

Brittany Kauffman's response to LJIC questions from May 2022 meeting

I have attached or linked to the following documents. Please let me know if this prompts any additional questions.

- **IAALS Judicial Discipline Pre-Convening Report** (February 2018) (attached).
 - I referenced page 4 of this report in sharing the following information on the total percentage of complaints: “[T]he total percentage of complaints resulting in actual discipline strikes many observers as low. For example, “the average number of judges disciplined each year as a percentage of closed complaints between 2005-2014 was 3.4% in California, 3.6% in Texas, and 1% in New York.’ Indeed, the percentage rarely exceeds 10% in any state. This seemingly low rate may be justified, however, in part because the majority of complaints are veiled or not-so-veiled appeals on the merits.”). I reviewed the citation for these statistics and you can access it here: [Cal. Commission on Judicial Performance, Response to "Why a Spotlight must be put on the Commission on Judicial Performance," at 1 \(April 20, 2016\). \[cal.%20commission%20on%20judicial%20performance,%20response%20to%20%22why%20a%20spotlight%20must%20be%20put%20on%20the%20commission%20on%20judicial%20performance,%20at%201%20\(april%2020,%202016\),\]](#)
- Cynthia Gray, *The Line Between Legal Error and Judicial Misconduct: Balancing Judicial Independence and Accountability*, 32 Hofstra L. Rev. 1245 (2004) (attached).
- In 2021, the Colorado Commission on Judicial Discipline adopted a Code of Conduct for the Commission itself, per IAALS’ recommendations. That Code of Conduct is set forth in [Colo. RJD 3.5 \[casetext.com\]](#), and its purpose is to guide its members in their duties.
- I do not have additional research to share on the impact of citizen members. IAALS’ urges robust demographic, vocational, and geographic diversity to assure the public that those who “judge the judges” fairly represent the community. From IAALS’ [Recommendations for Judicial Discipline \[iaals.du.edu\]](#), “[W]e agree with the ABA Model Rule recommendation for equal-tripartite appointees—equal numbers of judges of various court types appointed by the courts, lawyers appointed by the state bar, and governor-appointed public members. In particular, populating a commission with a majority or super-majority of judges (which still characterizes a handful of commissions) heightens the concern that judges are unlikely to deal impartially with complaints about fellow judges and deprives commissions of an adequate representation of public members, who can provide the system with insight from the community and non-technical critiques and perspectives of judicial conduct and culture.”

Thanks again for the opportunity to highlight IAALS’ recommendations,
Brittany

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