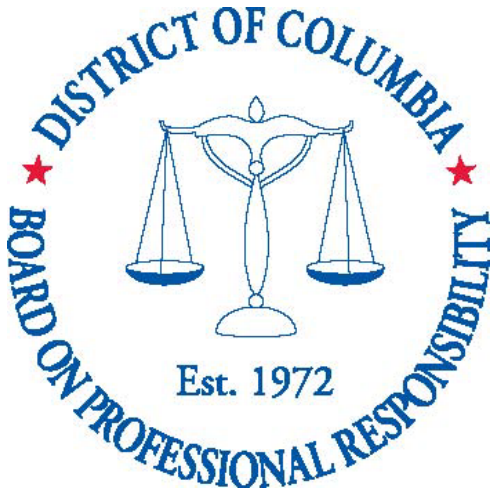
DISTRICT OF COLUMBIA
BOARD ON PROFESSIONAL RESPONSIBILITY



Annual Report

August 1, 2022 – July 31, 2023

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DISTRICT OF COLUMBIA
BOARD ON PROFESSIONAL RESPONSIBILITY

ANNUAL REPORT

August 1, 2022 – July 31, 2023

Introduction

The Board on Professional Responsibility is the adjudicative arm of the District of Columbia Court of Appeals, responsible for the administration of the attorney disciplinary system and the adjudication of cases of attorney misconduct against members of the District of Columbia Bar and others who fall within the Court's disciplinary jurisdiction. The attorney disciplinary system enforces the D.C. Rules of Professional Conduct, which were adopted by the Court to protect the public from unethical attorneys and to preserve the integrity of the legal profession.

Disciplinary cases are adversarial proceedings, prosecuted by the Office of Disciplinary Counsel, and heard by Hearing Committees, which consist of two active D.C. Bar members and a member of the public who is not a lawyer. All hearings are open to the public. In-person hearings are held in Courtroom II of the Historic Courthouse of the District of Columbia Court of Appeals, at 430 E Street, N.W., Washington, D.C. 20001. Hearings may also be held over Zoom. All hearings are live-streamed on the Hearing Committees' YouTube page to permit public access. The hearing schedule may be found on the Board's website www.dcattorneydiscipline.org.

Hearing Committees issue reports and recommendations, which include findings of fact, conclusions of law, and a recommendation as to sanction, and which are reviewed by the Board on Professional Responsibility in most instances. The Board consists of seven active members of the D.C. Bar and two members of the public who are not attorneys. The Board hears in-person oral arguments in Courtroom II. Oral arguments may also be held over Zoom. All oral arguments are live-streamed on the Board's YouTube page to permit public access. The oral argument schedule is available on the Board's website.

Board members are appointed by the D.C. Court of Appeals. Hearing Committee members are appointed by the Board. All Board and Hearing Committee members serve without compensation.

The Office of Disciplinary Counsel is charged with the investigation and prosecution of disciplinary complaints. It is located in Building A of the Superior Court, at 515 5th Street, N.W., Suite 117, Washington, D.C. 20001.

The Board's Office of the Executive Attorney supports the Board in its administrative functions and supports the Board and the Hearing Committees in their adjudicatory functions. It is located in Suite 138 of the Historic Courthouse.

The Staff Directories of the Office of Disciplinary Counsel and the Office of the Executive Attorney may be found on the Board's website.

This report summarizes the activities of the Board, the Hearing Committees, and the Office of Disciplinary Counsel during the period August 1, 2022 – July 31, 2023, which comprised the 2022-23 Board term.

Board Review

The Board reviews Hearing Committee reports and recommendations in contested disciplinary cases, as well as motions for temporary and disability suspension and motions to dismiss petitions for reinstatement filed by the Office of Disciplinary Counsel. The Board also considers negotiated discipline, criminal conviction, reciprocal discipline, and reinstatement cases referred by the Court of Appeals. In contested cases, the Board hears oral argument, issues disciplinary orders, and files reports and recommendations with the Court. The Chair of the Board is responsible for ruling on substantive and procedural motions, including motions to compel a response to a disciplinary complaint, for a protective order, and for deferral of disciplinary proceedings, as well as motions to recommend that the Court impose a temporary suspension, a disability suspension, or disbarment on consent, among others.

Board Members (2022-23)

Lucy Pittman, Esquire, Board Chair, is an Assistant Attorney General in the Office of the Solicitor General, Office of the Attorney General (OAG) for the District of Columbia, representing the District of Columbia in civil and administrative appeals. She has worked at the OAG since 2003, serving in a variety

of positions, and is the intern and fellowship coordinator for the OAG's Office of the Solicitor General. She is a graduate of American University, Washington College of Law.

Elissa J. Preheim, Esquire, Board Vice Chair, is a litigation partner at Arnold & Porter, focusing on SEC and Public Company Accounting Oversight Board (PCAOB) enforcement actions and complex commercial and environmental litigation. Prior to joining Arnold & Porter, Ms. Preheim clerked for the Honorable Bruce W. Selya of the U.S. Court of Appeals for the First Circuit. She is a graduate of Indiana University Maurer School of Law, *summa cum laude*.

Bernadette Sargeant, Esquire, is a partner at Stinson LLP, where she counsels and represents clients in a range of employment law issues. Prior to joining Stinson, Ms. Sargeant represented private industry clients in her own practice and served as an Assistant United States Attorney. She is a graduate of the University of Michigan School of Law.

Sundeep Hora, Esquire, is a partner at Alderman, Devorsetz & Hora PLLC, where he represents individuals and businesses in contract disputes, employment litigation, and personal and business torts (*i.e.*, defamation, fraud, economic interference). Mr. Hora clerked for the Honorable Marvin J. Garbis of the United States District Court for the District of Maryland. He is a graduate of American University, Washington College of Law.

Sara K. Blumenthal is retired from the National Park Service where she served as the Deputy Associate Regional Director for the National Capital Region. In that position, Ms. Blumenthal managed multi-discipline staff with responsibility for legislation and Congressional liaison, among numerous other duties.

Margaret M. Cassidy, Esquire, founded Cassidy Law PLLC, a firm that advises corporate clients on compliance issues and defends clients in government investigations. Prior to founding Cassidy Law PLLC, Ms. Cassidy served as in-house counsel, as well as a Senior Deputy Attorney General and an Assistant District Attorney in Pennsylvania.

Robert L. Walker, Esquire, is Of Counsel at Wiley Rein LLP, where he represents clients in federal and state ethics advisory and investigative matters (including in connection with financial disclosure obligations), in internal investigations, and in prosecutions arising under campaign finance, fraud, public corruption, and other criminal laws. Mr. Walker is a former Chief Counsel and Staff Director of the Senate and House ethics committees and is a former federal prosecutor.

Mary C. Larkin is retired from Street Law, Inc., where she was the Director of International Programs. Street Law is a nonprofit organization based in Washington, D.C., that develops model public legal education programs in which citizens learn practical information about law, human rights, democracy, and citizens' responsibilities and rights. Ms. Larkin worked in civic/democracy

education programs for citizens from various venues, including high school youth, delinquent and at-risk youth, women's groups, grassroots NGOs, and disabled citizens. She developed Street Law's court program for youth who are on probation, which is replicated throughout the United States.

Thomas Gilbertsen, Esquire, is a partner at Dueffert Gilbertsen PLLC, where he represents a broad range of clients in litigated matters, with a focus on investigations and enforcement litigation by state and federal agencies. Prior to forming Dueffert Gilbertsen, Mr. Gilbertsen was a sole practitioner. He has also been a partner at other larger firms in the District of Columbia, focusing on antitrust and intellectual property litigation. He is a frequent author and presenter at ABA and other professional seminars on topics of antitrust, consumer protection, professional ethics, and agency enforcement litigation.

Board Activity in the 2022-23 Board Term

New Cases Before the Board

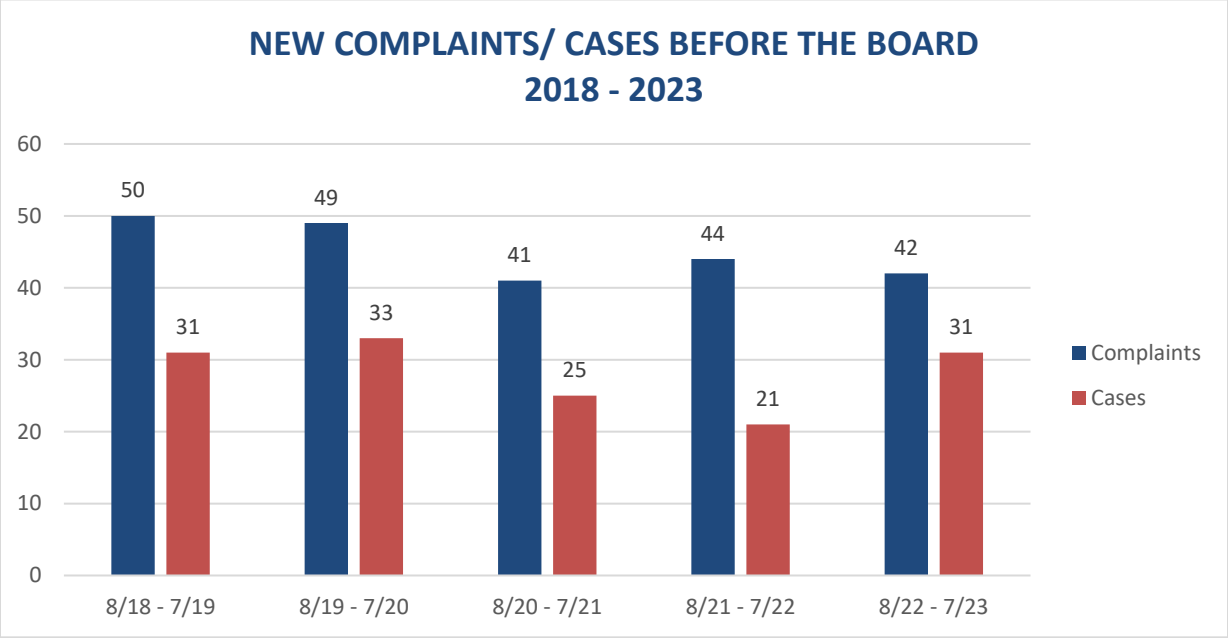
During the period August 1, 2022 through July 31, 2023, 31 new cases involving 42 individual disciplinary complaints were filed with the Board.[1] These cases included 8 Hearing Committee reports (consisting of 11 complaints), 3 criminal cases referred by the Court of Appeals, 12 disability matters (consisting of 20 complaints), and 8 additional cases (consisting of 8 complaints), which included

[1] Multiple disciplinary complaints may be consolidated in a single case brought by Disciplinary Counsel.

motions to accept consent to disbarment, motions to dismiss petitions for reinstatement, and a negotiated discipline matter referred to the Board by the Court of Appeals.

Table 1 shows the number of new cases (and the related number of complaints) filed with the Board from 2018-19 through the 2022-23 Board term.

TABLE 1



Cases Disposed by the Board

During 2022-23 Board term, the Board resolved 30 cases (covering 47 complaints), including 17 reports and recommendations (covering 27 complaints) filed with the Court of Appeals. The recommendations addressed 10 contested petitions instituting formal disciplinary proceedings (covering 20 complaints), 2 motions to accept consent to disbarment (covering 2 complaints), 1 matter arising

out of a criminal conviction, and 4 reports in other matters. Additionally, the Board ordered an informal admonition in 1 case (covering 1 complaint), remanded 1 case back to a hearing committee (covering 1 complaint), dismissed 2 original cases (covering 2 complaints), dismissed 2 petitions for reinstatement, and referred 1 reinstatement matter to a Hearing Committee. The Board also granted motions to petition the Court for disability suspension in 4 matters, denied a request to appoint counsel for a client whose attorney was on a disability suspension in one matter, and determined that a suspended lawyer was not eligible to seek reinstatement. The Chair of the Board issued 65 orders. Board members approved Disciplinary Counsel's recommendations for diversion in 19 docketed complaints.

Table 2 shows the total number of cases (and the related number of complaints) resolved by the Board from 2018-19 through the 2022-23 Board term.

TABLE 2

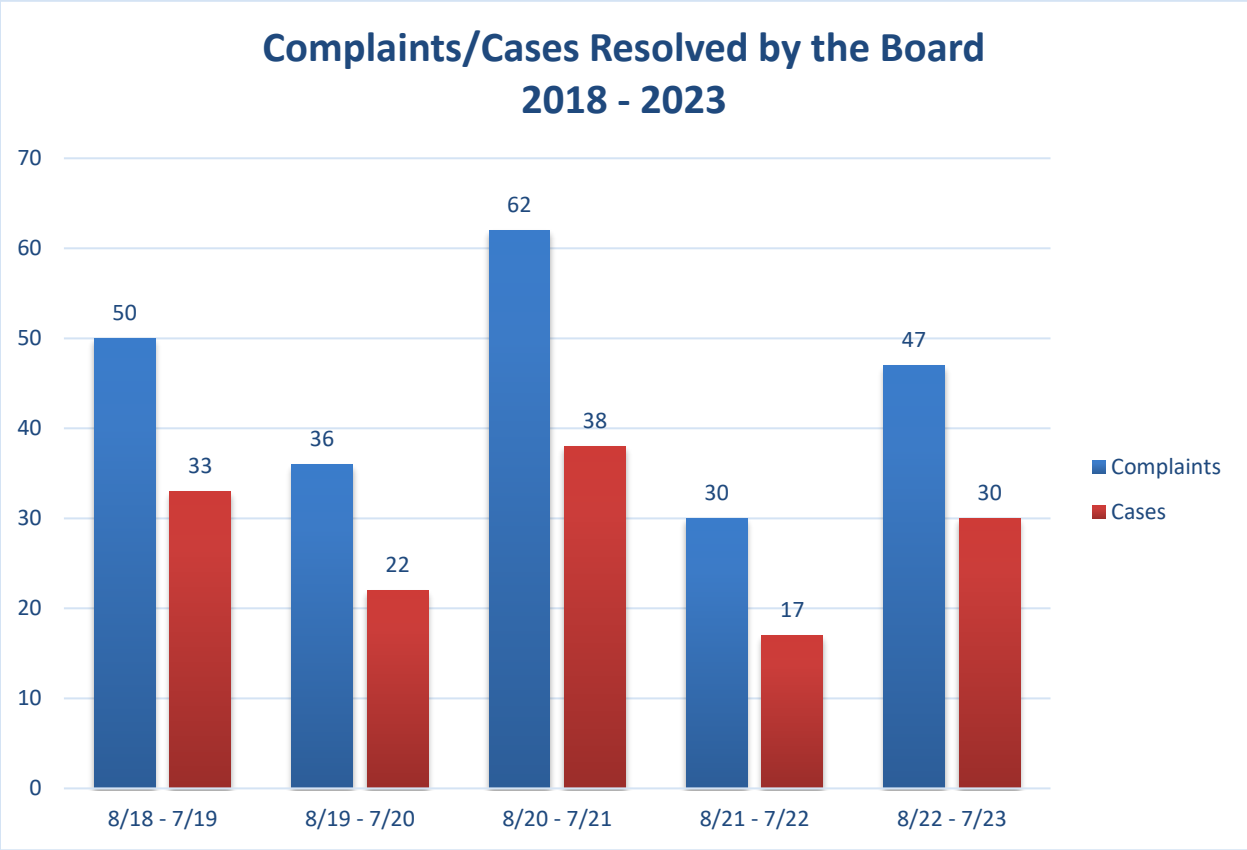


Table 3 shows the number of orders issued by the Chair of the Board from 2018-19 through the 2022-23 Board term.

TABLE 3

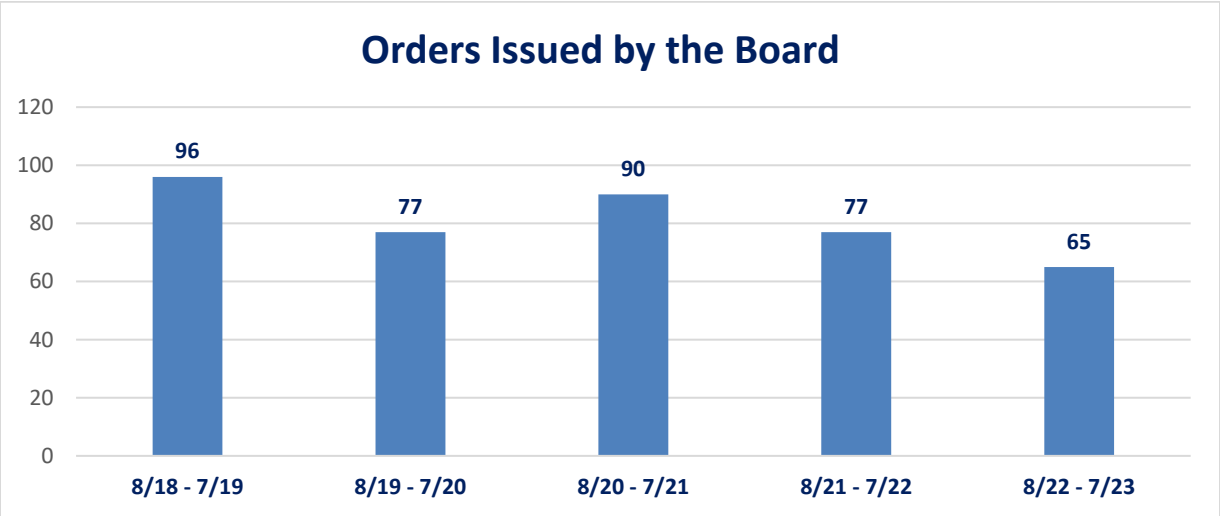
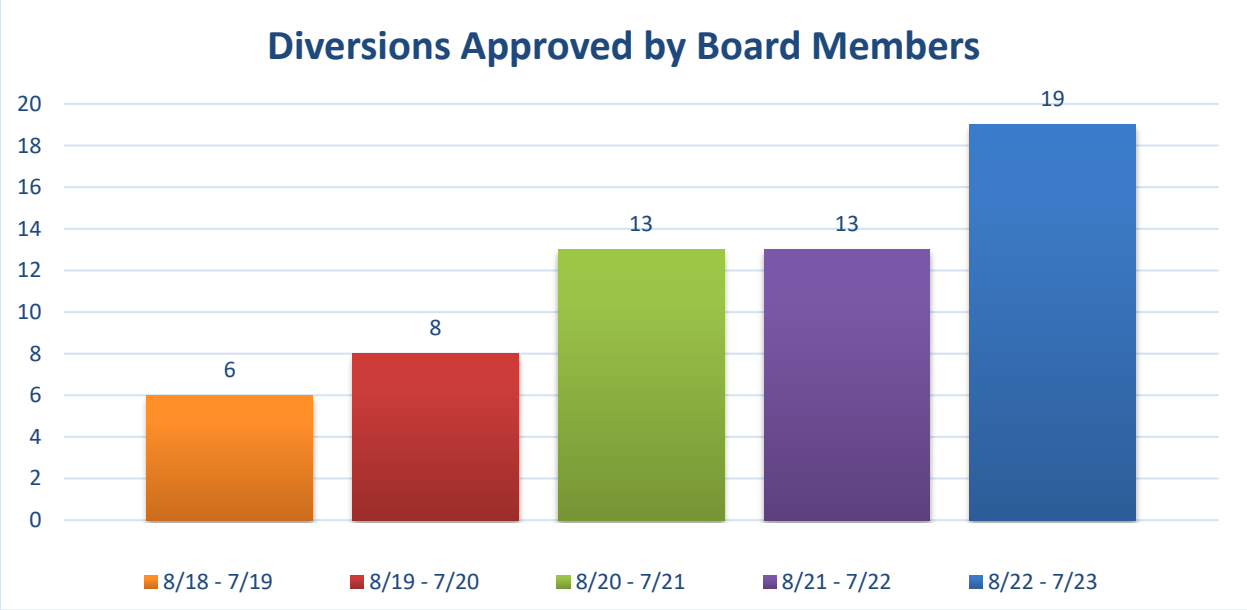


Table 4 shows the number of diversion agreements approved by Board members from 2018-19 through the 2022-23 Board term.

TABLE 4



As of July 31, 2023, there were no matters pending a Board report and 3 matters pending oral argument before the Board.

The Hearing Committees

The Board maintains a large roster of active D.C. Bar members and non-attorney members of the public, who serve on the Board's 12 standing Hearing Committees and on Ad Hoc Hearing Committees. The Board has continued its efforts to maintain a broad range of professional experience and diversity on the Hearing Committees. Active members of the D.C. Bar and members of the public who are interested in serving on a Hearing Committee are encouraged to contact the Office of the Executive Attorney.

Hearing Committees conduct full evidentiary hearings on Disciplinary Counsel's petitions instituting formal disciplinary proceedings and in contested reinstatement cases. Following the close of the evidentiary hearing in a contested discipline case, the Hearing Committee prepares a report with written findings of fact, conclusions of law, and a recommended sanction, which is filed with the Board. Reports in contested reinstatement cases are filed directly with the Court. Hearing Committees also conduct limited hearings on petitions for negotiated discipline. Before the limited hearing, the Hearing Committee may review Disciplinary Counsel's investigative file *in camera* and meet with Disciplinary Counsel *ex parte* to discuss the basis for Disciplinary Counsel's recommendation for negotiated discipline. The Hearing Committee files a report directly with the Court if it recommends the approval of negotiated discipline. Where it does not, it issues an order rejecting the petition for negotiated discipline.

The current roster of Hearing Committee members is available on the Board's website.

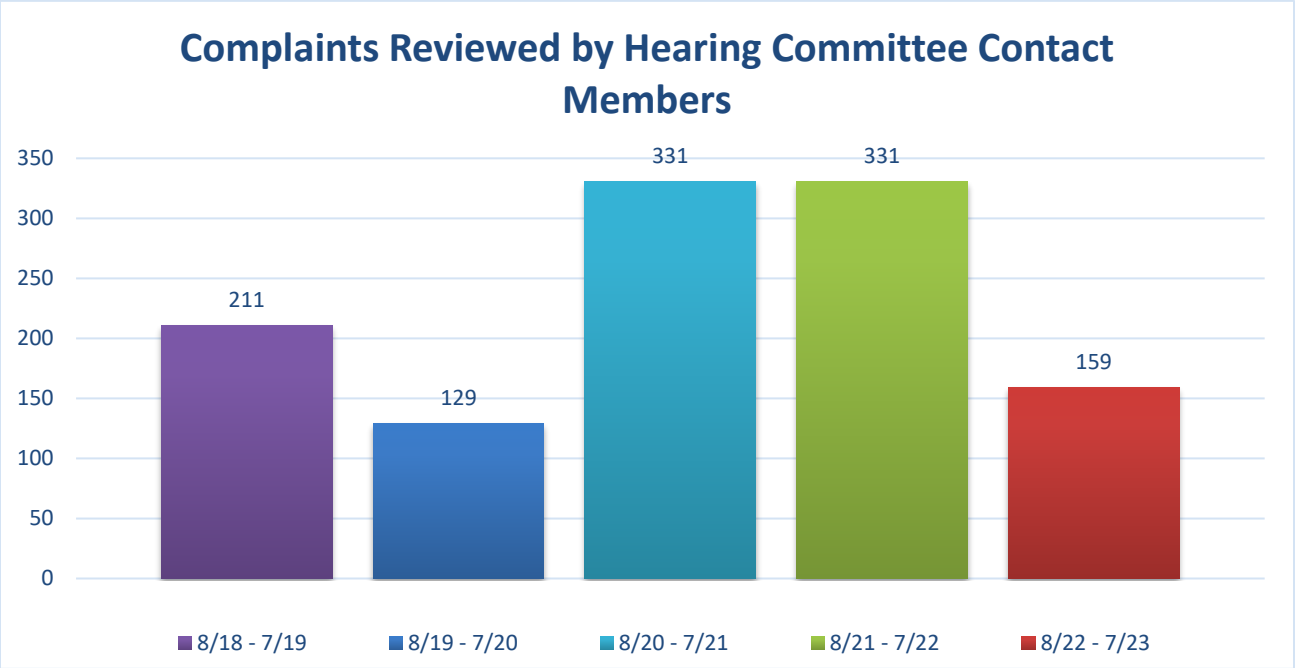
Hearing Committee Activity During the 2022-23 Board Term

During the period August 1, 2022 – July 31, 2023, Hearing Committee Contact Members reviewed Disciplinary Counsel's recommended disposition of 159 docketed complaints. Contact Members approved Disciplinary Counsel's recommendations to dismiss 125 docketed complaints, to issue Informal

Admonitions in 9 complaints, to defer 4 complaints, and to file formal disciplinary charges in 21 complaints.

Table 5 shows the number of docketed complaints reviewed by Contact Members from 2018-19 through the 2022-23 Board term.

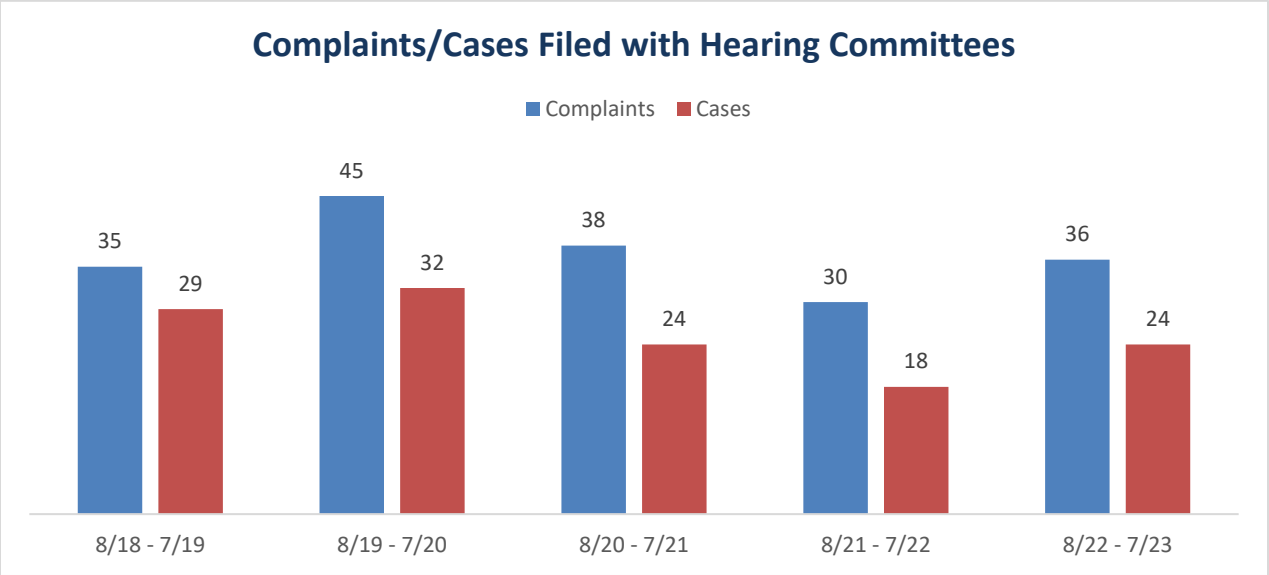
TABLE 5



Twenty-Four new cases were filed with the Hearing Committees during the 2022-23 Board term: 17 petitions instituting formal disciplinary proceedings (covering 26 complaints) and 7 petitions for negotiated discipline (covering 10 complaints).

Table 6 shows the total number of cases (and the related number of complaints) filed with the Hearing Committees from 2018-19 through the 2022-23 Board term.

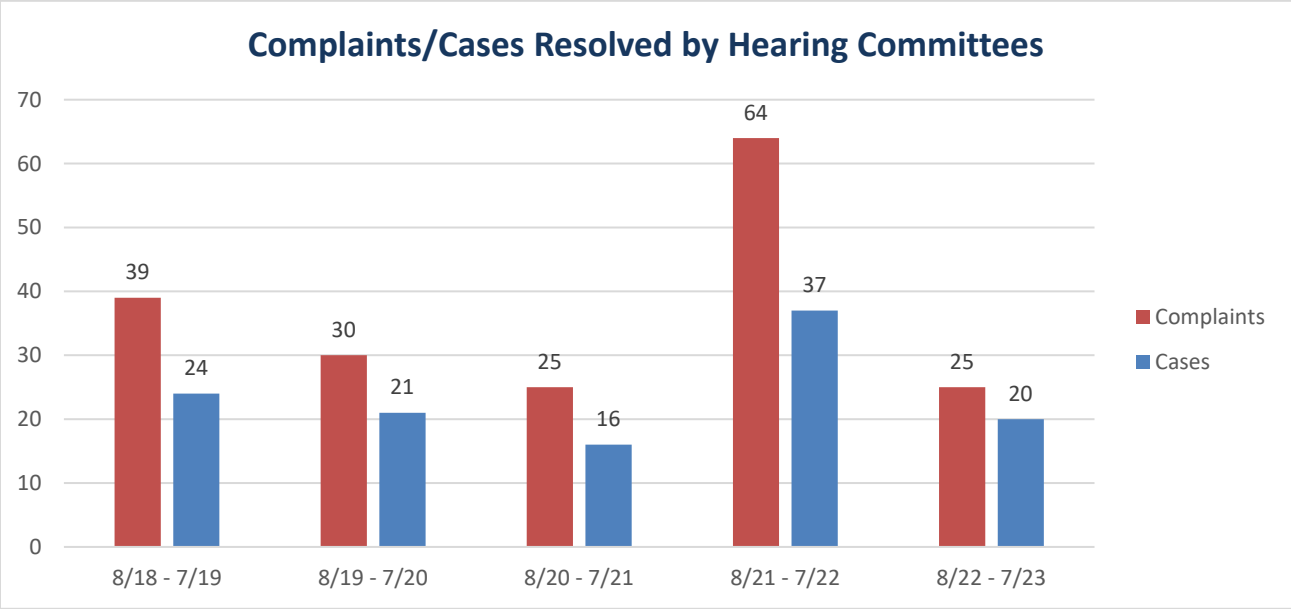
TABLE 6



During the 2022-23 Board term, the Hearing Committees conducted 20 pre-hearing conferences, held 40 days of hearings, issued 8 reports (covering 11 complaints) in contested cases, issued 7 reports recommending approval of petitions for negotiated discipline (covering 7 complaints), issued 1 report in a reinstatement matter, and administratively closed 5 additional matters due to the death of Respondent or the resolution of the matter through a related case. These 5 cases covered 7 complaints.

Table 7 shows the total number of cases (and the related number of complaints) resolved by the Hearing Committees from 2018-19 through the 2022-23 Board term.

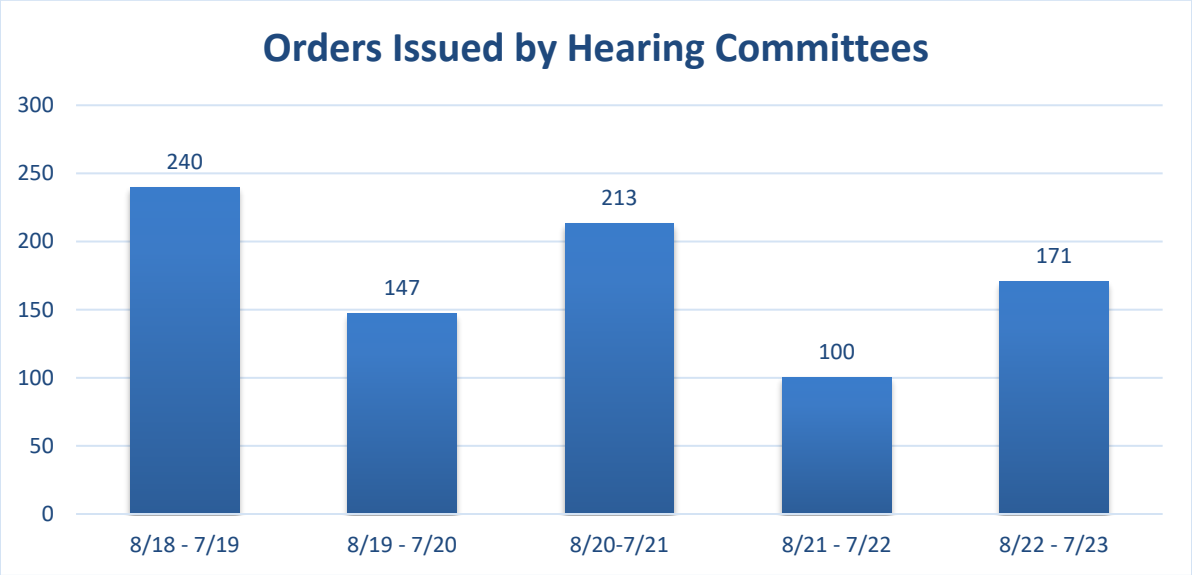
TABLE 7



Hearing Committees also decide evidentiary and procedural motions. During the 2022-23 Board term, Hearing Committees issued 171 orders.

Table 8 shows the number of orders issued from 2018-19 through the 2022-23 Board term.

TABLE 8



Negotiated Discipline

Tables 9 and 10 show the number of petitions for negotiated discipline (and related number of complaints) filed and resolved by the Hearing Committees from 2018-19 through the 2022-23 Board term.

TABLE 9

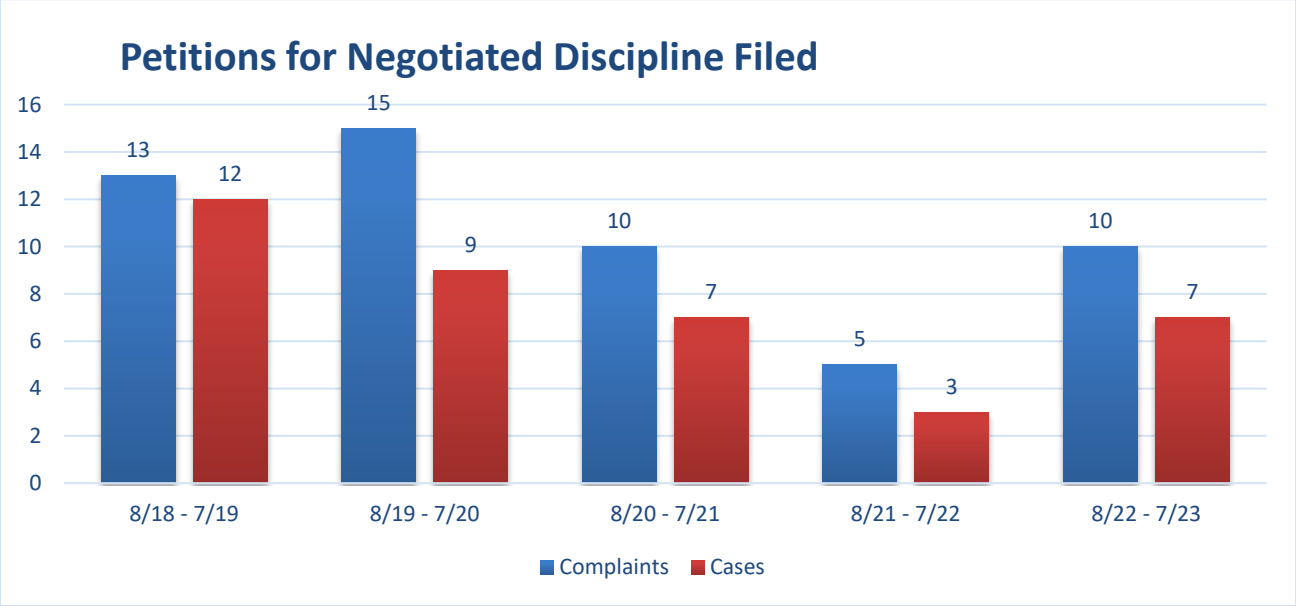
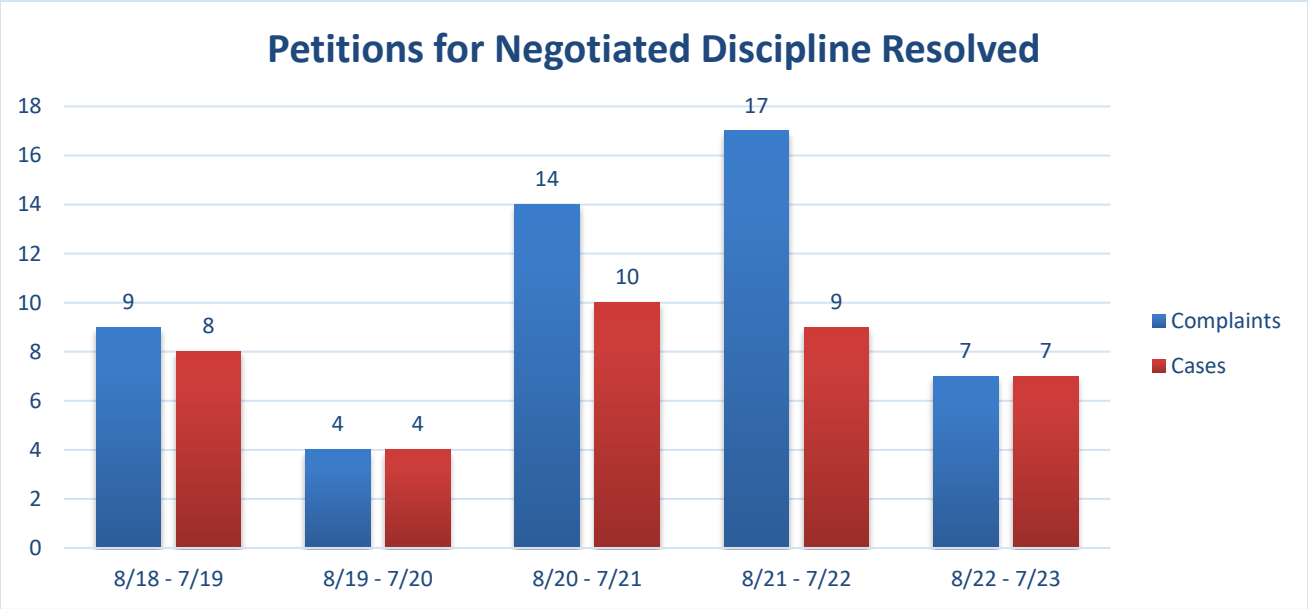


TABLE 10[2]



[2] Does not include petitions that were withdrawn.

At the end of the 2022-23 Board term, 25 cases (involving 39 complaints) were pending before Hearing Committees. Of the cases pending before Hearing Committees, 19 cases (involving 31 complaints) were contested, 3 cases (involving 5 complaints) were petitions for negotiated discipline, and 1 case (involving 1 complaint) was a motion to quash.

The Office of Disciplinary Counsel

The Office of Disciplinary Counsel investigates all complaints and allegations of ethical misconduct and recommends dispositions ranging from dismissal, diversion, and the issuance of an informal admonition to a petition for negotiated discipline or the institution of formal charges. The Office of Disciplinary Counsel has a dual function: to protect the public and the courts from unethical conduct by members of the D.C. Bar and to protect members of the D.C. Bar from unfounded complaints.

Where formal charges are filed, the Office of Disciplinary Counsel prosecutes the charges before a Hearing Committee, the Board, and ultimately the D.C. Court of Appeals.

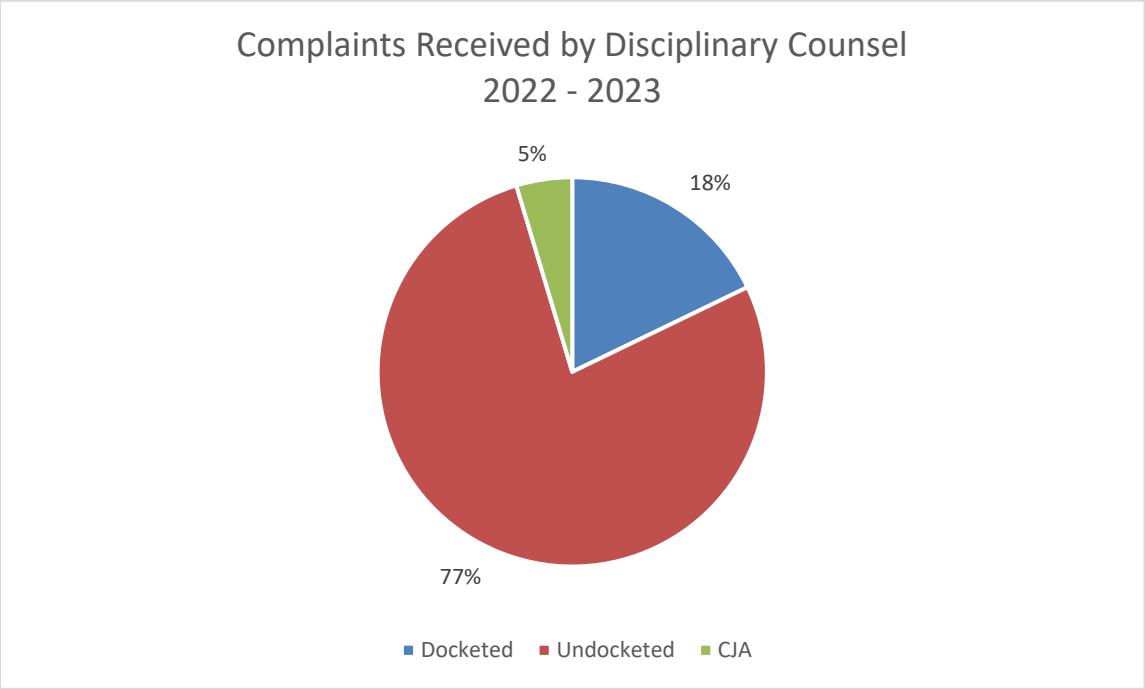
During the period August 1, 2022 through July 31, 2023, 1,099 complaints were filed with the Office of Disciplinary Counsel. When a disciplinary complaint is filed, Disciplinary Counsel conducts a preliminary review or inquiry. Where the complaint does not provide a basis to open a formal investigation or where Disciplinary Counsel does not have jurisdiction, the complaint is treated statistically

as an undocketed matter. Of the 1,099 complaints filed in the 2022-23 Board term, the Office of Disciplinary Counsel opened 196 docketed complaints for formal investigation. A docketed complaint is sent to the respondent attorney for a response, and the response is sent to the complainant for comment. Disciplinary Counsel also opened 852 undocketed complaints, where it concluded there was no basis for a formal investigation. When Disciplinary Counsel does not formally investigate a complaint, a letter is sent to the complainant explaining Disciplinary Counsel's decision.

Disciplinary Counsel also received 51 complaints from criminal defendants, or "CJA Complaints." Disciplinary Counsel conducts a preliminary inquiry into CJA Complaints, and any complaints that are not docketed for investigation are handled in the same way as undocketed matters.

Table 11 shows the breakdown of complaints received by Disciplinary Counsel in the 2022-23 Board term.

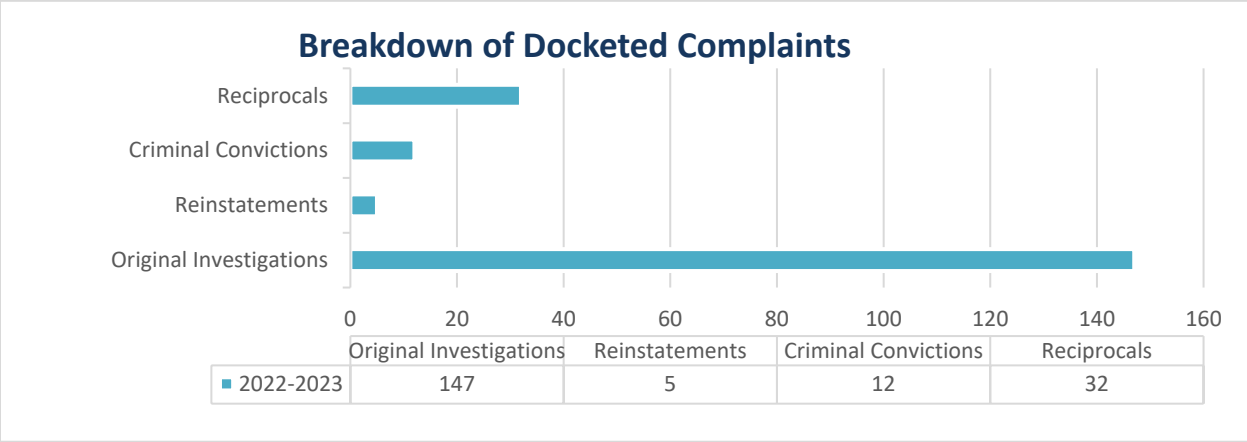
TABLE 11



Docketed complaints consist of original investigations, reciprocal discipline cases, cases involving criminal convictions, and petitions for reinstatement filed by lawyers who were disbarred or suspended with the requirement to demonstrate fitness to practice prior to reinstatement.

Table 12 shows the breakdown of docketed complaints during the 2022-23 Board term.

TABLE 12



Fiscal Matters

The attorney disciplinary system is funded by Bar dues. Maintaining an effective and efficient disciplinary system at a reasonable cost to Bar members is a primary goal of the Board. Funding for the Board and the Office of Disciplinary Counsel was 28.6% of license fees in the Bar's approved dues funded budget in Fiscal Year 2022-23 and is 27.0% of license fees in the Bar's approved dues funded budget for Fiscal Year 2023-24.

Conclusion

The Board appreciates the cooperation and support of the District of Columbia Court of Appeals, the Superior Court of the District of Columbia, the District of Columbia Bar, and the staffs of the Office of the Executive Attorney and the Office of Disciplinary Counsel. The Board particularly wishes to acknowledge all those who serve as members of the Hearing Committees, as practice and financial monitors, and as Special Disciplinary Counsel, and especially those former Hearing

Committee and Board members who, having already given generously of their time, continue to support the work of the Board. The dedicated service of all of these individuals makes possible the effective functioning of our disciplinary system.

December 2023