

DISCIPLINARY ADVISORY ROUND TABLE
2016 and 2017 ANNUAL REPORTS
TO THE
WASHINGTON SUPREME COURT
WASHINGTON STATE BAR ASSOCIATION BOARD OF GOVERNORS

Brief History

In 2010, the Board of Governors created the Disciplinary Advisory Round Table (DART) following a recommendation from the BOG Discipline Review Committee, and which was approved by the Court. The purpose of DART is to act as a forum for the discussion of issues and concerns regarding the lawyer discipline system in Washington. Initially, DART was given a two-year pilot term after which it would be reviewed and evaluated by the BOG and the Court.

In 2012, with approval from the BOG and the Court, DART was extended for another two years. DART began its second term in July 2013. In September 2015, DART requested a third two-year extension of its charter, which was approved by the BOG and the Court. The current term expires on September 30, 2017.

Members

DART's original membership consisted of a member of the Supreme Court (who serves as chair), WSBA Chief Disciplinary Counsel, a member of the Board of Governors, WSBA Executive Director, Chief Hearing Officer, Disciplinary Board Chairperson, Respondent's Counsel, two public members, an active Bar member not involved in the disciplinary process, and a lawyer from the WSBA Office of General Counsel. In 2012, membership was expanded to include a second respondent's counsel and a representative from the minority bar association. In 2015, membership on DART was extended to the Vice Chair of the Disciplinary Counsel, due to the annual turnover of the Disciplinary Board Chair, who is a standing member of DART. The charter was also amended to clarify the appointment process.

Current Activity

Over the course of five meetings during fiscal years 2016 and 2017, DART held discussions on:

- the proposed adoption of the ABA Model Rule on Payee Notification by the Washington State Office of Insurance Commissioner;
- Disciplinary Board approval of stipulations under ELC 9.1 and settlement conference stipulations;
- the proposed Coordinated Regulatory and Discipline System;
- Audio and Video Recordings in disciplinary hearings and the lack of ELC rules addressing the issue;
- Order of argument procedure in ELC 7.2(a)(2) Interim Suspension Hearings; and

- Confidentiality in Diversion contracts under proposed amendments to ELC 3.3, 3.4, and 6.6.

DART has closely followed development of the Coordinated Discipline System and anticipates continued involvement as the process moves forward. In May 2017, after the issue was referred to DART by the Supreme Court, DART recommended a change to the order of argument in ELC 7.2(a)(2) interim suspension hearings. In August 2017, following a request from the Supreme Court Rules Committee, DART provided feedback to the Court on proposed amendments to ELC 3.3, 3.4, and 6.6. DART is also continuing discussion of the issue of audio and video recording in discipline hearings.

DART Status Recommendation

The two-year extension of DART's charter expires on September 30, 2017. According to the charter, the BOG and the Court will review DART to determine if it provides value and whether it should be allowed to sunset or become an ongoing entity.

During the past two years, DART has fulfilled its mission as a forum for discussion of issues affecting the discipline system and has provided recommendations for improvement on several issues. The strength of DART is the inclusion of key constituents and stakeholders who are able to exchange perspectives and ideas about issues affecting the discipline system. For this reason, DART plays a unique role for the system that would not be otherwise replicated or achieved in its absence. Therefore, it is recommended that DART's charter be extended without a specified sunset date, with the assumption DART should continue its work under the charter until directed otherwise by the BOG and the Court. In addition, the charter should include appointments for a Limited License Legal Technician (LLLT) and a Limited Practice Officer (LPO) to serve as representatives and set term limits for appointed members.