



# The State Bar of California

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## **OPEN SESSION AGENDA ITEM 50-2 MARCH 2022**

**DATE:** March 24, 2022

**TO:** Members, Board of Trustees

**FROM:** Lori Meloch, Program Director, Professional Support and Client Protection  
Michelle Harmon, Program Supervisor, Lawyer Assistance Program

**SUBJECT:** Receipt and Filing of Annual Lawyer Assistance Program Oversight Committee  
Report Pursuant to Business and Professions Code Section 6238

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### **EXECUTIVE SUMMARY**

Business and Professions Code section 6238 requires the Lawyer Assistance Program (LAP) Oversight Committee to report to the Board of Trustees and the Legislature each year on the implementation and operation of the LAP. Attached is the 2021 Lawyer Assistance Program Annual Report submitted to the Legislature on March 1, 2022, in compliance with this requirement.

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### **BACKGROUND**

Business and Professions Code section 6238 requires the LAP Oversight Committee to report to the Board of Trustees and the Legislature by March 1 of each year on the implementation and operation of the LAP. The report must include “information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance, and annual expenditures related to the program.”

### **DISCUSSION**

The Lawyer Assistance Program 2021 Annual Report provides an overview of the program’s activities in 2021.

Key data points include:

- The number of new intakes totaled 192, an increase of 36 percent compared to the 141 new intakes in 2020. This is the largest one-year percentage increase in LAP's history.
- There was an average of 165 active participants enrolled in the LAP over the course of 2021.
- Of the 174 cases closed, 34 percent were closed with participants meeting their stated program goals, 9 percent were not admitted, and only one participant was terminated from the LAP in 2021.
- Almost half (46 percent) of participants presented with concerns about both a substance use and a mental health problem at the time of intake. Twenty-two percent of participants presented with symptoms of a substance use disorder and 32 percent enrolled for solely mental health concerns.
- Use of the Transition Assistance Services (TAS) numbers increased 17 percent, with 178 individuals using the service in 2021. The TAS provides two free remote individual or career counseling sessions.
- The LAP provided a total of 84 educational and Minimum Continuing Legal Education presentations: 19 presentations were for law schools and 65 were for bar associations, law firms, government agencies, and other organizations.

## **FISCAL/PERSONNEL IMPACT**

None

## **AMENDMENTS TO RULES**

None

## **AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL**

None

## **STRATEGIC PLAN GOALS & OBJECTIVES**

Goal: None – compliance

## **RECOMMENDATIONS**

**Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:**

**RESOLVED**, that the Board of Trustees receive and file the Lawyer Assistance Program 2021 Annual Report.

## **ATTACHMENT LIST**

- A.** Lawyer Assistance Program 2021 Annual Report



# The State Bar of California

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## ATTACHMENT A

**Title of Report:** Lawyer Assistance Program 2021 Annual Report  
**Statutory Citation:** Business and Professions Code section 6238  
**Date of Report:** March 1, 2022

In accordance with Business and Professions Code section 6238, which directs the Oversight Committee of the Lawyer Assistance Program (LAP) to submit a report each year to the Board of Trustees and the Legislature on the operation of the LAP, including key program statistics, the State Bar of California has submitted the report to the Legislature.

The following summary of the report is submitted in accordance with the requirements of Government Code section 9795.

During 2021:

- The number of new intakes totaled 192, an increase of 36 percent compared to the 141 new intakes in 2020. This is the largest one-year percentage increase in the LAP's history.
- There was an average of 165 active participants enrolled in the LAP over the course of 2021.
- Of the 174 cases closed, 34 percent were closed with participants meeting their stated program goals, 9 percent were not admitted, and only one participant was terminated from the LAP in 2021.
- Almost half (46 percent) of participants presented with concerns about both a substance use and a mental health problem at the time of intake. Twenty-two percent of participants presented with symptoms of a substance use disorder and 32 percent enrolled for solely mental health concerns.
- Use of the Transition Assistance Services (TAS) numbers increased 17 percent, with 178 individuals using the service in 2021. The TAS provides two free remote individual or career counseling sessions.
- The LAP provided a total of 84 educational and Minimum Continuing Legal Education presentations: 19 presentations were for law schools and 65 were for bar associations, law firms, government agencies, and other organizations.

The full report is available for download on the State Bar's website at:

<http://www.calbar.ca.gov/About-Us/Reports>. A printed copy of the report may be obtained by calling 213-765-1190.



# The State Bar *of California*

## **Lawyer Assistance Program 2021 Annual Report** **As Required by Business and Professions Code section 6238**

**March 1, 2022**

## INTRODUCTION

Business and Professions Code section 6238 requires the Oversight Committee of the Lawyer Assistance Program (LAP) to report to the Board of Trustees and the Legislature each year on the implementation and operation of the LAP. The report must include “information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance, and annual expenditures related to the program.”

2021 was a time of extreme stress in many people’s lives. The continuing COVID-19 pandemic demonstrated that the version of “normal” life people were accustomed to was not likely to return any time soon—if at all. During this time, the number of attorneys and applicants who enrolled in the LAP to seek support increased from 141 to 192—a 36 percent increase. In particular, LAP has seen a notable increase in those seeking mental health support. In 2021, 150 of the 192 enrollees reported mental health concerns among the presenting problems. This is a reversal in the former trend, where the majority of new participants presented at intake mainly with substance use problems.

## AN OVERVIEW OF 2021 ACTIVITIES

The LAP continued to build on the work done in 2020 to adapt the services provided to participants to maximize access during the pandemic. The Transition Assistance Service (TAS), which provides two free remote individual or career counseling sessions to those struggling with a range of stressors (including the upheaval from the pandemic on many legal careers), saw a 17 percent increase in participants in 2021. TAS provided services to 178 individuals, up from 152 in 2020 and 78 in 2019. LAP also continued to offer virtual support groups to ensure that even those quarantined with COVID could continue to receive the help they needed and a consistent sense of connection during these uncertain times.

## OUTREACH AND EDUCATION

The LAP offers free, one-hour presentations for law schools, law firms, bar associations, government agencies, and other organizations. These interactive presentations review the scope of mental health and substance use disorders among legal professionals, educate the audience on how to recognize common signs and symptoms of these disorders in themselves or a colleague, and provide information on how to intervene and access resources. The presentation can be customized, depending on the primary concerns of the audience, to address subjects such as suicide, vicarious trauma, compassion fatigue, aging, reducing stigma, and work-life balance. The program presents strategies for ongoing wellness and an overview of the LAP and its services. In addition to being free of charge, the presentations satisfy the State Bar’s Minimum Continuing Legal Education (MCLE) requirement on competence issues.

During 2021, the LAP provided a total of 84 presentations: 19 presentations were for law schools and 65 were for bar associations, law firms, government agencies, and other organizations.

In 2021, these presentations were offered exclusively in a webinar format and adapted to a variety of hosting platforms to ensure broad accessibility. Focused effort was made to schedule presentations for affinity and culturally diverse bar associations, bar associations in rural areas, legal aid foundations and organizations, solo and small firm practitioners, and geographical areas with a large number of senior attorneys.

The LAP also continued to work with the State Bar's Office of Communications to redesign outreach materials and to connect with the legal population using Facebook, LinkedIn, Instagram, and Twitter. These platforms were used to publicize the free MCLE presentations and availability of services for law students, and to highlight the two free individual or career counseling sessions available through the LAP's TAS. To reach as many individuals as possible, information about the LAP is now being included in attorney fee statements, the State Bar's quarterly newsletter to all licensees, the quarterly law school deans' newsletter, and countdown emails to bar exam applicants from the Office of Admissions. In 2021, the LAP also continued to send a biannual email to all law students registered with the State Bar, which totaled more than 25,000 in each mailing.

In 2021 the LAP began partnering with the State Bar's Office of Chief Trial Counsel (OCTC) in the Ethics School and Client Trust Account School. In an effort to provide assistance to avoid common ethical and client trust accounting mistakes, Ethics School (a full-day class) and Client Trust Account School (a one-half day class) are offered by the State Bar to all California attorneys or interested individuals. Ethics School identifies issues and solutions to common ethical situations faced by practitioners. Client Trust Account School focuses specifically on managing client trust accounts and related duties. While these courses are available to all California attorneys, they are primarily attended by respondent attorneys ordered to attend the classes as part of disciplinary conditions. Because of this new partnership, information about wellness and LAP resources was added to the curriculum for both training opportunities.

Additionally, the LAP organized a "State Bar Day" for law students. This well-received event included presentations from the LAP, OCTC, Office of Admissions, and Office of Attorney Regulation and Consumer Resources. It represented a one-stop shop to learn about issues relevant to law students, including moral character, applying to sit for the bar exam, what to know to avoid committing misconduct, and resources available from the State Bar. Registration for the event reached capacity (500 people) one week after opening, and it was attended by students from at least 29 different law schools. Based on its success, State Bar Day is expected to become an annual or biannual event.

## **PROGRAM DESIGN**

### **Remote Delivery of Services**

In 2021, the LAP moved into its second year of providing all services in a virtual format. Although some group facilitators, participants, and even State Bar staff displayed some hesitation when the transition to remote delivery began in 2020, the online support and monitoring groups quickly proved their value and continued to flourish in this environment in 2021. In the summer of 2021, LAP group facilitators joined the LAP Oversight Committee in a robust discussion of the benefits and drawbacks of a virtual group format. It was widely agreed that the benefits of the virtual format far outweigh the drawbacks. Specifically, virtual meetings have provided the flexibility to expand the program in new ways. Ideas for future innovation are focused on how new groups can be tailored to the needs of specific audiences across the state.

### **Organizational Transformation**

As described in previous LAP Annual Reports, the State Bar's Board of Trustees voted to separate the functions of the LAP into two distinct parts. The Mandatory LAP serves those participants who are referred by the Office of Admissions as part of moral character investigations or by the State Bar discipline system, and the Voluntary LAP serves those who self-refer. Both Mandatory and Voluntary participants continue to have access to the same professional monitoring and supportive services. The Voluntary LAP also houses the TAS and the outreach and education programs.

This report discusses the accomplishments of both the Mandatory and the Voluntary segments of the LAP as directed by Business and Professions Code section 6238.

## **EFFECTIVE INTERVENTION**

To understand and improve participant satisfaction, the LAP developed a satisfaction survey that is now distributed quarterly to all participants. The survey allows participants to voluntarily provide feedback on many aspects of the LAP, including staff, group facilitators, outreach, and specific program requirements. A target was set that 80 percent of respondents would report that they either "agree" or "strongly agree" with the following statements: "The information and services provided by LAP effectively and appropriately address my goals," and "Overall I am satisfied with my LAP experience." The LAP exceeded the 80 percent target for both questions in every quarter of 2021, and the program utilizes the specific feedback received from the surveys to assess and improve the program going forward.

## 2021 CASELOAD AND PROGRAM DATA

The following charts provide a snapshot of the work of the LAP for 2021.

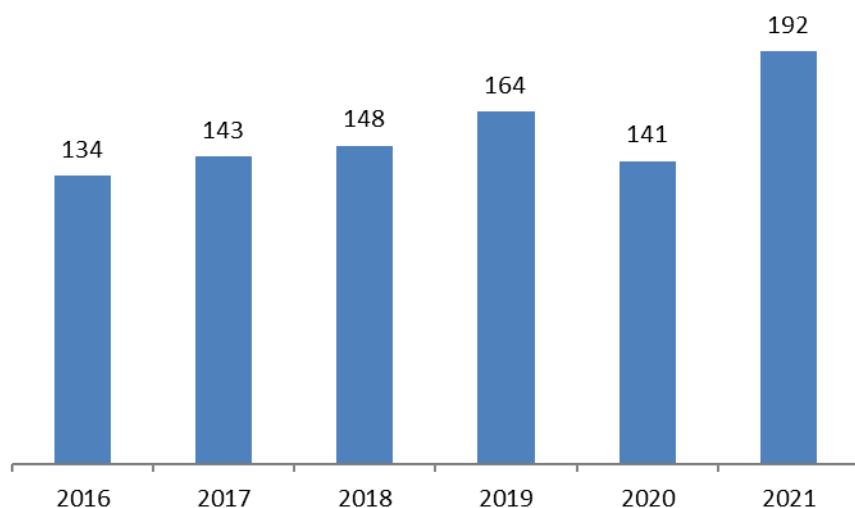
### LAP CASELOADS

#### New Cases

The number of new intakes in 2021 totaled 192, an increase of 36 percent compared to the 141 new intakes in 2020. This is the largest one-year percentage increase in the LAP's history. If the artificially low intake number from 2020 is removed, the 2021 intake number still represents a 17 percent increase compared to the 164 intakes in 2019. An average of 165 active participants were enrolled in the LAP over the course of 2021. TAS numbers increased 17 percent in 2021, from 152 individuals accessing the service in 2020 to 178 users in 2021.

2021 was the second full year that participants were divided into mandatory and voluntary caseloads. At the time of intake, 24 percent of participants enrolled in the Mandatory LAP and 76 percent entered the Voluntary LAP. However, as explained below, many participants enroll in Voluntary LAP preemptively, with the expectation of being required to participate by the Office of Admissions or by the discipline system. Therefore, participants often begin enrollment in the Voluntary LAP and are then later transferred to the Mandatory LAP.

#### LAP Intakes: 2016–2021

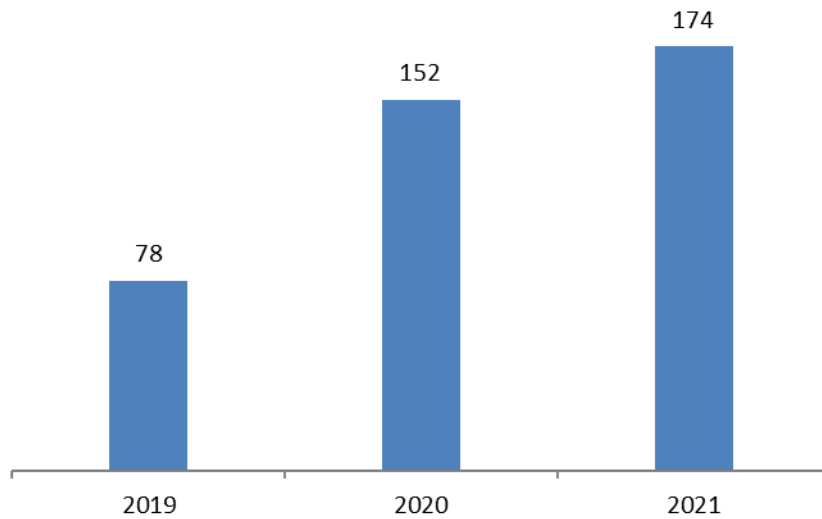




### **Mandatory LAP and Voluntary LAP Intakes: 2020 – 2021**



### **Transition Assistance Service Usage: 2019–2021**



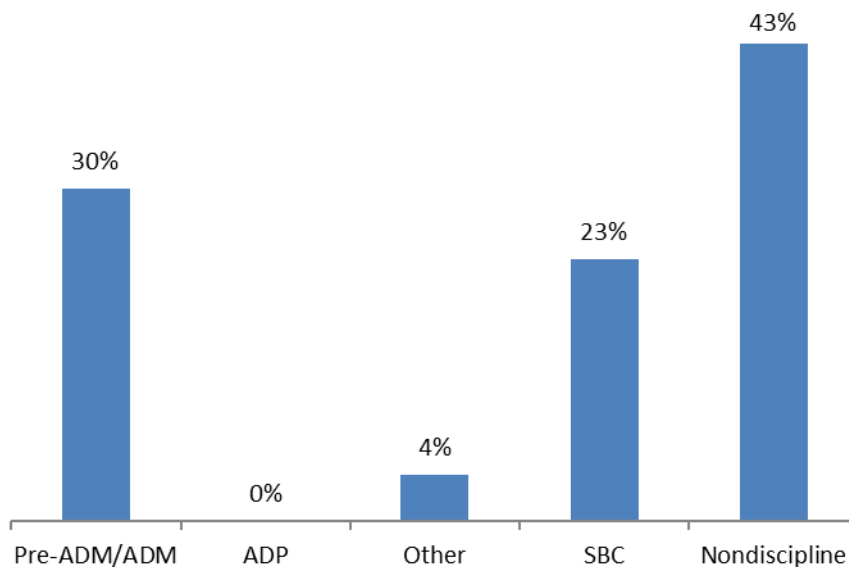
## Reasons for Participation

There are many reasons why participants enroll in the LAP. A State Bar applicant with a record of alcohol-related arrests may be referred to the LAP by the Office of Admissions while their moral character application is placed in abeyance. During the period of abeyance, LAP staff monitor and document the applicant's recovery work. This population is captured in the Reasons for Participation chart as "ADM." Some law students and State Bar applicants (who may expect the Office of Admissions to have later concerns about alcohol- or drug-related arrests) self-refer. This population is captured in the Reasons for Participation chart as "Pre-ADM." Thirty percent of the LAP's intakes in 2021 were ADM or Pre-ADM.

Participants who are involved in the standard discipline process through the State Bar Court (SBC) made up 23 percent of intakes. Admission to the LAP is a prerequisite to qualify for the State Bar's Alternative Discipline Program (ADP); therefore, many SBC referrals often enroll in the LAP with the intention of applying to the ADP at a later date. There were no intakes in 2021 of attorneys who reported already being enrolled in the ADP. The 4 percent who fall into the "Other" category are generally enrolling for the LAP's professional monitoring to provide documentation of recovery to another state's LAP, licensing board, or the State Bar's Office of Probation.

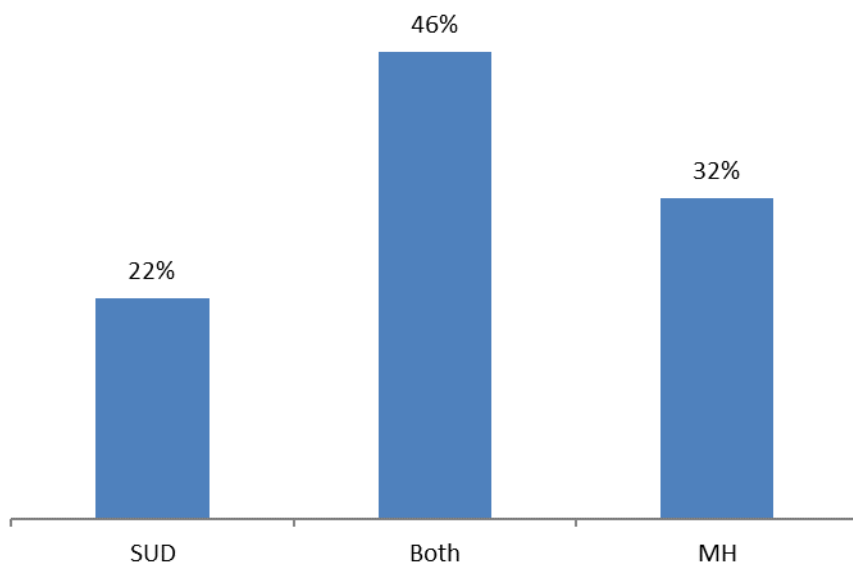
Forty-three percent of intakes in 2021 were in the "Nondiscipline" category. The people in this category report enrolling in the LAP for the unique support provided by mental health professionals who specialize in working with attorneys. They may have learned about the LAP through LAP's outreach or the MCLE program, or from a colleague or an employer. These are the participants who after enrollment remain in and make up the majority of the Voluntary LAP participants.

### Reasons for Participation: 2021



A tally of the presenting issues at intake shows that almost half (46 percent) of participants presented with concerns about both a substance use and a mental health problem. Twenty-two percent of participants presented with symptoms of a substance use disorder (SUD) and 32 percent enrolled for solely mental health (MH) concerns.

### Presenting Problems: 2021



### Case Closures

In 2021, the LAP closed 174 cases, 118 of which were opened in 2021, with the rest opened in prior years. The reasons for case closure varied. Thirty-four percent of individuals who left the LAP in 2021 did so because they met their stated program goals.

Depending on the conditions of enrollment, program goals may be met in several ways. Those participants who meet the program's criteria for Successful Completion (which includes a minimum of three years of continuous sobriety or mental health stability) are included in the category "Met Program Goals." There were 10 individuals who successfully completed LAP in 2021.

Also, as noted above, a State Bar applicant may participate in the LAP for the duration of an abeyance period (the length of which is set by the Office of Admissions or Committee of Bar Examiners) to determine fitness for admission to the practice of law. When the applicant has successfully demonstrated compliance with the LAP requirement—fully participated for the time required to take responsibility for their actions, have sufficient time for rehabilitation, or for other reason for which they were directed to participate in the LAP—the applicant is considered to have met their program goals. Fifteen applicants met their program goal by completing this abeyance. Participants who enroll in the Support LAP<sup>1</sup> have no time

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<sup>1</sup> Support LAP participants receive the same assessment, recommendations, and support as those enrolled in Monitored LAP; however, the LAP does not monitor their compliance with the recommendations.

requirement attached to their program participation, and they are able to determine when they have received sufficient support services. Twelve people completed their Support LAP program in 2021.

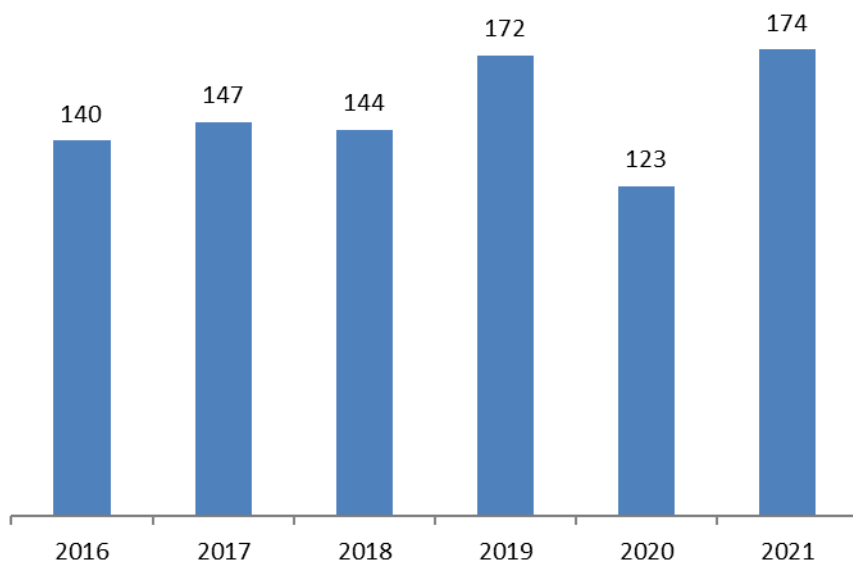
Those who choose to participate only in the Orientation and Assessment are also considered to have met program goals if they complete the Orientation and Assessment phase of the LAP, which includes an assessment by a licensed clinician, referral to external resources and treatment providers, and up to four sessions in a LAP-facilitated support group. Twenty individuals completed the Orientation and Assessment in 2021.

The areas of Successful Completion, completion of the Admissions abeyance, Support LAP participation, and completion of the Orientation and Assessment, are all included in the Met Program Goals total and combined represent 34 percent of all case closures.

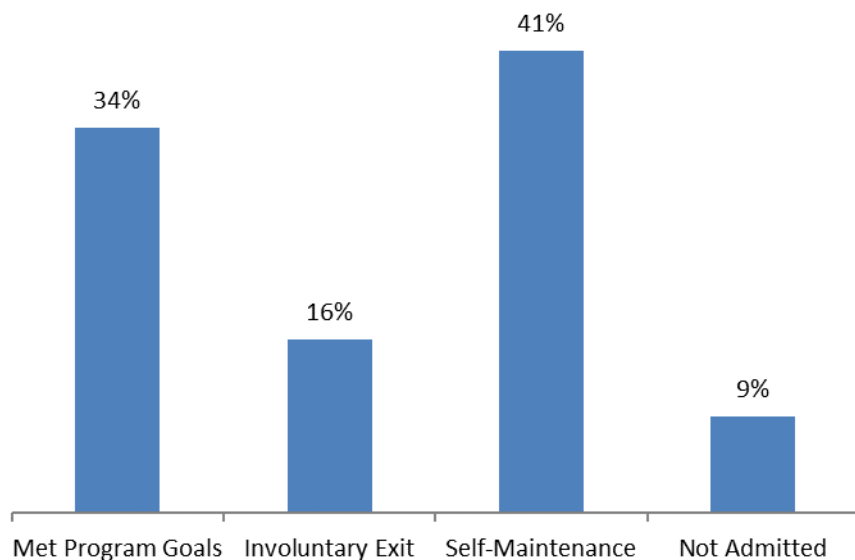
Sixteen percent of case closures were considered to be an “Involuntary Exit” by the participant. This category includes those who may have discontinued contact without expressing a reason, disagreed with program recommendations and thus chose to end their relationship with the program, moved out of state, or are deceased. This category would also include participants who were terminated from the program for issues of noncompliance. Only one participant was terminated from the LAP in 2021.

Individuals who expressed a plan to continue their support and recovery activities without LAP support are referred to as self-maintenance. Forty-one percent of case closures fell into the self-maintenance category. Finally, 9 percent of closed cases were closed because they did not meet the criteria for admission into the Monitored LAP.

#### **LAP Cases Closed: 2015–2021**



### Reason for LAP Case Closure: 2021



### 2021 EXPENDITURES

The total revenue received in 2021 was approximately \$2.11 million, exceeding expenditures by \$140,000. As of the end of 2021, the LAP fund balance was at \$1.62 million.<sup>2</sup>

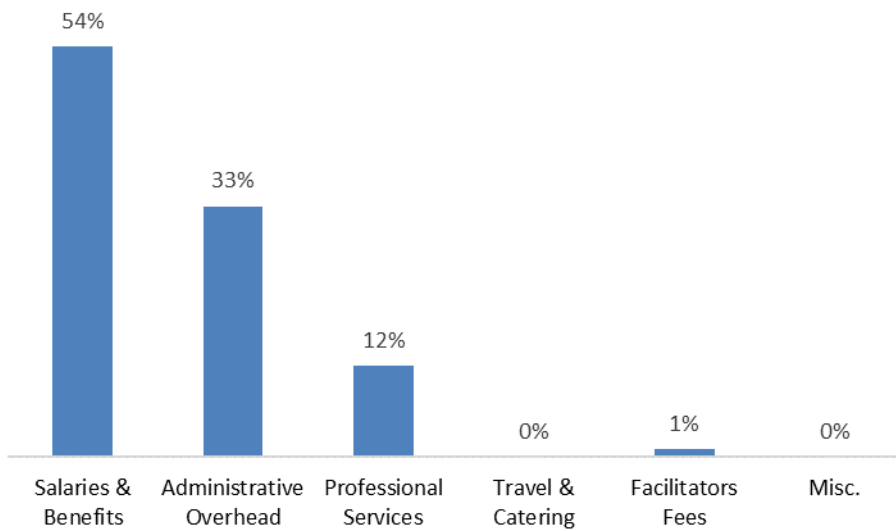
Salaries and benefits plus administrative overhead amounted to 87 percent of the expenditures. The expenditures for professional services, which includes both the TAS and the fund transfer of approximately \$190,000 to The Other Bar made up 12 percent of spending in 2021.<sup>3</sup> A report from The Other Bar detailing its spending of the funding provided is due to the State Bar on March 1, 2022. Travel, facilitators' fees, and miscellaneous expenditures made up 1 percent of the spending in 2021. The miscellaneous category includes items such as telephone, office supplies, and postage, which were negligible due to remote work.

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<sup>2</sup> The financial information is approximate pending final year end audit

<sup>3</sup> On and after January 1, 2019, \$1 of the \$10 fee paid by each active licensee pursuant to subdivision (a) [of Business and Profession Code §6140.9] shall be transferred by the State Bar to a statewide nonprofit corporation, established by attorneys that has, for the last 25 years or more, provided peer support to attorneys recovering from alcohol and substance abuse in a confidential and anonymous manner, to fund the support of recovery efforts of the nonprofit corporation.

## LAP Expenditures 2021: \$2.25 Million



## CONCLUSION

The LAP continues to work to increase its outreach and to provide supportive and professional monitoring services for the legal community. Remote services are proving to be a success, and their usage is increasing. The LAP expects to continue to expand its remote offerings and remains committed to devising new ways to identify and reach those in need of its services.