

ATTACHMENT B

PURPOSES AND DEFINITIONS

Demand Indicators (“D Metrics”)

Demand indicators measure the volume of externally generated demand for an agency’s services as well as some aspects of an agency’s workload. This recommendation includes two demand indicators.

D1. 1-800 Hotline Calls

Purpose: the number of calls received by the State Bar’s attorney complaint hotline serves as a general indicator of demand for the services of the attorney discipline system and as an indicator of workload in the call center itself.

Reported Metric: Average number of calls received per month over the preceding twelve months.

D2. Written complaints received

Purpose: the number of written complaints received serves as a general indicator of demand for the services of the attorney discipline system and as an indicator of the workload in the intake unit.

Reported Metric: Average number of complaints received per month over the preceding twelve months. A complaint naming multiple respondents is counted as a separate complaint against each respondent.

Output Measures (“O Metrics”)

Output measures report the quantity of “product” produced by an agency.

O1. Complaint investigations completed

Purpose: the number of complaint investigations completed serves, along with the number of court filings, as an indicator of the output of the enforcement units.

Definition: for purposes of this measure, the “completion” of an investigation includes closure without action, closure with referral or non-disciplinary action, or forwarding for prosecution. “Completion” excludes complaints closed due to resignation or disbarment in a separate matter.

Reported Metric: Average number of complaint investigations completed per month over the preceding twelve months.

O2. Complaints filed as cases in State Bar Court

Purpose: the number of filings in State Bar Court serves, along with the number of completed investigations, as an indicator of the output of the enforcement units.

Definition: a “filing” may include an accepted stipulation to discipline or a Notice of Disciplinary Charges. This excludes stipulations that have been filed but are awaiting court review.

Reported Metric: Average number of complaints per month for which a filing was made, over the preceding twelve months.

Quality Indicators (“Q Metrics”)

Quality indicators supplement output measures with an indication of the quality of the output produced

Q1. Percentage of major harm complaints leading to substantial suspension or disbarment

Purpose: this measure serves as an indicator of the success of the discipline system in imposing substantial penalties upon attorneys whose misconduct subjects their clients to major harm.

Definition: A “major harm complaint,” is one in which the investigation concludes that misconduct has occurred, that the misconduct resulted in harm to a client, and that applicable sentencing guidelines would call for substantial suspension or disbarment if found culpable.

Reported Metric: number of major harm complaints resulting in disbarment or actual suspension of two or more years over the preceding twelve months, divided by the number of major harm complaints reaching final resolution of any kind over the same period.

Q2. Percentage of Second Looks finding that a formal investigation is necessary

Purpose: This measure serves as an indicator of the effectiveness of the intake unit in identifying complaints that merit full formal investigation.

Definition: For the purpose of this measure, a “Second Look” is an internal review of a decision to close a complaint prior to a formal investigation, conducted at the request of the complaining witness in which no new material evidence is presented. This excludes internal reviews of matters in which there has been a formal investigation and reviews in which the complaining witness provides material evidence that was not previously forthcoming.

Reported Metric: the number of Second Looks (as defined here) finding that a formal investigation should be initiated over the preceding twelve months divided by the total number of Second Looks conducted over the same period.

Q3. Number of Walker Petitions served on the State Bar

Purpose: This measure serves as an indicator of the effectiveness of the State Bar in resolving complaints against attorneys by imposing discipline where appropriate and by providing sufficient due process to satisfy complaining witnesses that their concerns have been appropriately addressed.

Reported Metric: actual number of Walker Petitions served each month.

Timeliness Measures (“T metrics”)

Timeliness measures indicate the speed with which the agency carries out its work.

T1. Time to make initial public filing

Purpose: This measure serves as an indicator of the time needed to complete the confidential stages of the complaint handling process and to make the existence of a disciplinary matter public.

Definition: The initial public filing is the first accepted stipulation or the first Notice of Disciplinary Charges filed in a matter

Measure: the number of days from the receipt of a written complaint to the initial public filing in a matter

Universe: all initial public filings arising from complaints over the preceding twelve months

Reported Metric(s): Mean, median, and 90% threshold¹

T2. Time to remove a respondent from practice

Purpose: This measure serves as an indicator of the speed with which the discipline system removes attorneys who commit serious misconduct from practice.

Definition: An attorney is “removed from practice” when an order of disbarment or suspension is entered by the Supreme Court, when a resignation is accepted by the Supreme Court, or when an order of involuntary inactive enrollment is entered by the State Bar Court.

Measure: the number of days from the receipt of a written complaint to the date the respondent is removed from practice, as defined above

Universe: All complaints in which the respondent was removed from practice during the preceding twelve months.

Reported Metric(s): Mean, median, and 90% threshold.

T3. Time to close a complaint without action

Purpose: This measure serves as an indicator of the speed with which unsupported or meritless complaints are closed by the Office of Chief Trial Counsel.

¹ The “90% threshold” is the number of days, X, such that 90% of filings occurred within X or fewer days.

Definition: A complaint is closed without action if it is (a) closed at the intake or investigation stage and (b) it is closed for insufficient evidence, insufficient proof, or lack of merit. This excludes complaints closed or dismissed in the litigation process.

Measure: the number of days from the receipt of a written complaint to the closure of the complaint for one of the reasons specified above.

Universe: All complaints closed without action over the previous twelve months

Reported Metric(s): Mean, median, and 90% threshold

T4. Time to complete an investigation leading to litigation

Purpose: This measure serves as an indicator of the time required to fully investigate a complaint and prepare the results for litigation.

Definition: An investigation “leads to litigation” when a supervising trial counsel approves an investigators’ report recommending that a matter proceed to notice litigation. This excludes investigations that are closed without action or with non-disciplinary action.

Measure: the number of days between the opening of an investigation to its completion.

Universe: all investigations completed and leading litigation over the preceding twelve months

Reported Metric(s): Mean, median, and 90% threshold

T5. Duration of litigation

Purpose: This measure serves as an indicator of the length of the litigation process, including pre-filing activities, such as Early Neutral Evaluation Conferences (ENECs), and post-filing activities, including hearings.

Definition: For purpose of this measure litigation “begins” at the point at which investigations into all of the complaints which will be included in the case are complete, and litigation “ends” when the Hearing Department of the State Bar Court (a) accepts a stipulation to discipline, (b) reaches a decision, or (c) enters an order of default. This excludes time spent on appeals to the Review Department and the Supreme Court, the effectuation process, and the six month waiting period for a default to become final.

Measure: the number of days between the beginning and ending of litigation as defined above.

Universe: all complaints included within cases reaching the end of litigation, as defined above, over the preceding twelve months.

Reported Metric(s): Mean, median, and 90% threshold

Open Complaint Inventories (“I Metrics”)

The following purpose, measure and reported metrics apply to all of the “I metrics” outlined below.

Purpose: these metrics serve as indicators of the volume of complaints in the “complaint handling pipeline,” and whether the process is flowing smoothly or “backing up.”

Measure: the number of complaints, at the end of each calendar day, in each stage, grouped according to the length of time since each entered its current stage (“age-in-status”): 0 to 90 days, 90 to 182 days, 183 to 365 days, and 366 or more days.

Reported Metric(s): for monthly reporting, average daily inventory over the preceding month of in each stage of the process by age group; for annual reporting, average daily inventory over the preceding year.

11. Open inquiries

Definition: written complaints received and not yet closed or forwarded for investigation.

12. Active Investigations

Definition: all complaints under investigation in which the investigation has not been suspended (held or abated).

13. Suspended investigations

Definition: all complaints under investigation in which the investigation has been held or abated.

14. Completed investigations (pre-litigation)

Definition: all investigations which have been completed and forwarded for litigation, but in which the litigation process has not begun. (In most instances, this arises when several complaints against a single respondent are being consolidated into a single case for litigation; some investigations may be complete, but the litigation process may not be initiated until the completion of others.)

15. Complaints in litigation (pre-filing)

Definition: all complaints which have entered the litigation process, but in which no formal filing (stipulation or NCD) has been made.

16. Complaints in litigation (post-filing)

Definition: all complaints which have been the subject of a formal filing (stipulation or NDC) and have not been “completed” as defined for metric T5, above.