



THE SUPREME COURT *of* OHIO
Board of Commissioners
on Grievances & Discipline

ANNUAL REPORT 2013

TABLE OF CONTENTS

4	Board Members
7	Board Staff
8	2013 Overview
10	Board Responsibilities
11	Adjudicatory Responsibilities
12	Budget
12	Education & Outreach
12	Advisory Opinions
13	Compliance & Training
15	Conclusion
16	Appendices
16	A) Disciplinary Flowchart
18	B) Budget

Dear Chief Justice O'Connor and Justices of the Supreme Court:

Pursuant to Rule V of the Supreme Court Rules for the Government of the Bar of Ohio, I respectfully submit the 2013 Annual Report of the Board of Commissioners on Grievances & Discipline.

For the second consecutive year, the board reduced its active pending caseload by more than 27 percent. The board opened 71 new, and the Supreme Court referred 7 petitions for reinstatement to the board and remanded four cases for further review. The board disposed of 89 disciplinary matters and certified another 13 cases to the Supreme Court as a result of the respondent's default.

The board issued four formal advisory opinions, and the board's legal staff authored 38 staff letters, responded to approximately 2,000 telephone and email inquiries from lawyers, judges, and judicial candidates, and made 29 continuing education and informational presentations.

The board achieved a 2.3 percent reduction in internal operating expenses compared to the previous fiscal year, bringing to 20 percent the total reduction in operating expenses in the past two fiscal years. One full-time staff position was eliminated in 2013, and the board now employs four full-time staff, compared to five and one-half full-time equivalent positions entering 2012.

For the first time in 16 years, the board was required to undertake a process for identifying a candidate to fill the position of Disciplinary Counsel for the state of Ohio. After conducting a nationwide search throughout the spring and summer, the board chose Scott J. Drexel as Ohio's next Disciplinary Counsel, and the Supreme Court approved the appointment in August.

The board's commissioners and staff work each day to perform the duties entrusted to us by the Supreme Court and honorably serve the public and legal profession. This report reflects the manner in which we have executed our responsibilities in the past year.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Dove". The signature is fluid and cursive, with a large initial "R" and "D".

Richard A. Dove, Esq.
Secretary to the Board

Meet the Board

The Board of Commissioners on Grievances & Discipline consists of 28 members who are appointed by the Supreme Court of Ohio to three-year terms. The membership includes nonlawyer professionals, trial and appellate judges, and lawyers who are sole practitioners, members of law firms, or in public service.

The board staff consists of four full-time personnel. The secretary is the board's chief legal, administrative, and fiscal officer, and is appointed by and serves at the pleasure of the board. The secretary is responsible for employing staff to assist the board in executing its responsibilities.

ROW 1 (left to right): Richard A. Dove, Board Secretary; Michelle A. Hall, Senior Counsel; David Tschantz (Chair); Paul De Marco (Vice-Chair); Judge Matthew McFarland; Michele Pennington, Deputy Clerk; Faith Long, Administrative Secretary.

ROW 2 (left to right): Lawrence Sutter, Judge Lee Hildebrandt; Judge John Wise; Judge Beth Whitmore; Teresa Sherald; John Polito; Patrick Sink; Judge Ashley Pike; Janica Pierce Tucker.

ROW 3 (left to right): Judge John Willamowski; Robert Fitzgerald; Keith Sommer; Alvin Bell; Steve Rodeheffer; Roger Gates; David Dingwell; Robert Gresham; William Novak; Sanford Watson.

NOT PICTURED: Martha Butler Clark; McKenzie Davis; Lawrence Elleman; Lynn Jacobs; Sharon Harwood; Judge Robert Ringland.



2013 BOARD MEMBERS



David E. Tschantz (Chairman) was elected as the 44th chair of the board in 2013, having previously served as vice-chair in 2012 and a member of one of the board's two probable cause panels. Mr. Tschantz is an insurance executive in Wooster and has served on the board since 2007.



Paul M. De Marco (Vice-Chairman) is a lawyer in the Cincinnati firm of Markovits, Stock & De Marco and completed his second term on the board in 2013. In addition to his duties as vice-chairman, in 2013, Mr. De Marco chaired the Advisory Opinion Committee and was appointed to chair the Disciplinary Counsel Search Committee.



Alvin R. Bell is retired educator from Findlay. Mr. Bell has served as a public member of the board since 2007 and was reappointed to a third term in 2013.

Martha Butler Clark is a public member of the board from Columbus. Her prior public service includes an appointment as the clerk of the Ohio Senate. Ms. Clark completed her third term on the board in 2013.

McKenzie K. Davis is a Columbus lawyer specializing in government relations. He has served on the board since 2008.

David L. Dingwell is a partner in the Canton law firm of Tzangas, Plakas & Mannos. This is Mr. Dingwell's first term on the board.

Lawrence R. Elleman is a retired partner with the Cincinnati law firm of Dinsmore & Shohl. A former board chairman, he was

reappointed to a third term in 2013 and chaired the Rules Committee in 2013.

Robert B. Fitzgerald is a partner in the Lima firm of Baran, Piper, Tarkowsky & Fitzgerald. Mr. Fitzgerald was appointed to the board in 2013.

Roger S. Gates is assistant prosecuting attorney in Butler County. Mr. Gates is serving his second term on the board.

BOARD MEMBERS, CONTINUED

Robert L. Gresham was appointed to a three-year term on the board in 2012. Mr. Gresham is a lawyer in the Dayton office of Freund, Freeze & Arnold.

Sharon L. Harwood is a lawyer with the Fisher-Titus Medical Center in Norwalk. Ms. Harwood was appointed to the board in 2010 and reappointed to a second term in 2013.

Judge Lee H. Hildebrandt is serving his first term on the board. Judge Hildebrandt has served on the First District Court of Appeals in Hamilton County since 1985.

Lynn B. Jacobs is a former assistant prosecuting attorney from Toledo. Ms. Jacobs completed her service as a commissioner in 2013.

Judge Matthew McFarland is a judge on the Fourth District Court of Appeals and is serving his first term on the board.

William J. Novak is the managing partner of the Cleveland firm of Novak, Robenalt & Pavlik. Mr. Novak has served on the board since 2008.

Judge Ashley Pike has served as a common pleas judge in Columbiana County since 1991, and was appointed to the board in 2012.

John A. Polito is a lawyer in Cleveland where he worked for many years in the probate division of the Cuyahoga County Court of Common Pleas. Mr. Polito has been a board member since 2010 and chaired one of the board's two Probable Cause Panels in 2013.

Judge Robert Ringland was appointed in 2011 to complete an unexpired term and was reappointed to a full, three-year term in 2013. Judge Ringland served as a trial judge in Clermont County for 32 years and has been a judge on the Twelfth District Court of Appeals since 2009. Judge Ringland chaired the Budget and Personnel Committee in 2013.

Steven C. Rodeheffer has more than 35 years of experience as a private practitioner in Portsmouth and completed his third, three-year term as commissioner in 2013. Mr. Rodeheffer served as board chair in 2011.

Teresa Sherald is serving her first term on the board. Ms. Sherald is president and CEO of Diversity Search Group, an executive recruiting, staffing, and training firm in Central Ohio, and also is a senior program manager for The Ohio State University Wexner Medical Center.

Patrick L. Sink is a former law enforcement officer and is the business manager for Local 18 of the International Union of Operating Engineers in Cleveland. Mr. Sink has served as one of four public members of the board since 2006.

Lawrence A. Sutter III is a lawyer with the Cleveland firm of Sutter O'Connell. A resident of Portage County, Mr. Sutter was appointed to the board in 2013.

Keith Sommer is a sole practitioner in Martins Ferry. Mr. Sommer has served as a commissioner since 2009.

Janica Pierce Tucker is a labor and employment law attorney in the Columbus firm of Taft, Stettinius & Hollister. Her tenure on the board began in 2009, and this is her second term.

FORMER COMMISSIONERS

Former commissioners lend invaluable experience and service to the board by completing cases assigned to them prior to the expiration of their terms of office, assisting the board in considering default judgment matters, and reviewing and adjudicating expedited judicial campaign matters. The board recognizes the continuing contributions of the following former commissioners in 2013.

Judge Otho Eyster, Judge John Street, Bernard Bauer, and Charles Coulson completed hearings in several cases and presented reports to the board in 2013.

BOARD STAFF

Sanford Watson was appointed to the board in March 2011 and in 2013 was appointed to a full, three-year term. Mr. Watson is litigation counsel in the Cleveland firm of Tucker, Ellis and formerly served as public safety director for the city of Cleveland.

Judge Beth Whitmore has been a member of the Ninth District Court of Appeals in Akron since 1999, and previously was in private practice and a common pleas court judge. Judge Whitmore has served on the board since 2005 and chaired one of the two Probable Cause Panels in 2013.

Judge John Willamowski is serving his first term on the board. Judge Willamowski serves on the Third District Court of Appeals and previously served five terms in the Ohio House of Representatives.

Judge John W. Wise was appointed to the board in 2013. Judge Wise has served on the Fifth District Court of Appeals since 1995, served as a trial judge for five years, and was a private practitioner for 10 years.

Sandra J. Anderson lent her expertise as a former commissioner and board chair by accepting an invitation to serve as a volunteer member of the Disciplinary Counsel Search Committee.

RICHARD A. DOVE | SECRETARY TO THE BOARD

Mr. Dove was appointed as secretary to the board in 2011 after serving for more than 22 years on the staff of the Supreme Court. Mr. Dove is recognized in Ohio and nationally for his work in the area of judicial ethics, with a focus on judicial campaign conduct. He is a frequent instructor for professional associations, including the Ohio Judicial College and Institute for Court Management, and received the 2007 Award of Merit from the Columbus Bar Association. In 2013, he was elected as secretary of the National Council of Lawyer Disciplinary Boards and also serves on the NCLDB board of directors. Mr. Dove is a graduate of Wittenberg University and Capital University Law School and is admitted to practice in Ohio, the United States District Court for the Southern District of Ohio, and the United States Supreme Court.

MICHELLE A. HALL | SENIOR COUNSEL

Ms. Hall joined the board staff in June 2011 after working as attorney services counsel for the Supreme Court and serving as secretary to the Supreme Court Board on the Unauthorized Practice of Law. Ms. Hall's professional career includes assignments as an administrative hearing examiner and Assistant Attorney General for the state of Ohio. Her primary responsibilities include researching and drafting board advisory opinions, responding to professional ethics inquiries from judges, lawyers, and judicial candidates, and conducting ethics seminars. Ms. Hall received her undergraduate degree from The Ohio State University and law degree from the Wake Forest University School of Law. She is admitted to practice in Ohio and the United States District Court for the Southern District of Ohio.

MICHELE L. PENNINGTON | DEPUTY CLERK

Ms. Pennington was promoted in May to the position of deputy clerk and is responsible for processing case filings, maintaining the board's case docket and files, assisting commissioners in scheduling hearings, and assisting in the preparation of board meeting agendas, meeting materials, and minutes. She also provides fiscal support services, including the processing and payment of all invoices and reimbursement requests from board members and certified grievance committees, and preparing monthly budget reports.

FAITH LONG | ADMINISTRATIVE SECRETARY

Ms. Long provides clerical support to the board staff, prepares materials for review by the board's probable cause panels, prepares subpoenas, and maintains records of more than 1,800 financial disclosure statements filed annually by judges, magistrates, and judicial candidates.



2013 OVERVIEW

Although the number of newly filed cases and dispositions dropped sharply in 2013, the board again achieved a significant reduction in its pending caseload. A total of 82 matters were filed with or referred to the board, including 71 new cases, 7 reinstatement petitions, and 4 remands. The board terminated 89 cases and placed another 13 cases on inactive status due to the certification of the respondent's default to the Supreme Court. At the end of the year, the board reduced its active pending caseload by 27.5 percent, the second consecutive year in which the board reduced its pending caseload by more than 27 percent.

The board continued its efforts to enhance the understanding of and compliance with professional ethics requirements through the issuance of four advisory opinions and 38 staff letters. Staff

responded to approximately 2,000 telephone and email inquiries from lawyers, judges, and judicial candidates, who sought information regarding compliance with the Rules of Professional Conduct and Code of Judicial Conduct. Staff also presented at 29 continuing education seminars throughout Ohio.

The board also maintained the careful stewardship of funds and reduced the operations budget by 2.3 percent. In the past two fiscal years, the board's internal operating expenses have declined by 20 percent, largely as a result of implementing new procedures to reduce postage and telephone expenses and relocating our bimonthly meetings to the Thomas J. Moyer Ohio Judicial Center. One full-time position was eliminated in 2013, and the board now employs

four full-time staff compared to five and one-half full-time equivalent positions two years ago.

In addition to their adjudicatory responsibilities, commissioners were active with committee responsibilities. In February, Chairman David Tschantz appointed an ad hoc committee to conduct a search to fill the position of Disciplinary Counsel.

The Rules Committee completed a comprehensive review of Gov. Bar R. V and the board's regulations in September, and the recommendations were approved by the board and submitted to the Supreme Court in November.

The Budget and Personnel Committee considered and approved a proposed budget for fiscal year 2014, and the board's two probable cause panels effectively implemented a new schedule that provides for more prompt review and certification of formal complaints.

Rules Committee Submits Proposed Amendments to Gov. Bar R. V

The Rules Committee completed its year-long review of Gov. Bar R. V and the board's procedural regulations in September and provided a series of amendments to the full board for consideration in October. The board approved the transmittal of these amendments to the Supreme Court, and the court is scheduled to consider the revisions in early 2014.

In addition to clarifying and modernizing case-related procedures, the board is proposing several significant changes to Gov. Bar R. V:

- Updating the terminology relative to mental illness, mental disorders, and substance use disorders to reflect current, accepted medical standards;
- Allowing for the imposition of an interim suspension where a lawyer or judge is suffering from a medically recognized disorder that substantially impairs the performance of professional duties;
- Adopting a single standard of "confidential" as that term applies to the investigation of grievances and applying to disciplinary case documents the standards of public access that are applicable to trial and appellate courts;
- Expanding the ability of Disciplinary Counsel or a certified grievance

committee to conduct an inventory of the files possessed by a deceased, disabled, disappeared, or disciplined lawyer in order to protect the clients of that lawyer, and allowing the costs of such inventory to be recovered from the lawyer or his or her estate;

- Reorganizing Gov. Bar R. V in a more user-friendly format, and moving several substantive provisions from the regulations to the rule.

In December, the Rules Committee began reviewing recent amendments to the Model Rules of Professional Conduct adopted by the American Bar Association and intends to develop proposed amendments for consideration by the Supreme Court in 2014.

Board Appoints New Disciplinary Counsel



Scott J. Drexel

Gov. Bar R. V requires the board to appoint a Disciplinary Counsel, subject to the approval of the Supreme Court. For the first time in 16 years, the board undertook a nationwide search to hire Disciplinary Counsel. Board Chairman David Tschantz appointed a seven-member search committee, lead by board

Vice-Chairman Paul De Marco, to prepare a position description, solicit and review applications, interview candidates, and recommend a candidate to the board.

The search process produced 36 applicants, 21 of whom satisfied the core experience requirements set forth in the position posting. The search committee selected nine applicants for initial interviews that were conducted in late June, and two of the nine applicants were invited to participate in more extensive interviews in mid-July.

At its August meeting, the full board considered the search committee report and voted to appoint Scott J. Drexel of California to the position of Disciplinary Counsel. The Supreme Court approved Mr. Drexel's appointment in late August, and he commenced his duties on October 27, pending admission in Ohio. Mr. Drexel brings to Ohio more than 30 years of experience in the field of professional responsibility law, including serving four years as Chief Trial Counsel for the State Bar of California, a position comparable to that of Disciplinary Counsel for the State of Ohio.



BOARD RESPONSIBILITIES

The Board of Commissioners on Grievances & Discipline was established by the Supreme Court in 1957 to assist the Supreme Court in executing its plenary and constitutional responsibilities to regulate the practice of law in Ohio. The board consists of 28 commissioners from around the state who are appointed by the Supreme Court. The membership includes nonlawyer professionals, trial and appellate judges, and lawyers who are sole practitioners, members of law firms, or in public service.

The board derives its legal authority from Rule V of the Supreme Court Rules for the Government of the Bar of Ohio and Rules II and III of the Supreme Court Rules for the Government of the Judiciary of Ohio. The board's primary responsibility is to adjudicate allegations of professional misconduct on the part of lawyers and judges and make recommendations to the Supreme Court regarding the appropriate sanction to be imposed when a lawyer or judge has engaged in professional misconduct. The board also considers petitions from lawyers who are seeking to be reinstated to the practice of law following indefinite or mental illness suspensions. In any one case, commissioners are asked to make factual findings, reach legal conclusions, and evaluate expert testimony from medical professionals and treatment providers. In crafting the appropriate

sanction to be recommended to the Supreme Court, commissioners must often balance the competing interests of protecting the public, sanctioning a lawyer who has strayed from his or her professional obligations, and providing a pathway for a disciplined lawyer to return to the practice of law after receiving treatment for a mental disorder or chemical dependency.

A flowchart that outlines the disciplinary process appears in *Appendix A* of this report.

The board also plays a significant role in promoting and enhancing compliance with the standards of professional ethics by members of the Ohio Bench and Bar. The board has authority to issue nonbinding advisory opinions regarding prospective or hypothetical application of the rules governing the professional conduct of lawyers and judges. Board staff regularly make presentations at bar and judicial association meetings and continuing education seminars and responds daily to telephone and email inquiries from lawyers, judges, judicial candidates, and members of the public.

Commissioners are assigned to one of five standing committees or panels that facilitate the adjudicatory and administrative responsibilities of the board. There are two **Probable Cause Panels** that are responsible for reviewing the sufficiency of formal misconduct allegations and certifying new complaints to the board. The **Advisory Opinion Committee** considers requests for written advice on application of professional conduct

standards and reviews draft advisory opinions prior to their presentation to the full board. The **Rules Committee** reviews and recommends proposed amendments to rules governing disciplinary procedures and the conduct of Ohio lawyers and judges. The **Budget and Personnel Committee** adopts an annual budget to fund the operation of the board and provide reimbursements to certified grievance committees and periodically reviews the performance of Disciplinary Counsel and the board secretary.

ADJUDICATORY RESPONSIBILITIES

In 2013, the board received a total of 82 new case filings and referrals from the Supreme Court. There were 71 new formal complaints certified to the board, including six complaints alleging judicial misconduct and one complaint involving the misconduct of a magistrate. In addition, the Supreme Court directed the board to review seven petitions from lawyers seeking reinstatement to the practice of law and remanded four cases for further consideration.

The three-commissioner hearing panels conducted 56 hearings in 2013, and those hearings spanned 66 days. Six business meetings were held over eight days to consider reports from hearing panels and to review and approve recommendations from board committees.

A total of 89 cases were disposed of in 2013:

- 69 reports certified to the Supreme Court
- 7 dismissals due to the Supreme Court's acceptance of the respondent's resignation from the practice of law
- 5 miscellaneous dismissals, such as upon motion of the relator or because of the death of the respondent
- 4 dismissals following a hearing on the merits
- 4 dismissals following the Supreme Court's imposition of an indefinite suspension against a respondent who was in default.

Of the 69 cases certified to the Supreme Court:

- 51 were reports from the board following a hearing or waiver of a hearing
- 9 were submitted upon a recommendation to accept a consent to discipline agreement
- 6 were submitted upon consideration of a petition for reinstatement to the practice of law
- 2 were submitted as a recommendation to impose a mental illness suspension pursuant to Gov. Bar R. V, Section 7
- 1 was submitted as a recommendation to terminate the respondent's mental illness suspension and impose discipline based on the underlying professional misconduct.

The board places a pending case on "inactive" status when the respondent's default is certified to the Supreme Court and an interim default suspension is imposed pursuant to Gov. Bar R. V, Section 6a. Thirteen cases were transferred to "inactive" status in 2013.

As of December 31, 50 active cases were pending on the docket. Nine of these cases were heard in 2013, and 16 are scheduled for hearing in the first quarter of 2014. Ten cases have been assigned to hearing panels and are awaiting scheduling, 13 cases are awaiting answers, and two matters are stayed due to pending criminal proceedings involving the respondent or awaiting Supreme Court action on the respondent's application to resign from the practice of law.

Case Processing Enhancement— Probable Cause Consideration

Gov. Bar R. V requires the board to conduct an independent review of each new complaint filed and determine whether substantial, credible evidence exists to support the allegations in the complaint. Prior to 2013, the probable cause panels received materials and met in conjunction with the board's bimonthly meetings. Because of the two-month gap between the panels' meetings, some newly filed complaints were not subject to probable cause review for several weeks, thus

delaying the certification of new cases to the board for adjudication.

In 2013, the board implemented a new schedule for probable cause determinations. Under the new schedule, the probable cause panels each meet six times per year, but in alternate months so the review of new complaints occurs on a monthly basis. The monthly meeting schedule allows for a more timely review of new complaints, and certified complaints are more promptly docketed for service and assignment to hearing panels.

BUDGET

The Supreme Court is responsible for providing funds to support the activities of the board. The board receives funding entirely from allocations made by the Supreme Court from the Attorney Services Fund. This fund consists primarily of the biennial registration fees paid by Ohio lawyers, and no state general revenue funds are expended to directly support the operation of the board.

The board's budget consists of two primary components.

The **Operations Budget** funds the Board of Commissioners on Grievances & Discipline, including salaries and benefits for board personnel, telephone, postage, supplies and equipment, expenses associated with board hearings and meetings, and per diems and travel reimbursement paid to commissioners.

The **Reimbursement Budget** compensates Ohio's 33 certified grievance committees for expenses incurred in performing their responsibilities under Rule V. Committees are reimbursed throughout the year for any expenses incurred in connection with a specific disciplinary investigation or prosecution. Committees may request reimbursement on a quarterly or annual basis for ten separate categories of indirect expenses including personnel costs, costs of bar counsel, postage, telephone, books and subscriptions, equipment, and a portion of overhead expenses attributable to performance of disciplinary activities.

For fiscal year 2013, ending June 30, 2013, the Operations Budget expenditures of \$724,148 represented 8.5 percent of the total annual expenditures from the Supreme Court Attorney Services Fund. For that same period, payments to certified grievance committees from the Reimbursement Budget totaled \$1,740,814 and represented 20.5 percent of the total Attorney Services Fund expenditures.

In fiscal year 2013, the board reduced internal operations expenditures by 2.3 percent from fiscal year 2012. An unanticipated personnel expenditure occasioned by the retirement of a staff member was offset by the following, notable reductions in office-related expenditures:

- A 21 percent reduction in telephone expenses;
- A 12 percent reduction in postage costs, building on a 25 percent reduction in postage expenses in the preceding year;
- A 23.7 percent reduction in office supplies and materials;
- A 21.2 percent reduction in miscellaneous office-related expenses such as the cost of bimonthly board meetings and staff travel.

Appendix B includes information regarding the board's annual operating expenditures for fiscal years 2010-2013, budget allocations for fiscal year 2014, and an accounting of the fiscal year 2013 expenditures.

EDUCATION & OUTREACH

Advisory Opinions

Rule V of the Supreme Court Rules for the Government of the Bar of Ohio authorizes the Board of Commissioners on Grievances & Discipline to issue nonbinding advisory opinions that address prospective or hypothetical questions involving application of the Supreme Court Rules for the Government of the Bar of Ohio, Supreme Court Rules for the Government of the Judiciary of Ohio, Ohio Rules of Professional Conduct,

Ohio Code of Judicial Conduct, and the Attorney Oath of Office. The Revised Code also provides authority for the board to issue advisory opinions regarding application of the Ohio Ethics Law to judicial branch officers.

The board's regulations set forth guidelines that govern the board's consideration of advisory opinion requests. These guidelines provide that a request:

- Should pose a question of broad interest or importance to the Ohio Bar or Judiciary;
- Should not involve the proposed conduct of someone other than the person requesting the opinion;
- Should not involve completed conduct, questions of law, questions pending before a court, questions that are too broad, questions that lack sufficient information, or questions of narrow interest.

Written requests are reviewed initially by the senior counsel, in consultation with the board's Advisory Opinion Committee. The committee may accept or decline a request or direct staff to respond via a staff letter. If the committee accepts a request, counsel is directed to research the issue or issues presented and prepare a draft opinion. That opinion is submitted to the committee for review and approval, and the committee then submits a recommended opinion to the board for its consideration and issuance.

Advisory opinions are published on the board's website and distributed to an array of legal and professional organizations within and outside Ohio. Since the board was first given authority to provide advisory opinions in 1986, 385 opinions have been issued (*See box at right for advisory opinions issued in 2013*).

When a request does not satisfy the criteria for issuance of a formal advisory opinion, the board may provide a response via a staff letter. Staff letters are most often used when the response is dictated by case law or prior opinions of the board, or where advice is sought on a narrow issue of concern to the requesting party. Staff letters are not published but are maintained in the board offices. The board issued 38 staff letters, several of which responded to questions involving potential conflicts under the Rules of Professional Conduct and specific questions related to judicial disqualification.

2013 ADVISORY OPINIONS

Advisory Opinion 2013-1 reexamines the question of whether a lawyer may practice simultaneously in multiple firms and concludes there is no prohibition against such a practice. The opinion withdraws, in whole or in part, three previous advisory opinions (Adv. Ops. 89-35, 97-2, and 99-7) that reached contrary conclusions and cites several potential ethical issues of which lawyers should be aware when practicing in multiple firms.

Advisory Opinion 2013-2 concludes that Prof. Cond. R. 7.2 authorizes the use of text messages as a means of soliciting prospective clients. The opinion reminds lawyers who send text message solicitations of their obligations to abide by other provisions of the Rules of Professional Conduct as well as federal and state laws and regulations that govern electronic communications and advertising.

Advisory Opinion 2013-3 provides advice regarding the use of judicial titles by former judges. The opinion reiterates the conclusion set forth in Adv. Op. 93-8, that a former judge may not use the title in connection with the private practice of law, and extends this advice to the use of judicial titles in connection with other business, employment, and nonprofit activities. The opinion expressly permits references to prior judicial service in professional announcements and biographical summaries and further notes that neither the Rules of Professional Conduct nor the Code of Judicial Conduct preclude the voluntary use of the judicial title by another when referring to a former judge.

Advisory Opinion 2013-4 addresses the ethical obligations of a lawyer who is required to cross-examine a former client whom the lawyer previously represented in an unrelated criminal proceeding. This opinion expands on the advice provided by the board in Adv. Op. 2008-4.

Compliance and Training

The board staff engages in ongoing activities that are intended to promote a greater understanding of and adherence to standards of professional ethics by Ohio lawyers and judges. These activities consist primarily of making presentations at continuing education seminars and meetings of bar and judicial associations and responding to written and telephone inquiries. In addition to the presentations made by board staff, commissioners are often asked to serve as presenters at local bar association meetings and other professional education seminars.

Miller-Becker Seminar

The board continued its co-sponsorship of the annual Miller-Becker Seminar. This seminar is hosted for the benefit of the employees and volunteers of the local bar association grievance committees, the Office of Disciplinary Counsel, and other professional responsibility lawyers.

The November 1 seminar, "Aging Lawyers: Recognizing and Addressing the Issues," featured a presentation from a physician who specializes in geriatric medicine, a panel discussion on file retention, destruction, and inventorying, and a panel presentation that discussed the resources available to bar associations and individual lawyers who may be dealing with a colleague who suffers from an age-related impairment. Approximately 165 individuals attended the seminar, which was held for the first time in Akron. Another 30 lawyers attended the March 1 replay of the 2012 seminar that focused on mental disorders and their impact on the legal profession.

Professional Education Offerings

The board staff participated in 29 professional education offerings in 2013. Among these presentations were five programs designed for public practice attorneys, three ethics seminars designed to assist judges in preparing for a 2014 Domestic Relations Summit sponsored by the Supreme Court, and two presentations at new judge orientation programs.

Inquiries

The board's legal staff also responds to written and telephone questions from lawyers, judges, and judicial candidates regarding compliance with the Rules of Professional Conduct and Code of Judicial Conduct. The board staff received and responded to approximately 2,000 telephone inquiries and email requests for advice. Some inquiries are easily resolved, while others require research and documentation. The staff also responded to public inquiries regarding the disciplinary process and inquiries from attorneys, the public, and media regarding pending cases.

Web Presence



The board maintains a Web page that includes information about the disciplinary process, copies of board advisory opinions, and information to assist judges, magistrates, and judicial candidates in complying with their ethical and financial disclosure obligations. The Web page was reorganized to group the available resources and materials into categories. In October, the board published in electronic format "A Guide to the Board of Commissioners on Grievances & Discipline," which provides information about the board and the process by which disciplinary cases are adjudicated by the board.



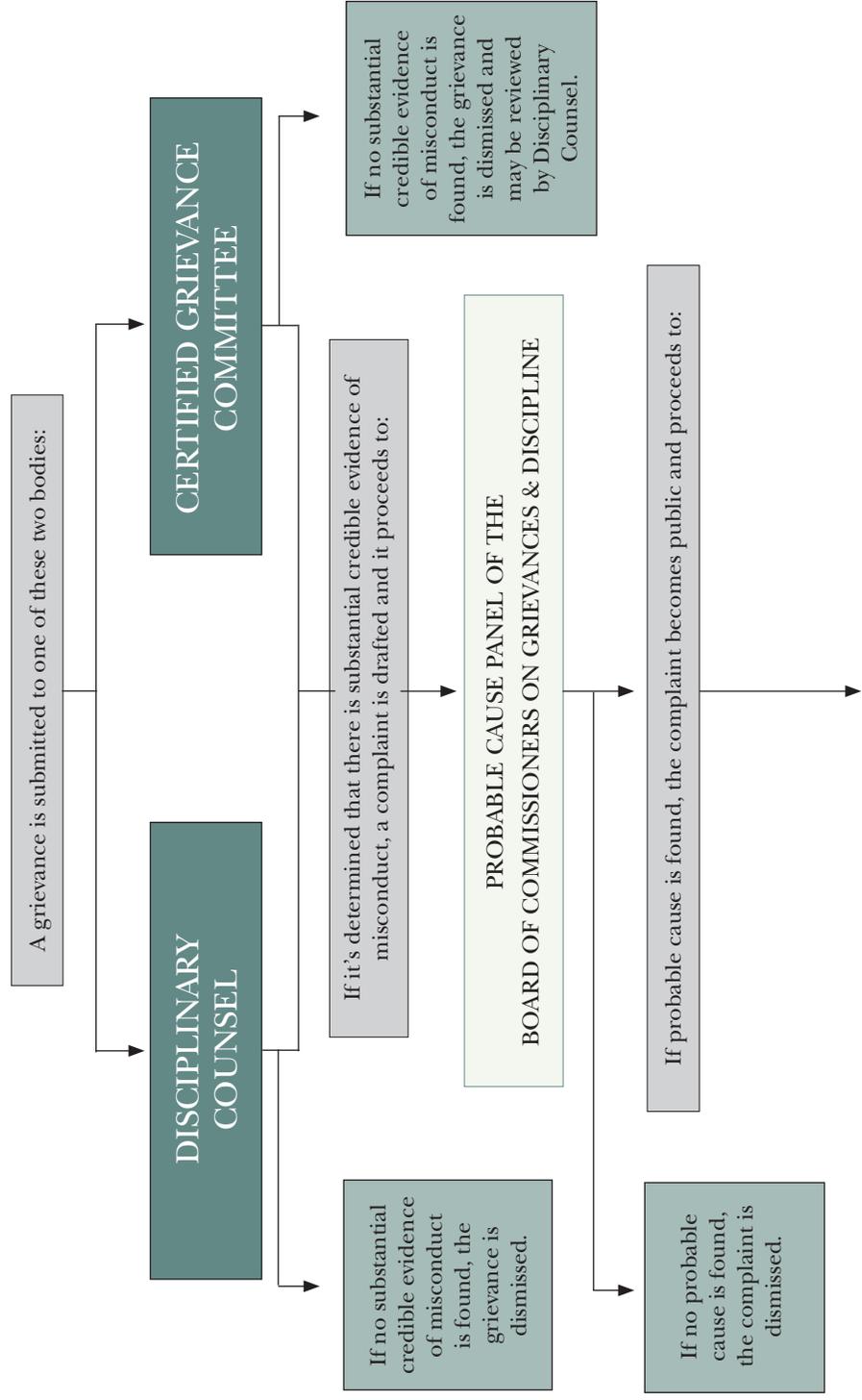
CONCLUSION

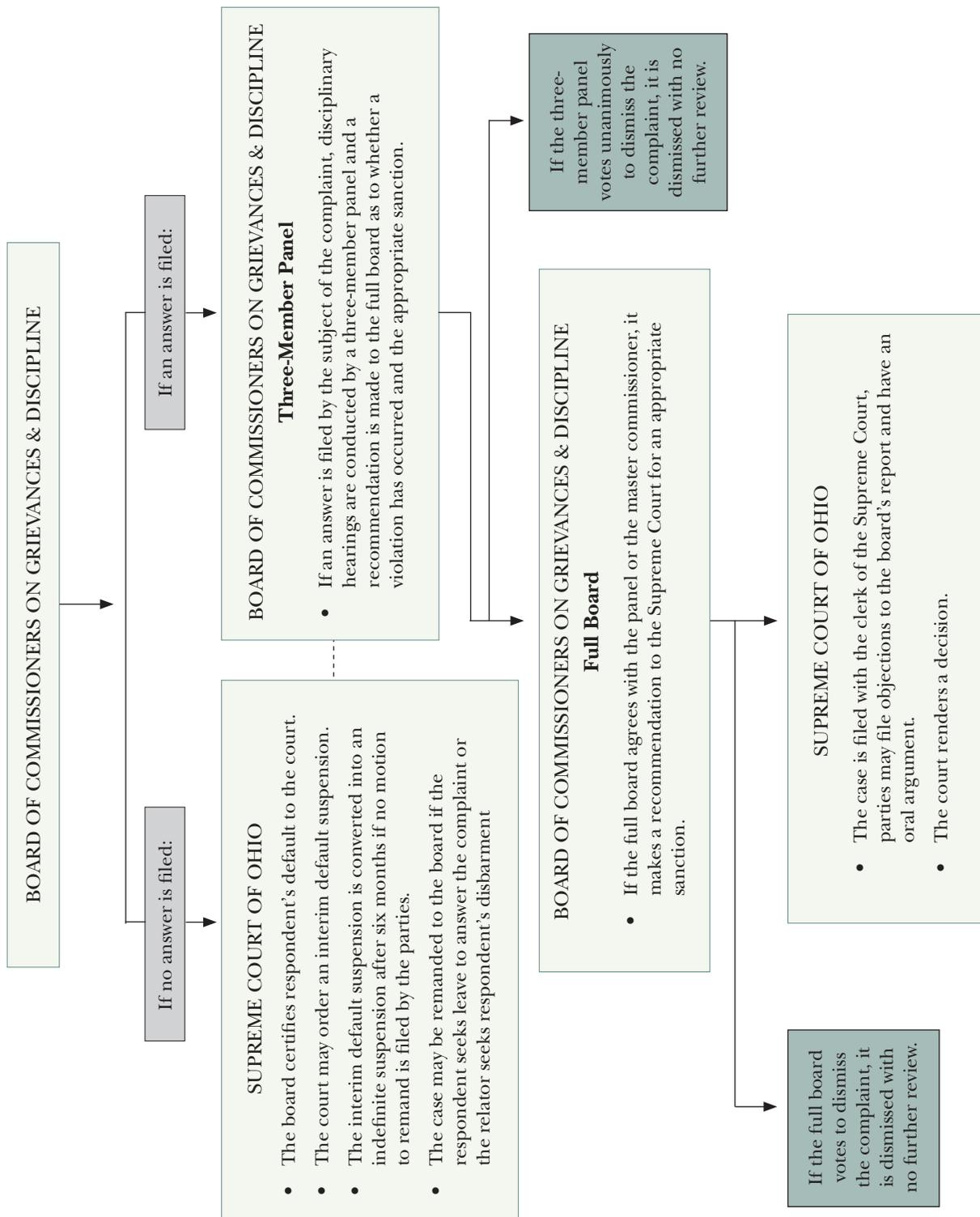
The board continued to perform its adjudicatory functions in a prompt and efficient manner. The number of pending cases was reduced by more than 25 percent for the second consecutive year, and the implementation of a new probable cause meeting schedule allowed for more prompt review and certification of new matters to the board. The board also executed its responsibility to appoint Disciplinary Counsel and secured the services of a uniquely qualified individual to oversee the investigation and prosecution of

professional misconduct for the next four years. The Board concluded a comprehensive review of the procedures and standards contained in Gov. Bar R. V, and transmitted several proposed amendments to the Supreme Court for consideration. The 28 volunteer commissioners, numerous former commissioners, and four-member staff remain committed to ensuring that our profession and the public have the highest degree of trust confidence in the attorney discipline process.

DISCIPLINARY PROCESS

A grievance against a judge or attorney may be submitted to the Disciplinary Counsel or a certified grievance committee of a local bar association. If either of those bodies determines that there exists substantial credible evidence of professional misconduct, a formal complaint is drafted. It then moves to a probable cause panel of the Board of Commissioners on Grievances & Discipline, which determines if there is probable cause. If the panel determines that there is probable cause, the formal complaint becomes public and is filed with the Board of Commissioners on Grievances & Discipline. Hearings are then conducted by the board and if it finds a violation, a recommendation is made to the Supreme Court of Ohio. The Supreme Court of Ohio makes the final decision as to findings of misconduct and issues an appropriate sanction.





ANNUAL OPERATING EXPENDITURES (2011 TO 2014)

	FY 2011 (Actual)	FY 2012 (Actual)	FY 2013 ² (Actual)	FY 2014 (Budgeted)
Board Operations	\$983,910	\$835,360	\$724,147	\$871,574
Grievance Committee Reimbursements	\$1,597,999	\$1,633,140	\$1,740,814	\$1,800,000

CERTIFIED GRIEVANCE COMMITTEE REIMBURSEMENT
FY 2012 (JULY 1, 2011 TO JUNE 30, 2012)

BAR ASSOCIATIONS	REIMBURSEMENT
Akron Bar Association	\$223,678
Ashtabula County Bar Association	\$16,436
Butler County Bar Association	\$11,778
Cincinnati Bar Association	\$252,372
Clermont County Bar Association	\$505
Cleveland Metropolitan Bar Association	\$341,865
Columbiana County Bar Association	\$5,491
Columbus Bar Association	\$254,281
Dayton Bar Association	\$161,304
Erie/Huron County Bar Association	\$16,041
Findlay/Hancock County Bar Association	\$6,333
Lake County Bar Association	\$11,336
Lorain County Bar Association	\$48,056
Mahoning County Bar Association	\$57,226
Medina County Bar Association	\$548
Northwest County Bar Association	\$479
Ohio State Bar Association	\$73,674
Stark County Bar Association	\$50,662
Toledo Bar Association	\$161,791
Trumbull County Bar Association	\$31,677
Warren County Bar Association	\$15,281
TOTAL	\$1,740,814

² For fiscal year 2013, allocations for direct expense reimbursements to certified grievance committees were moved from the Operations Budget to the Reimbursement Budget.

OPERATIONS BUDGET AND EXPENDITURES FY 2012
(JULY 1, 2012 TO JUNE 30, 2013)

	ALLOCATED	SPENT
ROTARY ACCOUNT		
STAFF SALARIES AND BENEFITS	\$496,015	\$497,998
TOTAL ROTARY	\$496,015	\$497,998
CUSTODIAL ACCOUNT		
100 PERSONNEL SERVICES		
Commissioners' per diems	\$45,000	\$32,688
Temporary Employees	\$10,000	\$0
TOTAL 100 CUSTODIAL	\$55,000	\$32,688
200 MAINTENANCE		
Telephone	\$4,000	\$2,405
Postage	\$15,000	\$9,881
Maintenance and Repair	\$2,000	\$0
Supplies and Materials	\$17,000	\$10,101
Books, Subscriptions	\$1,000	\$716
Travel Reimbursement	\$75,000	\$57,247
Committees	\$0	\$0
Hearing Expenses	\$140,000	\$84,381
Miscellaneous Expenses	\$40,000	\$27,481
TOTAL 200 CUSTODIAL	\$294,000	\$192,212
300 EQUIPMENT		
	\$ 20,000	\$1,249
TOTAL 300 CUSTODIAL	\$ 20,000	\$1,249
TOTAL CUSTODIAL	\$369,000	\$226,149
GRAND TOTAL	\$865,015	\$724,147

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