

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF THE ATTORNEY DISCIPLINARY BOARD AND THE GRIEVANCE COMMISSION OF THE SUPREME COURT OF IOWA

2018 ANNUAL REPORT

The attached consolidated annual report of the Attorney Disciplinary Board and the Grievance Commission is submitted as required by Iowa Court Rule 35.25 for the reporting period January 1, 2018, through December 31, 2018.

Respectfully submitted,

OFFICE OF PROFESSIONAL REGULATION

Bv

Nicholas (Tré) Critelli, Director Office of Professional Regulation Iowa Judicial Branch Building

1111 E. Court Avenue

Des Moines, IA 50319-5003

Telephone: (515) 348-4670

Fax: (515) 348-4698

E-mail: tre.critelli@iowacourts.gov





Compliance with the rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion, and finally, when necessary, upon enforcement through disciplinary proceedings. The rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules. The rules simply provide a framework for the ethical practice of law.

Preamble, Iowa Rules of Professional Conduct

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Who We Are

Attorney Disciplinary Board

The Iowa Supreme Court Attorney Disciplinary Board ("ADB" or "Board") is authorized and created by the Iowa Supreme Court in Court Rule 34.6. The Board is responsible for receiving and investigating ethics complaints against attorneys whose practice falls within the Board's jurisdiction. Each formally-opened complaint is investigated, and the Board then dismisses the complaint, privately admonishes the attorney, or seeks formal discipline (a public reprimand, a term of suspension, or license revocation/disbarment). All public discipline is imposed by the Supreme Court in the form of a publicly-accessible court order.

Board Members

The Board meets quarterly to review allegations of attorney misconduct by Iowa's lawyers. At these meetings, the Board also reviews policies and procedures for attorney discipline. The Board consists of nine volunteer attorneys and three volunteer laypersons, all of whom are formally appointed by the Court for up to two (2) three-year terms. The following persons served on the Board during 2018:

Attorney Members

Jane Rosien, Winterset (Chairperson)
Michael J. Chozen, Spirit Lake
Stephanie L. Cox, Des Moines
Karen J. Erger, Cedar Rapids
Marti Nerenstone, Council Bluffs (term ended 6/30/18)
Nicholas G. Pothitakis, Burlington
Lucas J. Richardson, Ames
Reyne L. See, Marshalltown (term began 7/1/18)
Mark C. Smith, Des Moines
Andrew F. Van Der Maaten, Decorah

Lay Members

Ann Knutson, Sioux City Tim McClimon, DeWitt Dr. Debbie Nanda McCartney, Des Moines

Attorney Disciplinary Board Staff

The Board also includes four full-time ethics prosecutors, several investigators and support staff, and an administrator.

Attorneys

Tara M. van Brederode (Administrator/Assistant Director for Attorney Discipline)

Wendell J. Harms (Senior Ethics Counsel)
Elizabeth E. Quinlan (Ethics Counsel)
Crystal W. Rink (Ethics Counsel)
Amanda K. Robinson (Ethics Counsel)
Susan A. Wendel (Ethics Counsel, retired April 2018)

Charles L. Harrington (Special Ethics Counsel) Norman G. Bastemeyer (Special Ethics Counsel) Halley M. Ryherd (Staff Attorney/Trusteeships)

Paralegal and Investigators

Sara Gilliam Melissa R. Hill Erin Ross-Johnson

Legal Assistants

Shari Craven-Webb Myskal Kanietova

Grievance Commission

The Iowa Supreme Court Grievance Commission is authorized and created by Iowa Court Rule 34.1. The Grievance Commission holds fact-finding hearings on ethical complaints that were not able to be resolved through the ADB process. It does not accept complaints directly from the public. Grievance Commission hearings are closed to the public and its filings are confidential. The Grievance Commission may dismiss, admonish, or recommend discipline up to revocation of license to the Supreme Court. The Supreme Court reviews and imposes or approves all discipline above a private admonition. All discipline above a private admonition is reported in a public opinion. There is no set schedule of meetings for the Grievance Commission as they are convened on an "as needed" basis.

Commission Members

Membership in the Grievance Commission is geographically and gender-balanced. There are 105 lawyers currently serving on the Grievance Commission. 25 lawyers are appointed from district 5C, 15 lawyers from 5A, 10 lawyers from 6, and 5 lawyers from each other judicial election district. There are also 35 lay members appointed from across the state. All grievance commission members are unpaid volunteers appointed by the Supreme Court for three year terms. A complete list of all members of the Grievance Commission during 2018 may be found in attachment A to this report.

Attorney Scott G. Buchanan served as chairperson until the conclusion of his second allowable term of appointment on June 30, 2018. Attorney Jennifer L. Zahradnik was appointed by the Court to serve as chairperson effective July 1, 2018. Attorney Chad Boehlje was selected to serve as vice-chair effective July 1, 2018.

Grievance Commission Staff

The Grievance Commission staff consists of one attorney and one assistant. Assistant Director Jessica Taylor serves as administrator and Clerk of the Grievance Commission. Dorrie Marshall assists as her program manager.

What We Do

As part of its responsibility to supervise lawyers and in the interest of promoting public confidence in the legal system, the Iowa Supreme Court has created procedures for addressing complaints concerning alleged violations of the Iowa Rules of Professional Conduct. The Iowa Rules of Professional Conduct are located in Chapter 32 of the Iowa Court Rules.

Attorney Disciplinary Board

Public Inquiries

Board staff responded to at least 522 inquiries from the public in 2018, in each instance either directing the inquiring party to the appropriate resource or providing the party with a complaint form and/or information about the function and role of the Board.

Complaint Intake

Since 2012, Iowa Court Rule 35.4 has given the assistant director for attorney discipline the discretion not to open an investigation when the information provided by the complainant, "if true, would not constitute misconduct or incapacity, or if the complaint is facially frivolous, stale, lacking in adequate factual detail, duplicative, or outside the board's jurisdiction, or does not otherwise reasonably warrant investigation." In 2018, 867 potential complaints were filed with the Board. The assistant director exercised her discretion to decline to open investigations of at least 502 of them.

Investigation and Case Processing

Types of Matters

The Board handles two related types of matters or cases. First, every complaint that is received, opened, and investigated is designated a "Board matter." These investigative matters receive case numbers that begin with the current year and run consecutively through that entire calendar year (e.g., 2018-007).

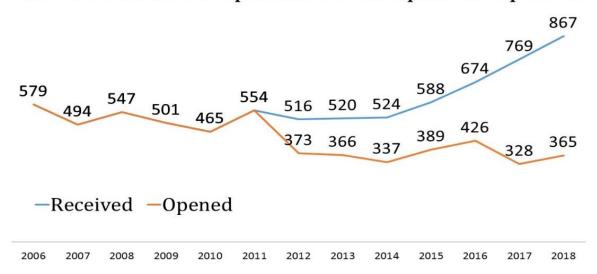
If the members of the Board determine that a particular matter warrants prosecution to obtain a public disciplinary sanction, it becomes a "Grievance matter." These matters receive new case numbers that begin with the letters "GC" and run consecutively across many years (e.g., GC-880). A Grievance matter represents the prosecution of a single respondent attorney, but may be comprised of multiple underlying investigative Board matters.

The Board's operations, therefore, may best be described as encompassing two phases: investigations of Board matters and prosecutions of Grievance matters.

Board Investigations

The Board opened 365 Board matters for investigation and/or processing during 2018, not including probate delinquencies reported by clerks of the district court. This compares with 328 new complaint files opened during 2017. As mentioned above, in 2012 the administrator for the Board began tracking potential complaints as a separate category. In the pre-2012 statistics these were merged.

ADB Potential Complaints vs. Complaints Opened



Board Determinations

The Board made determinations in 475 complaint files. "Determinations" are decisions by the Board as to what action should be taken on a complaint after it has been investigated.

Board Determinations	Number of Matters	Percentage
Dismissed	259	54.5%
Private Admonition	84	17.7%
Referred to Grievance Commission	45	9.5%
Closed Without Adjudication	19	4.0%
Public Reprimand	52	11.0%
Trusteeship	5	1.1%

Deferral of Discipline	5	1.0%
Resist or Agree to Reinstatement	2	0.4%
Initiate Disability Suspension	2	0.4%
Initiate Interim Suspension	1	0.2%
Initiate Reciprocal Discipline	1	0.2%
Total	475	100.0%

During the previous reporting period (2017), the 429 determinations by the Board included 240 dismissals (55.9%); 58 private admonitions (13.5%); 33 public reprimands (7.7%); and 53 complaints referred to staff counsel for prosecution before the Grievance Commission (12.4%).

File Closures

In addition to tracking dispositions by the 12-member Board, the Board has tracked file closures since mid-2016. The number of file closures is different from the number of Board dispositions because some dispositions (e. g., referrals for prosecution or public reprimands) require further action by Board counsel, the Grievance Commission, or the Supreme Court before the matter may be completely closed. The Board closed 481 investigative matters in 2018. In 2017, the Board closed 397 investigative matters. File closures included the following final dispositions:

File Closures - Final Dispositions		Number of Board Matters	Percentage
Dismissed		268	55.7%
Private Admonition		90	18.7%
Closed Without Adjudi	cation	35	7.3%
Public Reprimand		36	7.5%
	Interim Suspension (criminal conviction)	1	0.2%
Suspensions	Disability Suspension	2	0.4%
(24 Board	Suspended 1 Year Or More	16	3.3%
Files/5.0%)	Suspended 3 To 6 Months	1	0.2%
	Suspended 31 To 60 Days	1	0.2%
Suspended 30 Days Or Fewer		3	0.6%
Disbarment/Revocation	on	12	2.5%
Reinstatement		2	0.4%
Deferral of Discipline		6	1.3%
Trusteeship		8	1.7%
Total		481	100.0%

Areas of Law

As of April, 2016, the Board began tracking the areas of law that give rise to disciplinary complaints that are opened and investigated. The following are the areas of law from which the 481 Board file closures in 2018 originated:

Area of Law	Number of Matters	Percentage
Opened before April 2016	56	not included
Criminal	151	35.5%
Family Law	77	18.1%
Probate	54	12.7%
Other	46	10.9%
Civil	26	6.1%
Employment	11	2.6%
Real Estate	9	2.1%
Personal Injury	9	2.1%
Juvenile	9	2.1%
Appellate	8	1.9%
Immigration	8	1.9%
Commercial Litigation	4	0.9%
Consumer	3	0.7%
Professional Liability/Malpractice	3	0.7%
Insurance	2	0.5%
Contract Disputes	2	0.5%
Disability	2	0.5%
Product Liability	1	0.2%
Total	481	100.0%

Sources of Complaints

Prisoners and/or criminal defendants were the most frequent complainants, submitting 116 of the 481 complaints that reached file closure in 2018. The Board tracks both prisoner and family law client complaints separately from complaints received from other types of clients.

Source of Complaint	Number of Matters	Percentage
Prisoner or criminal defendant	116	24.1%
Client (other than criminal or family law)	72	15.0%
Judge or other attorney	56	11.6%
Family law client	44	9.2%

Probate	36	7.5%
Other	30	6.2%
Board-initiated complaint	23	4.8%
Attorney or member of attorney's firm (self-report)	22	4.6%
Adverse party (other than family law)	20	4.2%
Supreme Court Clerk (upon dismissal of appeal)	17	3.5%
Adverse family law party	16	3.3%
Adverse attorney	14	2.9%
Client Security Commission	12	2.5%
Unpaid Medical Provider	2	0.4%
Commission on Unauthorized Practice of Law	1	0.2%
Total	481	100.0%

Ethics Violations Alleged

The ethical violation most often alleged was neglect or incompetence (alleged in 262 of 481 matters, or 54% of the matters reaching final disposition in 2018). The second most frequent category of alleged misconduct was misrepresentation or fraud (alleged in 138 matters, 29% of the total reaching final disposition). Other alleged misconduct appears in the table below.

Alleged Misconduct	Number of Allegations	Percentage (out of 481 matters)
Neglect and competency	262	54.5%
Fraud, deceit, dishonesty, or misrepresentation	138	28.7%
Misappropriation or mishandling of money or property	52	10.8%
Fees	47	9.8%
Conflict of interest	45	9.4%
Pretrial or trial conduct	37	7.7%
Attorney misconduct	33	6.9%
Disrespect of Court	31	6.4%
Trust account irregularities	17	3.5%
Other	15	3.1%
Confidentiality	13	2.7%
Criminal conviction	12	2.5%
Interference with disciplinary system	9	1.9%
Aiding or engaging in unauthorized practice of law	6	1.2%
Communication with adverse party	6	1.2%
Prosecutorial misconduct	5	1.0%

Threatening criminal prosecution	4	0.8%
Advertising and solicitation	3	0.6%
Failure to report ethical violation	3	0.6%
Frivolous litigation	1	0.2%
	739	
Total	allegations in	100.0%
	481 matters	

Violations Found

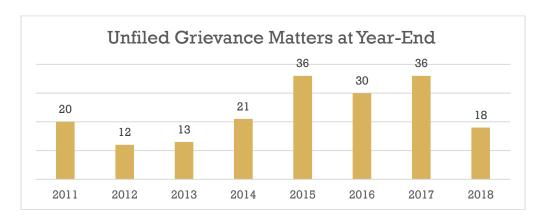
In 2018, 118 individual attorneys were found by the Board or by the Court to have violated our governing ethics rules in 160 underlying Board matters. The pattern of actual violations differs significantly from the pattern of alleged violations. The most commonly found violations were of Iowa Rules of Professional Conduct 32:1.3 (Diligence), 32:8.4 (Misconduct), 32:1.4 (Communication), 32:1.5 (Fees), and 32:1.15 (Safekeeping property).

Violations Found - 2018 Closed Matters	Number of Violations	Percentage (out of 160 matters)
Rule 32:1.1 Competence	22	13.8%
Rule 32:1.2 Scope of representation and allocation of	4	2.5%
authority between client and lawyer		
Rule 32:1.3 Diligence	73	45.6%
Rule 32:1.4 Communication	45	28.1%
Rule 32:1.5 Fees	32	20.0%
Rule 32:1.6 Confidentiality of information	1	0.6%
Rule 32:1.7 Conflict of interest: current clients	6	3.8%
Rule 32:1.8 Conflict of interest: current clients: specific	6	3.8%
rules		
Rule 32:1.9 Duties to former clients	1	0.6%
Rule 32:1.10 Imputation of conflicts of interest:	1	0.6%
general rule		
Rule 32:1.12 Former judge	1	0.6%
Rule 32:1.15 Safekeeping property	28	17.5%
Rule 32:1.16 Declining or terminating representation	3	1.9%
Rule 32:3.1 Meritorious claims and contentions	1	0.6%
Rule 32:3.2 Expediting litigation	16	10.0%
Rule 32:3.3 Candor toward the tribunal	6	3.8%
Rule 32:3.4 Fairness to opposing party and counsel	12	7.5%
Rule 32:3.7 Lawyer as witness	1	0.6%
Rule 32:4.1 Truthfulness in statements to others	2	1.3%

Rule 32:4.2 Communication with person represented	2	1.3%
by counsel		
Rule 32:4.3 Dealing with unrepresented person	1	0.6%
Rule 32:5.3 Responsibilities regarding nonlawyer	4	2.5%
assistance		
Rule 32:5.5 Unauthorized practice of law;	2	1.3%
multijurisdictional practice of law		
Rule 32:7.1 Communications concerning a lawyer's	1	0.6%
services		
Rule 32:7.3 Solicitation of clients	1	0.6%
Rule 32:8.1 Bar admission and disciplinary matters	14	8.8%
Rule 32:8.4 Misconduct	67	41.9%
Rule 45.1 Requirement for client trust account	3	1.9%
Rule 45.10 Flat fee	3	1.9%
Rule 45.2 Action required upon receiving funds	13	8.1%
Rule 45.4 Pooled interest-bearing trust account	1	0.6%
Rule 45.7 Advance fee and expense payments	8	5.0%
Rule 45.9 Special retainer	1	0.6%
	382	
Total	determinations	100%
	in 160 matters	

Matters Pending at Year-End

There were 314 Board matters pending, under investigation, awaiting prosecution, or being processed at the Board, Grievance Commission, or Supreme Court levels at the end of 2018. This compares with 429 such matters at the end of 2017, and 481 at the end of 2016.



Among those pending matters were 18 Grievance matters (cases assigned for prosecution before the Grievance Commission that had not yet been filed with the Grievance

Commission), half of the number of Grievance matters pending at the end of 2017. Eleven (11) of those 18 Grievance matters had been referred by the Board to prosecutors during the latter half of 2018 (5 as recently as December of 2018).

Probate Delinquencies

The Board received certifications from clerks of the district courts of 308 lawyers' failures to cure probate delinquencies during 2018 (this was a notable increase from 241 probate delinquency certifications received in 2017). For each such certification, a formal "notice to cure" was generated and mailed to the attorney. The attorney was notified that failure to certify to the Board within 30 days that the matter was no longer delinquent would result in the opening of a formal disciplinary investigation. 22 such probate delinquency matters (involving 12 attorneys) were converted to formal investigative Board matters upon the attorneys' failures to cure the delinquencies. This procedure allows the Board to identify problems more rapidly than in the past and gives the Board the opportunity to consolidate matters involving the same attorney for Board consideration.

Deferrals of Discipline

Six attorneys entered into deferral of discipline agreements with the Board in 2018, as authorized by Court Rule 35.14. Compliance with the terms of deferral agreements is monitored by the Board's administrator and paralegal. The Board revoked one deferral agreement and initiated formal Grievance Commission proceedings upon the attorney's failure to comply with the terms of the agreement.

Educational Outreach and CLE Programming

Board staff strongly believes in education and outreach to help attorneys identify and prevent unethical conduct. Unless otherwise specified, the following presentations were provided by the Board's administrator, Tara van Brederode, during 2018:

January 18, 2018	Polk County Bar	September 20, 2018	PCBA Solo and Small Firm
	Association		CLE
February 28, 2018	Drake Law Clinic	October 9, 2018	Judges' Conference
March 2, 2018	Iowa Legal Aid	October 19, 2018	Corporate Counsel/Trade
			Regulation seminar
March 8, 2018	ISBA Juvenile Law Seminar	October 26, 2018	Meeting with international
			delegation from
			Kazakhstan
April 12, 2018	Drake Law School Class	October 30, 2018	Iowa Legal Aid
April 18, 2018	University of Iowa School	November 2, 2018	Iowa Association of
	of Law Classes		Criminal Defense Lawyers
April 19, 2018	Iowa Association for	November 16, 2018	ISBA Labor and
	Justice		Employment Section

May 11, 2018	State Public Defender	December 5, 2018	Unauthorized Practice of
			Law Commission
June 8, 2018	Federal Defender Spring	December 7, 2018	Iowa State Public Defender
	Seminar		CLE Webinar
June 19-20, 2018	ISBA Annual Meeting (3	December 12, 2018	Iowa Defense Counsel
	presentations)		Association
September 14, 2018	State Public Defender,	December 20, 2018	Department of Justice – US
	(Amanda Robinson)		Attorneys

In addition, the Board's administrator and several prosecutors attended meetings of the National Organization of Bar Counsel ("NOBC") in Vancouver and Chicago during 2018.

The Board's administrator, Tara van Brederode, is currently serving on a committee created to support NOBC participant jurisdictions in implementing the recommendations of the 2017 National Task Force on Lawyer Well-Being, available at http://lawyerwellbeing.net/.

At the Board's request and with the approval of the Supreme Court, Justice Tom Waterman has agreed to serve as the Board's liaison Justice for the development and implementation of future well-being initiatives for Iowa lawyers.

Grievance Commission

Annual Filings

During calendar year 2018, the Grievance Clerk recorded 34 new Grievance Commission filings by the ADB. These involved 33 respondent attorneys and 47 underlying Board matters. There were 9 hearings before the Grievance Commission. At the end of 2018, there were 27 matters pending to be resolved during calendar year 2019:

	2018	2017	2016	2015	2014	2013	2012
Grievance Matters Pending	13	15	18	22	20	26	34
on Jan 1st							
Grievance Matters Filed	34	15	11	15	20	18	26
During Year							
Grievance Hearings Held	9	6	11	13	15	16	20
During Year							
Final Disposition of	20	17	13	19	18	24	34
Grievance Matters During							
Year							
Grievance Matters Pending	27	13	15	18	22	20	26
on 12/31							

Dispositions

In 2018, the Iowa Supreme Court reached final disposition in 10 grievance matters. There were no dismissals, private admonitions, nor public reprimands issued by the Court. Three cases resulted in revocation.

IOWA S	UPREMI	COURT DI	SPOSITIO	SUMMAR	Y 2018								
DOCKET NUMBER	DISMISSAL	PRIVATE ADMONITION UPON CONSENT	PRIVATE ADMONITION	REPRIMAND ON CONSENT	DEDDIMAND	SUSPENDED 30 DAYS OR LESS	SUSPENDED 31 TO 60 DAYS			SUSPENDED 7 TO	SUSPENDED 1 YEAR OR MORE	VOLUNTARILY REVOKED	REVOKED
804	DISIVIISSAL	OF ON CONSENT	ADMONTTON	CONSENT	KEFKIIVIAND	DATS ON LESS	10 60 DA13	10 65 DA13	6 MONTHS	11 MONTHS	ON WORE	REVOKED	X
819									х				
836											x		
837											х		
843							x						
845													X
846													X
850						х							
855						х							
857						X							
Totals	0	0	0	0	0	3	1	0	1	0	2	0	3

Attachment B to this report sets forth the allegations made against each respondent by the Board, the Grievance Commission panel's findings and recommendation, and the ultimate disposition by the Iowa Supreme Court.

Disability and Other Discipline Orders

Authority for disability or disciplinary orders exists in portions of the Iowa Court Rules outside the scope of the Grievance Commission function. They include matters such as suspensions for failure to comply with the mandatory reporting requirements, failure to comply with specific court obligations or temporary suspensions for failing to respond to inquiries by the attorney disciplinary board or client security commission. During calendar year 2018, the following orders were entered under these other provisions of the Iowa Court Rules:

	2018	2017	2016	2015	2014
Suspensions based on failure to comply with continuing legal education or client security reporting and fee payment duties under chapters 39 through 42 of the Iowa Court Rules	32	15	13	11	8
Public reprimands issued directly by the Attorney Disciplinary Board, with court approval, under Iowa Court Rule 35.12	14	18	25	21	16
Temporary suspensions issued under Iowa Court Rule 35.7 based on failure to respond to notice of complaints received by the Attorney Disciplinary Board	5	8	8	2	10
Suspensions issued due to lawyer disability per Iowa Court Rule 34.17	3	2	0	0	0
Suspensions based on abandonment of practice as per Iowa Court Rule 34.18	0	1	0	0	0
Reprimands, suspensions, or revocations issued based on the reciprocal discipline provisions of Iowa Court Rule 34.19	1	0	2	0	3
Suspensions or revocations issued based on receipt of a certified copy of judgment in a criminal prosecution under the provisions of Iowa Court Rule 34.15	0	3	1	1	0
Suspensions based on failure to comply with auditing or claim investigation requirements of the Client Security Commission, based on the authority of Iowa Court Rule 39.12	2	1	0	2	2
Suspensions based on failure to honor child support, college student loan obligations, or tax based on the provisions of Iowa Court Rules 34.20, 34.21, or 34.22	4	0	0	0	0
Suspensions based on a substantial threat of serious harm to the public, based on Iowa Court Rule 34.14	2	0	2	0	1

Financial Overview

Since 1995, every bar member, unless exempt, has been required to pay to the Client Security Commission an annual fee as determined by the Court to finance the disciplinary system. The annual fee is used to pay operating expenditures for the Attorney Disciplinary Board, Iowa Lawyers Assistance Program, Grievance Commission, and the Commission on the Unauthorized Practice of Law. The annual fee was increased from \$175 to \$200 in 2018. Attorneys pay the annual fee as part of the filing of their annual Client Security report.

The Client Security Commission has established separate bookkeeping records and accounts for funds received to finance the disciplinary system. A Disciplinary Fund checking account has been established for disciplinary operations. The required annual fees received from attorneys to finance the disciplinary system are deposited initially in the Investment Account of the Client Security Commission, and then transferred to the Disciplinary Fund checking account. When rates of return warrant, funds deposited to the Disciplinary Fund checking account are diverted to interest-bearing certificates of deposit insured by the Federal Deposit Insurance Corporation or a savings account, to the extent not necessary to support current operations of the Grievance Commission or the other entities supported by the disciplinary fee.

During the fiscal year July 1, 2017 through June 30, 2018, annual fees received to finance the disciplinary system totaled \$1,837,125, an increase over the prior year's \$1,629.775 primarily due to the fee increase. Total disciplinary funding received during fiscal year 2017-2018 was \$1,844,943, which included the annual fees, late filing fees, investment income, and reimbursement of disciplinary costs paid.

The Client Security Commission paid a total of \$1,482,876.78 for the fiscal year 2017-2018 operating budget of the Iowa Supreme Court Attorney Disciplinary Board. The Board actually made cash disbursements totaling \$1,362,970 during the year. During fiscal year 2017-2018, the Commission also paid operating expenditures for the Grievance Commission totaling \$209,083, operating expenses of the Commission on the Unauthorized Practice of Law totaling \$28,709, and a subsidy for the Iowa Lawyers Assistance Program totaling \$99,360. Total expenditures made for the disciplinary system during fiscal year 2017-2018 were \$1,700,122.

The Grievance Commission and seven other boards, commissions, or functions administered by the main office of the Office of Professional Regulation share staff, files, and equipment to minimize operating expenses. The accounting and budget years for the boards and commissions are standardized on the same fiscal year as state government generally. On June 28, 2018, the Court approved operating budgets attached at Attachment C for the Grievance Commission, the Commission on the Unauthorized Practice of Law, and

for the Attorney Disciplinary Board for the fiscal year July 1, 2018 through June 30, 2019. Continued cooperation between all of the boards and commissions administered by the Office of Professional Regulation makes it possible to operate within these budgets.

Dated: February 1, 2019

THE IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD

By Jane Rosien Chair

GRIEVANCE COMMISSION OF THE SUPREME COURT OF IOWA

By Jennifer L. Zahradnik, Chair

Attachment A – Grievance Commission Members During 2018

Attachment B - Synopsis and Report Regarding Grievance Cases Reaching Final

Disposition During Calendar Year 2018

Attachment C - OPR Budgets for FY2018-19

ATTACHMENT A GRIEVANCE COMMISSION MEMBERS SERVING DURING 2018

<u>CHAIRPERSON</u>	TERM <u>EXPIRES</u>				
Scott Buchanan (until end of final term on June 30, 2018)	6-30-18				
Jennifer L. Zahradnik (effective July 1, 2018)					
1A					
James Garrett	6-30-18				
Jill M. Kistler	6-30-19				
Natalia H. Blaskovich	6-30-20				
Gary Mick	6-30-20				
Tonya A. Trumm	6-30-21				
John W. Bernau	6-30-21				
1B					
Shawn Harden	6-30-18				
Brian J. Williams	6-30-19				
Jennifer Schwickerath	6-30-20				
Alice Koempel	6-30-20				
Eashaan Vajpeyi	6-30-20				
Tiffany Kragnes	6-30-21				
2A					
Kristen Ollenburg	6-30-18				
Greg M. Lievens	6-30-19				

Jacqueline Arthur		6-30-20
Philip L. Garland		6-30-20
Mark L. Walk		6-30-20
Kelsey A. Beenken		6-30-21
	2B	
Mary Howell Sirna		6-30-19
Jessica A. Reynolds		6-30-19
Dennis Parmenter		6-30-20
Laura A. Eilers		6-30-20
Shawn Smith		6-30-21
	3A	
Scott Buchanan		6-30-18
Kristi J. Busse		6-30-19
Micah J. Schreuers		6-30-20
Shawna Nolan Ditsworth		6-30-20
Melanie Summers Bauler		6-30-20
James L. Lauer		6-30-21
	3B	
Patricia Vogel		6-30-18
Richard H. Moeller		6-30-19
C. Michelle Venable-Ridley		6-30-20
Ian McConeghey		6-30-20

Andrea H. Buckley	6-30-21
Lindsey R. Buchheit	6-30-21
4	
Eric J. Nelson	6-30-19
Deborah Petersen	6-30-20
Jon J. Narmi	6-30-20
Naeda E. Elliott	6-30-20
Jon Heisterkamp	6-30-21
5 A	
Jeffrey Bump	6-30-18
Thomas P. Murphy	6-30-18
Erika Eckley	6-30-19
Beatriz A. Mate-Kodjo	6-30-19
Peter W. Blink	6-30-19
Kara McClure	6-30-20
Craig Shannon	6-30-20
Adam Otto	6-30-20
Mollie Pawlosky	6-30-20
Jennifer Gerrish-Lampe	6-30-20
Katie L. Ranes	6-30-20
Chad Boehlje	6-30-21
Janet Burkhead	6-30-21

Stacie Codr		6-30-21
Kristina Stanger		6-30-21
Tyler L. Eason		6-30-21
Samuel H. Braland		6-30-21
	5B	
Clinton C. Hight		6-30-19
Kristian E. Anderson		6-30-20
Michelle Murphy Rivera		6-30-20
Jenna Lain		6-30-21
Melissa Larson		6-30-21
	5C	
Robert Holliday		6-30-18
Henny Ohr		6-30-18
Felicia Bertin Rocha		6-30-18
Wade Hauser III		6-30-18
Kelley A. Rice		6-30-19
George F. Davison, Jr.		6-30-19
Gregory A. Witke		6-30-19
David M. Erickson		6-30-19
John McCormally		6-30-19
Amy T. Montgomery		6-30-19

Tammi Blackstone	6-30-19
Christine Lebron Dykeman	6-30-19
Thomas Duff	6-30-20
Deborah Svec-Carstens	6-30-20
Erin Herbold	6-30-20
Steve Despotovich	6-30-20
Erin E. Schneider	6-30-20
Jonathan E. Kramer	6-30-20
Caroline K. Bettis	6-30-20
Michael A. Carmoney	6-30-20
Brendan E. Greiner (resigned in 2018)	6-30-20
Katie A. Ervin Carlson	6-30-20
Elizabeth A. Kellner-Nelson	6-30-21
Joseph Gamble	6-30-21
Carol Moser	6-30-21
Julie Pottorff	6-30-21
Loree Nelson	6-30-21
John Fatino	6-30-21
Thomas H. Walton	6-30-21
6 Joseph Schmall	6-30-18
Randall B. Willman	6-30-19

Lisa M. Epp	6-30-19
Cynthia Sueppel	6-30-20
Alex J. Anderson	6-30-20
Elizabeth J. Craig	6-30-20
Melody Butz	6-30-21
Mark Fisher	6-30-21
Jennifer Zahradnik (chair as of July 1, 2018)	6-30-21
Thomas Hobart	6-30-21
Joseph W. Younker	6-30-21
7	
Leah Patton	6-30-18
Jerry Van Scoy	6-30-19
Mikki Schiltz	6-30-20
Ralph W. Heninger	6-30-20
Courtney T. Wilson	6-30-21
Elizabeth J. Cervantes	6-30-21
8A	
Katherine Lujan	6-30-18
Allen L. Cook III	6-30-19
Ryan J. Mitchell	6-30-20
Andrew J. Ritland	6-30-20
Susan C. Scieszinski	6-30-21
Ashley L. Walkup	6-30-21

8B

Jonathan Stensvaag	6-30-20
Darin R. Stater	6-30-19
Brent R. Ruther	6-30-19
Heidi D. Van Winkle	6-30-20

LAY MEMBERS

<u>1A</u>

Janet Willenbring	6-30-18
Kelly Francois	6-30-19
Christopher B. Budzisz	6-30-19
<u>1B</u>	
David Buck	6-30-20
Miriam Brown Tyson	6-30-21
<u>2A</u>	
Elizabeth Faber	6-30-20
Scott Flory	6-30-20
<u>2B</u>	
Nathan Wilson	6-30-20
Julie Huisman	6-30-20
<u>3A</u>	
Tom Underwood	6-30-20
E. John Wittneben	6-30-21
<u>3B</u>	
Flora M. Lee	6-30-19
Douglas VanDerVoort	6-30-21
<u>4</u>	
Boyd Littrell	6-30-20
Marsha Park	6-30-21

<u>5A</u>	
William C. Snyder	6-30-18
Kathrine A. Brown	6-30-19
Luke Behaunek	6-30-19
Denise Rudolph	6-30-21
<u>5B</u>	
R. Richard Rice	6-30-20
Todd Kale	6-30-20
<u>5C</u>	
Sonia Reyes-Snyder	6-30-18
Joe Henry	6-30-19
André G. Allen	6-30-19
Donna Red Wing (passed away in 2018)	6-30-20
Kendra Erkamaa	6-30-20
Wanda Noble	6-30-21
Carl McPherson	6-30-21
Justine M. Morton	6-30-21
<u>6</u>	
Yolanda Spears	6-30-19
La Shanta Boyce	6-30-20
Trish Ellison	6-30-21
D. Suzanne Buffalo	6-30-21
Kathy Maxwell	6-30-21

<u>7</u>	
Amy McClure Swearingen	6-30-19
Jim Tiedje	6-30-20
<u>8A</u>	
Nellie Coltrain	6-30-20
Jerry Droz	6-30-21
<u>8B</u>	
Jim DenAdel	6-30-20
Robert Helscher	6-30-21

ATTACHMENT B

SYNOPSES AND REPORTS REGARDING CASES REACHING FINAL DISPOSITION DURING CALENDAR YEAR 2018

SYNOPSIS OF CHARGES AND REPORT OF DISPOSITION				
Iowa Supreme Court Atty. Disc. Bd. v. Sandra Esther Suarez-Quilty				
Io	Grievance No. 804 wa S. Ct. No. 17-1555 – May 18, 20	18		
Attorney Disciplinary Board Allegations	Grievance Commission Findings, Conclusions, and Recommendations	Iowa Supreme Court Opinion		
The board alleged over thirty violations of the ethical rules, including misappropriation of client funds, making false statements to the tribunal, engaging in communication with an unrepresented party, unauthorized practice of law, conduct prejudicial to the administration of justice, and multiple trust account violations. In her amended answer, the attorney admitted to all of the allegations, and the parties stipulated to everything except sanctions.	The commission accepted the stipulation and found that the attorney's conduct violated the rules as outlined in the stipulation. The board sought revocation of the attorney's license; the attorney requested a 90-day suspension. The commission recommended revocation, based on the misappropriation of client funds, a violation of Rule 32:8.4(c), engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.	The Court agreed with the commission's recommendation and revoked the attorney's license. Due to the revocation based on misappropriation of client funds, the Court found it unnecessary to address the other rule violations.		

Iowa Supreme Court Atty. Disc. Bd. v. Mark T. Hamer				
	Grievance No. 819			
Ior	wa S. Ct. No. 17-1599 – June 29, 20	018		
Attorney Disciplinary	Grievance Commission Findings,	Iowa Supreme		
Board Allegations	Conclusions, and	Court Opinion		
	Recommendations			
The board alleged multiple	The commission found that the	The Court found that the board did		
violations: conflict of interest	board failed to establish that	establish that the attorney failed to		
between clients, no written	attorney did not inform his client	disclose the conflict, but otherwise		
informed consent from clients,	of the conflict, but did find that	agreed with the commission's		
conflict between attorney and	the attorney committed almost	findings and suspended the		
client, excessive fees, and	all of the other rule violations.	attorney's license for six months.		
dishonest conduct.	The commission recommended a			
	six-month suspension.			
Iowa Supreme Court Atty. Disc. Bd. v. Sean Joseph Barry				
Grievance No. 836				
Iowa	S. Ct. No. 17-1415 – February 23,	2018		
Attorney Disciplinary	Grievance Commission Findings,	Iowa Supreme		
Board Allegations	Conclusions, and	Court Opinion		
	Recommendations			
The board alleged failure to act	The commission approved and	The Court suspended the attorney's		
with diligence and to keep a client	accepted the parties' joint	license for one year and included		
informed, engaging in conduct	stipulation to facts, rule	as a requirement of reinstatement		
involving dishonesty, fraud, deceit,	violations and mitigating and	that he provide an evaluation from		
or misrepresentation, committing a	aggravating circumstances. The	a licensed health care professional		
criminal act that reflects adversely	commission recommended an	verifying his fitness to practice law.		
on the lawyer's fitness, and	eighteen-month suspension.			
conduct that is prejudicial to the				
administration of justice.				

Iowa Supreme Court Atty. Disc. Bd. v. Royce D. Turner Grievance Case No. 837 Iowa S. Ct. No. 18-0352 - September 14, 2018 Iowa Supreme Attorney Disciplinary Grievance Commission Findings, Conclusions, and **Court Opinion Board Allegations** Recommendations The commission accepted the The board alleged numerous The Court suspended the attorney's violations, including lack of due parties' joint stipulation on facts license for one year, noting that the diligence, lack of client and recommended a threeattorney had already served a 20communication, consulting, and month suspension with week interim suspension for the keeping clients informed, failing to additional conditions on violations. The Court included reasonably expedite cases, additional requirements if the reinstatement. numerous trust account violations, attorney applies for reinstatement, lack of competence for representing including: paying all pending court clients in bankruptcy proceedings, fees and costs; completing 5 hours charging an unreasonable fee, lack of CLE on law firm management of candor with the tribunal (for and 5 hours of CLE on ethics; and submitting an evaluation from a making false claims about a bankruptcy client), and providing licensed mental health professional false information to the board. on the attorney's fitness to practice law.

Iowa Supreme Court Atty. Disc. Bd. v. Dennis R. Mathahs Grievance Case No. 843 Iowa S. Ct. No. 18-0535 - September 21, 2018 Iowa Supreme Attorney Disciplinary Grievance Commission Findings, Conclusions, and **Board Allegations Court Opinion** Recommendations The board alleged multiple The commission accepted the The Court suspended the attorney's violations related to the attorney's parties' stipulation on the facts license for 60 days. contract with the State Public rule violations, and Defender, including unreasonable recommended suspending the fees or expenses, supervisory attorney's license for 45 days. duties of lawyer over non-lawyer, committing a criminal act that reflects adversely on the lawyer's fitness, and conduct involving dishonesty, fraud, deceit, or misrepresentation. Iowa Supreme Court Atty. Disc. Bd. v. Todd W. Kowalke Grievance Case No. 845 Iowa S. Ct. No. 18-0906 - September 14, 2018 Attorney Disciplinary Grievance Commission Findings, Iowa Supreme **Board Allegations** Conclusions, and **Court Opinion** Recommendations The board alleged a number of The commission accepted the The Court revoked the attorney's violations including neglect, parties' joint stipulation on facts license based on his conversion of client funds. The Court noted that withdrawing fees without court and rule violations, and authorization, failure to deposit recommended revocation of the this violation was the most funds into trust account, making attorney's license. significant and found it false statements to court, and unnecessary to discuss the other misappropriation of client funds. violations in detail.

Iowa Supreme Court Atty. Disc. Bd. v. Derek T. Moran				
Grievance Case No. 846				
Iowa	S. Ct. No. 18-1365 - November 19,	2018		
Attorney Disciplinary	Grievance Commission Findings,	Iowa Supreme		
Board Allegations	Conclusions, and	Court Opinion		
	Recommendations			
The board alleged a number of	The commission found the	The Court revoked the attorney's		
violations, including conversion of	attorney violated multiple ethical	license based on his conversion of		
client funds without a colorable	rules and recommended	client funds. The Court noted that		
future claim, neglect and failure to	revocation of the attorney's	this violation was the most		
communicate with clients, trust	license.	significant and found it		
account violations, committing a		unnecessary to discuss the other		
criminal act that reflects adversely		violations in detail.		
on the lawyer's honesty, trustworthiness, or fitness as a				
lawyer in other respects, and				
conduct involving dishonesty,				
fraud, deceit, or misrepresentation.				
	Court Atty Disc Rd v Lonni	ie B. Saunders		
Iowa Supreme Court Atty. Disc. Bd. v. Lonnie B. Saunders				
T	Grievance Case No. 850	0010		
Iowa S. Ct. No. 18-1392 – November 9, 2018				
Attorney Disciplinary	Grievance Commission Findings,	Iowa Supreme		
Board Allegations	Conclusions, and	Court Opinion		
	Recommendations			
The board alleged violations of	The commission accepted the	The Court suspended the attorney's		
rules regarding fees, specifically	parties' joint stipulation on facts,	license for thirty days.		
that the attorney took premature	rule violations, and sanctions,			
probate fees.	and recommended a thirty-day			
	suspension.			

Iowa Supreme Court Atty. Disc. Bd. v. Michael Jon Jacobsma Grievance Case No. 855			
Iowa S. Ct. No. 18-1267 – December 7, 2018			
Attorney Disciplinary Board Allegations	Grievance Commission Findings, Conclusions, and Recommendations	Iowa Supreme Court Opinion	
The board alleged that the attorney had a sexual relationship with a client.	The commission accepted the parties' joint stipulation on facts, rule violation, and sanctions, and recommended a thirty-day suspension.	The Court suspended the attorney's license for thirty days. Dissent: longer suspensions needed because thirty days is not deterring conduct. Would suspend for three months and require report from counselor for reinstatement.	
Iowa Supre	eme Court Atty. Disc. Bd. v. M	elissa Nine	
Grievance Case No. 857 Iowa S. Ct. No. 18-1582 – December 7, 2018			
Attorney Disciplinary Board Allegations	Grievance Commission Findings, Conclusions, and Recommendations	Iowa Supreme Court Opinion	
The board alleged that the attorney had a sexual relationship with a client.	The commission accepted the parties' joint stipulation on facts, rule violation, and sanctions, and recommended a thirty-day suspension. Two of the five panel members dissented, and would have recommended a ninety-day suspension.	The Court suspended the attorney's license for thirty days noting that sanctions for sexual relationships with clients may be more severe in future. Special concurrence: noted companion case (Jacobsma) and that Nine's conduct occurred in 2011-12 and the deterrent rational did not apply.	

FILEDJUN 1 2 2018

IN THE SUPREME COURT OF IOWA

In the Matter of Budgets For the Boards and Commissions of the Office of Professional Regulation))) ,	ORDER	CLERK SUPREME COURT
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On June 12, 2018, the Director of the Office of Professional Regulation filed with this Court the proposed fiscal year 2018-2019 budgets for those boards and commissions subject to the provisions of Iowa Court Rule 49.2.

Pursuant to Iowa Court Rule 49.2, the fiscal year 2018-2019 budgets for the following named boards and commissions of the Office of Professional Regulation are approved as proposed:

Attorney Disciplinary Board

Board of Examiners of Shorthand Reporters

Board of Law Examiners

Client Security Commission

Commission on Continuing Legal Education

Office of Professional Regulation, Court Interpreter Function

Grievance Commission

Lawyer Trust Account Commission

Commission on the Unauthorized Practice of Law

A copy of each approved budget is attached to this order.

These boards and commissions are authorized and directed to expend monies and other receipts collected under the provisions of the

Iowa Court Rules in execution of the approved budgets, in each case in an amount up to but not exceeding the applicable budget total as approved.

The Court is advised that as of June 30, 2018, the Attorney Disciplinary Board (the Board) will have a remaining unobligated balance in its bank operating account, representing that portion of the fiscal year 2017-2018 budget authorization it will not expend during the period July 1, 2017 through June 30, 2018. The Board is authorized and directed to expend this remaining unobligated bank operating account balance, as verified by independent audit, against the Board's authorized budget for the period July 1, 2018 through June 30, 2019. The Client Security Commission is authorized and directed to pay to the Board during the period July 1, 2018 through June 30, 2019, a sum equal to the Board's total approved budget for that period, reduced by the Board's unobligated bank operating account balance as of June 30, 2018, as verified by independent audit. Such payment shall be divided into equal semimonthly installments, which the Client Security Commission shall be authorized to adjust to reflect the remaining operating account balance already available to the Board.

Dated this 12 day of June, 2018.

THE SUPREME COURT OF IOWA

У _____

Mark S. Cady, Chief Justice

Copies to:
Members of the Court
Court of Appeals
Members of Each Board or Commission
State Court Administrator
Director, Office of Professional Regulation
Iowa State Bar Association

ATTORNEY DISCIPLINARY BOARD

FISCAL YEAR 2018-2019 BUDGET

OPERATING EXPENSES

•	
Salary & Employee Expense	
Salaries	\$ 931,490.47
Clerical overtime	\$ -
Deferred Compensation	\$ 9,180.00
Employee Insurance	\$ 212,695.66
Employer's Unemployment	\$ 400.00
FICA	\$ 71,259.02
IPERS	\$ 87,932.70
Vac/SL Payout	\$ _
Total Payroll Expenses	\$ 1,312,957.85
Non-Payroll Expense	
Appellate Brief Printing	\$ -
Audit Expense	\$ 2,600.00
Bank Service Charges	\$ 500.00
Board Meeting Expense	\$ 4,700.00
Case Management Software	\$ 7,500.00
Computer Services & Expense	\$ 4,600.00
Dues & Subscriptions	\$ 4,000.00
Employer Insurance	\$ 4,800.00
Furniture & Equipment	\$ 6,500.00
Investigative & Hrg Expense	\$ 10,000.00
Miscellaneous	\$ 500.00
Office Supplies	\$ 3,000.00
Contract Lawyers	\$ 50,000.00
Payroll Processing	\$ 2,250.00
Postage	\$ 6,800.00
Repairs	\$ 500.00
Rent	\$ 51,600.00
Telephone	\$ 5,600.00
Travel	\$ 12,500.00
Temporary Clerical	\$ _
Total Non-Payroll Expense	\$ 177,950.00
Total Expense	\$ 1,490,907.85

GRIEVANCE COMMISSION

FISCAL YEAR 2018-2019 BUDGET

OPERATING EXPENSES

Salary and Salary Expenses	
Director Salary	\$26,386.84
Assistant Director	\$33,272.26
Clerical Salary	\$41,891.87
Vacation/Sick Leave Payout	\$0.00
Part-Time Call Center Support	\$150.00
FICA	\$7,780.12
IPERS	\$9,600.57
Employee Insurance	\$26,867.51
Deferred Compensation	\$1,125.00
Auditing	\$2,400.00
Rent	\$8,126.00
Copier Lease	\$1,500.00
Repairs & Maintenance	\$200.00
Supplies	\$1,200,00
Telephone	\$1,440.00
Travel	\$4,000.00
Training	\$0.00
Postage	\$2,400.00
Insurance	\$650.00
Transcripts (SHR)	\$18,000.00
Automation Support	\$600.00
Banking Fees	\$700.00
Misc., Including Moving Exper	\$1,000.00
Internet App. Maint. & Develoj	\$5,250.00
Internet Payment Charges	\$40,000.00
Unemployment Insurance	\$40.00
Payroll Processing	\$350.00
TOTAL OPERATING EXPENSES	\$234,930.18
CAPITAL EXPENDITURES	\$500.00
TOTAL PROJECTED EXPENDITURES	<u>\$235,430.18</u>

UPL COMMISSION

FISCAL YEAR 2018-2019 BUDGET

OPERATING EXPENSES

Salary and Salary Expenses Assistant Director Clerical Salary Investigator FICA IPERS	\$8,318.07 \$9,708.80 \$0.00 \$1,379.06 \$1,701.74
Employee Insurance	\$5,370.96
Deferred Compensation	\$225.00
Rent Auditing Copier Lease Repairs & Maintenance Supplies Telephone Travel Training Postage Insurance Investigation Expense Commission Meeting Exp Automation Support Misc., Including Moving Exper Unemployment Insurance Payroll Processing	\$2,390.00 \$900.00 \$300.00 \$100.00 \$320.00 \$360.00 \$2,000.00 \$100.00 \$100.00 \$500.00 \$500.00 \$250.00 \$250.00 \$9.00 \$125.00
TOTAL OPERATING EXPENSES	\$34,907.62
CAPITAL EXPENDITURES	\$200.00
TOTAL PROJECTED EXPENDITURES	\$35,107.62