

WASHINGTON DISCIPLINE SYSTEM

2022 Annual Report



WASHINGTON STATE
BAR ASSOCIATION

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Contents

Executive Summary	1
The Lawyer Discipline System	4
Structure of the Lawyer Discipline System	4
The Office of Disciplinary Counsel	5
Review Committees of the Disciplinary Board	5
Hearing Officers	6
Disciplinary Board	6
Washington Supreme Court	7
2022 by the Numbers	8
Lawyer Grievance and Other ODC Statistics	9
Disciplinary Grievance Statistics	9
Diversion	12
Auditor Activities	13
Lawyer Hearings and Appeals	14
Review Committees	14
Hearing Officers	14
Disciplinary Board	15
Washington Supreme Court	15
Final Outcomes in Lawyer Discipline Cases	16
Disciplinary Actions	16
Ethics Rules Violations	18
Lawyers Disciplined	19
Other Components of the Discipline System	20
Adjunct Disciplinary Counsel Panel	20
Probation and Other Conditions of Discipline	21
Lawyer Disability Matters	21
Client Protection Fund	22
Funding the Lawyer Discipline System	23
LPO and LLLT Discipline System	24
Statistical Information	25

Executive Summary

The Washington State Bar Association (WSBA, or the Bar) is pleased to present the 2022 Discipline System Annual Report.¹ This report is published to share publicly available information about the operations of Washington’s lawyer and limited license practitioner discipline system.

The Washington Supreme Court has exclusive governmental responsibility over the discipline system, many aspects of which are delegated by court rule to be administered by the WSBA. Consistent with the Supreme Court’s mandate in [General Rule \(GR\) 12.2](#), the WSBA administers an effective system of discipline to fulfill its obligations to protect the public and ensure the integrity of the profession. The WSBA’s lawyer discipline functions are discharged primarily by the WSBA’s Office of Disciplinary Counsel (ODC), the WSBA’s Office of General Counsel (OGC), the Disciplinary Board, and Washington Supreme Court-appointed hearing officers. The WSBA discipline functions for limited licenses to practice law are discharged by ODC and the WSBA’s Regulatory Services Department (RSD), each license’s respective Supreme Court regulatory board, OGC, and Washington Supreme Court-appointed hearing officers.

¹ For purposes of this report, references to “the discipline system” encompass both the discipline and disability systems.

Key components include:

- Reviewing and investigating allegations of ethical misconduct and incapacity.
- Prosecuting violations of the applicable ethical rules.
- Seeking and approving the transfer of practitioners to disability inactive status.
- Addressing less serious matters with diversion.
- Informing the public about licensed legal professionals, the legal system, and means to address difficulties involving lawyers and other licensed legal professionals.
- Informally resolving non-communication issues and file disputes (disputes regarding clients requesting their files).
- Administering a random examination program to assess trust account compliance and to educate practitioners on the proper handling of client funds held in trust.
- Administering the Client Protection Fund.
- Educating practitioners about the discipline system and their ethical responsibilities.
- Participating in the development and improvement of the law of ethics and discipline.

This report summarizes the WSBA's efforts in these areas and highlights accomplishments from the 2022 calendar year.

In 2022, ODC lawyers and auditors appeared as speakers in twenty-one programs around the state, at national conferences, and in webinars and webcasts, educating lawyers, law students, and legal professionals.

21



Programs on
Discipline and
Professional Conduct

Program topics included:

- Trust Account Recordkeeping and Compliance
- The Discipline System
- Immigration Law
- Conflicts and Rules of Professional Conduct (RPC) Concerns When Changing Firms
- Career Changes for Lawyers
- The Presentation of Evidence and Objections When Conducting Direct and Cross-Examinations

WSBA PROFESSIONAL RESPONSIBILITY PROGRAM

The WSBA Professional Responsibility Program—which is distinct from and independent of the discipline system—also provides ethics education and outreach to practitioners. In fiscal year 2022, Professional Responsibility Program staff provided ethics advice to 2,100 callers and educated members at 41 programs around the state, including live, webinar, and webcast events.

2,100



Calls Providing
Ethics Advice

41



Ethics Education
Programs

The Lawyer Discipline System

The Washington discipline system for lawyers is composed of several entities that operate as part of the judicial branch of government under the authority of the Washington Supreme Court. The lawyer discipline system is administered by the WSBA, which operates the investigative and prosecutorial functions separately from the adjudicative functions. ODC oversees the investigative and prosecutorial functions. OGC provides administrative and legal support to the hearing officers and the Disciplinary Board, which carry out the adjudicative and decision-making functions. OGC further manages the records for disciplinary proceedings. See LPO and LLLT Discipline System later in this Report for details about the discipline system for limited license legal professionals.

Structure of the Lawyer Discipline System

WSBA OFFICE OF DISCIPLINARY COUNSEL	<ul style="list-style-type: none"> ▪ 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 disability proceedings. ▪ Presents cases to discipline-system adjudicators.
HEARING OFFICERS	<ul style="list-style-type: none"> ▪ Conduct evidentiary hearings and other proceedings. ▪ Conduct settlement conferences. ▪ Approve stipulations to admonition and reprimand.
DISCIPLINARY BOARD	<ul style="list-style-type: none"> ▪ Reviews recommendations for proceedings and disputed dismissals. ▪ Serves as intermediate appellate body. ▪ Reviews hearing records and stipulations.
WASHINGTON SUPREME COURT	<ul style="list-style-type: none"> ▪ Exclusive governmental responsibility for the system. ▪ Conducts final appellate review. ▪ Orders sanctions, interim suspensions, and reciprocal discipline.

The Office of Disciplinary Counsel

ODC is responsible for reviewing, investigating, and prosecuting grievances about the ethical conduct of Washington lawyers and allegations of incapacity to practice law.

ODC has an intake team, three investigation/prosecution teams, a team of investigators, a team of paralegals, and a team of auditors. The intake team receives inquiries and written grievances and conducts the first review of grievances against lawyers. Some grievances are dismissed at the intake stage, while others are referred for further investigation by ODC investigation/prosecution staff, which includes disciplinary counsel, investigators, paralegals, and administrative assistants. After investigation, disciplinary counsel determine whether grievances should be dismissed or reported to a review committee of the Disciplinary Board. Some less serious matters are diverted from discipline. Rule 6.2 of the Rules for Enforcement of Lawyer Conduct (ELC) sets forth criteria for determining what conduct may qualify as “less serious misconduct.”

Disciplinary counsel prosecute matters ordered to hearing by a review committee of the Disciplinary Board. If a hearing-level decision is appealed, disciplinary counsel brief and argue the appeal to the Disciplinary Board and, in some cases, the Supreme Court.

Review Committees of the Disciplinary Board

Administered by OGC

Four review committees, each composed of two lawyer members and one community representative member of the Disciplinary Board, serve an oversight function in the lawyer discipline system, first to consider grievant appeals of disciplinary counsel dismissals, and second to consider disciplinary counsel recommendations for admonitions or public disciplinary hearings. Among other actions, a review committee may dismiss a matter, order further investigation, issue an admonition, or order a hearing. Review committees also have authority to order a hearing regarding a lawyer’s alleged incapacity to practice law. The WSBA’s OGC provides staff for legal and administrative support to the four review committees.

Hearing Officers

Administered by OGC

Volunteer hearing officers preside over hearings for disciplinary and disability cases. They receive evidence and issue findings, conclusions, and a recommendation on the discipline to be imposed, if any. Hearing officers also conduct settlement conferences in many discipline cases. In disability proceedings, hearing officers make recommendations regarding whether a respondent lawyer should be transferred to disability inactive status. They are also authorized to resolve cases by approving stipulations to reprimand, admonition, or dismissal. A Chief Hearing Officer supervises the hearing officers, assigns cases, assists with training, and monitors hearing officer performance. The WSBA's OGC provides staff for legal and administrative support to hearing officers.

Disciplinary Board

Administered by OGC

In addition to its review committee functions, the Disciplinary Board, composed of volunteer lawyers and community representatives, considers appeals of hearing officer decisions. The Disciplinary Board reviews the record when a respondent lawyer or disciplinary counsel has filed an appeal of the hearing officer's recommendation in a disciplinary matter. The Board also reviews appeals of lawyer disability cases and may review suspension and disbarment recommendations. If requested, the Board hears oral argument on the cases much like an appellate court, and then issues its decision. The Board also reviews stipulations submitted by the parties, which, if approved, will resolve the proceeding without a hearing. The WSBA's OGC provides staff for legal and administrative support to the Disciplinary Board in the performance of its adjudicative functions.

Washington Supreme Court

The Washington Supreme Court has inherent and plenary authority to regulate the practice of law, including the power to dispose of individual cases of lawyer discipline. All proceeding resolutions are sent to the Court, except for dismissals. The Court reviews the Disciplinary Board's suspension and disbarment recommendations, which are appealable as a matter of right. The Court also considers petitions for discretionary review of other adjudicated dispositions. Disciplinary and disability cases appealed to the Supreme Court, like other Supreme Court appeals, proceed with briefing and oral argument, followed by a written opinion by the Court. The Supreme Court may order reciprocal discipline of lawyers who have been disciplined in other jurisdictions, and order interim suspension of a lawyer if the Disciplinary Board recommended disbarment or if the lawyer was convicted of a crime, poses a risk of serious harm to the public, fails to cooperate with a disciplinary investigation, or asserts the lawyer's own incapacity to defend against a disciplinary proceeding.

2022 by the Numbers

33,537



Actively Licensed
Lawyers

6,385



Other Licensed Lawyers
(Emeritus, Honorary,
and Inactive)

1,633



Grievance Files Opened

55



Disciplinary and
Disability Proceedings
Opened

23



Public Formal
Complaints Filed

9



Disciplinary Hearings

36



Disciplinary Actions
Imposed

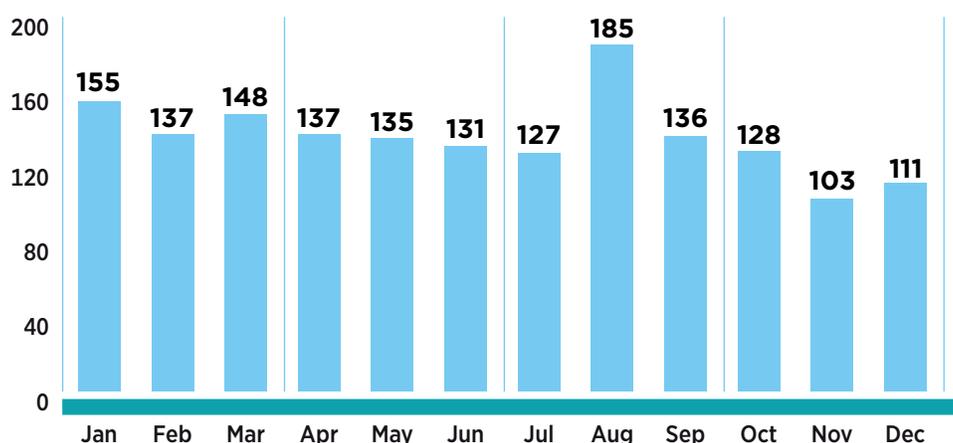
Lawyer Grievance and Other ODC Statistics

DISCIPLINARY GRIEVANCE STATISTICS

The following statistics relate to the intake, investigation, and prosecution by ODC of grievances against lawyers in the 2022 calendar year.

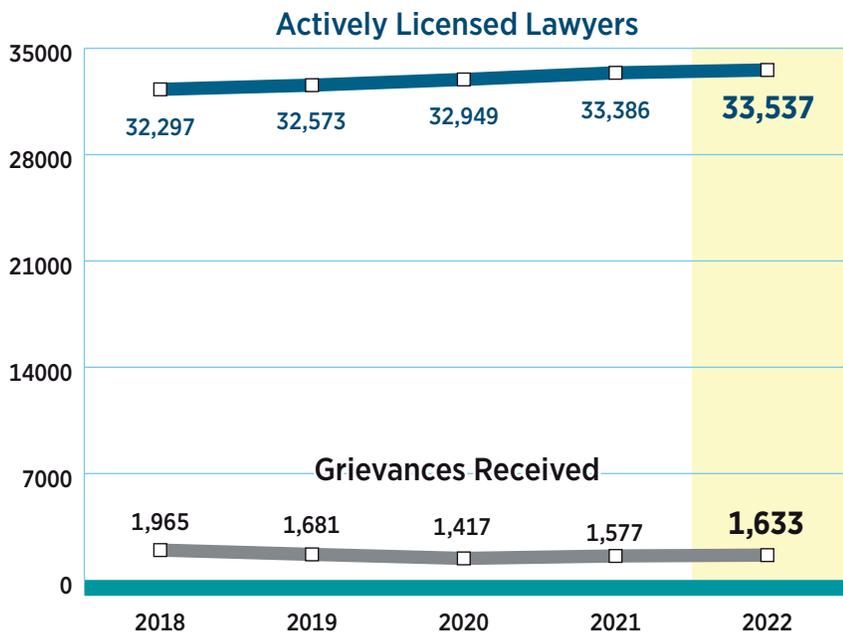
Disciplinary Grievances, Informally Resolved Matters, and Public Inquiries	2022
Disciplinary Grievances Opened	1,633
Disciplinary Grievances Resolved ²	1,634
Non-Communication Matters Informally Resolved	97
File Disputes Informally Resolved	44
Public Inquiries, Phone Calls, and Emails	3,236

Number of Grievances Opened – 2022

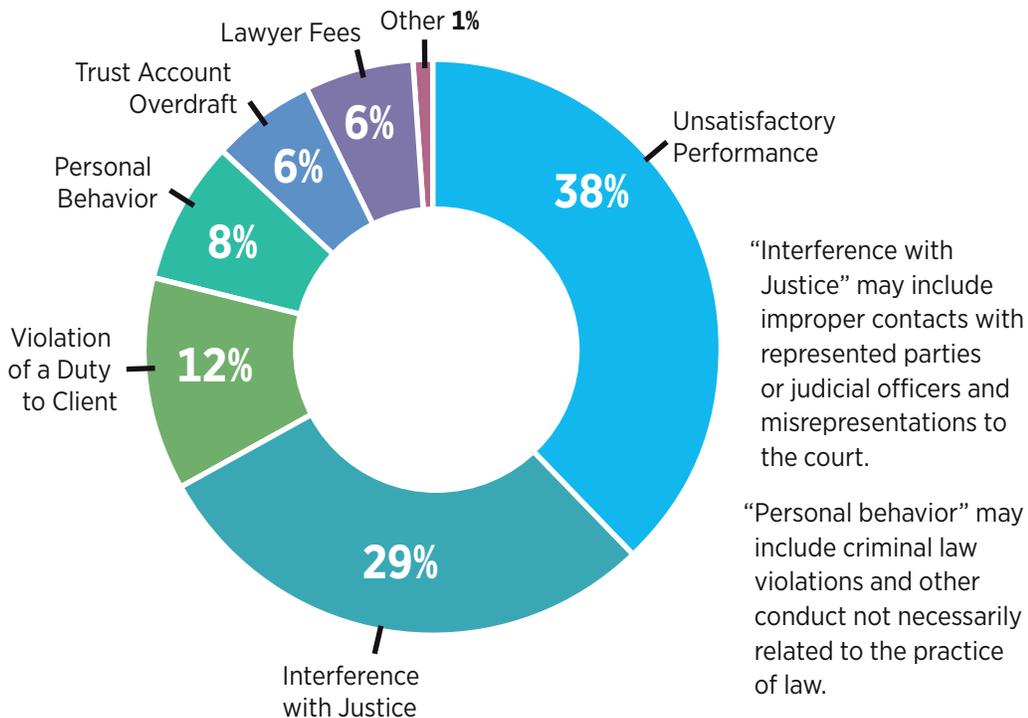


² “Grievances resolved” include all grievances that closed during the calendar year, including, but not limited to, grievances that were dismissed in intake or after investigation and those for which disciplinary action was imposed.

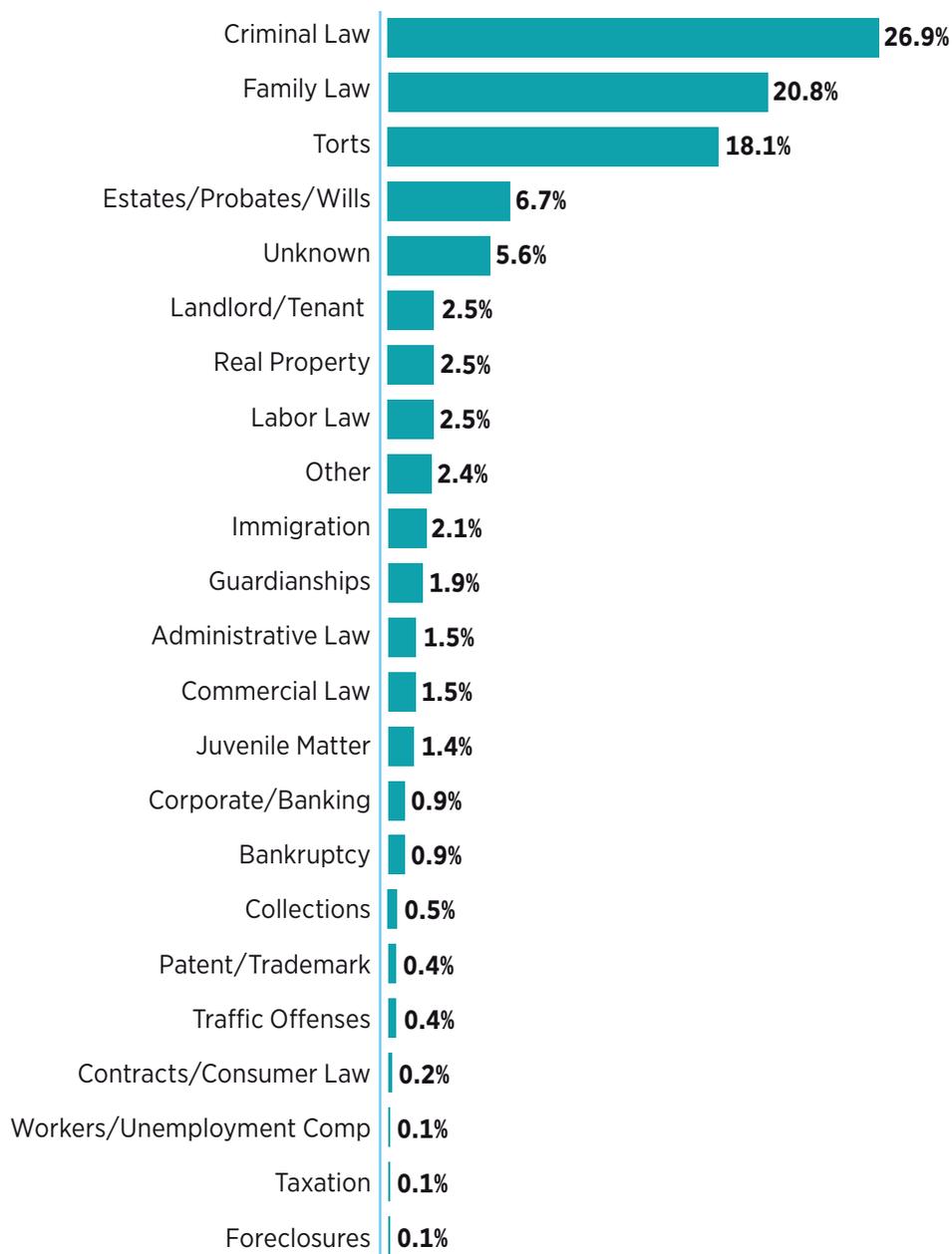
Grievances Received in Relation to Number of Actively Licensed Lawyers 2018 – 2022



Nature of Grievances – 2022



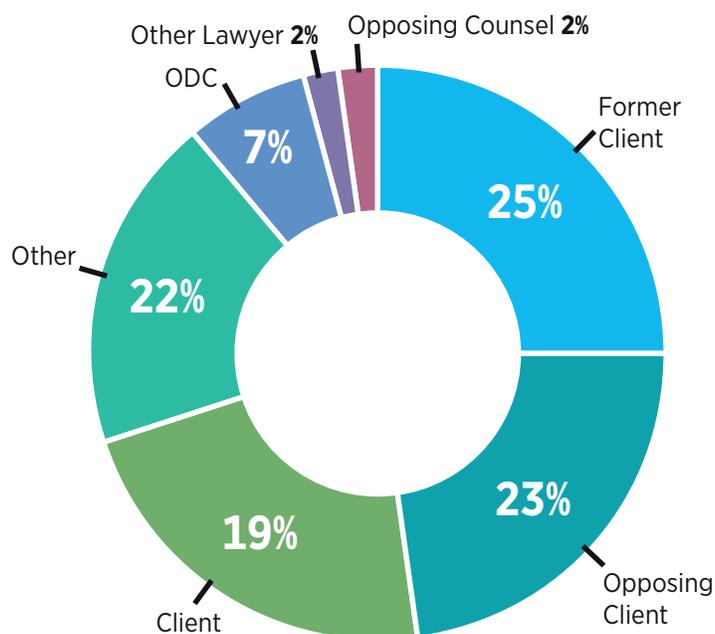
Grievances by Practice Area – 2022



“Unknown” captures those grievances where there was too little information to determine a practice area.

“Other” reflects those practice areas that arise infrequently.

Sources of Grievances Filed – 2022



“ODC” includes files opened in the name of ODC 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.

DIVERSION

For less serious misconduct, ODC may divert a grievance from discipline if the lawyer agrees to a diversion contract. A successfully completed diversion results in dismissal of the grievance. If the lawyer fails to complete the diversion contract, the grievance is reinstated and may result in public disciplinary action.³

Diversions	2020	2021	2022
New Diversions	18	16	12
Completed Diversions	21	19	17
Failed to Complete Contract	0	0	1

³ Total completed diversions include diversions entered into in the prior reporting year but completed in the reporting year.

AUDITOR ACTIVITIES

Washington lawyers who maintain client trust accounts must hold those accounts with financial institutions that report any overdraft of funds to the WSBA. Auditors in ODC assist in the investigation and resolution of grievances opened because of overdraft notices. Auditors also assist in the investigation of grievance files involving trust account issues, conduct random examinations of lawyer trust accounts to ensure compliance with the ethics rules, and review trust account records for lawyers on disciplinary probation.

Auditor Activities	2020	2021	2022
New Overdraft Files	65	77	66
Overdraft Files Closed	79	89	78
Investigation File Assignments	16	21	12
Random Examinations ⁴	20	0	0
Re-examinations	1	0	0

⁴ Due to an ongoing staffing shortage, no new files were opened in 2021-2022.

Lawyer Hearings and Appeals

REVIEW COMMITTEES

In 2022, the review committees of the Disciplinary Board met 17 times to consider 396 matters, including review of dismissals; admonition, advisory letter, and hearing recommendations; and other requests, e.g. deferrals of investigation, orders for costs, and other non-routine matters.

Review Committee Decisions	2020	2021	2022
Dismissals	269	189	315
Orders to Hearing	42	35	44
Other (Deferrals, Costs, etc.)	26	7	10
More Investigation	33	10	18
Advisory Letters	4	1	9
Admonitions	1	0	0

HEARING OFFICERS

In fiscal year 2022,⁵ 26 volunteer lawyers appointed by the Washington Supreme Court served as hearing officers.

Hearing Officer Work	2020	2021	2022
Hearings Held	3	7	9
Stipulations Approved	13	11	7
Settlement Conferences Held	12	8	9

⁵ The WSBA's fiscal year is October 1 through September 30.

DISCIPLINARY BOARD

The Disciplinary Board considered 10 disciplinary and disability matters (excluding denials of sua sponte review) and ordered the transfer of five lawyers to disability inactive status.

Disciplinary Board Matters	2020	2021	2022
Cases Reviewed by Appeal	2	0	1
Stipulations Considered	13	14	9
Oral Arguments	1	0	1

WASHINGTON SUPREME COURT

The Supreme Court reciprocally disciplined twelve lawyers and suspended twelve lawyers on an interim basis.

Supreme Court Decisions	2020	2021	2022
Interim Suspensions	4	4	12
Reciprocal Discipline	9	4	12
Oral Arguments	0	1	0
Published Opinions	1	1	0

Final Outcomes in Lawyer Discipline Cases

DISCIPLINARY ACTIONS

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. A suspension from the practice of law may be for any period of time not to exceed three years⁶, and may include conditions to be fulfilled by the lawyer before reinstatement. A disbarment revokes the lawyer’s license to practice law. Disbarred lawyers are precluded from seeking readmission to the Bar for five years after disbarment. Only the Washington Supreme Court may order suspension, disbarment, or reinstatement.

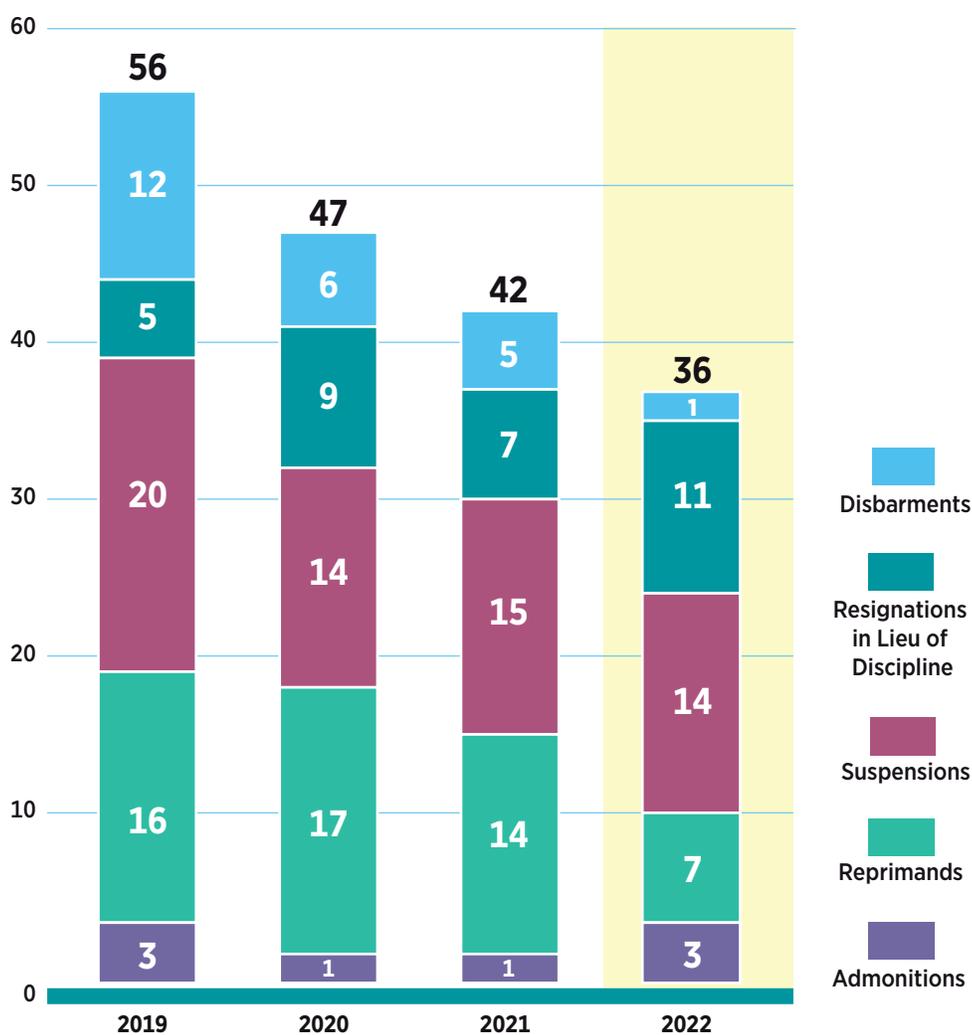
Lawyers may also resign in lieu of discipline if they do not wish to defend against allegations of misconduct. A lawyer who resigns in lieu of discipline may not seek reinstatement to the practice of law in Washington.

Review committees of the Disciplinary Board also have authority to issue an advisory letter when it is determined that a lawyer should be cautioned. Advisory letters are neither a sanction nor a disciplinary action and are not public information.

⁶ Reciprocal suspensions may exceed three years to align with the discipline imposed in the originating jurisdiction.

In 2022, 35 lawyers were disciplined and one lawyer had more than one disciplinary action, for a total of 36 disciplinary actions. The following chart reports the number of disciplinary actions imposed over the last four calendar years.

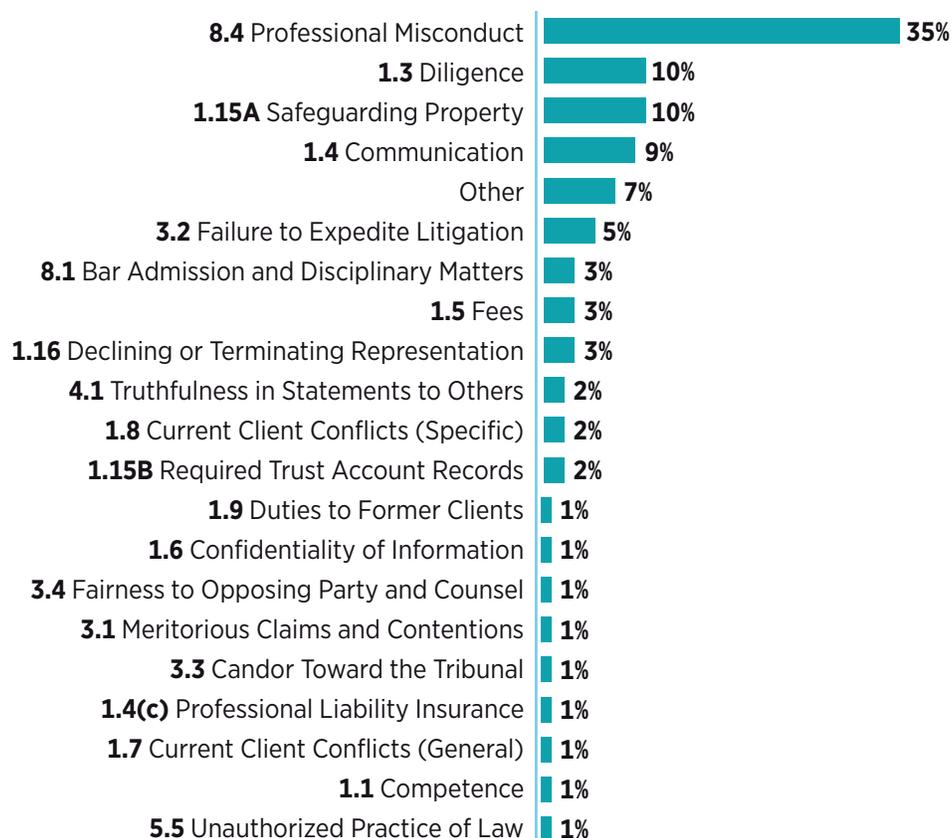
Disciplinary Actions 2019 – 2022



ETHICS RULES VIOLATIONS

In 2022, the most common rule violations in disciplinary proceedings related to professional misconduct (RPC 8.4)⁷, diligence (RPC 1.3), safeguarding client property and trust accounting (RPC 1.15A, 1.15B), and communication (RPC 1.4). The following chart details the RPC violations found in 2022 by percentage.^{8, 9} To review these and other RPC, visit the Washington Supreme Court's website at www.courts.wa.gov.

Ethics Rules Violations – 2022



7 RPC 8.4 violations may include, among other misconduct, criminal conduct, dishonesty, and conduct prejudicial to the administration of justice.

8 The Ethics Rules Violations graph does not reflect multiple repeat rule violations in the same proceeding. Additionally, the chart does not reflect reciprocal discipline matters, as the applicable ethics rules vary among jurisdictions.

9 "Other" reflects those RPC that individually amounted to less than 1% of the RPC violations found.

Lawyers Disciplined

Disbarments (1)

Fargey, Micah David - #50120

Resignations in Lieu of Discipline (11)

Gallina, Scott David - #20423

Inman, Fred Warren - #57944

Ivey, Floyd Edwin - #6888

Konteh, Kabbie - #41154

Leahy, Patrick James - #10912

McKay, Robert S. - #19667

Sadler, Jeffrey Howard - #27136

Satterfield, Samuel David - #50057

Staples, Linda - #32854

Warren, Henry A. - #30360

Williams, Terry L. - #21831

Suspensions (14)

Berkenmeier, Brian L. - #20421

Gordy, Daniel C. - #18917

Hammond, Todd Stephen - #32401

Hao, Kathy - #55972

Herr-Waldroup, Sara M. - #43782

Johnson, Matthew Erik - #43808

Johnson, Myles Julian - #47642

Lilly, Amanda Rae - #48416

Lowe, Aaron Lee - #15120

Megaro, Patrick Michael - #50050

Ostholthoff, Amelia - #51434

Rivera-Nieves, Victor - #46967

Smith, Lynn Earl - #20060

Stewart, Troy Alvord - #15888

Reprimands (7)

Dack, Timothy James - #18870

Dano, Garth Louis - #11226

Gardner, Lara M. - #42443

Kashani, David Peddy - #45829

Kelly, Michael John - #31816

Kim, Andrew Y. - #21959

Van, Sandy - #53745

Admonitions (3)

Moberg, Gerald John - #5282

van Leynseele, Anne - #45794

van Leynseele, Anne - #45794 (second)

*For more information, please visit wsba.org or our webpage on [Professional Discipline](#).

Other Components of the Discipline System

ADJUNCT DISCIPLINARY COUNSEL PANEL

The Adjunct Disciplinary Counsel (ADC) Panel is established by Rule 2.9 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC). Under ELC 5.3(c), disciplinary counsel may assign a grievance to an ADC for investigation under the supervision of the Office of Disciplinary Counsel. In addition, members of the ADC Panel may be called upon to serve as volunteers in the discipline system in a variety of other capacities, such as:

- Assisting disciplinary counsel with a portion of an investigation by reviewing court files, interviewing witnesses, or analyzing evidence.
- Serving as Special Disciplinary Counsel/Adjunct Trial Counsel to represent the WSBA in the prosecution of a disciplinary case.
- Providing disciplinary counsel with an opinion on an area of law relevant to a disciplinary hearing or investigation.
- Providing disciplinary counsel with advice on an aspect of a pending disciplinary proceeding.
- Serving as a probation monitor following imposition of a disciplinary sanction.
- Serving as a file custodian when a lawyer dies, disappears, or otherwise becomes incapable of protecting client interests.

In 2022, the ADC Panel was comprised of 36 volunteer lawyer members who assisted ODC in the review of 14 matters.

Learn more about the Adjunct Disciplinary Counsel Panel on our [website](#).

PROBATION AND OTHER CONDITIONS OF DISCIPLINE

Sanctioned or admonished lawyers may be placed on probation for a fixed time period. Conditions of probation may include alcohol and drug treatment, medical care, psychiatric care, office practice or management counseling, and periodic audits. Other conditions of discipline may include paying restitution to victims and paying the costs of the disciplinary proceeding. A suspension order may also impose conditions that must be complied with prior to reinstatement.

File Openings: Probations and Other Conditions	2020	2021	2022
Probation	11	15	12
Restitution	10	6	6
Costs	39	32	33

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 is incapable of practicing law due to a 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 these cases, a determination that the lawyer does not have the capacity to practice law results in a transfer to disability inactive status. It is also possible for a lawyer to stipulate to a transfer to disability inactive status, and a transfer is required following judicial determination of a lawyer's incapacity, such as involuntary commitment. Although disciplinary procedural rules under the ELC govern disability proceedings, the proceedings are not disciplinary in nature.

Transfers to Disability Inactive	2020	2021	2022
Total	7	5	4

CLIENT PROTECTION FUND

Administered by OGC

The Client Protection Fund Board was established to promote public confidence in the administration of justice and the integrity of the legal profession. Its purpose is to relieve or mitigate a financial loss sustained by a client resulting from a WSBA member's dishonesty or failure to account for money or property entrusted to the WSBA member. The dishonesty or failure to account must have been in connection with the member's practice of law or role as a fiduciary in a matter related to the member's practice of law. To finance the Fund, WSBA lawyers on active status, lawyers with *pro hac vice* admissions, house counsel, foreign law consultants, and limited license legal technicians (LLLTs) on active status pay an annual assessment imposed by order of the Washington Supreme Court. On January 8, 2021, the Court approved the WSBA Board of Governor's (BOG's) recommendation to reduce the Client Protection Fund (CPF) assessment from \$25 to \$20, effective January 1, 2022, for the calendar years 2022 and 2023. On November 21, 2022, the Court approved the BOG's recommendation to reduce the CPF assessment for the 2024 calendar year from \$20 to \$15. In 2022, the Fund gave over \$587,000 in gifts.

Client Protection Fund ¹⁰	2020	2021	2022
Number of Requests Granted	33	29	33
Of These, Number of Lawyers Involved	16	18	13
Total Gifts	\$586,266	\$491,737	\$587,815

¹⁰ The [Client Protection Board](#) reports on the WSBA fiscal year, which is October 1 to September 30.

FUNDING THE LAWYER DISCIPLINE SYSTEM

License fees fund the lawyer discipline system—there is no public funding.¹¹

Discipline System Revenue and Expenses ¹²	2020	2021	2022
REVENUE			
Recovery of Discipline Costs	\$99,805	\$107,513	\$85,405
Discipline History Summaries	\$17,292	\$19,087	\$19,433
Misc ¹³	\$2,240	\$1,275	\$893
Total Revenue	\$119,337	\$127,875	\$105,731
EXPENSES			
Investigation/ Prosecution	\$5,944,702	\$5,703,554	\$5,743,648
Disciplinary Board Expenses	\$236,779	\$211,410	\$225,893
Hearing Officer Expenses	\$29,058	\$30,000	\$32,763
Total Expenses	\$6,210,539	\$5,944,964	\$6,002,304
Net Total Expenses	\$6,091,202	\$5,817,089	\$5,896,573

11 Approximately two percent of the discipline system revenue is funded from alternative revenue sources, including recovery of discipline costs, issuance of discipline history certificates, and recovery of revenue for auditor review of trust account records.

12 Lawyer discipline system expenses are based on the WSBA fiscal year.

13 Miscellaneous revenue includes audit revenue.

LPO AND LLLT DISCIPLINE SYSTEM

Limited practice officers (LPOs) and limited license legal technicians (LLLTs) are also licensed to practice law by the Washington Supreme Court through regulatory systems administered by the WSBA.¹⁴ LPOs may select, prepare, and complete forms for use in a loan, extension of credit, sale, or other transfer of real or personal property. See [Admission and Practice Rule \(APR\) 12](#) for more information about the LPO license. LLLTs are licensed to provide limited legal assistance to clients in family law matters. See [Admission and Practice Rule \(APR\) 28](#) for more information about the LLLT scope of practice.

A Washington Supreme Court-mandated regulatory board oversees each limited license: the Limited Practice Board for LPOs and the Limited License Legal Technician Board for LLLTs. Each licensee is subject to license-specific rules of professional conduct and disciplinary procedural rules. The WSBA administers a discipline system for these licenses.

The key differences between the lawyer discipline system and the limited license discipline systems are as follows:

- (1) Each regulatory board acts as the intermediate appellate body, akin to the Disciplinary Board, to review hearing records and stipulations.
- (2) A discipline committee of each regulatory board serves the function of a review committee.
- (3) RSD staff and the chair of each discipline committee conduct initial review of grievances and make intake decisions.

For both licenses, possible disciplinary actions include revocation, voluntary cancellation in lieu of revocation, suspension, reprimand, and admonition.

¹⁴ One June 4, 2020, the Washington Supreme Court decided to sunset the Limited License Legal Technical program. Further information is available on our [website](#).

STATISTICAL INFORMATION

LPO Disciplinary Statistics	2020	2021	2022
Number of Active Licensees	823	802	793
Disciplinary Grievances Received	3	3	10
Disciplinary Grievances Resolved	2	2	7
Matters Diverted	0	0	0
Disciplinary Actions Imposed	0	0	1

LLLT Disciplinary Statistics	2020	2021	2022
Number of Active Licensees	47	66	76
Disciplinary Grievances Received	0	3	4
Disciplinary Grievances Resolved	0	1	3
Matters Diverted	0	0	0
Disciplinary Actions Imposed	0	0	0

