



Attorney General's Quarterly Report

Legal Services Provided to the Commission on Teacher Credentialing

August 30, 2019

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

The Office of the Attorney General submits this fourth quarter report for Fiscal Year 2018-19 as required by the Budget Act of 2018, Item 6360-001-0407, Provision 7—For Support of Commission on Teacher Credentialing, payable from the Teacher Credentials Fund.

EXECUTIVE SUMMARY

This quarterly report provides information required under Provision 7 for the period April 1 through June 30, 2019, concerning the caseload for the Commission on Teacher Credentialing. The Office of the Attorney General began reporting in Fiscal Year 2017-18 and aggregate data for each of the first two full reporting years is also included.

The aggregate data show that in Fiscal Year 2017-18 the total discipline caseload at the Office of the Attorney General was reduced by 54, from 313 to 259, and further reduced in Fiscal Year 2018-19 by 97, bringing the total remaining discipline caseload at the end of the fiscal year to 162.

In addition to the required quarterly data, this report provides the number of *active* adverse action cases – those that have not yet been adjudicated – as well as the total number of adverse action and judicial review cases at the Office of the Attorney General.¹ There were 195 adverse action cases at the beginning of this quarter and 152 at the end, with 30 new adverse action cases received and 73 resolved. This reduced the number of *active* adverse action cases from 134 to 126. Judicial review cases were reduced from 14 to 10.

With respect to the age of the caseload, as shown in Figures 6a and 6b on page 6, 53 percent of the adverse action cases adjudicated this quarter were received in Fiscal Year 2018-19 and 47 percent had been received earlier. At the end of the quarter, 79 percent of the remaining active adverse action cases were less than one year old. Of the remaining 126 active cases, 99 cases were received in Fiscal Year 2018-19, and 27 were received earlier.

The appendix on pages 10-21 includes aggregate summaries for Fiscal Years 2017-18 and 2018-19, summaries for all four quarters of Fiscal Year 2018-19, Provision 7 reporting requirements, and a summary of the adjudication process for the commission's cases.²

¹ The Office of the Attorney General represents the commission in three categories of litigation: (1) adverse action administrative cases, (2) judicial review of adverse action decisions, and (3) general litigation unrelated to adverse actions. For more detail, see the summary of the adjudication process in the appendix.

² All aggregate summaries and graphs in this report reflect the removal of one referral received in Fiscal Year 2017-18 that was included in error in previous reports.

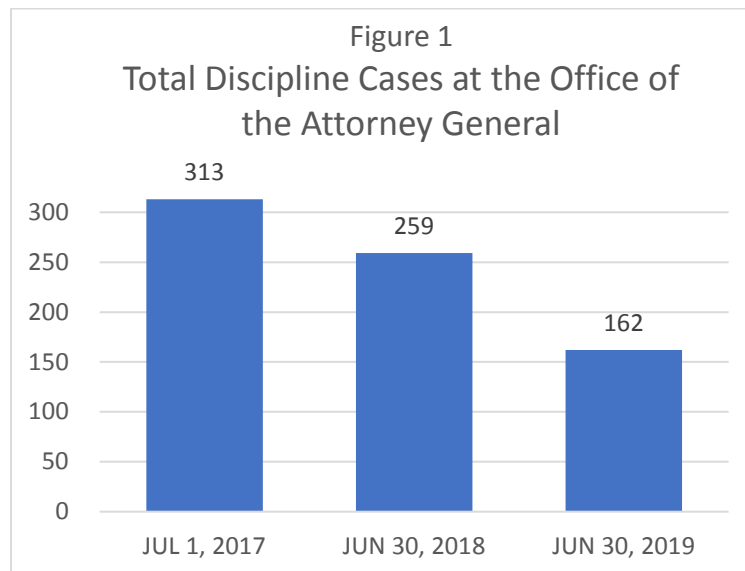
DISCUSSION

Volume of Cases [Provision 7, Subdivisions (b)(1) and (b)(5)]

The Licensing Section of the Office of the Attorney General assumed responsibility for the Commission on Teacher Credentialing discipline caseload on July 1, 2016, which at the time was comprised of 282 cases (“inherited backlog”). Provision 7 required reporting beginning in Fiscal Year 2017-18. At the beginning of the first reporting year, there were 313 discipline cases at the Office of the Attorney General.³ An additional 128 discipline cases were referred by the commission that year, and 182 cases were resolved, leaving a total of 259 discipline cases at the end of the first reporting year.

In the second reporting year, Fiscal Year 2018-19, a total of 154 discipline referrals were received and 251 cases were resolved, leaving 162 discipline cases at the Office of the Attorney General on June 30, 2019. Figure 1 shows the net reduction in discipline cases at the Office of the Attorney General starting when we began reporting (313), at the end of the first reporting year (259), and at the end of the second reporting year (162).

Despite ongoing additional referrals received each year, in Fiscal Year 2017-18, the discipline caseload at the Office of the Attorney General was reduced by 17 percent, and was reduced by another 37 percent in Fiscal Year 2018-19.



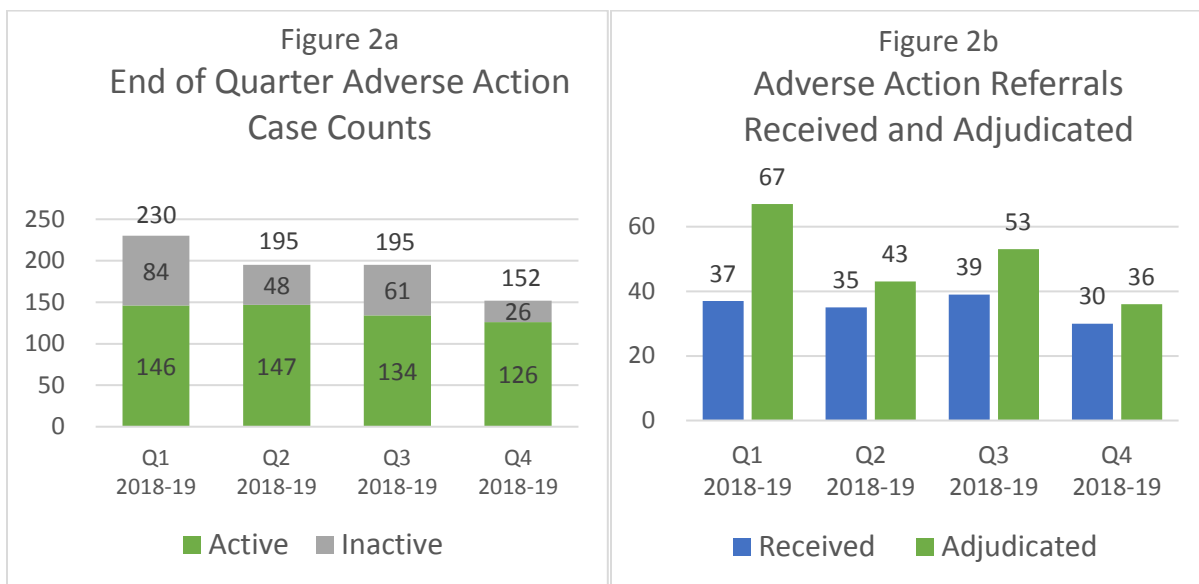
³ The appendix at pages 15 and 16 shows the annual data for Fiscal Years 2017-18 and 2018-19 as corrected per footnote 2.

The discipline caseload at the Office of the Attorney General is comprised of adverse action and judicial review cases. *Adverse action* denotes the administrative disciplinary proceeding to deny, revoke or suspend a credential. This requires filing an initial pleading and litigating the matter through administrative hearing for the commission’s ultimate issuance of a final decision. Our focus in representing the commission is on protection of the public through imposition of discipline in adverse action cases. *Judicial review* includes mandamus proceedings in superior court to review administrative decisions issued by the commission, or other civil actions brought against the commission in connection with decisions it has issued. At the end of Fiscal Year 2018-19, 152 adverse action cases and 10 judicial review cases comprised the 162 discipline cases at the Office of the Attorney General.

Adverse Action Cases

Adverse action cases are further broken down between those that have not yet been adjudicated (active), and those that have been adjudicated (inactive).⁴ *Adjudicated* means the work of the Office of the Attorney General is complete and the case goes before the commission for its final decision. Adverse action cases are *resolved* when the commission has issued its final decision and it has become effective.

The adverse action case counts at the end of each of the four most recent quarters are summarized in Figure 2a below. At the end of the quarter, 126 active and 26 inactive cases comprised the 152 remaining adverse action cases. Figure 2b summarizes the number of adverse action referrals received and adjudicated during the same four quarters. It shows that during this reporting quarter the Office of the Attorney General received 30 adverse action referrals and adjudicated 36, continuing to adjudicate more cases than received. A full summary for the reporting quarter is on page 11.



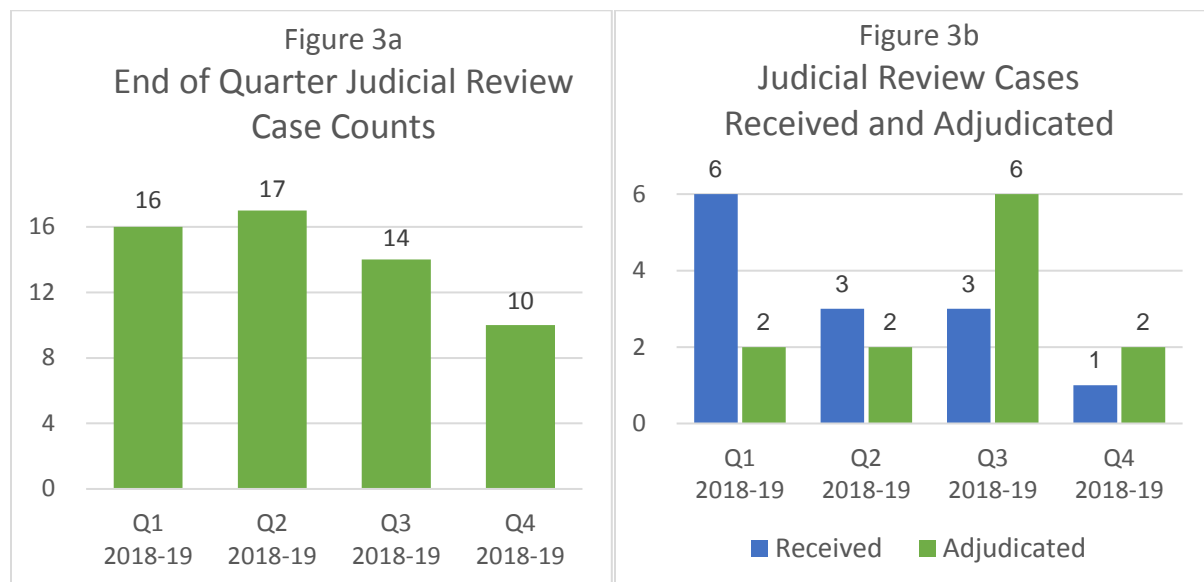
⁴ Counting active cases more closely approximates the way the commission counts cases pending at the Office of the Attorney General, as regularly published in its reports.

As shown on the aggregate summaries on pages 15 and 16, during the first reporting year, Fiscal Year 2017-18, we adjudicated more adverse action cases than were received each quarter, reducing the inherited backlog. That year ended with 247 adverse action cases. In the second reporting year, Fiscal Year 2018-19, the adverse action caseload was further reduced by 95 cases, from 247 down to 152.

Judicial Review Cases

If a respondent wishes to challenge the commission’s decision, they can petition for judicial review in superior court.⁵ When this happens, a new judicial review case is opened.⁶ Since we began reporting, the number of judicial review cases increased, corresponding to an increase in adverse action cases adjudicated and decisions issued by the commission. While only a small percentage of litigants seek superior court review of the commission’s adverse action decisions, a higher number of decisions issued results in more judicial review cases.

Figure 3a below shows that at the end of the quarter, 10 judicial review cases were pending at the Office of the Attorney General. Figure 3b shows the number of new judicial review cases received and adjudicated for the most recent four quarters. One judicial review case was referred to the Office of the Attorney General in the fourth quarter and two were adjudicated.



Further Investigations [Provision 7, Subdivisions (b)(2) and (b)(3)]

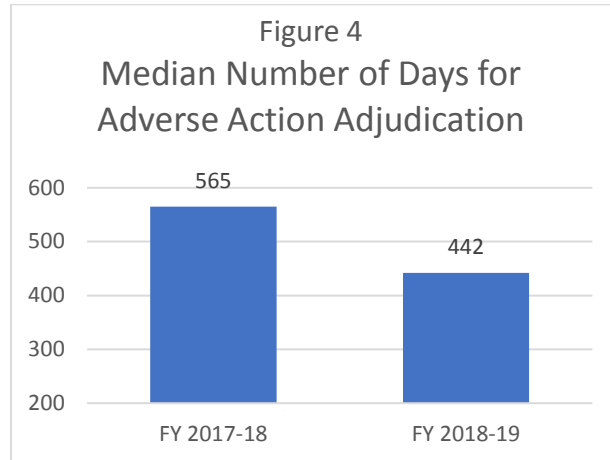
When evidence in a case is not sufficient to sustain our burden of proof to impose discipline, the assigned deputy attorney general will request further investigation. Four requests for further investigation were made this quarter and nine completed investigations were received.

⁵ Sometimes a civil lawsuit is filed against the commission instead of a mandamus proceeding.

⁶ A detailed summary of the adjudication process is provided in the appendix.

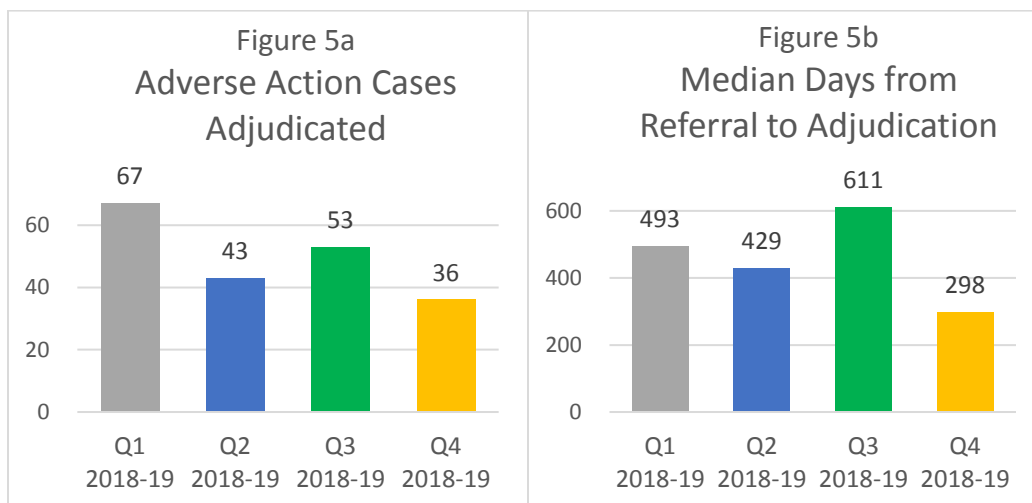
Adjudications [Provision 7, Subdivision (b)(4)]

Comparing the two complete reporting years, the median number of days for adverse action cases between referral received and adjudication was 565 days in Fiscal Year 2017-18 and 442 days in Fiscal Year 2018-19, as shown in Figure 4 below. The median time to adjudicate the commission's adverse action cases was reduced by 22 percent in the second reporting year compared to the first.



In the current reporting quarter, 36 adverse action cases were adjudicated and the median (midpoint) duration between referral and adjudication was 298 days.⁷ The quickest adjudication this quarter was completed in 37 days, and the slowest took 1,904 days. Figures 5a and 5b below show the numbers of adverse action cases adjudicated and the median number of days from referral to adjudication for the past four quarters.

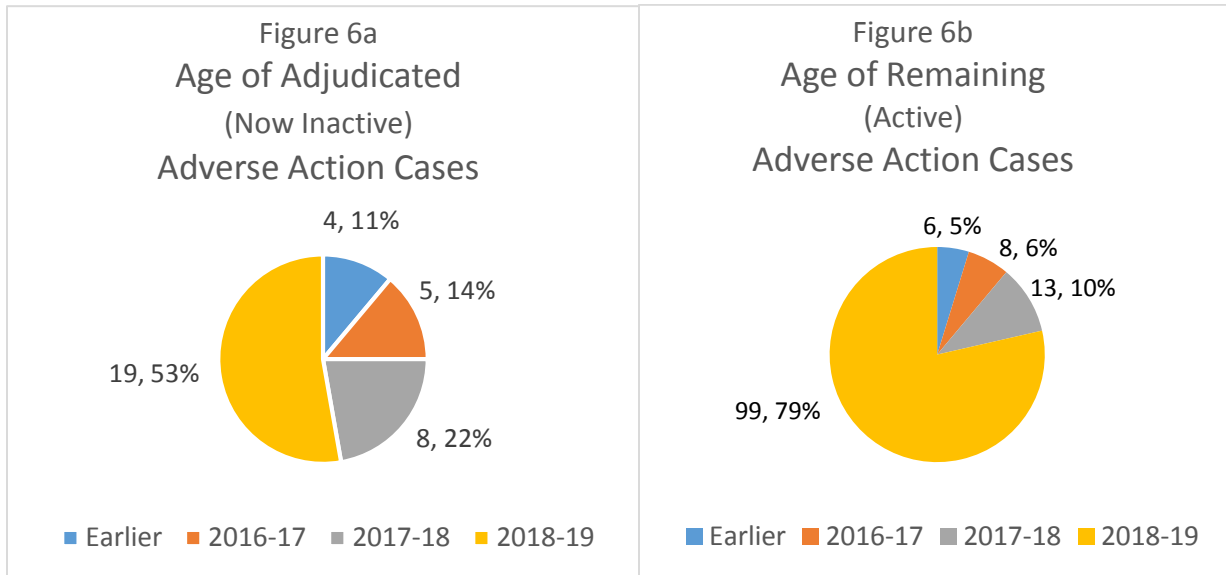
The median time to adjudicate the commission's adverse action cases in the current reporting quarter (298 days) was 33 percent faster compared to the median over the course of Fiscal Year 2018-19 (442 days).



⁷ The median is less distorted by outliers than the average (mean).

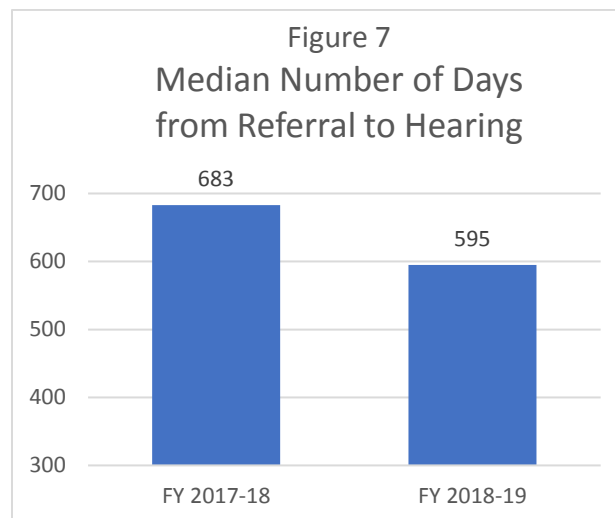
Figure 6a below displays the age of the 36 adverse action cases that were adjudicated during the fourth quarter. More than half the cases adjudicated were received in Fiscal Year 2018-19 and those remaining were received earlier.

Figure 6b shows the age of the remaining adverse action caseload at the end of the quarter, which includes only six from the inherited backlog. Of the 126 active adverse action cases, 99 of them were received in Fiscal Year 2018-19. Our work continues to shift to more recent cases as the older cases are resolved and eliminated from the caseload.

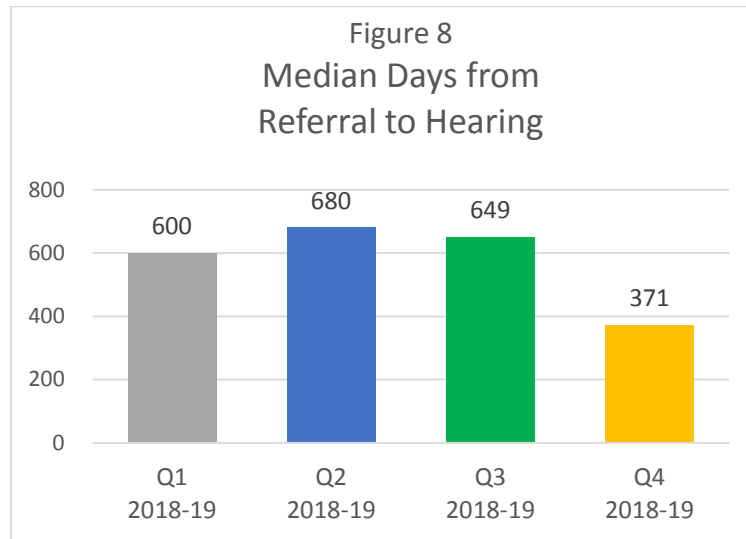


Hearings [Provision 7, Subdivision (b)(6)]

Comparing two complete reporting years, the median number of days for adverse action cases between referral received and commencement of a hearing was 683 days in Fiscal Year 2017-18 and 595 days in Fiscal Year 2018-19, as shown in Figure 7 below. The median time to commence hearings for the commission’s adverse action cases was reduced by 13 percent in the second reporting year compared to the first.

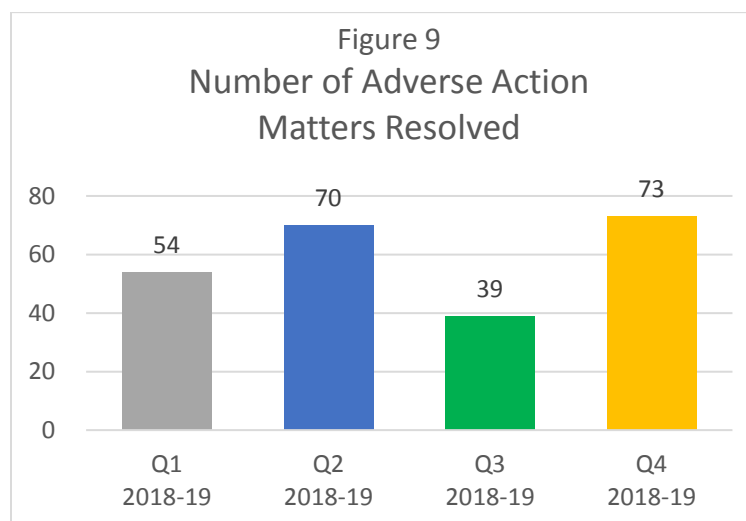


In the fourth quarter of Fiscal Year 2018-19, seven hearings commenced. In the reporting quarter, the median time to commence hearings for the commission’s adverse action cases (371 days) was 38 percent lower than the median time to commence hearings in the second reporting year (595 days). Figure 8 below displays the median number of days from receipt of referrals to hearings for the most recent four quarters.



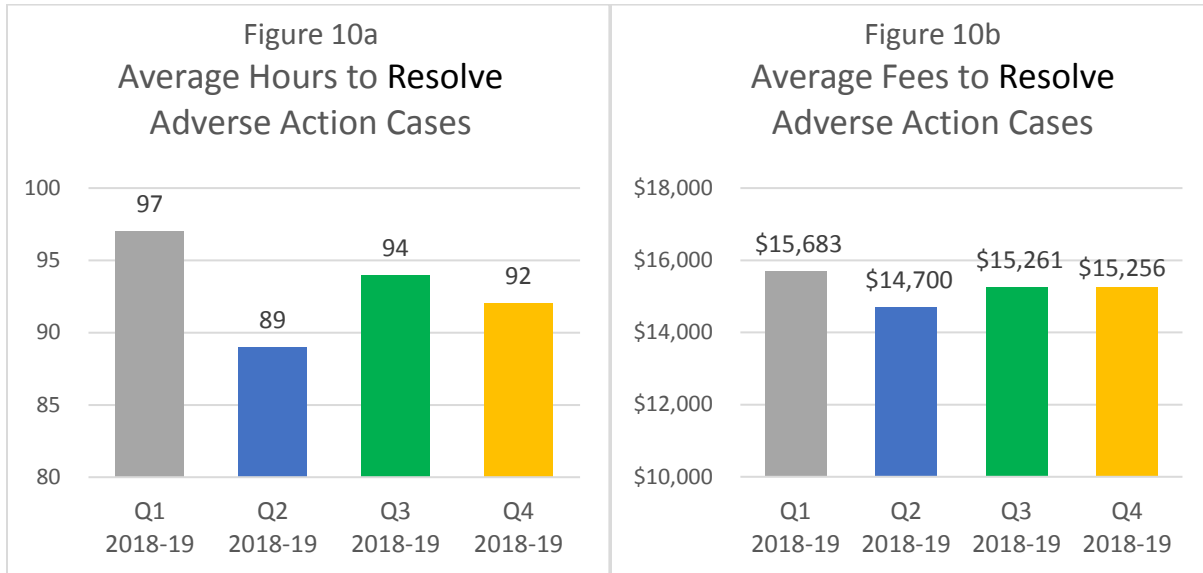
Average Hours and Fees [Provision 7, Subdivision (c)]

As shown in Figure 9 below, 73 adverse action cases were resolved⁸ this quarter. This is higher than the average quarterly number of decisions issued by the commission to resolve cases during Fiscal Year 2017-18, which was 44 decisions per quarter. In that year, a total of 175 adverse action cases were resolved. In Fiscal Year 2018-19, the commission issued 236 decisions to resolve adverse action cases, which is an average of 59 decisions per quarter.



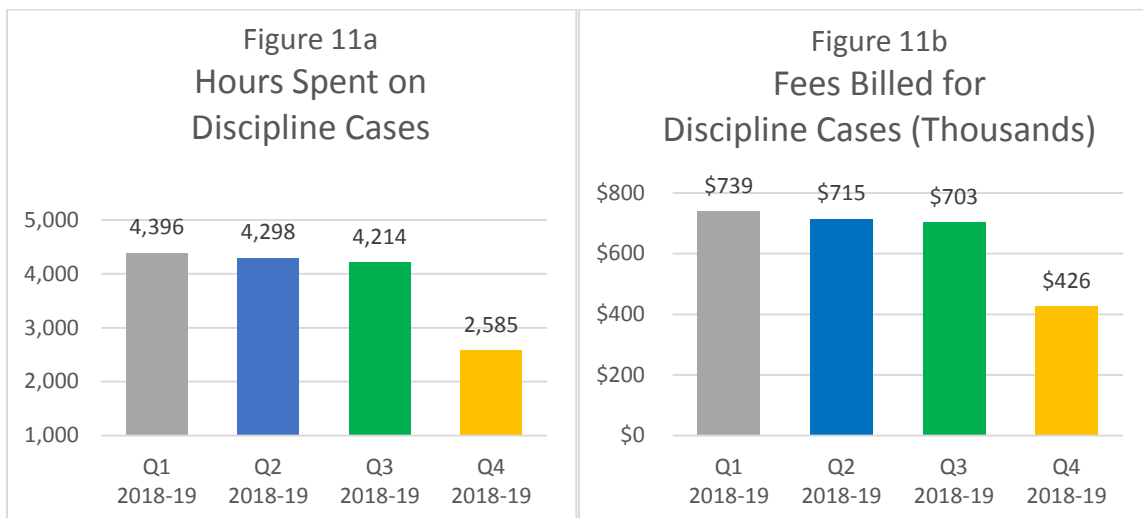
⁸ *Resolution* is when the effective date of the commission’s decision has arrived; the case can then be closed. Resolved cases are no longer considered to be *at* the Office of the Attorney General. It is typical for the commission to issue more decisions in the second and fourth quarter of each year because the commission meets twice during those quarters and only once during the first and third quarters.

In this reporting quarter, an average of 92 hours were required to resolve adverse action cases. Comparing the same information in terms of fees, average fees to adjudicate matters this quarter were \$15,256. Figures 10a and 10b below show comparisons for all four quarters of Fiscal Year 2018-19.

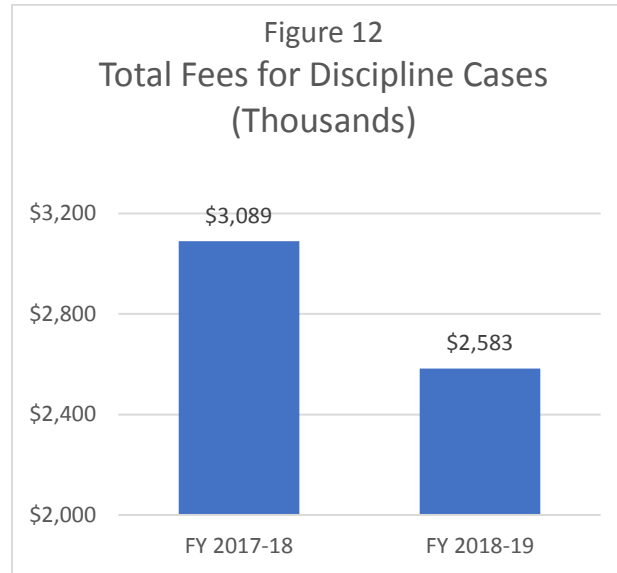


Quarterly Hours and Fees [Provision 7, Subdivision (d)]

In the fourth quarter of Fiscal Year 2018-19, the Attorney General’s staff provided 2,585 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 \$425,835 to the commission related to the teacher discipline caseload. This is about 55 percent of the amount of hours spent quarterly in the first reporting year. The inventory of pending adverse action cases continues to decline, resulting in fewer hours of work required for the whole caseload. We expect the number of hours of quarterly work to remain fairly consistent at this point, unless the referral rate increases. Figures 11a and 11b below summarize hours and fees for all four quarters of Fiscal Year 2018-19.



Comparing our two complete reporting years, total hours and fees for Fiscal Year 2017-18 were 18,602 and \$3,089,148. In comparison, total hours and fees for Fiscal Year 2018-19 were 15,493 and \$2,582,818. Fees for each year are displayed in Figure 12 below, shown in thousands of dollars.



CONCLUSION

This quarterly report provides information regarding the volume, time for adjudication, and cost for 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.

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FY 2018-19 Quarter Four – Published August 30, 2019

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 quarter, subdivision (b)(1)	195*	14	209
Referrals received during the quarter	30	1	31
Referrals resolved during the quarter	73	5	78
Referrals end of the quarter, subdivision (b)(5)	152	10	162

*One referral previously entered in error was deleted.

Further Investigation Requested and Received Provision 7, subdivisions (b)(2) and (b)(3)	
Further investigation requests, subdivision (b)(2)	4
Supplemental investigations received, subdivision (b)(3)	9

Number of Days for Adverse Action Adjudications Provision 7, subdivision (b)(4)						
Minimum	Maximum	Mean	Goal	Above Goal	Median	Count
37	1,904	481	365	116	298	36

Number of Days from Receipt of Referral to Hearing Commenced Provision 7, subdivision (b)(6)				
Minimum	Maximum	Mean	Median	Count
89	1,641	624	371	7

Hours, Fees and Costs for Adverse Action Cases Provision 7, subdivisions (c)(1), (c)(2) and (c)(3)		
For 73 adverse action cases resolved:	Mean	Median
Hours per case, subdivision (c)(1)	92	56
Fees per case, subdivision (c)(2)	\$ 15,256	\$9,290
Costs per case, subdivision (c)(3)	\$ 251	\$ 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)	2,585	\$ 425,835
Other cases, subdivisions (d)(3) and (d)(4)	1	\$ 170
All cases combined	2,586	\$ 426,005

FY 2018-19 Quarter Three – Published May 31, 2019

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 quarter, subdivision (b)(1)	195*	17	212
Referrals received during the quarter	39	3	42
Referrals resolved during the quarter	39	6	45
Referrals end of the quarter, subdivision (b)(5)	195	14	209

*One referral previously entered in error was deleted.

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

Number of Days for Adverse Action Adjudications Provision 7, subdivision (b)(4)						
Minimum	Maximum	Mean	Goal	Above Goal	Median	Count
93	1,767	610	365	245	611	53

Number of Days from Receipt of Referral to Hearing Commenced Provision 7, subdivision (b)(6)				
Minimum	Maximum	Mean	Median	Count
280	1,386	726	649	12

Hours, Fees and Costs for Adverse Action Cases Provision 7, subdivisions (c)(1), (c)(2) and (c)(3)		
For 39 adverse action cases resolved:	Mean	Median
Hours per case, subdivision (c)(1)	94	72
Fees per case, subdivision (c)(2)	\$ 15,261	\$ 11,964
Costs per case, subdivision (c)(3)	\$ 344	\$ 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)	4,214	\$ 703,439
Other cases, subdivisions (d)(3) and (d)(4)	1	\$ 170
All cases combined	4,215	\$ 703,609

FY 2018-19 Quarter Two – Published February 28, 2019

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 quarter, subdivision (b)(1)	230*	16	246
Referrals received during the quarter	35	3	38
Referrals resolved during the quarter	70	2	72
Referrals end of the quarter, subdivision (b)(5)	195	17	212

*One referral previously entered in error was deleted.

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

Number of Days for Adverse Action Adjudications Provision 7, subdivision (b)(4)						
Minimum	Maximum	Mean	Goal	Above Goal	Median	Count
43	1,785	634	365	269	429	43

Number of Days from Receipt of Referral to Hearing Commenced Provision 7, subdivision (b)(6)				
Minimum	Maximum	Mean	Median	Count
243	1,784	779	680	12

Hours, Fees and Costs for Adverse Action Cases Provision 7, subdivisions (c)(1), (c)(2) and (c)(3)		
For 70 adverse action cases resolved:	Mean	Median
Hours per case, subdivision (c)(1)	89	72
Fees per case, subdivision (c)(2)	\$ 14,700	\$ 11,990
Costs per case, subdivision (c)(3)	\$ 494	\$ 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)	4,298	\$ 714,526
Other cases, subdivisions (d)(3) and (d)(4)	0	\$ 42
All cases combined	4,298	\$ 714,568

FY 2018-19 Quarter One – Published November 30, 2018

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 quarter, subdivision (b)(1)	247*	12	259
Referrals received during the quarter	37	6	43
Referrals resolved during the quarter	54	2	56
Referrals end of the quarter, subdivision (b)(5)	230	16	246

*One referral previously entered in error was deleted.

Further Investigation Requested and Received Provision 7, subdivisions (b)(2) and (b)(3)	
Further investigation requests, subdivision (b)(2)	4
Supplemental investigations received, subdivision (b)(3)	6

Number of Days for Adverse Action Adjudications Provision 7, subdivision (b)(4)						
Minimum	Maximum	Mean	Goal	Above Goal	Median	Count
14	1,443	619	365	254	493	67

Number of Days from Receipt of Referral to Hearing Commenced Provision 7, subdivision (b)(6)				
Minimum	Maximum	Mean	Median	Count
196	1,390	744	600	14

Hours, Fees and Costs for Adverse Action Cases Provision 7, subdivisions (c)(1), (c)(2) and (c)(3)		
For 54 adverse action cases resolved:	Mean	Median
Hours per case, subdivision (c)(1)	97	62
Fees per case, subdivision (c)(2)	\$15,683	\$10,390
Costs per case, subdivision (c)(3)	\$81	\$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)	4,396	\$739,018
Other cases, subdivisions (d)(3) and (d)(4)	148	\$25,160
All cases combined	4,544	\$764,178

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

*One referral previously entered in error was deleted.

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

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

*One referral received previously entered in error was deleted.

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

Provision 7 Measures Reported

The Budget Act of 2018, Item 6360-001-0407, Provision 7 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.

Summary of the Adjudication Process

To provide context for this report, we have included a short primer on the adjudicatory hearing 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.

Based on sufficient evidentiary support, 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 is 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. Of course, many cases are resolved through settlement before hearing.

The deputy attorney general prosecutes the discipline 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 ultimate decision.

Subdivision (b)(4) of Provision 7 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.⁹ 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 ultimate 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 ultimate 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 ultimate 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 will be 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. Therefore, it usually takes two or three months after adjudication before final resolution of a discipline case. The diagram below outlines the adjudication process.

⁹ When prosecution is declined, the case is not submitted to the commission for decision, and is closed.

Flowchart – Adjudication Process

