and a respondent under Rules of the State Bar, rule 5.56. A Stipulation to Discipline must first be approved by the State Bar Court and then transmitted to the Supreme Court for its final determination.

**Alternative Discipline Program** or **ADP** refers to the program in which a respondent with substance abuse or mental health issues may participate upon approval of a State Bar Court judge. Among the conditions for acceptance into ADP is the respondent's consent into the State Bar's program for treating lawyers impaired by substance abuse or mental illness,<sup>7</sup> the judge's approval of a stipulation to facts and conclusions of law, evidence that the respondent's substance abuse or mental health issue contributed to the misconduct, and any other condition

---

<sup>5</sup> Beginning with the *Annual Discipline Report* for 2010, as recommended in the California State Auditor Report No. 2009-030 (July 2009), at pp. 36-40, each complaint opened against a lawyer is counted and included as a separate "*complaint*" or "*case*" in the data and tables in this report.

<sup>6</sup> For consistency, each complaint is counted separately even though the complaints are consolidated in a single disciplinary proceeding in the State Bar Court. (See *ante*, fn. 3.)

<sup>7</sup> The State Bar's **Lawyers Assistance Program** is a separate treatment program established under Business and Professions Code, sections 6230 et seq.

the judge may impose. The State Bar Court judge's order approving an application to participate in ADP will include a statement of the range of low and high discipline that may be imposed if the respondent is successful or unsuccessful in completing the program.

***Disciplinary Proceeding*** means a proceeding in the State Bar Court for the purpose of seeking the imposition of discipline against a respondent.

***Backlog*** is the statutory term referring to the status of a complaint or case based on time goals set by the Legislature for the processing of complaints in the discipline system. For purposes of the *Annual Discipline Report*, Business and Professions Code, section 6086.15 defines *backlog* to mean "the number of complaints as of December 31 of the preceding year that were pending beyond six months after receipt without dismissal, admonition, or the filing of a notice [of disciplinary charges]." The *backlog* is used as a key benchmark for the performance of the discipline system. This definition is consistent with Business and Professions Code, section 6140.2, which states: "The State Bar shall set as a goal the improvement of its disciplinary system so that no more than six months will elapse from the receipt of complaints to the time of dismissal, admonishment of the attorney involved, or the filing of formal charges by the State Bar Office of [the Chief] Trial Counsel."

***Abatement*** refers to the procedure and grounds in the State Bar Court to stay a disciplinary proceeding after the filing of disciplinary charges. (Rules of the State Bar, rules 5.50 – 5.52.) OCTC may *abate* its investigation of a complaint and not initiate disciplinary proceedings in the State Bar Court for the same reasons. In some circumstances with multiple complaints against a respondent, OCTC may suspend or "hold" the investigation of some of the complaints, if it determines that prosecution of other complaints is likely to result in disbarment of the lawyer. In the *Annual Discipline Report*, investigations of complaints *held* or *abated* by OCTC are referred to collectively as ***suspended matters***. ***Suspended matters*** pending more than six months from receipt without the filing of disciplinary charges are counted and included in the backlog under Business and Professions Code, section 6086.15.

### ***Changes in 2013 Statistical Reports***

To provide more comprehensive information on the caseload and efficiency of the discipline system, the State Bar has made the following changes in the data tables in the 2013 *Annual Discipline Report*:

- Added the following types of matters to the count of complaints: (1) matters self-reported by attorneys or reported by other sources (***reportable actions***);<sup>8</sup> (2) matters opened for possible violation of requirements for demand letters sent by an attorney to a prospective defendant in an action for violation of construction-related accessibility standards (Bus.

---

<sup>8</sup> Business and Professions Code, section 6086.15, subdivision (a)(3)&(4) requires reporting of matters from other sources, which in prior years was provided in a separate section of the *Annual Discipline Report*. These other matters continued to be reported in the "Reportable Actions" section of the *Annual Discipline Report*, where the number of matters are listed by source.

& Prof. Code, § 6106.2); and (3) probation revocation matters or proceedings against disciplined lawyers in violation of probation.<sup>9</sup>

- The count of complaints has been adjusted in the data for all years to permit the year-to-year comparison of 2013 to the four previous years.<sup>10</sup>
- The effect of adding these other matters in the count of complaints is an increase reported in the backlog of cases, as shown in the statistical tables on the number of backlog complaints.
- Combined the data tables on caseload and speed of handling complaints (Bus. & Prof. Code, § 6086.15, subd. (a)(2)&(5)) to show the volume and age of complaints as they pass through each of the five stages of the discipline system.

### ***Statistical Overview of 2013***

Since 1986, a key statutory measure for performance of the attorney discipline system is the six-month benchmark for disposing complaints or completing investigations and filing disciplinary charges. The following is an overview of the statistical data on the performance of the discipline system for 2013, which are more fully detailed in the tables and data below.

- The State Bar's Intake Unit in OCTC received 16,389 new complaints against California lawyers.
- OCTC opened new investigations of 4,817 complaints and completed investigations in 1,228 cases with sufficient evidence for the filing of disciplinary charges against the lawyer.
- Disciplinary charges were filed and proceedings initiated in 1,169 complaints in the State Bar Court.
- Discipline of disbarment or suspensions was imposed in 1,065 complaints involving 424 lawyers.
- The number of complaints in backlog at the pre-filing stage in 2013, in which the investigations have been completed, but no disciplinary charges or stipulated dispositions have been reached within six-months after the complaints were first received, was reduced to 179. This maintains the trend in 2011 and 2012 by OCTC to significantly reduce the backlog of 1,453 and 1,028 pre-filing cases in 2009 and 2010.
- The number of backlog complaints, which remained open at the inquiry stage or investigation stage six months after their receipt, was 212 at the end of 2013, up from 172

---

<sup>9</sup> When a disciplined lawyer violates probation, OCTC is permitted to initiate a new disciplinary complaint (Bus. & Prof. Code, § 6068, subd. (k)) or a probation revocation proceeding under the State Bar's Rules of Procedure. (Rules of the State Bar, rule 5.310.)

<sup>10</sup> The statute requires the report to include similar information for only the three previous years. (Bus. & Prof. Code, § 6086.15, subd. (b).)

in 2012, but substantially lower than the comparable figures of 1,794 and 1,674 in 2009 and 2010.

- The number of backlog complaints with suspended investigations because of pending actions against the same respondent in State Bar Court or in criminal or civil court was 1,386, up from the prior year's figure of 1,271..
- The median length of time from receipt of a complaint to complete an investigation was 168 days and to the filing of disciplinary charges was 249 days.

**CASELOAD AND  
SPEED OF HANDLING  
COMPLAINTS BY STAGE**



## Caseload and Speed of Handling Complaints by Stage

Every year the State Bar's attorney discipline system receives more than ten thousand new complaints. At any point in time, OCTC has over a thousand open complaints under inquiry, along with hundreds of open investigations, pre-filing matters, and cases in the State Bar Court. In addition, there are hundreds of State Bar Court decisions that are transmitted, or about to be transmitted, to the Supreme Court for its review and determination.

This section details the inventory and age of complaints as they flow through the five stages of the discipline system. The inventory by volume and age of the number of complaints-in-process at each stage are combined to show the caseload and speed of handling of complaints throughout the discipline system. For each stage, data is presented in the following tables.<sup>11</sup>

### Inventory of Matters

These tables show inventory of matters by the number of complaints and age (by months and years) from the date on which a complaint was first received by OCTC. In the inquiry, investigation, and pre-filing stages, those complaints, which are not closed and fail to meet the six-month the statutory benchmark for filing of disciplinary charges, are included in the count of backlog cases reported in the next section of this report. In these tables for the inquiry, investigation, and pre-filing stages, the number of non-backlog and backlog complaints are shown in the subtotals. The inventory is also shown by time (by months and years) from date a matter enters to the date it exits any stage.

### Flow of Matters

These tables show the number of complaints at the beginning of the year, the number of complaints entering and leaving during the year, and the remaining inventory of complaints at year-end on December 31.

### Disposition of Closed Matters

At the inquiry, investigation, or pre-filing stage, a complaint may be closed and no longer counted in the caseload for various reasons. These tables include the following explanations of the reasons for closing complaints.

**Informal Action:** Complaints may be closed with a *directional or warning letter* to the respondent. A *directional letter* points out there is a potential for future violation if specified conduct is not corrected and may reference resources the respondent can consult to ensure future compliance with professional standards. A *warning letter* advises a respondent of the OCTC opinion that professional misconduct has occurred; it warns the respondent not to continue or repeat the conduct, but advises that because of the present

---

<sup>11</sup> The statistics and information in these tables are generated from each of the thousands of individual cases in the discipline system. New or more complete information in some cases may later become available after a report has been issued or there may be corrections to errors in data entry. For these reasons, the data presented in the report may slightly differ from some of the tables in a prior year's report. Because of the inclusion of more matters opened by OCTC without complainants and the adjustments in the count of complaints in this year's report, the difference will be significantly greater.

circumstances or minor nature of the infraction, there will be no prosecution at this time.

***Referral:*** Complaints may be closed if a complainant or the underlying matter is referred elsewhere for resolution. For example a complaint may be referred to the mandatory fee arbitration program, if the matter is a dispute over the fees charged by the complainant's lawyer; to an alternative dispute resolution mediation program sponsored by a local bar association for resolving lawyer-client related disputes; or to the criminal justice system if criminal conduct is alleged.

***Duplicative:*** Complaints may be closed if they were opened in error or if they involve the same matters as another complaint.

***Resigned, Disbarred in Other Matter:*** Complaints may be closed if the Supreme Court accepts the respondent's resignation, which has been tendered while the complaints are pending. Complaints may be closed if the respondent is disbarred in another case.

***Closed with No Action:*** Complaints may be closed with no action if they are without merit, there is insufficient evidence to support or prove the allegations, or the complainant refuses to cooperate.

***Other:*** Complaints may be closed if the complainant and respondent have resolved the underlying dispute and OCTC has determined that prosecution of disciplinary proceedings is not warranted. Complaints may also be closed because of the death of the respondent.

## **Age of Matters**

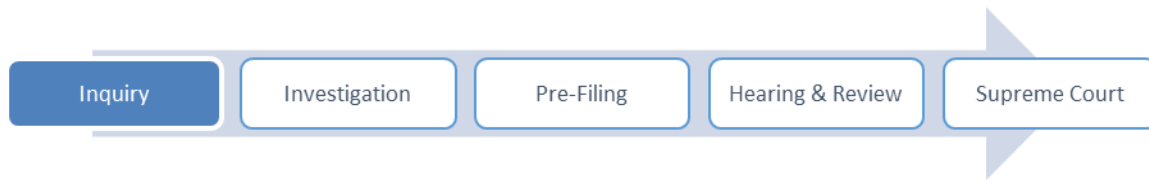
The age of matters, by median days and 90th percentile, is presented for complaints by Age at Exit (by days) and by Time in Stage (by days). Age at Exit refers to the number of days from when a complaint was received until it proceeds out of the stage. Time in Stage refers to the number of days a complaint is in anyone of the five stages. .

## **Active and Suspended Matters**

For the investigation, pre-filing, and hearing and review stages, the tables on the inventory, flow, disposition of closed, and age of matters are presented as *active* or *suspended*.

Processing of a complaint in the investigation stage or pre-filing stage may be *suspended*. When there are multiple complaints against a single respondent, OCTC may determine select prosecution of complaints likely to result in the disbarment of the respondent. Investigation of the remaining complaints will be suspended. If disbarment is not obtained, the suspended complaints may be re-opened. If the respondent is disbarred, the suspended investigation will be closed. OCTC may also suspend an investigation upon notification by a criminal prosecutor until the conclusion of a pending criminal investigation or proceeding against the respondent for the same misconduct. Similarly at the hearing and review stage, on motion by OCTC, a respondent, or its own motion, the State Bar Court may abate and stay the proceeding in part or in whole.

## ***Inquiry Stage***



The majority of disciplinary actions originate with complaints filed by members of the public. For every written complaint received by OCTC, its Intake Unit opens and conducts an inquiry – a review of the complaint itself, as well as the supporting documentation and surrounding circumstances – to determine whether a formal investigation is warranted. In some instances, this determination can be made quickly based on the allegations and facts presented by the complainant. In other cases, Intake will contact the parties for additional information. If a complaint is not advanced to the formal investigation stage, it was either referred elsewhere; the parties resolved the underlying matter; OCTC issued a directional or warning letter to the respondent; or it was closed without action.

**Table 1: Inquiry Stage – Inventory of Active Matters as of December 31**

<b>Age of Case</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
0 - 90 Days	3,699	2,216	2,663	1,783	1,184
91 Days to 6 Months	<u>771</u>	<u>157</u>	<u>289</u>	<u>134</u>	<u>15</u>
Non-Backlog	4,470	2,373	2,952	1,917	1,199
6 Months to 1 Year	801	118	72	67	44
1 - 2 Years	34	65	45	60	49
2 - 3 Years	4	10	5	7	10
3 - 4 Years	5	2	2	3	1
4 - 5 Years	3	0	0	0	2
Over 5 Years	<u>4</u>	<u>6</u>	<u>4</u>	<u>1</u>	<u>1</u>
Backlog	851	201	128	138	107
<b>Total Inventory</b>	<b>5,321</b>	<b>2,574</b>	<b>3,080</b>	<b>2,055</b>	<b>1,306</b>

<b>Time in Stage</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
0 - 90 Days	3,699	2,216	2,663	1,783	1,184
91 Days to 6 Months	771	157	289	134	15
6 Months to 1 Year	801	118	72	67	44
1 - 2 Years	34	65	45	60	49
2 - 3 Years	4	10	5	7	10
3 - 4 Years	5	2	2	3	1
4 - 5 Years	3	0	0	0	2
Over 5 Years	4	6	4	1	1
<b>Total Inventory</b>	<b>5,321</b>	<b>2,574</b>	<b>3,080</b>	<b>2,055</b>	<b>1,306</b>

**Table 2: Inquiry Stage – Case Flow of Active Matters January 1 – December 31**

<b>Case Flows</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Inventory (January 1)	2,186	5,321	2,574	3,080	2,055
Complaints Received	16,505	17,386	15,720	14,821	13,050
Reportable Actions	3,403	3,379	2,764	2,987	2,928
State Bar Initiated	581	505	426	333	411
Other Sources	0	0	0	0	0
Total Inflows	20,489	21,270	18,910	18,141	16,389
Closed	11,425	16,962	12,904	14,535	12,375
To Investigation	5,929	7,055	5,499	4,631	4,762
To Other Stages	0	0	1	0	1
Total Outflows	17,354	24,017	18,404	19,166	17,138
<b>Inventory (December 31)</b>	<b>5,321</b>	<b>2,574</b>	<b>3,080</b>	<b>2,055</b>	<b>1,306</b>

**Table 3: Inquiry Stage – Disposition of Closed Matters (Active)**

<b>Disposition of Closed Cases</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Informal Action	850	1,198	1,314	1,589	1,516
Referral	274	307	202	267	275
Duplicative	854	1,157	896	928	700
Resp. Disbarred or Resigned	265	1,843	508	553	528
Closed, No Action	9,068	12,274	9,840	11,033	9,255
Other	114	183	144	165	101
<b>Total Closed</b>	<b>11,425</b>	<b>16,962</b>	<b>12,904</b>	<b>14,535</b>	<b>12,375</b>

**Table 4: Inquiry Stage – Age of Matters (Age at Exit)**

<b>Age at Exit (Days)</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Closed					
Median Age	55	72	64	46	37
90th Percentile	81	196	115	103	58
To Investigation					
Median Age	25	41	22	16	14
90th Percentile	63	92	77	62	57

**Table 5: Inquiry Stage – Age of Matters (Time in Stage)**

<b>Time in Stage (Days)</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Closed					
Median Age	55	72	64	46	37
90th Percentile	81	196	115	103	58
To Investigation					
Median Age	25	41	22	16	14
90th Percentile	63	92	77	62	57

## ***Investigation Stage***



A complaint alleging misconduct that could result in discipline, if proved, will be advanced to the investigation stage. Investigations are carried out by professional investigators in OCTC, with the guidance and supervision of OCTC attorneys. Investigators may interview witnesses and respondents, subpoena and analyze bank records, obtain court documents, and otherwise develop the evidence needed to determine whether to bring disciplinary proceedings against the respondent in State Bar Court. An OCTC attorney reviews the results of each investigation and determines whether to advance the matter to the pre-filing stage. If not, the complaint may be closed without action or with non-disciplinary action, or may be referred elsewhere.

## Active Matters

**Table 6: Investigation Stage - Inventory of Active Matters as of December 31**

Age of Case	2009	2010	2011	2012	2013
0 - 90 Days	857	925	617	522	639
91 Days to 6 Months	<u>1,207</u>	<u>930</u>	<u>649</u>	<u>508</u>	<u>762</u>
Non-Backlog	2,064	1,855	1,266	1,030	1,401
6 Months to 1 Year	730	1,095	17	23	73
1 - 2 Years	166	340	13	7	22
2 - 3 Years	35	24	1	6	6
3 - 4 Years	9	8	0	0	3
4 - 5 Years	3	4	0	1	1
Over 5 Years	<u>0</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>
Backlog	943	1,473	31	37	105
<b>Total Inventory</b>	<b>3,007</b>	<b>3,328</b>	<b>1,297</b>	<b>1,067</b>	<b>1,506</b>

Time in Stage	2009	2010	2011	2012	2013
0 - 90 Days	1,289	1,399	944	669	866
91 Days to 6 Months	1,025	839	344	384	577
6 Months to 1 Year	537	849	9	6	51
1 - 2 Years	125	225	0	8	6
2 - 3 Years	25	11	0	0	6
3 - 4 Years	5	4	0	0	0
4 - 5 Years	1	1	0	0	0
Over 5 Years	0	0	0	0	0
<b>Total Inventory</b>	<b>3,007</b>	<b>3,328</b>	<b>1,297</b>	<b>1,067</b>	<b>1,506</b>



**Table 7: Investigation Stage – Case Flow of Active Matters January 1– December 31**

<b>Case Flows</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Inventory (January 1)	1,661	3,007	3,328	1,297	1,067
From Inquiry	5,929	7,055	5,499	4,631	4,762
From Suspended	59	141	323	48	22
From Other Stages	<u>34</u>	<u>31</u>	<u>108</u>	<u>40</u>	<u>33</u>
Total Inflows	6,022	7,227	5,930	4,719	4,817
Closed	2,257	3,503	4,007	2,219	1,981
Suspended	1,171	1,614	1,595	1,192	1,123
To Pre-Filing	1,211	1,570	2,145	1,485	1,228
To Other Stages	<u>37</u>	<u>219</u>	<u>214</u>	<u>53</u>	<u>46</u>
Total Outflows	4,676	6,906	7,961	4,949	4,378
<b>Inventory (December 31)</b>	<b>3,007</b>	<b>3,328</b>	<b>1,297</b>	<b>1,067</b>	<b>1,506</b>

**Table 8: Investigation Stage – Disposition of Closed Matters (Active)**

<b>Disposition of Closed Cases</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Informal Action	198	338	325	182	217
Referral	117	212	397	180	141
Duplicative	184	246	233	68	50
Resp. Disbarred or Resigned	13	27	34	19	2
Closed, No Action	1,711	2,626	2,862	1,731	1,543
Other	34	54	156	39	28
<b>Total Closed</b>	<b>2,257</b>	<b>3,503</b>	<b>4,007</b>	<b>2,219</b>	<b>1,981</b>

**Table 9: Investigation Stage – Age of Matters (Active) by Age at Exit**

<b>Age at Exit (Days)</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Closed					
Median Age	171	207	207	133	149
90th Percentile	403	463	513	184	193
Suspended					
Median Age	67	140	94	45	31
90th Percentile	205	336	384	165	130
To Pre-Filing					
Median Age	226	268	259	163	168
90th Percentile	566	514	595	214	230

**Table 10: Investigation Stage – Age of Matters (Active) by Time in Stage**

<b>Time in Stage (Days)</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Closed					
Median Time in Stage	127	146	153	96	117
90th Percentile	343	399	400	157	168
Suspended					
Median Time in Stage	42	106	66	25	13
90th Percentile	166	299	302	143	110
To Pre-Filing					
Median Time in Stage	189	200	176	127	147
90th Percentile	505	452	461	174	186

## Suspended Matters

**Table 11: Investigation Stage - Inventory of Suspended Matters as of December 31**

Age of Case	2009	2010	2011	2012	2013
0 - 90 Days	269	33	228	76	101
91 Days to 6 Months	<u>394</u>	<u>222</u>	<u>264</u>	<u>175</u>	<u>485</u>
Non-Backlog	663	255	492	251	586
6 Months to 1 Year	347	638	242	286	330
1 - 2 Years	241	1,362	475	433	401
2 - 3 Years	111	180	245	192	289
3 - 4 Years	32	80	36	161	27
4 - 5 Years	12	21	27	14	141
Over 5 Years	<u>7</u>	<u>12</u>	<u>13</u>	<u>18</u>	<u>31</u>
Backlog	750	2,293	1,038	1,104	1,219
<b>Total Inventory</b>	<b>1,413</b>	<b>2,548</b>	<b>1,530</b>	<b>1,355</b>	<b>1,805</b>

Time in Stage	2009	2010	2011	2012	2013
0 - 90 Days	640	376	473	186	294
91 Days to 6 Months	223	596	302	154	388
6 Months to 1 Year	255	412	216	439	374
1 - 2 Years	235	967	347	331	450
2 - 3 Years	44	166	155	102	139
3 - 4 Years	10	23	20	128	20
4 - 5 Years	2	6	16	6	126
Over 5 Years	4	2	1	9	14
<b>Total Inventory</b>	<b>1,413</b>	<b>2,548</b>	<b>1,530</b>	<b>1,355</b>	<b>1,805</b>

**Table 12: Investigation Stage – Case Flow of Suspended Matters  
January 1–December 31**

<b>Case Flows</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Inventory (January 1)	512	1,413	2,548	1,530	1,355
From Active Investigation	1,171	1,614	1,595	1,192	1,123
From Other Stages	<u>1</u>	<u>5</u>	<u>1</u>	<u>2</u>	<u>1</u>
Total Inflows	1,172	1,619	1,596	1,194	1,124
Closed	208	260	1,919	1,269	652
Made Active	59	141	323	48	22
To Pre-Filing	3	52	311	52	0
To Other Stages	<u>1</u>	<u>31</u>	<u>61</u>	<u>0</u>	<u>0</u>
Total Outflows	271	484	2,614	1,369	674
<b>Inventory (December 31)</b>	<b>1,413</b>	<b>2,548</b>	<b>1,530</b>	<b>1,355</b>	<b>1,805</b>

**Table 13: Investigation Stage – Disposition of Closed Matters  
(Suspended)**

<b>Disposition of Closed Cases</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Informal Action	1	0	1	0	0
Referral	0	0	1	6	0
Duplicative	6	4	4	1	0
Resp. Disbarred or Resigned	159	226	1,838	1,228	639
Closed, No Action	42	30	62	33	13
Other	0	0	13	1	0
<b>Total Closed</b>	<b>208</b>	<b>260</b>	<b>1,919</b>	<b>1,269</b>	<b>652</b>

**Table 14: Investigation Stage – Age of Matters (Suspended) by Age at Exit**

Age at Exit (Days)	2009	2010	2011	2012	2013
Closed					
Median Age	567	342	629	331	524
90th Percentile	1,126	1,017	951	778	1,099
Made Active					
Median Age	634	396	511	723	238
90th Percentile	1,387	1,142	876	1,749	407
To Pre-Filing					
Median Age	n/a	214	359	387	n/a
90th Percentile	n/a	739	567	994	n/a

**Table 15: Investigation Stage – Age of Matters (Suspended) by Time in Stage**

Time in Stage (Days)	2009	2010	2011	2012	2013
Closed					
Median Age	343	202	470	275	459
90th Percentile	805	764	822	538	922
Made Active					
Median Age	311	207	225	468	141
90th Percentile	954	833	597	1,687	401
To Pre-Filing					
Median Age	n/a	137	242	224	n/a
90th Percentile	n/a	429	476	749	n/a

## ***Pre-Filing Stage***



Once an investigation is complete and OCTC has made a determination to proceed against the respondent, OCTC then prepares to litigate the case in the State Bar Court. The Notice of Disciplinary Charges against a respondent is drafted at this stage. Depending upon the circumstances, OCTC may attempt to negotiate a stipulation to discipline. The respondent or OCTC may also request an Early Neutral Evaluation Conference (ENE) to facilitate a stipulated outcome. In some cases in an ENE, the State Bar Court judge may refer a respondent to the Alternative Discipline Program. If an early resolution cannot be reached, OCTC will proceed to file formal charges.

## Active Matters

**Table 16: Pre-Filing Stage – Inventory of Active Matters as of December 31**

Age of Case	2009	2010	2011	2012	2013
0 - 90 Days	41	32	17	43	24
91 Days to 6 Months	<u>44</u>	<u>53</u>	<u>18</u>	<u>83</u>	<u>42</u>
Non-Backlog	85	85	35	126	66
6 Months to 1 Year	292	293	135	216	123
1 - 2 Years	613	518	79	40	45
2 - 3 Years	403	159	16	11	8
3 - 4 Years	111	50	2	2	3
4 - 5 Years	30	7	2	2	0
Over 5 Years	<u>4</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>
Backlog	1,453	1,028	234	272	179
<b>Total Inventory</b>	<b>1,538</b>	<b>1,113</b>	<b>269</b>	<b>398</b>	<b>245</b>

Time in Stage	2009	2010	2011	2012	2013
0 - 90 Days	382	600	240	264	112
91 Days to 6 Months	214	140	23	105	84
6 Months to 1 Year	306	121	5	21	29
1 - 2 Years	463	193	1	8	18
2 - 3 Years	144	55	0	0	2
3 - 4 Years	29	3	0	0	0
4 - 5 Years	0	1	0	0	0
Over 5 Years	0	0	0	0	0
<b>Total Inventory</b>	<b>1,538</b>	<b>1,113</b>	<b>269</b>	<b>398</b>	<b>245</b>

**Table 17: Pre-Filing Stage – Case Flow of Active Matters January 1 – December 31**

<b>Case Flows</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Inventory (January 1)	1,516	1,538	1,113	269	398
New Cases	179	234	224	217	176
From Investigation	1,211	1,570	2,145	1,485	1,228
From Other Stages	<u>13</u>	<u>112</u>	<u>429</u>	<u>169</u>	<u>24</u>
Total Inflows	1,403	1,916	2,798	1,871	1,428
Closed	322	888	1,107	333	307
Suspended	182	187	244	110	101
To Hearing and Review	874	1,261	2,255	1,293	1,169
To Other Stages	<u>3</u>	<u>5</u>	<u>36</u>	<u>6</u>	<u>4</u>
Total Outflows	1,381	2,341	3,642	1,742	1,581
<b>Inventory (December 31)</b>	<b>1,538</b>	<b>1,113</b>	<b>269</b>	<b>398</b>	<b>245</b>

**Table 18: Pre-Filing Stage – Disposition of Closed Matters (Active)**

<b>Disposition of Closed Cases</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Informal Action	116	288	329	105	121
Referral	0	6	37	13	2
Duplicative	5	25	33	7	9
Resp. Disbarred or Resigned	5	4	8	12	1
Closed, No Action	187	555	686	181	165
Other	9	10	14	15	9
<b>Total Closed</b>	<b>322</b>	<b>888</b>	<b>1,107</b>	<b>333</b>	<b>307</b>



**Table 19: Pre-Filing Stage – Age of Matters (Active) by Age at Exit**

<b>Age at Exit (Days)</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Closed					
Median Age	649	697	422	242	273
90th Percentile	1,279	1,302	917	574	504
Suspended					
Median Age	473	394	309	211	203
90th Percentile	901	1,000	639	380	386
To Hearing and Review					
Median Age	492	462	389	225	249
90th Percentile	1,074	1,147	833	512	456

**Table 20: Pre-Filing Stage – Age of Matters (Active) by Time in Stage**

<b>Time in Stage (Days)</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Closed					
Median Time in Stage	321	405	78	65	92
90th Percentile	786	897	475	172	245
Suspended					
Median Time in Stage	201	154	70	57	64
90th Percentile	500	632	208	203	151
To Hearing and Review					
Median Time in Stage	260	191	62	62	97
90th Percentile	677	831	374	163	247

## Suspended Matters

**Table 21: Pre-Filing Stage – Inventory of Suspended Matters as of December 31**

Age of Case	2009	2010	2011	2012	2013
0 - 90 Days	3	11	6	0	0
91 Days to 6 Months	<u>9</u>	<u>10</u>	<u>42</u>	<u>5</u>	<u>1</u>
Non-Backlog	12	21	48	5	1
6 Months to 1 Year	25	23	42	40	43
1 - 2 Years	52	77	69	81	70
2 - 3 Years	84	58	41	11	22
3 - 4 Years	9	68	18	22	4
4 - 5 Years	7	7	11	9	16
Over 5 Years	<u>2</u>	<u>9</u>	<u>1</u>	<u>4</u>	<u>12</u>
Backlog	179	242	182	167	167
<b>Total Inventory</b>	<b>191</b>	<b>263</b>	<b>230</b>	<b>172</b>	<b>168</b>

Time in Stage	2009	2010	2011	2012	2013
0 - 90 Days	50	59	127	42	27
91 Days to 6 Months	41	21	24	15	27
6 Months to 1 Year	52	66	22	49	34
1 - 2 Years	43	79	39	40	49
2 - 3 Years	3	33	15	23	8
3 - 4 Years	2	3	1	2	20
4 - 5 Years	0	2	2	1	2
Over 5 Years	0	0	0	0	1
<b>Total Inventory</b>	<b>191</b>	<b>263</b>	<b>230</b>	<b>172</b>	<b>168</b>

**Table 22: Pre-Filing Stage – Case Flow of Suspended Matters January 1 – December 31**

<b>Case Flows</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Inventory (January 1)	123	191	263	230	172
Pre-Filing Matters Suspended	182	187	244	110	101
From Other Stages	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Inflows	182	187	244	110	101
Closed	110	83	231	153	98
Made Active	1	27	34	11	7
To Other Stages	<u>3</u>	<u>5</u>	<u>12</u>	<u>4</u>	<u>0</u>
Total Outflows	114	115	277	168	105
<b>Inventory (December 31)</b>	<b>191</b>	<b>263</b>	<b>230</b>	<b>172</b>	<b>168</b>

**Table 23: Pre-Filing Stage – Disposition of Closed Matters (Suspended)**

<b>Disposition of Closed Cases</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Informal Action	0	0	1	2	0
Resp. Disbarred or Resigned	99	81	212	148	92
Closed, No Action	11	2	17	1	5
Other	0	0	1	2	1
<b>Total Closed</b>	<b>110</b>	<b>83</b>	<b>231</b>	<b>153</b>	<b>98</b>

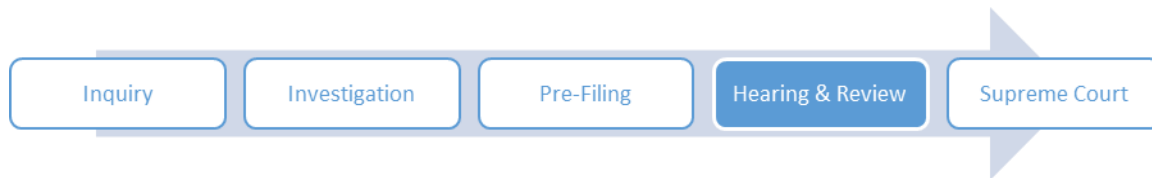
**Table 24: Pre-Filing Stage – Age of Matters (Suspended) by Age at Exit**

<b>Age at Exit (Days)</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Closed					
Median Age	577	623	769	656	608
90th Percentile	1,156	1,175	1,436	1,266	1,166

**Table 25: Pre-Filing Stage – Age of Matters (Suspended) by Time in Stage**

<b>Time In Stage (Days)</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Closed					
Median Age	279	257	324	259	407
90th Percentile	579	514	870	785	568

## Hearing & Review Stage



The Hearing and Review stage commences when OCTC files either a stipulation to discipline – if one has been reached – or a Notice of Disciplinary Charges in the State Bar Court.

If a stipulation to discipline is filed, a hearing judge in the State Bar Court Hearing Department must determine if the stipulation is fair and adequately protects the public.

If disciplinary charges are filed, pre-trial discovery and motion practice, and trial will be conducted in Hearing Department of the State Bar Court. At this stage, a respondent may be referred to the Alternative Discipline Program. After a trial, the hearing judge renders a decision with findings of fact and a recommendation of discipline if the respondent is found culpable of the alleged misconduct. A respondent or OCTC may appeal the decision of the Hearing Department to the State Bar Court Review Department, in which case the Review Department’s decision on appeal will constitute the final decision of the State Bar Court. When there is no appeal, the Hearing Department’s decision will become the final decision of the State Bar Court.

For any State Bar Court decision recommending the disbarment or suspension of a respondent, State Bar Court staff prepares a certified copy of the decision, together with the record of the proceedings, for transmittal to the Supreme Court. The number of matters transmitted is shown below in Table 27 in the category “To Supreme Court.”

*(NOTE: At this stage, when filed in the State Bar Court, complaints against a lawyer are procedurally consolidated and opened under the lead case number. In its tracking of cases, the State Bar Court counts the consolidated complaints as one case. However, for consistency, the tables in this section continue to count each complaint separately.)*

## Active Matters

**Table 26: Hearing & Review Stage - Inventory of Active Matters as of December 31**

<b>Age of Case</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
0 - 90 Days	63	32	42	34	42
91 Days to 6 Months	41	34	96	66	57
6 Months to 1 Year	97	146	395	382	346
1 - 2 Years	204	334	514	399	437
2 - 3 Years	197	185	187	285	141
3 - 4 Years	166	128	28	74	42
4 - 5 Years	60	78	18	9	19
Over 5 Years	39	70	8	7	7
<b>Total Inventory</b>	<b>867</b>	<b>1,007</b>	<b>1,288</b>	<b>1,256</b>	<b>1,091</b>

<b>Time in Stage</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
0 - 90 Days	287	520	1,056	598	543
91 Days to 6 Months	168	166	155	304	199
6 Months to 1 Year	194	141	36	275	129
1 - 2 Years	149	127	41	76	216
2 - 3 Years	40	34	0	3	2
3 - 4 Years	24	6	0	0	2
4 - 5 Years	5	13	0	0	0
Over 5 Years	0	0	0	0	0
<b>Total Inventory</b>	<b>867</b>	<b>1,007</b>	<b>1,288</b>	<b>1,256</b>	<b>1,091</b>

**Table 27: Hearing & Review Stage – Case Flow of Active Matters January 1 – December 31**

<b>Case Flows</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Inventory (January 1)	1,015	867	1,007	1,288	1,256
From Pre-Filing	874	1,261	2,255	1,293	1,169
From Suspended	174	429	317	564	316
From Other Stages	<u>398</u>	<u>545</u>	<u>607</u>	<u>600</u>	<u>449</u>
Total Inflows	1,446	2,235	3,179	2,457	1,934
Closed	229	156	201	149	151
Suspended	291	201	456	539	389
To Supreme Court	1,073	1,718	2,164	1,722	1,555
To Other Stages	<u>1</u>	<u>20</u>	<u>77</u>	<u>79</u>	<u>4</u>
Total Outflows	1,594	2,095	2,898	2,489	2,099
<b>Inventory (December 31)</b>	<b>867</b>	<b>1,007</b>	<b>1,288</b>	<b>1,256</b>	<b>1,091</b>

**Table 28: Hearing & Review Stage – Disposition of Closed Matters (Active)**

<b>Disposition of Closed Cases</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Informal Action	1	0	0	0	0
Discipline Imposed	102	70	143	97	47
Dismissed	92	55	44	32	73
Terminated	24	19	2	13	9
Other	10	12	12	7	22
<b>Total Closed</b>	<b>229</b>	<b>156</b>	<b>201</b>	<b>149</b>	<b>151</b>

**Table 29: Hearing & Review Stage – Age of Matters (Active) by Age at Exit**

Age at Exit (Days)	2009	2010	2011	2012	2013
Closed					
Median Age	791	573	428	338	423
90th Percentile	1,561	1,666	1,162	759	861
Suspended					
Median Age	1,027	736	554	420	351
90th Percentile	1,678	1,602	1,354	715	876
To Supreme Court					
Median Age	652	623	615	422	491
90th Percentile	1,762	2,220	1,769	992	1,076

**Table 30: Hearing & Review Stage – Age of Matters (Active) by Time in Stage**

Time in Stage (Days)	2009	2010	2011	2012	2013
Closed					
Median Time in Stage	195	70	33	50	141
90th Percentile	516	262	146	176	268
Suspended					
Median Time in Stage	197	173	75	128	99
90th Percentile	556	442	174	169	250
To Supreme Court					
Median Time in Stage	272	107	75	113	190
90th Percentile	945	482	390	223	442



## Suspended Matters

**Table 31: Hearing & Review Stage - Inventory of Suspended Matters as of December 31**

Age of Case	2009	2010	2011	2012	2013
0 - 90 Days	0	0	1	0	0
91 Days to 6 Months	1	1	9	4	6
6 Months to 1 Year	9	23	67	42	62
1 - 2 Years	47	16	160	186	153
2 - 3 Years	72	71	96	55	68
3 - 4 Years	140	78	27	41	33
4 - 5 Years	145	86	31	15	28
Over 5 Years	280	114	49	42	51
<b>Total Inventory</b>	<b>694</b>	<b>389</b>	<b>440</b>	<b>385</b>	<b>401</b>

Time in Stage	2009	2010	2011	2012	2013
0 - 90 Days	82	44	147	109	100
91 Days to 6 Months	51	10	153	114	74
6 Months to 1 Year	104	68	74	36	88
1 - 2 Years	152	175	48	107	63
2 - 3 Years	112	45	5	4	61
3 - 4 Years	113	23	10	3	2
4 - 5 Years	65	23	0	10	3
Over 5 Years	15	1	3	2	10
<b>Total Inventory</b>	<b>694</b>	<b>389</b>	<b>440</b>	<b>385</b>	<b>401</b>

**Table 32: Hearing & Review Stage – Case Flow of Suspended Matters  
January 1 – December 31**

<b>Case Flows</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Inventory (January 1)	709	694	389	440	385
From Hearing & Review Active	291	201	456	539	389
From Other Stages	<u>3</u>	<u>2</u>	<u>29</u>	<u>3</u>	<u>1</u>
Total Inflows	294	203	485	542	390
Closed	134	59	86	33	58
To Hearing & Review Active	174	429	317	564	316
To Supreme Court	0	19	31	0	0
To Other Stages	<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Outflows	309	508	434	597	374
<b>Inventory (December 31)</b>	<b>694</b>	<b>389</b>	<b>440</b>	<b>385</b>	<b>401</b>

**Table 33: Hearing & Review Stage – Disposition of Closed Matters  
(Suspended)**

<b>Disposition of Closed Cases</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Discipline Imposed	11	15	5	0	4
Dismissed	8	5	10	13	9
Terminated	115	38	71	20	45
Other	0	1	0	0	0
<b>Total Closed</b>	<b>134</b>	<b>59</b>	<b>86</b>	<b>33</b>	<b>58</b>

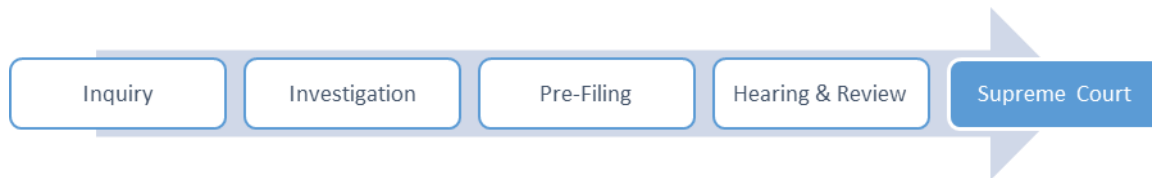
**Table 34: Hearing & Review Stage – Age of Matters (Suspended) by Age at Exit**

<b>Age at Exit (Days)</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Closed					
Median Age	1,489	1,603	1,273	691	711
90th Percentile	2,456	2,680	2,033	1,816	1,350
Made Active					
Median Age	1,432	1,975	1,570	673	505
90th Percentile	2,775	2,989	2,354	1,170	1,324

**Table 35: Hearing & Review Stage – Age of Matters (Suspended) by Time in Stage**

<b>Time in Stage (Days)</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Closed					
Median Time in Stage	437	371	468	293	157
90th Percentile	1,150	1,378	877	571	616
Made Active					
Median Time in Stage	318	909	652	196	168
90th Percentile	1,335	1,698	1,413	407	881

## ***Supreme Court***



This stage commences after transmittal of a State Bar Court final decision to the Supreme Court. An appeal to the Supreme Court to review a decision of the State Bar Court may be filed within 60 days of the filing of the certified copy of the State Bar Court’s decision. The Supreme Court exercises its independent judgment as to the weight and sufficiency of the evidence and as to the discipline to be imposed. Under California Rules of Court, rule 9.18(b), if no appeal is filed, the recommendation of the State Bar Court will be filed as an order of the Supreme Court. This last stage is complete when the Supreme Court’s final order on discipline is implemented.

The age of complaints in the discipline stage as of December 31, 2013, like those in each of the other stages, is measured from when a complaint was first received in the discipline system.

*(NOTE: A case transmitted to the Supreme Court may include consolidated complaints against the attorney and, as in the State Bar Court, is counted as a single case. However, for consistency in this report, the complaints are counted separately.)*

**Table 36: Supreme Court Stage - Inventory of Matters as of December 31**

<b>Age of Case</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
0 - 90 Days	6	0	7	4	1
91 Days to 6 Months	10	16	33	2	9
6 Months to 1 Year	30	168	93	27	51
1 - 2 Years	87	253	209	85	130
2 - 3 Years	88	81	82	62	113
3 - 4 Years	67	78	41	28	46
4 - 5 Years	18	30	19	6	20
Over 5 Years	41	97	30	8	2
<b>Total Inventory</b>	<b>347</b>	<b>723</b>	<b>514</b>	<b>222</b>	<b>372</b>

<b>Time in Stage</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
0 - 90 Days	305	569	470	197	336
91 Days to 6 Months	42	150	42	25	36
6 Months to 1 Year	0	4	2	0	0
1 - 2 Years	0	0	0	0	0
2 - 3 Years	0	0	0	0	0
3 - 4 Years	0	0	0	0	0
4 - 5 Years	0	0	0	0	0
Over 5 Years	0	0	0	0	0
<b>Total Inventory</b>	<b>347</b>	<b>723</b>	<b>514</b>	<b>222</b>	<b>372</b>

**Table 37: Supreme Court Stage – Case Flow of Matters January 1 – December 31**

<b>Case Flows</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Inventory (January 1)	129	347	723	514	222
From Hearing & Review	1,073	1,737	2,195	1,722	1,555
From Other Stages	<u>12</u>	<u>113</u>	<u>20</u>	<u>5</u>	<u>20</u>
Total Inflows	1,085	1,850	2,215	1,727	1,575
Closed	865	1,439	2,418	1,839	1,423
Remanded	<u>2</u>	<u>35</u>	<u>6</u>	<u>180</u>	<u>2</u>
Total Outflows	867	1,474	2,424	2,019	1,425
<b>Inventory (December 31)</b>	<b>347</b>	<b>723</b>	<b>514</b>	<b>222</b>	<b>372</b>

**Table 38: Supreme Court Stage – Disposition of Closed Matters**

<b>Disposition of Closed Cases</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Discipline Imposed	566	1,116	2,036	1,507	1,065
Petition Granted	277	302	336	314	355
Dismissed	21	21	42	17	1
Terminated	1	0	4	1	2
Other	0	0	0	0	0
<b>Total Closed</b>	<b>865</b>	<b>1,439</b>	<b>2,418</b>	<b>1,839</b>	<b>1,423</b>

**Table 39: Supreme Court Stage – Age of Matters by Age at Exit**

<b>Age at Exit (Days)</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Closed					
Median Age	647	842	700	557	568
90th Percentile	1,823	2,305	1,983	1,195	1,187

**Table 40: Supreme Court Stage – Age of Matters by Time in Stage**

<b>Time in Stage (Days)</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Closed					
Median Time in Stage	92	99	101	127	105
90th Percentile	95	109	107	185	113

## **COMPLAINTS IN BACKLOG**



## Complaints in Backlog

Business and Professions Code, section 6086.15 defines *backlog* to mean “the number of complaints as of December 31 of the preceding year that were pending beyond six months after receipt without dismissal, admonition, or the filing of a [Notice of Disciplinary Charges].” The complaints in backlog are those that do not meet the goal for processing a complaint under Business and Professions Code, section 6140.2, which states: “The State Bar shall set as a goal the improvement of its disciplinary system so that no more than six months will elapse from the receipt of complaints to the time of dismissal, admonishment of the attorney involved, or the filing of formal charges by the State Bar Office of [the Chief] Trial Counsel.” The State Bar tracks the backlog with three subcategories.

- ***Inquiry Stage.*** This subcategory reports the number of backlog complaints at the inquiry stage of the discipline system.
- ***Investigative Stage.*** This subcategory includes the complaints in backlog that also did not meet the goal in Business and Professions Code, section 6094.5 for OCTC to complete an investigation within six months after receipt of the complaint. The *active matters* in this subcategory are those cases where work is ongoing, and *suspended matters*, where the case is *held* or *abated* and the matter has not been disposed of within the six-month period of Business and Professions Code, section 6140.2. In the previous *Annual Discipline Reports*, the total number of *active matters* in this subcategory and those at the *inquiry stage* was sometimes referred to as the *investigative backlog*.<sup>12</sup>
- ***Pre-Filing Stage.*** This refers to the number of complaints in backlog at the *pre-filing stage* where OCTC has completed the investigations, but the drafting of notice of disciplinary charges is pending and not filed within the six-month goal of Business and Professions Code, section 6140.2. This includes both *active* and *suspended matters*. The *active matters* in this subcategory of the backlog were referred to in previous *Annual Discipline Reports* as complaints in “*notice-open*.”

As noted above (ante, pp. 5-6), to provide more comprehensive information on the caseload, the State Bar included additional matters in the count of complaints this year. The effect of these additional matters is shown in Table 42: Backlog by Stage and Source. The additional matters opened for possible violation of requirements for demand letters sent by an attorney to a prospective defendant in an action for violation of construction-related accessibility standards

---

<sup>12</sup> Business and Professions Code, section 6094.5, subdivision (a) states in pertinent part: “It shall be the goal and policy of the disciplinary agency to dismiss a complaint, admonish the attorney, or forward a completed investigation to the Office of the Trial Counsel within six months after receipt of a written complaint.”

(Bus. & Prof. Code, § 6106.2) are included in the category of *State Bar Initiated* complaints.<sup>13</sup> Those complaints opened from self-reported matters by lawyers or from reports by other sources are included in the category *Reportable Actions* except the reports of imposition of discipline against the attorney by a professional or occupational disciplinary agency or licensing board, whether in California or elsewhere,<sup>14</sup> which are opened in the category *Other Jurisdictions*. All probation revocations matters are included in the category *Probation Referrals*.

**Table 41: Backlog by Stage and Active and Suspended Status**

Stage and Status	2009	2010	2011	2012	2013
Inquiry Stage	851	201	128	138	107
Investigation Stage					
Active Matters	943	1,473	31	37	105
Suspended Matters	750	2,293	1,038	1,104	1,219
Pre-Filing Stage					
Active Matters	1,453	1,028	234	272	179
Suspended Matters	179	242	182	167	167
<b>Total Backlog</b>	<b>4,176</b>	<b>5,237</b>	<b>1,613</b>	<b>1,718</b>	<b>1,777</b>

<sup>13</sup> The matters opened under Business and Professions Code, section 6106.2 are added only to 2013 and do not affect the data for other years in the report. The statute became effective on January 1, 2013 (Stats. 2012, ch. 383 [Sen. Bill No. 1186], § 1).

<sup>14</sup> See Bus. & Prof. Code, §§ 6002.1, subd. (a)(3); 6068, subd. (o)(6).

**Table 42: Backlog by Stage and Source**

<b>Stage &amp; Source</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<u><b>Inquiry</b></u>					
Complaints	42	93	53	20	29
State Bar Initiated	1	0	1	1	0
Reportable Actions	<u>808</u>	<u>108</u>	<u>74</u>	<u>117</u>	<u>78</u>
Sub-Total	851	201	128	138	107
<u><b>Active Investigations</b></u>					
Complaints	744	1,183	10	10	32
State Bar Initiated	73	45	0	5	13
Reportable Actions	125	245	21	22	60
Other / NA	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Sub-Total	943	1,473	31	37	105
<u><b>Suspended Investigations</b></u>					
Complaints	609	2,028	955	1,043	1,140
State Bar Initiated	56	89	40	31	25
Reportable Actions	<u>85</u>	<u>176</u>	<u>43</u>	<u>30</u>	<u>54</u>
Sub-Total	750	2,293	1,038	1,104	1,219
<u><b>Active Pre-Filing</b></u>					
Complaints	1,098	800	195	210	63
State Bar Initiated	117	52	8	19	32
Reportable Actions	206	148	26	37	67
Probation Referrals	15	10	0	1	7
Other Jurisdictions	14	14	4	5	10
Other / NA	<u>3</u>	<u>4</u>	<u>1</u>	<u>0</u>	<u>0</u>
Sub-Total	1,453	1,028	234	272	179
<u><b>Suspended Pre-Filing</b></u>					
Complaints	101	132	121	148	147
State Bar Initiated	11	12	8	2	4
Reportable Actions	51	74	37	3	3
Probation Referrals	15	20	11	12	9
Other Jurisdictions	<u>1</u>	<u>4</u>	<u>5</u>	<u>2</u>	<u>4</u>
Sub-Total	179	242	182	167	167
<b>Total Backlog</b>	<b>4,176</b>	<b>5,237</b>	<b>1,613</b>	<b>1,718</b>	<b>1,777</b>

## **DISCIPLINARY OUTCOMES**

## Disciplinary Outcomes

Business and Professions Code, section 6086.15, subdivision (a)(6), requires the *Annual Discipline Report* to report on formal disciplinary outcomes<sup>15</sup> imposed after the filing of disciplinary charges. The following tables show the disciplinary outcome by the number of complaints and by the number of respondents.<sup>16</sup>

**Table 43: Disciplinary Outcomes**

Disciplinary Outcomes	2009	2010	2011	2012	2013
<u>By Respondent</u>					
Disbarment	69	121	175	154	150
Disbarment Due to Default	0	0	0	6	57
Suspension	<u>231</u>	<u>374</u>	<u>503</u>	<u>282</u>	<u>217</u>
Respondents Disciplined	300	495	678	442	424
<u>By No. of Complaints</u>					
Disbarment	189	279	600	549	375
Disbarment Due to Default	0	0	0	11	222
Suspension	<u>378</u>	<u>836</u>	<u>1,436</u>	<u>947</u>	<u>468</u>
Cases Resulting In Discipline	567	1,115	2,036	1,507	1,065

<sup>15</sup> Private and public reprimands are also disciplinary outcomes, but Business and Professions Code, section 6086.15, subdivision (a)(7), provides that reprimands be included in this report in the section on *Informal Disciplinary Outcomes*.

<sup>16</sup> When disciplinary proceedings are initiated in the State Bar Court, the Notice of Disciplinary Charges may be consolidated and may include multiple complaints against a respondent. The State Bar Court tracks its cases by the case number of the first listed complaint. For consistency of reporting the State Bar's processing complaints at each stage of the discipline system, **each complaint against a respondent continues to be counted as one complaint** throughout the *Annual Discipline Report*, including this section on the disciplinary outcome of those complaints.

## **REPORTABLE ACTIONS**

## Reportable Actions

California law requires the reporting of certain actions or events involving lawyers to the State Bar.

- **Lawyers** in California have a duty under Business and Professions Code, section 6068, subdivision (o), to self-report the following actions to the State Bar:
  - (1) The filing of three or more lawsuits in a 12-month period against the lawyer for malpractice or other wrongful conduct committed in a professional capacity.
  - (2) The entry of judgment against the lawyer in a civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.
  - (3) The imposition of judicial sanctions against the lawyer, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).
  - (4) The bringing of an indictment or information charging a felony against the lawyer.
  - (5) The conviction of the lawyer, including any verdict of guilty, or plea of guilty or no contest, of a felony, or a misdemeanor committed in the course of the practice of law, or in a manner in which a client of the lawyer was the victim, or a necessary element of which, as determined by the statutory or common law definition of the misdemeanor, involves improper conduct of the lawyer, including dishonesty or other moral turpitude, or an attempt or a conspiracy or solicitation of another to commit a felony or a misdemeanor of that type.
  - (6) The imposition of discipline against the lawyer by a professional or occupational disciplinary agency or licensing board, whether in California or elsewhere.
  - (7) Reversal of judgment in a proceeding based in whole or in part upon misconduct, grossly incompetent representation, or willful misrepresentation by the lawyer.
- **Banks** under Business and Professions Code, section 6191.1, must report to the State Bar any time a properly payable instrument is presented against a lawyer's trust account containing insufficient funds.
- **Insurers and brokers of professional liability insurance** must report under Business and Professions Code, section 6086.8, subdivision (b), every claim or action for damages against a lawyer for fraud, misrepresentation, breach of fiduciary duty, or negligence committed in a professional capacity.
- **Courts,**<sup>17</sup> under Business and Professions Code, sections 6086.7 and 6086.8, must notify the State Bar of any of the following:
  - (1) A final order of contempt imposed against a lawyer that may involve grounds

---

<sup>17</sup> The final report of the California Commission on the Fair Administration of Justice in 2008 (<http://www.ccfaj.org/documents/CCFAJFinalReport.pdf>) recommended changes in Canon 3D(2) of the California Code of Judicial Ethics, which included seven categories of egregious misconduct by a lawyer in a criminal proceeding that a judge should report to the State Bar. In 2010, the State Bar's Chief Trial Counsel stated that this information would be included in the *Annual Discipline Report*, and OCTC prepared reporting codes in its case management system to track the information. However, the amended canon did not include reporting in the categories recommended by the CCFAJ. See Cal. Code Jud. Ethics, Canon 3D(2), as amended eff. January 1, 2013.

warranting discipline under this chapter. The court entering the final order shall transmit to the State Bar a copy of the relevant minutes, final order, and transcript, if one exists.

(2) Whenever a modification or reversal of a judgment in a judicial proceeding is based in whole or in part on the misconduct, incompetent representation, or willful misrepresentation of a lawyer.

(3) The imposition of any judicial sanctions against an attorney, except sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).

(4) The imposition of any civil penalty upon a lawyer pursuant to Section 8620 of the Family Code.

(5) The rendering of a judgment that a lawyer is liable for any damages resulting in a judgment against the attorney in any civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.

In addition, the State Bar may receive reports of actions or events not required by the foregoing provisions. The following table summarizes the number of reportable actions received by the State Bar.<sup>18</sup>

**Table 44: Reportable Actions by Source**

Source	2009	2010	2011	2012	2013
Lawyer Self-Reports	120	164	160	242	174
Banks	3,026	2,927	2,338	2,419	2,313
Insurers	138	140	105	180	312
Courts	102	124	151	132	112
Other Sources	<u>17</u>	<u>24</u>	<u>10</u>	<u>14</u>	<u>17</u>
Total Received	3,403	3,379	2,764	2,987	2,928
Forwarded to Investigation	572	1,049	545	238	529

<sup>18</sup> A district attorney, city attorney or other prosecuting attorney must notify OCTC of the pendency of an action against charging a defendant who is a California lawyer with a felony or misdemeanor. (Bus. & Prof. Code, § 6101, subd. (b).) After any conviction, the court clerk of the court must transmit a certified copy of the conviction to the State Bar. (Bus. & Prof. Code, § 6101, subd. (c).) These reports are included in “criminal conviction monitoring” and reported in the section below on *Informal Discipline Outcomes*.



## **INFORMAL DISCIPLINE OUTCOMES**

## Informal Discipline Outcomes

Business and Professions Code, section 6086.15, subdivision (a)(7), requires the *Annual Discipline Report* to include the “number and types of informal discipline outcomes, including petitions to terminate practice, interim suspensions and license restrictions, criminal conviction monitoring, letters of warning, private reprovls, admonitions, and agreements in lieu of discipline.”

### Definition of Terms

- ***Petitions to Terminate Practice.*** Under Business and Professions Code, sections 6180 and 6190, OCTC may petition a superior court and obtain an order to assume jurisdiction over the law practice of a lawyer who has been disbarred, suspended, becomes inactive, or who has become incapable of practicing law because of excessive use of alcohol or drugs, physical or mental illness, or infirmity or other cause.
- ***Interim Suspensions and License Restrictions.*** Under grounds in Business and Professions Code, section 6007, the State Bar Court may order a respondent be placed on *involuntary inactive status*. While on involuntary inactive status, the lawyer may not practice law. This status has been referred to as a “temporary or interim suspension.” (See *Conway v. State Bar* (1989) 47 Cal.3d 1107.) In lieu of involuntary inactive enrollment, the State Bar Court may place other restrictions on the lawyer’s license to practice law.
- ***Criminal Conviction Monitoring.*** After the criminal conviction of any lawyer, OCTC will initiate a conviction matter in the State Bar Court by filing a certified copy of the record of conviction. The criminal conviction is monitored until it becomes final and then disciplinary proceedings are held under Business and Professions Code, sections 6101 and 6102 and California Rules of Court, rule 9.10. The State Bar Court may place a respondent under *interim suspension* upon the filing of the certified record of the criminal conviction until the conviction is final, if the conviction was a felony or a crime involving moral turpitude.
- ***Private or Public Reproval.*** Under Business and Professions Code, section 6078, the State Bar Court may discipline a respondent by reproval, privately or publicly, for misconduct not warranting a suspension or disbarment. Under State Bar Rule 5.127(C), a private reproval is confidential and not disclosed if it is imposed as part of a stipulation and settlement before the filing of disciplinary charges. A private reproval, however, is disclosed if imposed after the filing of a Notice of Disciplinary Charges. (State Bar Rule 5.127(D).) The Supreme Court’s review of a reproval may be sought by a petition; if no petition is filed or if the petition is denied, the reproval is imposed as discipline.
- ***Admonition.*** The State Bar Court may *admonish* a respondent when the misconduct involves no dishonesty, moral turpitude, or other serious offense; is not intentional or occurs under mitigating circumstances; results in no significant harm; and did not cause a pecuniary loss subject to reimbursement by the Client Security Fund. (State Bar Rule 5.126.)

- ***Letters of Warning.*** OCTC may resolve a complaint during the inquiry or investigation stage by issuing a *warning letter* to the respondent expressing the opinion of OCTC that misconduct not requiring prosecution has occurred and warning not to continue or to repeat the conduct.
- ***Agreements in Lieu of Discipline.*** OCTC may “[m]ake agreements with respondents in lieu of disciplinary proceedings, regarding conditions of practice, further legal education, or other matters.” These agreements for minor infractions may be in any subsequent proceeding involving the lawyer. (Bus. & Prof. Code, § 6092.5, subd. (i).)

**Table 45: Informal Disciplinary Outcomes**

<b>Informal Disciplinary Outcomes</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Petitions to Terminate Practice	20	7	18	8	11
Interim Suspensions & License Restrictions	22	24	32	24	20
Interim Suspensions After Criminal Convictions	56	51	59	50	51
New Criminal Conviction Monitoring Matters	134	158	143	132	141
Private Reprovals, Restricted	35	28	46	27	14
Private Reprovals, Public Disclosure	15	9	16	15	7
Public Reprovals	49	53	55	27	37
Admonitions	1	0	0	0	0
Warning Letters	377	767	860	542	588
Agreements in Lieu of Discipline	19	24	26	28	23
<b>Total</b>	<b>728</b>	<b>1,121</b>	<b>1,255</b>	<b>853</b>	<b>892</b>

## **COSTS OF THE DISCIPLINE SYSTEM**

## Costs of the Discipline System

The *Annual Discipline Report* must include an accounting of the cost of the discipline system. (Bus. & Prof. Code, § 6086.15, subd. (a)(11).)

**Table 46: Direct Costs of the Discipline System by Function**

Function	2012	2013
General Fund		
Chief Trial Counsel	26,586	26,773
Probation	804	919
Mandatory Fee Arbitration	607	603
State Bar Court	6,860	7,108
Professional Competence	1,555	1,602
General Fund Total	36,412	37,005
Client Security Fund	8,170	13,019
<b>Grand Total</b>	<b>44,582</b>	<b>50,024</b>

2013 Figures Unaudited

## **CONDITION OF THE CLIENT SECURITY FUND**

## Condition of the Client Security Fund

The *Annual Discipline Report* must include a description of the condition of the Client Security Fund, including an accounting of payouts. (Bus. & Prof. Code, § 6086.15, subd. (a)(10).)

Established in 1972, this State Bar sponsored fund is designed to help protect consumers of legal services by relieving or mitigating pecuniary losses caused by the dishonest conduct of California lawyers. This program helps in protecting California's legal consumers.

The fund may reimburse a maximum of \$100,000 for losses occurring on or after January 1, 2009. Previous to this date, the maximum reimbursement was capped at \$50,000. Beginning in August of 2009, the filing rate for new applications began to increase significantly, due in part to loan modification fraud losses. The number of applications peaked in 2010 with 3,875 applications received. In 2013, 2,228 new applications were received. Although the number of applications continued to decline in 2013, it remains well above pre-loan modification numbers. During 2013, 3,687 applications were processed to closure, including 1,999 applications paid in the amount of \$11.1 million.

**Table 47: Client Security Fund Activity**

Dollars (in Thousands)	2010	2011	2012	2013
Applications Outstanding at the Beginning of the Year	22,125	34,514	45,327	55,518
Prior Year's Outstanding Applications Adjustment	100	194	109	244
New Applications	23,232	26,086	25,113	24,205
Less: Applications Paid	3,331	7,820	6,871	11,054
Applications Denied	2,869	2,586	3,093	3,096
Applications Withdrawn	4,743	5,061	5,067	13,908
Applications Outstanding at the End of the Year	34,514	45,327	55,518	51,909
Applications Payout Ratio	33.67%	42.22%	48.17%	41.60%
<b>Number of Applications</b>				
Applications Outstanding at the Beginning of the Year	2,997	6,112	7,345	7,801
New Applications Filed	3,875	3,411	2,767	2,228
Less: Applications Paid	267	1,534	1,466	1,999
Applications Denied	138	54	112	68
Applications Withdrawn	355	590	733	1,620
Applications Outstanding at the End of the Year	6,112	7,345	7,801	6,342

## **ASSURANCE AND PREVENTION PROGRAMS**



## Assurance and Prevention Programs

The *Annual Discipline Report* is required to include a description of the programs of the State Bar directed at assuring honesty and competence by lawyers or at preventing acts warranting discipline. (Bus. & Prof. Code, § 6086.15, subd. (a)(8) & (a)(9).) The following is a brief description of some of those programs.

### *Professional Competence*

The Office of Professional Competence operates the Ethics Hotline to respond to questions about the ethical obligations and duties of lawyers practicing in California. In 2013, the Ethics Hotline received and responded to more than 13,600 calls—which together with return or follow-up calls totaled more than 21,000 calls—to provide references to applicable provisions of the Rules of Professional Conduct, the State Bar Act, or case law.

The Office of Professional Competence also monitors compliance by attorneys with statutory restrictions on demand letters sent to a potential defendant in a construction-related disability access claim, as established under laws enacted in Senate Bill No. 1186 (Stats. 2012, ch. 383). In 2013, the Office of Professional Competence received and reviewed 226 demand letters with 62 of the letters referred to OCTC for further evaluation.

### *Other Regulatory or Legal Education Programs*

Other programs involving regulating the practice of law in California, legal education and competence include:

- ***Multijurisdictional Practice Program (MJP)***. Regulates out-of-state lawyers who live in California who register with the State Bar and perform limited legal services as in-house counsel for corporations or to provide practice with legal aid organizations to the poor. As of December 31, 2013, there were 6 legal services lawyers and 1,048 in-house counsel registered in the MJP program. (Cal. Rules of Court, rules 9.45 – 9.48 and State Bar Rules.)
- ***Out-of-State Attorney Arbitration Counsel (OSAAC)***. Allows out-of-state lawyers to represent parties in arbitration proceedings in California. In 2013, 713 out-of-state lawyers filed OSAAC applications with the State Bar. (Cal. Rules of Court, rule 9.43 and State Bar Rules.)
- ***Pro Hac Vice Program***. Assists the California courts in the application of out-of-state lawyers appearing in California state courts. In 2013, 2,330 out-of-state lawyers filed pro hac vice applications with the State Bar. (Cal. Rules of Court, rule 9.40.)
- ***Foreign Legal Consultant Program***. Regulates persons who are licensed to practice law in a foreign jurisdiction and allows them to register and engage in the limited practice of law of that country in California. At the end of 2013, 53 such lawyers from over 25 different foreign jurisdictions were registered as foreign legal consultants. (Cal. Rules of Court, rule 9.44 and State Bar Rules.)

- ***Practical Training of Law Students Program.*** Regulates law students who may provide limited legal services under a California lawyer's supervision. In 2013, 3,171 students (2,637 students submitting new applications and 534 students submitting recertification applications) applied to the program. (Cal. Rules of Court, rule 9.42 and State Bar Rules.)
- ***Legal Specialization Program.*** Administers the requirements for California lawyers to become certified specialists in one or more of 11 areas of law. Certified specialists must pass a written exam, possess special education and experience, undergo peer review, and recertify every five years. By the end of 2013, 4,570 lawyers were certified specialists and another 337 were certified by five other organizations accredited by the State Bar. (Cal. Rules of Court, rule 9.35 and State Bar Rules and Standards.)
- ***Minimum Continuing Legal Education (MCLE) Providers Program.*** Authorizes education providers to offer courses to lawyers to meet their requirements of completing MCLE. In 2013, 1,521 providers submitted Single Activity Provider applications, 63 providers submitted Multiple Activity Provider applications for the first time, and 471 providers submitted Multiple Activity Provider renewal applications. (Bus. & Prof. Code, § 6070, Cal. Rules of Court, rule 9.31 and State Bar Rules.)
- ***Minimum Continuing Legal Education (MCLE) Compliance.*** Tracks and enforces California lawyers' compliance with their continuing legal education requirements every three years. Approximately 62,000 attorneys were due to report MCLE compliance in 2013. In July, the State Bar placed 556 lawyers on involuntary inactive status for failure to comply with MCLE reporting requirements. In November, an additional 32 members were placed on involuntary inactive status for noncompliance with an MCLE Audit. (Bus. & Prof. Code, § 6070 and State Bar Rules.)
- ***Lawyer Referral Services (LRS) Certification Program.*** Certifies services that refer potential clients to California lawyers. To qualify for certification, an LRS must verify that its lawyers have sufficient experience and training, agree to fee arbitration for dispute resolution and possess certain liability coverage. At the end of 2013, 52 certified lawyer referral services were operating in California. (Bus. & Prof. Code, § 6155 and State Bar Rules.)
- ***Lawyers Assistance Program (LAP).*** LAP is established under Business and Professions Code, section 6230 et seq. for treating lawyers with impairments due to substance abuse or mental illness. The State Bar submits a separate report to the Legislature each year on March 1 that includes the number of cases accepted, denied, or terminated, and the expenditures related to LAP.<sup>19</sup>
- ***Probation.*** The Office of Probation monitors the compliance of disciplined lawyers on probation. In 2013, the number of cases ranged between 986 and 1,107 per month. Probation referred 136 lawyers to OCTC for possible discipline for failing to meet the terms of their probation, and filed 19 motions to revoke probation.

---

<sup>19</sup> A copy of the 2013 LAP report may be found at <http://www.calbar.ca.gov/AboutUs/Reports.aspx>.

- ***Mandatory Fee Arbitration Program.*** This statewide program received 76 requests to arbitrate fee disputes between lawyers and clients, and closed 84 cases. The State Bar reimbursed local bar associations participating in the program for 1,128 Mandatory Fee Arbitration matters that were assigned to the local bar programs. Arbitration awards, in favor of clients, that remain unpaid may be enforced through a process administered by the program and brought in State Bar Court. In 2013, 49 requests for enforcement and refund payments were made to 32 clients. The State Bar Court placed four lawyers on involuntary inactive enrollment for failing to pay a fee arbitration award. Staff also handled 4,121 calls from the public, attorneys and local bar associations about the Mandatory Fee Arbitration process.

# APPENDIX

## Appendix A

### ***Contents of the Annual Discipline Report***

Business and Professions Code, section 6086.15 and related statutes specifies the inclusion of the following categories of information:

- (1) The *backlog of cases*.
- (2) The number of *inquiries* and *complaints* and their disposition.
- (3) The number of matters that a lawyer must self-report to the State Bar, including:
  - The filing of three or more lawsuits against the attorney in a 12-month period for professional negligence or wrongful conduct;
  - Entry of judgment against the attorney for fraud, misrepresentation, breach of duty or gross negligence;
  - Disciplinary action by another agency;
  - Reversal of a judgment based on attorney misconduct; and
  - Any conviction of a crime.
- (4) The number of matters reported to the State Bar by other sources, including banks, courts, and insurance providers.
- (5) The speed of complaint handling and dispositions by type.
- (6) The number and types of filed notices to show cause and formal disciplinary outcomes.
- (7) The number and types of informal discipline outcomes, including petitions to terminate practice, interim suspensions and license restrictions, criminal conviction monitoring, letters of warning, private reproofs, admonitions, and agreements in lieu of discipline.
- (8) A description of the programs of the State Bar directed at assuring honesty and competence by attorneys.
- (9) A description of the programs of the State Bar directed at preventing acts warranting discipline.
- (10) A description of the condition of the Client Security Fund, including an accounting of payouts.
- (11) An accounting of the cost of the discipline system by function.

## ***Text of Applicable Sections of the Business and Professions Code***

### **§ 6086.15. Annual Discipline Report**

(a) The State Bar shall issue an Annual Discipline Report by April 30 of each year describing the performance and condition of the State Bar discipline system. The report shall cover the previous calendar year and shall include accurate and complete descriptions of all of the following:

(1) The existing backlog of cases within the discipline system, including, but not limited to, the number of complaints as of December 31 of the preceding year that were pending beyond six months after receipt without dismissal, admonition, or the filing of a notice to show cause, and tables showing time periods beyond six months and the number in each category and a discussion of the reason for the extended periods.

(2) The number of inquiries and complaints and their disposition.

(3) The number and types of matters self-reported by members of the State Bar pursuant to subdivision (o) of Section 6068 and subdivision (c) of Section 6086.8.

(4) The number and types of matters reported by other sources pursuant to Sections 6086.7 and 6086.8.

(5) The speed of complaint handling and dispositions by type.

(6) The number and types of filed notices to show cause and formal disciplinary outcomes.

(7) The number and types of informal discipline outcomes, including petitions to terminate practice, interim suspensions and license restrictions, criminal conviction monitoring, letters of warning, private reproofs, admonitions, and agreements in lieu of discipline.

(8) A description of the programs of the State Bar directed at assuring honesty and competence by attorneys.

(9) A description of the programs of the State Bar directed at preventing acts warranting discipline.

(10) A description of the condition of the Client Security Fund, including an accounting of payouts.

(11) An accounting of the cost of the discipline system by function.

(b) The Annual Discipline Report shall include statistical information presented in a consistent manner for year-to-year comparison and shall compare the information required under subdivision (a) to similar information for the previous three years. The report shall include the general data and tables included in the previous reports of the State Bar Discipline Monitor where feasible.

(c) The Annual Discipline Report shall be presented to the Chief Justice of California, to the Governor, to the Speaker of the Assembly, to the President pro Tempore of the Senate, and to the Assembly and Senate Judiciary Committees, for their consideration and shall be considered a public document.

#### **§ 6068. Duties of Attorney**

It is the duty of an attorney to do all of the following:

\*.\*.\*.\*

(o) To report to the agency charged with attorney discipline, in writing, within 30 days of the time the attorney has knowledge of any of the following:

(1) The filing of three or more lawsuits in a 12-month period against the attorney for malpractice or other wrongful conduct committed in a professional capacity.

(2) The entry of judgment against the attorney in a civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.

(3) The imposition of judicial sanctions against the attorney, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).

(4) The bringing of an indictment or information charging a felony against the attorney.

(5) The conviction of the attorney, including any verdict of guilty, or plea of guilty or no contest, of a felony, or a misdemeanor committed in the course of the practice of law, or in a manner in which a client of the attorney was the victim, or a necessary element of which, as determined by the statutory or common law definition of the misdemeanor, involves improper conduct of an attorney, including dishonesty or other moral turpitude, or an attempt or a conspiracy or solicitation of another to commit a felony or a misdemeanor of that type.

(6) The imposition of discipline against the attorney by a professional or occupational disciplinary agency or licensing board, whether in California or elsewhere.

(7) Reversal of judgment in a proceeding based in whole or in part upon misconduct, grossly incompetent representation, or willful misrepresentation by an attorney.

(8) As used in this subdivision, “against the attorney” includes claims and proceedings against any firm of attorneys for the practice of law in which the attorney was a partner at the time of the conduct complained of and any law corporation in which the attorney was a shareholder at the time of the conduct complained of unless the matter has to the attorney's knowledge already been reported by the law firm or corporation.

(9) The State Bar may develop a prescribed form for the making of reports required by this section, usage of which it may require by rule or regulation.

(10) This subdivision is only intended to provide that the failure to report as required herein may serve as a basis of discipline.

**§ 6086.7. Notification to State Bar of Court Actions, Judgments, Sanctions, or Civil Penalties Against Attorneys**

(a) A court shall notify the State Bar of any of the following:

(1) A final order of contempt imposed against an attorney that may involve grounds warranting discipline under this chapter. The court entering the final order shall transmit to the State Bar a copy of the relevant minutes, final order, and transcript, if one exists.

(2) Whenever a modification or reversal of a judgment in a judicial proceeding is based in whole or in part on the misconduct, incompetent representation, or willful misrepresentation of an attorney.

(3) The imposition of any judicial sanctions against an attorney, except sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).

(4) The imposition of any civil penalty upon an attorney pursuant to Section 8620 of the Family Code.

(b) In the event of a notification made under subdivision (a) the court shall also notify the attorney involved that the matter has been referred to the State Bar.

(c) The State Bar shall investigate any matter reported under this section as to the appropriateness of initiating disciplinary action against the attorney.

**§ 6086.8. Judgments for Actions Committed in a Professional Capacity; Claims or Actions for Damages; Reports to State Bar**

(a) Within 20 days after a judgment by a court of this state that a member of the State Bar of California is liable for any damages resulting in a judgment against the attorney in any civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity, the court which rendered the judgment shall report that fact in writing to the State Bar of California.

(b) Every claim or action for damages against a member of the State Bar of California for fraud, misrepresentation, breach of fiduciary duty, or negligence committed in a professional capacity shall be reported to the State Bar of California within 30 days of receipt by the admitted insurer or licensed surplus brokers providing professional liability insurance to that member of the State Bar.

(c) An attorney who does not possess professional liability insurance shall send a complete written report to the State Bar as to any settlement, judgment, or arbitration award described in subdivision (b), in the manner specified in that subdivision.



**§ 6091.1. Overdrafts and Misappropriations from Attorney Trust Accounts; Reports by Financial Institutions**

(a) The Legislature finds that overdrafts and misappropriations from attorney trust accounts are serious problems, and determines that it is in the public interest to ensure prompt detection and investigation of instances involving overdrafts and misappropriations from attorney trust accounts.

A financial institution, including any branch, which is a depository for attorney trust accounts under subdivision (a) or (b) of Section 6211, shall report to the State Bar in the event any properly payable instrument is presented against an attorney trust account containing insufficient funds, irrespective of whether or not the instrument is honored.

(b) All reports made by the financial institution shall be in the following format:

(1) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor, and shall include a copy of the dishonored instrument, if such a copy is normally provided to depositors.

(2) In the case of instruments that are presented against insufficient funds but which instruments are honored, the report shall identify the financial institution, the attorney or law firm, the account number, the date of presentation for payment, and the date paid, as well as the amount of overdraft created thereby. These reports shall be made simultaneously with, and within the time provided by law for notice of dishonor, if any. If an instrument presented against insufficient funds is honored, then the report shall be made within five banking days of the date of presentation for payment against insufficient funds.

(c) Every attorney practicing or admitted to practice in this state shall, as a condition thereof, be conclusively deemed to have consented to the reporting and production requirements of this section.

(d) Nothing in this section shall preclude a financial institution from charging an attorney or law firm for the reasonable cost of producing the reports and records required by subdivisions (a) and (b).