



COLORADO

Commission on Judicial Discipline

2024 Annual Report

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Colorado Commission on Judicial Discipline

The Colorado Commission on Judicial Discipline is an independent agency created by the Colorado Constitution. Art. VI § 23(3). The Commission's constitutional mandate includes:

- Protecting the public from improper conduct of judges;
- Preserving the integrity of the judicial process;
- Increasing the public's confidence in the judiciary;
- Educating judges and the public regarding proper judicial behavior; and
- Providing for the fair and expeditious disposition of allegations of judicial misconduct.

Colo. RJD (1)(b).

The Commission consists of ten volunteers: two County Court judges, two District Court judges, four citizens, and two lawyers. Members of the Commission as of December 2024 are listed at the end of this report. The Commission is supported by the Office of Judicial Discipline, which currently consists of an Executive Director and four full-time staff.

The Commission is responsible for evaluating and, as necessary, prosecuting, allegations that judges have failed to comply with the requirements of judicial ethics or have become unable to carry out their duties as judges. The Commission receives hundreds of Requests for Evaluation (often referred to as an "RFE") as to individual judges within its jurisdiction each year. Anyone, including parties, lawyers, jurors, other judges, judicial staff, and members of the public, may file a Request for Evaluation. The four Canons of the Colorado Code of Judicial Conduct (the "Code") set forth the basic principles of judicial ethics. Other sources of ethical standards include Chief Justice Directives issued by the Colorado Supreme Court, the Colorado Rules of Judicial Discipline, and statute.

If the Commission finds that a Request for Evaluation raises a meritorious concern, the Commission may pursue a variety of actions, depending on the severity of the conduct.

1. A confidential "dismissal with concern," which includes a letter to the judge educating them on a particular aspect of their ethical duties;
2. A diversion program, which may include training, mentorship or other measures designed to improve the conduct of the judge;
3. Private discipline, which may be an admonition, reprimand, or censure;
4. Public discipline; or, in the most extreme cases,
5. Removal from the bench, either as a sanction for misconduct or as a result of a disability proceeding.

When the Commission seeks public discipline, or when a judge objects to private discipline, the

Commission will institute “formal proceedings,” which are effectively a specialized kind of court case. Prior to the passage of Amendment H, the Colorado Rules of Judicial Discipline, issued by the Colorado Supreme Court, governed the Commission’s formal proceedings. The passage of Amendment H will bring new changes to the formal proceedings process and is discussed in more detail below.

Judges Subject to the Commission’s Jurisdictional Authority

In December 2024, subject to pending retirements and appointments, the Colorado state judiciary was comprised of over 300 judges and justices, including 113 judges in the County Courts; 196 judges in the District Courts; 22 Court of Appeals judges; and seven Colorado Supreme Court justices. In addition, the Senior Judge Program included 45 retired judges who hear cases through the senior judge program.

The Commission’s jurisdiction extends to most, but not all, state court judicial officers:

- The Commission’s jurisdiction includes judges in County Courts (except Denver), District Courts, the Colorado Court of Appeals, and the justices of the Colorado Supreme Court. The Commission also has jurisdiction over retired judges serving in the senior judge program or appointed by the Supreme Court to preside in specific cases.
- Magistrates, municipal judges, and administrative law judges are outside the Commission’s jurisdiction. Disciplinary matters involving these individuals are addressed by the Office of Attorney Regulation Counsel.
- Disciplinary matters involving Denver County Court judges are addressed by the Denver County Court Judicial Discipline Commission.

The Commission is not involved in judicial retention decisions. The Office of Judicial Performance Evaluation researches and evaluates judges’ competence and performance; provides periodic performance reports; and disseminates public reports of its findings prior to the judge’s next retention election.

Major 2024 Events

Change in Leadership and Staff Expansion

The Commission welcomed Anne Mangiardi as its new Executive Director in July of 2024. Mangiardi most recently served in the Colorado Attorney General’s Office as Assistant Solicitor General and Senior Assistant Attorney General. While at the Attorney General’s office, Mangiardi oversaw multiple independent investigations into state agencies. Prior, she was in private practice, both in New York where she attended law school and in Colorado. Jeff Walsh, who served as acting Executive Director for several months in 2024, stayed on as Special Counsel, a position he has held since 2022. The Office of Judicial Discipline also filled all of its open staff positions, bringing the Office to five full-time staff: Executive Director, Special Counsel, Office Manager, Investigator, and Legal Assistant.

Beginning this year, the Office of Administrative Services for Independent Agencies (“ASIA”) has

begun to provide administrative support for the Commission and other independent agencies situated within the Judicial Department. The Commission expects to rely on ASIA for additional support in 2025 as that entity continues to operationalize.

Recent Legislation

Colorado Voters approved Amendment H in the fall of 2024. The Commission will continue to investigate and prosecute judicial misconduct claims. However, Amendment H will bring significant changes to the formal proceedings process starting in 2025. Formal proceedings will now be heard by members of the new Adjudicative Board, will be governed by new rules created by a new Rulemaking Committee, and will become public at an earlier stage.

Amendment H's supporting legislation, House Bill 23-1019, also brings new changes, including new data reporting requirements, the creation of an online Request for Evaluation form, and the requirement that the Commission accept anonymous complaints. The Commission has secured a contract to create an online form, which is expected to be live for the public in early 2025.

Pursuant to House Bill 23-1019, the Commission has begun accepting anonymous Requests for Evaluation. Because of the confidentiality requirements imposed by the constitution on Requests for Evaluation, a complainant who chooses to remain anonymous will not be able to receive updates on the status of their request. The Commission otherwise processes an anonymous Request for Evaluation like any other request.

Grounds for Judicial Discipline

Colorado Constitution Art. VI, Section 23(3)(d) and Colo. RJD 5 provide the grounds for disciplinary proceedings to address alleged violations of the Code as well as:

- Willful misconduct in office, including misconduct that, although not related to judicial duties, brings the judicial office into disrepute or is prejudicial to the administration of justice.
- Willful or persistent failure to perform judicial duties, including incompetent performance of judicial duties.
- Intemperance, including extreme or immoderate personal conduct, recurring loss of temper or control, abuse of alcohol, or the use of illegal narcotic or dangerous drugs.

Colo. Const. Art. VI, Section 23(3)(d) also provides that a judge “may be retired for disability interfering with the performance of his duties which is, or is likely to become, of a permanent character.”

The four Canons of the Code provide guidance for a judge's conduct in the courthouse and in the community:

Canon 1: A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Canon 2: A judge shall perform the duties of judicial office impartially, competently, and diligently.

Canon 3: A judge shall conduct the judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.

Canon 4: A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.

Each Canon includes subsidiary Rules in support of the Canon.

The Commission also handles allegations that a judge has a physical or mental condition that is adversely affecting the judge's ability to perform judicial functions or to assist with their defense in disciplinary proceedings. The emphasis is on diagnosis and treatment and may involve transfer to temporary judicial disability inactive status pending a determination of the nature and degree of disability.

Allegations Over Which the Commission Does Not Have Jurisdiction

The focus, under Commission's rules and the provisions of the Constitution, is on a judge's conduct, rather than a judge's rulings. Disputes about a judge's rulings on motions, evidence, procedure, findings of fact, conclusions of law, or sentencing are not grounds for disciplinary measures pursuant to Colo. RJD 13(c). Even an incorrect decision on an issue of law or fact is not ordinarily grounds for judicial discipline. Those disputes are a matter for appellate courts, not the Commission. The Executive Director, with assistance from staff, dismisses any Request for Evaluation that solely disputes a judge's rulings because these disputes are outside of the Commission's jurisdiction.

The Commission does not have jurisdiction to consider allegations of misconduct by magistrates, municipal judges, administrative law judges, prosecuting attorneys, court-appointed defense counsel, or attorneys in private practice. Allegations of misconduct by attorneys are considered by Attorney Regulation. In addition, the Commission has no authority to consider allegations of misconduct by sheriff deputies, police officers, jail staff, staff of the Colorado Department of Corrections, or federal judicial officers. Where a Request for Evaluation raises concerns regarding an attorney, federal judge, Denver County judge or other individual outside of the Commission's jurisdiction, the Commission provides the requestor with contact information for the appropriate authority.

The Commission does not act upon or respond to repetitive Requests for Evaluation. Where an individual files a second Request for Evaluation as to the same or substantially similar conduct, the Executive Director will reconsider dismissal one time. A third Request for Evaluation of substantially the same conduct will be dismissed without review. Further requests will not receive a response.

The Judicial Discipline Process in Colorado

Phases and Types of Proceedings

An overview of the stages of the judicial discipline process is shown in the following graphic:

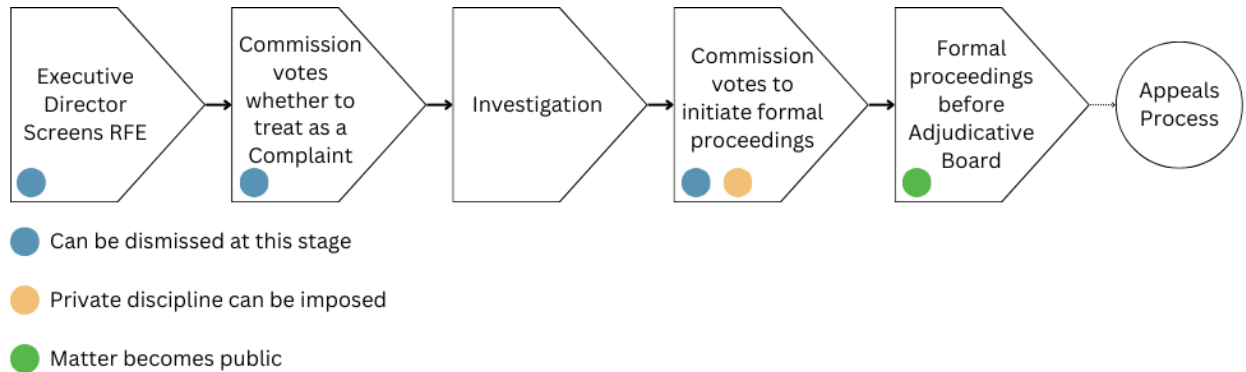


Figure 1. Judicial Discipline Process in Colorado

Request for Evaluation of Judicial Conduct

Most judicial discipline proceedings begin with a Request for Evaluation of judicial conduct. Any person may request an evaluation of judicial conduct or a judicial disability to the Commission. The Commission can also initiate a proceeding by making its own determination that public or otherwise known circumstances present a reasonable basis for such disciplinary proceedings. Colo. RJD 13(f); *see also* Colo. RJD 2(w) (defining “proceedings”).

The Commission provides its RFE form on its website. The form guides the requestor in providing the name of the judge, the date of the incident or incidents involved, pleadings, orders, or excerpts from transcripts. Requests that do not use the Commission’s form or incomplete forms will be treated as a Request for Evaluation if Commission staff determines there is sufficient information to complete the evaluation. If the request lacks sufficient information, Commission staff will reach out to request additional information. Individuals who have any trouble completing the Commission’s form may also submit a request by calling the Commission and providing information over the phone. Further arrangements can be made with the Commission’s staff to accommodate disabled persons in preparing and filing an RFE.

While the Commission will review anonymous RFEs, the practical result of an anonymous RFE along with the confidentiality requirements of Colo. Const. Art. VI, § 23(3)(g) is to prevent the Commission from notifying an anonymous requestor/complainant of the progress and disposition of an evaluation or investigation, as otherwise permitted under Colo. RJD 6.5(d), 13(d) and 14(b) and required by § 13-5.3-112, C.R.S.

The Commission also receives many referrals from across the Judicial Department. Statutory changes in 2022 clarified and strengthened requirements that the Colorado Judicial Department report “information in any form from any source that alleges or from which a reasonable inference can be drawn that a judge committed misconduct or is incapacitated.” § 13-5.3-101(5), C.R.S. The Judicial Department’s procedures for required reporting have also been further defined through

Chief Justice Directive 22-01. Depending upon the allegations raised, the Commission will either treat the documents forwarded by the Department as an RFE or will contact the submitter (assuming sufficient contact information exists) to request additional information and/or to seek confirmation that the individual in fact intended to initiate an RFE.

Review by Executive Director

Upon receipt of each RFE, the Executive Director, with assistance from staff, first reviews the allegations to determine whether it involves a judge within the Commission's jurisdiction and whether the allegations and the court's records provide sufficient evidence regarding the judge's conduct to warrant commencement of disciplinary proceedings. Allegations that involve disputes about a judge's decisions or that, based on the Executive Director's review, do not provide sufficient evidence of misconduct to satisfy the reasonable basis standard in Colo. RJD 13(c) for establishing a violation of the Canons will not be referred to the members of the Commission for consideration. The Executive Director and staff may undertake some initial investigation at this stage and may consult with Commission members as warranted.

In the absence of a reasonable basis for disciplinary proceedings, the Executive Director and staff will close the file and advise the requestor by letter of the reasons for its decision.

Referral to the Commission

If the Executive Director determines that an RFE raises a potentially meritorious allegation of judicial misconduct, the matter is referred to the Commission for determination as to whether a reasonable basis exists to commence disciplinary or disability proceedings. If the Commission concludes such a basis exists, the Commission will, in accordance with Colo. RJD 13(b), recognize the RFE as a "complaint." The Executive Director then will notify the judge of the allegations and request the judge's response according to Colo. RJD 14(a). The Commission will examine the allegations in more detail, examine documentary materials (i.e. court records), and may conduct other forms of investigation, including witness interviews.

In situations where there are allegations of urgent situations in which awaiting the next bi-monthly meeting of the Commission would aggravate the situation, the Executive Director is authorized by Colo. RJD 14(c) to notify the judge and commence formal proceedings without the approval of the Commission members. Similarly, the Executive Director, the Commission's Chair, or Special Counsel may request a subject judge's temporary suspension under Colo. RJD 34(a) to avoid imminent or continuing harms to the public or the integrity of the judicial system.

Next Steps

After the investigation, the Commission considers the disposition of the complaint at a meeting. The dispositions available (either singly or in combination) include:

- Dismissal of a complaint in which misconduct cannot be established by a preponderance of the evidence. The Commission may opt to accompany the dismissal with a statement of concern. This serves an educational function for the judge by educating them on a particular aspect of judges' ethical obligations.

- “Admonish[ing] the subject judge privately for an appearance of impropriety, even though the Judge’s behavior otherwise meets the minimum standards of judicial conduct.” Colo. RJD 35(d);
- Privately reprimanding the subject judge “for conduct that does not meet the minimum standards of judicial conduct.” Colo. RJD 35(e);
- Privately censuring the subject judge for misconduct that “which involves a substantial breach of the standards of judicial conduct.” Colo. RJD 35(f);
- Requiring a diversion plan in which the judge obtains training, counseling, or medical treatment or provides periodic docket management reports to the Commission. Colo. RJD 35(c);
- Entering a stipulated private disposition, which could include the judge’s resignation or retirement. Colo. RJD 35(h);
- Initiating disability proceedings if it appears the judge may be unable to perform judicial duties; and
- Commencing formal proceedings, at which time the matter becomes public.

Independent Medical Examination

In situations where the Commission deems it necessary, it may order the judge to undergo an examination by a qualified provider to evaluate the judge’s physical and mental health. Colo. RJD 15. This may lead to a diversion program involving medical treatment, counseling, and/or training, rather than disciplinary measures. It could also result in commencement of disability proceedings.

Disability Proceedings

Colo. RJD 33.5 provides procedures and requirements for conducting proceedings in which the Commission can evaluate and consider whether a “judge suffers from a physical or mental condition that affects the judge’s ability to perform judicial functions or to assist with his or her defense in disciplinary proceedings.”

The Supreme Court may enter orders appropriate to the nature and anticipated duration of the disability. Remedies may include transfer of the Judge to temporary judicial disability status; retirement for a permanent disability; and/or transfer of the Judge to lawyer and judicial disability inactive status.

Formal Proceedings

Formal proceedings involve a trial to address allegations of misconduct which the Commission determines cannot be adequately addressed by informal proceedings and private remedial measures. Formal proceedings may also occur where a judge objects to private discipline.

With the passage of Amendment H, there will be changes in the formal proceedings procedure in

2025. Formal proceedings will now be heard by a panel of three members of the Adjudicative Board, including one District Court judge, one lawyer, and one citizen.

Formal proceedings may result in any of the following:

- Suspension without pay for a specified period;
- Removal from office or retirement;
- Public reprimand or censure;
- Private dispositions under Colo. RJD 35; and/or
- Measures reasonably necessary to curtail or eliminate the judge's misconduct, such as a diversion plan or deferred discipline plan.

The Commission is authorized to seek an assessment of attorney's fees and costs in both informal and formal disciplinary proceedings. Colo. Const. Art. VI, § 23(3)(e)(II); Colo. RJD 35(g); Colo. RJD 36(g). The Commission evaluates the circumstances of each case individually when determining whether to seek fees and/or costs.

Confidentiality

Prior to the passage of Amendment H, Colo. Const. Article VI, Section 23(3)(g), provided that "all papers filed with and proceedings before the Commission" are confidential, unless and until such time as the Commission files a recommendation with the Colorado Supreme Court at the conclusion of formal proceedings. With the passage of Amendment H, matters now become public when the Commission commences a formal proceeding. Informal disciplinary proceedings remain confidential.

Statute and Colo. RJD 6.5(h) authorize the publication in this annual report of demographic data and a summary of proceedings that resulted in a private disposition—without disclosing the date, location, the judge, or other parties—or a public sanction. Colo. RJD 6.5(g) also authorizes the Commission or a judge to request that the Supreme Court approve the release of information about a disciplinary proceeding if the allegations of misconduct "have become generally known to the public and, in the interest of justice, should be publicly disclosed."

Volume and Nature of Requests for Evaluation Received in 2024

During 2024, the Commission received a total of 368 RFEs, including complaints in other formats that the Commission considered as RFEs. The chart below shows the increase in annual RFEs as compared to prior years.

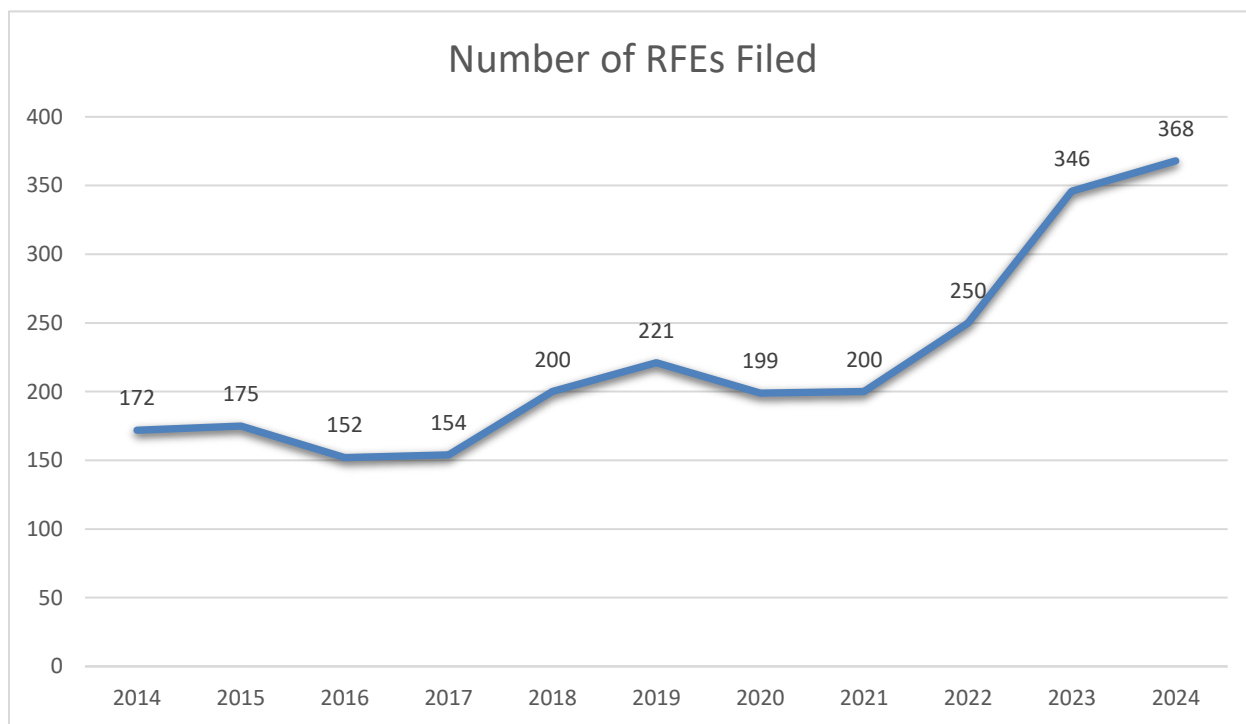


Figure 2. Number of RFEs filed from 2014 to 2024

Of the 368 RFEs received by the Commission in 2024, 318 were dismissed upon an initial assessment through Colo. RJD 13(c). This level of dismissals is consistent with the experience of judicial discipline entities across the United States. The remaining RFEs required the Commission to complete some level of investigation based upon colorable allegations that a judge's conduct may have violated the Code or were unresolved at the close of the year.

The charts below show the number of RFEs filed by the judicial districts involved and the type of judge involved. Where the Commission received a large volume of RFEs relating to a single action, those RFEs have been treated as one item for the purpose of the following charts.

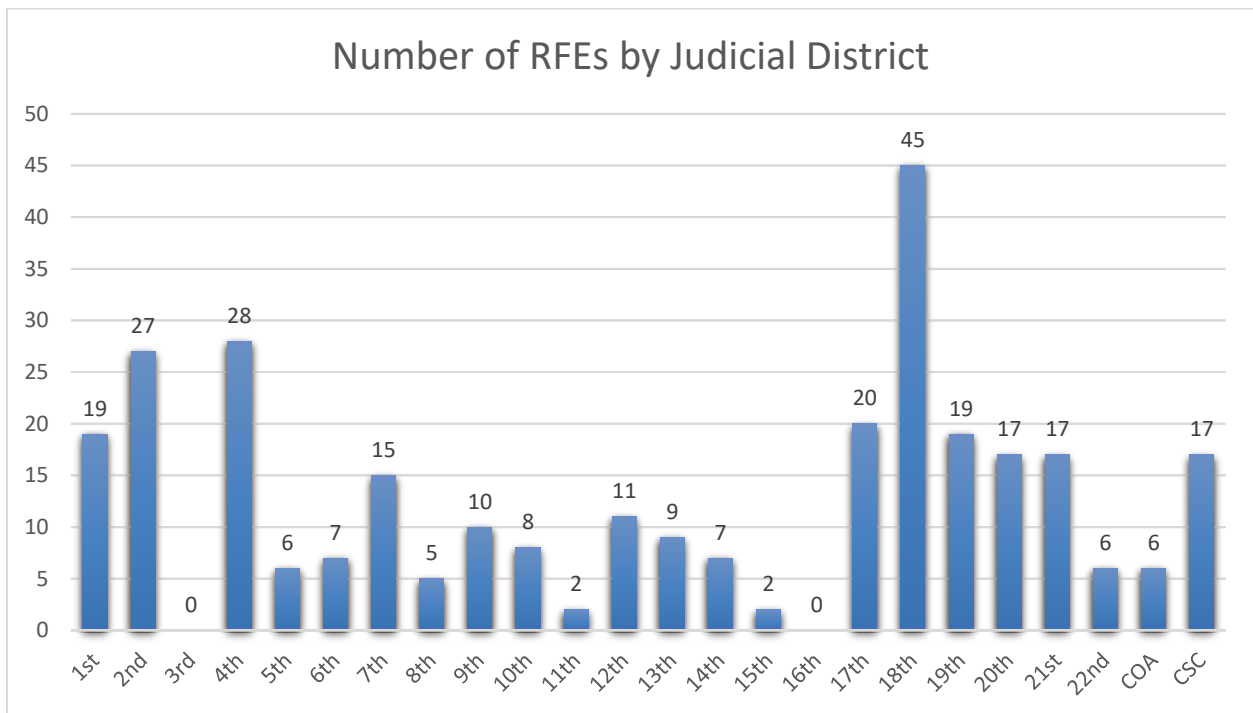


Figure 3. Number of RFEs Filed by Judicial District

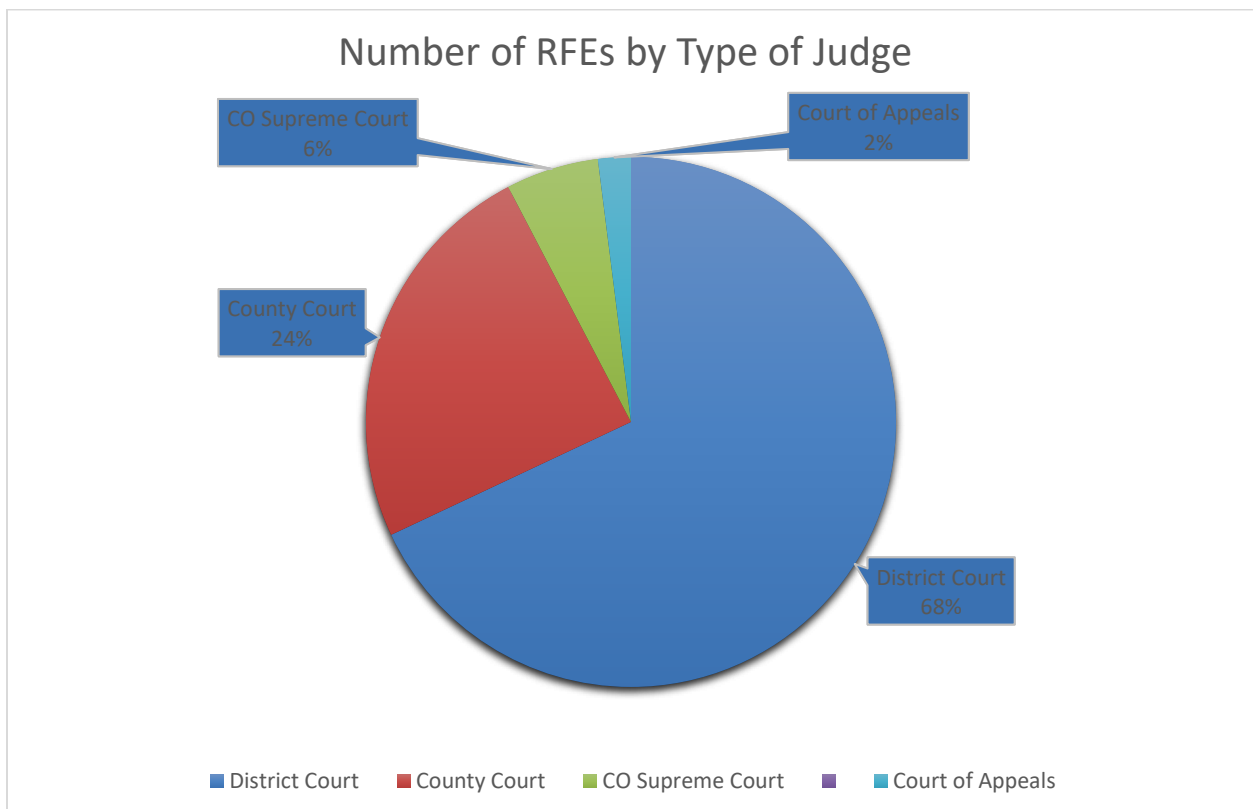


Figure 4. Number of RFEs by Type of Judge

The following chart shows the number of RFEs received in 2024 broken down by the general nature of misconduct alleged:

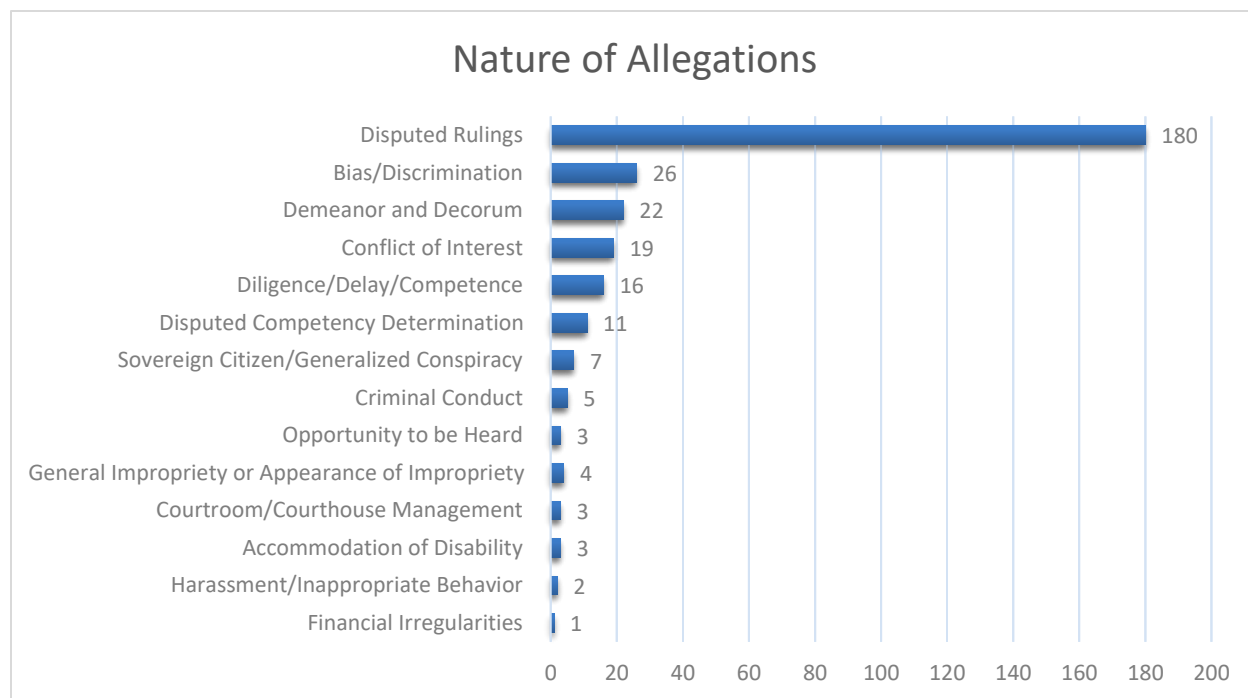


Figure 5. Nature of Allegations

Demographic Data

Known demographic information relating to judges under discipline or investigation during 2024 is summarized below. This demographic data comes from information self-reported to the Judicial Department. Certain demographic data may be omitted where necessary to comply with Constitutional confidentiality requirements.

Demographic	No.
Male	20 Judges
Female	20 Judges
White	30 Judges
Black or African American	3 Judges
Hispanic	5 Judges
Under 50 years old	6 Judges
50-60 years old	16 Judges
Over 60 years old	8 Judges

Table 1. Demographic of Judges

Known demographic information relating to directly impacted persons is summarized below. This demographic data comes from the voluntary demographic questionnaire provided as part of the Request for Evaluation. Many people who file a Request for Evaluation choose not to complete the voluntary demographic survey or complete only part of the survey.

Demographic	No.
Male	4
Female	4
Non-Binary	0
White	4
Black or African American	0
American Indian or Alaska Native	0
Asian	0
Native Hawaiian or Other Pacific Islander	0
Disability Status	0
Hispanic	0
LGBTQ+	0
Under 18 years old	0
18-24 years old	0
25-34 years old	0
35-44 years old	2
45-54 years old	1
55-60 years old	0
Over 65 years old	0

Table 2. Demographic of Directly Impacted Persons

Disciplinary Actions Taken in 2024

Colo. RJD 6.5(h) requires publication of summaries of proceedings which have resulted in disciplinary dispositions or sanctions without disclosing the date or location of the misconduct or the identity of the judge or other parties. Section 13-5.3-108(b) and (c) also requires the Commission to report the number of formal proceedings pursued and the numbers and types of dispositions entered.

The Commission considered 65 matters during 2024. This includes personal financial disclosure matters initiated by the Commission in late 2023, other matters that were ongoing at the close of 2023, and matters escalated by the Executive Director or Acting Executive Director during 2024. 29 of these were dismissed by the Commission. Some of those matters are currently ongoing. The resolution of the remaining matters is discussed below.

The Commission conducted three formal proceedings in 2024, each of which resulted in public discipline. The Commission also initiated a temporary suspension in late 2024. That matter is ongoing.

Public Discipline

Former Judge David Brett Woods stipulated to public censure following his resignation from the bench in February of 2024. Principle allegations included that Judge Woods was at times impaired by alcohol while working and that Judge Woods caused a subordinate employee to be fired for reporting concerns regarding his alcohol use.

Former Judge John E. Scipione stipulated to public censure for (1) using his position as a judicial officer to seek intimate relationships with lower-ranking or subordinate Judicial Department employees or court personnel; (2) abusing the prestige of his judicial office and initiating ex parte communications with another judge and that judge's clerk to expedite a probate matter involving Judge Scipione's father's estate; and (3) failing to disclose on his judicial applications or during the course of the disciplinary proceeding an unreported, intimate relationship with a judicial assistant while serving as a district court magistrate. Judge Scipione resigned from judicial office in January of 2024 as a condition of the stipulation. On the Commission's motion, the Supreme Court had suspended Judge Scipione from judicial duties pursuant to Colo. RJD 34(a) in August of 2022.

Retired Judge Robert Kiesnowski received a public censure for exploiting his position as a judge and improperly practicing law in an effort to help his brother-in-law avoid being charged with a crime. The events that formed the basis for this action occurred while Judge Kiesnowski was still on the bench. Judge Kiesnowski resigned from judicial duties in June of 2023 as a condition of a previous private disciplinary action shortly after the circumstances that were the basis for this action.

Temporary Suspension

The Commission reached a stipulation for one voluntary temporary suspension with pay pursuant to Colo. RJD 34(e) in 2024. That case is ongoing.

Private Discipline

The Commission issued private discipline in 12 instances, each involving a failure to file one or more personal financial disclosures. These issues are discussed in more detail below.

Diversion Plans

The Commission entered into two diversion plans in 2024. Under a diversion plan, a judge agrees to complete some form of remedial action for a certain period of time. If the diversion plan is completed, the matter is dismissed without discipline after the expiration of the plan. Diversion plans are tailored to the specific facts, but typically require the subject judge to complete specific education, engage in mentorship, and/or report on timeliness of docket management.

Dismissal with Concern

The Commission issued 18 dismissals with concern in 2024. Several of these involved a failure to file one or more personal financial disclosures and are discussed in more detail below. The Commission typically issues a dismissal with concern where discipline is not necessary or appropriate but the Commission feels that personalized communication with a judge regarding

their ethical obligations would be illuminating or helpful. A dismissal with concern will often include suggestions to assist the judge, such as direction to further education materials or tips on docket management.

Resolution of Personal Financial Disclosure Cases

Against the backdrop of widespread national media attention about U.S. Supreme Court Justices Clarence Thomas and Samuel Alito failing to report lavish gifts from wealthy political donors, the *Denver Gazette* published on August 10, 2023 a story titled, “*Despite law, one in six Colorado judges don’t have financial disclosures filed, some for years.*” The article identified 54 active judges and seven retired judges who participate in Colorado’s Senior Judge Program, all of whom allegedly failed to file their 2023 personal financial disclosure (“PFD”) statement with the Colorado Secretary of State as required by the statutory provision in effect at the time. § 24-6-202(4)(a), C.R.S. (the “PFD statute”). The Commission opened an investigation to evaluate whether those judges violated Colorado’s Code of Judicial Conduct—specifically, Rules 1.1 (compliance with the law) and 1.2 (promoting confidence in the judiciary).

Colorado Law on Personal Financial Disclosures

Colorado law requires judges to file personal financial disclosures on at least an annual basis. This helps maintain the public’s confidence in the impartiality of the judiciary in two ways.

First, it ensures judges remain apprised of business holdings and sources of income for themselves and immediate family members so that they may recuse from cases when they might have a financial interest in the outcome. See Canon Rule 2.11(B) (“A judge shall keep informed about the judge’s personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal economic interests of the judge’s spouse or domestic partner and minor children residing in the judge’s household.”).

Second, it allows parties to make an independent determination about whether the judge’s financial interests might necessitate recusal. See Canon Rule 2.11(A)(3) (stating that a judge must recuse if he or she “knows that he or she, individually or as a fiduciary, or the judge’s spouse, domestic partner, parent, child, or other member of the judge’s family residing in the judge’s household, has an economic interest in the subject matter in controversy or in a party to the proceeding.”).

The PFD Statute mandates that a judge must, by January 10 following their appointment to the bench, file their first detailed personal financial disclosure with the Secretary of State. (The legislature has recently made some changes to filing requirements in response to these events). After that, the judge must file a supplemental disclosure each year, which must either state that their financial interests have not changed from the previous year or detail any changes. § 24-6-202(4)(a), C.R.S. The details of what must be disclosed are beyond the scope of this report, but include stock holdings, insurance holdings, real estate holdings, loans outstanding, and extrajudicial sources of income.

How the Commission evaluated the PFD cases

To assess the allegations in the *Denver Gazette* article, the Commission obtained all PFD filings

for every judge identified in the article since the date of the judge's appointment to the bench. The Commission then issued a letter of inquiry to each judge who appeared to have missed a PFD filing in any given year. This letter identified the apparent year(s) of noncompliance, asked the judge to address the merits of the inference that they had violated the Code, and asked the judge to also provide any relevant explanation or mitigation for missed filings. After receiving all responses, the Commission evaluated each case to determine what, if any, discipline was appropriate.

The evaluation of each case was animated by the following principles:

First, the Commission recognized that any judge who missed even one annually required PFD filing violated the law, which constitutes a violation of Colorado's Code of Judicial Conduct because the Code requires that all judges comply with the law. However, the Commission also gave due regard to the Code's direction that not every violation of the Code must result in discipline. As the Code states:

Although the black letter of the Rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. Whether discipline should be imposed should be determined through a reasonable and reasoned application of the Rules, and should depend upon factors such as the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the judicial system or others.

Code of Jud. Conduct, Scope, ¶ 6.

Second, the Commission sought to treat similarly-situated judges equally. To effect this goal, the Commission grouped cases by certain defining characteristics (e.g. the number of missed filings, the presence of a good faith and/or meritorious dispute with the accuracy of the Secretary of State's records, etc.), and then developed guidelines that informed which categories of cases presumptively received which type of discipline, if any. Importantly, however, the guidelines were just that—guidelines—which leads to the next point.

The third principle that animated the Commission evaluations was that every judge's case should be considered individually. While the above-referenced disciplinary guidelines were a starting point in the evaluation of each case, the Commission deviated as justified by aggravating or mitigating factors specific to each case.

PFD Cases the Commission did not prosecute

The Commission did not open a disciplinary case against every judge identified in the Denver Gazette article. The Commission identified two categories of judges against whom disciplinary action was not appropriate.

The first category comprised a small number of active judges who received an order of appointment to the bench in 2022, with an effective date on or after January 10, 2023, which is the statutory annual PFD statement filing deadline. The PFD statute in effect at that time only required

judges to file a PFD statement by January 10 of each year after their “appointment” to the bench. This creates an ambiguity as to whether a judge’s “appointment” date was the date of the Governor’s Executive Order or the often-times later *effective* date of appointment noted on the Executive Order. This statutory ambiguity created both equitable and practical challenges to initiating disciplinary proceedings against judges in this category.

The second category of judges comprised the senior judges identified in the Denver Gazette article. Through its investigation the Commission learned that, until recently, the State Court Administrator’s Office (“SCAO”) required senior judges to file a PFD statement with the Judicial Department, not the Secretary of State. This practice, the Commission learned, was based on the SCAO’s legal conclusion that the PFD statute only applied to “office holders” who have been “elected,” “reelected,” “appointed,” or “retained in office.” C.R.S. § 24-6-202(1). According to the SCAO’s interpretation of the PFD statute, senior judges, who by definition are retirees, are not formally “appointed” “office holders,” but are instead “assigned” by the Chief Justice “to temporarily perform judicial duties” pursuant Colo. Const. Art. VI, § 5(3), C.R.S. § 24-51-1105(1)(a), and C.R.S. § 13-4-104.5. As such, the SCAO concluded that senior judges do not fall within the scope of the PFD statute. As with the former category of judges who were not prosecuted, this circumstance created both equitable and practical challenges to initiating disciplinary proceedings against senior judges. The Commission felt it unfair to prosecute senior judges who had complied in good faith with what they were told were their filing obligations. And the Commission felt that the SCAO’s legal interpretation of the PFD statute presented any senior judge who the Commission might have prosecuted with sufficient legal/textual defense to make prevailing on the case unlikely.

Overall results of the Commission’s PFD Prosecutions

The Commission initiated disciplinary proceedings against 48 active judges identified in the Denver Gazette article. Of those, 21 judges ultimately received a dismissal, 15 judges received a dismissal with an expression of concern pursuant to Colo. RJD 35(a), 11 judges received a private reprimand, and one judge received a private censure.

Given the confidentiality rules that govern the Commission’s proceedings, and given that no public discipline was issued, the Commission cannot comment on any specific judge’s case. It can, however, make the following general observations. The Commission dismissed, or dismissed with concerns, cases in which the number of missed PFD filings were low. In these cases, if the Commission had imposed discipline, the collateral consequences would have been disproportionate to the offense; thus, with regard to these cases, the Commission chose to follow the Code’s direction that not every violation of the Code must result in discipline. On the other hand, the Commission imposed discipline on the judges who missed a higher number of PFD filings such that the magnitude of the lapse was greater and the consequences of discipline were proportionate to the offense.

The Commission’s decision not to impose public discipline in PFD Cases

As noted above, public discipline is reserved for serious cases of ethical misconduct. Recent examples of such serious cases for which public discipline was imposed by the Colorado Commission on Judicial Discipline include *People v. Kiesnowski*, 2024 CO 12 (improper practice of law and abuse of the prestige of office), *People v. Scipione*, 2024 CO 23 (sexual harassment of

multiple lower ranking staff); *People v. Timbreza*, 2023 CO 16 (sexual harassment), *People v. Thompson*, 2023 CO 21 (demeanor; improper threat of contempt power), and *People v. Coats*, 2023 CO 44 (improper award of multi-million dollar contract to former judicial department employee who was terminated for financial misconduct).

Examples of financial disclosure cases from other jurisdictions that have resulted in public discipline typically involve judges who have made material omissions or misstatements on their PFD statement which reflect adversely on the judge's integrity, or which, if reported accurately, might have provided grounds to a party to file a motion to disqualify the judge. *See e.g. Judicial Discipline & Disability Comm'n v. Thompson*, 16 S.W.3d 212 (Ark. 2000) (public censure imposed on judge who failed to report residual income from former law practice); *Inquiry Concerning Garcia, Decision and Order* (California Commission on Judicial Performance May 18, 2015) (public censure based on failure to disclose \$250,000 of extrajudicial income from dissolution of firm); *Matter of Ortiz*, SC18-674 (Fla. 2018) (public reprimand based on failure to accurately report travel paid for by third party); *In re Alessandro*, 918 N.E.2d 116 (N.Y. 2009) (judge publicly admonished for failure to report two mortgages and a half interest in two properties); *Matter of Miller*, 158 N.E.3d 87 (N.Y. 2020) (judge publicly disciplined for failing to report rental income and \$27,000 in residual income from former law practice); *In re Mack*, 794 S.E.2d 266, 269 (N.C. 2016) (judge publicly disciplined for failure to report rental income from multiple properties for 4-years).

No evidence exists that suggests any of the judges identified in the Denver Gazette article failed to report, or inaccurately reported, material information related to their assets or liabilities, or that they ever improperly presided over a case in which they might have had a financial interest. Put another way, every PFD prosecution initiated by the Commission based on the Denver Gazette article related to an administrative filing delinquency (or delinquencies) by a judge, but no evidence exists that any judge was dishonest or improperly secretive in disclosing their financial interests. Given this, the Commission did not feel that public discipline was justified against any of the judges identified in the Denver Gazette article.

Despite the above, it is important to note that the Commission recognizes that the widespread lapse of nearly 50 judges in 2023 to file their annually required PFD statement with the Secretary of State cast a shadow over Colorado's judiciary. Especially against the backdrop of national publicity about the lavish and unreported gifts to Justices Samuel Alito and Clarence Thomas by wealthy political donors, this situation with Colorado's judiciary created a generalized appearance of impropriety. While the damage cannot be quantified, it is reasonable to assume that for some, the lapse adversely affected faith in the integrity of Colorado's judiciary. This of course raises the question—why not formally and publicly punish all the offending judges equally? The Commission considered this issue carefully and decided that such a broad swath approach would be akin to using a saw when a scalpel was more appropriate. More specifically, the Commission felt that to impose collective punishment for uncoordinated, individual conduct was, effectively, to punish one for the unrelated misconduct of another, which is an affront to basic notions of fairness and due process. Thus, as noted previously, the Commission considered each case on an individualized basis with due regard for any aggravating or mitigating factors specific to each case. This yielded the conclusion that no case considered by the Commission was at all similar to the situations with Justices Alito and Thomas or other judges around the nation who have been publicly disciplined for improper or inadequate reporting of financial information. As such, public discipline was not appropriate for any of the judges identified in the Denver Gazette article.

The Commission also recognized through this process that statutes, rules and processes related to the filing of PFDs is at times inconsistent and/or ambiguous. In addition, the record keeping at the Secretary of State's office in some cases led to errors in the Gazette reporting and were inconsistent with some judge's own record keeping. Also, at times different judicial districts had different advice and processes for notifying judges about their obligations.

To avoid these lapses in the future, and to ensure clarity and consistency in this process, the Commission strongly urges the legislature to review statutes; the Judicial Department to review policies and procedures, including training and notification; and the Secretary of State's office to review document management related to PFDs. Coloradans must have faith that judges are meeting their disclosure obligations, and that those records are accurate and available to parties and to the public.

Commissioner Recusals Reported per Colo. RJD 3.5(g)(2)

During 2024, Commissioners disqualified themselves from judicial discipline matters on the following dates (where a date is listed multiple times, the Commission member recused from multiple cases on that date):

Ingrid Barrier: Apr. 12, Jun. 7, July 2;

Hon. Jill Brady: Jan. 22, Feb. 2, Feb. 2, Feb. 2, May 10, July 5;

Jim Carpenter: Sep. 6;

Hon. Sara Garrido: Jan. 22, Jan. 22, May 10, July 1;

Hon. Bonnie McLean: Jan. 22, Jan. 22, Feb. 2, Feb. 2, Jun. 10, Aug. 16, Oct. 11;

Mindy Sooter: July 3;

Courtney Sutton: July 1;

Emily Tofte Nestaval: Sept. 9;

Stefanie Trujillo: July 10; and

Hon. Mariana Vielma: May 10, May 10, May 10, July 2, Dec. 7.

The Commission initiated disciplinary proceedings against a present member of the Commission on Judicial Discipline. All current members of the Commission recused from consideration of the case. Pursuant to Colo. RJD 3(c), a specially constituted Commission on Judicial Discipline was appointed for the limited purpose of deciding the outcome of the case.

Commission Members and Staff

Members of the Commission reflect the geographic, ethnic, and racial diversity of the Colorado community.

As of December 31, 2024, the Commission's membership included:

<u>Member</u>	<u>City</u>	<u>Category of Appointment</u>
Mary (Mindy) V. Sooter, Chair	Boulder	Attorney
Jim Carpenter, Vice Chair	Englewood	Citizen
Ingrid Barrier	Denver	Attorney
Hon. Jill Brady	Colorado Springs	District Court Judge
Hon. Sara Garrido	Golden	County Court Judge
Hon. Bonnie McLean	Centennial	District Court Judge
Stefanie Trujillo	Commerce City	Citizen
Hon. Mariana Vielma	Brighton	County Court Judge
Emily Tofte Nestaval	Lakewood	Citizen
Courtney Sutton	Colorado Springs	Citizen

As of December 31, 2024, the Commission received its administrative and operational support through the Office of Judicial Discipline's staff:

Anne Mangiardi, Executive Director

Jeffrey M. Walsh, Special Counsel

Sherri Hammerly, Office Manager / Executive Assistant

Natasha Powers, Investigator

Khadija Murad, Paralegal/Legal Assistant

For More Information

To obtain a copy of the Request for Evaluation of Judicial Conduct form, or for further information, please refer to the Commission's website - ccjd.colorado.gov - or contact the Commission directly at:

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