

DISCIPLINARY ADVISORY ROUND TABLE

October 4, 2022

Meeting Minutes

Present: Chair Justice Mary Yu, Terra Nevitt, Julie Shankland, Doug Ende, Virginia Pratter, Christopher Sanders, Kevin Bank, Anne Seidel, Norma Ureña, and staff liaison Darlene Neumann. Excused: Drew Simshaw. Absent: Tom McBride and Randy Petgrave. Interested Parties: Rachel Agent, ODC Disciplinary Program & Systems Manager

The meeting began at 9:02 a.m. The chair welcomed members and members introduced themselves.

Minutes

The chair commented the May 19, 2021, minutes should remain as preliminary since several members who were present at the meeting are no longer on the committee. The chair directed staff to circulate the March 16, 2022, minutes to members for review after today's meeting.

ELC 5.7 and the Court's Internal Rule on Grievance Dismissals

The chair presented a request from the chief justice asking DART to review and make recommendations, if any, regarding ELC 5.7 and the Court's Internal Rule II-13, concerning review of WSBA grievance dismissals.

Doug Ende commented he had not previously been aware of the court's internal rule. He suggested any perceived inconsistency between ELC 5.7 and the court's internal rule might be more about terminology than substance. Discussion followed on amending the rule with language from GR 12 or ELC 2.1 and whether additional procedural steps should be added given the court's active supervision of the discipline system. Other comments included whether a different rule exists for appeals by pro se respondents (no, according to the chair), how review requests would be communicated to the court if the ELC is amended, raising awareness of the option, and concern that it could result in increased work for the court.

Members inquired whether the court has ever declined a grievant request for review, or if the court's review had resulted in a different outcome. The chair stated the court receives a few requests each year and to the chair's knowledge, the review has not resulted in any change to the original dismissal decision. One member noted the internal nature of the court's rule, that most grievants are unaware of the option, and if a grievant requests review that some communications may not be very comfortable for the court to receive by email. The chair commented that the internal rules are actually published online to be transparent and open but agreed that the court may need a process to handle receipt of papers from grievants. The chair thanked members for their discussion and comments.

Proposed Membership Changes to the Charter

Members discussed proposed amendments to the charter to add four additional members. There was general consensus regarding the proposal to add a professor position and for another active uninvolved WSBA member.

Further discussion followed on the proposal to add a former Disciplinary Board chair and a former Chief Hearing Officer when the current chairs are already seated on the committee. A comment in support of the proposal was that a former D Board chair and former CHO would bring unique perspectives after having served in those roles. Anne Seidel suggested the DART should consider additional member types such as a young lawyer, a senior lawyer, and a person who can communicate on disability issues regarding lawyer disability proceedings. Members discussed organizations from which to recruit these members, the Bar's volunteer timetable, and outreach by the chair and other DART members.

The chair and members agreed that there should be no vote on the proposed charter amendments until there is agreement on how DART should expand.

Other Comments, Ideas, Questions

Anne Seidel followed up on an item from the last meeting regarding forming a task force to study disability/incapacity discipline procedures. The chair stated there has been no action yet because of timing on the Court and that Justice Whitener is currently putting together a statewide disability task force that would include admission and fitness to practice law issues.

The meeting adjourned at 9:55 a.m. The chair thanked members for attending.