



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: Early Neutral Evaluation Conference

ISSUES

1. Should there be an opportunity for an Early Neutral Evaluation Conference (ENEC) in criminal conviction matters?
2. Should there be time limits between the first and subsequent ENECs?

BACKGROUND

The State Board Court webpage on ENECs can be found [here](#).

DISCUSSION

Issue 1: [Business and Professions code 6101\(c\)](#) states that “Within 30 days of receipt, the Office of Chief Trial Counsel (OCTC) shall transmit the record of any conviction which involves or may involve moral turpitude to the Supreme Court with such other records and information as make be appropriate to establish the Supreme Court’s Jurisdiction.” This transmission was delegated to the State Bar Court. OCTC states that this timeline does not allow for them to have an ENEC in criminal conviction matters. Proponents contend that an ENEC in criminal conviction matters could provide a resolution prior to the case going public and that an ENEC is always a useful process for respondents. The time for which transmittal occurred was recently extended from 5 days to 30 days.

Issue 2: [Rule 5.30](#) states that a party will have 10 days from the date of service to request an ENEC. Once requested, a hearing judge is to conduct the conference within 15 days of the request. There is nothing in the rule to limit the judge from having additional ENECs and there are no time constraints on the length of time between subsequent ENECs. Concerns were

raised that since the conferences happen prior to the Notice of Disciplinary Charges, which makes the case public, long time lapses between ENECs delay the notification of the public.

RECOMMENDATIONS FOR DISCUSSION

Issue 1 – Does the Ad Hoc Commission on the Discipline System recommend the deadline for the transmission of criminal conviction matters be extended to 60 days to allow for an ENEC?

Issue 2 – Does the Ad Hoc Commission on the Discipline System recommend that timelines for additional ENECs be developed?