

ARE COMPLAINTS CONFIDENTIAL?

Initially, complaints, and the fact that a complaint has been made, are confidential. Many complaints are completely investigated without notifying the judge of the investigation. In the course of investigation, the judge may be provided an opportunity to respond to the allegations. The complainant may be identified if the judge could not respond without such identification. In some instances, the nature of the complaint will itself identify the complainant.

If the initial proceedings reveal probable cause that a violation has occurred, a formal Statement of Charges is served on the judge and the Statement is made public, as are all subsequent documents filed thereafter. Fact-finding hearings are public and witnesses may be subpoenaed to testify. At the public hearing, the Commission publicly files the finding of probable cause and records upon which it based its decision to conduct a hearing. These records may include a copy of the complaint.

HOW LONG WILL IT TAKE TO RESOLVE MY COMPLAINT?

The Commission normally meets every other month, so final disposition of most complaints may take several months, depending on the complexity of the matter and the number of pending complaints.

SHOULD I DELAY MY APPEAL UNTIL MY COMPLAINT IS CONCLUDED?

No. You must proceed with whatever remedy is available to you within the court system to correct any judicial errors you believe were committed in your case. Your complaint of judicial misconduct is a matter **separate from** your litigation.

DOES THE COMMISSION GIVE LEGAL ADVICE?

No. The Commission cannot give legal advice to citizens or represent clients.

I DON'T THINK THE JUDGE FOLLOWED THE LAW. IS THIS WITHIN THE COMMISSION'S JURISDICTION?

A judge is entitled and obligated to reach a decision by exercising independent judgment in determination of judicial matters. The Commission does not have the authority to reverse judicial decisions. A judge's decisions may be incorrect and cause harm without being a violation of the Code of Judicial Conduct.

It is important to understand the limitations on the Commission's authority. The Commission does not represent the people who contact it. Our job is to gather facts from all available sources and to decide whether a judge or commissioner engaged in judicial misconduct - a violation of the Code of Judicial Conduct.

BACKGROUND

All fifty states and the District of Columbia have judicial conduct agencies to receive and investigate allegations of judicial misconduct. These agencies only act on complaints involving judicial misconduct and disability. They do not serve as appellate courts reviewing judges' rulings.

Commissions work to protect the integrity of the judicial process and promote public confidence in the courts. They also serve to improve and strengthen the judiciary by creating in judges a greater awareness of proper judicial behavior.

Washington's judicial conduct commission was constitutionally created when voters passed the amendment to Article IV, Section 31 of the Washington State Constitution in November 1980.

The enabling legislation was effective May 18, 1981 and is now codified as RCW 2.64. There have been three amendments to Article IV, Section 31:

December 4, 1986, voters' passage of SJR 136 became effective, changing the name from Judicial Qualifications Commission to Commission on Judicial Conduct. Two additional citizen members increased the Commission from seven to nine. This amendment also provided for public fact-finding hearings after the Commission files charges against a judge.

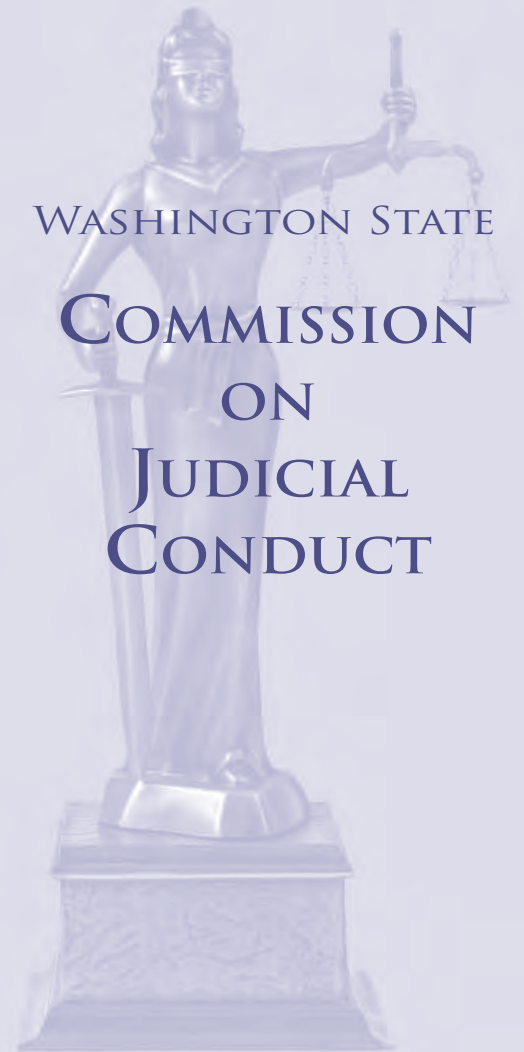
December 6, 1989, voters' approval of ESSJR 8202 became effective, adding two more citizen members to the Commission. The Commission's authority was expanded allowing it to impose all discipline except suspension or removal (for misconduct) and retirement (for disability). The Commission can recommend suspension, removal or retirement of a judge to the Supreme Court.

December 7, 2005, voters' approval of SJR 8207 became effective, extending Commission membership eligibility to municipal court judges.

The Commission has adopted rules to insure due process and confidentiality of proceedings. The Commission's rules, first adopted in October 1981, have been revised over the years and now appear as Commission on Judicial Conduct Rules of Procedure (CJCRP) in the Washington Rules of Court.

STATE OF WASHINGTON COMMISSION ON JUDICIAL CONDUCT

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WASHINGTON STATE
COMMISSION
ON
JUDICIAL
CONDUCT

INFORMATION ON:
FUNCTION
JURISDICTION &
PROCEDURES

WHAT IS THE COMMISSION ON JUDICIAL CONDUCT?

The Commission on Judicial Conduct is an independent state agency of the judicial branch charged with enforcing the Code of Judicial Conduct. The Commission investigates and acts on complaints of judicial ethical misconduct and disability.

The Commission has no authority to act as an appellate court. It cannot review, reverse or vacate a judge's decision. Thus, the Commission does not investigate claims that a judge should have, for example, been more lenient or more severe in sentencing, admitted or excluded certain evidence, made a larger or smaller award of damages or child support, or believed a different witness.

The Commission consists of six nonattorney citizens, two lawyers and three judges. The six nonattorney citizens are appointed by the Governor, two attorneys are selected by the State Bar Association, one judge is selected by and from the Court of Appeals, one selected by and from the Superior Court Judges, and one selected by and from the District & Municipal Court Judges.

The Commission is not a substitute for protecting your legal rights and does not represent you. You should contact a practicing lawyer to protect your rights. Commission authority is limited to dealing with violations of the Code of Judicial Conduct adopted by the Washington State Supreme Court.

WHAT IS JUDICIAL MISCONDUCT?

Judicial misconduct is any violation of the Code of Judicial Conduct which may include, but not limited to, the following:

- ♦ *Injudicious temperament*
- ♦ *Conflict of interest*
- ♦ *Improper election campaign conduct*

- ♦ *Impropriety*
- ♦ *Failure to dispose promptly of the business of court*
- ♦ *Ex parte communication*
- ♦ *Partisan political activity*

The Code of Judicial Conduct is published in the Washington Rules of Court.

WHAT IS JUDICIAL DISABILITY?

Judicial disability is a disability which is, or is likely to become, permanent and which seriously interferes with the performance of judicial duties. It can be a physical or mental disability, which may include, but is not limited to, the following:

- ♦ *Alcohol or drug abuse*
- ♦ *Senility*
- ♦ *Physical illness*
- ♦ *Mental illness*

WHAT POSITIONS FALL UNDER THE COMMISSION'S JURISDICTION?

- ♦ *Justices of the Supreme Court*
- ♦ *Judges of the Court of Appeals*
- ♦ *Judges of the Superior Court*
- ♦ *Judges of the District Court*
- ♦ *Judges of the Municipal Court*
- ♦ *Judges Pro Tempore and Part-Time*
- ♦ *Court Commissioners*
- ♦ *Magistrates*
- ♦ *State employees of the judicial branch as defined by RCW 42.52.010*

HOW DO I FILE A JUDICIAL CONDUCT COMPLAINT?

You may call and request a complaint form, you may download a complaint form from the Commission web site and mail or fax it to us, or you may write a brief letter of complaint. For confidentiality reasons,

we **do not** accept complaints via email. The letter should identify the judge and specify the conduct or action you believe was improper. Also identify by name and address any witnesses. Duplicates of any documents or correspondence that may substantiate your allegations should be included. Keep in mind that materials filed in the Commission's confidential records cannot be duplicated for you. If you need to maintain a record, keep a copy. Also, do not send records you wish to keep, such as original documents, without making prior arrangements for their loan and their safe delivery and return. Please make sure you **keep the original** document. If the investigators need more information, you will be contacted.

Send complaints to:

Commission on Judicial Conduct
PO Box 1817
Olympia, WA 98507
Fax: (360) 586-2918

WHAT DOES THE COMMISSION DO WITH MY COMPLAINT?

When a complaint is received it is reviewed to determine whether it is within Commission jurisdiction, and a preliminary investigation may be made to verify allegations. Materials submitted by complainants are provided to the Commission members. At its regular meetings, the Commissioners carefully review all allegations. Complaints are dismissed if they involve legal issues over which the Commission has no authority, or if no violation can be factually proven.

Where the Commission finds probable cause and believes it has sufficient basis to proceed, it will order the filing of a Statement of Charges and hold a public fact-finding hearing. At such a hearing, the judge has the right to defend against the charges and to be represented by a lawyer. Witnesses and documents may be subpoenaed. After the hearing, if no violation is found, the complaint will be dismissed. If a violation of the Code of

Judicial Conduct is found by clear, cogent and convincing evidence, the Commission may take the following actions:

- ♦ Publicly admonish, reprimand or censure the judge
- ♦ If the judge is censured, the commission may recommend that the Supreme Court suspend or remove the judge from office.
- ♦ If the Commission finds permanent disability which is seriously interfering with the judge's ability to perform judicial duties, the Commission shall recommend that the Supreme Court retire the judge.

All sanctions imposed by the Commission are public.

A judge may file an appeal de novo to the Supreme Court within 30 days after a Commission admonishment, reprimand or censure.

After a judge is first contacted by the Commission, the judge may resolve the complaint by stipulating - agreeing - that the Code was violated and proposing a specific level of sanction. The Commission members vote whether to accept or reject the proposed stipulation. All decisions adverse to a judge must be made public.

CAN I GET THE JUDGE REMOVED FROM MY CASE IF I FILE A COMPLAINT?

Filing a complaint against a judge with the Commission is not itself sufficient reason to remove a judge from your case. Your **complaint** of judicial misconduct is a matter **separate from** your litigation. The allegations you make about the judge might or might not be sufficient grounds to ask a judge to recuse from your case, and you must make that decision, yourself. **The fact that you complained to the Commission about those allegations is not grounds for recusal.**