



Attorney General's Quarterly Report

Legal Services Provided to the Commission on Teacher Credentialing

May 31, 2020

Table of Contents

EXECUTIVE SUMMARY	1
DISCUSSION	2
Volume of Cases	2
<i>Adverse Action Cases.....</i>	<i>2</i>
<i>Judicial Review Cases.....</i>	<i>3</i>
Further Investigations	3
Adjudications	4
Hearings.....	5
Average Hours and Fees	5
Quarterly Hours and Fees	6
CONCLUSION.....	6
APPENDICES	7
APPENDIX A: FY 2019-20 Quarter Three—Published May 31, 2020	8
APPENDIX B: FY 2019-20 Quarter Two—Published February 28, 2020	9
APPENDIX C: FY 2019-20 Quarter One—Published November 30, 2019 ...	10
APPENDIX D: FISCAL YEAR 2018-19	11
APPENDIX E: FISCAL YEAR 2017-18	12
APPENDIX F: Provision 6 Measures Reported	13
APPENDIX G: Summary of the Adjudication Process	15

Attorney General's Quarterly Report on Legal Services Provided to the Commission on Teacher Credentialing

The Office of the Attorney General submits this third quarter report for Fiscal Year 2019-20 as required by the Budget Act of 2019, Item 6360-001-0407, Provision 6—For Support of Commission on Teacher Credentialing, payable from the Teacher Credentials Fund.

EXECUTIVE SUMMARY

This quarterly report provides information required under Provision 6 for the period of January 1 through March 31, 2020, concerning the caseload for the Commission on Teacher Credentialing. The Office of the Attorney General began reporting in Fiscal Year 2017-18; this is the eleventh quarterly report.

The goal of the Office of the Attorney General for the past three years has been to eliminate the backlog of active (unadjudicated) adverse action cases, and to adjudicate most cases within one year. These goals have been achieved. Additionally, this quarter shows:

- The median number of days from referral to adjudication has remained below 300 for the past four quarters (Figure 3b).
- One hundred fifty-five of the 164 active adverse action cases remaining at the end of the current quarter were received in Fiscal Year 2018-19 or later, with only nine more complicated cases received earlier (Figure 4b).
- The average hours to resolve cases this quarter remained consistent with the prior quarter, and are lower than Fiscal Year 2018-19 (Figure 6a).
- In the third quarter of Fiscal Year 2019-20, the Attorney General's staff provided 3,147 hours of legal work related to teacher discipline, consistent with the prior quarter (Figure 7a).

The appendices to this report include summaries of all required metrics for the first three quarters of Fiscal Year 2019-20, annual summaries for Fiscal Years 2018-19 and 2017-18, Provision 6 reporting requirements, and a summary of the adjudication process for the commission's cases.

DISCUSSION

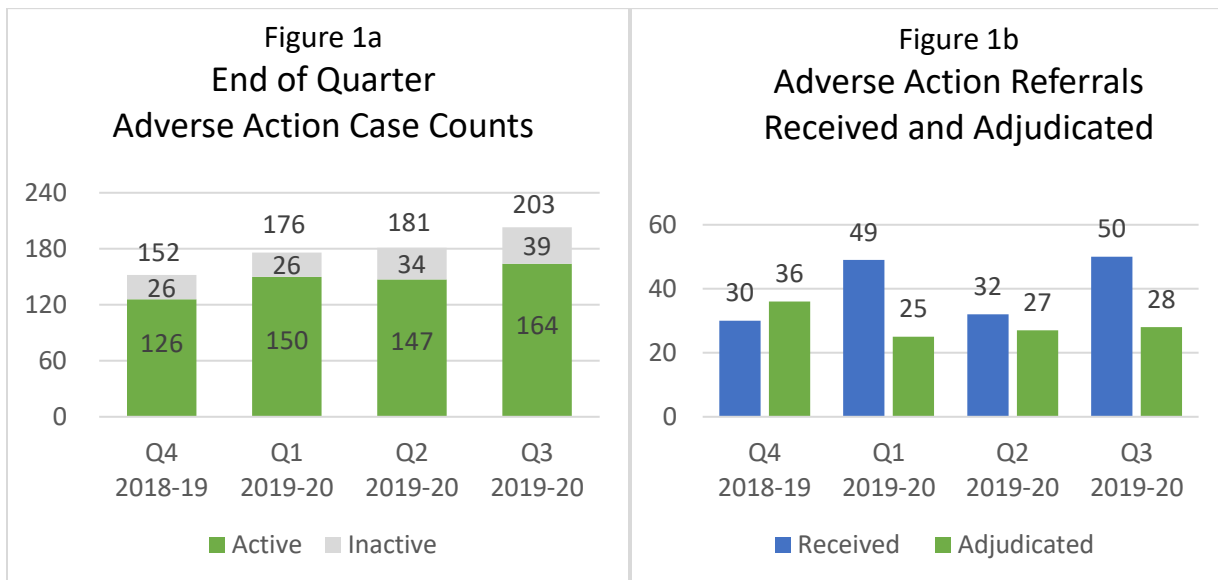
Volume of Cases [Provision 6, Subdivisions (b)(1) and (b)(5)]

Protection of the public is the Office of the Attorney General’s primary goal in representing the commission. Together, adverse action and judicial review cases comprise the discipline caseload reported herein. *Adverse actions* are the administrative disciplinary proceedings filed to deny, revoke, or suspend a credential. The action begins by the filing of a pleading and litigating it through an administrative hearing, prior to the commission’s issuance of a final decision. *Judicial review* includes mandamus proceedings in superior court to review the commission’s administrative decisions, or other civil actions against the commission related to the decisions it has issued. At the end of the current quarter, 203 adverse action cases and 15 judicial review cases remained at the Office of the Attorney General. All data for this quarter are summarized in Appendix A .

Adverse Action Cases

Adverse action cases include those that have not yet been adjudicated (active), and those that have been adjudicated (inactive).¹ *Adjudicated* means the work of the Office of the Attorney General is complete and the case goes to the commission for its final decision. An adverse action case is *resolved* when the commission’s final decision is effective. For a summary of the adjudication process see Appendix G.

Figure 1a below depicts the adverse action case counts for the four past quarters. At the end of this quarter, there were 164 active and 39 inactive cases, a net increase of 22 total adverse action cases. Figure 1b depicts the number of adverse action referrals received and adjudicated for the past four quarters. It shows that during this quarter, the Office of the Attorney General received 50 adverse action referrals and adjudicated 28.

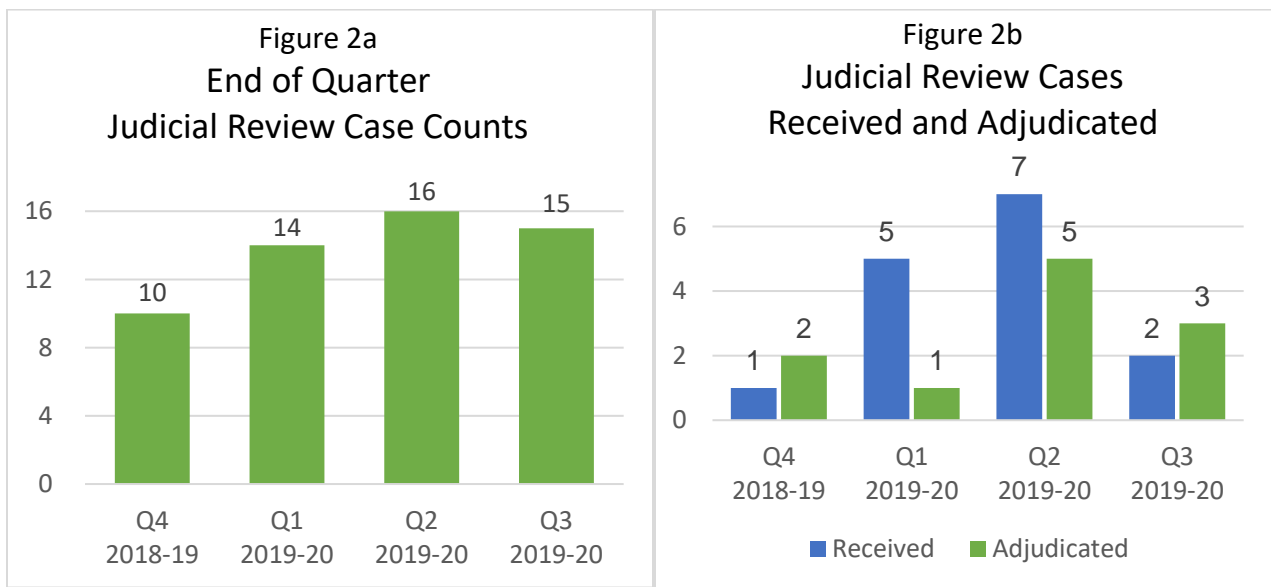


¹ Counting active cases more closely approximates the way the commission counts cases pending at the Office of the Attorney General, as regularly published in its reports.

Judicial Review Cases

A new judicial review case is opened when a respondent seeks to challenge the commission’s decision and petitions for judicial review in superior court.² At the end of the current quarter, 15 judicial review cases were pending at the Office of the Attorney General (Figure 2a). Since the Office of the Attorney General began reporting in Fiscal Year 2017-18, the number of judicial review cases has increased, corresponding to an increase in adverse action cases adjudicated and decisions issued by the commission. And while only a small percentage of litigants seek review of the commission’s adverse action decisions, the issuance of a higher volume of decisions naturally results in more judicial review cases.

Figure 2b illustrates the increasing number of judicial review cases received and adjudicated from the fourth quarter of Fiscal Year 2018-19 through the third quarter of Fiscal Year 2019-20. The current quarter, the third quarter of Fiscal Year 2019-20, shows only two judicial review cases were referred to the Office of the Attorney General, and only three were adjudicated.



Further Investigations [Provision 6, Subdivisions (b)(2) and (b)(3)]

When evidence in a case is insufficient to sustain the necessary burden of proof to impose discipline, the assigned deputy attorney general may request further investigation. Fourteen requests for further investigation were made this quarter and three completed investigations were received.

² Sometimes a civil lawsuit is filed against the commission instead of a mandamus proceeding.

Adjudications [Provision 6, Subdivision (b)(4)]

In the current reporting quarter, 33 adverse action cases were adjudicated. Average days for adjudication were 388, slightly over one year. The quickest adjudication this quarter was completed in 20 days, and the longest took 1,954 days. Figures 3a and 3b below show that both the number of cases adjudicated and the median days to adjudicate cases have been fairly consistent over the past four quarters.

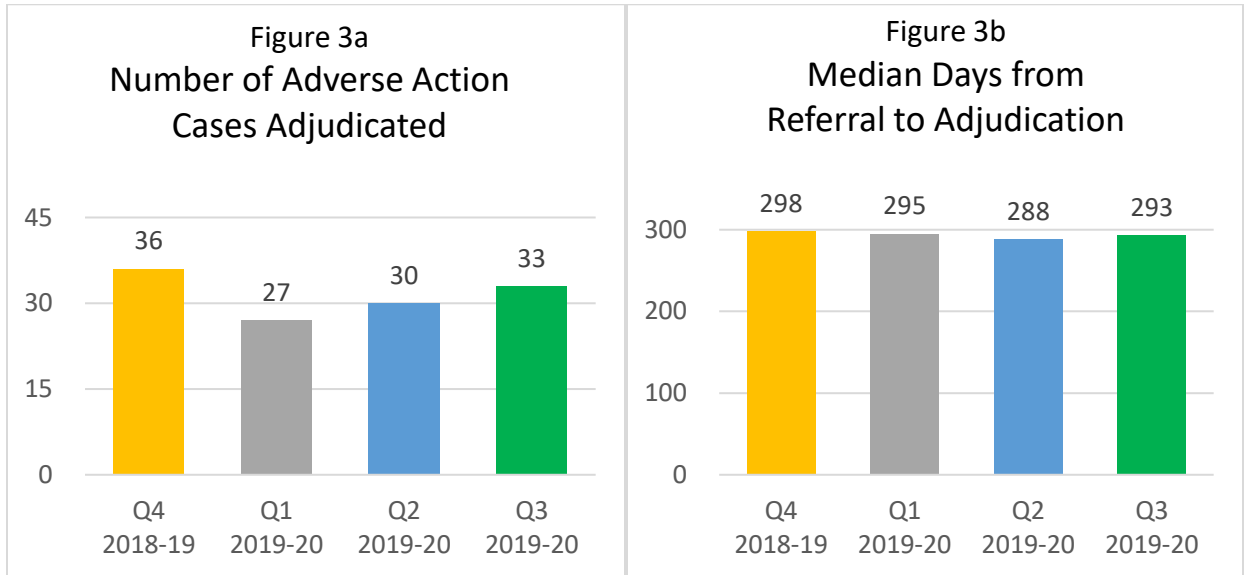
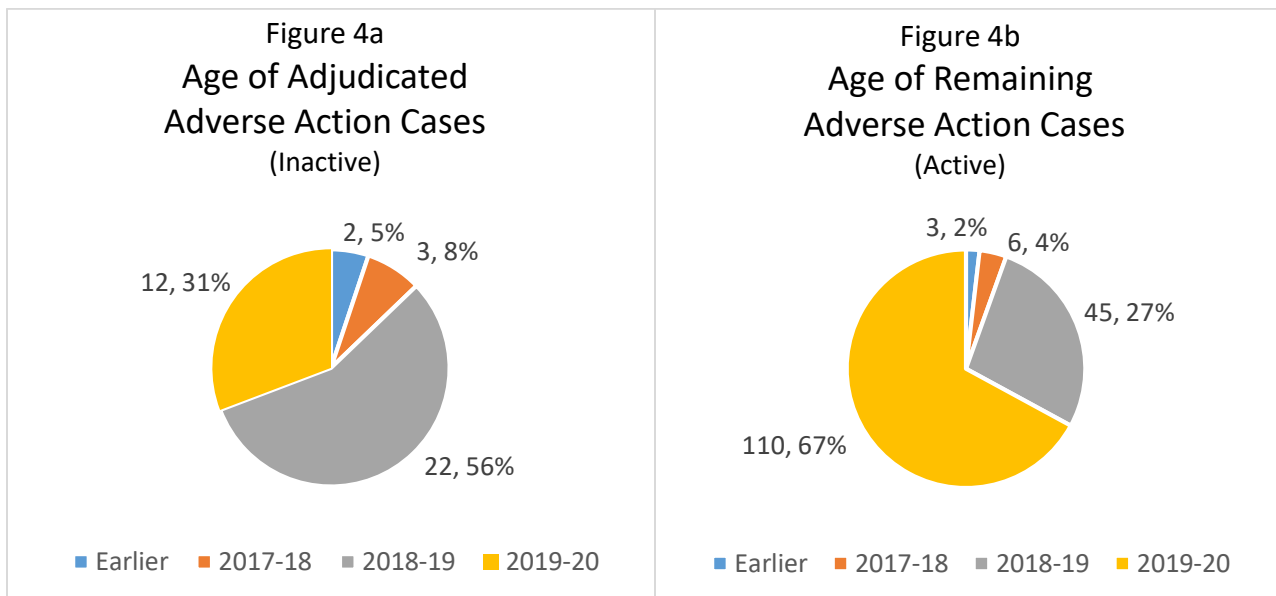
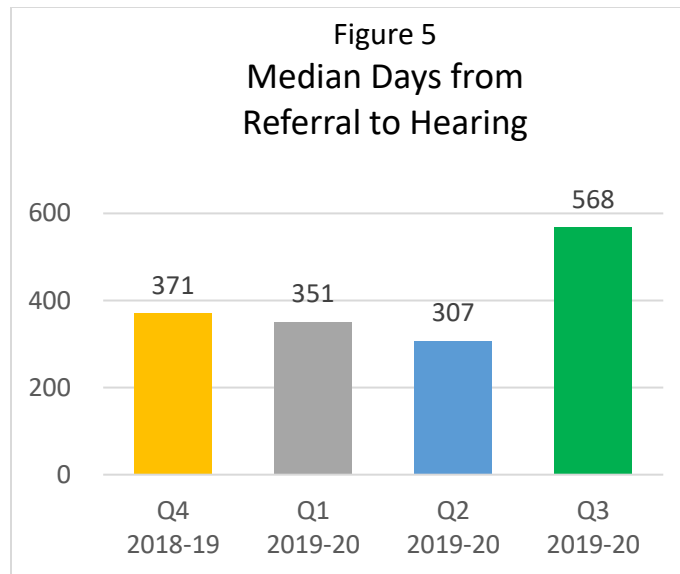


Figure 4a displays the age of the 39 adverse action cases adjudicated during the current quarter. Thirty-four of these cases were received in Fiscal Year 2018-19 or later; only five were received earlier. Figure 4b shows the age of the remaining 164 adverse action cases at the end of the current quarter; 155 were received in Fiscal Year 2018-19 or later. The nine cases received earlier are unusually complicated.



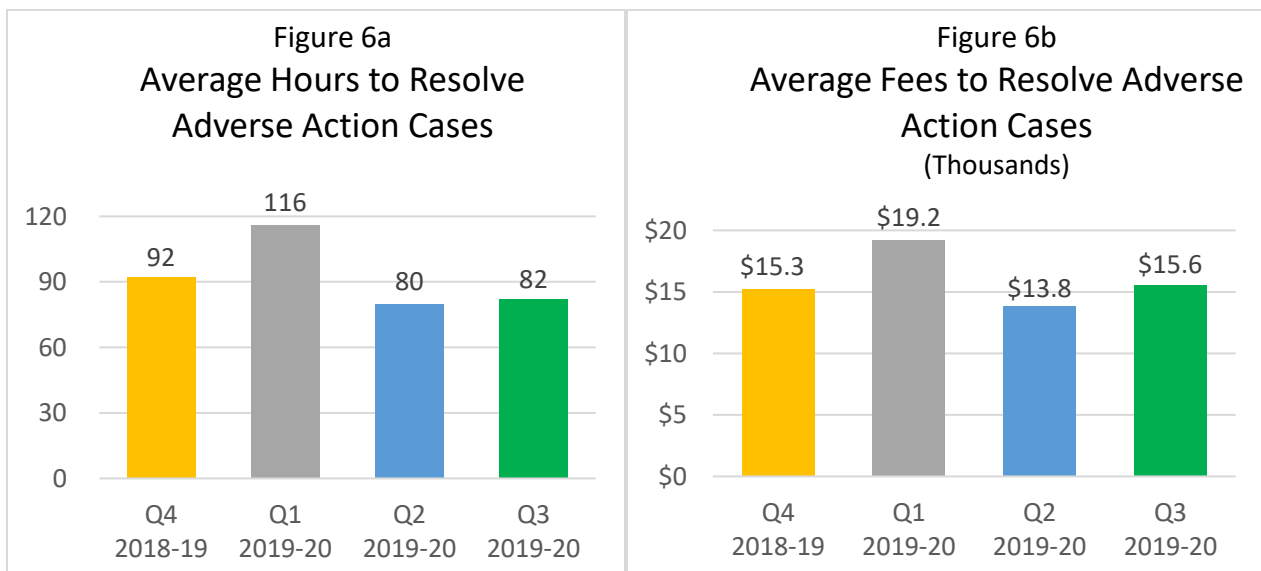
Hearings [Provision 6, Subdivision (b)(6)]

The median number of days from receipt of referral to hearing for three of the last four quarters remained between 300-400 days. Figure 5 displays the median number of days from receipt of referral to hearing for the most recent four quarters. Only three hearings commenced in this current quarter, comprised of older cases, naturally raising the median time to commence these three hearings to 568 days.



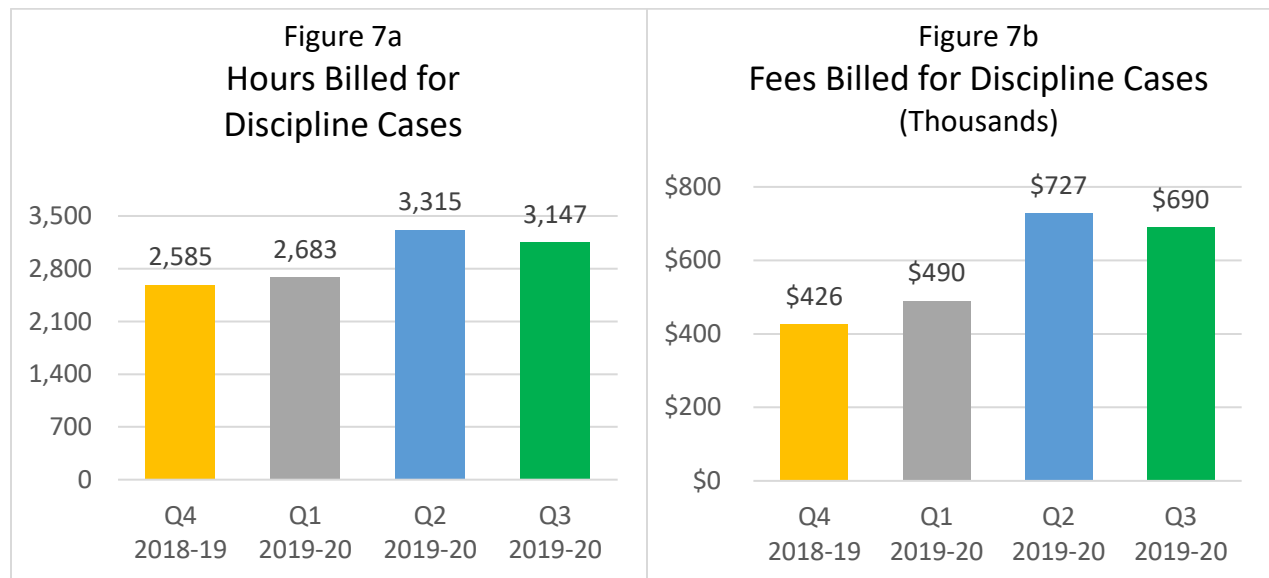
Average Hours and Fees [Provision 6, Subdivision (c)]

In this current quarter, an average of 82 hours were required to resolve adverse action cases; average fees to adjudicate matters this quarter were \$15,580. Figures 6a and 6b below show comparisons for the most recent four quarters.



Quarterly Hours and Fees [Provision 6, Subdivision (d)]

In the third quarter of Fiscal Year 2019-20, the Attorney General's staff provided 3,147 hours of legal work related to teacher discipline, including both adverse action and judicial review cases. The Office of the Attorney General billed a total of \$689,903 to the commission related to the teacher discipline caseload. We expect the quarterly workload hours to remain fairly consistent going forward. Figures 7a and 7b below summarize hours and fees for the most recent four quarters.



Total hours and fees unrelated to teacher discipline matters (other cases) were 145 hours and \$30,514 in this third quarter.

CONCLUSION

This quarterly report provides information regarding the volume, time to adjudication, and cost of the legal work performed by the Office of the Attorney General for the Commission on Teacher Credentialing. We will continue to provide representation for the commission that conforms to the highest standards of the Office of the Attorney General.

This report is also available on the Attorney General's website at:

<https://oag.ca.gov/publications>

If you have questions regarding this report or would like additional information, please contact Sirat Attapit, Director of Legislative Affairs, at sirat.attapit@doj.ca.gov or 916-210-6192.

APPENDICES

APPENDIX A: FY 2019-20 Quarter Three—Published May 31, 2020	8
APPENDIX B: FY 2019-20 Quarter Two—Published February 28, 2020	9
APPENDIX C: FY 2019-20 Quarter One—Published November 30, 2019	10
APPENDIX D: FISCAL YEAR 2018-19	11
APPENDIX E: FISCAL YEAR 2017-18	12
APPENDIX F: Provision 6 Measures Reported	13
APPENDIX G: Summary of the Adjudication Process	15

APPENDIX A: FY 2019-20 Quarter Three—Published May 31, 2020

Discipline Cases at the Office of the Attorney General Provision 6, subdivisions (b)(1) and (b)(5)			
Total Referrals, Active and Inactive	Adverse Action	Judicial Review	Total
Referrals start of quarter, subdivision (b)(1)	181	16	197
Referrals received during the quarter	50	2	52
Referrals resolved during the quarter	28	3	31
Referrals end of the quarter, subdivision (b)(5)	203	15	218

Further Investigation Requested and Received Provision 6, subdivisions (b)(2) and (b)(3)	
Further investigation requests, subdivision (b)(2)	14
Supplemental investigations received, subdivision (b)(3)	3

Number of Days for Adverse Action Adjudications Provision 6, subdivision (b)(4)						
Minimum	Maximum	Mean	Goal	Above Goal	Median	Count
20	1,954	388	365	23	293	33

Number of Days from Receipt of Referral to Hearing Commenced Provision 6, subdivision (b)(6)				
Minimum	Maximum	Mean	Median	Count
540	997	702	568	3

Hours, Fees and Costs for Adverse Action Cases Provision 6, subdivisions (c)(1), (c)(2) and (c)(3)		
For 28 adverse action cases resolved:	Mean	Median
Hours per case, subdivision (c)(1)	82	53
Fees per case, subdivision (c)(2)	\$15,580	\$9,751
Costs per case, subdivision (c)(3)	\$142	\$0

Total Hours and Fees – Discipline and General Litigation Cases Provision 6, subdivisions (d)(1), (d)(2), (d)(3) and (d)(4)		
Type of Case	Total Hours	Total Fees
Discipline cases, subdivisions (d)(1) and (d)(2)	3,147	\$689,903
Other cases, subdivisions (d)(3) and (d)(4)	145	\$30,514
All cases combined	3,292	\$720,417

APPENDIX B: FY 2019-20 Quarter Two—Published February 28, 2020

Discipline Cases at the Office of the Attorney General Provision 6, subdivisions (b)(1) and (b)(5)			
Total Referrals, Active and Inactive	Adverse Action	Judicial Review	Total
Referrals start of quarter, subdivision (b)(1)	176	14	190
Referrals received during the quarter	32	7	39
Referrals resolved during the quarter	27	5	32
Referrals end of the quarter, subdivision (b)(5)	181	16	197

Further Investigation Requested and Received Provision 6, subdivisions (b)(2) and (b)(3)	
Further investigation requests, subdivision (b)(2)	8
Supplemental investigations received, subdivision (b)(3)	7

Number of Days for Adverse Action Adjudications Provision 6, subdivision (b)(4)						
Minimum	Maximum	Mean	Goal	Above Goal	Median	Count
58	1,148	365	365	0	288	30

Number of Days from Receipt of Referral to Hearing Commenced Provision 6, subdivision (b)(6)				
Minimum	Maximum	Mean	Median	Count
119	1,146	418	307	8

Hours, Fees and Costs for Adverse Action Cases Provision 6, subdivisions (c)(1), (c)(2) and (c)(3)		
For 27 adverse action cases resolved:	Mean	Median
Hours per case, subdivision (c)(1)	80	40
Fees per case, subdivision (c)(2)	\$13,843	\$6,927
Costs per case, subdivision (c)(3)	\$917	\$0

Total Hours and Fees – Discipline and General Litigation Cases Provision 6, subdivisions (d)(1), (d)(2), (d)(3) and (d)(4)		
Type of Case	Total Hours	Total Fees
Discipline cases, subdivisions (d)(1) and (d)(2)	3,315	\$727,011
Other cases, subdivisions (d)(3) and (d)(4)	219	\$46,420
All cases combined	3,534	\$773,431

APPENDIX C: FY 2019-20 Quarter One—Published November 30, 2019

Discipline Cases at the Office of the Attorney General Provision 6, subdivisions (b)(1) and (b)(5)			
Total Referrals, Active and Inactive	Adverse Action	Judicial Review	Total
Referrals start of quarter, subdivision (b)(1)	152	10	162
Referrals received during the quarter	49	5	54
Referrals resolved during the quarter	25	1	26
Referrals end of the quarter, subdivision (b)(5)	176	14	190

Further Investigation Requested and Received Provision 6, subdivisions (b)(2) and (b)(3)	
Further investigation requests, subdivision (b)(2)	7
Supplemental investigations received, subdivision (b)(3)	3

Number of Days for Adverse Action Adjudications Provision 6, subdivision (b)(4)						
Minimum	Maximum	Mean	Goal	Above Goal	Median	Count
13	1,128	334	365	(31)	295	27

Number of Days from Receipt of Referral to Hearing Commenced Provision 6, subdivision (b)(6)				
Minimum	Maximum	Mean	Median	Count
161	785	418	351	5

Hours, Fees and Costs for Adverse Action Cases Provision 6, subdivisions (c)(1), (c)(2) and (c)(3)		
For 25 adverse action cases resolved:	Mean	Median
Hours per case, subdivision (c)(1)	116	72
Fees per case, subdivision (c)(2)	\$ 19,186	\$ 12,161
Costs per case, subdivision (c)(3)	\$ 538	\$ 0

Total Hours and Fees – Discipline and General Litigation Cases Provision 6, subdivisions (d)(1), (d)(2), (d)(3) and (d)(4)		
Type of Case	Total Hours	Total Fees
Discipline cases, subdivisions (d)(1) and (d)(2)	2,683	\$ 489,617
Other cases, subdivisions (d)(3) and (d)(4)	20	\$ 4,238
All cases combined	2,703	\$ 493,855

APPENDIX D: FISCAL YEAR 2018-19

Discipline Cases at the Office of the Attorney General Provision 7, subdivisions (b)(1) and (b)(5)			
Total Referrals, Active and Inactive	Adverse Action	Judicial Review	Total
Referrals start of the year, subdivision (b)(1)	247	12	259
Referrals received during the year	141	13	154
Referrals resolved during the year	236	15	251
Referrals end of the year, subdivision (b)(5)	152	10	162

Further Investigation Requested and Received Provision 7, subdivisions (b)(2) and (b)(3)	
Further investigation requests, subdivision (b)(2)	21
Supplemental investigations received, subdivision (b)(3)	24

Number of Days for Adverse Action Adjudications Provision 7, subdivision (b)(4)						
Minimum	Maximum	Mean	Goal	Above Goal	Median	Count
14	1,904	593	365	228	442	199

Number of Days from Receipt of Referral to Hearing Commenced Provision 7, subdivision (b)(6)				
Minimum	Maximum	Mean	Median	Count
89	1,784	732	595	45

Hours, Fees and Costs for Adverse Action Cases Provision 7, subdivisions (c)(1), (c)(2) and (c)(3)		
For 236 adverse action cases resolved:	Mean	Median
Hours per case, subdivision (c)(1)	90	64
Fees per case, subdivision (c)(2)	\$ 14,734	\$ 10,600
Costs per case, subdivision (c)(3)	\$ 312	\$ 0

Total Hours and Fees – Discipline and General Litigation Cases Provision 7, subdivisions (d)(1), (d)(2), (d)(3) and (d)(4)		
Type of Case	Total Hours	Total Fees
Discipline cases, subdivisions (d)(1) and (d)(2)	15,493	\$ 2,582,818
Other cases, subdivisions (d)(3) and (d)(4)	150	\$ 25,542
All cases combined	15,643	\$ 2,608,360

APPENDIX E: FISCAL YEAR 2017-18

Discipline Cases at the Office of the Attorney General Provision 7, subdivisions (b)(1) and (b)(5)			
Total Referrals, Active and Inactive	Adverse Action	Judicial Review	Total
Referrals start of the year, subdivision (b)(1)	304	9	313
Referrals received during the year	118	10	128
Referrals resolved during the year	175	7	182
Referrals end of the year, subdivision (b)(5)	247	12	259

Further Investigation Requested and Received Provision 7, subdivisions (b)(2) and (b)(3)	
Further investigation requests, subdivision (b)(2)	52
Supplemental investigations received, subdivision (b)(3)	44

Number of Days for Adverse Action Adjudications Provision 7, subdivision (b)(4)						
Minimum	Maximum	Mean	Goal	Above Goal	Median	Count
10	1,966	630	365	265	565	212

Number of Days from Receipt of Referral to Hearing Commenced Provision 7, subdivision (b)(6)				
Minimum	Maximum	Mean	Median	Count
139	1,838	728	683	49

Hours, Fees and Costs for Adverse Action Cases Provision 7, subdivisions (c)(1), (c)(2) and (c)(3)		
For 175 adverse action cases resolved:	Mean	Median
Hours per case, subdivision (c)(1)	84	54
Fees per case, subdivision (c)(2)	\$13,373	\$8,935
Costs per case, subdivision (c)(3)	\$281	\$0

Total Hours and Fees – Discipline and General Litigation Cases Provision 7, subdivisions (d)(1), (d)(2), (d)(3) and (d)(4)		
Type of Case	Total Hours	Total Fees
Discipline cases, subdivisions (d)(1) and (d)(2)	18,602	\$3,089,148
Other cases, subdivisions (d)(3) and (d)(4)	409	\$67,734
All cases combined	19,011	\$3,156,882

APPENDIX F: Provision 6 Measures Reported

The Budget Act of 2019, Item 6360-001-0407, Provision 6 states:

- (a) The Attorney General shall submit a quarterly report to the chairpersons and vice chairpersons of the budget committees of each house of the Legislature, the Legislative Analyst's Office, and the Department of Finance concerning the status of the teacher misconduct discipline caseload and other cases being handled by the Attorney General for the Commission on Teacher Credentialing. The quarterly report shall be submitted by August 30, November 30, February 28, and May 31 of each year for the previous corresponding fiscal quarter.
- (b) Each report shall include, at a minimum, all of the following for teacher discipline matters:
 - (1) The number of matters with the Attorney General at the beginning of the reporting period.
 - (2) The number of matters for which further investigation was requested by the Attorney General.
 - (3) The number of matters for which further investigation was received by the Attorney General.
 - (4) The number of matters adjudicated by the Attorney General.
 - (5) The number of matters with the Attorney General at the end of the reporting period.
 - (6) The minimum, maximum, and median number of days from the date the Attorney General receives an accusation or statement of issues referral from the commission to the commencement of a hearing at the Office of Administrative Hearings for cases adjudicated during this period.
- (c) To determine the average cost of the Attorney General to adjudicate a case representing the commission, each report shall provide the following information for cases adjudicated in the reporting period specified in paragraph (a):
 - (1) The average and median number of hours worked by the staff of the Attorney General to adjudicate accusation and statement of issues matters.
 - (2) The average and median fees charged by the Attorney General to the commission to adjudicate accusation and statement of issues matters.
 - (3) The average and median litigation costs to adjudicate accusation and statement of issues matters.

- (d) To determine the total activities conducted by the Attorney General to represent the commission for each period, the Attorney General shall report the following:
- (1) The total hours worked during the period by staff of the Attorney General for representation of the commission in teacher discipline matters.
 - (2) The total fees charged during the period by the Attorney General to the commission for representation in teacher discipline matters.
 - (3) The total hours worked during the period by staff of the Attorney General for representation of the commission unrelated to teacher discipline matters.
 - (4) The total fees charged during the period by the Attorney General to the commission for representation unrelated to teacher discipline matters.
- (e) This information shall be provided with the intent that recipients shall be able to determine the caseload input and output of the Attorney General in relation to representation of the commission in teacher discipline cases, especially as it relates to determining the average case processing time for accusation and statement of issues representation and adjudication, and proper funding level for handling the teacher discipline caseload and other legal work for the commission. Staff from the Attorney General shall provide timely followup information to staff from the offices identified in paragraph (a) upon request if further explanation or information is required.

APPENDIX G: Summary of the Adjudication Process

The Commission on Teacher Credentialing Committee of Credentials reviews acts or omissions of a credential holder or applicant to determine whether probable cause exists for discipline. If the committee finds probable cause and recommends discipline, the credential holder or applicant has the right to appeal the recommendation, which initiates an adjudicatory hearing under Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code (Administrative Procedure Act). The appeal is referred to the Office of the Attorney General to be prepared for hearing.

The deputy attorney general assigned to the case reviews the evidence supplied by the Commission on Teacher Credentialing to determine its sufficiency to meet the requisite burden of proof. If the evidence is insufficient and circumstances suggest additional avenues for evidentiary development, the deputy may request further investigation from the commission's investigators and the file remains open pending its receipt. When evidence is insufficient and further investigation is not recommended, or when legal issues prevent prosecution, the Office of the Attorney General declines prosecution and the case is closed.

When sufficient evidentiary support is identified, an accusation is prepared to initiate the adjudicatory hearing against a credential holder, or statement of issues to set forth the grounds for denial of an application. The pleading is sent to the Commission on Teacher Credentialing for signature by the executive director, who is the complainant. The pleading is "filed" when the executive director signs it, and it is then returned to the Office of the Attorney General for service on the credential holder or applicant. Once served with an accusation, the credential holder must file a notice of defense within fifteen days or they will be in default. Once the notice of defense has been received in an accusation case, or the statement of issues has been served in an application denial case, a hearing is scheduled with the Office of Administrative Hearings. Many cases are resolved through settlement before hearing.

The deputy attorney general prosecutes the disciplinary case before the Office of Administrative Hearings. Upon conclusion of the hearing, the case is submitted to the administrative law judge who presides over the hearing, issues a proposed decision, and sends it to the Commission on Teacher Credentialing for its final decision.

Subdivision (b)(4) of Provision 6 requests the number of cases adjudicated by the Office of the Attorney General. “Adjudicated” means the work of the Office of the Attorney General is complete to bring the case back before the commission for its final decision.³ Adjudication can occur in five ways:

1. Prosecution declined. Occasionally, the deputy attorney general determines that the evidence is insufficient and does not recommend further investigation, whereby prosecution is declined and the case is closed.
2. Withdrawal of request for hearing by respondent. Before a pleading is filed, the credential holder or applicant may withdraw the request for a hearing, thereby accepting the recommendation of the Committee of Credentials. The Commission on Teacher Credentialing then receives the recommendation of the Committee of Credentials for its ultimate decision.
3. Default. If a credential holder does not submit a timely notice of defense, the deputy attorney general prepares a default decision, which is sent to the commission for its final decision.
4. Settlement. The executive director may authorize a consent determination based on terms sufficient to provide for protection of the public, schoolchildren, and the profession, which will be presented to the Committee of Credentials for its recommendation and then to the commission for its final decision.
5. Hearing submitted. Upon completion of the adjudicatory hearing, the case is submitted to the administrative law judge, who prepares a proposed decision and sends it to the Commission on Teacher Credentialing for its final decision.

Even after the commission’s decision is issued, it may not be final. The respondent may exercise the right to petition for reconsideration, and if granted by the commission the decision is reconsidered. This can also happen if the commission decides a case based on the default of the respondent who fails to file a notice of defense or appear at a duly noticed hearing. The commission can vacate the default decision and additional proceedings are then conducted to ultimately decide the case. Each of these “post-submission” events will lengthen case processing time and require further adjudication of the case.

Cases that have been adjudicated remain open at the Office of the Attorney General until the final decision is issued by the commission and the decision becomes effective. This concludes the case, except for any judicial review in superior court and ensuing appeal seeking to overturn the commission’s discipline decision. The commission generally meets six times per year, during which discipline cases are considered and final decisions made. It can therefore take two to three months after adjudication before final resolution of a discipline case. The following diagram outlines the adjudication process.

³ When prosecution is declined, the case is not submitted to the commission for decision, and is closed.

Flowchart – Adjudication Process

