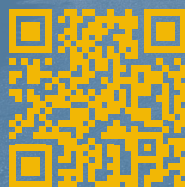


Wyoming Commission on Judicial Conduct and Ethics

2022 Annual Report



<https://judicialconduct.wyo.gov/>

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History & Constitutional Authority

Wyoming's Judicial Supervisory Committee, as it was originally known, was created by constitutional amendment in 1970. It existed for over 25 years as a part of the Wyoming Supreme Court. Today, the Commission is an independent state agency, created by Wyo. Const. art. 5 § 6, adopted in 1996. The Commission is responsible for investigating complaints of judicial misconduct against all Wyoming judicial officers. The Commission evaluates all written, verified complaints for possible violations of the Wyoming Code of Judicial Conduct. In the absence of a written complaint, the Commission may commence investigations on its own motion when it becomes aware of information from any source that is deemed reasonably reliable. *Rules Governing the Commission on Judicial Conduct and Ethics, Rule 7 (a)(b).*

Commissioners

The Commission consists of twelve members who serve three-year terms, Commission members include two district court judges and one circuit court judge elected by their respective conferences; three Wyoming attorneys appointed by the Wyoming State Bar; and six citizen members appointed by the Governor and confirmed by the Senate.

The 2022 Commissioners are:

Citizen Members

Nick Bellack,
Cheyenne

Harmon Davis, II, M.D.,
Cheyenne

Ryan McConnaughey,
Casper

Keren Meister-Emerich, *Vice
Chair*
Cheyenne

Kent R. Noble,
Laramie¹

Ruth Ann Petroff,
Jackson

Margaret Farley,
Glenrock²

Attorney Members

Stephen L. Simonton, *Chair*
Cody³

G. Bryan Ulmer, III,
Jackson

Jamie Woolsey,
Casper

Judge Members

Paul S. Phillips, Circuit Court,
Gillette

Daniel Forgey, District
Court, Casper

Richard L. Lavery, District Court,
Green River

1. Commissioner Noble resigned his seat prior to the end of his term.

2. Commissioner Farley was appointed by Gov. Gordon to fill an unexpired term.

3. In Memoria: Chairman Simonton passed away in December of 2022.

Confidentiality

Except in limited circumstances specified by statute and rule, all complaints, papers and testimony received or maintained by the Commission on Judicial Conduct and Ethics are confidential and cannot be disclosed. Any violation of the confidentiality provision constitutes an act of contempt and is punishable as such. A recommendation for public discipline, filed by the Commission with the Wyoming Supreme Court, loses its confidential character upon its filing, subject to the procedures, rules or orders of the Court. However, the record which is the basis of the recommendation remains confidential unless otherwise ordered by the Court.

Budget

The Commission receives all funding from the State of Wyoming general fund. It is a very small agency which operate efficiently within its budget of \$345,727.01 per biennium, with one full-time employee and twelve volunteer Commissioners. The Commission's budget is for personnel, travel for meetings and training, administrative and office expenses, and the cost of hiring disciplinary counsel to conduct investigations and prosecute violations of the Code of Judicial Conduct.

It is impossible for the Commission to estimate the number of complaints it will receive or the complexity of those complaints and thus, how often disciplinary counsel will be needed. Investigations have, at times, lasted more than two years and can span more than one biennium budget. There must be adequate funding for the Commission to fully investigate and conduct necessary judicial disciplinary proceedings in compliance with the Commission's constitutional mandate.

Meetings

The Commission meets twice a year to conduct business. The Spring 2022 business meeting was held virtually on April 8, 2022. The Fall 2022 business meeting was held in Casper on September 30, 2022.

The Commission, Investigatory Panels, Adjudicatory Panels, or Disciplinary Panels of the Commission, meet as needed to address complaints. Similarly, administrative committees of the Commission meet occasionally throughout the year to work on special projects. Nearly all meetings are conducted virtually. The Commission, a panel or committee convened for 22 meetings in 2022.

Letter from the Chair



On behalf of Wyoming's Commission on Judicial Conduct and Ethics, it is my pleasure to present the 2022 Annual Report. Wyoming is one of 28 states with a constitutionally created Commission on Judicial Conduct and Ethics. The Commission is responsible for reviewing and investigating complaints and as needed conducting confidential hearings of potential violations of Wyoming's Code of Judicial Conduct by Wyoming judicial officers.

As the Preamble to the Wyoming Code of Judicial Conduct states: "An independent, fair and impartial judiciary is indispensable to our system of justice." The members of the Commission take the code to heart in carrying out their duties. The Commission appreciates the professionalism and high standards of conduct maintained by the majority of judges in Wyoming. The Commission, assisted by the Executive Director, Wendy Soto, works hard to review complaints and apply the appropriate standards of the Code. After review of complaints of judicial misconduct made against judicial officers, the commission may discipline a judicial officer or make a recommendation of discipline to the Wyoming Supreme Court. Complaints for conduct unrelated to, or that does not violate, the Code are summarily dismissed. Over the last ten years, the average number of complaints received per year was 34. In 2022, the commission received 37 complaints. Of the 37 complaints 19 were summarily dismissed and the remaining 18 were investigated.

The Commission is comprised of six citizens appointed by the Governor and confirmed by the Senate, three attorneys appointed by the Wyoming State Bar, two district court judges and one circuit court judge elected by their respective conferences. We were saddened to lose Commissioner Stephen L. Simonton in December 2022 and express our condolences to his family and all who knew him. The Commission wishes to thank departing members, Priscilla "Cissy" Dillon, Kent R. Noble, Ray Elser, and Judge Catherine Wilking, for their distinguished service. They were replaced by outstanding Wyomingites, Nicholas A. Bellack, Harmon H. Davis, II, Margaret Farley, and Judge Daniel L. Forgey.

The Commission thanks you for your interest when contacting our office with concerns about the ethical conduct of Wyoming judges. The Commission will continue its work to maintain the integrity of the judicial system in Wyoming.

Keren Meister-Emerich

Chair

Wyoming Commission on Judicial Conduct and Ethics

Letter from the Executive Director



In 1970 Wyoming voters approved a constitutional amendment creating the Wyoming Judicial Supervisory Committee. The Committee, which operated within the offices of the Wyoming Supreme Court, reviewed and addressed ethics complaints against Wyoming judicial officers. In 1996 a second amendment to the Wyoming Constitution created the twelve member Commission on Judicial Conduct and Ethics. Today the Commission is a separate agency within the judicial branch of Wyoming government.

It has been my honor, for the last ten plus years, to serve as the Executive Director of the Commission. In that time I have worked with thirty nine Commissioners. They are Wyoming citizens, attorneys, and judges dedicated to educating themselves about the Code of Judicial Conduct, and the procedural rules of the Commission. These volunteer Commissioners spend significant time staying up to date on judicial ethics rules and trends, as well as reviewing complaints and making decisions about what can sometimes be very difficult cases.

Because much of the work of the Commission is confidential, it has historically remained a somewhat obscure entity. Several years ago the Commission determined, that to best serve the state of Wyoming, it should have a higher public profile. To that end, the Commission developed an educational program which has been adapted for groups of legal professionals, as well as for civic groups. Both the Commissioners and I are pleased to offer the program at any opportunity. In order to provide more and current information to the Wyoming public, the Commission also modernized its informational brochure and this annual report. We continue to strive toward providing citizens with a clear understanding of the Commission and how it performs its work.

The Commission is aware that this process, and citizen awareness of the process, helps to preserve the integrity of our judicial system. Citizens of Wyoming can rest assured that we, at the Commission, are ever mindful of our responsibilities and our role in maintaining trust and confidence in our system of justice.

In this annual report I must acknowledge the loss of the Commission's chairman for 2022. Stephen L. Simonton was appointed to the Commission by the Wyoming State Bar in November, 2018. He was retired from his law practice, which he opened in Cody, Wyoming, in 1973. Steve served as an attorney member of the Commission, the last year as chairman. He led his last Commission meeting in September of 2022. Sadly, Steve lost his battle with cancer on December 4, 2022. Steve was a leader with integrity, empathy and dedication, and he was committed to the work of the Commission. His presence will be missed.

Wendy J. Soto
Executive Director

Complaints

What types of complaints can the Commission address?

The Commission has authority to handle a wide range of complaints against Wyoming judges, defined as Wyoming Supreme Court justices, district court judges, chancery court judges, circuit court judges, municipal court judges, as well as court commissioners, court magistrates or retired judges who have been given a general or special appointment order by the Wyoming Supreme Court to hear cases. Complaints within the Commission's authority include misconduct or violations of the Code of Judicial Conduct, inside or outside the courtroom, conduct that is prejudicial to the administration of justice, or mental or physical disability that seriously interferes with judicial duties.

Who can file a complaint?

A complaint may be filed by anyone who believes that a Wyoming judge has violated any Canon(s) or Rule(s) of the Wyoming Code of Judicial Conduct.

How is a complaint filed?

In most cases, the Commission accepts only written, verified complaints. You may contact the Commission for a copy of its complaint form or you can download it from the Commission website, www.judicialconduct.wy.gov. You may also prepare your own written complaint, but it must include the verification page that is part of the Commission's complaint form. The verification must be signed and notarized.

The complaint must include the name of the judge, as well as the facts surrounding the conduct in question. Additional evidence may be provided if available. The complainant must include a name, address and telephone number. Mark the envelope "Personal and Confidential " and mail to:

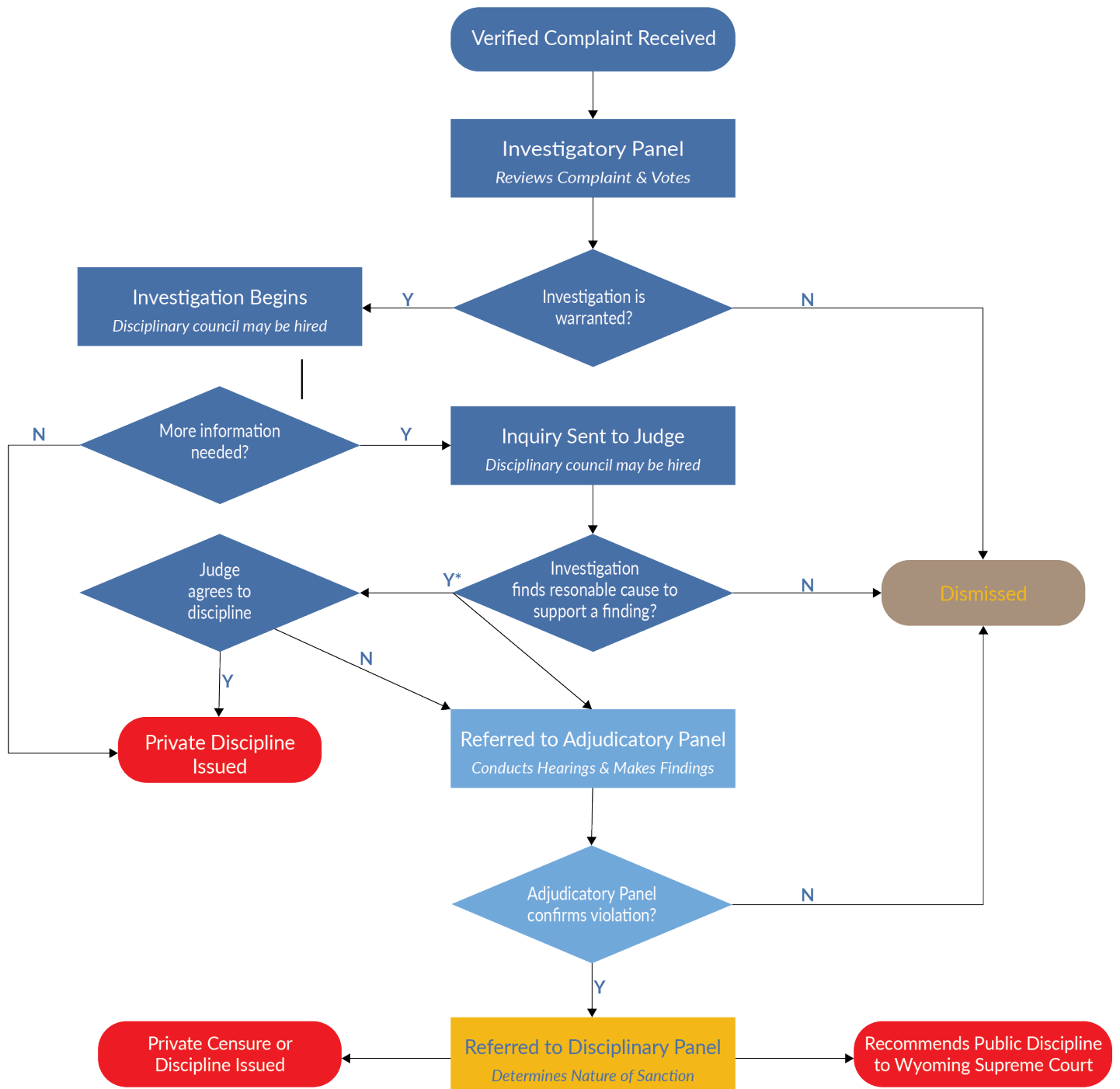
Commission on Judicial Conduct and Ethics
P.O. Box 2645
Cheyenne WY 82003

As previously mentioned, the Commission also has authority to initiate its own inquiry into possible judicial misconduct when an Investigatory Panel becomes aware of information from any source that is deemed reasonably reliable indicating possible judicial misconduct.

Complaint Process Flowchart

Each complaint is different, and the panels of the Commission may take different steps depending on the facts and circumstance of each complaint. What follows is a general outline of the Commission complaint process. It should also be noted that agreed upon discipline may be reached with a judge at any point in the process.

Figure 1. Overview of the Complaint Process



*Panel may negotiate agreement with judge or refer to an Adjudicatory Panel directly.

Frequently Asked Questions

How is a complaint investigated?

Investigatory Panel

All complaints are assigned to an Investigatory Panel (I Panel). This Panel is composed of three or more Commission members, including at least one citizen member, one attorney member, and one judge member. After a complaint has been reviewed and considered by each member of an Investigatory Panel, the Panel votes on whether to commence a formal investigation or dismiss the complaint. Judges are notified of complaints filed with the Commission only when it is necessary to conduct an investigation. A copy of the complaint is sent to the judge when an inquiry is made by the Investigatory Panel.

The Investigatory Panel may:

- Obtain a copy of a court record for review;
- Contact the judge who is the subject of the complaint and request a response to the allegations in the complaint; and if, after the judge's response, the Panel believes further investigation is necessary;
- Hire disciplinary counsel;
- Begin a preliminary investigation;
- Issue some forms of private discipline;
- Refer the complaint to an Adjudicatory Panel for further proceedings including, if necessary, a formal hearing.

Adjudicatory Panel

If the Investigatory Panel finds there is reasonable cause to support a finding that a judge violated the Wyoming Code of Judicial Conduct, it will refer the matter to an Adjudicatory Panel (A Panel) for formal proceedings. An A Panel consists of the same categories of Commission members, however, no one from the I Panel can serve on an A Panel on the same matter. The A Panel conducts an adjudicatory hearing and makes Findings of Fact and Conclusions of Law. The A Panel can dismiss a matter or submit its findings to a Disciplinary Panel for a determination of the proper sanction.

Disciplinary Panel

The Disciplinary Panel (D Panel) consists of all Commission members except the I Panel members. The D Panel, following certain guidelines set out in our rules, determines the appropriate discipline. That might include various forms of private discipline or the Panel may recommend public discipline to the Wyoming Supreme Court. Only the Wyoming Supreme Court can issue public discipline. Pursuant to the Rules, discipline may include the assessment of reasonable costs and fees.

What actions can the Commission take?

The commission may:

- Recommend disciplinary action to the Wyoming Supreme Court.
- Sanction a judge privately.
- Dismiss the complaint if no violation is found.

Are there actions the Commission CANNOT take?

The Commission cannot:

- Remove or replace a judge assigned to a legal proceeding.
- Review a legal decision made by a judge (i.e., child custody or support decisions; sentencing; etc.).
A legal decision made by a judge may be reviewed only by state appellate courts (the Wyoming Supreme Court, or in some instances, a district court may review a decision of a circuit court).
- Address attorney misconduct or misconduct by any other governmental agency.

What disciplinary actions can the Commission take?

The Commission may dismiss a case or may consider and implement various forms of discipline, including, but not limited to:

- Temporary discipline
- Interim suspension
- Letters of correction
- Deferred disciplinary agreement,
- Stipulated private censure,
- When a judge is privately disciplined, except in the case of a letter of correction, assess reasonable costs incurred in connection with the disciplinary proceeding, together with the administrative fee.
- Make recommendations to the Wyoming Supreme Court, in accordance with Wyoming Constitution, Art. Sec. 6, for:
 - o Suspension
 - o Public censure, reprimand or admonishment
 - o Retirement
 - o Removal from office

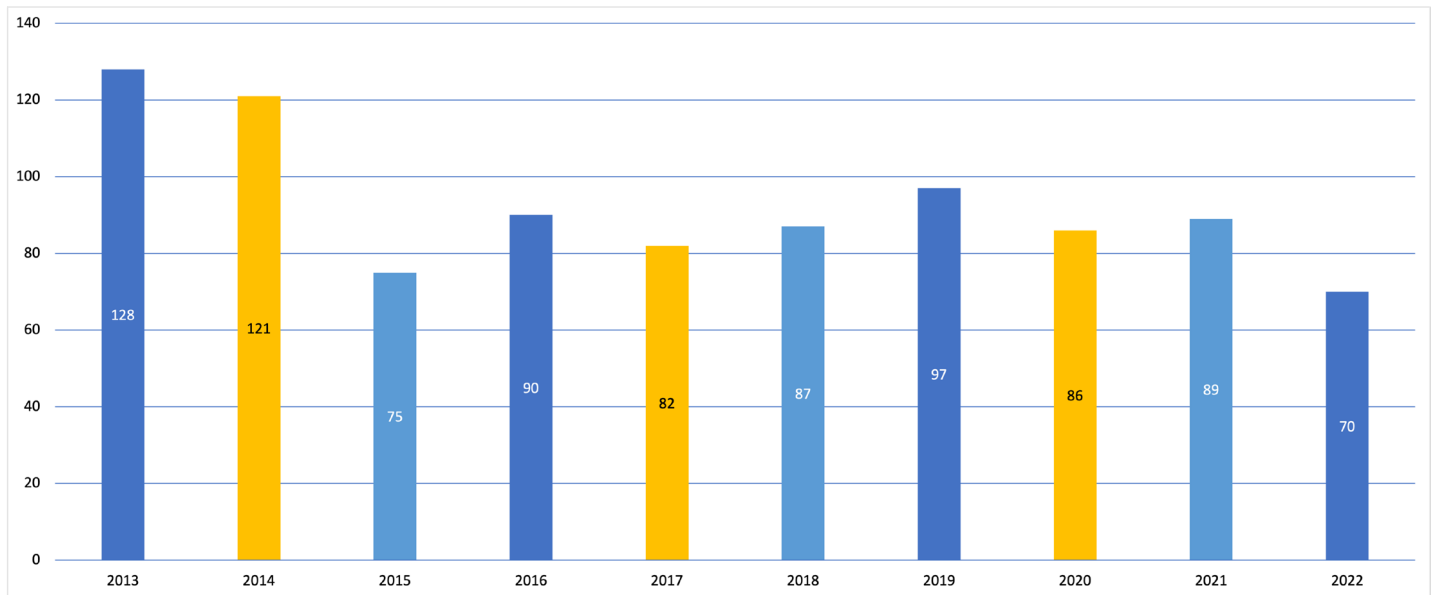
What is judicial misconduct?

Judicial misconduct can include, but is not limited to:

- Improper courtroom decorum
- Improper consideration and treatment of counsel, witnesses, and others; improper bench conduct such as drunkenness
- Failure or refusal to dispose of judicial business promptly
- Improper use of judicial authority
- Abuse of the power of the judicial office
- Improper influence, allowing family, social or political relationships to influence any judicial decision or matter relating to the administration of justice; conflict of interest; giving or receiving gifts, bribes, loans or favors
- Impropriety off the bench
- Misappropriation or misuse of public employees, property or funds; improper comments, accusations or associations; interference with or influence on a pending or impending lawsuit; lewd or corrupt personal life; use of judicial position to extort or embezzle private funds
- Habitual intemperance; excessive use of alcohol or drugs
- Conduct prejudicial to the administration of justice that brings the judicial office into disrepute
- Failure to oversee administrative staff, failure to require staff, court officials and others subject to the judge's direction to exercise proper decorum, behavior, and attitudes; failure to refrain from manifesting bias or prejudice in the performance of official duties
- Criminal behavior

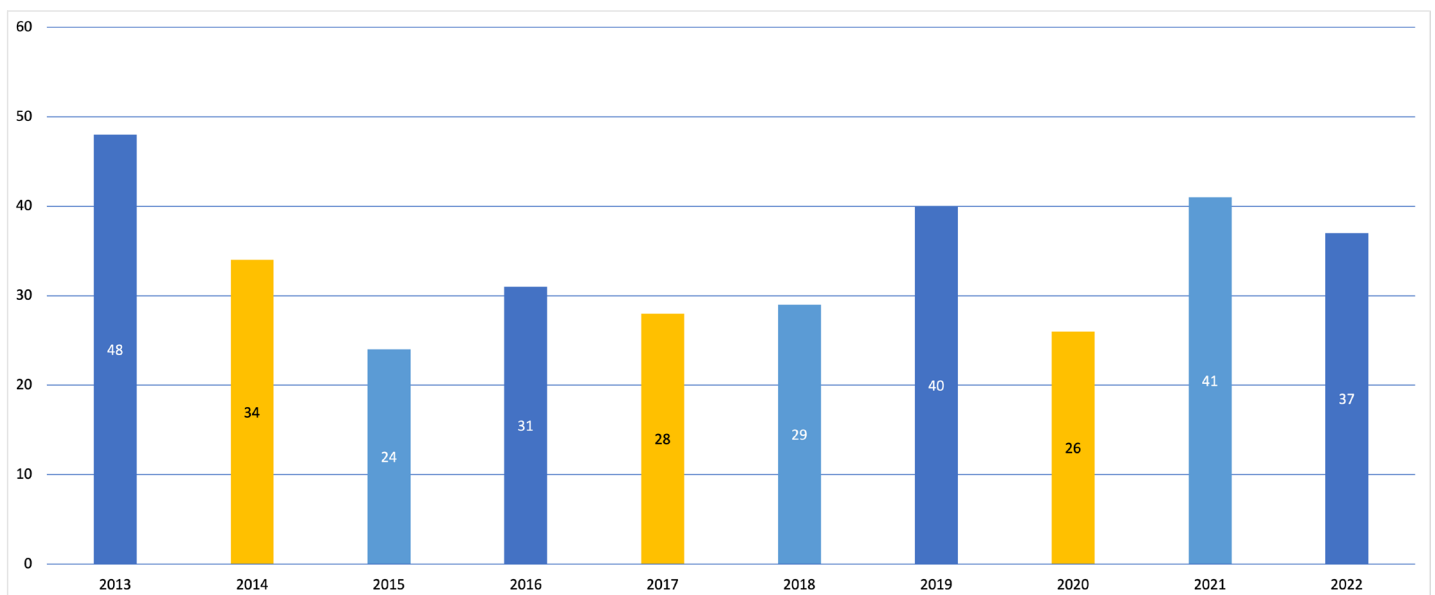
Statistics

Figure 2. Total Inquiries Received by Year from 2013 to 2022



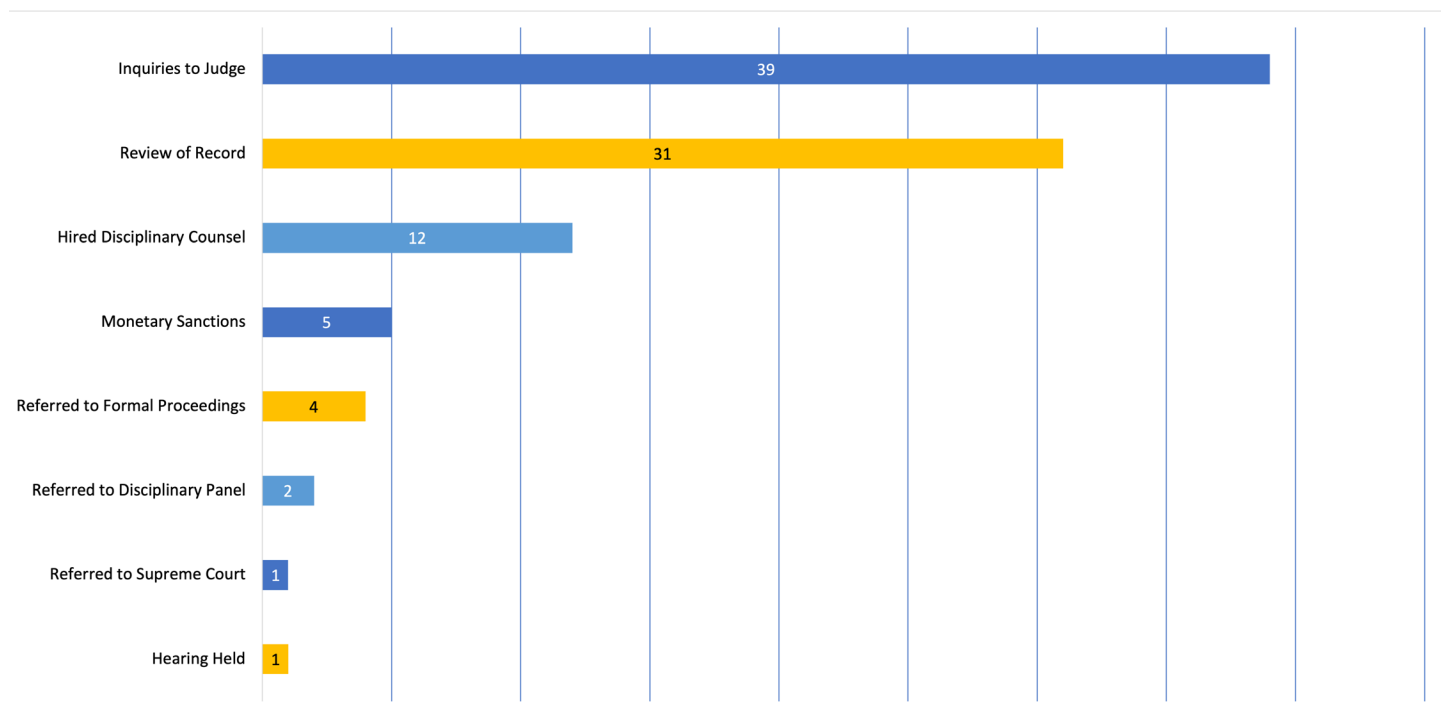
From 2013 through 2022, the average number of inquiries was 92.5. The least was 70 in 2022 and the most was 128 inquiries in 2013.

Figure 3. Total Complaints from 2013 to 2022



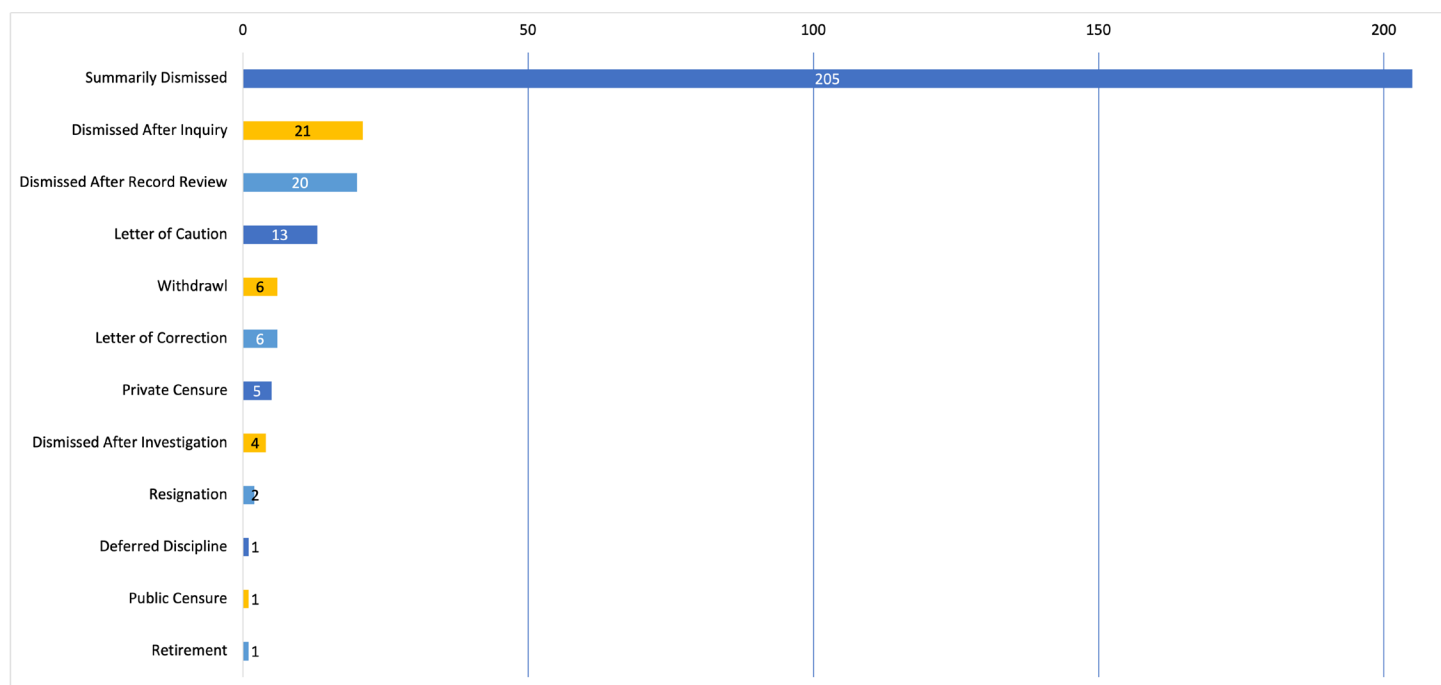
From 2013 through 2022, there was an average of 34 complaints per year. The least was 24 in 2015 and the most was 48 inquiries in 2013.

Figure 4. Complaint Activity from 2013 to 2022



The most common activity was an Inquiry to a Judge, with 39, followed by a Review of the record, with 31.

Figure 5. Disposition of Complaints from 2013 through 2022



Of the complaints received from 2013 to 2022, 205 were Summarily Dismissed. Of the complaints that required more action, 21 were Dismissed after inquiry, and 20 were Dismissed after record review.

Other options available to the Commission, that were not applied in any cases from 2013 through 2022 were: Dismissed after Adjudication, Dismissed after Probation, and Public Suspension.

Table 1. Meetings Held: 2013 to 2022

Type	Frequency
Adjudicatory Panel	7
Adjudication Preparation	1
Full Commission	24
Committee Meeting	34
Disciplinary Panel	1
Hearing/Conference	5
Investigatory Panel	152
Total	224

From 2013 through 2022, the most common meeting was the I Panel meeting with 152 meetings. During that time frame there was one Adjudication Preparation and one Disciplinary Panel meeting. From 2013 through 2022, the commission averaged 22 meetings per year.

Table 2. Type of Complaint Resulting in Discipline: 2013 to 2022

Status	Frequency
Own Motion	22
Verified	263
Total	285

In the absence of a written complaint, the investigatory panel may commence investigations on its own motion when it becomes aware of information from any source that is deemed reasonably reliable on matters concerning alleged disability, judicial misconduct, criminal misconduct, or civil misconduct falling within the jurisdiction of the Commission. Rules Governing the Commission on Judicial Conduct and Ethics, Rule 7 (b).

Table 3. Substance of Complaints Resulting in Discipline: 2013 to 2022

Substance of Complaint Type	Number
Rule 1.2 Promoting Confidence in the Judiciary	9
Rule 2.5 Competence, Diligence, and Cooperation	8
Rule 2.12 Supervisory Duties	7
Rule 1.1 Compliance with the Law	6
Rule 2.9 Ex Parte Communication	5
Rule 2.6 Ensuring the Right to Be Heard	3
Rule 2.2 Impartiality and Fairness	2
Rule 2.11 Disqualification	2
Rule 2.3 Bias, Prejudice, and Harassment	1
Rule 2.7 Responsibility to Decide	1
Rule 1.3 Avoiding Abuse of the Prestige of Judicial Office	1
Rule 2.1 Giving Precedence to the Duties of the Judicial Officer	1
Rule 2.8 Decorum, Demeanor, and Communications with Jurors	1
Rule 2.16 Cooperation with Disciplinary Authorities	1
Rule 3.2 Appearance before Government Bodies & Consultation with Government Officials	1
Total	64

Note: An investigation may involve possible violations of more than one rule.

The type of complaint that most often results in discipline is for failure to promptly dispose of judicial business.

Resources

The Commission's website can be accessed at:

<http://judicialconduct.wyo.gov>

The Rules Governing the Commission on Judicial Conduct and Ethics can be accessed at:

<http://judicialconduct.wyo.gov/home/establishment-of-commission/commission-rules>

The Wyoming Code of Judicial Conduct can be accessed at

<http://judicialconduct.wyo.gov/home/how-to-file-a-complaint/wyoming-code-of-judicial-conduct>