



Press Release

January 24, 2012

TO: Media/Press

FROM: Judicial Conduct Board

SUBJECT: Board Action Regarding Recommendations of the Standing Committee on Judicial Discipline of the American Bar Association

Harrisburg. In January 2011, the Judicial Conduct Board (the Board) and the Supreme Court of Pennsylvania commissioned the Standing Committee on Judicial Discipline of the American Bar Association to conduct an independent review of the judicial system in Pennsylvania. In June 2011, after conducting a comprehensive investigation, the Standing Committee produced a Report on the Judicial Discipline System in Pennsylvania (the ABA Report). The Board studied the recommendations contained in the ABA Report and, where appropriate, took immediate action upon those recommendations at its August 15, 2011 meeting.

However, the Board is unable to implement several key recommendations of the ABA Report without coordinate action by the Judiciary and the other coequal branches of the Commonwealth's government. For its part, the Board will cooperatively engage with those individuals and organizations to determine the appropriate action to be taken, if any, on those matters. The purpose of this press release is to inform the citizens of this Commonwealth about both the changes that the Board has made to its operation based on the recommendations of the ABA Report and the changes that it intends to make through cooperation with the Judiciary and the coequal branches of the Commonwealth's government.

The summary of Board action on the ABA Report recommendations is as follows:

Section III – STRUCTURE OF THE JUDICIAL CONDUCT BOARD

Recommendation 1: Changes to the Organization of and Appointments to the Judicial Conduct Board and the Court of Judicial Discipline Should Be Studied (Pages 19-21).

The Board voted to write a short report to the Governor and the Chief Justice regarding its position on permitting members to serve a second four year term. The Board overwhelmingly endorses a second four year term for its members. The Board will continue to analyze and engage in constructive discussion with the Executive, Legislative, and Judicial leadership regarding the other proposed statutory and Constitutional changes to its operation contained within the ABA Report.

Section IV – CASELOAD MANAGEMENT, RESOURCES, AND FUNDING

Recommendation 2: The Processes for Dismissals After Preliminary Inquiry Should Be Streamlined (Page 22).

The Board will not engage in a three-member panel review of cases to be dismissed after preliminary inquiry (DAPI). The Board has not taken this suggested course due to its concern that such action would violate the Board's constitutional mandate to act as a committee of the whole with a seven-person quorum of its members. Therefore, the Board will continue its current practice of meeting as a whole *via* teleconference to consider cases recommended for DAPI consideration. Additionally, the Board is currently adopting procedural and internal form improvements to streamline the process of DAPI case review. The implementation of a case management system (*see Recommendation 3(B)*) should streamline the process.

Recommendation 3: The Board Should be Adequately Resourced (Page 25).

A. Allocation of Staff and Volunteer Time (Page 25).

The Board voted to amend its Internal Operating Procedure (IOP) 205.2 to allow staff to voluntarily refer matters to the legal review committee, if needed, and to allow the legal review committee to review Court of Judicial Discipline (CJD) and other court filings upon request. The Board also voted to amend IOP 9.02 to eliminate the requirement of staff maintenance of daily time records.

B. The Board and Chief Counsel's Office Must be provided with Enhanced Technology Resources (Page 27).

The Board agrees unanimously with the ABA Report's recommendation that it should obtain and utilize enhanced technology to assist its functions. To that end, the Board is in the final phase of implementing new computer hardware and an advanced case management system, as well as additional funds for its operating budget.

C. The Board and Supreme Court of Pennsylvania Should Explore Additional Ways to Fund the System (Page 28).

The Board is exploring the feasibility of assessing to judges and licensed attorneys a nominal annual fee to fund the Judicial Conduct Board. The funds generated by this fee will be maintained and controlled directly by the Board. The Board is also considering other options regarding the funding of its operations.

D. When Resources Become Available, the Board Should Hire Additional Staff (Page 29).

The Board will not hire additional staff at present, but it will revisit the hiring of additional staff in the future if hiring additional staff is necessary to effectuate its operations.

Section V – PUBLIC OUTREACH AND TRAINING

Recommendation 4: The Judicial Conduct Board Must Increase Outreach and Accessibility to the Public, the Judiciary, and the Bar (Page 31).

The Board will engage in expanded public outreach to the Bench, Bar, and citizens of Pennsylvania. The Board is in the process of contacting various judges' associations, specifically the Special Court Judges Association and the State Trial Judges Association, to obtain speaking engagements to explain the judicial discipline system and judicial ethics. The Board will also, when funds become available, endorse the attendance of staff at relevant judicial discipline conferences for training and education.

Recommendation 5: Formal Training of the Judicial Conduct Board Should be Mandatory (Page 34).

The Board will undertake efforts to enhance the training offered to its members and will make the Board's handbook for Board members available electronically.

Section VI – PPROCEDURAL RULES: JUDICIAL CONDUCT BOARD

Recommendation 6: The Board Should Eliminate the Requirement that Complaints be Verified (Page 36).

The Board will receive and review all complaints submitted to it in whatever form that involve judges within its jurisdiction in order to simplify the complaint process.

Recommendation 7: The Board should Reconsider Special Handling of Anonymous Complaints (Page 38).

The Board amended its IOP 4.03 to include an explanation of the manner by which it handles anonymous complaints. In summary, when the Board receives an anonymous complaint, its staff conducts a level of inquiry to determine whether the facts alleged in the complaint are able to be investigated; if such facts can be investigated and/or proven, Chief Counsel presents the anonymous complaint to the Board with the recommendation that the Board open a case file on the anonymous complaint. If such facts cannot be investigated, are plainly refuted, or are incapable of proof without the active participation of the complainant, Chief Counsel presents the anonymous complaint to the Board with the recommendation that the Board dismiss the anonymous complaint. In all cases, the Board, not Chief Counsel, makes the decision to open a case file based on the anonymous complaint or to dismiss the anonymous complaint without opening a file.

Recommendation 8: Complainants Should be Apprised of the Status of Their Complaints, Not Just Their Final Disposition (Page 41).

When the case management system is implemented fully, the Board will advise complainants of the status of their complaints.

Recommendation 9: The Board Should Amend its Procedural Rules and Eliminate the Four Year Statute of Limitations (Page 43).

The Board will **not** amend its statute of limitations, as the statute of limitations provides for exceptions that grant the Board the needed flexibility to investigate cases wherein judicial misconduct may have occurred beyond the four-year statute.

Recommendation 10: Confidentiality Requirements Should be Revised (Page 44).

The Board has concluded that it has struck the proper balance between transparency and confidentiality and, as a result, that it will not revise its confidentiality requirements.

Recommendation 11: The Requirement that Chief Counsel's Office Verify Formal Charges Filed with the Court of Judicial Discipline Should be Eliminated (Page 48).

This Recommendation inures to the rulemaking authority of the Court of Judicial Discipline and, as such, the Board cannot take action on this Recommendation.

Recommendation 12: The Rules Should Provide for Discipline on Consent (Page 49).

The Board is currently developing procedures for public discipline on the consent of a respondent judge. When approved by the Board, these rules will be issued for public comment and adoption.

Recommendation 13: Judges Who Have Committed Serious Misconduct Should Not be Able to Resign in Lieu of Facing Formal Charges and Continue to Retain Full Retirement Benefits (Page 50).

The Board voted unanimously that it agrees that judges should not be permitted to resign in lieu of the filing of formal charges.

CONCLUSION

Although the work of the ABA Report cannot be completed without the cooperation of the entire government of this Commonwealth, the Board remains committed to improving its effectiveness through efficient administration of its resources and workflow. Through the changes outlined above and with the continued cooperation of the coequal branches of this Commonwealth's government, the Board will continue to safeguard and enhance the integrity and independence of the Commonwealth's Judiciary.

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ABA Report and additional information about the Judicial Conduct Board is available on the Board's website at www.jcbpa.org.

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