

**Disciplinary
Board
of the
Supreme
Court**

1997 Membership:

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Charles J. Cunningham, III, Esq.

Staff:

Elaine M. Bixler, *Executive Director & Secretary*

Legal Authorization:

Pa. Constitution, Article V, § 10(c)
Rule 103, Pa. Rules of Disciplinary Enforcement
Rule 205(a), Pa. Rules of Disciplinary Enforcement
Rule 205(c), Pa. Rules of Disciplinary Enforcement

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History/Background

The Disciplinary Board was created by the Supreme Court in 1972 to consider and investigate the conduct of any person subject to the Pennsylvania Rules of Disciplinary Enforcement (Pa. R.D.E.). Such persons include:

- any attorney admitted to practice law in Pennsylvania
- any attorney of another jurisdiction specially admitted to the bar of the Supreme Court for a particular proceeding
- any disbarred, suspended or inactive attorney, with respect to violation of any rules committed prior to disbarment, suspension or transfer to inactivity
- any justice, judge or district justice, with respect to any violation of rules committed prior to taking office, if the Judicial Conduct Board declines jurisdiction
- any attorney who resumes practice of law with respect to any nonjudicial acts performed while in office as a justice, judge or district justice.

Investigations may be initiated by the Disciplinary Board on its own motion or upon complaint from another person. [See Rules 103, 205(a) and 205 (c)(1)(2) of the Pa. R.D.E.]

Through December of 1997, 51,620 active attorneys were registered in Pennsylvania, an increase of 0.16% over 1996.

During 1997, 5,031 complaints were filed with the Disciplinary Board, an average of 419 per month. Of these 5,031 plus the 1,259 complaints active at the start of the year, 5,242 complaints, or 83.34%, were disposed of, including 3,662 dismissed as "frivolous." At the start of 1998, 1,048 active complaints remained on hand.

1997 Activities

The board held seven meetings in 1997. The results of the executive sessions can be

found in Table 3.7.1 on page 63. A tabulation of the disciplinary actions taken since the beginning of the board's operations in 1972 is set forth on Table 3.7.2 on page 65. Comparisons of cumulative actions taken and actions taken in 1997 can be found in Chart 3.7.3 on page 67.

Rules Changes

The Supreme Court referred to the board four proposed rule changes which had been submitted to them by the Pennsylvania Bar Association. These included Rule of Professional Conduct (R.P.C.) 8.4, professional misconduct; R.P.C. 1.17, regarding client-lawyer relationship; R.P.C. 5.4, Professional Independence of a Lawyer; R.C.P. 5.6, Restrictions on Right to Practice; R.C.P. 7.2, advertising; and R.C.P. 4.2, Communication with Person Represented by Counsel.

In addition, the following amendments to the Disciplinary Board Rules and Procedures were made:

§ 89.279: Amendments regarding the continuing legal education courses that must be completed by a formerly admitted attorney before a **petition for reinstatement** is filed.

§§ 85.2, 91.171, 91.172, 93.142 and 93.25: Conforming amendments due to the Enforcement Rules changes relating to the establishment of the **Interest on Lawyer Trust Accounts program** and the officers of the Disciplinary Board.

§85.5: Amended to reflect the **new locations** of the Office of Disciplinary Counsel and disciplinary district offices.

§93.54: Amended to establish a ten-year **retention period** for correspondence, transcripts, briefs and other similar documents which underlie the final disposition of a matter by the board.

Finance & Pension Committee

In August 1997 the board determined to merge the Financial & Personnel Committee and the Pension Plan Committee into one committee, which was renamed the Finance & Pension Committee. This decision was made based on the fact that both the general assets and pension plan funds are administered through PNC Bank, although the general assets are managed by PNC in Camp Hill and the pension funds are managed by PNC in Pittsburgh. Having the same committee members receive and review the quarterly investment reports will better enable the board to compare the performance of its investments. The chair of the committee was authorized to meet quarterly with representatives of PNC Bank to review the board's investments and recommend changes to the portfolio based on economic growth and earnings in the previous quarter.

1997 Executive Session Results

<u>Action</u>	<u>Total</u>
Adjudications involving formal charges	73
Cases resolved by three-member panels of board members who reviewed hearing committee members' recommendations for private reprimand [Rule 208(a)(5) Pa. R.D.E.]	37
Respondents appearing before board to receive private reprimands	36
Oral arguments before three-member panels of board members	12
Board referrals to Supreme Court, including report and recommendation for public discipline	43
Supreme Court orders for disbarment on consent (resulting from verified statements submitted by respondents)	30
Supreme Court orders reinstating previously disbarred or suspended attorneys*	16
Supreme Court denials for reinstatement	2
Petitions for reinstatement to active status to attorneys inactive more than three years with no discipline involved	19
*Action taken following hearing on petition for reinstatement.	

Table 3.7.1

Education Committee

In the early part of 1997, the Education Committee continued its efforts to establish a mandatory Bridge-the-Gap Program for law students passing the bar examination prior to their admission to the Pennsylvania Bar. The board believes this is a worthy program and should be pursued in the future.

December 1996, the District II Office moved from Norristown to Blue Bell. Finally, in February 1997, the Chief Disciplinary Counsel's office was moved from the Union Trust Building to One Oxford Centre in Pittsburgh. All of these moves were essential due to staff increases.

Office Moves

In August 1996 the board moved its District I Office from the North American Building to Seven Penn Center in Philadelphia. In

Hearing Committees

Currently, 168 regular hearing committee members and 24 alternates appointed by the Disciplinary Board are serving on a *pro bono* basis to conduct hearings into formal charges.

Since April 1994, when the Pa.R.D.E. were amended to permit the use of alternate hearing committee members, 30 alternates have been appointed to replace regular members who were unable to participate in those hearings.

The Disciplinary Board conducted a training session for newly appointed hearing committee members in August 1997, in which 21 of the 30 newly appointed members participated.

Contact Person

Anyone having questions about the Disciplinary Board may contact Elaine M. Bixler, Secretary to the Board, at (717) 731-7073 or write in care of the board to First Floor; Two Lemoyne Drive; Lemoyne, PA 17043. 