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New York State Supreme Court  
Appellate Division, First Department  
Departmental Disciplinary Committee  
61 Broadway  
New York, New York 10006

**STATE DIVERSION PROGRAM SURVEY<sup>1</sup>**

The New York City Bar Association's Professional Discipline Committee and Lawyer Assistance Program Committee have jointly prepared the following general summary of information collected from telephone interviews with persons within the relevant disciplinary authorities in various states that have diversion programs. This document is not intended as a comprehensive summary of the structure of the various state programs or a complete explanation of how each state operates its respective program. Certain general observations regarding these programs, however, can be gleaned from these interviews:

- a) Diversion is offered *only* when the alleged misconduct is deemed "minor" as defined under the applicable state disciplinary rules, and the conduct has not damaged the public or the grievant;
- b) Diversion is generally governed by a written contract of diversion that also includes a stipulation of facts that can be used in further disciplinary proceedings if the attorney fails to complete the diversion program;

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<sup>1</sup> *This Survey was prepared and submitted to the Appellate Division, First Department together with additional data concerning the structure of the various state diversion programs. Due to confidentiality reasons, the full report does not appear in this document. This is a redacted version of the report.*

c) The diversion program and agreement generally range from six months to several years, with one to two years appearing to be the norm;

d) A rough estimate of the percentage of grievances that are diverted ranges from five percent to twenty percent;

e) The vast majority of diverted matters concern law office mismanagement. A small percentage deal with substance abuse issues;

f) Recidivism rates for those attorneys completing diversion programs appear to be low; and

g) Diversion is uniformly viewed as an asset to the state disciplinary authority in dealing with minor disciplinary matters.

References below to “LAP” are to lawyer assistance programs operated by the respective states.

NOTE: The survey included diversion programs operated in the following jurisdictions:

1. Arizona
2. California
3. Colorado
4. Delaware
5. District of Columbia
6. Florida
7. Iowa
8. Kansas
9. Louisiana
10. Maryland
11. Missouri
12. Nevada
13. New Hampshire
14. New Jersey
15. North Dakota
16. Oklahoma
17. Oregon
18. Tennessee
19. Texas
20. Utah
21. Washington
22. Wisconsin
23. Wyoming