

**Summarized Testimony of Nik Chourey, Oregon State Bar Deputy General Counsel,
Regarding Transparency Over Attorney Discipline**

June 14, 2023 Meeting of the Special Projects Subcommittee, Oregon Sunshine Committee

Summary of the Attorney Disciplinary Process: Complaints are received and reviewed by the Client Assistance Office (CAO), which makes a determination whether there is reasonable belief that misconduct has occurred. If there is no reasonable belief, CAO issues a dismissal letter to the complainant. If CAO finds reasonable belief, CAO prepares a legal memo and refers the file to the Bar's Disciplinary Counsel's Office (DOC) for additional investigation. At the conclusion of any additional investigation, DCO makes a legal recommendation to the State Professional Responsibility Board (SPRB) (think grand jury) about whether to proceed with formal charges. The SPRB determines whether there is probable cause to file a formal complaint. Formal charges that do not result in a diversion agreement or a stipulation for discipline are referred to a trial panel. Disciplinary trials are open to the public. At the conclusion of the trial, the panel renders an opinion regarding any sanctions. Either the subject attorney or the Bar may seek a *de novo* review of the trial panel's opinion before the Oregon Supreme Court.

Key Takeaways:

1. There are no public records exemptions that apply categorically to the Bar's disciplinary proceedings, regardless of whether discipline is imposed or not. For the most part, materials relating to complaints (including anonymous complaints), complaint dismissals, investigations, formal charges, communications with the subject attorney and witnesses, diversion agreements, stipulations for discipline, and trial panel opinions are publicly available at any stage of the proceedings. The Bar annually publishes a public report documenting all trial panel opinions and attorney stipulations to discipline. The Bar also publishes summaries of the final disposition of disciplinary proceedings in its monthly Bar Bulletin.
2. There are limited exceptions to disclosure for materials that the Bar may withhold under separate statutory exemptions. Examples include materials compiled for reasonably anticipated litigation (e.g., attorney work product, such as the legal recommendations to DCO and the SPRB), internal advisory and attorney-client privileged communications, client confidences, and personal privacy information (e.g., home address, health and financial info).
3. Transparency is a key aspect of the regulation of lawyers because it fosters public confidence in the legal profession, protects the Bar's reputation, and helps to improve the quality of legal services, and to educate and deter lawyers. Compliance with the public records law during ongoing disciplinary proceedings has not impaired the Bar's ability to conduct disciplinary proceedings. The Bar's experience has not corroborated concerns that transparency may result in less cooperation from witnesses.