

# **Workers' Compensation Ethics Advisory Committee**

## **Annual Report, 2024**



**State of California**  
**Gavin Newsom, Governor**

**Labor and Workforce Development Agency**  
**Stewart Knox, Secretary**

**Department of Industrial Relations**  
**Katrina S. Hagen, Director**

## Message from the Director



In 2024, the Workers' Compensation Ethics Advisory Committee (EAC) received 28 new complaints against Workers' Compensation Administrative Law Judges. Each year, the EAC members, its support staff, and investigating judges spend considerable time reviewing each complaint, and if warranted, conducting a thorough investigation of the complaints, including interviewing witnesses and reviewing court documents. The complaint review process is one aspect of our effort to maintain ongoing dialogue and feedback with Workers' Compensation Administrative Law Judges to ensure that they are held to the highest ethical standards.

The integrity of the adjudicatory function of the workers' compensation system is sustained by a continual, impartial review of complaints, and I thank the Advisory Committee for their essential work in this area.

I would like to thank all our Workers' Compensation Administrative Law Judges across the state. They continue to perform a critical role in the state's workers' compensation system, to ensure DWC fulfills its mission to minimize the adverse impact of work-related injuries on California employees and employers.

Thank you,

/Katrina S. Hagen

Katrina S. Hagen  
Director of Industrial Relations

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## **I. The Ethics Advisory Committee: A Profile**

### **A. The Committee's Function**

The Workers' Compensation Ethics Advisory Committee (EAC or committee) is a state committee independent of the Division of Workers' Compensation (DWC or division). The EAC's authority and duties are set forth in the California Code of Regulations (CCR), Title 8, sections 9722 through 9723.

As civil servants, Workers' Compensation Administrative Law Judges (WCALJs or judges) are not subject to review by the California Commission on Judicial Performance, the agency responsible for investigating misconduct complaints against supreme, superior, and appellate court judges. Instead, the EAC monitors and reviews complaints of judicial misconduct filed against WCALJs.

The EAC meets at regular intervals to review complaints. If a complaint warrants a formal investigation, the committee recommends investigation to the Administrative Director of the DWC and the Chief Judge (CJ) of the division.

### **B. Committee Membership and Meetings**

Pursuant to CCR, Title 8, section 9722, the EAC is composed of nine members, each appointed by the DWC Administrative Director for a term of four years. Reflecting the various constituencies within the California workers' compensation community, the EAC consists of the following:

- A member of the public representing organized labor
- A member of the public representing insurers
- A member of the public representing self-insured employers
- An attorney who formerly practiced before the Workers' Compensation Appeals Board (WCAB) and who usually represented insurers or employers
- An attorney who formerly practiced before the WCAB and who usually represented applicants (injured workers)
- A presiding judge (PJ)
- A judge or retired judge
- Two members of the public outside the workers' compensation community

The committee carries out its function with the assistance of an attorney and secretary on the DWC staff.

The EAC meets four times a year at the DWC headquarters, located at 1515 Clay Street in Oakland. The committee meets in executive session when it engages in the review and discussion of complaints, and that portion of the proceedings is closed to the public.

## **II. Complaint Procedures**

### **A. Filing a Complaint**

Anyone may file a complaint with the EAC. Complaints may be submitted anonymously but must be in writing. Typically, a complaint is submitted in the form of a letter from an injured worker, attorney, or lien claimant (i.e., medical provider) who has been a party to a proceeding before a WCALJ, and the complaint alleges ethical misconduct by that judge.

On receipt of the complaint, the EAC opens a case, and the DWC sends a letter to the complainant acknowledging receipt of the complaint by the committee. Each complaint that alleges misconduct by a judge is formally reviewed by the EAC. To ensure the objectivity of the reviewing members, the names of the complainant, WCALJ, witnesses, and the DWC office where the alleged misconduct occurred are redacted from complaint copies.

A complaint alleging facts that do not constitute WCALJ misconduct is forwarded to the CJ with a recommendation that no further action be taken. In such a case, the complainant is advised in writing that the EAC considered the complaint, found that no misconduct was either alleged or established, decided that no further action was appropriate, and closed the file.

### **B. Investigation by the Chief Judge or Administrative Director**

When a complaint makes allegations that, if true, would constitute misconduct by a WCALJ, the EAC recommends that the CJ or Administrative Director conduct an investigation. After the investigation is complete, the EAC is briefed on the findings and determines whether an ethical violation occurred. If no ethical violation is found, the EAC recommends no further action. If the EAC finds an ethical violation, it recommends corrective action by the CJ. The complainant is advised in writing that appropriate corrective action has been taken and that the matter has been closed.

Any disciplinary action taken against a WCALJ by the CJ or Administrative Director is in the form required by Government Code (GC) Section 19574 or 19590(b). The right of the CJ or the Administrative Director under CCR, Title 8, Section 9720.1 *et seq.* to enforce ethical standards among judges does not replace or reduce a WCALJ's procedural rights under the State Civil Service Act (GC section 18500 *et seq.*). Furthermore, the rights and obligations of the CJ or the Administrative Director and the WCALJ concerning the probationary period mandated by GC Sections 19170 through 19180 are not affected.

### III. Complaint Digest

#### A. Complaint Statistics for Calendar Year 2024

##### 1. *Workers' Compensation Administrative Law Judges*

The DWC has 23 district office locations, including one virtual satellite office, and a Special Adjudication Unit (SAU). In 2024, the DWC had authority over 195 active judges, including 170 serving judges and 25 PJs. The number of cases heard by the Administrative Law Judges in 2024 totaled 259,653.

##### 2. *Complaints*

The EAC's caseload consists of complaints still pending at the end of the prior year and newly filed complaints. The total caseload for 2024 was 31 complaints. (See Table 1)

**Table 1. 2024 Complaint Caseload**

<b>2024 Complaint Caseload</b>	<b>Number of complaints</b>
2023 complaints pending ongoing investigation/consideration	3
New complaints filed in 2024	28
Total complaints	31

In the calendar year 2024, the EAC considered and resolved three pending complaints from 2023, meaning that an investigation was requested and did not conclude by the end of the year. Of the 28 new complaints received in 2024, the EAC considered 25 and resolved 22. Three of the new complaints were filed after the last meeting in 2024, and three investigations are still pending. Of those considered, 12 resulted in investigations. A total of 25 complaints were resolved, including the three pending investigations from 2023. (See Table 2)

The complaints set forth a wide variety of grievances. A large proportion alleged judicial misconduct or bias based on dissatisfaction with a judge's decision. Of the 25 resolved complaints, three resulted in findings of judicial misconduct (See Table 2)

**Table 2. 2024 Disposition of Complaints**

<b>Disposition of Complaints</b>	<b>Number of complaints</b>
2024 new complaints received	28
Investigations filed based on 2023 complaints	3
New complaints considered	25
Investigations filed based on new complaints	12
2023 complaints resolved	3
New complaints resolved	22
Total complaints resolved (2023, 2024)	25

<b>Disposition of Complaints</b>	<b>Number of complaints</b>
Total complaints investigated in 2024 (2023, 2024)	15
Findings of no misconduct	22
Findings of misconduct	3
New complaints pending ongoing investigation	3
New complaints pending consideration (filed after the last 2024 meeting)	3

### **3. *Complainants***

The workers' compensation community is composed of a variety of groups, including but not limited to injured workers, attorneys, hearing representatives, claims administrators, and lien claimants (medical providers). Many types of complainants filed new complaints during 2024, but unrepresented employees made up by far the largest group. (See Table 3)

**Table 3. Complaints Filed in 2024, by Type of Complainant**

<b>New Complaints Filed in 2024, by Type of Complainant</b>	<b>Number of Complaints</b>
Employees represented by attorneys	2
Employees not represented	21
Employers	0
Applicant attorneys	2
Defense attorneys	1
Hearing representatives	1
Claims administrators	0
Lien claimants (medical providers, interpreters)	1
Attorneys/hearing representatives for lien claimants	0
Other (anonymous)	0

**B. Alleged Types of Conduct Complained About in 2024**

<b>Types of Conduct Complained About in 2024</b>	<b>Number of Complaints</b>
Demeanor/Decorum	6
Abuse of Contempt/Sanctions	1
Disqualification/Disclosure/Post-Disqualification Conduct	0
Ex Parte Communications	2
Failure to Ensure Rights	2
Bias or Appearance of Bias	10
Improper Political Activities	0
Decisional Delay, False Salary Affidavits, Fraud	4
Off-bench Abuse of Office/Misuse of Court Information	0
On-bench Abuse of Authority in Performance of Judicial Duties	3
Administrative Malfeasance (includes conflicts between judges, failure to supervise staff, delay in responding to complaints)	0
Miscellaneous Off-bench Conduct	0
Misuse of Court Resources	0



#### IV. Appendices

##### A. Number of Misconduct Complaints Filed with the EAC, 2010-2024

Year	Number of Complaints
2010	40
2011	41
2012	19
2013	37
2014	45
2015	44
2016	44
2017	20
2018	29
2019	27
2020	26
2021	19
2022	27
2023	22
2024	28

## **B. 2024 Committee Membership and Staff**

### **2024 Ethics Advisory Committee Members**

#### **Jim Zelko**

Member of the Public from Outside the Workers' Compensation Community

#### **Sara Widener-Brightwell, Esq.**

California Workers' Compensation Institute  
Member Representing Insurers

#### **Chris Ellen Willmon**

Attorney who formerly practiced Before the WCAB and Represented Insurers and Employers

#### **Kenneth Peterson, Esq.**

#### **(Vacant as of July 2024)**

Former Applicants' Attorney  
Workers' Compensation Law

#### **Cristine E. Gondak**

Member of the Public from Outside the Workers' Compensation Community

#### **Steven Siemers, Esq.**

Member Representing Organized Labor

#### **Hon. William E. Gunn**

Presiding Workers' Compensation Judge  
Special Adjudication Unit – Van Nuys District Office

#### **Hon. Deborah Whitcomb**

Workers' Compensation Judge  
Workers' Compensation Appeals Board, Stockton

#### **Jill A. Dulich**

California Self-Insurers' Security Fund  
Member of the Public Representing Self-Insured Employers

### **Division of Workers' Compensation Staff**

#### **Hon. Paige Levy**

Chief Judge

#### **Karen Pak**

DWC Attorney

#### **Ursula Jones**

Administrative Assistant