

Oregon  State Bar

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**2018** **Disciplinary  
Counsel's Office**

Annual Report

April 2019

Dawn M. Evans  
Disciplinary Counsel



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## **I. INTRODUCTION**

This is the Annual Report of the Oregon State Bar Disciplinary Counsel's Office for 2018. The report provides an overview of Oregon's lawyer discipline system, an analysis of the caseload and dispositions in 2018, and a discussion of significant developments over the last year.

## **II. DISCIPLINARY COUNSEL'S OFFICE**

The Disciplinary Counsel's Office (DCO, a term hereafter referring to either the office as a whole or a lawyer employed within the office) provides professional staffing for Oregon's lawyer discipline system with 8 lawyers, an office manager, an investigator/litigation assistant, a paralegal, 2 legal secretaries, a diversion and probation coordinator/legal secretary, a regulatory services coordinator, and a part-time regulatory services specialist. In addition to its work in support of the State Professional Responsibility Board (SPRB), DCO has involvement in both contested reinstatement and admission applications.

## **III. STATE PROFESSIONAL RESPONSIBILITY BOARD**

The DCO's principal responsibility is to serve as counsel to the State Professional Responsibility Board (SPRB), the body to which the investigative and prosecutorial functions within the discipline system are delegated by statute and court rule. The SPRB seeks to determine whether misconduct has occurred, while operating within the procedural framework of the Bar Rules of Procedure (the BRs). The SPRB is a ten-member board of unpaid volunteers, consisting of one lawyer each from Board of Governors (BOG) Regions 1 through 4, 6, and 7; two lawyers from Region 5; and two public members.

The SPRB met in person 8 times in 2018, considering approximately 296 case-specific agenda items during the year. In addition, the SPRB has, upon occasion, discussed policy matters pertaining to its functioning and interaction with participants in Oregon's lawyer discipline system.

The Bar was fortunate to have the following individuals on the SPRB in 2018:

Ankur Has Mukh Doshi (Portland – Clackamas County) – Chairperson  
Carolyn Alexander (Portland – Multnomah County)  
Joel Benton (Medford)  
Heather Bowman (Portland – Multnomah County)(for part of the year)  
Dr. Randy Green (Salem)—Public Member  
Todd Grover (Bend)  
Kelly D. Lemarr (Hillsboro) (beginning June 20, 2018)  
Christine Meadows (Tigard)(for part of the year)  
Dr. Zena Polly (Lake Oswego) – Public Member  
Elaine D. Smith-Koop (Salem)  
Amanda Walkup (Eugene)  
Richard Weill (Troutdale) (beginning June 20, 2018)

The terms of Ankur Hasmukh Doshi, Elaine Smith-Koop, and Dr. Randy Green expired at the end of 2018. The new appointments for 2019 are Michael Y. Wu (West Linn), David Carlson (Salem) and Dr. Mary Moffit (public member – Lake Oswego). Carolyn Alexander is the SPRB Chairperson for 2018.

## IV. SYSTEM OVERVIEW

### A. Complaints Received

The Bar’s Client Assistance Office (CAO) handles the intake of all oral and written inquiries and complaints about lawyer conduct. Only when the CAO finds that there is sufficient evidence to support a reasonable belief that misconduct may have occurred is a matter referred to DCO for investigation. See BR 2.5.

The table below reflects the number of files opened by DCO in recent years, including the 349 files opened in 2018.

<b>Files Opened by Disciplinary Counsel</b>					
<b>Month</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
January	31	19	30	17	34
February	25	28	38	49	25
March	45	22	30	20	33
April	47	17	26	22	32
May	24	24	30	51	39
June	24	31	39	20	37
July	44	27	42	31	42
August	21	29	28	27	14
September	24	21	25	15	19
October	25	39	39	37	36
November	19	25	27	40	24
December	23	20	28	28	14
<b>TOTAL</b>	<b>352</b>	<b>302</b>	<b>382</b>	<b>357</b>	<b>349</b>

Of the 349 files opened in 2018, 253 were referrals from the Client Assistance Office and 60 were trust account overdraft notices from financial institutions that came directly to DCO. Another 36 matters were opened by DCO on its own initiative, which may include matters arising out of discipline of a lawyer’s license in another jurisdiction and a lawyer’s conviction. In addition to the files opened during 2018, 144 investigatory files were already in process as of January 1. This compares with a caseload that carried forward into 2017 of 292, into 2016 of 169, and into 2015 of 154. This significant reduction in files carried forward compared to 2017 demonstrates the big effort made in 2018 to diminish the

backlog of cases that were more than a year old, while assuring that new files being received were timely investigated as well.

For 2018, statistical information regarding complainant type and complaint subject matter is found in Appendix A to this report. Similar information for 2017 is found in Appendix B for comparison purposes.

Every complaint DCO received in 2018 was acknowledged in writing by staff, and analyzed and investigated to varying degrees depending on the nature of the allegations and the extent to which additional documentation was deemed necessary. As warranted, staff corresponded with the complainant and the respondent attorney, and obtained relevant information from other sources in order to garner sufficient information upon which to base a decision to dismiss or recommend further action to the SPRB.

Since November 2013, DCO has had the ability to seek the administrative suspension of any lawyer who fails without good cause to timely respond to requests for information or records. See BR 7.1. Eleven lawyers were administratively suspended in 2018 pursuant to this rule.

If, after investigation, staff determines that probable cause does not exist to believe that misconduct occurred, the matter is dismissed by DCO. See BR 2.6(b). During 2018 an average of 214 days elapsed between when a file was opened and when it was dismissed. Complainants may appeal a DCO dismissal to the SPRB. The SPRB considered 65 such appeals in 2018.

Beginning in 2018, as an alternative to seeking authority from the SPRB to offer an attorney an admonition or to file a formal complaint, DCO had the option of offering an attorney to divert a grievance on the condition that the attorney enter into a diversion agreement through which the attorney agrees to participate in a remedial program. There are criteria for eligibility set forth in BR 2.10(b) related to the type of misconduct, the perceived causes of the misconduct, and the likelihood that a remedial program will prevent a recurrence. Prior to 2018, the SPRB approved the offerings of diversion.

When DCO determines from an investigation that there is probable cause of misconduct by a lawyer and has not chosen to offer diversion, the matter is referred to the SPRB for review and action. Each matter is presented to the SPRB by means of a grievance summary (factual review, ethics analysis, and recommendation) prepared by staff. Each file also is made available to the SPRB. In 2018, the SPRB reviewed 202 of these probable cause investigations, a significant increase over 126 reviewed in 2017. An average of 276 days elapsed between the opening of a file and when it was presented to the SPRB for a determination of probable cause. This compares with a 284-day average in 2017, a 221-day average in 2016, and a 226-day average in 2015.

The following section describes that process of review in more detail.

## B. SPRB

The SPRB reviews, considers, and votes upon each matter referred to it by DCO, determining whether probable cause of an ethics violation exists. Options available to the SPRB include dismissal if there is no probable cause of misconduct; referral of a matter back to DCO for additional investigation; issuing a letter of admonition if a violation has occurred but is not of a serious nature; or authorizing a formal disciplinary proceeding in which allegations of professional misconduct are litigated. A lawyer who is offered a letter of admonition may reject the letter, in which case the Rules of Procedure require the matter to advance to a formal disciplinary proceeding. Rejections of an offer of a letter of admonition are rare.

A lawyer who is notified that a formal disciplinary proceeding will be instituted against him or her may request that the SPRB reconsider that decision. In order for the SPRB to reconsider the matter, the request must be supported by new evidence not previously available that would have clearly affected the SPRB's decision, or legal authority not previously known to the SPRB which establishes that the decision to prosecute is incorrect. See BR 2.6(e). In 2018, an average of 185 days elapsed between an SPRB vote to find probable cause and the filing of a formal complaint.

In 2018, the SPRB made probable cause decisions on 202 matters investigated by DCO. Action taken by the SPRB in recent years and in 2018 is summarized in the following table:

<b>Action Taken by SPRB</b>					
<b>Year</b>	<b>Pros.</b>	<b>Admon. Offered</b>	<b>Admon. Accepted</b>	<b>Dismissed</b>	<b>Diversion</b>
2014	105	19	19	40	17
2015	83	39	39	34	7
2016	114	26	26	20	12
2017	75	16	16	26	9
2018	133	35	35	34	N/A

Note that the figures for prosecutions reflect the number of complaints that were authorized for prosecution, not necessarily the number of lawyers being prosecuted. One lawyer may be the subject of numerous complaints that are consolidated into one disciplinary proceeding.

Beginning in 2018, DCO was charged with deciding when to seek an interlocutory suspension of a lawyer based upon determining probable cause of misconduct and a reasonable belief that clients or others will suffer immediate and irreparable harm by the lawyer's continued practice; whether to seek an involuntary inactive suspension of a lawyer because the lawyer is disabled from practicing; and whether an interlocutory suspension should be sought based upon a lawyer's conviction and a reasonable belief that immediate and irreparable harm to the lawyer's clients or the public is likely to result if the lawyer is not suspended.



See BR 3.1, BR 3.2, and BR 3.4. Prior to 2018, each of these decisions had to be made by the SPRB before a proceeding could be filed. In addition, DCO now has the ability to initiate reciprocal discipline proceedings without first having to obtain authority from the SPRB to do so. See BR 3.5. During 2018, DCO sought and obtained interlocutory suspensions pursuant to BR 3.1 in reference to two lawyers and filed and obtained orders in four reciprocal discipline proceedings.

### **C. Special Local Investigators**

During 2018, all grievances were investigated in-house by DCO. BR 2.2 permits the appointment of persons by Disciplinary Counsel to act as a special investigator. No matters were referred to special local investigators in 2018.

### **D. Formal Proceedings**

#### (1) Prosecution Function

After the SPRB authorizes formal proceedings in a given matter, DCO drafts a formal complaint that is filed with the Disciplinary Board Clerk and served upon the respondent attorney. On occasion, a volunteer bar counsel selected from a panel of lawyers appointed by the Board of Governors is asked to serve as co-counsel. No volunteer bar counsel served as co-counsel in 2018.

Discovery methods available in disciplinary proceedings include requests for admission, requests for production, and depositions. Beginning in 2018, disputes over discovery are resolved by the Adjudicator, who serves as trial panel chairperson in all cases in which he is not disqualified. Mediation is available if both parties agree to participate. No mediations took place in 2018.

Pre-hearing conferences to narrow the issues and to explore settlement are available at the request of either party. Such conferences are held before a member of the Disciplinary Board who is not a member of the trial panel in that case.

#### (2) Adjudicative Function

2018 was the first year in which the Adjudicator position was in place. The Adjudicator is a lawyer employed by the Bar and appointed by the Oregon Supreme Court who serves a special role as a member of the Disciplinary Board – presiding in all hearing panels, setting hearings, ruling on all prehearing matters, and presiding in various special proceedings – such a reciprocal discipline proceedings and hearings on petitions seeking interlocutory suspension pursuant to BR 3.1. Trial panels consist of the Adjudicator, one additional lawyer and one public member, both of whom are from the region where the lawyer practices. The regional chairperson selects the second lawyer member and the public member who serve with the Adjudicator.

After hearing, the panel is required to render its decision within 28 days (subject to time extensions), making findings of fact, conclusions of law, and a disposition. Panels rely on the ABA Standards for Imposing Lawyer Sanctions and Oregon

case law in determining appropriate sanctions when misconduct has been found. In all cases in which the Adjudicator votes with the majority, the Adjudicator drafts the trial panel opinion.

Five disciplinary cases were tried in 2018. In addition, there were five defaults. Each of the hearings exceeded one day in length. In defaults, the trial panel typically renders an opinion based upon the written submissions at a point subsequent to the entry of an order finding the respondent in default.

### **E. Dispositions Short of Trial**

Most disciplinary proceedings authorized by the SPRB are resolved short of trial with a negotiated outcome in the form of a stipulation or by the respondent attorney's resignation. In the rare instances in which a respondent is placed upon involuntary inactive status pursuant to BR 3.2, the SPRB may direct that no further action be taken on then-pending matters because one effect of an involuntary inactive status is to hold in abeyance any disciplinary investigation or proceeding against the attorney.

In circumstances in which the SPRB provides settlement authority and DCO, acting upon that authority, comes to an agreement with the respondent attorney regarding the facts, the violations committed and appropriate sanction, a stipulation setting forth the terms of the agreement, including factual recitations, rule violations, and the agreed-upon sanction, is drafted. The terms of a stipulation are approved by the SPRB or its chairperson on behalf of the Bar. Once that approval is obtained, judicial approval is required from the Adjudicator where sanctions do not exceed a 6-month suspension, or from the Supreme Court for cases involving greater sanctions. Judicial approval is not always given, in which case the parties must provide additional information to support the stipulated resolution, negotiate further, or proceed to trial.

Form B resignation (a resignation that takes place while disciplinary matters are under investigation) does not require an admission of guilt by an accused lawyer but, because charges are pending, is treated like a disbarment such that the lawyer is not eligible for reinstatement in the future. Seven lawyers submitted Form B resignations in 2018, thereby eliminating the need for further prosecution in some 32 matters that were pending collectively against them at the time of resignation. While a resignation ends a formal proceeding, it is often obtained only after a substantial amount of investigation, discovery, and trial preparation.

### **F. Appellate Review**

Trial panel decisions are final unless either the Bar or the respondent seek Supreme Court review. The SPRB on behalf of the Bar decides whether to seek Supreme Court review.

Appellate review by the Court is mandatory if timely requested by a party.

When there is an appeal, DCO prepares the record for submission to the Court, drafts and files the Bar's briefs, and presents oral argument before the Court. In

2018, the Supreme Court rendered six discipline opinions in contested cases. The Court also approved 5 stipulations for discipline, suspended 1 lawyer on an interim basis while disciplinary proceedings were pending, and transferred 1 lawyer to involuntary inactive status.

A noteworthy opinion in 2018 was *In re Maurer*, 364 Or 190 (2018), which is a case of first impression in Oregon regarding RPC 1.12(a), which prohibits a lawyer from representing a person in connection with a matter in which the lawyer participated personally and substantially as a judge without the informed written consent of all parties. Maurer had also been accused of violating RPC 8.4(a)(4), which prohibits conduct prejudicial to the administration of justice. The trial panel dismissed the formal proceeding, concluding that, because the proceeding in which Maurer represented his client as a lawyer was not the same matter in which he had participated as judge, he had not violated RPC 1.12(a); and, in the absence of that violation, he had not violated RPC 8.4(a)(4).

The Court, hearing the case *de novo*, found that Maurer had violated RPC 1.12(a). While a judge, he had presided over a dissolution proceeding involving a husband and wife. Several years later, a modification proceeding had been filed. Subsequently, having returned to private practice, Maurer was retained by the ex-husband to defend him in a contempt proceeding brought by the ex-wife. The Court concluded that the modification proceeding was the same matter as the original dissolution proceeding and that the contempt motion, which arose out of the modification proceeding, was “in connection with” the dissolution proceeding in which Maurer had participated personally and substantially as a judge.

The Court did not find that RPC 8.4(a)(4) had been violated, concluding that, although the Bar had established potential harm to the functioning of a judicial proceeding and actual harm to the ex-wife by the respondent’s representation of her ex-husband, the Bar had not established by clear and convincing evidence *substantial* harm, which is what is required in the case of a single act of conduct – which is how the Court viewed Maurer’s participation in the contempt hearing – in order to constitute conduct prejudicial to the administration of justice.

Regarding the disciplinary system overall, 64 disciplinary proceedings were concluded in 2018: 16 by decision in a contested case; 39 by stipulation; 8 by Form B resignation; 1 by transfer to involuntary inactive status. Eleven lawyers were administratively suspended pursuant to BR 7.1 for nonresponsiveness during Disciplinary Counsel investigation. The average length of time between when prosecution was approved by the SPRB and a final decision was obtained for cases concluded during 2018 was 340 days. This compares with averages of 408, 383, 501, and 397, in 2017, 2016, 2015, and 2014, respectively.

## **G. Contested Admissions/Contested Reinstatements**

DCO represents the Board of Bar Examiners (BBX) in briefing and arguing before the Supreme Court those cases in which the BBX has made an adverse admissions recommendation regarding an applicant and the applicant pursues Supreme Court review. The investigation and hearing that precede an admissions

recommendation is handled by the BBX with the support and assistance of Bar admissions staff under a procedure different from that applicable to lawyer discipline cases.

When a lawyer seeks reinstatement from either an administrative or a disciplinary suspension, DCO is responsible for processing and investigating all applications. Recommendations are then made to either the Bar’s Chief Executive Officer or the Board of Governors, at the request of the Chief Executive Officer. Many reinstatements are approved without any further level of review. For reinstatement applicants who have had significant prior disciplinary problems, or have been away from active membership status for more than five years, the Board of Governors makes a recommendation to the Oregon Supreme Court. In cases when the Board of Governors recommends against reinstatement of an applicant, the Court may refer the matter to the Disciplinary Board for a hearing before a three member panel (much like a lawyer discipline matter), or may direct that a hearing take place before a special master appointed by the Court. DCO has the same responsibilities for prosecuting these contested cases as with disciplinary matters and handles the appeal of these cases, which is automatic, before the Court. During 2018, the Board of Governors recommended against reinstatement as to one applicant and the Court entered an order denying the application for reinstatement.

## V. DISPOSITIONS

Attached as Appendix C is a list of disciplinary dispositions from 2018. The following table summarizes dispositions in recent years:

<b>Sanction Type</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Disbarment	3	2	5	3	4
Form B Resignation	5	3	12	8	7
Suspension	19	18	13	22	16
Suspension stayed/probation	12	12	12	4	18
Reprimand	7	14	14	11	16
Involuntary inactive Transfer	2	1	2	2	2
<b>TOTAL Lawyer Sanctions</b>	<b>48</b>	<b>50</b>	<b>58</b>	<b>51</b>	<b>63</b>
Dismissals after Adjudication	2	1	0	1	1
Dismissed as moot	2	0	0	0	0
Diversion	4	7	11	11	13
Admonitions	20	39	27	21	37

In conjunction with a stayed suspension and, at times, as a condition of admission or reinstatement, a period of probation will be imposed upon a lawyer. DCO was monitoring 21 lawyers on probation at the end of 2018, along with 17 lawyers on diversion. Most probations and diversions require some periodic reporting by the lawyer. Some require more active monitoring by a probation supervisor, typically

another lawyer in the probationer’s community or a member of the State Lawyers Assistance Committee.

The types of conduct for which a disciplinary sanction was imposed in 2018, or a Form B resignation was submitted, varied widely. The following table identifies the misconduct most often implicated in proceedings that were concluded by decision, stipulation, order, or resignation in 2018:

<b>Type of misconduct</b>	<b>% of cases in which type of misconduct was present</b>
Trust account violation	25%
Inadequate client communication	28%
Inadequate accounting records	21%
Neglect of legal matter	28%
Excessive or illegal fees	15%
Failure to return property or funds	6%
Failure to respond to OSB	18%
Other	26%
Conduct prejudicial to justice	20%
Dishonesty or misrepresentation	20%
Improper withdrawal	20%
Disregarding a court rule or ruling	3%
Incompetence	11%
Unauthorized practice	8%
Disclosing confidential information	1%
Multiple client conflicts	13%
Improper communication	16%
Criminal conduct	5%
Self-interest conflicts	3%
Advertising	1%

## **VI. SUMMARY OF CASELOAD**

A summary of the pending caseload in Disciplinary Counsel’s Office at the end of 2018 follows:

New complaints pending.....	144
Pending special local investigations.....	0
Pending formal proceedings*.....	63
Probation/diversion matters.....	38
Contested admission/contested reinstatement matters.....	0
<b>TOTAL.....</b>	<b>245</b>

\*Reflects no. of lawyers; no. of complaints is greater.

In addition to disciplinary matters, Disciplinary Counsel's Office processed and investigated 236 reinstatement applications in 2018; processed approximately 836 membership status changes (inactive, retired, and active pro bono transfers and voluntary resignations); and issued 1142 certificates of good standing.

## **VII. STAFFING/FUNDING**

In 2018, Disciplinary Counsel's Office employed sixteen staff members (15.0 FTE). Four lawyers focus the majority of their efforts on reviewing and investigating complaints, determining to dismiss or recommend further action and, where possible, seeking a negotiated resolution. Three lawyers handle formal proceedings from filing through settlement or trial. A single lawyer is responsible for pursuing enforcement actions flowing from probationary judgments, in addition to her caseload of investigatory matters. One lawyer handles appellate work in addition to other duties, with occasional assistance in the handling of individual appeals by a second lawyer. One lawyer handles contested reinstatement cases. The investigator, the paralegal, and the diversion and probation coordinator/legal secretary work for all lawyers, as needed. The secretarial support staff each work with several lawyers. The office manager oversees the support staff, coordinates SPRB agendas and meetings, manages all aspects of recordkeeping and statistical reporting, monitors office expenditures, and provides support to the Disciplinary Counsel. The regulatory services coordinator interfaces with members seeking reinstatement, processes requests pertaining to pro hac vice admission, and processes IOLTA reporting requirement information. The regulatory services specialist processes requests for certificates of good standing, performs scanning incident to converting paper records to electronic records, and supports the work of the regulatory services coordinator. Staff members at the end of 2018 included:

Dawn M. Evans, *Disciplinary Counsel and Director of Regulatory Services*  
Amber Bevacqua-Lynott, *Chief Assistant Disciplinary Counsel and Deputy Director of Regulatory Services*  
R. Lynn Haynes, *Discipline and Regulatory Services Office Manager*  
Angela W. Bennett, *Assistant Disciplinary Counsel*  
Lynn Bey, *Discipline Investigator/Litigation Assistant*  
Nik Chourey, *Assistant Disciplinary Counsel*  
Susan R. Cournoyer, *Assistant Disciplinary Counsel*  
Courtney Dippel, *Assistant Disciplinary Counsel*  
Karen L. Duncan, *Diversion and Probation Coordinator/ Discipline Legal Secretary*  
Sergio Hernandez, *Regulatory Services Specialist*  
Angela McCracken, *Discipline Legal Secretary*  
Brandi Norris, *Regulatory Services Coordinator*  
Stacey Owen, *Assistant Disciplinary Counsel*  
Theodore Reuter, *Assistant Disciplinary Counsel*  
Emily Schwartz, *Discipline Paralegal*  
Jeri Shay, *Discipline Legal Secretary*

DCO is funded out of the Bar's general fund. Revenue is limited (roughly \$114,742 for 2018) and comes from cost bill collections, reinstatement fees, fees paid for good standing certificates and pro hac vice admissions, and photocopying charges for public records.

Expenses for 2018 were \$1,991,921 with an additional \$384,999 assessed as a support services (overhead) charge. Of the actual program expenses, 94.4% consisted of salaries and benefits. An additional 2.9% of the expense budget went to out-of-pocket expenses for court reporters, witness fees, investigative expenses, and related items. General and administrative expenses such as copying charges, postage, telephone, and staff travel expense accounted for 2.7% of the expense budget.

## **VIII. OTHER DEVELOPMENTS**

### **A. Ethics School**

Lawyers who have been reprimanded or suspended are required to attend a one day course of study presented by the Bar on topics of legal ethics, professional responsibility, and law office management. Two such programs were offered in 2018, one in May and one in November. Presenters included CAO and DCO staff, as well as staff from the Oregon Attorney Assistance Program. A total of 60 persons attended ethics school in 2018.

### **B. Trust Account Overdraft Notification Program**

The Oregon State Bar has a Trust Account Overdraft Notification Program, pursuant to ORS 9.132 and RPC 1.15 2. Under the program, lawyers are required to maintain their trust accounts in financial institutions that have agreed to notify the Bar of any overdraft on such accounts. Approximately 50 banks have notification agreements with the Bar.

For each overdraft notice received, DCO requests a written explanation and supporting documentation from the lawyer and makes follow-up inquiries as necessary. Many overdrafts are the result of bank error and, once confirmed as such, are dismissed by staff. If circumstances causing an overdraft suggested an ethics violation, the matter is referred to the SPRB. A minor violation leading to an overdraft with no prior similar conduct typically results in a letter of admonition issued to the lawyer. In some instances, the lawyer may agree to participate in a diversion program, which will typically require education about the ethical management of a trust account and monitoring of the lawyer's trust account management during the term of the diversion. More serious or ongoing violations may result in formal disciplinary action. In 2018, the Bar received notice of 60 trust account overdrafts. A summary of the disposition of trust account overdrafts received in 2018 is as follows:

<b>2018 Trust Account Overdrafts</b>	
Dismissed by staff	31
Dismissed by SPRB	6
Closed by admonition letter	4
Diversion agreement	4
Formal charges authorized	10
Pending (as of 1/2019)	6
<b>Total Received During 2018</b>	<b>61</b>

### **C. Records**

In Oregon, lawyer discipline files are public records with very limited exceptions. During 2018, the function of responding to public records requests shifted to the General Counsel's Office. Disciplinary history data is stored electronically such that many disciplinary record inquiries can be answered without a manual review of a lawyer's file. A significant number of requests, however, require the scheduling of appointments for file review.

DCO has document management and retention policies. Ethics complaints dismissed for lack of probable cause more than 10 years ago are destroyed. Retained records have been scanned and are maintained in electronic format, thereby reducing the physical file storage needs of the Bar.

### **D. Pro Hac Vice Admission and Arbitration Registration**

Uniform Trial Court Rule 3.170 (UTCRR) provides that all applications by out-of-state lawyers for admission in a single case in Oregon (*pro hac vice* admission) must first be filed with the Oregon State Bar, along with a fee of \$500. DCO is responsible for reviewing each application and supporting documents (good standing certificate, evidence of professional liability coverage, etc.) for compliance with the UTCRR. The filing fees collected are used to help fund legal service programs in Oregon, after deduction of a nominal administrative fee.

In 2018, the Bar received and processed 612 *pro hac vice* applications, collecting \$306,000 for legal services.

In addition, RPC 5.5(e) requires out of state lawyers who intend to participate in an Oregon arbitration to pay a fee of \$200 and file a certificate with the Bar similar to that required for *pro hac vice* admission. Disciplinary Counsel's Office administers this process, as well. In 2018, 20 certificates of representation in Oregon arbitration were sought.

### **E. Custodianships**

ORS 9.705, *et seq.*, provides a mechanism by which the Bar may petition a circuit court for the appointment of a custodian to take over the law practice of a lawyer who has abandoned the practice or otherwise is incapable of carrying on. Two such proceedings were initiated in 2018.



## **F. Continuing Legal Education Programs**

Throughout 2018, DCO participated in numerous CLE programs dealing with ethics and professional responsibility issues. Staff spoke to law school classes, local bar associations, Oregon State Bar section meetings, specialty bar organizations, and general CLE audiences.

## **G. Trust Account School**

Launched during 2018, in concert with the PLF and the General Counsel's Office, DCO staff coordinated and participated in the first two half-day trust account schools held in March and September. This program was developed in recognition that ethics school alone does not necessarily provide enough information specific to the handling of fiduciary funds and trust accounts to assist lawyers who experience trust account overdraft notifications. During 2018, 24 lawyers attending the Bar's trust account school

## **IX. CONCLUSION**

In 2018, the Oregon State Bar remained committed to maintaining a system of lawyer regulation that fairly but effectively enforces the disciplinary rules governing Oregon lawyers. Many dedicated individuals, both volunteers and staff, contributed significantly toward that goal throughout the year.

Respectfully submitted,

Dawn M. Evans  
Disciplinary Counsel

## **APPENDICES**

## APPENDIX A - 2018

COMPLAINANT TYPE	NUMBER	PERCENTAGE
Respondent (self-reported)	12	3.44%
Client	127	36.39%
Judge	8	2.29%
Opposing Counsel	36	10.31%
Opposing Party	46	13.18%
Third Party	33	9.46%
Unknown	1	0.29%
OSB	86	24.64%
TOTAL	349	100.0%
COMPLAINANT TYPE	NUMBER	PERCENTAGE
Adoption	2	0.57%
Advertisement	2	0.57%
Arbitration	0	0.00%
Bankruptcy	0	0.00%
Business	3	0.86%
Civil dispute (general)	35	10.03%
Conservatorship	0	0.00%
Criminal	44	12.61%
Domestic Relations	61	17.48%
Estate Planning	10	2.86%
Guardianship	4	1.15%
Immigration	3	0.86%
Juvenile	4	1.15%
Labor Law	5	1.43%
Litigation (general)	10	2.86%
Land Use	0	0.00%
Other	50	14.33%
Paternity	0	0.00%
Personal injury	22	6.30%
Probate	15	4.30%
Real Estate	7	2.00%
Social Security	0	0.00%
Tenant/landlord	9	2.58%
Tax	0	0.00%
Trust Account Overdraft	61	17.48%
Workers Comp.	1	0.29%
Unknown	1	0.29%
TOTAL	349	100.0%

## APPENDIX B - 2017

<b>COMPLAINANT TYPE</b>	<b>NUMBER</b>	<b>PERCENTAGE</b>
Respondent (self-reported)	16	4.48%
Client	148	41.46%
Judge	5	1.40%
Opposing Counsel	27	7.56%
Opposing Party	43	12.05%
Third Party	36	10.08%
Unknown	5	1.40%
OSB	77	21.57%
TOTAL	357	100.0%
<b>COMPLAINT SUBJECT MATTER</b>	<b>NUMBER</b>	<b>PERCENTAGE</b>
Adoption	0	0.00%
Advertisement	0	0.00%
Arbitration	0	0.00%
Bankruptcy	5	1.40%
Business	9	2.52%
Civil dispute (general)	14	3.92%
Conservatorship	4	1.12%
Criminal	50	14.01%
Domestic Relations	67	18.77%
Estate Planning	8	2.24%
Guardianship	4	1.12%
Immigration	4	1.12%
Juvenile	3	0.84%
Labor Law	4	1.12%
Litigation (general)	26	7.28%
Land Use	0	0.00%
Other	38	10.65%
Paternity	1	0.28%
Personal injury	20	5.60%
Probate	19	5.32%
Real Estate	8	2.24%
Social Security	2	0.56%
Tenant/landlord	2	0.56%
Tax	2	0.56%
Trust Account Overdraft	66	18.49%
Workers Comp.	1	0.28%
Unknown	0	0.00%
TOTAL	357	100.0%

**OSB DISPOSITION LIST  
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Case No.	Case Name/Cite	Disposition	CC/Stip	Sct/ DB	Date of Action	Effective Date	RPCs ORS	Bulletin Summary
1	16-153 17-49 James C. JAGGER 32 DB Rptr	60-day suspension, formal reinstatement	CC	DB	11/3/2017	1/3/2018	1.9(a) NG – 1.5(a), 1.16(d)	Feb/Mar 2018
2	17-06 Raylyna J. PETERSON 32 DB Rptr	6-month suspension, all but 30 days stayed, 2-year probation	Stip	DB	1/16/2018	1/22/2018	1.15-1(a), 1.15-1(b), 1.15-1(c)	April 2018
3	16-47 16-55 Dirk D. SHARP 32 DB Rptr	Disbarment	CC	DB	11/13/2017	1/17/2018	1.3, 1.4(a), 1.4(b), 1.5(a), 1.16(d), 8.1(a)(2), 8.4(a)(3)	Feb/Mar 2018
4	16-61 David R. AMBROSE 32 DB Rptr	Dismissed	CC	DB	11/13/2017	1/17/2018	NG—8.4(a)(3)	Feb/Mar 2018
5	14-116 Samuel A. RAMIREZ SC S064697 32 DB Rptr	1-year suspension	CC	Sct	1/19/2018	3/20/2018	1.1, 1.3, 1.7(a)(2), 1.7(b), 1.8(h)	April 2018
6	17-64 James F. O'ROURKE 32 DB Rptr	Reprimand	Stip	DB	1/22/2018	1/22/2018	1.16(d)	April 2018
7	17-106 Jennifer BARRETT	BR 7.1 suspension	--	DB	1/24/2018	1/24/2018		NA
8	17-91 Lyle BOSKET 32 DB Rptr	30-day suspension, all stayed, 2-year probation	Stip	DB	1/24/2018	2/1/2018	1.3, 1.4(a), 1.16(a)	April 2018
9	16-139 16-140 Jennifer BARRETT 32 DB Rptr	90-day suspension	Stip	DB	1/26/2018	2/5/2018	1.3, 1.4(a), 1.4(b)	April 2018
10	16-147 17-05 Amber N. WOLF SC S065582 32 DB Rptr	1-year suspension, all but 90 days stayed, 1-year probation	Stip	Sct	2/1/2018	2/12/2018	1.15-1(b), 5.5(a), 8.4(a)(3), ORS 9.160(1)	May 2018
11	17-19 Manuel C. HERNANDEZ 32 DB Rptr	60-day suspension, all but 30 days stayed, 1-year probation	Stip	DB	2/5/2018	4/6/2018	1.1, 1.5(a), 1.7(a)(2), 1.15-1(a), 1.16(a)(1)	April 2018
12	18-06 Andrew M. SEHER	BR 7.1 suspension	--	DB	2/7/2018	2/7/2018		NA
13	16-03 17-47 17-80 17-81 Robert G. KLAHN 32 DB Rptr	120-day suspension	Stip	DB	2/8/2018	2/18/2018	4.2, 4.4(a), 8.4(a)(4)	May 2018
14	17-18 Loren Andrew GRAMSON 32 DB Rptr	60-day suspension, all stayed, 2-year probation	Stip	DB	2/13/2018	2/23/2018	1.3, 1.4(a), 1.4(b)	May 2018
15	18-08 Andrew LONG	BR 7.1 suspension	--	DB	2/20/2018	2/20/2018		NA
16	18-09 Andrew LONG	BR 7.1 suspension	--	DB	2/20/2018	2/20/2018		NA

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Case No.	Case Name/Cite	Disposition	CC/Stip	Sct/ DB	Date of Action	Effective Date	RPCs ORS	Bulletin Summary
17	Lori E. DEVENY	BR 7.1 suspension	--	DB	2/22/2018	2/22/2018		NA
18	Cory J. LARVIK 32 DB Rptr	120-day suspension, all but 30 days stayed, 2-year probation	Stip	DB	3/12/2018	5/25/2018	1.16(d), 3.3(a), 5.3, 8.4(a)(3), 8.4(a)(4)	May 2018
19	Andrew LONG	BR 7.1 suspension	--	DB	3/15/2018	3/15/2018		NA
20	Pamela S. HEDIGER SC S065679	Form B resignation	--	Sct	3/22/2018	3/22/2018		May 2018
21	S. Amanda MARSHALL SC S065705 32 DB Rptr	1-year suspension, all but 90 days stayed, 2-year probation	Stip	Sct	3/22/2018	4/1/2018	8.4(a)(2), 8.4(a)(3)	May 2018
22	Sean Michael HANDLERY	BR 7.1 suspension	--	DB	3/26/2018	3/26/2018		NA
23	Rodolfo A. CAMACHO 32 DB Rptr	6-month suspension, all but 30 days stayed, 2-year probation	Stip	DB	3/26/2018	4/5/2018	3.4(c), 8.4(a)(4)	June 2018
24	Elizabeth D. LOGSDON	BR 7.1 suspension	--	DB	4/4/2018	4/4/2018		NA
25	Scott W. McGRAW SC S064091 32 DB Rptr	18-month suspension	CC	Sct	4/5/2018	6/4/2018	1.5(a), 4.4(a), 8.4(a)(4)	July 2018
26	Megan M. PERRY SC S065746	Form B resignation	--	Sct	4/5/2018	4/5/2018	1.1, 1.2(a), 1.3, 1.4(a), 1.4(b), 1.7, 1.15-1(d), 1.16(d), 3.1, 4.3, 8.4(a)(3), 8.4(a)(4)	Aug/Sept 2018

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Case No.	Case Name/Cite	Disposition	CC/Stip	Sct/DB	Date of Action	Effective Date	RPCs ORS	Bulletin Summary
27	Milan Robert HANSON 32 DB Rptr	30-day suspension, all stayed, 1-year probation	Stip	DB	4/6/2018	4/16/2018	1.1, 1.2, 1.5(a), 8.4(a)(4)	June 2018
28	Carol J. FREDRICK	BR 7.1 suspension	--	DB	4/9/2018	4/9/2018		NA
29	Mark O. GRIFFITH 32 DB Rptr	18-month suspension	CC	DB	2/2/2018	4/17/2018	1.3, 1.4(a), 1.4(b), 1.5(a), 1.16(d), 8.1(a)(2), 8.4(a)(4)	June 2018
30	Matthew A. WILSON 32 DB Rptr	Disbarment	CC	DB	2/14/2018	4/17/2018	8.1(a)(2), 8.4(a)(3)	June 2018
31	Scott S. KANG 32 DB Rptr	60-day suspension	Stip	DB	4/16/2018	5/1/2018	1.2(a), 1.4(a), 1.4(b), 1.7(a)(2), 1.16(a)(1), 5.1(b)	June 2018
32	Andrew SCHLESINGER 32 DB Rptr	30-day suspension, all stayed, 1-year probation	Stip	DB	4/16/2018	4/16/2018	1.2(a), 1.4(a), 1.4(b), 1.7(a)(2), 1.16(a)(1)	June 2018
33	Joshua Randall TRIGSTED 32 DB Rptr	Reprimand	Stip	DB	4/18/2018	4/18/2018	4.2	May 2018
34	James R. ECKLEY SC S065537 32 DB Rptr	Reprimand Reciprocal Discipline (Arizona)	RD	Sct	4/19/2018	4/19/2018	1.15-1(a), 1.15-1(b), 1.15-1(d), 5.3(a)	Aug/Sept 2018
35	Lori E. DEVENY	BR 3.1 suspension	--	DB	4/30/2018	4/30/2018		NA
36	Allen R. PETERS SC S065820 32 DB Rptr	8-month suspension, all but 30 day stayed, 2-year probation	Stip	Sct	5/3/2018	5/21/2018	1.3, 1.15-1(a), 1.15-1(b), 1.15-1(c), 8.4(a)(4)	July 2018
37	Andrew LONG SC N007129	BR 3.1 suspension	--	Sct	5/3/2018	5/3/2018		NA
38	Roger GRAY	BR 7.1 suspension	--	DB	5/10/2018	5/10/2018		NA
39	Erin WALTERS	BR 3.1 suspension	--	DB	5/14/2018	5/18/2018		NA
40	Elizabeth D. Logsdon	BR 7.1 suspension	--	DB	5/15/2018	5/15/2018		NA
41	Samuel E. CHAMPER 32 DB Rptr	6-month suspension	Stip	DB	5/18/2018	5/28/2018	8.4(a)(2), ORS 9.527(2)	July 2018

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Case No.	Case Name/Cite	Disposition	CC/Stip	Sct/ DB	Date of Action	Effective Date	RPCs ORS	Bulletin Summary
42	18-75 18-76 18-77 Andrew LONG	BR 7.1 suspension	--	DB	5/18/2018	5/18/2018		NA
43	17-44 Mark G. OBERT 32 DB Rptr	30-day suspension, all stayed, 1-year probation	Stip	DB	5/21/2018	5/21/2018	1.7(a)(2), 1.9(a), 1.16(a)(3), 1.16(d)	July 2018
44	18-58 Todd S. BARAN 32 DB Rptr	Reprimand	Stip	DB	5/23/2018	5/23/2018	1.15-1(a), 1.15-1(b), 1.15-1(c)	Aug/Sept 2018
45	14-128 15-01 Lisa D. T. KLEMP SC S064893 32 DB Rptr	Reprimand	CC	Sct	5/24/2018	5/24/2018	4.3 NG – 1.2(c), 4.1(b), 8.4(a)(3)	November 2018
46	16-09 16-10 16-11 16-12 16-18 Sandy N. WEBB SC S064893 32 DB Rptr	Disbarment	CC	Sct	5/24/2018	5/24/2018	1.15-1(a), 1.15-1(b), 1.15-1(c), 1.15-1(d), 8.4(a)(3)	November 2018
47	18-60 Hafez DARAE 32 DB Rptr	Reprimand	Stip	DB	6/4/2018	6/4/2018	1.4(a), 1.4(b), 1.16(a)(3), 1.16(c), 1.16(d)	July 2018
48	18-49 Foster A. GLASS 32 DB Rptr	60-day suspension, all stayed, 1-year probation	Stip	DB	6/4/2018	6/14/2018	8.4(a)(4)	Aug/Sept 2018
49	18-57 Duane K. PETROWSKY SC S065882	BR 3.2 transfer to involuntary inactive	--	Sct	6/7/2018	6/7/2018		NA
50	17-92 Jonathan STUART SC S065887 32 DB Rptr	7-month suspension, all stayed, 3-year probation	Stip	Sct	6/7/2018	6/17/2018	8.4(a)(2), ORS 9.527(2)	Aug/Sept 2018
51	17-54 Robert Scott PHILLIPS SC S065942	Form B resignation	--	Sct	6/7/2018	6/7/2018	1.3, 1.4(a), 1.15-1(d), 8.1(a)(2)	Aug/Sept 2018
52	18-36 Thomas W. CRAWFORD 32 DB Rptr	Reprimand	Stip	DB	6/8/2018	6/8/2018	1.16(d)	Aug/Sept 2018
53	18-63 Eric M. BOSSE 32 DB Rptr	6-month suspension	Stip	DB	6/15/2018	11/22/2018	8.4(a)(2)	Aug/Sept 2018
54	18-86 18-87 18-88 Andrew LONG	BR 7.1 suspension	--	DB	6/25/2018	6/25/2018		NA
55	18-65 Suzanne Marie BRUCE 32 DB Rptr	Reprimand	Stip	DB	7/6/2018	7/6/2018	1.1, 1.3, 1.4(a), 1.4(b)	Aug/Sept 2018
56	18-96 Matthew SWIHART 32 DB Rptr	Reprimand	Stip	DB	7/16/2018	7/16/2018	1.5(a)	Aug/Sept 2018
57	18-73 William REDDEN 32 DB Rptr	30-day suspension	Stip	DB	7/23/2018	10/1/2018	1.15-1(d), 1.16(d)	October 2018



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Case No.	Case Name/Cite	Disposition	CC/Stip	Sct/ DB	Date of Action	Effective Date	RPCs ORS	Bulletin Summary
58	Brian A. BUCHANAN 32 DB Rptr	Reprimand	CC	DB	5/22/2018	7/24/2018	1.5(a)	October 2018
59	Lori E. DEVENY SC S065968	Form B resignation	--	Sct	7/26/2018	7/26/2018	1.1, 1.3, 1.4(a), 1.4(b), 1.15-1(d), 1.16(a)(1), 1.16(a)(2), 1.16(a)(3), 1.16(d), 3.3(a), 4.1(a), 4.2, 5.5(a), 8.1(a)(2), 8.4(a)(2), 8.4(a)(3)	October 2018
60	Roger GRAY SC S065987	Form B resignation	--	Sct	7/26/2018	7/26/2018	1.3, 1.15-1(a), 1.15-1(b), 1.15-1(c), 1.15-1(d), 1.16(d)	October 2018
61	David Winston GILES	BR 7.1 suspension	--	DB	7/26/2018	7/26/2018		NA
62	David Winston GILES	BR 7.1 suspension	--	DB	8/1/2018	8/1/2018		NA
63	James D. HUFFMAN	BR 7.1 suspension	--	DB	8/6/2018	8/6/2018		NA
64	Ryan M. SPRINGER SC S066073	Form B resignation	--	Sct	8/9/2018	8/9/2018	8.1(a)(2)	October 2018
65	Jane B. STEWART 32 DB Rptr	30-day suspension	Stip	DB	8/17/2018	8/27/2018	1.3, 1.15-1(d)	January 2019
66	Elizabeth D. LOGSDON	BR 7.1 suspension	--	DB	8/27/2018	8/27/2018		NA
67	Ronalee M. FACHNER	BR 7.1 suspension	--	DB	8/27/2018	8/27/2018		NA
68	Jason A. STEEN 32 DB Rptr	Reprimand	Stip	DB	8/27/2018	8/27/2018	1.6(a)	October 2018
69	Temojai INHOFE SC S066001	Form B resignation	--	Sct	8/30/2018	8/30/2018	1.1, 3.3(a)(1), 4.1, 8.4(a)(3), 8.4(a)(4)	November 2018
70	Jeffrey D. GOODWIN SC S066110	BR 3.2 transfer to inactive status	--	Sct	8/30/2018	8/30/2018		NA
71	Gary B. BERTONI SC S064820	18-month suspension	CC	Sct	9/13/2018	11/12/2018	1.4(a), 1.4(b), 1.5(a), 1.5(c)(3), 1.15-1(a), 1.15-1(c), 1.15-1(d), 1.16(d)	December 2018
72	Martin E. THOMPSON 32 DB Rptr	Reprimand	Stip	DB	9/14/2018	9/24/2018	1.3, 1.4(a), 1.4(b), 1.15-1(a)	December 2018

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Case No.	Case Name/Cite	Disposition	CC/Stip	Sct/DB	Date of Action	Effective Date	RPCs ORS	Bulletin Summary
73	18-99 Ann Berryhill WITTE 32 DB Rptr	30-day suspension, all stayed, 2-year probation	Stip	DB	9/19/2018	9/19/2018	1.15-1(a), 1.15-1(b)	December 2018
74	18-98 Geordie DUCKLER 32 DB Rptr	Reprimand	Stip	DB	9/24/2018	9/24/2018	4.2	November 2018
75	18-29 18-59 James G. BREATHOWER 32 DB Rptr	Reprimand	Stip	DB	10/17/2018	10/17/2018	1.15-1(a), 1.15-1(b), 8.1(a)(2)	December 2018
76	18-150 Jess M. GLAESER SC S06628	Form B resignation	--	Sct	10/25/2018	10/25/2018	1.4(a), 1.4(b), 1.15-1(a), 1.15-1(b), 1.15-1(d), 8.4(a)(3)	December 2018
77	18-02 David H. LEONARD 32 DB Rptr	90-day suspension, all but 30 days stayed, 2-year probation	Stip	DB	11/5/2018	12/1/2018	1.7(a)(2), 1.8(a), 1.9(a), 1.9(c)	January 2019
78	18-173 Karen M. W. KNAUERHASE	BR 7.1 suspension	--	DB	11/5/2018	11/5/2018		NA
79	18-174 Ronalee M. FACHNER	BR 7.1 suspension	--	DB	11/14/2018	11/14/2018		NA
80	18-146 18-147 18-148 Robert C. MYERS 32 DB Rptr	Disbarment Reciprocal Discipline (Montana)	RD	DB	10/12/2018	11/16/2018	8.2(a), 8.2(b), 8.4(a)(3)	January 2019
81	17-94 Lewis Irwin LANDERHOLM SC 066209 32 DB Rptr	1-year suspension, all stayed, 3-year probation	Stip	Sct	11/27/2018	12/7/2018	1.15-1(a), 1.15-1(b), 1.15-1(c), 5.3(a)	Feb/Mar 2019
82	18-151 Everett WALTON	30-day suspension Reciprocal Discipline (Hawaii)	RD	DB	10/31/2018	12/1/2018	3.3(a)(1), 5.4(a), 5.5(a), 8.4(a)(3)	Feb/Mar 2019
83	18-148 J. M. SANDLOW	6-month suspension Reciprocal Discipline (Colorado)	RD	DB	11/7/2018	12/8/2018	8.4(a)(2)	
84	16-04 Steven L. MAURER SC S064901	30-day suspension	CC	Sct	12/13/2018	2/11/2019	1.12(a) NG 8.4(a)(4)	Feb/Mar 2019
85	18-175 Erik GRAEFF	BR 3.4 suspension	Stip	DB	12/18/2018	1/15/2019		NA
86	17-37 18-48 18-56 18-165 Carol J. FREDRICK	120-day suspension, all but 60 days stayed, 2-year probation	Stip	DB	12/20/2018	2/11/2019	1.3, 1.4(a), 1.4(b), 1.5(a), 5.5(a), 8.1(a)(2), 8.4(a)(4), ORS 9.160(1)	Feb/Mar 2019
87	18-164 Jonathan A. CLARK	Reprimand	Stip	DB	12/20/2018	12/20/2018	1.3	Feb/Mar 2019
88	18-06 Andrew SEHER	5-month suspension	CC	DB	11/26/2018	12/27/2018	5.5(b)(2), 7.1, 8.1(a)(2), 8.4(a)(4)	April 2019

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Case No.	Case Name/Cite	Disposition	CC/Stip	Sct/ DB	Date of Action	Effective Date	RPCs ORS	Bulletin Summary
89	Margaret Parker WASHBURN	Reprimand	Stip	DB	12/28/2018	12/28/2018	4.2	Feb/Mar 2019

# APPENDIX D





