



The State Bar of California

DISCIPLINE COST METHODOLOGY

I. Purpose

To establish a method for assessing discipline costs that is efficient, accountable, and transparent.

II. Applicability

The new discipline cost model calculates discipline costs to be assessed to respondents in State Bar disciplinary proceedings and replaces the 2010 Discipline Cost Methodology.

III. Definition(s)

| | |
|-------------------------|--|
| Stage One: | settlement prior to filing of Notice of Disciplinary Charges |
| Stage Two: | settlement before Pretrial Statement is filed |
| Stage Three: | settlement before trial but after Pretrial Statement is filed or one-day trial |
| Stage Four: | one-day trial |
| Stage Five: | multiday trial |
| Stage Six: | Review Department proceeding |
| Per Investigation Cost: | cost per case applied when more than one Office of the Chief Trial Counsel (OCTC) matter is included in a single State Bar Court (SBC) case. |

IV. Policy

Actual costs assessed are derived from budgeted expenditures in the following manner:

- A. Determine the total OCTC and SBC prior year actual budget minus the cost of all attorney and judicial positions¹.
- B. Determine the percentage of total cases closed by stage annually.
- C. Multiply budget (Line A) by case stage percentages (Line B) to determine total cost per stage.
- D. Divide “discipline cost per stage” (Line C) by the number of attorneys associated with the cases closed in that stage to determine a per attorney cost by stage.
- E. A per investigation cost enhancement is applied in cases where more than one OCTC matter is included in a single SBC case. This fee comprises a per case fee derived from the data outlined in A-C above.

Default and Stage One costs are discrete. Costs for Stages Two through Six are “stacked”: an attorney is charged for each stage that their matter passes through, i.e., an attorney whose matter closes after a one-day trial would be assessed fees for Stages 1 through 4.

In addition to the cost per attorney, a cost per case is used to assess the per investigation cost enhancement.

Types and Stages of Cases

| All Disciplinary Matters |
|--|
| Default: resolution via default |
| Stage One: Settlement prior to filing of a Notice of Disciplinary Charges. |
| Stage Two: Settlement Before Pretrial Statement is filed |
| Stage Three: Settlement before trial but after Pretrial Statement is filed or a one-day trial |
| Stage Four: One-day trial |
| Stage Five: Multiday trial |
| Stage Six: Review Department proceedings + Per Investigation (Cost Per Case) |

Example of Application, 2023 Data

Based on the number of cases closed reported in the 2023 Annual Discipline Report, the number of attorneys associated with those cases, and the 2023 OCTC and State Bar Court budget, discipline costs are as follows:

Table 1. 2023 Discipline Costs

| | Cases Closed with Discipline | Total Closed Cases | 2023 Budget Less Attorney Cost | Discipline Cost Per Stage | Cases Closed w/ Discipline by Attorney | Discipline Cost Per Attorney | Discipline Cost Per Attorney Stacked |
|-------------|------------------------------|--------------------|--------------------------------|---------------------------|--|------------------------------|--------------------------------------|
| Default | 84 | 17,231 | 32,539,872 | 158,630 | 28 | 5,665 | 5,665 |
| Stage One | 53 | 17,231 | 32,539,872 | 100,088 | 41 | 2,441 | 2,441 |
| Stage Two | 124 | 17,231 | 32,539,872 | 234,168 | 103 | 2,273 | 4,714 |
| Stage Three | 59 | 17,231 | 32,539,872 | 111,419 | 42 | 2,653 | 7,367 |
| Stage Four | 7 | 17,231 | 32,539,872 | 13,219 | 7 | 1,888 | 9,255 |

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|---------------|------------|---------------|-------------------|----------------|------------|-------|---------------|
| Stage Five | 63 | 17,231 | 32,539,872 | 118,972 | 55 | 2,163 | 11,418 |
| Stage Six | 2 | 17,231 | 32,539,872 | 3,777 | 2 | 1,889 | 13,307 |
| Totals | 392 | 17,231 | 32,539,872 | 740,272 | 278 | | |

The cost per case using 2023 data is outlined in table 2.

Table 2. Discipline Costs – Cost Per Case

| Total Cases Closed with Discipline | Total Cases Closed | Budget (Less Attorney) | Total Discipline Cost | Total Cases | Cost Per Case |
|------------------------------------|--------------------|------------------------|-----------------------|-------------|----------------|
| 392 | 17,231 | 32,539,872 | 740,272 | 392 | \$1,888 |

For example, the discipline cost for cases settled at Stage Two (settlement before pretrial statement is filed) for 2023 would be:

$$(124 / 17,231) \times (\$32.5M) = \$234,168 \rightarrow \$234,168 / 103 = \$2,273 \rightarrow \$2,273 + \$2,441 = \$4,714$$

Should an SBC case settle at Stage Two (settlement before pretrial statement is filed) with two OCTC case investigations included in the single SBC case, the total cost with one per investigation cost enhancement would be:

$$(392 / 17,231) \times (\$32.5M) = \$740,272 \rightarrow \$740,272 / 392 = \$1,888 \rightarrow \$1,888 + \$4,714 = \$6,602$$

The methodology relies heavily on two variable factors: the number of cases closed with discipline each year and the number of attorneys associated with those cases. Given the potential variability in these factors, staff may propose modifications to the straight application of the model each year to smooth the impact of unusual or outlier data.

V. Contact for Questions

For any questions regarding this policy, please contact Aracely Montoya-Chico at amontoya@calbar.ca.gov or Justin Ewert at justin.ewert@calbar.ca.gov.