



Ohio Board of Professional Conduct

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TO: Disciplinary Counsel, Bar Counsel, Certified Grievance Committees, and Respondents' Counsel

FROM: Rick Dove

DATE: August 2024

RE: Bimonthly Update

August Board Meeting

The Board of Professional Conduct held met on August 2 and approved [13 case reports](#), each of which was filed with the Supreme Court the afternoon of August 2. The approved reports include one default disbarment and one consent-to-discipline. The Board's next meeting is October 4.

The Board has what is likely an all-time low of 16 pending cases. Eleven of the pending cases were opened or reopened this year. Three of the four cases filed this Summer are judicial misconduct cases.

Probable Cause Deadlines

The next two probable cause deadlines are August 23 and September 20. Please submit your probable cause materials in accordance with these deadlines to facilitate review and processing. New complaints with probable cause waivers may be e-Filed at any time.

2024 Miller-Becker Seminar

As mentioned in the June update, the 2024 Miller-Becker Seminar will be held on Friday, October 25 at the University of Akron Law School. The planning committee has finalized the [seminar program](#) that includes presentations on alternatives to discipline, the intersection of artificial intelligence and legal ethics, criticism of judges, and a case update. Registration for the

October 25 seminar will begin in late September, and you will be notified by email when the online registration portal is open.

Grievance Committees—Indirect Cost Reimbursements

The state fiscal year 2024 ended on June 30, 2024. For the first time, total reimbursements to certified grievance committees last year exceeded the budgeted amount of \$2 million. To cover the excess reimbursement requests, the Board sought and obtained approval of a one-time transfer of funds from its Operations Budget to the Reimbursement Budget. The Supreme Court has again allocated \$2 million for grievance committee reimbursements in FY 2025.

Those of you who have been involved in the disciplinary process for some time may recall my observation, on more than one occasion, that \$2 million in reimbursements could well be the threshold for triggering an examination of the funds allocated by the Supreme Court to grievance committee reimbursements. In addition to surpassing the \$2 million threshold last fiscal year, consider the following:

- Of the more than \$2 million spent on grievance committee reimbursements, more than 95 percent is spent on personnel and other indirect expenses. The majority of indirect expenses are incurred by bar associations who employ fulltime bar counsel and support staff.
- The Supreme Court's Fiscal Office recently conducted a review of disciplinary system expenditures. That review found that the average cost of an investigation conducted by a grievance committee is more than double the cost of an investigation conducted by the Office of Disciplinary Counsel.
- At the same time grievance committee reimbursements have increased to unprecedented levels in each of the three most recent fiscal years, the percentage of total investigations conducted by those grievance committees continues to decline. As recently as five years ago, grievance committees conducted nearly one-third of the disciplinary investigations in Ohio; in 2023, that percentage dropped to 20 percent. There has been a corresponding decline in the number of formal complaints filed with the Board.

Later this month, the Board's Budget and Personnel Committee will begin examining the indirect expense reimbursements paid to grievance committees and considering cost containment options. The committee plans to present cost containment recommendations to the full Board at its December meeting. Grievance committee chairs and bar counsel will be advised of any measures that are approved by the Board.

As the Board considers cost-containment measures, I encourage individual grievance committees to engage in a self-examination of their reimbursement requests and internal operations. A review of the quarterly indirect expense reimbursement requests suggests the following areas may be ripe for examination:

- Reimbursements sought from the Board are limited solely to activities authorized by Gov. Bar R. V—attorney discipline. Bar associations are entitled to claim reimbursement from the Supreme Court Office of Bar Admissions for character and fitness related activities (Gov. Bar R. I) and from the Court’s Board on the Unauthorized Practice of Law for UPL-related work (Gov. Bar R. VII). A grievance committee should not be seeking personnel or other expense reimbursements from the Board for admissions, UPL, or other activities unrelated to attorney discipline.
- Some grievance committees seek and receive personnel expense reimbursements for multiple bar association personnel, some of whom carry position titles with a questionable nexus to disciplinary-related activities. For example, it is difficult to comprehend what role, beyond de minimis involvement, a bar association’s executive director has or should have in relation to discipline activities. In some instances, it may be appropriate to reassess the amount of time those staff devote to disciplinary-related activities and adjust the percentages of compensation for which reimbursement is sought.
- Some bar counsel carry the title “general counsel” for their bar association but allocate a very small portion of their time to general counsel duties. It may be appropriate for bar counsel to reassess the allocation of his or her time to general counsel versus bar counsel responsibilities. As noted above, reimbursements submitted to the Board must be limited to time spent on disciplinary-related work. The sponsoring bar association is solely responsible for compensating bar counsel for work performed as general counsel and for other bar association activities.
- The same examination should be conducted with regard to the allocation of reimbursable indirect expenses such as insurance premiums, office space, utilities, and other overhead costs.

Grievance committees are reminded that the [instructions for completing indirect expense reimbursement forms](#) require quarterly and annual reimbursement forms to be submitted with an affidavit attesting to the claimed reimbursements. This affidavit must be signed by the bar association president, grievance committee, chair, or other bar officer with personal knowledge of the personnel costs incurred. Beginning with reimbursements for the current quarter (July-September), the Board will no longer accept reimbursement forms without affidavits or affidavits signed by bar association personnel for whom compensation-related reimbursement is sought. If you have not done so recently, please review the instructions and share them to the individual who prepares the form.