



The State Bar *of California*

AD HOC COMMISSION ON THE DISCIPLINE SYSTEM

Date: April 28, 2022

To: Ad Hoc Commission on the Discipline System

From: Justin Ewert, Principal Program Analyst

Subject: Discipline Costs

ISSUES

1. Should the methodology for and approach to assessing discipline costs be changed?
2. Should the State Bar continue to impose sanctions?

BACKGROUND

The State Board Court webpage on discipline costs can be found [here](#).
The most recent adjustment to the discipline cost formula can be found [here](#).

DISCUSSION

Issue 1: [Business and Professions code 6086.10](#) mandates the State Bar collect the “reasonable costs” of investigation, hearing and review. It also mandates collection of costs associated with transcripts and other expenses that would qualify as taxable costs recoverable in civil proceedings. The Bar’s most recent adjustment to the discipline cost formula was done in 2011. The costs are more expensive than other state attorney regulatory agencies and other California regulatory boards. A concern is these high costs impact a respondent’s decision to settle matters due to monetary reasons. Another concern is the inability for judges to adjust costs after trial when a respondent prevails on multiple counts, but is still found guilty on one or more allegations. A final concern is that a respondent pays more for going through the appeal process even if the outcome substantially lowers the initial discipline ordered.

Issue 2: [Business and Professions code 6086.13](#) allows the State Bar to impose monetary sanctions in orders where the discipline outcome is suspension or disbarment. The sanctions are paid to the client security fund, which reimburses clients who have lost money or property

due to dishonest conduct by a California attorney. [Rule 1.375](#) provides guidelines for the implementation of the statute. The guidelines propose sanctions of up to \$5,000 for disbarment, up to \$2,500 for actual suspension, and up to \$1,000 for resignation with charges pending. Other states did not report collecting sanctions nor was staff able to identify sanctions at other California regulatory agencies. The concern is that with discipline costs already being elevated sanctions compound the issue.

RECOMMENDATIONS FOR DISCUSSION

Issue 1 – Does the Ad Hoc Commission on the Discipline System recommend that discipline costs be revised or lowered?

Issue 2 – Does the Ad Hoc Commission on the Discipline System recommend that sanctions be eliminated?