WSBA Discipline System Annual Report

2021 SNAPSHOT

How the Lawyer Discipline and Disability System Works

The Washington Supreme Court has exclusive responsibility and inherent authority over regulation of the practice of law in Washington. This authority includes administering the discipline and disability system. Many of the court’s disciplinary functions are delegated by court rule to the WSBA, which acts under the supervision and authority of the court. Under the Supreme Court’s mandate in General Rule 12.2, the WSBA is committed to administering an effective system of discipline in order to fulfill its obligations to protect the public and ensure the integrity of the profession. The prosecutorial and investigative functions of the discipline system are discharged by ODC, while the adjudicative functions are handled by the Disciplinary Board and hearing officers, which are administered by OGC.

WSBA Office of Disciplinary Counsel (ODC)

- Answers public inquiries and informally resolves disputes
- Receives, reviews, and may investigate grievances
- Recommends disciplinary action or dismissal
- Diverts grievances involving less serious misconduct
- Recommends disciplinary proceedings
- Presents cases to discipline-system adjudicators
- Conducts evidentiary hearings and other proceedings
- Conduct settlement conferences
- Approve stipulations to admission and reprimand
- Reviews recommendations for proceedings and disputed dismissals
- Serves as intermediate appellate body
- Reviews hearing records and stipulations

Disciplinary Board (Administered by OGC)

- Reviews recommendations for proceedings and disputed dismissals
- Conducts final appellate review
- Orders sanctions, interim suspensions, and reciprocal discipline
- Conducts evidentiary hearings and other proceedings
- Conduct settlement conferences
- Approve stipulations to admission and reprimand

Washington Supreme Court

- Exclusive governmental responsibility for the system
- Conducts final appellate review
- Orders sanctions, interim suspensions, and reciprocal discipline
- Conducts evidentiary hearings and other proceedings
- Conduct settlement conferences
- Approve stipulations to admission and reprimand

A CLOSER LOOK

Number and Nature of Grievances

ODC’s intake staff receives all phone inquiries and written grievances and conducts the initial review of every grievance. After initial review, some grievances are dismissed, and others are referred for further investigation by ODC investigation/prosecution staff. Grievances that are not dismissed or diverted after investigation may be referred for disciplinary action. When warranted and authorized by a review committee of the Disciplinary Board, these matters are prosecuted by disciplinary counsel with the assistance of professional investigators and a support staff of paralegals and administrative assistants. In 2021, ODC received more than 1,500 grievances.

Nature of Grievances

- 7% Personal Behavior
- 6% Trust Account Overdraft
- 30% Interference with Justice
- 8% Violation of Duty to Client
- 5% Lawyer Fees
- 1% Other
- 24% Opposing Client
- 26% Former Client
- 7% Other
- 18% Judicial
- 22% Current Client
- 1% Other Lawyer
- 62.5% of grievances arose from criminal law, family law, and tort matters.

Grievance Filings in Detail

In 2021, the majority of grievances against Washington lawyers originated from criminal and former clients and opposing clients. Discipline files are opened in the name of the Office of Disciplinary Counsel when potential ethical misconduct comes to the attention of disciplinary counsel by means other than the submission of a grievance (e.g., news articles, notices of criminal conviction, trust account overdrafts, etc.) or through confidential sources. “Other” may include grievances filed by family members, neighbors, non-client members of the public, or other individuals.
A CLOSER LOOK

Disciplinary Actions Taken

Disciplinary “actions,” which include both disciplinary sanctions and admonitions, result in a permanent public disciplinary record. In order of increasing severity, disciplinary actions are admonitions, reprimands, suspensions, and disbarments. If a lawyer should be cautioned, review committees of the Disciplinary Board have authority to issue an advisory letter, which is neither a sanction nor a disciplinary action and is not public information. For less serious misconduct, ODC may divert a grievance from discipline if a lawyer agrees to a diversion contract, which if successfully completed results in dismissal of the grievance. In 2021, 16 matters were referred to diversion.

In 2021, 41 lawyers were disciplined and one lawyer had more than one disciplinary action, for a total of 42 disciplinary actions.

Disciplinary Actions
42 TOTAL

- Admonitions: 1
- Reprimands: 14
- Suspensions: 15
- Resignations in Lieu of Discipline: 7
- Disbarments: 5

PANDEMIC RESPONSE

COVID-19 and the Discipline System

The WSBA’s physical office closed to the public in March 2020 and remained closed until August 2, 2021. After the WSBA’s office closed, the vast majority of WSBA staff began working 100% remotely. Shortly thereafter, the Washington Supreme Court and the Chief Hearing Officer and Disciplinary Board Chair entered orders regarding modified procedures during the pendency of the COVID-19 public health emergency for matters in the licensed legal professional discipline and disability system. The temporary orders allowed for electronic communications as a primary method of communication during the public health crisis.

Although the COVID-19 public health emergency keenly affected the number of grievance filings during calendar year 2020, grievance filing rates have returned to pre-COVID-19 volume. Overall, however, the filing rate remains lower than its previous pre-COVID-19 average.

LPO and LLLT Discipline System

Limited practice officers (LPOs) and limited license legal technicians (LLLTs) are also authorized to practice law in Washington, through regulatory systems administered by the WSBA. A Washington Supreme Court-mandated regulatory board oversees each limited license. Each licensee is subject to license-specific rules of professional conduct and disciplinary procedural rules. The WSBA administers a discipline system for each of these licenses. At the end of 2021, there were 802 LPOs and 66 LLLTs actively licensed to practice. In 2021, the WSBA received three disciplinary grievances against LPOs and three disciplinary grievances against LLLTs.

Lawyer Disability Matters

Special procedures apply when there is reasonable cause to believe that a lawyer is incapable of properly defending a disciplinary proceeding, or incapable of practicing law, because of mental or physical incapacity. Such matters are handled under a distinct set of procedural rules. In some cases, the lawyer must have counsel appointed at the WSBA’s expense. In disability cases, a determination that the lawyer does not have the capacity to practice law results in a transfer to disability inactive status. In 2021, five lawyers were transferred to disability inactive status based on an incapacity to practice law.