

# WASHINGTON STATE BAR ASSOCIATION

Office of the General Counsel

**TO:** WSBA Board of Governors  
**FROM:** Hon. Charles K. Wiggins, Chair, Disciplinary Advisory Round Table (DART)  
Darlene Neumann, Staff Liaison  
**DATE:** September 13, 2017  
**RE:** DART Annual Reports and Amended Charter

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**INFORMATION:** Disciplinary Advisory Round Table (DART) annual report.

**CONSENT:** Amend Charter to make the DART an ongoing entity that includes positions for LLLT and LPO representatives, sets term limits for appointed members, and provides current members with a one-year extension.

**DISCUSSION:** Following are the 2016 and 2017 annual reports for the Disciplinary Advisory Round Table. The reports are combined since DART held just two meetings in 2016.

Since the DART was formed in 2010, it has functioned on a temporary, two-year basis as dictated by its charter. The DART has requested and received extensions three times from the BOG and the Supreme Court. The direct expense budget for DART has been very modest: \$6,234.49 over seven years, with zero expenses in FY 2016 and 2017. Rather than seeking another extension, the DART is requesting that it be designated a standing entity, which will allow it to continue its work without needing to come back to the BOG and the Court for further extensions. At the same time, the DART recommends adding one LLLT and one LPO representative to reflect current Bar membership of all licensed legal professionals in Washington state.

Since DART will expire on September 30, 2017, we recommend continuing the terms of the current members for one year to bridge the gap to the next fiscal year to allow DART to convene as necessary for the discussion of discipline system issues.

**Attachments:**

- 2016 and 2017 Annual Reports
- Suggested Amended Charter
- DART roster



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.



## DISCIPLINARY ADVISORY ROUND TABLE CHARTER

### History

In July 2010, the WSBA Board of Governors (BOG), acting on a recommendation of the BOG Discipline Review Committee, established the 11-member Disciplinary Advisory Roundtable (DART), which was subsequently approved by the Supreme Court. Under its Charter (adopted by the BOG on July 23, 2010), “[t]wo years after the DAR[T]’s formation, it will be reviewed and evaluated by the DAR[T], the Board of Governors and the Supreme Court. If, after the two-year period, it is determined that the DAR[T] is providing value to the disciplinary system, the DAR[T] may be formalized by court rule.”

During its initial iteration, DART convened on September 15, 2010, and held its final meeting on June 27, 2012. In its 2012 Annual Report, the DART concluded that it had provided and could continue to provide a valuable forum for discussion of discipline system concerns and issues. In September 2012, the BOG recommended extending the tenure of DART to September 30, 2015, and adding two additional positions (a second Respondent’s counsel representative and a minority bar association representative), which recommendation was approved by the Supreme Court. In September 2015, the BOG recommended extending DART for another two years to September 30, 2017, and expanded the membership to include the Vice Chair of the Disciplinary Board.

On [date], the BOG approved amendments to the charter to extend the function and work of DART indefinitely, add LLLT and LPO as members, and set member term limits, which was approved by the Court.

### Amended Charter

The duties and responsibilities of the Disciplinary Advisory Round Table (DART) are as follows:

- The DART acts as a forum for the identification and discussion of issues and concerns relating to the lawyer, LLLT and LPO disciplinary systems in Washington;
- The DART may make recommendations for change to discipline-system rules and procedures;
- The DART shall provide an annual report to the Supreme Court and the WSBA Board of Governors addressing how it has performed the duties and responsibilities set forth in this Charter and, as appropriate, outlining its future work plans;
- The DART has no independent decision-making authority or regulatory authority.

## Membership

The ~~Board of Governors~~BOG will make appointments to the DART, subject to the approval of the Supreme Court, for the following positions: two respondent's counsel representatives; two ~~public~~ members not licensed to practice law; one minority bar association representative; an active member of the Bar who is not otherwise involved in the disciplinary process; one Limited License Legal Technician (LLLT); and one Limited Practice Officer (LPO). ~~The Washington State Bar will also appoint one member of the Board of Governors to DART.~~

The ~~remaining standing~~ members are ~~comprised of~~: a member of the Supreme Court, who shall serve as Chair of the Round Table; the WSBA Chief Disciplinary Counsel; the Executive Director of the WSBA; the Chief Hearing Officer; the Chair of the Disciplinary Board; the Vice Chair of the Disciplinary Board; a lawyer from the WSBA Office of General Counsel, and a Board of Governor appointed by the BOG.

All members are voting members.

## Terms

Except for standing members, committee appointments shall be for three years and a member's service shall be limited to two consecutive terms, after which the member cannot be reappointed to DART for three years, subject to individual exceptions as approved by the BOG.

Terms of appointment are staggered. Inaugural positions may be filled by appointments of less than three years, as designated by the BOG, to permit certain positions to be filled each year. Terms of office begin at the start of the fiscal year.

In the event of a member vacancy, the BOG may appoint a replacement.

*Adopted by the Board of Governors July 23, 2010; amended January 23, 2014; and approved by the Supreme Court on March 5, 2014. Amended September 18, 2015 and approved by the Supreme Court on September 30, 2015. Amended [date] and approved by the Supreme Court on [date].*



**DISCIPLINARY ADVISORY ROUND TABLE  
2016-2017 (revised 7/8/2017)**

| NAME/ADDRESS  | POSITION/TERM                         | E-MAIL   | PHONE/FAX                              |
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2016-2017 (revised 7/8/2017)**

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