COMMISSION ON JUDICIAL CONDUCT

34th ANNUAL REPORT 2023-2024

ORGANIZATION, JURISDICTION AND POWERS

The Commission on Judicial Conduct was established on June 1, 1979, by the Supreme Court of Hawai'i under Rule 26 of its Rules of Court. In 1984, Rule 26 was renumbered to Rule 8. The establishment of the Commission was mandated by Article VI, Section 5 of the Hawai'i State Constitution, as amended in 1978. The Rules of Court set forth the Commission's basic operational procedures and powers.

The Commission consists of seven members appointed for staggered three-year terms. The Rules require that three members shall be attorneys licensed to practice in the State of Hawai'i, and that four members shall be citizens who are not active or retired judges or lawyers.

The Commission has jurisdiction over all judges and per diem judges of the State of Hawai'i. Excluding arbitrators, the Commission also has jurisdiction over court appointed officers performing judicial functions.

In April 1993, the Supreme Court amended Rule 8.2(a) which now empowers the Commission to issue advisory opinions to aid judges in the interpretation of the Code of Judicial Conduct. These opinions are admissible in disciplinary action against the judge involved.

COMPLAINTS AGAINST JUDGES

Any person may file a complaint relating to the conduct of a judge. Upon receipt of the complaint, the Commission shall determine whether sufficient cause exists to proceed with an investigation. Judicial misconduct involves any violation of the Code of Judicial Conduct. Disability involves the physical or mental inability to perform judicial duties and functions. Judicial misconduct does not include making erroneous findings of fact, reaching an erroneous legal conclusion, or erroneously applying the law.

Even though the Commission may find no further proceedings are necessary, it may recommend that the Supreme Court: issue a private reprimand, admonish the judge that his or her conduct may be cause for discipline, direct professional counseling or assistance to the judge, or impose conditions on the judge's conduct.

COMPLAINTS & RELATED INQUIRIES	FISCAL YEAR 23-24 (7/1/23 - 6/30/24)
Number of inquiries	1,009
Number of inquiries not handled as complaints	1,002
Number of complaints processed	7
Number of complaints dismissed	7

SUBSTANCE OF COMPLAINTS	FISCAL YEAR 23-24 (7/1/23 - 6/30/24)
Abuse of power	1
Administrative inefficiency; Delay	-
Conflict of interest	1
Ex Parte Communication	2
Outcome of the case	1
Personal conduct	2
Political conduct	1
Prejudice/Bias	4
Prestige of office	-
Temperament/Demeanor	4
Other	5

(Statistics include more than one category for some complaints)

CATEGORIES OF COMPLAINTS SUMMARY	FISCAL YEAR 23-24 (7/1/23 - 6/30/24)
Criminal	-
Civil	5
Domestic Relations	1
Juvenile	-
Small Claims	-
Traffic	-
Other	1

COMPLAINTS BY JUDICIAL POSITION	FISCAL YEAR 23-24 (7/1/23 - 6/30/24)
Per Diem District/Family	2
District Court	1
Family Court	1
Circuit Court	7
Court of Appeals	-
Supreme Court	1
Other (court appointed officer performing judicial functions)	-

(Statistics include multiple judges per complaint)

ADVISORY OPINIONS AND INFORMATIONAL DISCUSSIONS

Any judge, the administrative director of the courts, or the Commission may request an advisory opinion to aid in the interpretation of the Code of Judicial Conduct. The advisory opinion "...shall be a complete defense to any complaint under these rules that the judge complained against acted in accordance with and reliance on an advisory opinion issued to the judge that certain specified conduct by the judge would not constitute a violation of the Code of Judicial Conduct." *Rule 8.15 (c) Judicial Discipline, Rules of the Supreme Court.*

ADVISORY REQUESTS & INFORMATIONAL DISCUSSIONS	FISCAL YEAR 23-24 (7/1/23 - 6/30/24)
Informational Discussion Requests	53
Informal Advisory Opinion Requests	-
Formal Advisory Opinion Requests	-

An advisory request may be for an informational discussion, an informal opinion or a formal opinion. The informational discussion, while not an opinion issued by the Commission, encourages discussion of the issues and conduct contemplated by the judge and how it relates to the Code of Judicial Conduct. The informal advisory opinion is a confidential written response to the judge unless permission is granted to publish the opinion or the Commission chooses to disclose it. The formal opinion is written and is usually of sufficient general interest that it is published and disseminated to all judges and is available to the public.

ADVISORY OPINIONS & INFORMATIONAL DISCUSSION REQUESTS

	1ST CIRCUIT	2ND CIRCUIT	3RD CIRCUIT	5TH CIRCUIT	APPELLATE & ADMINISTRATIVE
ADMINISTRATION	-	-	-	-	-
SUPREME COURT	13	-	-	-	13
INTERMEDIATE COURT OF APPEALS	7	-	-	-	7
CIRCUIT COURT	3	2	2	-	7
DISTRICT COURT	2	2	1	8	13
FAMILY COURT	2	-	1	-	3
PER DIEM JUDGES	4	4	2	-	10
TOTAL	**31**	**8**	**6**	**8**	**53**

FORMAL PROCEEDINGS

If a formal hearing is held and the Commissioners conclude that the charge has been proven by clear and convincing evidence, the Commission shall submit a report of its findings to the Supreme Court and may recommend any of the following sanctions: removal from office, retirement, imposition of limitations or conditions on the performance of judicial duties including suspension with or without pay, private reprimand, public censure, suspension from the practice of law, or disbarment, or any combination of the above sanctions.

CONFIDENTIALITY

The Commission's investigation of a complaint is confidential. However, the Commission may share a complaint with the judge as part of its investigation. There is a provision allowing the Commission to make public statements to clarify a complaint if the subject matter in a case becomes public knowledge through an independent source or through a waiver of confidentiality by the judge.

COMMISSION OPERATIONS

A person who wishes to file a complaint is asked to submit the complaint in writing to the Commission setting forth all pertinent facts and describing the judge's alleged misconduct or disability as specifically as possible. Dates, names of witnesses and exact circumstances surrounding the matter should be provided in detail.

At its monthly meetings, the Commission reviews all complaints and conducts an initial evaluation to determine whether there is sufficient cause to proceed further. If the Commission finds the complaint to be frivolous, unfounded, outside the Commission's jurisdiction, or raising appealable issues, the complaint is dismissed and the complainant is informed that the matter has been dismissed. Depending on the complexity of each complaint, final disposition of a complaint could take months.

Complaints filed anonymously with vague or unclear allegations or without sufficient information for the Commission to proceed are usually dismissed.

If a complaint is determined to merit further investigation, the Commission on occasion, forwards a copy of the complaint to the judge involved requesting a written response. The Commission may also request further information from the complainant to clarify allegations made. Both complainant and the judge are informed of the Commission's decision when no misconduct is determined to exist. In cases where the Commission determined that sufficient evidence exists to support allegations of misconduct, a disciplinary recommendation is made to the Supreme Court. The complainant is then informed that "appropriate action has been taken," and the Supreme Court is responsible for disciplinary action against the judge. There are provisions for a special counsel to conduct formal hearings if further proceedings are indicated by the seriousness of the alleged violation.

The filing of a complaint with the Commission is not a substitute for appeal nor will it change a judge's decision. The Commission has the authority to only make recommendations of discipline to the Supreme Court when that is determined to be appropriate.

CENTER FOR JUDICIAL ETHICS

The Hawai'i Commission on Judicial Conduct maintains membership in the Center for Judicial Ethics, a national clearinghouse for information on judicial conduct and ethics with the National Center for State Courts in Williamsburg, Virginia since 2014. All of the other states have judicial conduct organizations and are also members of this organization. Established in 1977, the Center has been a vital and supportive body for the Hawai'i Commission providing information on judicial discipline, research assistance, and technical expertise on drafting of the formal advisory opinions. The Center also provides all conduct organizations with published materials on judicial discipline, an index of judicial cases, advisory opinions, other state and federal codes of conduct, newspaper and journal articles of interest and concern.

COMMISSION MEMBERS

James A. Kawachika, Esq.
Chairman
(7/1/2021 - 6/30/2024)

Doris M. Ching, EdD.
Vice Chair
(9/1/2015 - 8/31/2024)

Corbett A. K. Kalama
(6/1/2023 – 5/31/2026)

Diane M. Kimura
(6/10/2023 – 6/9/2026)

Dickson C. H. Lee, Esq.
(6/1/2000 - 6/1/2024)

Benjamin M. Matsubara, Esq.
(6/8/1994 - 6/1/2024)

Lynne T. Waters
(1/12/21 – 1/11/27)

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