

**OFFICE OF PROFESSIONAL COMPETENCE
JANUARY – APRIL 2017 METRICS**

The Office of Professional Competence administers the Ethics Hotline, the Committee on Professional Responsibility and Conduct (COPRAC), statutory ADA construction-related accessibility claims demand letter monitoring; and OPC Ethics Information online resources. Key indicators are provided for each of these activities and Board members may contact Randall Difuntorum at (415) 538-2161 or Lauren McCurdy at (415) 538-2107 for further information.

1. ETHICS HOTLINE

Ethics Hotline: Activity Statistics 2017

Issues	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total to Date	Total 2016
<i>Work Days</i>	19	20	22	20									81	267
<i>Incoming Calls</i>	1,046	1,035	1,146	969									4,196	12,350
<i>Completed Calls</i>	954	944	941	726									3,565	10,399
<i>Left Messages</i>	171	206	188	187									752	2,011
<i>Percentage of Incoming Calls that are Completed Calls</i>	86%	83%	86%	74%									82%	84%
<i>Percentage of Incoming Calls that are Left Messages</i>	16%	19%	16%	19%									18%	16%
<i>Resources Mailed/Faxed</i>	14	20	8	1									43	140
<i>Internet Resource Referrals</i>	264	240	234	209									947	2,746

EXPLANATIONS

Incoming Calls: Total member inquiries to the Hotline received during that month.

Completed Calls: Member inquiries received in that month which were handled and resolved by staff during that month.

Left Messages: Member inquiries received that month where staff left an initial message or courtesy follow-up message, but did not reach the member to resolve the inquiry.

Percentage of Incoming Calls that are Completed Calls: Proportion of Incoming Calls that were Completed Calls handled and resolved by the staff.

Percentage of Incoming Calls that are Left Messages: Proportion of Incoming Calls where staff left a message but the member did not return the call.

Key Hotline Activity Averaged by Day and Month (2017)

Daily:	Incoming Calls:	51
	Completed Calls:	44
Monthly:	Incoming Calls:	1,049
	Completed Calls:	891

2017 Aggregate Outgoing Calls

Average Per Month:	1,388
Cumulative to Date:	5,549

This figure accounts for all calls placed by staff, including: Completed Calls, Left Messages, and courtesy follow-up messages. Due to "telephone tag" with members, staff may place multiple calls and leave multiple messages prior to completing a call.

Ethics Hotline: Primary Issues 2017

Issues	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Average % 2016
<i>Communications with Clients, Adverse Party and Others</i>	18%	18%	20%	18%									20%
<i>Fees and Costs for Legal Services</i>	19%	18%	18%	17%									17%
<i>Conflicts of Interest</i>	13%	15%	16%	13%									15%
<i>Client Confidential Information</i>	11%	11%	11%	13%									11%
<i>Attorney Advertising and Solicitation</i>	12%	11%	10%	11%									11%
<i>Misconduct / Moral Turpitude / Trial Conduct</i>	10%	7%	7%	9%									6%

Ethics Hotline: Member Feedback Received via Satisfaction Surveys in 2017

Rated on a Scale of 1 to 5 with 1 Lowest and 5 the Highest

Issues	Jan. (Avg. of 2 surveys)	Feb. (1 survey)	Mar. (0 surveys)	Apr. (Avg. of 6 surveys)	May (Avg. of _ surveys)	Jun. (Avg. of _ surveys)	Jul. (Avg. of _ surveys)	Aug. (Avg. of _ surveys)	Sep. (Avg. of _ surveys)	Oct. (Avg. of _ surveys)	Nov. (Avg. of _ surveys)	Dec. (Avg. of _ surveys)
Rate overall satisfaction with the Ethics Hotline experience.	5.0	5.0	0	4.3								
How satisfied are you with the information our staff provided.	5.0	5.0	0	4.3								
How helpful was the ethics research paralegal.	5.0	5.0	0	4.3								
How helpful was the receptionist.	3.5	5.0	0	4.5								
How satisfied are you with our system for receiving calls.	4.0	5.0	0	4.5								
Rate your overall satisfaction with the State Bar website	NA	5.0	0	4.3								
I would recommend this service to others.	5.0	5.0	0	4.3								
Combined Rating of All Survey Responses	4.58	5.0	0	4.3								

NOTE: Not all respondents fill in a response to every survey question. The entry NA reflects instances where no survey response was given for a particular question. Personal comments from members were provided on all 3 surveys received during this reporting period. (See Enclosure for Ethics Hotline Satisfaction Survey Excerpts.)

2. COPRAC

Overview of activity at COPRAC meetings.

The table below indicates the status of proposed ethics opinions on COPRAC's inventory of pending matters.

***Status of Ethics Opinions Considered During Current Committee Year
(November 2016 – August 2017)***

Opinion # (Topic or Issue)	11/04/16	12/09/16	01/06/17	03/03/17	04/22/17	06/02/17	07/21/17	08/25/17
12-0003 (Attorney Directory and Rating Websites)	PRE	PRE	PRE	PRE	PRE			
12-0005 (Law Firm In-House Counsel)	PRE	PRE	PRE	PRE	PRE			
13-0002 (Attorney with a Vulnerable Client)	PRE	PRE	PRE	PRE	PRE			
13-0003 (Ethical Obligations When Departing Firm)	PRE	PRE	PRE	PRE	PRE			
13-0004 (Collecting Unpaid Fees)	PRE	PRE	PRE	PRE	PRE			
14-0001 (Colleague Impairment)	PRE	PRE	PRE	PRE	PRE			
14-0001 (Colleague Impairment)	PRE	PRE	PRE	PRE	PRE			
14-0002 (Alternative Litigation Funding)	PRE	PRE	PRE	PRE	PRE			
14-0003 (Settling Before Withdrawal)	PRE	PRE	PRE	PRE	PRE			
14-0004 (Witness Perjury)	PRE	PRE	PRE	PRE	PRE			
16-0001 (Practice in Multiple Firms)	PRE	PRE	PRE	PRE	PRE			
16-0002 (Lost or Stolen Laptop or Briefcase)	PRE	PRE	PRE	PRE	PRE			
16-0003 (re Ancillary Business)	PRE	PRE	PRE	PRE	PRE			

Legend: PRE = Pre-Public Comment Consideration; PCC = Approved for Public Comment Consideration; POST = Post-Public Comment Consideration; RAD = Opinion Submitted to RAD for Approval

A. Other Notable COPRAC Activities

- Conducted Statewide Annual Ethics Symposium on April 21, 2017 at Loyola Law School. State Bar President Jim Fox attended the entire event. He provided opening remarks and presented certificates of appreciation to members of the Rules Revision Commission who were among the approximately 80 attendees at this year's event. The average overall rating from the MCLE evaluation forms submitted, on a scale of 1 – 5, 5 being the top rating, was 4.86.

3. **STATUTORY ADA CONSTRUCTION-RELATED ACCESSIBILITY CLAIMS DEMAND LETTERS (SENATE BILL NO. 1186)**

Enacted in September 2012, Senate Bill No. 1186 made significant changes to the law governing construction-related disability access claims. In accordance with Senate Bill No. 1186, Professional Competence staff receives and reviews copies of demand letters to screen for matters that may give rise to a disciplinary investigation. Any identified compliance issues are forwarded to the Office of Enforcement. Senate Bill No. 1186 also requires the State Bar to submit an annual report to the legislature on July 31 of each year. The 2015/2016 report was filed with the legislature on July 28, 2016 and is posted at the State Bar's website: <http://www.calbar.ca.gov/AboutUs/Reports.aspx>.

The table below reflects the number of ADA demand letters received by Professional Competence staff and the number of letters referred to Enforcement with potential compliance issues.

ADA Letters Received-Referred to Enforcement in 2017

Letters	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total to Date	Total 2016
Received by OPC	33	22	71	2									128	350
Referred to Enforcement	0	0	1	0									1	144

The table below lists the potential compliance issues identified by Professional Competence staff and shows the numbers of compliance issues referred to Enforcement staff.

2017 Compliance Issues Referred to Enforcement*

Issues	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total to Date	Total 2016
Failure to Copy the CCDA within 5 Business Days	0	0	1	0									1	3
Failure to Copy the State Bar within 5 Business Days	0	0	1	0									1	3
Failure to Include Mandatory Advisory	0	0	0	0									0	54
Possible Prohibited Statement of Recipient's Specific Monetary Liability	0	0	0	0									0	17
Possible Prohibited Request/Demand for Money or Offer/Agreement to Accept Money	0	0	0	0									0	1
Failure to Include Verified Answer Form (new requirement effective on July 2016)	0	0	0	0									0	51

(*Note: A single letter may have more than one compliance issue.)

4. OPC ETHICS INFORMATION ONLINE RESOURCES

The State Bar tracks the web activity for all html website pages accessed.¹ The chart below lists selected web pages administered by OPC and the January – April 2017 activity in terms of visits.

Professional Competence Web Resources – 2017 Activity Detail*
(Approximate Number of Visits)

Webpages	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total to Date	Total 2016
Rules of Professional Conduct	46,590	45,695	50,056	46,113									188,454	585,250
The State Bar Act	2,985	2,577	1,591	2,271									9,424	27,400
Ethics Opinions	2,927	2,553	2,726	2,617									10,823	36,690
Ethics Information	5,978	4,415	4,260	4,207									18,860	171,160
Ethics & Technology Resources	1,248	1,086	1,278	1,157									4,769	19,050
Client Trust Accounting Resources	418	1,220	864	1,143									3,645	12,000
Senior Lawyer Ethics Resources	1,342	1,129	1,129	935									4,535	11,890
Judicial Campaign Ethics Resources	280	208	303	386									1,177	3,070

In January – April, the following updates were made to the Professional Competence information and resources maintained at the State Bar website, primarily located under the Ethics Information area of the site:

COPRAC

- Meeting agenda posted for 3 COPRAC meetings (January 1, March 3, and April 22, 2017)
- Updated COPRAC's Education page to include the 2017 Annual Statewide Ethics Symposium panel descriptions, speakers, registration and event information.

¹ Web download statistics are not available for web content posted as Adobe PDF documents.

Rules Revision Commission Information

- Posted meeting agenda and materials for 2 Commission meetings (January 20, 2017 and February 2, 2017).
- Posted proposed rules tentatively approved by the Commission, following each Commission meeting.
- Posted 30-day public comment notice for proposed Rule 1.7 (Conflicts of Interests: Current Clients), further revised by the Commission following consideration of comments received from earlier public comment circulation.
- Posted March Board agenda materials for the final set of proposed Rules of Professional Conduct at the State Bar Meeting page.
- Revised and updated content on the Proposed Rules page to include the final drafts of the proposed rules approved by the Board for transmittal to the Supreme Court, including a comprehensive proposed rules document, pdf and Word versions of the individual rules adopted by the Board, and rule number cross-reference tables (current rule → proposed rule, proposed rule → rule, and proposed rule → ABA Model Rule).

Rules of Professional Conduct

- 2017 California Rules of Professional Conduct posted to the State Bar's Rules page.

Ethics and Technology Resources

- *Attorney-Client Privilege May Not Protect Contacts with Public Relations Consultants Retained to Wage PR War as Part of Litigation*, March 2017, Jim Ham

5. OTHER NOTABLE OPC ACTIVITIES

- In January and February, the Rules Revision Commission met to finalize its recommendations for proposed new and amended rules, and voted to recommend that the Board circulate proposed Rule 1.7 (Conflicts of Interests: Current Clients) for an additional 30-day public comment circulation. A special RAD meeting was held on January 26, 2017 to authorize the additional public comment circulation for proposed amended Rule 1.7.
- At its March meeting, the Board adopted the remaining proposed rules that were circulated for additional public comment (including proposed rule 1.7), for transmittal to the Supreme Court for approval along with the rules previously adopted by the Board at its November 2016 meeting. In addition, the Board thanked and released Commission members from further service but appointed some of the members as a smaller group to be available to assist the Board in responding to potential Supreme Court inquiries concerning the proposed rules.
- On March 30, 2017, OPC and OGC staff submitted a final comprehensive set of 70 proposed new and amended Rules of Professional Conduct to the Supreme Court for review and approval.

Enclosure

Excerpt from Ethics Hotline Customer Satisfaction Surveys (Surveys Received for January - April 2017)

1. Received January 26, 2017

COMMENTS/SUGGESTIONS: I have used the ethics hotline services 1-2 times each year for 10 or more years. Every person I have ever spoken with has provided outstanding customer service. The hotline staff provides useful information, and always seems sincere in wanting to help. The callback system works well; I would not change anything with this program – it is terrific!

2. Received January 27, 2017

COMMENTS/SUGGESTIONS: First time use in 35 years. Difficult client issue regarding the attorney/client file. While somewhat certain about the proper procedure, I wanted to check my 35 year recollection of the rules.

Ricardo was great. He furnished many helpful citations.

I was not aware of the SB opinions. Very helpful.

3. Received February 17, 2017

COMMENTS/SUGGESTIONS: Ricardo was very friendly, helpful and extremely knowledgeable.

4. Received April 1, 2017

COMMENTS/SUGGESTIONS: This office should be staffed with real licensed attorneys trained in ethics issues who can discuss ethics rules in context with factual situations. The pretense of not giving out legal advice results in oblique and useless conversations. I've read the rules, now let me talk with someone about applying them! Instead this office just quotes the rules and clearly doesn't understand application of rules and legal principles to specific facts. Another waste of my dues.

Enclosure

5. Received April 6, 2017

COMMENTS / SUGGESTIONS: Ricardo was extremely helpful and very enthusiastic in his assistance regarding my issue.

6. Received April 6, 2017

COMMENTS/SUGGESTIONS: David, the receptionist is so helpful and pleasant to speak with. He gets “10” out of “10”.

7. Received April 14, 2017

COMMENTS / SUGGESTIONS: I just learned about this survey form and I am so glad I did! I have used the Ethics hotline in the past a number of times and am so thankful for the service. David the receptionist is always friendly, helpful and concise in the intake processing. And, the paralegals with whom I have spoken are extremely knowledgeable, cite to specific and helpful references for me to review. And, the availability of this service is invaluable and literally priceless. Seeking assistance from private counsel for the various ethics issues that arise is cost prohibitive for a solo practitioner in a small town like myself. I am truly grateful for this excellent program and the remarkable, well-informed individuals who staff it!

Today I spoke with Ricardo. I have spoken with him in the past as well. He quickly pointed me to two rules of professional conduct on point and helped discuss them with me with suggestions for my further analysis on the issues. I greatly appreciate his help. David's friendliness, and the Ethics Hotline! I will submit this form again in the future now that I am aware it is available. Thank you for all you guys do!

8. Received April 26, 2017

COMMENTS/SUGGESTIONS: This service is invaluable! Today, Ricardo answered my questions thoroughly and with reference to specific rules. One issues neither he or I were entirely confirmed on even when considering the rules so he went so far as to offer to check with his supervisor (who was unavailable) and return my call the next morning. Thank you so much for being such a valuable resource to attorneys.