



# The State Bar of California

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**DATE:** March 15, 2024

**TO:** Members, Lawyer Assistance Program Oversight Committee

**FROM:** Office of Case Management and Supervision – Lawyer Assistance Program Staff

**SUBJECT:** LAP Oversight Committee Working Groups – Summary of Themes from Stakeholder Interviews

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	Office of Chief Trial Counsel (OCTC)	Association of Discipline Defense Counsel (ADDC)	State Bar Court (SBC)
<b>COSTS</b>	Understanding from defense counsel is that cost may be a barrier for some respondents.	Costs not a barrier for all, some respondents may be unemployed, treatment is not too expensive but multiple status conferences where the respondent has defense counsel, can drive up the cost.	Sometimes respondents are also having to pay restitution while participating in the program.
<b>PROCESS/ PROCEDURES ISSUES</b>	In many cases the time from referral for consideration for ADP to the final determination whether to grant ADP is too long, with many cases taking	OCTC tries to dictate facts of stipulation leading to a unilateral view of the facts.  Needs to be a way to promptly resolve factual disputes early	Parties cannot agree on a stipulation.  Need a process to determine allegations – not a trial to determine ADP eligibility, maybe on briefs.

	<p>years for this process to be completed.</p> <p>Parties often disagree over stipulation of facts.</p> <p>Exemptions from eligibility for ADP need to be refined and clarified, with clear procedures for resolving disputes over eligibility.</p> <p>Any requirement for evidentiary hearings regarding eligibility factors should be limited to avoid the potential for repeated presentations of the same witnesses and evidence (at an eligibility hearing and then, if ADP is denied, at the disciplinary trial).</p>	<p>– maybe through mediation or briefing.</p> <p>Use existing Rule 5.382(b) to decide issues more quickly.</p>	
<b>CURRENT ELIGIBILITY GUIDELINES</b>	<p>A respondent should not be eligible for ADP where the nature of the misconduct and any aggravating factors is such that disbarment is a substantially likely outcome even with substantial mitigation from completion of ADP.</p>	<p>Moral turpitude needs to be more specifically defined.</p> <p>Moral turpitude is an unrealistic standard and lawyers should be judged by same standard as other professionals with fiduciary duties (bankers, security brokers, real estate agents, etc.).</p>	<p>All matters should be open to ADP; strong belief in rehabilitation.</p> <p>Early on program was open to everyone, just needed a nexus. Result was respondents who committed serious misconduct could participate – Supreme Court was</p>

			concerned. Rules were then changed and the moral turpitude exclusion was added.
<b>COLLABORATIVE COURTS</b>	No real understanding of collaborative courts.	No real understanding of collaborative courts.	Doesn't have enough information about collaborative court to opine. Public perception may be problematic, but impact of discipline on a lawyer's life is significant especially given social media, it stays on record forever.