

# *Missouri's Lawyer Discipline System – and How to Avoid It*

February 2026

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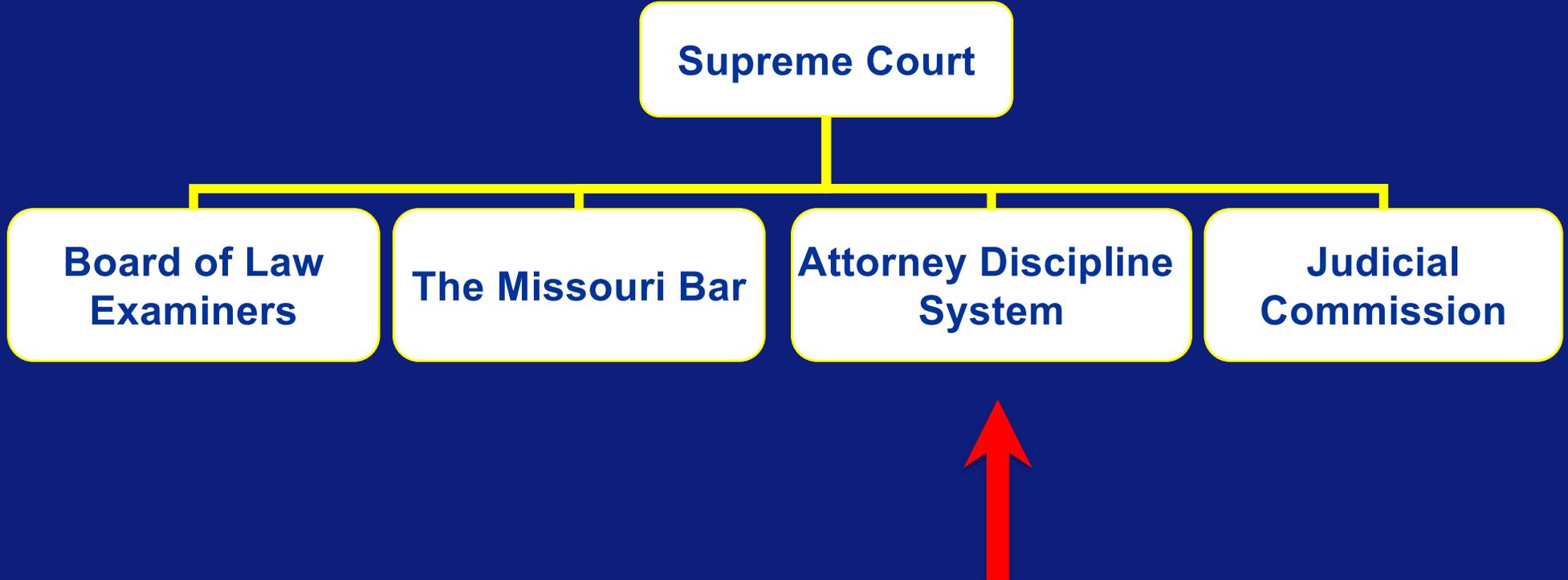
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- *Certificate of Completion* – Available also through the Program Survey
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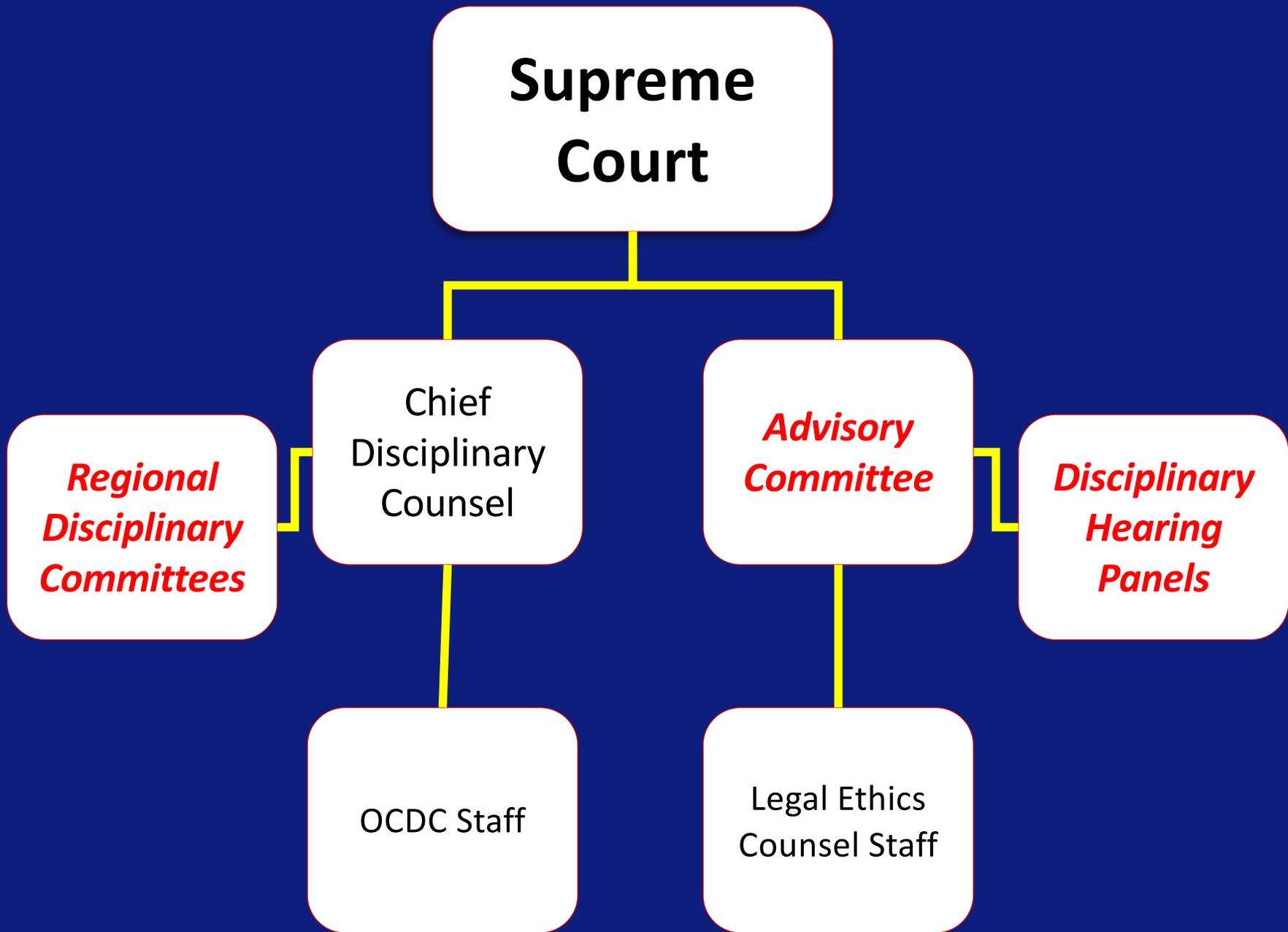


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# Elements of Discipline System

# Missouri Discipline Organizational Chart





## Two (General) Types of Discipline Cases

- Ordinary process (three stages)
- Expedited process (only one stage)

# Three-Stage Discipline Process

# 2,026 Complaints Received – 2024

**641** Investigations opened

**385** Cases investigated by Regional Disciplinary Committees

**256** Cases investigated by OCDC

**45** Overdraft notifications

**69** Cases placed in the OCDC's Informal Resolution Program

**1,209** Investigations not opened (*In certain instances, OCDC does not open an investigation until after related litigation is completed.*)

**93** Referred to Complaint Resolution Committee

**14** Placed in "Inquiry" status (*These cases were not opened but were monitored to determine whether an investigation should be opened in the future.*)

The total number of complaints opened as formal investigations during 2024 was 641. The most common complaint areas are as follows:

<b>NATURE OF VIOLATIONS *</b>	<b>NO.</b>
Rule 4-1.4 (Communication)	379
Rule 4-1.3 (Diligence)	271
Rule 4-1.5 (Excessive Fees)	156
Rule 4-8.4(c) (Dishonesty, Fraud, Deceit, Misrepresentation)	137
Rule 4-1.16 (Improper Withdrawal)	102
Rule 4-1.15 (Safekeeping Property)	70
Rule 4-1.7 (Conflicts)	45
Rule 4-1.1 (Competence)	44
Rule 4-1.2 (Client Directives)	37
Rule 4-1.6 (Confidentiality)	32
Rule 4-3.4 (Obstruction/False Evidence)	26
Rule 4-3.3 (Truth to Tribunal)	25
Rule 4-5.5 (Unauthorized Practice)	17
Rule 4-4.2 (Communication with Person Represented by Counsel)	11
Rule 4-7.2 (Advertising)	11
Rule 4-4.1 (Truth to 3 <sup>rd</sup> Persons)	10
Rule 4-8.4(b) (Criminal Activity)	10
Rule 4-8.4(g) (Bias)	10
Rule 4-5.3(b) (Supervisory Responsibility)	8
Rule 4-1.16(a)(2) (Incapacitated Lawyer)	4
Rule 4-1.14 (Diminished Capacity)	2
Rule 4-3.8 (Prosecutorial Responsibilities)	2
Rule 4-8.1(c) (Failure to Cooperate)	2
Rule 4-3.6 (Trial Publicity)	1
Rule 4-4.3 (Dealing with Unrepresented Person)	1
Rule 4-8.2 (Judicial and Legal Officials)	1

The most prevalent practice areas which resulted in investigations are as follows:

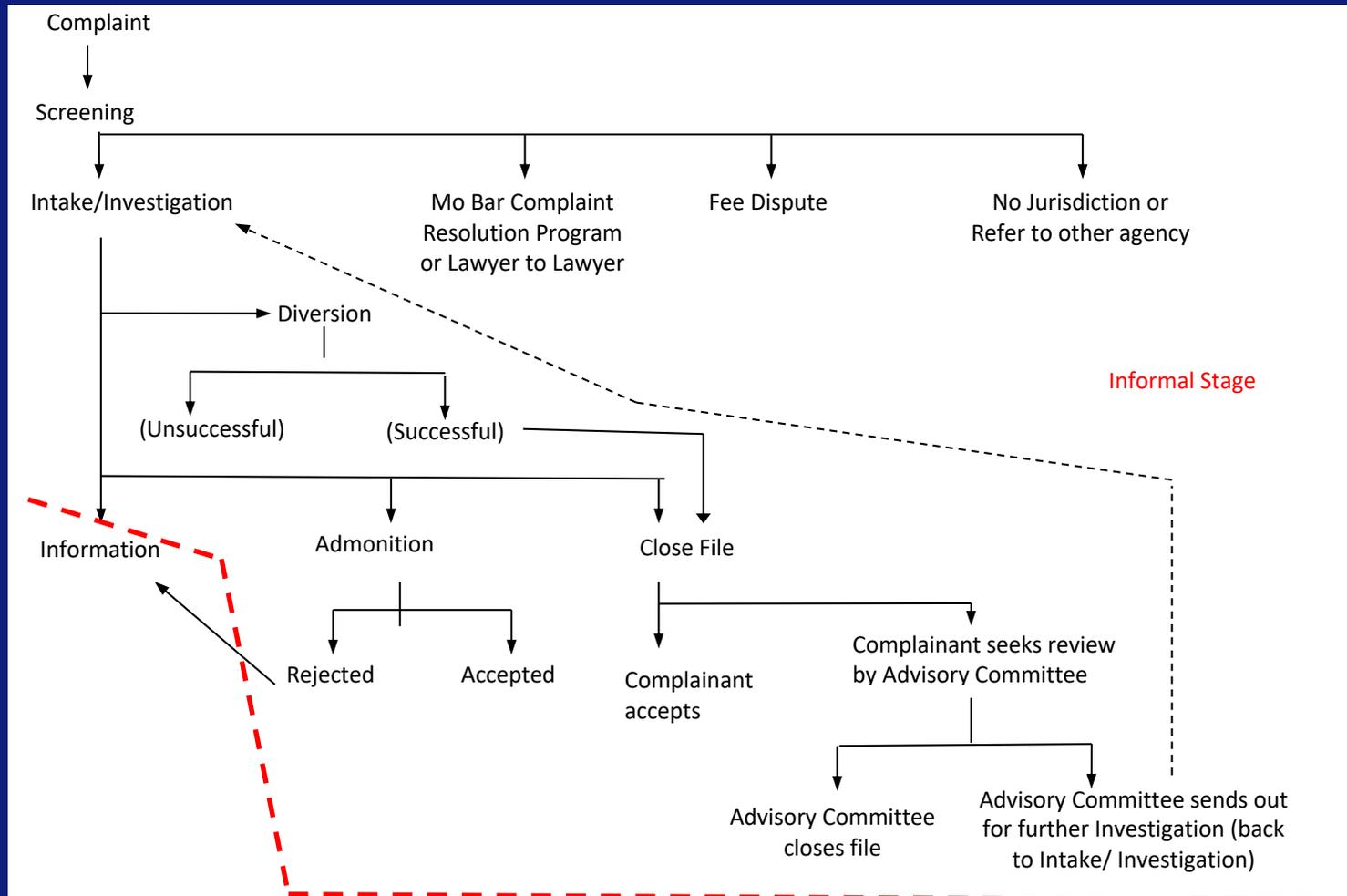
<b>AREA OF PRACTICE *</b>	<b>NO.</b>
Domestic	143
Criminal	131
Litigation	99
Other	83
Estate/Probate	36
Torts	36
Real Property	31
Bankruptcy/Receivership	12
Administrative/Governmental	11
Workers Compensation	10
Immigration/Naturalization	9
Traffic	8
Juvenile	5
Guardianship	4
Landlord/Tenant	4
Collections	3
Civil Rights	2
Insurance	2
Commercial Law	1
Contracts	1
Labor Law	1

\* Investigations involving trust account overdraft notifications made to the OCDC are not included in this tabulation.

# Fee Disputes

43 complainants referred to Fee Dispute Committee

# “Informal” or “Investigative Stage”



# Main Elements of Informal Stage

- (Written) complaint or report
- Screening
- Response
- *Possible replies, surreplies, etc.*
- Investigation by OCDC or Regional Committee
  - Possible sworn statement/examination under oath

# Possible Outcomes

- Dismissal
  - Dismissal with guidance (guidance letter)
- Diversion (? accepted or rejected)
- Admonition (accepted or rejected)
- Formal charge (information)

# Diversion

- Similar to criminal diversion
- Usually involves
  - Additional education
  - Monitoring of practice – reports to OCDC

# Admonition

- Letter in lawyer's file discussing conduct and rules violated
- Public but not published
- Technically not discipline but an aggravating factor for future proceedings
- May be issued by OCDC, Regional Committee, or Hearing Panel

# “Informal” Resolutions

## B. Investigation Summary

Region <sup>2</sup>	Investigations Pending 1/1/24	Investigations Opened in 2024	Investigations Completed in 2024
IV	79	90	87
X	70	116	118
XI	39	46	68
XV	58	109	91
OCDC	66	244	199

Region	Admonitions Issued in 2024	Guidance Letters Issued in 2024
IV	7	11
X	16	8
XI	12	9
XV	7	18
OCDC	49	36

# Advisory Committee Review of Dismissals

In 2024, 28 complainants requested review

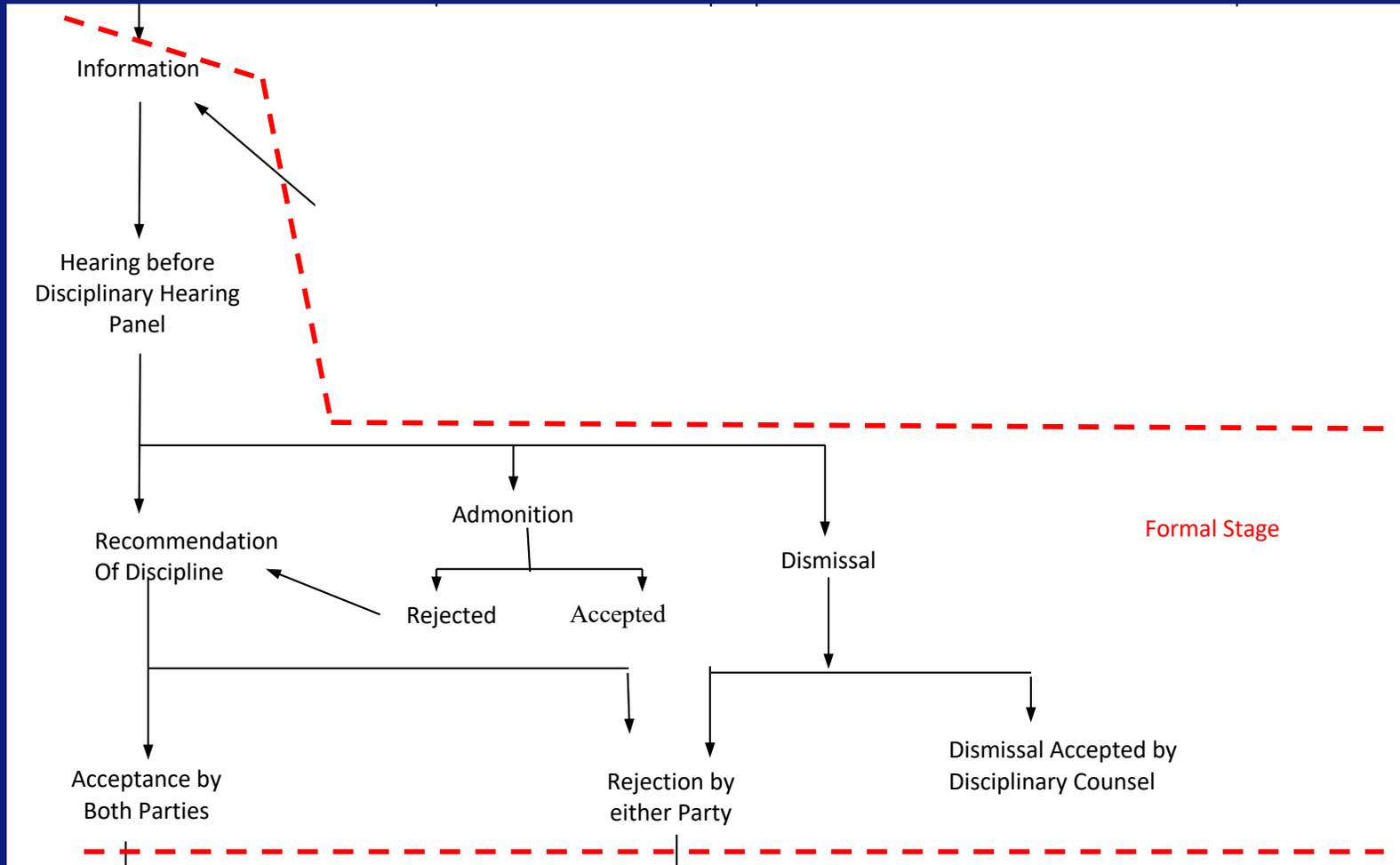
13 upheld findings

3 guidance letters

1 further investigation

11 remained pending

# “Formal” Stage



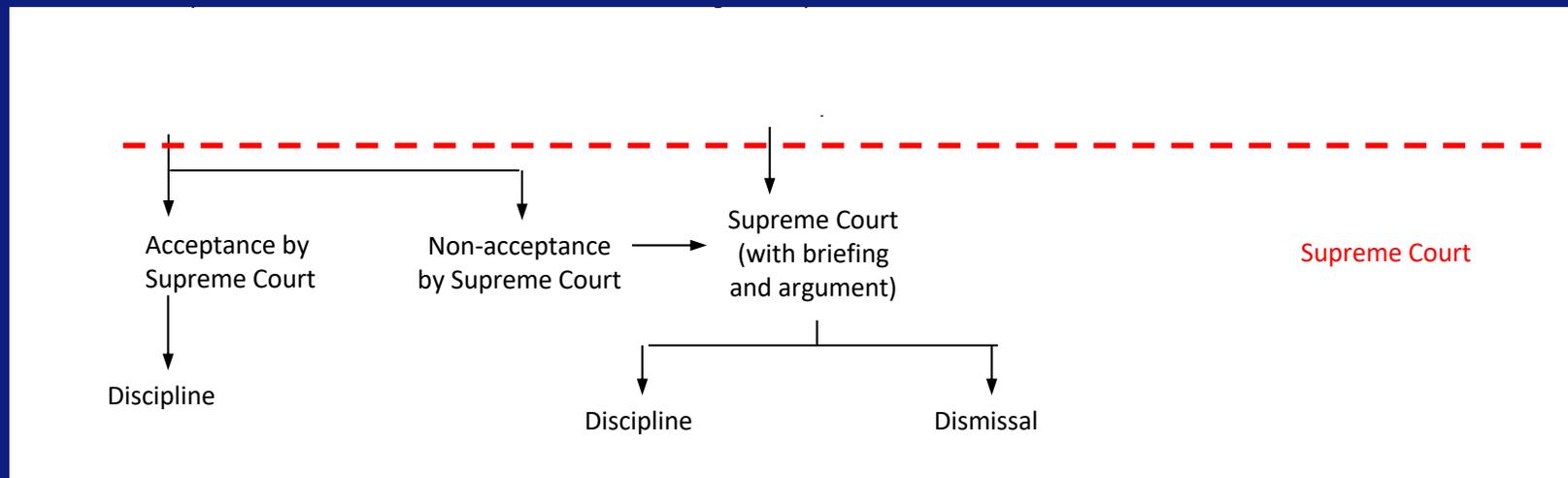
# Main Elements of Formal Stage

- Pleadings – Information and Answer
  - No dispositive motions
  - No experts
- Discovery
  - Requests for production and admission
  - Subpoenas and depositions
  - No interrogatories
- Hearing – before hearing panel – 2 lawyers, 1 lay person

# Possible Outcomes

- Dismissal (accepted or rejected)
- Admonition (accepted or rejected)
- **Recommendation** of (formal) sanction

# Supreme Court (as a matter of right)



# Main Elements

- Record (from hearing)
- Informant's Brief (OCDC)
- Respondent's Brief
- (Possible) reply brief
- Oral argument

# Possible Outcomes

- Dismissal
- (Formal) sanctions
- No admonition

# Expedited/Shortened Processes

# Bases for Expedited Processes

Rule 5.13 – Default proceedings

Rule 5.20 – Reciprocal discipline

Rule 5.21 – Criminal conviction

Rule 5.23 – Incapacitated or disabled

Rule 5.24 – Threat of harm (to public)

Rule 5.245 – Failure to pay (state) taxes

Rule 6.01 – Failure to pay annual enrollment fees

Rules 15.06 – Failure to satisfy CLE requirements

# Expedited Processes

- Filing in court – information or notice of administrative violation (taxes, annual fees, CLE)
- *Sometimes (interim or permanent) suspension takes effect immediately*
- *Sometimes order to show cause issues*
- *Sometimes lawyer can respond to order to show cause*
- Court enters sanction (or sometimes takes another action)

# Consequences of Expedited Processes

- Interim suspension
- (Formal) sanction – often suspension or disbarment

# (Formal) Sanctions

# (Formal) Discipline

- Sanction
- Financial penalty
- (Possible) probation
- Reciprocal discipline in other courts

# Rule 5.17 – Disciplinary Sanctions

- (1) Reprimand
- (2) Probation, subject to the provisions of Rule 5.175
- (3) Stayed suspension with probation, subject to the provisions of Rule 5.175
- (4) **Suspension**, whether stayed or not, shall be for an **indefinite** period but may include a period of not less than six months and not more than three years during which the respondent cannot apply for reinstatement
- (5) **Disbarment** (minimum 5 years)

# Suspension in Missouri

- Always “indefinite”
- Usually allowed to reapply after 6, 12, 18, 24, 30, or 36 months
- Reinstatement may take a year or more
- Often must pass MPRE before seeking reinstatement
- Need to comply with Rule 5.27

# Disbarment in Missouri

- Always “indefinite”
- Allowed to reapply after 60 months (5 years)
- Reinstatement may take a year or more
- Must pass bar exam before seeking reinstatement
  
- Need to comply with Rule 5.27

# Rule 5.17 – Other Disciplinary Consequences

- (1) Payment of costs and investigative expenses, as established in Rule 5.19(k)
- (2) Disgorgement of fees
- (3) Conditions and requirements related to probation
- (4) Publication of discipline and discipline cases, as described in Rule 5.31
- (5) Conditions precedent to reinstatement or readmission
- (6) Requirements following suspensions and disbarments associated with closing a practice and notification of clients, courts, and opposing counsel, as established by Rule 5.27
- (7) Orders of this Court and
- (8) Other consequences flowing from misconduct and any resulting discipline

## Rule 5.19 – Costs and Investigative Expense

(k) Costs and Investigative Expenses. A respondent upon whom discipline is imposed by this Court shall be taxed costs in the matter. The Chief Disciplinary Counsel shall prepare an itemized bill of costs allowable in each case, including reasonable expenses incurred by the Chief Disciplinary Counsel in the course of the investigatory, hearing, or review procedures under this Rule. The itemized bill of costs, with associated invoices or receipts attached, shall be served upon the respondent by first class United States mail. Within 15 days of receipt of the bill of costs, the respondent shall either accept and pay such costs or notify the Chief Disciplinary Counsel of any objections thereto. The Chief Disciplinary Counsel may either reduce the bill of costs in accordance with the respondent's objection or may file a motion requesting that the Court review the bill of costs and enter an order with regard thereto.

In addition to such costs, a respondent upon whom discipline is imposed by this Court shall be assessed an investigative expense in the following amounts depending upon the nature of the discipline imposed:

Reprimand:	\$750.00
Suspension:	\$1,000.00
Probation:	\$1,500.00
Disbarment:	\$2,000.00

The costs and investigative expenses shall be paid to the Clerk of this Court to the credit of the Advisory Committee Fund.

# Rule 5.27 Procedure Following a Disbarment or Suspension Order

- Complete shutdown of practice (within 15 days) including
  - Notifying all clients, opposing counsel and courts of discipline
  - Stop taking cases and withdraw from all cases
  - Returning all files and trust funds
- Notify court of compliance and submit license to Court for destruction within 5 days of prior period

# Reciprocal Impact of Sanction

- Disciplinary sanction in one state may impact all other bar licenses
- Often handled in expedited fashion – order to show cause why same discipline should not be imposed

# Surrender of License

# “Surrender” of License

- No retirement status
- Surrender = disbarment
- Beware going inactive outside compliance with Rules

# Process for Surrender

- Submit petition for surrender
- Provide basis for surrender
- OCDC investigates and issues report
- Court accepts or rejects surrender

# Discipline in 2024

# Formal Proceedings

85 Informations filed

3 default proceedings to Supreme Court

8 briefs by OCDC in Supreme Court

4 OCDC rejected Hearing Panel decision

1 Neither party concurred

3 Court rejected Hearing Panel recommendation

# Summary of Formal Sanctions in 2024

10 lawyers were disbarred

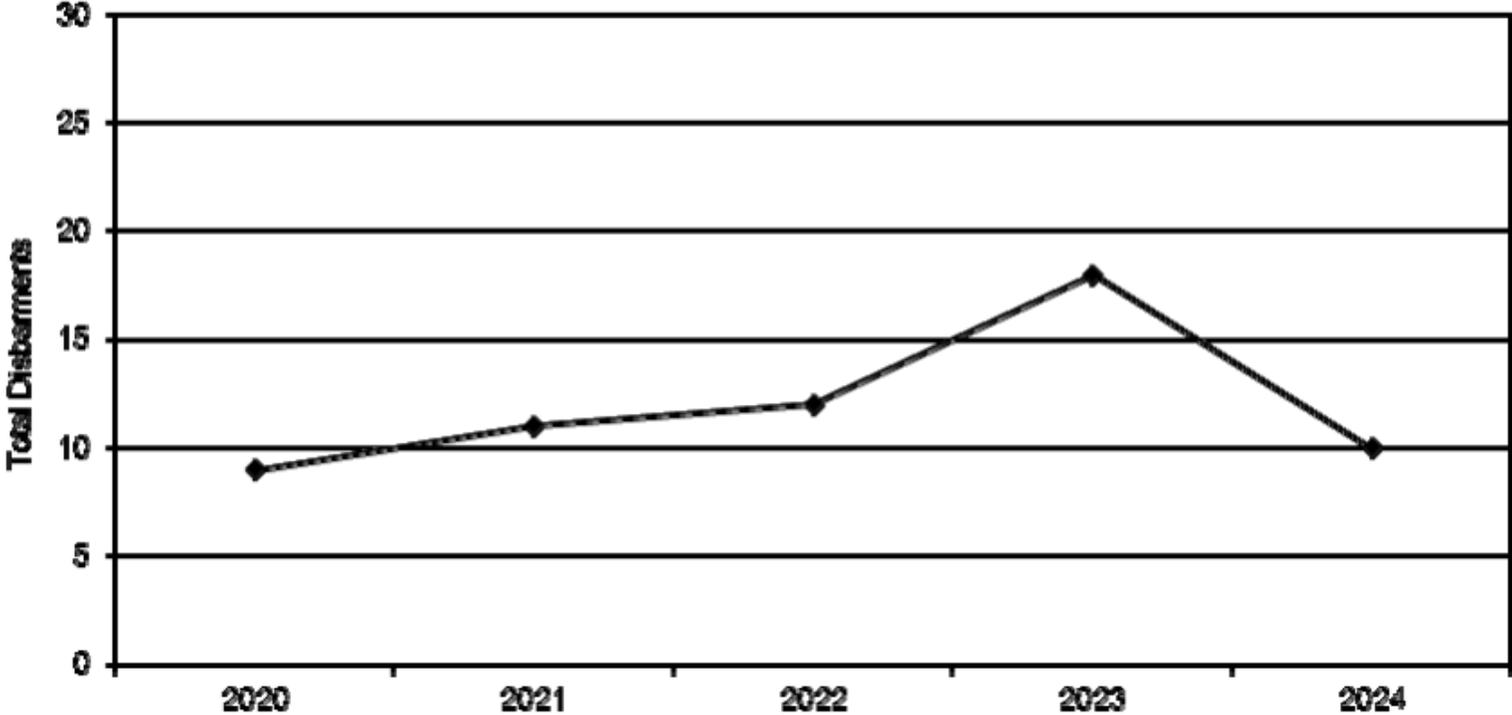
9 lawyers were suspended – one of those suspensions was stayed and the attorney was placed on probation with conditions

75 lawyers were suspended pursuant to Rule 5.245 (Failure to Pay tax)

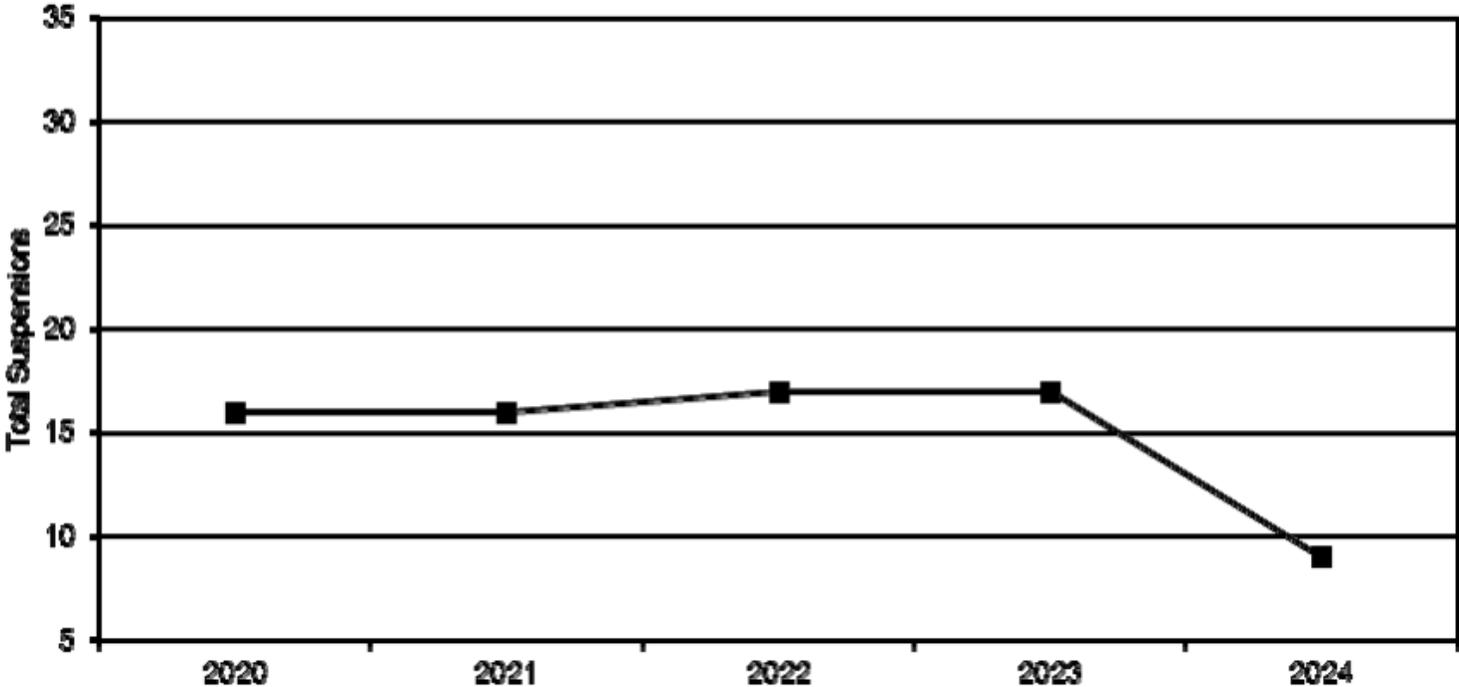
1 lawyer received a public reprimand

91 admonitions were administered by the Regional Disciplinary Committees and the OCDC

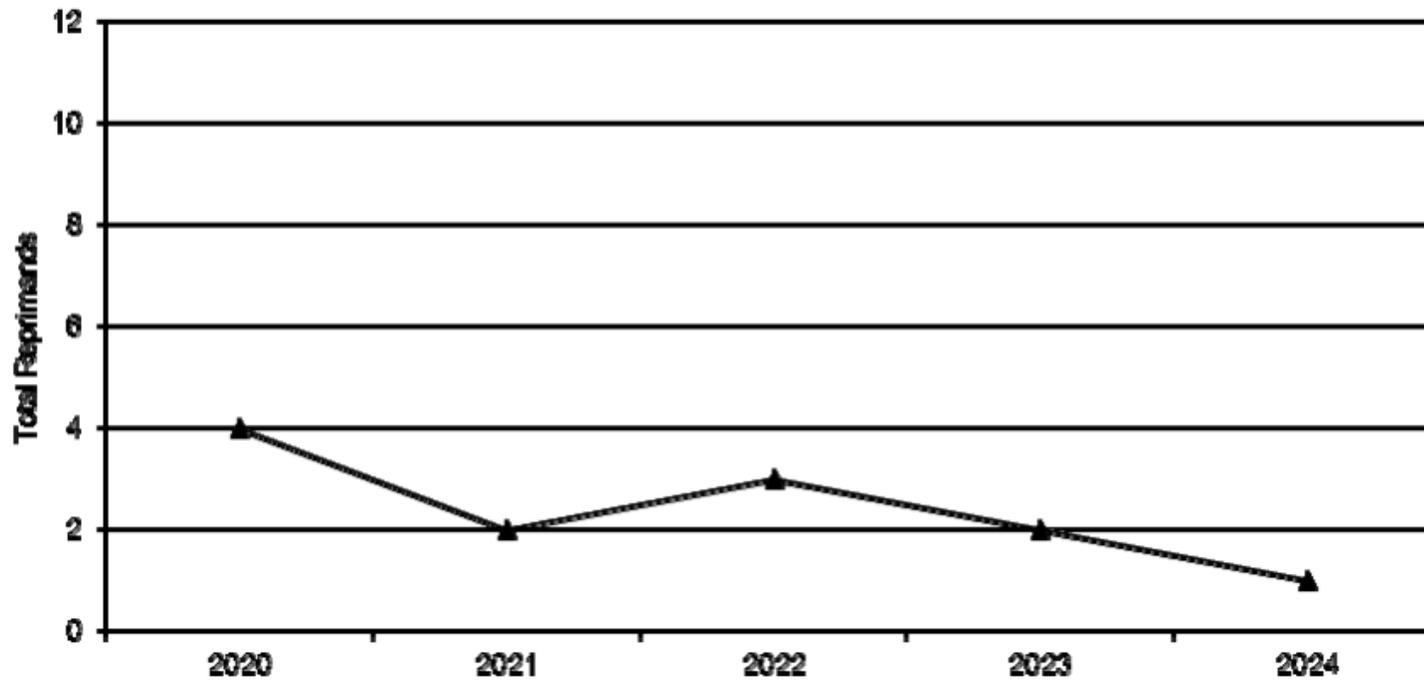
### Disbarments



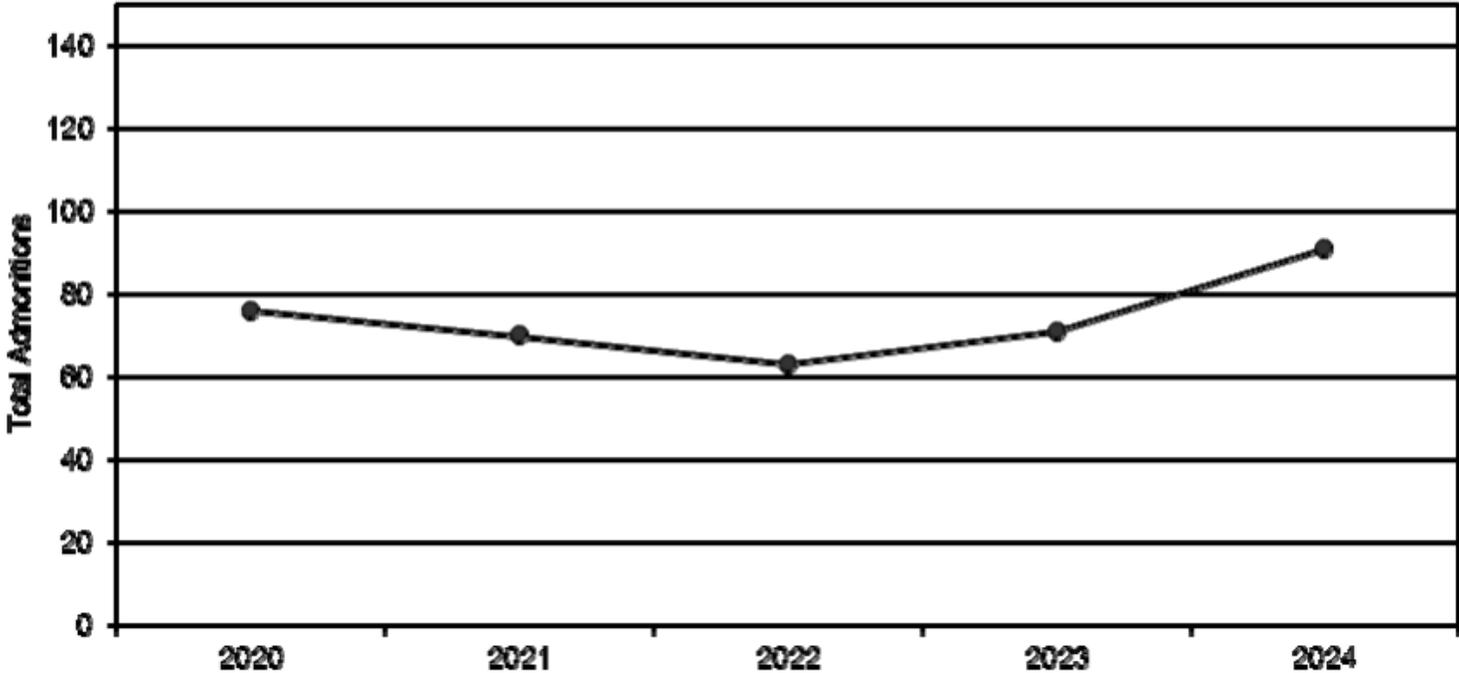
### Suspensions



## Reprimands



# Admonitions



# Protection for Participants in Discipline Process

# Rule 5.315 Immunity and Privileges

(a) Communications submitted to the Advisory Committee, the Chief Disciplinary Counsel, the Legal Ethics Counsel, regional disciplinary committees, disciplinary hearing panels, or staff of any of these entities relating to lawyer misconduct or disability are **absolutely privileged if submitted in good faith. No lawsuit predicated on such communications may be instituted.**

(b) All complainants and witnesses are **immune from suit** for any complaint filed or testimony given under this Rule 5.

# Rule 5.085 – Period of Limitation

(a) **Investigations** under this Rule 5 may be initiated **only within five years after the Chief Disciplinary Counsel knows or should know of the alleged acts of misconduct**. If the investigation involves a course of alleged misconduct, the time of limitation shall date from the last act of alleged misconduct. Investigations relating to a felony, requests for reciprocal discipline under Rule 5.20, and requests for discipline under Rule 5.21 are not subject to any time limitation.

(b) The limitation period is tolled during any time tolling would be allowed in law, including the period:

- (1) The lawyer actively conceals the professional misconduct;
- (2) The complainant has not attained the age of 18 years; or
- (3) The complainant is incapacitated.

## Rule 5.31(a) – Confidentiality of Proceedings

(1) All proceedings, the records of all proceedings, investigations, records pursuant to Rule 5.30, and records of the Advisory Committee under this Rule 5 shall be confidential except as otherwise provided in this Rule 5.31.

(2) All confidential records shall be deposited with, and maintained by, the Chief Disciplinary Counsel, except all confidential records pursuant to Rule 5.30 and records of the Advisory Committee shall be maintained by the Legal Ethics Counsel.

# Rule 5.31(c) – Protective Orders

Protective Orders and Closing Records After Disposition. A protective order may be issued upon application, or on the motion of the presiding officer or the chair of the Advisory Committee, and for good cause shown to protect the interests of a complainant, witness, third party, or respondent. A party seeking to file a document or other item that is confidential or privileged by operation of law shall seek a protective order.

- (1) A protective order may be issued by the chair of the Advisory Committee prior to the appointment of a disciplinary hearing panel. The disciplinary hearing panel may issue a protective order from the time of its appointment until an information, if any, is filed in this Court.
- (2) A protective order may prohibit the disclosure of specific information and direct that the proceedings be conducted so as to implement the order including, but not limited to, an order that the hearing be conducted in such a way as to preserve the confidentiality of the information that is the subject of the application.
- (3) Special consideration shall be given to an application for a protective order regarding information that is confidential or privileged by operation of law.
- (4) When good cause is shown and a protective order is necessary, the order should be written as narrowly as is practicably feasible.
- (5) Once issued, a protective order is effective throughout the disciplinary proceeding, including disposition by this Court if the matter is reviewed by this Court, but is subject to withdrawal or modification.
- (6) Once a protective order issues, parties must file all subsequent documents in accordance with the terms of such protective order, including any required redactions.

If a disciplinary hearing panel recommends dismissal of an information and the Chief Disciplinary Counsel accepts the recommendation, records of the information shall be confidential upon request of the respondent.

If this Court dismisses an information, the respondent may move to have records of the information sealed from public access.

# Rule 5.31(b) – Public Proceedings

- (1) Upon the filing of an information and an answer or other responsive pleading with the Advisory Committee, all materials filed in connection with the information and all related proceedings are public unless a protective order is issued.
- (2) The Advisory Committee may adopt regulations regarding public and media access and "media coverage" of open disciplinary hearings consistent with this Rule 5.31 and subject to approval by this Court.
- (3) A written admonition becomes public upon its acceptance.
- (4) Upon the filing of an information in this Court, whether as an initial matter or after proceedings before a disciplinary hearing panel, all materials filed in connection with the information are public unless otherwise ordered by this Court or protected by a protective order issued pursuant to Rule 5.31(c).
- (5) All pleadings and documents filed with the Advisory Committee or this Court shall be redacted in accordance with Rule 84.015. The responsibility for redacting such information rests solely with counsel, the parties, or any other person preparing, offering, or filing the document.
- (6) The following aspects of otherwise public proceedings shall remain confidential:
  - (A) Deliberations by a disciplinary hearing panel; and
  - (B) Deliberations of and work product prepared by the Chief Disciplinary Counsel, the Chief Disciplinary Counsel's staff, the Advisory Committee, the Legal Ethics Counsel, the Legal Ethics Counsel's staff, and the regional disciplinary committees.

# Frequent Complaints with Lawyer Discipline (generally)

- Discipline system employs volunteer lawyers
- Many types of conduct excluded
  - Fee disputes
  - Incivility
- Disciplined lawyers are disproportionately solo or small firm practitioners and minorities
- Clients report most misconduct, but many types of problems escape client notice
- Lack of information given to complainant/client
- Most discipline is punitive, not rehabilitative

# Reinstatements 2024

# 22 Disciplinary Reinstatements Processed

3 reinstated

7 denied

12 pending at end of 2024

# 45 Tax Reinstatements Processed

27 reinstated

2 dismissed

16 remained pending

# 16 Non-Payment Reinstatements Processed

11 reinstated

4 denied

1 remained pending

# 20 MCLE Reinstatements Processed

11 reinstated

3 denied

6 remained pending

# 106 Return to Active Status Reinstatements

87 reinstated

14 dismissed

5 remained pending

# Duties to Self-Report

## Rule 5.20(a) – Discipline

Upon being disciplined by another jurisdiction, a lawyer licensed to practice in this jurisdiction shall within 10 days thereafter inform the Chief Disciplinary Counsel.

# Rule 5.21(a) – Criminal Conviction

A lawyer licensed to practice law in Missouri who has pleaded guilty or nolo contendere to or been found guilty of a crime in this state, any other state, or the United States, whether sentence is imposed or not, shall within 10 days thereafter inform the Chief Disciplinary Counsel.

# Duty to Report Misconduct

# Rule 4-8.3(a)

A lawyer who **knows** that

- another lawyer
- has committed a **violation of the Rules of Professional Conduct**
- that raises a **substantial** question as to that **lawyer's honesty, trustworthiness or fitness as a lawyer** in other respects

shall inform the appropriate professional authority.

# Closing Comments

# Impact of Drugs/Alcohol/Etc.

- Studies suggest 75% of lawyer discipline may be rooted in drugs, alcohol, or mental health issues
- **Lawyers Assistance Programs – 888-688-7859**
  - MOLAP provides free, confidential services to Missouri bar members, their families, and law students
  - Counseling, support group, addiction intervention, crisis intervention, and education

# Suggestions to Stay Licensed

- Maintain current address and email with Bar
- Respond to Bar and Client communications
  - Move matters forward and keep clients updated
- Learn trust accounting – and do it right
- Pay your dues and taxes and get your CLE credits
- Obey the law (don't get convicted)
- Be honest – and correct errors
- Avoid unnecessary conflict with judge and lawyers

# Conclusory Matters

**Questions** – If you have questions after the program, please email them to Paige Tungate at [ptungate@DowneyLawGroup.com](mailto:ptungate@DowneyLawGroup.com)

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# Timed Agenda

12:00-05 Introduction

12:05-55 Discussion of the Missouri lawyer discipline system and how to avoid becoming a respondent

# Future Programs

**February 17** – Tuesday at 3:00 PM CT - **Conflicts of Interest Update 2026**

**March 4** – Wednesday at 12:00 Noon CT - **Lawyer Professionalism and Ethics**

**March 19** – Thursday at 12:00 Noon CT - **Exceptions to the Duty of Confidentiality**

**April 15** - Wednesday at 12:00 Noon CT - **Neurodiversity in the Legal Profession**

**April 29** - Wednesday at 12:00 Noon CT - **Trust Accounting Ethics**

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# Thank you



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