

West's Colorado Revised Statutes Annotated  
Title 13. Courts and Court Procedure  
Courts of Record  
Article 5.3. Commission on Judicial Discipline

C.R.S.A. § 13-5.3-101

§ 13-5.3-101. Definitions

Effective: May 20, 2022

[Currentness](#)

As used in this article 5.3, unless the context otherwise requires:

- (1) “Attorney” means a person admitted to practice law before the courts of this state.
- (2) “Code” means the Colorado code of judicial conduct.
- (3) “Commission” means the commission on judicial discipline, established pursuant to [section 23\(3\) of article VI of the Colorado constitution](#).
- (4) “Commissioner” means an appointed member of the commission on judicial discipline or a special member appointed pursuant to [section 23\(3\)\(a\) of article VI of the Colorado constitution](#).
- (5) “Complaint” means 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.
- (6) “Department” means the Colorado state judicial department and all its subparts, such as the office of the state court administrator; the office of the chief justice of the supreme court; the judicial districts and their administrations, including chief judges and district administrators; the human resources department; and other administrative subparts.
- (7) “Executive director” means the executive director of the office of judicial discipline appointed pursuant to [section 13-5.3-103](#).
- (8) “Fund” means the commission on judicial discipline special cash fund, created in [section 13-5.3-104](#).
- (9)(a) “Judge” means any justice or judge of any court of record of this state serving on a full-time, part-time, or senior basis.  
  
(b) “Judge” also includes any justice or judge who has retired within the jurisdictional limits for disciplinary proceedings established by this article 5.3, the commission, or the Colorado supreme court.

(c) “Judge” does not include municipal judges or magistrates, administrative law judges, or Denver county court judges, who are subject to different disciplinary authorities.

(10) “Justice” means a justice serving on the supreme court of Colorado on either a full-time or senior basis.

(11) “Misconduct” means conduct by a judge that may reasonably constitute grounds for discipline under the code, the Colorado rules of judicial discipline, or [section 23 \(3\) of article VI of the Colorado constitution](#).

(12) “Office” means the office of judicial discipline established in [section 13-5.3-103](#).

(13) “Office of the state court administrator” means the office created pursuant to [section 13-3-101\(1\)](#).

(14) “Rules” means the Colorado rules of judicial discipline.

(15) “Supreme court” means the supreme court of the state of Colorado established pursuant to article VI of the Colorado constitution.

#### **Credits**

Added by [Laws 2022, Ch. 201 \(S.B. 22-201\)](#), § 2, eff. May 20, 2022.

C. R. S. A. § 13-5.3-101, CO ST § 13-5.3-101

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C.R.S.A. § 13-5.3-102

§ 13-5.3-102. Commission on judicial discipline--powers and duties

Effective: May 20, 2022

[Currentness](#)

(1) Pursuant to [section 23\(3\) of article VI of the Colorado constitution](#), the Colorado commission on judicial discipline is established as an independent commission housed within the department.

(2) Members of the commission are appointed and serve pursuant to [section 23\(3\)\(a\) and \(3\)\(b\) of article VI of the Colorado constitution](#).

(3) The commission shall:

(a) Investigate and resolve requests for evaluation of potential judicial misconduct in accordance with the Colorado constitution, the rules, and this article 5.3;

(b) Appoint an executive director of the office of judicial discipline;

(c) Establish positions, roles, and minimum starting salaries for employees of the office;

(d) Hire employees of the office who serve at the pleasure of the commission. Employees of the office may include clerical assistants; attorneys who serve as special counsel; and investigators;

(e) Employ attorneys or appoint outside special counsel pursuant to [sections 24-31-101\(1\)\(g\) and 24-31-111](#) who serve at the pleasure of the commission; assign duties to special counsel at the discretion of the commission, which may include serving as representatives of the people of the state of Colorado in formal proceedings; and determine the compensation of special counsel; and

(f) Approve a budget for the commission and the office and assist the executive director in managing the office and providing fiscal oversight of the office's operating budget.

(4) Commissioners are immune from suit in any action, civil or criminal, based upon official acts performed in good faith as commissioners consistent with the "Colorado Governmental Immunity Act", article 10 of title 24.

**Credits**

Added by [Laws 2022, Ch. 201 \(S.B. 22-201\)](#), § 2, eff. May 20, 2022.

C. R. S. A. § 13-5.3-102, CO ST § 13-5.3-102

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C.R.S.A. § 13-5.3-103

§ 13-5.3-103. Office of judicial discipline--created--executive director--duties--oversight

Effective: May 20, 2022

[Currentness](#)

(1)(a) The office of judicial discipline is established as an independent office housed within the department. The commission shall oversee the office.

(b) Subject to the commission's supervision, the office shall:

(I) Staff and support the commission's operations. The initial staffing includes the executive director, a full-time administrative support person, an attorney, and an investigator.

(II) Receive requests for evaluation involving justices and judges;

(III) Conduct public education efforts concerning the judicial discipline process and the recommendations made by the commission;

(IV) Engage in and provide educational background to the public, the department, judicial nominating commissions, and judicial performance commissions regarding the requirements of the code and the commission; and

(V) Complete any other duties as assigned by the commission.

(2)(a) The commission shall appoint an executive director of the office. The executive director:

(I) Shall be admitted to practice law in the courts of this state and have practiced law in this state for at least ten years;

(II) Shall not be involved in the private practice of law while serving as the executive director; and

(III) Shall not appear as an attorney before the commission for a period of five years following service as the executive director.

(b) The executive director serves at the pleasure of the commission. The executive director's compensation is the same as the compensation the general assembly establishes for district court judges. The executive director shall hire additional staff for the office as necessary and as approved by the commission.

(c) The executive director has the following duties:

(I) Establish and maintain a permanent office;

(II) Respond to inquiries about the commission or the code;

(III) Advise the commission on the application and interpretation of the code and the rules;

(IV) Process requests for evaluation of judicial conduct;

(V) Conduct or supervise evaluations and investigations as directed by the commission;

(VI) Advise the commission as to potential dispositional recommendations as may be requested by the commission;

(VII) Maintain commission records;

(VIII) Maintain statistics concerning the operation of the commission and make them available to the commission;

(IX) Prepare the commission's budget and, once approved by the commission, submit it to the joint budget committee of the general assembly;

(X) Administer commission money and resources, including money in the commission on judicial discipline special cash fund;

(XI) Supervise commission staff;

(XII) Notify the appropriate appointing authority of vacancies on the commission;

(XIII) Assist the commission in preparing an annual report of the commission's activities for presentation to the commission, the supreme court, and the public;

(XIV) Supervise special counsel, investigators, other experts, or personnel as directed by the commission, as they investigate and process matters before the commission and before the supreme court; and

(XV) Perform such other duties as required by the rules, this article 5.3, the rules promulgated by the commission, or the commission.

(3) The department shall provide the commission and the office with office space in the Ralph L. Carr Colorado judicial center. Through June 30, 2023, the department or the office of attorney regulation counsel shall provide the commission and the office with accounting support, information technology support, human resources and payroll services, and similar support services to the same extent, without cost to the commission or the office, and on the same terms as the department provides such support to the Colorado judicial performance commissions.

#### **Credits**

Added by [Laws 2022, Ch. 201 \(S.B. 22-201\)](#), § 2, eff. May 20, 2022.

C. R. S. A. § 13-5.3-103, CO ST § 13-5.3-103

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C.R.S.A. § 13-5.3-104

§ 13-5.3-104. Commission on judicial discipline special cash fund--acceptance of federal funds--general appropriations

Effective: May 20, 2022

[Currentness](#)

- (1) The commission is authorized to accept any federal funds made available for any purpose consistent with the provisions of this article 5.3.
- (2) Any money received pursuant to this section must be transmitted to the state treasurer, who shall credit the same to the commission on judicial discipline special cash fund, which is created in the state treasury.
- (3) Any expenses, attorney fees, or costs recovered pursuant to this article 5.3 must be transmitted to the state treasurer, who shall credit the same to the fund.
- (4) Money in the fund is continuously appropriated to the commission for the purposes specified in subsection (6) of this section.
- (5) Any interest derived from the deposit and investment of money in the fund is credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of any fiscal year remains in the fund and is not credited or transferred to the general fund or another fund.
- (6) Money in the fund may be used for payment of the expenses for evaluations, investigations, formal proceedings, or special projects that the commission has determined are to be undertaken by personnel other than or in addition to those employed by the office.
- (7) For the state fiscal year 2022--23, the general assembly shall appropriate from the general fund to the fund four hundred thousand dollars. In each subsequent fiscal year, the general assembly shall appropriate sufficient money to the fund so that it begins the fiscal year with not less than four hundred thousand dollars.

**Credits**

Added by [Laws 2022, Ch. 201 \(S.B. 22-201\)](#), § 2, eff. May 20, 2022.

C. R. S. A. § 13-5.3-104, CO ST § 13-5.3-104

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C.R.S.A. § 13-5.3-105

§ 13-5.3-105. Information-sharing with judicial oversight entities--legislative declaration

Effective: May 20, 2022

[Currentness](#)

(1) The general assembly finds and declares that:

(a) Several entities within the department share a role in the oversight of the judiciary and, as a result, often become aware of and involved in investigations that relate to matters that may come before the commission, including the office of judicial performance evaluation, the judicial nominating commissions, the office of the presiding disciplinary judge, and the office of attorney regulation counsel, collectively referred to in this section as “judicial oversight entities”; and

(b) In order for the commission and the judicial oversight entities to properly perform their functions, they need to be able to share relevant information and documents while maintaining their respective rules of confidentiality.

(2) When requested by a judicial oversight entity, the commission may provide the disciplinary record of a judge or justice to the requesting entity. The judicial oversight entity shall keep the information confidential to the same extent that the commission is required to do so pursuant to the state constitution and the rules.

(3) When a judicial oversight entity receives information indicating or alleging potential judicial misconduct, the entity shall share the portion of the complaint alleging judicial misconduct with the commission within a reasonable time. Thereafter, the commission may request further material or information that the oversight entity holds relating to the allegation of judicial misconduct. Any information or materials received from the entity are subject to the commission's rules of confidentiality.

**Credits**

Added by [Laws 2022, Ch. 201 \(S.B. 22-201\)](#), § 2, eff. May 20, 2022.

C. R. S. A. § 13-5.3-105, CO ST § 13-5.3-105

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C.R.S.A. § 13-5.3-106

§ 13-5.3-106. Information-sharing within the judicial department--legislative declaration

Effective: May 20, 2022

[Currentness](#)

(1) The general assembly finds and declares that:

(a) Offices or personnel within the department are often the first to receive complaints;

(b) The department often holds evidentiary materials relating to potential misconduct and often develops evidence, through investigations or otherwise, relating to such potential misconduct;

(c) The commission cannot fully pursue its constitutional mandate unless all information relevant to a complaint available to the department is freely and promptly shared with the commission; and

(d) The credibility of the judiciary and judicial discipline are best served by the department promptly sharing with the commission all information and materials available to the department relevant to a complaint or potential misconduct.

(2) The department shall ensure that if any member of the department, including members of the office of the state court administrator, the office of the chief justice, chief judges, district administrators, the human resources department, administrative personnel, judicial districts, clerks of court, and others, receives a complaint from an employee, volunteer, or contractor for the department, the department shall:

(a) Document both the receipt of the complaint and the department's handling of the complaint, including any investigation that may be conducted, and maintain such documentation for as long as the subject of the complaint is a judge, plus three calendar years;

(b) Within not more than thirty-five days after receipt of the complaint, notify the office of the complaint and provide the office with all information within the custody or control of the department related to the complaint, including:

(I) Identification of potential witnesses;

(II) A list of any evidence held or known;

(III) Access to all evidence, including administrative files, digital data, digital or paper case files, recordings and transcripts, communications, and metadata, without charge; and

(IV) Any department investigative materials that may exist, including any investigative or action plans; and

(c) Notify any person supplying any information concerning a complaint, and any witness interviewed, of the following:

(I) The existence, role, independence from the department, and process of communicating with the commission;

(II) That information given to the commission is confidential unless and until a recommendation is made to the supreme court;

(III) Rule 2.16 (B) of the code prohibiting retaliation against any person assisting the commission;

(IV) That the department has a duty to disclose all information related to potential judicial misconduct to the commission; and

(V) That the department is prohibited from discouraging a person from sharing information with the commission, including entering into a nondisclosure agreement that would have that effect.

(3) The department's duties of disclosure arise when the department receives a complaint.

(4) If the department receives a complaint alleging judicial misconduct from an individual or entity that is not an employee, volunteer, or contractor for the department, the department shall notify the complainant of the role of the commission and provide the complainant with the commission's contact information. If the complainant submits written or electronic materials in connection with a complaint, the department shall forward those materials to the commission. Each judicial district, the appellate courts, and the state court administrator's office shall adopt a written policy to implement this provision.

(5) The duties to document and disclose potential judicial misconduct and related information continue when the department receives additional information.

(6)(a) The department shall:

(I) Adopt procedures and policies to implement the duties stated in this section and to educate department personnel about these duties; and

(II) Cooperate with any request from the commission for information related to evaluating a complaint and supply requested information or materials within a reasonable time of not more than thirty-five days after the date of request.

(b) The department shall not:

(I) Adopt any policy or enter into any contract that purports to impede disclosure of information related to potential judicial misconduct to the commission. The department shall not discourage any person or entity from cooperating with the commission or disclosing information to the commission.

(II) Withhold from the commission disclosure of materials or information for any of the following reasons:

(A) A claim of privilege held by the department, including attorney-client, attorney work product, judicial deliberation, or other claim of privilege;

(B) A claim of confidentiality;

(C) A claim of contractual right or obligation arising after May 20, 2022, not to disclose information, including a nondisclosure agreement; or

(D) A claim that any records are part of a state auditor fraud hotline investigation or report; and

(III) Retaliate, directly or indirectly, against any person communicating with the commission regarding potential judicial misconduct or its examination, any person seeking to comply with the documentation and disclosure obligations of this section, or any person otherwise assisting or suspected of assisting the commission to fulfill its constitutional mandate or its role in judicial oversight.

(c) The department and the office of attorney regulation counsel will respect the confidentiality of the commission's communications and records.

(d) Notwithstanding subsection (6)(b)(II) of this section, the department may withhold from disclosure to the commission materials and information whose disclosure is prohibited by federal law, information covered by judicial deliberation privilege, and materials and information in the department's custody or control through an established and confidentiality-based mental health or professional development program. For any materials or information withheld by the department under this subsection (6)(d), the department shall disclose to the commission the nature of the materials withheld, the reason the items are withheld, and, if requested by the commission, a privilege or confidentiality log compliant with the standards governing civil litigation discovery.

(e) The timely disclosure to the commission of information or materials pursuant to this section by the department does not, by itself, waive any otherwise valid claim of privilege or confidentiality held by the department. When the department discloses materials or information it asserts is privileged or confidential, the department and the commission shall enter an agreement under [Rule 502 of the Colorado rules of evidence](#) implementing this subsection (6)(e), in which the department and the commission agree that the disclosure does not waive, by itself, any otherwise valid claim of privilege or confidentiality held by the department, and that the commission shall hold the materials and information as confidential under the commission's procedures and not disclose privileged or confidential information to a third party except as may be required through the investigative and disciplinary process. The department and the commission may add further terms to address the individual circumstances of the matter if they agree.

**Credits**

Added by [Laws 2022, Ch. 201 \(S.B. 22-201\)](#), § 2, eff. May 20, 2022.

C. R. S. A. § 13-5.3-106, CO ST § 13-5.3-106

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C.R.S.A. § 13-5.3-107

§ 13-5.3-107. Rulemaking

Effective: May 20, 2022

[Currentness](#)

(1) [Section 23\(3\)\(h\) of article VI of the Colorado constitution](#) directs the supreme court to provide by rule for procedures before the commission, the masters, and the supreme court. In exercising its rulemaking authority, the supreme court shall provide the commission reasonable notice and an opportunity to object before enacting any new rule or amendment as it pertains to judicial discipline. If the commission objects to any rule or amendment, representatives of the supreme court shall meet with representatives of the commission and engage in good-faith efforts to resolve their differences.

(2) Whenever the supreme court proposes a rule, guideline, or procedure related to judicial discipline, the supreme court shall post notice of the proposed rule, guideline, or procedure; allow for a period for public comment; and give the public an opportunity to address the supreme court concerning the proposed rule, guideline, or procedure at a public hearing.

**Credits**

Added by [Laws 2022, Ch. 201 \(S.B. 22-201\)](#), § 2, eff. May 20, 2022.

C. R. S. A. § 13-5.3-107, CO ST § 13-5.3-107

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C.R.S.A. § 13-5.3-108

§ 13-5.3-108. Reporting requirements--“State Measurement for Accountable,  
Responsive, and Transparent (SMART) Government Act” report

Effective: May 20, 2022

[Currentness](#)

(1) The commission shall gather and maintain annual data and statistics on:

(a) The number of requests for evaluation received;

(b) The number of investigations performed;

(c) The number of formal proceedings pursued;

(d) The types and relative volume of misconduct allegations received;

(e) The type and relative volume of incidents of judicial misconduct identified;

(f) The number and types of dispositions entered; and

(g) The demographics, including the gender, age, race, ethnicity, or disability, of judges under discipline or investigation and those directly affected by the potential misconduct.

(2) Beginning January 2023, and every January thereafter, the commission shall report on the activities of the commissioners to the committees of reference of the general assembly as part of its “State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act” presentation required by [section 2-7-203](#).

**Credits**

Added by [Laws 2022, Ch. 201 \(S.B. 22-201\)](#), § 2, eff. May 20, 2022.

C. R. S. A. § 13-5.3-108, CO ST § 13-5.3-108

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C.R.S.A. § 13-5.3-109

§ 13-5.3-109. Representation by attorney general

Effective: May 20, 2022

[Currentness](#)

(1) Pursuant to [section 24-31-111](#), the attorney general shall provide legal services, as defined in [section 24-31-111\(6\)\(a\)](#), to the commission and the office. The attorney general shall designate one or more assistant attorneys general to provide such legal services. Any assistant attorneys general shall not be within the same unit, section, or division of the Colorado department of law that provides legal services to the judicial department.

(2) This section does not limit the commission's or office's authority to hire attorneys to serve as special counsel pursuant to [section 13-5.3-102\(3\)\(d\)](#).

#### **Credits**

Added by [Laws 2022, Ch. 201 \(S.B. 22-201\)](#), § 2, eff. May 20, 2022.

C. R. S. A. § 13-5.3-109, CO ST § 13-5.3-109

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C.R.S.A. § 13-5.3-110

§ 13-5.3-110. Legislative interim committee on judicial discipline--creation

Effective: May 20, 2022

[Currentness](#)

(1) Notwithstanding [section 2-3-303.3](#), there is created the legislative interim committee on judicial discipline, referred to in this section as the “interim committee”, to study the issues described in subsection (7) of this section. The interim committee shall meet during the interim between the 2022 and 2023 legislative sessions. The interim committee consists of:

(a) Four members of the senate, with two members appointed by the majority leader of the senate and two members appointed by the minority leader of the senate; and

(b) Four members of the house of representatives, with two members appointed by the speaker of the house of representatives and two members appointed by the minority leader of the house of representatives.

(2)(a) The appointing authorities shall appoint the members of the interim committee as soon as possible after May 20, 2022, but not later than fifteen days after May 20, 2022. If a vacancy arises on the interim committee, the appropriate appointing authority shall appoint a member to fill the vacancy as soon as possible.

(b) The majority leader of the senate shall appoint the chair of the interim committee and the minority leader of the house of representatives shall appoint the vice-chair of the interim committee.

(3) The chair of the interim committee shall schedule the first meeting of the interim committee to be held not later than thirty days after May 20, 2022. The interim committee may meet up to five times during the interim between the 2022 and 2023 legislative sessions.

(4) The director of research of the legislative council and the director of the office of legislative legal services shall provide staff assistance to the interim committee.

(5)(a) The interim committee shall solicit input, via written comments and via testimony at committee meetings held pursuant to subsection (3) of this section from, at a minimum:

(I) Commissioners and employees of the office;

(II) Current and former judges and justices;

(III) Bar associations and legal societies representing Colorado attorneys. In soliciting input from bar associations and legal societies, the interim committee shall invite responses from the fullest range of philosophical perspectives possible and shall specifically invite input from organizations representing individuals historically underrepresented in the legal profession.

(IV) Attorneys licensed to practice in Colorado;

(V) Independent experts in systems of judicial discipline; and

(VI) Any other residents of Colorado.

(b) The interim committee shall specifically solicit input from the parties identified in subsection (5)(a) of this section as to the issues identified in subsection (7) of this section. Testimony and written comments from any of the parties identified in subsection (5)(a) of this section may be in addition to written comments and testimony about other aspects of Colorado's judicial discipline process not identified in subsection (7) of this section.

(6) The interim committee may introduce up to a total of three bills, joint resolutions, and concurrent resolutions in the 2023 legislative session. The interim committee shall report to the legislative council by the date specified in joint rule 24 (b)(1)(D). Legislation recommended by the interim committee is subject to the applicable deadlines, bill introduction limits, and any other requirement imposed by the joint rules of the general assembly.

(7) At a minimum, the interim committee shall study the following issues:

(a) The effectiveness of Colorado's system of judicial discipline in investigating and addressing the allegations of mishandling judicial misconduct complaints published in 2021;

(b) How to achieve a system of judicial discipline in which individual cases are investigated and determined independent of undue influence by the judiciary, to be overseen by the community, the bar, and the judiciary;

(c) Whether a system of judicial discipline can be effective and inspire public confidence while retaining judicial control of final decision-making authority over judicial discipline cases;

(d) Whether the existing commission should be authorized to make initial decisions on discipline cases for public and private discipline that are then subject to appellate review before a separate review board that is independent of the judiciary;

(e) The best method of assigning rulemaking authority over the judicial discipline system to achieve effectiveness and independence while inspiring public confidence;

- (f) How to address judicial discipline effectively and credibly when members, actions, or decisions of the supreme court are being evaluated for potential judicial misconduct;
- (g) Whether the supreme court should continue to control the appointment of the four judge members of the commission;
- (h) The appropriate method for defining a consistent and clear set of disqualification standards for each of the decision makers in the judicial discipline system, including supreme court justices, commission members, special counsel, and special masters, and for determining disqualification issues;
- (i) The best method of balancing the values of confidentiality and transparency for judicial discipline matters;
- (j) How to ensure that the commission can obtain unfettered access to information and files in the custody or control of the department relevant to judicial misconduct complaints;
- (k) Whether rule 13 of the rules, which assigns the role of screening misconduct complaints, should be modified to authorize the department to pre-screen judicial misconduct complaints before reporting them to the commission;
- (l) The benefits of a victim-centered approach to judicial misconduct complaints that allows the victim to have a voice in how complaints are handled and resolved;
- (m) An effective enforcement mechanism for any disclosure obligation related to judicial discipline;
- (n) How best to fund the system for judicial discipline;
- (o) The relative benefits of the models for achieving independent judicial discipline adopted by other states and the American Bar Association's model rules for judicial disciplinary enforcement or any other model addressing the final decision-maker conflict that arose in Colorado in 2021;
- (p) Recommendations from the department, the commission, and any other stakeholders the interim committee deems appropriate; and
- (q) What amendments to constitutional, statutory, or rule-based law are advisable to address the interim committee's findings.

#### **Credits**

Added by [Laws 2022, Ch. 201 \(S.B. 22-201\)](#), § 2, eff. May 20, 2022.

C. R. S. A. § 13-5.3-110, CO ST § 13-5.3-110

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