

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

TUESDAY
June 2, 1998

ADMINISTRATIVE DOCKET

1. "The Report of the Committee to Review Ohio's Disciplinary Process, Adopted as Amended by the Council of Delegates, June 4, 1997" ("The Bell Commission Report") was approved in part by the court, as stated in the following table:

Supreme Court Action on Bell Commission Recommendations
1997 and 1998

Recommendation Number & Subject	Recommendation	Court Action
	CERTIFIED GRIEVANCE COMMITTEES AND DISCIPLINARY COUNSEL	
1 Volunteer system	A dual system of certified grievance committees and a centralized disciplinary counsel should be preserved and improved.	Approved.
2 Standards for grievance committees	In an effort to professionalize the certified grievance committees and maintain significant volunteer input into the attorney disciplinary process, a certified grievance committee should be authorized by the Board of Commissioners on Grievance and Discipline to receive, investigate, and prosecute grievances only under	2A Disapproved (must be at least 600 lawyers in the area to be served by a certified grievance committee). Decertification review process to be strengthened so that committees that do not perform adequately be required to

[certain conditions, including 600 attorneys in the area; employing professional bar counsel].

improve or be decertified.
2B amended and approved as follows: "The certified grievance committee must name professional bar counsel on either a paid or unpaid basis".

Recommendation
Number &
Subject

2C approved (only one CGC for any county, except Cuyahoga).

2D approved (CGC can be formed by more than one bar association).

2E approved (OSBA to continue as a CGC).

Recommendation

2F Disapproved (existing CGCs do not have to comply with new requirements).

Court Action

2G approved (CGCs shall have at least 15 members, 20% being nonlawyers).

2H amended and approved: CGCs shall meet at least quarterly.

2I approved (Costs to meet standards to be borne by sponsoring bar assn.).

2J approved (complainants to be advised of option of using Disciplinary Counsel).

3 Membership of CGC

The membership of a certified grievance committee should consist of a minimum of twenty percent

Approved.

4 Requirements for membership on CGC	non-attorneys. The majority of the certified grievance committee should consist of attorneys admitted to the practice of law in Ohio. There should be qualification requirements for membership on a certified grievance committee.	Amended and approved: members of CGCs encouraged (not required) to attend periodic seminars on ethics subjects.
5 Rules of Procedure for CGC	The Rules of Procedure for all certified grievance committees in Ohio should be uniform.	Disapproved; BCGD to recommend to the Court uniform Rules of Procedure for CGCs.
6 Notice of dismissal to respondent	When a certified grievance committee or Office of Disciplinary Counsel dismisses a grievance at intake, without further investigation, the subject attorney or judge should be sent a copy of the dismissal letter. Upon request, a copy of the grievance should also be provided.	Approved.
7 Copy of respondent's reply to grievant	The grievant should be furnished a copy of the respondent's response, except when Disciplinary Counsel or a certified grievance committee determines that there is good reason not to furnish the respondent's response.	Disapproved.
Recommendatio n Number & Subject	Recommendation	Court Action
8 Investigators to assist CGC	The Supreme Court should authorize the Disciplinary Counsel to retain, on a part- time hourly basis, sufficient investigators who may be called on by certified grievance committees to undertake investigation of grievances.	Approved.
9 CGC expenses	Certified grievance committees' expenses should be fully reimbursed, including bar counsel and paid staff, from the Attorney Registration Fund.	Consideration completed by adopting interim Gov. Bar R. V(3)(D)(2) in Jan 1998 providing for partial

reimbursement.

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

10 Time guidelines for case disposition

The Board of Commissioners should adopt and publish time guidelines for the processing of a formal case through panel hearing and full Board review.

Approved.

11 Discipline by consent

The Board of Commissioners should establish procedures for discipline by consent in matters that would result in a recommended sanction of public reprimand, a term of suspension, or a term of suspension coupled with probation.

Approved, provided that the procedures are subject to Court approval.

12 Minor misconduct cases

The Board of Commissioners should establish procedures for the expedited processing of cases involving minor misconduct. These procedures should indicate what is not minor misconduct and should include the expedited processing of these matters with a reduced number of adjudications before the Supreme Court of Ohio.

Disapproved.

13 Full consideration of all ethical issues

Disciplinary recommendations and orders of the Board of Commissioners should fully address the ethical issues raised and be published.

Disapproved.

14 BCGD member expenses

Funding should be increased to the Board of Commissioners on Grievance and Discipline for all reasonable and necessary expenses incurred by members in connection with attendance at hearings and meetings.

Consideration completed in Jan 1998 by approval of budgets supported by Atty Registration funds for 1998 and 1999.

ENFORCEMENT AND SANCTIONS

Recommendation Number & Subject

Recommendation

Court Action

15 Interim remedial orders

An expedited procedure should be established for the Supreme Court of Ohio to issue interim remedial

Approved, provided that judges be included.

	orders to deal with an attorney who poses an immediate threat of serious and substantial harm to the public.	
16 Insurance	Insurance should be provided for protection of monitoring attorneys in probation procedures.	Approved; Administrative Director to obtain cost estimates.
17 Ethics schools	The Court should establish mandatory ethics schools for attorneys and judges found to be in violation of ethics rules, as part of the sanction and/or as a condition of reinstatement.	Disapproved.
18 Suspended lawyer working during time of suspension	A lawyer who is under suspension should only be able to work for another attorney if both the suspended attorney and the attorney employing the suspended attorney register with Disciplinary Counsel and both agree the suspended attorney will not engage in the unauthorized practice of law.	Approved.

ADDITIONAL RECOMMENDATIONS

19 "Bridge the Gap"	New lawyers should be required to attend a "Bridge-the-Gap" course of at least twelve hours during their first year in practice.	Approved.
20 Pamphlets on disciplinary process	The Court should establish a fund sufficient to enable pamphlets describing the disciplinary process to be sent to all libraries, newspapers and television stations, and any member of the general public who might request them. The Court and bar associations should be encouraged to distribute such pamphlets to the public.	Approved.
Recommendation Number & Subject	Recommendation	Court Action
21 Colorable grievance	The Court should reinstate the colorable grievance rule	Disapproved.

rule with standards clarifying the applicability of the rule.

FINANCING

22 Funding of disciplinary process	The Court should increase the funding of the disciplinary process in Ohio.	Consideration completed in Jan 1998 by approval of budgets supported by Atty Registration funds for 1998 and 1999.
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RECOMMENDATIONS FOR NO CHANGE

Item 1	The point at which a matter becomes public. (Matters become public after probable cause found for filing of complaint.)	Approved.
Item 2	Rules for the Government of the Judiciary.	Approved.
Item 3	The composition of the Board of Commissioners on Grievances and Discipline.	Approved.
Item 4	The number of meetings of the Board of Commissioners on Grievances and Discipline. (Board currently meets six times per year.)	Approved.
Item 5	Permanent Disbarment.	Approved.
Item 6	Indefinite and Definite Suspension and Interim Suspension.	Approved.
Item 7	Public Reprimand.	Approved.
Item 8	Expungement of Grievance Matters. (Disciplinary Counsel and grievance committees not required to expunge grievances.)	Approved.

OTHER RECOMMENDATIONS

Issue	Recommendation	Court Action
Mandatory Malpractice Insurance	A special committee should be appointed to review the subject of mandatory malpractice insurance.	Disapproved.
Periodic Review	A committee should be appointed every five years to review the disciplinary	Approved.

process.

2. The specialty areas of Business, Commercial and Industrial Real Property Law, and Residential Real Property Law were approved.

3. J. Michael Bernstein of the Ohio Association of Magistrates was reappointed to the Judicial College Board of Trustees.

4. Judge David Tobin was reappointed to the Board of Commissioners on Character and Fitness.