State of Washington
Commission on Judicial Conduct

2024
Annual Report

2024 ANNUAL REPORT

State of Washington

COMMISSION ON JUDICIAL CONDUCT

Commission Members*	Alternate Members
Honorable Kristian Hedine, Chair	Honorable Claire Bradley
Ramon Alvarez, Vice-Chair	Tara Miller
Honorable Ruth Reukauf, Secretary	Honorable Michael Evans
Ryan Archer	Emily Hancock
Terrie Ashby-Scott	Steven James
Wanda Briggs	Janet Katz
Mustafa Mohamedali	LaWonda Smith-Marshall
Honorable Erik Price	Honorable Michael Diaz
Elizabeth René	Jeffry Finer
Gerald Schley	Erin Williams
Judie Stanton	Marsha Moody

*Commission membership as of December 31, 2024

For a current list of Commission members and biographies please refer to the Commission's website at www.cjc.state.wa.us

The following commissioners' service ended during 2024:
Lindsey Trakel
Frances Bessermin
Robert Alsdorf

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(360) 753-4585 - Fax (360) 586-2918
www.cjc.state.wa.us

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I. INTRODUCTION

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

These commissions work to protect the integrity of the judicial process and to 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 State's Commission was created as an independent agency of the judicial branch by Article IV, §31 of the State Constitution in 1980.

II. THE WASHINGTON COMMISSION ON JUDICIAL CONDUCT

1. Goals

The overall goal of the Commission is to maintain integrity and confidence in the judicial system. The Commission seeks to preserve both judicial independence and public accountability. The public interest requires a fair and reasonable process to address judicial misconduct or disability. This process is separate from the judicial appeals system, which allows individual litigants to appeal legal errors. The Commission also has a responsibility to judges, whose careers can be damaged by false and inaccurate allegations. The Commission makes every effort to act in the public interest while safeguarding the individual rights and reputations of judges from unfounded accusations. It is a complex mission to reconcile these charges—to hold judges accountable for misconduct without compromising the essential independence of the judiciary.

2. Meetings

The Commission meets five times a year. At these meetings, the Commission reviews new complaints, discusses the progress of investigations, and takes action to resolve complaints. The Commission may also consider matters by telephone conference call.

The current meeting schedule is posted on the agency website or is available by calling the office. Meeting locations vary.

3. Membership

Members' four-year terms begin mid-year on June 17 and end on June 16. The member listing that follows includes members who were serving as of December 31, 2024. A current list of Commission members and meeting dates may be accessed on the Commission's website at www.cjc.state.wa.us.

Commission Members and Alternates

as of December 31, 2024

There are eleven members, and eleven alternate members, of the Washington State Commission on Judicial Conduct:

- Six members of the public (and six alternates), who are not judges or lawyers, are appointed by the Governor;
- Three judges (and three alternates), one of each from the court of appeals, the superior courts and the limited jurisdiction courts, are appointed by their respective judicial associations; and,
- Two lawyers (and two alternates), are appointed by the Washington State Bar Association.

Members and alternates serve in a volunteer capacity for four-year terms and may be reappointed for one additional full term.

ATTORNEY MEMBERS		**ATTORNEY ALTERNATES (CORRESPONDING)**	
	**RYAN ARCHER** (Lawyer Member) resides in King County. He is Chief Counsel for Investigations at The Boeing Company, and a former Assistant U.S. Attorney. His current term expires in 2028.		**EMILY HANCOCK** (Alternate Lawyer Member) Resides in King County. She is supervisor of the Snohomish County Public Defender Association's civil unit and has been a public defender since 2009. Her current term expires in 2028.
	**ELIZABETH RENE** (Lawyer Member) resides in King County. She is a Hearings Judge for the Washington State Board of Industrial Insurance Appeals. Her current term expires in 2027.		**JEFFRY FINER** (Alternate Lawyer Member) Resides in Spokane County. He has litigated in state and federal courts for 40 years and has taught at Gonzaga School of Law as an adjunct since 1994. His current term expires in 2027.
JUDICIAL MEMBERS		**JUDICIAL ALTERNATES (CORRESPONDING)**	
	**KRISTIAN HEDINE** (Judge Member) resides in Walla Walla County. He serves as a Walla Walla County District Court Judge. His current term expires in 2025.		**CLAIRE BRADLEY** (Alternate Judge Member) resides in Kitsap County. She serves as a Kitsap County District Court Judge. Her current term expires in 2025.
	**ERIK PRICE** (Judge Member) resides in Thurston County. He serves as a judge on the Washington State Court of Appeals Division II. His current term expires in 2027.		**MICHAEL DIAZ** (Alternate Judge Member) resides in King County. He serves as a judge on the Washington State Court of Appeals, Division I. His current term expires in 2027.
	**RUTH REUKAUF** (Judge Member) resides in Yakima County. She serves as a Yakima County Superior Court Judge. Her current term expires in 2026.		**MICHAEL EVANS** (Alternate Judge Member) resides in Cowlitz County. He serves as a Cowlitz County Superior Court Judge. His current term expires in 2026.

Commission Members and Alternates

PUBLIC MEMBERS		PUBLIC ALTERNATES (CORRESPONDING)	
	**TERRIE ASHBY-SCOTT** (Public Member) resides in Spokane County. She is retired after nearly 30 years in higher education with the WA State Opportunity Scholarship, Eastern WA University, and WA State University. Her current term expires in 2025.		**STEVEN JAMES** (Alternate Public Member) resides in Lewis County. He is a retired law enforcement officer supervisor with 34 years of experience. His current term expires in 2025.
	**RAMON ALVAREZ** (Public Member) resides in Thurston County. He is currently the Human Resources Executive Director for the Superintendent of Public Instruction (OSPI). His current term expires in 2026.		**TARA MILLER** (Alternate Public Member) resides in Okanogan County. She is the Child Support Program spokesperson advocate for Colville Confederated Tribes. Her current term expires in 2026.
	**WANDA BRIGGS** (Public Member) resides in Benton County. She retired in 1997 from the Tri-City Herald after nearly 30 years and was a longtime member on The Tri-Cities Cancer Center's Board of Directors. Her current term expires in 2027.		**JANET KATZ** (Alternate Public Member) resides in Spokane County. She is an emeritus professor at Washington State University College of Nursing and a Fellow in the American Academy of Nursing. Her current term expires in 2027.
	**MUSTAFA MOHAMEDALI** (Public Member) resides in Thurston County. He is a licensed professional engineer and certified project professional. He works as a Research manager working for the WA State Department of Transportation's Research Office. His current term expires in 2028.		**LAWONDA SMITH-MARSHALL** (Alternate Public Member) resides in King County. She is currently the Assistant Principal at Todd Beamer High School. Her current term expires in 2028.
	**GERALD SCHLEY** (Public Member) resides in King County. He is a retired vice president, wealth management advisor and certified financial planner for Merrill Lynch/Bank of America, Seattle. His current term expires in 2025.		**ERIN WILLIAMS** (Alternate Public Member) resides in Spokane County. She currently serves as Executive Director at Health Sciences and Services Authority of Spokane County. Her current term expires in 2025.
	**JUDIE STANTON** (Public Member) resides in Clark County. She previously worked for the Clark Public Utilities for 23 years and served as a Clark County Commissioner for 8 years. Her current term expires in 2025.		**MARSHA MOODY** (Alternate Public Member) resides in Pierce County. She is a retired owner and president of a large insurance agency in Pierce County. Her current term expires in 2025.

III. THE COMMISSION'S DISCIPLINARY FUNCTION

1. Jurisdiction and Authority

Pursuant to RCW 2.64.010(4), the Commission has jurisdiction over justices of the Supreme Court, judges of the Court of Appeals, superior courts or any court organized under Titles 3 or 35 RCW, judges pro tempore, court commissioners and magistrates. This includes full-time, part-time, attorney and non-attorney judges.

The function of the Commission is to investigate and act on complaints of judicial misconduct or disability. The only basis for finding misconduct is a violation of the Code of Judicial Conduct. The Code is adopted by the Supreme Court. To act on a complaint of disability, the Commission must find that a judge or justice suffers from an incapacity which is permanent or likely to become permanent, and which seriously interferes with the performance of judicial duties.

The Commission may impose sanctions of admonishment, reprimand, or censure. After imposing censure, the Commission may recommend suspension or removal of a judge to the Supreme Court. If the Commission finds disability, it may recommend to the Supreme Court that a judge be retired.

The Commission does not have jurisdiction over administrative law judges or federal judges. Complaints against administrative law judges should be made to the agency or department in which the administrative hearing has taken place. Complaints against federal judges should be made to the Clerk of the U.S. Court of Appeals, P.O. Box 193939, San Francisco, California 94119-3939.

2. The Complaint Process

Stage I - Preliminary Investigation

All complaints begin in the preliminary, confidential investigative stage and may be initiated by any organization, association or person, including a member of the Commission. Investigative counsel make a prompt, discreet preliminary investigation and recommend to the Commission whether to proceed to the second stage. The complaint and additional information are sent to each Commission member for review before the Commission meets. Decisions are made by majority vote of the members. After initial review and evaluation, the Commission may dismiss the complaint, continue investigation, or commence initial proceedings. At any time, the Commission may retain disciplinary counsel to assist in the proceeding.

Stage II - Initial Proceedings

If the Commission moves the matter to initial proceedings, the Commission notifies the judge and provides the judge an opportunity to respond to a Statement of Allegations. After reviewing the judge's answer, the Commission may dismiss the complaint if there are not sufficient grounds for further proceedings.

If the Commission determines there is probable cause to believe that the judge has violated a rule of judicial conduct or is suffering from a disability that seriously interferes with the performance of judicial duties, it orders filing of a Statement of Charges.

Stage III - Statement of Charges and Fact-Finding Hearing

The Statement of Charges is approved by the Commission. The Statement of Charges is public after the judge has been served. The judge has 21 days to file an answer.

A fact-finding hearing is scheduled before the Commission after the answer is filed. The Commission members scheduled to participate in the fact-finding hearing receive no further factual information until the hearing is held or approval of a stipulation is sought. The judge has the opportunity to appear with or without counsel to defend against the charges. The fact-finding hearing is conducted publicly.

Stipulation

At any time prior to final determination after a fact-finding hearing, a matter may be resolved with a stipulation entered into in a public proceeding. The stipulation may impose any terms and conditions deemed appropriate by the Commission. A stipulation includes all material facts relating to the proceeding and the conduct of the judge.

Stage IV - Decision and Appeal Process

At the conclusion of all formal proceedings, the Commission announces its decision in a public session. The Commission has the authority to dismiss the charges, or to admonish, reprimand or censure the judge. With a censure, the Commission may also recommend the Supreme Court suspend or remove the judge. Within 30 days after the Commission admonishes, reprimands or censures a judge, the judge may file an appeal de novo on the record to the Supreme Court. The Commission may recommend the Supreme Court retire a judge suffering from a disability. If the Commission decides to reprimand or censure a judge, the judge is required to appear personally before the Commission.

If the Commission recommends removal, the judge is immediately suspended with pay, pending a final determination by the Supreme Court.

3. Confidentiality

Commission initial proceedings are confidential, including the fact that there is a complaint or investigation, as provided in Article IV, Section 31 of the Washington State Constitution, RCW 2.64 and Commission on Judicial Conduct Rules of Procedure (CJCRP).

Confidentiality is intended to encourage complainants to express their concerns without fear of reprisal; to protect a judge's reputation and the reputation of the court system from unsubstantiated allegations; and to prevent the complaint process from being abused as a means to harass judges for their decisions.

4. Public Case Information

When the Commission concludes from initial proceedings that there is probable cause to believe a judge has violated the Code of Judicial Conduct, a Statement of Charges is served on the respondent judge and then filed as a public record. Any subsequent fact-finding hearing is public and, at the commencement of the hearing, the records that formed the basis of the finding of probable cause are filed in the hearing record.

Detailed information about all of the Commission's public cases, including copies of the principal relevant documents, is available on-line through the Commission's Judicial Discipline Database at www.cjc.state.wa.us/index.php?page=activity&section=search_discipline.

Commission Activity

INQUIRIES**	2024
Total inquiries filed	**1498**

COMPLAINTS	2024
Matters pending on January 1, 2024	608
Complaints received during period	1181
Requests to reopen complaints	3
TOTAL COMPLAINTS	**1792**

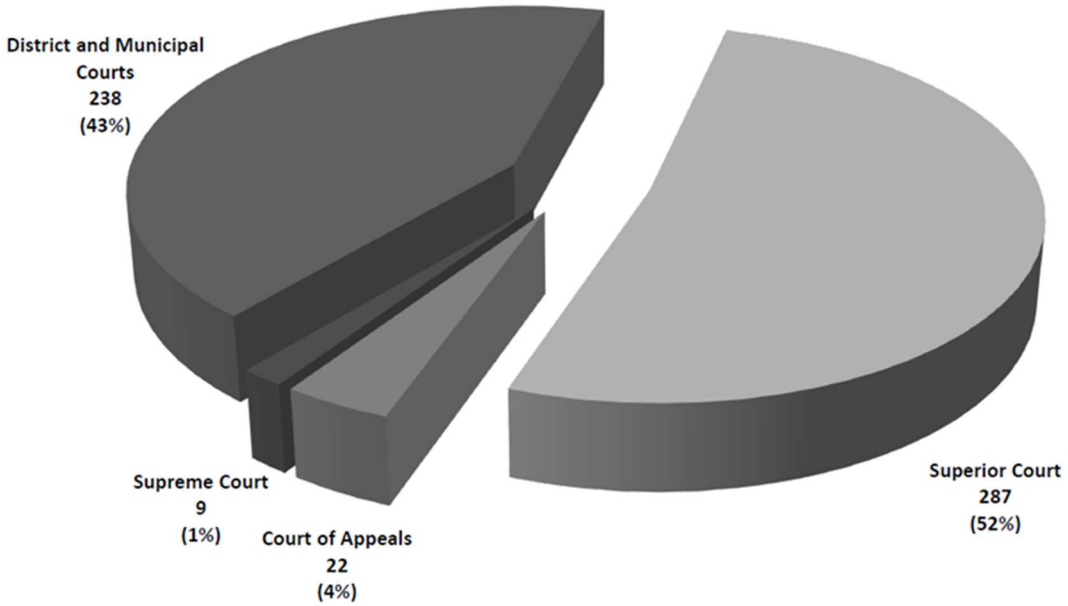
DISPOSITIONS		2020	2021	2022	2023	2024
DISMISSAL						
	Complaint withdrawn	3	5	1	3	4
	Insufficient evidence to proceed	17	20	11	16	32
	Resigned due to CJC. Dismissed.				56	
	Left office unrelated to CJC action			2	1	1
	Legal issues not involving ethics violations	137	144	162	195	463
	No basis to reopen	8	3	1	5	2
	No code violation alleged	66	47	59	73	55
	No disability found					
	Unsubstantiated	201	146	141	153	178
	Lack of jurisdiction	1		1	1	6
	Left due to CJC in unrelated matter					6
PUBLIC CASES	**(SUBSTANTIATED OR DISMISSED AFTER HEARING)**					
	Admonishment	1	2*	4	6*	1
	Reprimand	1	3*	8*		
	Censure	4*		4	1	1
	Censure with recommendation for removal					9*
	TOTAL DISPOSITIONS					**758**
	MATTERS PENDING on December 31, 2024					**1034**

* Due to multiple complaints against the same judicial officer, a single disposition may dispose of several cases.
** Inquiries are logged when individuals contact the Commission. An inquiry may or may not become a complaint.

4. Statistical Charts

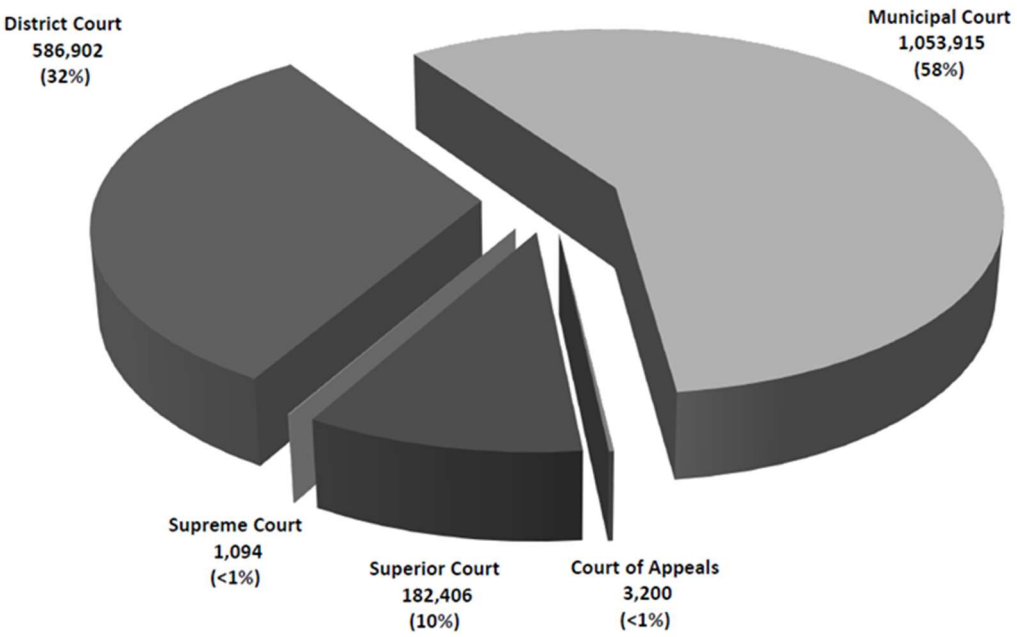
Number of Judicial Officers

Includes judges and commissioners
(Source: Administrative Office of the Courts, February 2025)

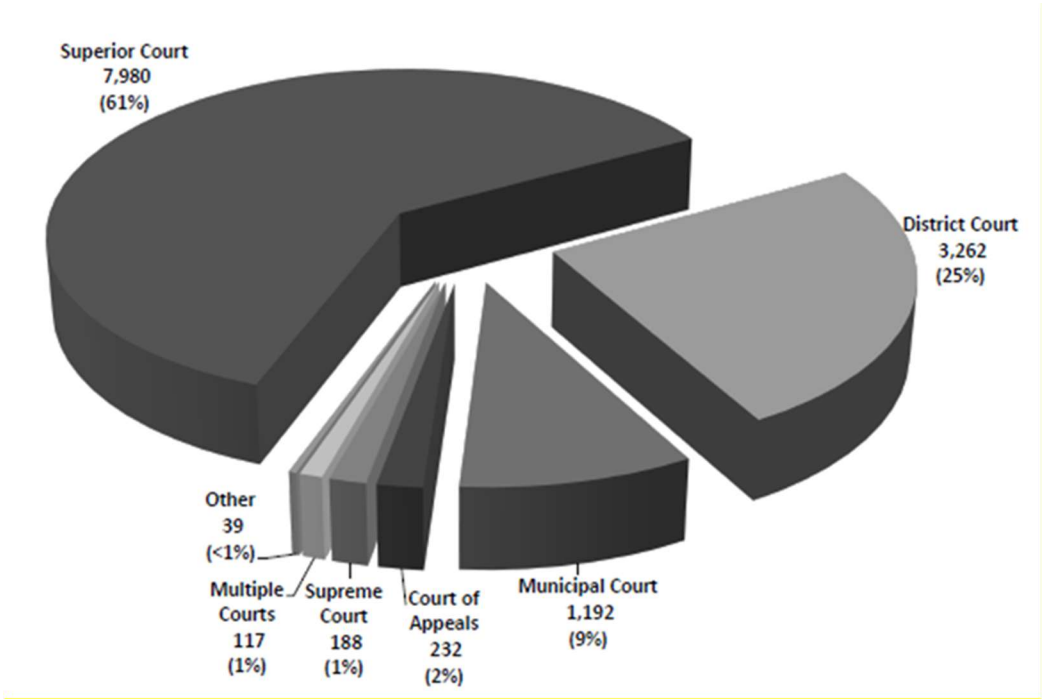


Caseloads by Court Level

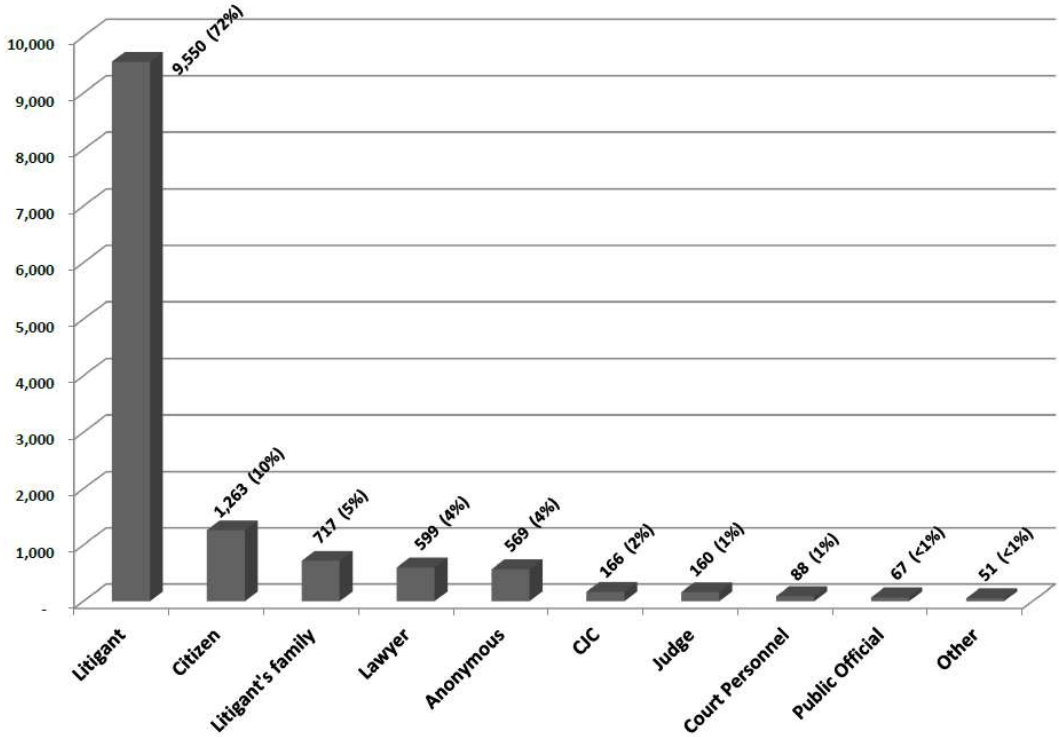
Individual cases filed in the courts (not CJC complaints)
Total Filings: approx. 1,827,517
(Source: Annual Report, Administrative Office of the Courts)



CJC Complaints filed by Court
Level of Judicial Officers
1981 - 2024



Source of CJC Complaints
1981 – 2024



Key documents from all CJC public discipline cases can be found on the searchable database at www.cjc.state.wa.us

5. Public Actions - 2024

In re the Honorable Samuel Swanberg September 6, 2024
CJC No. 10717-F-209

The Commission conducted a public hearing on allegations that Judge Samuel Swanberg, formerly of the Benton & Franklin Counties Superior Court, violated Canon 1, Rules 1.1, 1.2 and 1.3, of the Code of Judicial Conduct. The hearing panel found that Judge Swanberg engaged in physically violent and emotionally abusive behavior over decades of his marriage and that he later harassed and stalked a woman with whom he had a romantic relationship. The panel found that Judge Swanberg admitted to being dishonest; that he engaged in an ongoing pattern of manipulative conduct; and used the tools and prestige of judicial office for his personal benefit. As an aggravating factor, the Commission panel found that the judge made multiple public statements to decry and denigrate the Commission's constitutionally-mandated proceeding; and declined to participate in the hearing process to the extent that he could. The panel imposed a Censure with a recommendation to the State Supreme Court that Judge Swanberg be disqualified from future service in judicial office. The State Supreme Court approved the Commission's decision removing Judge Swanberg from office and disqualified him from future judicial office.

In re the Honorable Thomas Brown April 19, 2024

CJC No. 11478-F-212

From an agreed statement of facts, former Ferry County District Court Judge Thomas D. Brown stipulated that he violated Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.3(B) and 2.8(B), of the Code of Judicial Conduct. Judge Brown violated the Code by making comments to an African-American litigant that were impatient, undignified and discourteous and appeared to demonstrate bias. The Commission censured former Judge Brown who resigned from the Bar and agreed to never serve in judicial office in the future.

In re the Honorable Jennifer Cruz April 19, 2024
CJC No. 11705-F-211

From an agreed statement of facts, Issaquah Municipal Court Part-Time Judge Jennifer Cruz stipulated that she violated Canon 1, Rules 1.1 and 1.2, and Canon 2, Rule 2.8(A) & (B), of the Code of Judicial Conduct. Judge Cruz violated the Code by directing a profane comment at a defendant during an arraignment hearing. Prior to contacting the Commission, Part-Time Judge Cruz indicated her remorse and completed multiple training courses in handling stress and interacting with difficult people. The Commission admonished Judge Cruz and ordered her to promptly read the Code.

6. Public Actions - Previous Five Years (2019 - 2023)

In re the Honorable Terry M. Tanner September 8, 2023
CJC No. 11211-F-207

From an agreed statement of facts, Benton County District Court Judge Terry Tanner stipulated that he violated Canon 1, Rules 1.1 and 1.2, of the Code of Judicial Conduct. Judge Tanner violated the Code by committing the offense of Driving Under the Influence of Alcohol (DUI) on January 2, 2023. The Commission censured Judge Tanner and recommended to the State Supreme Court that the judge be suspended for 30 days without pay. The Commission ordered him to comply with the terms of his criminal case, recuse from Driving Under the Influence cases during compliance, refrain from the consumption of alcohol, participate as a speaker in three events related to his misconduct, and promptly read the Code. Respondent also stipulated that he will resign from office if he consumes any alcohol in any location, and will self-report the lapse to the Commission.

Respondent was previously sanctioned by the Commission for committing DUI. (See In re Tanner, 8889-F-180 (2018).) Respondent further agreed that his current offense violated the terms and conditions of this 2018 disciplinary matter.

In re the Honorable Darvin Zimmerman September 8, 2023
CJC No. 10260-F-193

On December 3, 2021, the Commission on Judicial Conduct commenced a public proceeding concerning former Judge Darvin Zimmerman, of the Clark County District Court, by filing a Statement of Charges. The action was based upon a Commission finding of probable cause alleging that Judge Zimmerman violated Canons 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.4 and 2.10) of he Code of Judicial Conduct by making comments about a controversial incident and related impending case(s) that displayed racial bias, indicated a lack of impartiality, and implied that he had a personal channel of communication with the Sheriff's Department regarding pending and impending cases. Judge Zimmerman retired from office on June 30, 2021. A fact-finding hearing in this matter was continued multiple times due to Respondent's medical condition. Based upon an independent medical evaluation of Respondent's medical records the parties jointly moved to dismiss this matter. The hearing panel granted the motion and issued an Order Granting Motion to Dismiss Without Prejudice due to the serious risks a hearing would pose to Respondent's health. The Commission determined that its goal to maintain confidence and integrity in the judicial system was adequately addressed by terminating disciplinary proceedings against former Judge Zimmerman.

In re the Honorable Jonathan Volyn September 8, 2023
CJC No. 11092-F-208

From an agreed statement of facts, part-time Chelan County District Court Judge Jonathan Volyn stipulated that he violated Canon 1, Rules 1.1 and 1.2, and Canon 4, Rule 4.1(A)(9), of the Code of Judicial Conduct. Judge Volyn violated the Code by personally soliciting endorsements for his 2022 judicial campaign from a subordinate court employee in a non-public area of the Chelan County District Court during work hours. The Commission admonished Judge Volyn and ordered him to participate in judicial campaign ethics training and promptly read the Code.

In re the Honorable Mary Roberts June 23, 2023
CJC No. 11082-F-206

From an agreed statement of facts, King County Superior Court Judge Mary Roberts stipulated that she violated Canon 1, Rules 1.1 and 1.2, and Canon 2, Rule 2.5, of the Code of Judicial Conduct by failing to issue timely decisions in two matters pending before her. Her decision on a post trial motion for fees and costs was issued 97 days after it was submitted for a decision, and her decision on a petition to modify custody was issued approximately six and a half months after it was finally submitted for a decision. The Commission admonished Judge Roberts and ordered her to promptly read the Code.

In re the Honorable John Fairgrieve June 23, 2023
CJC No. 11231-F-205

From an agreed statement of facts, Clark County Superior Court Judge John Fairgrieve stipulated that he violated Canon 1, Rules 1.1 and 1.2, and Canon 2, Rule 2.5, of the Code of Judicial Conduct by failing to issue a timely decision in a civil matter pending before him on appeal. The decision was issued approximately one year after the matter was taken under advisement. The Commission admonished Judge Fairgrieve and ordered him to promptly read the Code.

In re the Honorable Robin McCroskey April 21, 2023
CJC No. 9879-F-203

From an agreed statement of facts, Pend Orielle County District Court Judge Robin McCroskey stipulated that she violated Canon 1, Rules 1.1 and 1.3, and Canon 3, Rule 3.7(B), of the Code of Judicial Conduct. Judge McCroskey violated the Code by sharing a 'GoFundMe' account on her Facebook page. With few exceptions (that were not present here), judges are prohibited from directly fundraising. The Commission admonished Judge McCroskey and ordered her to promptly review the Code.

In re the Honorable Scott Gallina September 9, 2022
CJC No. 9422-F-200

From an agreed statement of facts former Asotin, Garfield, and Columbia Counties Superior Courts Judge Scott Gallina stipulated that he violated Canon 1, Rules 1.1, 1.2, and 1.3, and Canon 2, Rule 2.3, of the Code of Judicial Conduct. Judge Gallina violated the Code by committing the criminal offenses of Assault in the Third Degree with Sexual Motivation and Assault in the Fourth Degree with Sexual Motivation against his own subordinate court staff. The Commission censured former Judge Gallina, who agreed to never serve as a judge in the future.

In re the Honorable Susan Mahoney September 9, 2022
CJC No. 10807-F-202

From an agreed statement of facts King County District Court Judge Susan Mahoney stipulated that she violated Canon 1, Rules 1.1 and 1.2, Canon 2, Rule 2.8(B), and created the appearance of violating Canon 2, Rule 2.3, of the Code of Judicial Conduct. Judge Mahoney violated the Code by using the N-word in a staff meeting, by introducing a new judge to a Black staff person as someone who likes watermelon, and by making generalities about Asian or Chinese drivers. Respondent agreed she thereby engaged in conduct that was undignified and discourteous, eroded public confidence in her integrity and impartiality and created the appearance of impropriety since her words could be seen as manifesting bias regardless of her intent. The Commission reprimanded Judge Mahoney. Judge Mahoney did not file for reelection for her office, which term expires at the end of this year. She agreed that prior to seeking or serving in a judicial capacity following the completion of her term in office, she must complete a course of study focused on the impact of inherent bias and microaggressions, approved in advance by the Commission Chair or the Chair designate.

In re the Honorable Jenifer Howson June 24, 2022
CJC No. 10466-F-201

From an agreed statement of facts, Skagit County District Court Judge Jenifer Howson stipulated that she violated Canon 1, Rules 1.1 and 1.2, and Canon 2, Rule 2.5, of the Code of Judicial Conduct. Judge Howson violated the Code by failing to issue timely decisions in three small claims cases. The Commission admonished Judge Howson and ordered her to promptly review the Code.

In re the Honorable Steve Dixon June 24, 2022
CJC No. 10533-F-196

From an agreed statement of facts, Adams County Superior Court Judge Steve Dixon stipulated that he violated Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.2, 2.3(A) and (B), and 2.8(A) and (B) of the Code of Judicial Conduct. Judge Dixon violated the Code by making a profane comment following a telephonic hearing which could be reasonably interpreted to be directed at a particular attorney creating an appearance of bias or prejudice against that attorney. At the time he made the comment, Respondent believed that he was no longer on the record or connected to the parties, not realizing that the call had not been terminated and he was still on the record. The Commission admonished Judge Dixon and ordered him to promptly review the Code.

In re the Honorable Virginia Amato June 24, 2022
CJC No. 10627-F-199

From an agreed statement of facts, King County District Court Judge Virginia M. Amato stipulated that she violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.8) of the Code of Judicial Conduct by telling a criminal defendant at his arraignment hearing that he was 'setting yourself up to be Bubba's new best girlfriend at the state penitentiary,' and adding 'the folks at the penitentiary have mothers and sisters and nieces and cousins that they do not want someone out there abusing, and they will take that out on you.' The Commission admonished Judge Amato and ordered her to participate in one hour of ethics training focusing on appropriate courtroom demeanor.

In re the Honorable Debra Burchett May 31, 2022
CJC No. 10535-F-194

From an agreed statement of facts, Cowlitz County District Court Judge Debra Burchett stipulated that she violated Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.2, 2.3(A), 2.4(B), 2.5(A), and 2.6(A), of the Code of Judicial Conduct. The stipulation was entered after a Statement of Charges had been filed, and Judge Burchett agreed to a portion of the charges in exchange for a stated discipline. Judge Burchett violated the Code by going off the record during a hearing on a traffic infraction, without giving a reason and dismissing the case, again without giving a reason, when she returned on the record; and by awarding a counterclaim in a case where the defendants had not filed one. The Commission, noting that the judge had been sanctioned the previous year, censured Judge Burchett and recommended a ten-day suspension from office. Judge Burchett also agreed she will not seek reelection at the end of her term nor hold future judicial office without Commission approval. She is required to review the Code of Judicial Conduct within thirty days. The State Supreme Court approved the stipulation and imposed a ten-day suspension without pay.

In re the Honorable Roger Bennett April 22, 2022
CJC No. 10556-F-198

From an agreed statement of facts, Battle Ground Municipal Court Judge Roger Bennett stipulated that he violated Canon 1, Rules 1.1 and 1.2, and Canon 4, Rule 4.1(A)(3) and (4), of the Code of Judicial Conduct. Judge Bennett violated the Code by contributing to and publicly endorsing a long-time family friend’s candidacy for Mayor of Camas. The Commission admonished Judge Bennett.

In re the Honorable Michael Imboden April 22, 2022
CJC No. 9906-F-197

From an agreed statement of facts, Cowlitz County District Court Judge Michael J. Imboden stipulated that he violated Canon 1, Rules 1.1, 1.2, and 1.3, of the Code of Judicial Conduct. Judge Imboden violated Rules 1.1 and 1.2 of the Code by committing the criminal offense of Reckless Driving and violated Rule 1.3 by creating an appearance that he was implicitly seeking favorable treatment from the arresting officers when he asked them if they knew what an arrest would do to his professional career. The Commission censured Judge Imboden and ordered him to review the Code and make three public presentations related to his misconduct.

In re the Honorable Matthew Antush November 19, 2021
CJC No. 10192-F-192

From an agreed statement of facts, Spokane Municipal Court Judge Matthew Antush stipulated that he violated Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.2, 2.3 and 2.10 of the Code of Judicial Conduct. Judge Antush violated the Code by making comments that were critical of the prosecution’s case in a matter over which he was presiding and that was pending before a jury. He made the comments to two court employees after a hearing, not realizing he was broadcasting over a YouTube connection that was left running after the hearing concluded. The Commission admonished Judge Antush and ordered him to promptly review the Code.

In re the Honorable Debra Burchett April 23, 2021
CJC No. 9848-F-191

From an agreed statement of facts, Cowlitz County District Court Judge Debra Burchett stipulated that she violated Canon 1, Rules 1.1, 1.2 and 1.3, and Canon 2, Rules 2.2, 2.5(A), 2.6(A) and 2.9(C), of the Code of Judicial Conduct. Judge Burchett violated the Code by failing to properly advise criminal defendants of their constitutional rights at probation review hearings; by engaging in an ex parte investigation of a probation matter; by eliciting statements against interest from criminal defendants; by recommending defendants use specific businesses; by presiding over cases in which a disqualification had previously been filed; and by failing to determine who was attempting to appear in court via Zoom, thereby not ensuring their right to be heard. The Commission reprimanded Judge Burchett and ordered her to complete four hours of ethics training, continue to work with a mentor judge and promptly read the Code.

In re the Honorable David Keenan February 5, 2021
CJC No. 9608-F-189

The Commission conducted a public hearing on allegations that Judge David Keenan of the King County Superior Court violated Canon 1, Rules 1.1, 1.2 and 1.3 by appearing in a bus advertisement for North Seattle College which used his judicial title. The Commission found that he created the appearance of impropriety by approving language in the ad which could lead a reasonable person to conclude he lacked impartiality. The Commission also found that by allowing the ad to use his title and photograph, he abused the prestige of judicial office to promote the college and advance its economic interests. The Commission admonished Judge Keenan.

In re the Honorable Terry Jurado November 20, 2020
CJC No. 9440-F-188

From an agreed statement of facts, Renton Municipal Court Judge Terry Jurado stipulated that he violated Canon 1 (Rules 1.1, and 1.2) and Canon 2 (Rule 2.2) of the Code of Judicial Conduct. Judge Jurado violated the Code by ordering a criminal defendant to leave the courtroom and then issuing a warrant for defendant's arrest when he complied with that order. The conflicting orders created an impossible dilemma for the defendant, and was an abuse of power. The Commission reprimanded Judge Jurado and ordered him to complete two hours of courtroom demeanor training and promptly read the Code.

In re the Honorable Joseph Wilson November 20, 2020
CJC No. 9334-F-190

From an agreed statement of facts, Snohomish County Superior Court Judge Joseph Wilson stipulated that he violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.3(A) & (B), 2.6(A), 2.7 and 2.8(A) & (B)) of the Code of Judicial Conduct. Judge Wilson violated the Code by "using language and manifesting a demeanor that was indecorous, undignified, impatient and discourteous" and in two instances, in addition to being indecorous, created the appearance he was biased and/or prejudiced against a defendant. Additionally, Judge Wilson stipulated that in two instances, he violated the Code by refusing to consider a defense attorney's argument and/or not allowing that attorney to make a record and by not deciding matters assigned to him. The Commission censured Judge Wilson and ordered him to complete two hours of relevant ethics training, to participate in behavioral coaching, and to promptly read the Code.

In re the Honorable Eric Z. Lucas June 26, 2020
CJC No. 9137-F-187

From an agreed statement of facts, Snohomish County Superior Court Judge Eric Z. Lucas stipulated that he violated Canon 1, Rules 1.1, 1.2 and 1.3 of the Code of Judicial Conduct. Judge Lucas violated the Code by sending two emails to Everett city officials expressing his and his wife's opposition to a building permit sought by one of Respondent's neighbors. Both emails were sent from the judge's official county work email address, and in the signature block of both emails, Respondent identified himself as a Snohomish County Superior Court Judge. The

Commission admonished Judge Lucas and ordered him to complete one hour of judicial ethics training and promptly read the Code.

In re the Honorable Bruce Spanner November 22, 2019
CJC No. 8899-F-186

From an agreed statement of facts, Benton and Franklin Counties Superior Court Judge Bruce Spanner stipulated that he violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.2, 2.3(A), 2.6(A) and 2.9) of the Code of Judicial Conduct. Judge Spanner violated the Code by issuing a court order with judicial "findings of fact" and "conclusions of law" in a case that was not before him for a decision, and he did so on his own initiative without giving notice or an opportunity to be heard prior to entering the order. Moreover, the findings and conclusions gratuitously impugned the integrity of the attorneys involved and was not based on competent evidence, but rather on mere speculation and conjecture from what the judge described as "back hall courthouse chatter." The judge's actions denied the parties and their attorneys an opportunity to be heard, created a perception of unfairness and partiality and were improperly based in part on ex parte information. The Commission reprimanded Judge Spanner and ordered him to certify that he has read the Code of Judicial Conduct within one month and complete four hours of pre-approved judicial ethics training within one year.

In re the Honorable Timothy Fennessy April 26, 2019
CJC No. 9014-F-184

From an agreed statement of facts, Spokane County Superior Court Judge Timothy Fennessy stipulated that he violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rule 2.5(A)) of the Code of Judicial Conduct. Judge Fennessy violated the Code when he took more than the time permitted by the State Constitution, state statute, and the Code of Judicial Conduct in deciding two cases before him. The Commission admonished Judge Fennessy and ordered him to promptly review the Code and, for a one year period following entry of this stipulation, affirm in writing to the Commission every three months that he has no matters with decisions pending beyond ninety days.

In re the Honorable David Meyer April 26, 2019
CJC No. 9126-F-185

From an agreed statement of facts, former King County District Court Judge David Meyer stipulated that he violated Canon 1 (Rules 1.1 and 1.2) and Canon 2 (Rules 2.6(A), and 2.8(A) and (B)) of the Code of Judicial Conduct. Judge Meyer violated the Code when, during two hearings for Anti-Harassment Orders, he was unnecessarily confrontational, unreasonably limited the litigants' presentations of their respective cases, criticized a domestic violence survivor for her choice in relationships, and laughed at a response of a lawyer who was present for one of the hearings. Judge Meyer indicated that he believed this was a one-time lapse in appropriate demeanor and also noted that it occurred during what he described as a long and difficult calendar. The Commission admonished Judge Meyer and ordered him to promptly review the Code and complete two hours of courtroom demeanor training before resuming judicial service.

7. Cases Filed with the Washington State Supreme Court

In re the Honorable Samuel Swanberg
Supreme Court No. 202219-7 (November 7, 2024)

The Commission conducted a public hearing on allegations that Judge Samuel Swanberg, formerly of the Benton & Franklin Counties Superior Court, violated Canon 1, Rules 1.1, 1.2 and 1.3, of the Code of Judicial Conduct. The hearing panel found that Judge Swanberg engaged in physically violent and emotionally abusive behavior over decades of his marriage and that he later harassed and stalked a woman with whom he had a romantic relationship. The panel found that Judge Swanberg admitted to being dishonest; that he engaged in

an ongoing pattern of manipulative conduct; and used the tools and prestige of judicial office for his personal benefit. As an aggravating factor, the Commission panel found that the judge made multiple public statements to decry and denigrate the Commission's constitutionally-mandated proceeding; and declined to participate in the hearing process to the extent that he could. The panel imposed a Censure with a recommendation to the State Supreme Court that Judge Swanberg be disqualified from future service in judicial office. The State Supreme Court approved the Commission's decision removing Judge Swanberg from office and disqualified him from future judicial office.

In re the Honorable Terry M. Tanner
Supreme Court No. 202148-4 (November 13, 2023)

From an agreed statement of facts, Benton County District Court Judge Terry Tanner stipulated that he violated Canon 1, Rules 1.1 and 1.2, of the Code of Judicial Conduct. Judge Tanner violated the Code by committing the offense of Driving Under the Influence of Alcohol (DUI) on January 2, 2023. The Commission censured Judge Tanner and recommended to the State Supreme Court that the judge be suspended for 30 days without pay. The Commission ordered him to comply with the terms of his criminal case, recuse from Driving Under the Influence cases during compliance, refrain from the consumption of alcohol, participate as a speaker in three events related to his misconduct, and promptly read the Code. Respondent also stipulated that he will resign from office if he consumes any alcohol in any location, and will self-report the lapse to the Commission. Respondent was previously sanctioned by the Commission for committing DUI. (See In re Tanner, 8889-F-180 (2018).) Respondent further agreed that his current offense violated the terms and conditions of this 2018 disciplinary matter. The State Supreme Court approved the stipulation and imposed a thirty-day suspension without pay.

In re the Honorable Debra Burchett
Supreme Court No. 202,068-2 (July 19, 2022)

From an agreed statement of facts, Cowlitz County District Court Judge Debra Burchett stipulated that she violated Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.2, 2.3(A), 2.4(B), 2.5(A), and 2.6(A) of the Code of Judicial Conduct. The stipulation was entered after a Statement of Charges had been filed, and Judge Burchett agreed to a portion of the charges in exchange for a stated discipline. Judge Burchett violated the Code by going off the record during a hearing on a traffic infraction, without giving a reason and dismissing the case, again without giving a reason, when she returned on the record; and by awarding a counterclaim in a case where the defendants had not filed one. The Commission, noting that the judge had been sanctioned the previous year, censured Judge Burchett and recommended a ten-day suspension from office. Judge Burchett also agreed she will not seek reelection at the end of her term nor hold future judicial office without Commission approval. She is required to review the Code of Judicial Conduct within thirty days. The State Supreme Court approved the stipulation and imposed a ten-day suspension without pay.

In re the Honorable David Keenan
Supreme Court No. 201,996-0 (February 10, 2022)

The Commission conducted a public hearing on allegations that Judge David Keenan of the King County Superior Court violated Canon 1, Rules 1.1, 1.2 and 1.3 by appearing in a bus advertisement for North Seattle College which used his judicial title. The Commission found that he created the appearance of impropriety by approving language in the ad which could lead a reasonable person to conclude he lacked impartiality. The Commission also found that by allowing the ad to use his title and photograph, he abused the prestige of judicial office to promote the college and advance its economic interests. The Commission admonished Judge Keenan. The State Supreme Court reversed the Commission's findings and dismissed.

In re the Honorable Michael Hecht
Supreme Court No. 200,816-0 (August 5, 2010)

A superior court judge resigned after being convicted of one felony and one misdemeanor. He then stipulated, based on an agreed record, that he had violated the Code of Judicial Conduct, and submitted briefing to the Commission as to the possible sanction. The Commission found that he had violated Canons 1 and 2(A), imposed a censure, and recommended to the State Supreme Court that he be disqualified from future judicial office. The court unanimously accepted those recommendations.

In re the Honorable Judith R. Eiler
169 Wn.2d 340, 236 P.3d 873 (August 5, 2010)

Following a contested Commission action finding canon violations by a district court judge and recommending suspension, the Court conducted a de novo review of the Commission's findings and recommended sanction. The court affirmed the finding that the judge's conduct violated Canon 3(A)(3) but did not affirm the findings that she had also violated Canons 1, 2(A), and 3(A)(4). The Court ordered that she be suspended for five days without pay, rather than the 90 days recommended by the Commission. The dissenting opinion would have upheld the Commission's findings as to canon violations and imposed the recommended sanction. One justice concurred with the majority's findings regarding canon violations, reasoned a lesser sanction was appropriate, but voted with the majority to avoid the greater sanction recommended by the dissenting opinion.

In re the Honorable Richard B. Sanders
159 Wn.2d 517 (2006) 271-4 (October 26, 2006)

Pursuant to its de novo review of a contested Commission action finding canon violations by a State Supreme Court justice, the pro tem State Supreme Court upheld the findings of the Commission. The Court held that a visit by a judicial officer to a special facility for sexually violent predators does not itself violate the Code, but that Justice Sanders' conversations with residents concerning the reasons for their confinement, particularly those with matters pending before the State Supreme Court at the time, created the appearance of partiality as a result of ex parte contact. The Court accordingly upheld the finding that Justice Sanders violated Canons 1 and 2(A), and affirmed the sanction of admonishment as appropriate and sufficient.

On June 5, 2007, Justice Sanders petitioned for a writ of certiorari from the United States Supreme Court arguing constitutional flaws in Canons 1 and 2(A), as well as violations of his procedural due process rights in his case. The United States Supreme Court denied his petition on October 1, 2007.

In re the Honorable Mary Ann Ottinger
Supreme Court No. 200, 389-3 (July 20, 2006)

Following a contested Commission action finding Canon violations by a district court judge, the State Supreme Court noted that Judge Ottinger advised the Court she would not contest the findings or recommendation for censure and thirty days' suspension without pay. The Court reviewed the entire record, upheld the censure and ordered the recommended period of suspension.

In re the Honorable Steven L. Michels
Supreme Court No. 72857-7 (September 4, 2003)
150 Wn.2d 159, 75 P.3d 950 (2003)

After a fact-finding hearing, on July 15, 2002, the Commission found that Sunnyside Municipal Court Judge Steven L. Michels had engaged in a pattern and practice of presiding as a judge pro tempore in Toppenish Municipal Court in cases in which he was also appointed defense counsel. For this misconduct, the Commission censured him and recommended to the Supreme Court that he be suspended from office without pay for a period of 120 days and that he be required to undergo at his own expense a training course in judicial ethics. Pursuant to its de novo review

of a contested Commission action, the State Supreme Court, in a decision filed September 4, 2003, upheld the Commission's findings and imposition of a censure and suspended Judge Michels for 120 days and ordered he undertake judicial training. On December 2, 2003, Judge Michels petitioned for a writ of certiorari from the United States Supreme Court arguing constitutional due process violations in his case. The United States Supreme Court denied his petition on January 12, 2004.

In re the Honorable Heather K. Van Nuys
Supreme Court No. 73326-1 (December 5, 2002)

On November 22, 2002, the Commission filed a decision, pursuant to stipulation, recommending a censure and a suspension from judicial office, without pay, for a period of two consecutive months and recommending other remedial measures. The Supreme Court approved the decision of the Commission.

In re the Honorable Rudolph J. Tollefson
Supreme Court No. 70051-6 (August 30, 2000)

On August 22, 2000, the Commission filed a decision, pursuant to stipulation, recommending a censure and an immediate suspension from judicial office, without pay, for a period of five consecutive months and requiring other affirmative remedial measures. The Supreme Court approved the decision of the Commission.

In re Hon. James W. Bates, Jr.
Supreme Court No. 98-2911-F-80 (February 17, 2000)

On February 7, 2000, the Commission filed a decision, pursuant to stipulation, recommending a censure and a one-month suspension and requiring other corrective actions. Shortly after the filing and before the Supreme Court could take any action, Judge Bates passed away. By agreement, the matter was dismissed as moot.

Discipline of Hammermaster
139 Wn.2d 211 (1999)

Pursuant to its de novo review of a contested Commission action finding improper behavior by a municipal court judge while conducting court proceedings, the Supreme Court upheld the Commission's findings. Based upon its independent evaluation of the record and its ultimate authority to discipline judges, the Court upheld the conclusions that Judge Hammermaster violated Canons 2(A), 3(A)(1) and 3(A)(3) by making improper threats of life imprisonment and indefinite jail sentences, improperly accepting guilty pleas, holding trials in absentia, and engaging in a pattern of undignified and disrespectful conduct towards defendants. Additionally, the Court found that Judge Hammermaster's practice of ordering Hispanic defendants to leave the country violated Canon 3(A)(3). The Court substantially agreed with the Commission's order of censure but found that a six-month suspension without pay was more appropriate for Judge Hammermaster than the one-month suspension recommended by the Commission.

Discipline of Anderson
138 Wn.2d 830 (1999)

Pursuant to its de novo review of a contested Commission action, the Supreme Court upheld the findings of the Commission in connection with a judge's activities relating to a deceased client's estate undertaken by the judge in his capacity as a lawyer, before he became a superior court judge. The Court found that the judge accepted car loan payments from the purchaser of one of the estate's corporations during the negotiations surrounding the sale and price reduction of a business, the judge continued to serve as president of three of the estate's corporations for ten months after being sworn in as a superior court judge, and the judge failed to report receipt of the car loan payments as required by law. The Court held that the conduct violated Canons 1, 2(A), 5(C)(3) and 6(C). The judge's conduct and his refusal to acknowledge the enormity of the effect of his conduct on the integrity of the judiciary and the public's

confidence demonstrated his unfitness for judicial office. The Court found the Commission's recommendation of suspension too lenient and removed the judge from office.

Discipline of Turco
137 Wn.2d 227 (1999)

The Commission found that a municipal court judge violated the Code of Judicial Conduct by intentionally pushing or shoving his wife in a public place causing her to fall to her knees. The Commission censured the judge and recommended that the Supreme Court remove him from office. The Court found that the findings were supported in the record. It concluded that the judge's extrajudicial act bore an articulable nexus to his duties as a judge, held that the judge violated Canons 1 and 2(A), but decided that removal from office was unwarranted under the circumstances. The Court observed that the people's choice in judicial elections should not be lightly set aside. In view of Judge Turco's history of insensitivity to domestic violence and his own actions, the Court censured him for his conduct, suspended him from service on the bench without compensation for the balance of his term, and ordered him to complete a domestic violence program before he could serve in any future judicial capacity.

Discipline of Turco
JD No. 13 (February 23, 2000)

The Supreme Court suspended the judge without compensation through the remainder of his term of judicial office, effective the date of oral argument before the Supreme Court. By that time, Judge Turco already had received compensation for the remainder of his term. When contacted by the Commission, he refused to make restitution for the salary he received. The Commission moved to enforce the sanctions ordered by the Supreme Court. The Court granted the motion and ordered Judge Turco to make restitution for the salary he received plus interest from the date of its order.

Discipline of Sanders
135 Wn.2d 175 (1998)

The Commission determined that Justice Sanders appeared at a political rally identified as a justice of the State Supreme Court, carried a pro-life symbol and aligned himself with an organization pursuing a political agenda. The Justice was reprimanded. On appeal, the pro tem State Supreme Court reversed, holding that, while a judge's First Amendment free speech right is subject to limitations by the Code of Judicial Conduct, Justice Sanders' speech and conduct in this instance did not clearly and convincingly call his integrity and impartiality into question.

In re Hatter
JD No. 11 (December 1994)

The Commission concluded after a hearing, that the pro tempore judge's behavior with a minor created the appearance of impropriety and violated Canons 1 and 2(A). The Commission censured the pro tempore judge.

After the Commission filed its decision with the Supreme Court recommending that the judge pro tempore be disqualified from serving as a judicial officer, the judge did not contest the decision, which the Supreme Court approved.

Discipline of Ritchie
123 Wn.2d 725, 870 P.2d 967 (1994)

The Supreme Court found a pattern of improper claims for travel reimbursement over a five-year period. The judicial business conducted was minimal at best and wholly incidental to the personal nature of the judge's travel. The conduct violated Canons 1 and 2(A). The nature of the conduct was a grave violation of the public trust, which detrimentally

affected the integrity of the judiciary and undermined public confidence in the administration of justice. Following the recommendation of the Commission, the Supreme Court removed the judge from office.

In re Moilanen
JD No. 8 (November 1993)

The Commission determined after a hearing that the judge exhibited inappropriate and abusive demeanor and behavior with court personnel; improperly discharged his administrative responsibilities; used court facilities for personal use and interfered with the Commission's investigation. The Commission found violations of Canons 1, 2(A) and 3(B)(1). Concluding that the judge's conduct detrimentally affected the integrity of the judiciary, the Commission censured the judge and recommended that the Supreme Court suspend the judge from office without pay for thirty days.

After filing its decision and recommendation for suspension with the Supreme Court, the Commission and respondent judge asked the Court to approve a stipulation that respondent accept the censure and resign. The Court approved the stipulation.

In re Stoker
118 Wn.2d 782, 827 P.2d 986 (1992)

Following a hearing before the Commission, a judge appealed the imposition of admonishment for campaigning from within political parties' booths at a county fair, placing campaign literature in both booths, and paying money to one of the political parties for the use of its booth.

Holding that the fair did not qualify as a "political gathering" and that bipartisan campaigning did not create the appearance of identifying with a political party under Canon 7, the Supreme Court found no violation of the Canons and reversed the sanction and finding.

In re Niemi
117 Wn.2d 817, 820 P.2d 41 (1991)

A state senator who served as a judge pro tempore for the King County Superior Court was censured by the Commission for violating Canons 1, 2(A), 7(A)(1), 7(A)(3) and 7(A)(4). On appeal, the Supreme Court held that the dual service, without direct evidence of misconduct, did not violate Canons 1 and 2(A). The Court noted that superior court pro tempore judges serve only with consent of the parties, thereby removing any appearance of partiality. The Court found there was no allegation or evidence that the judge had failed to perform conscientiously the duties of the position, or that the superior court would be embroiled in political issues that would also come before the judge acting as a state senator. The Court concluded that no proper purpose would be served by forbidding the judge's dual service under the Code of Judicial Conduct.

In re Blauvelt
115 Wn.2d 735, 801 P.2d 235 (1990)

A judge attended and participated in a local Democratic party caucus and the Grays Harbor County Democratic Convention at which gathering he was selected as a delegate for Jesse Jackson. The Supreme Court found a violation of Canon 7(A)(1) but also found the language of the Constitution, Article 4, Section 31 and Discipline Rules for Judges 9(c) to be permissive in imposition of sanctions, and in this case, found a sanction to be unwarranted.

In re Kaiser
111 Wn.2d 275, 759 P.2d 392 (1988)

The Supreme Court censured the judge and stated that the judge's statement of party affiliation, his pledge of partial treatment and his suggestion that DWI defense attorneys could buy favorable treatment for their clients violated the

Code of Judicial Conduct. However, his statements regarding the contributions of DWI defense attorneys to his opponent were not false within the meaning of the Canons and were constitutionally protected.

In re Deming
108 Wn.2d 82, 736 P.2d 639 (1987)

The Commission recommended removal of a judge for involvement in a personal relationship while retaining a position of "probation liaison judge" which adversely impacted administration within the court, improperly using the prestige of the judicial office to advance the private interests of another person, making injudicious comments to defendants when before the court for sentencing, and improper comments and conduct toward female officers of the court.

The Supreme Court concluded the judge lacked the standards necessary to hold judicial office, and that his violations of the Code necessitated disqualification from office and, were he still serving in a judicial capacity, removal. The court set forth a list of mitigating and aggravating factors to be considered in imposing sanctions for judicial misconduct.

In re Staples
105 Wn.2d 905, 719 P.2d 558 (1986)

The Commission recommended admonishment for campaigning for relocation of a county seat in violation of Canon 7(A)(1)(a) and (b). The Supreme Court found no violation because political activity proscribed for judges by Canon 7(A) is partisan political activity and Judge Staples' activity was an effort to improve the administration of justice.

In re Buchanan
100 Wn.2d 396, 669 P.2d 1248 (1983)

Although Judge Buchanan was no longer a judge at the time of the ruling, the Supreme Court censured him for prejudicial conduct toward an attorney, termination of employees in part for participating and testifying in Commission proceedings, inappropriate displays of temper in performing administrative duties, and sexual harassment.

8. Other Washington State Supreme Court Cases

Garner vs. Cherberg
111 Wn. 2d 811, 765 P.2d 1284 (1988)

The Supreme Court quashed a subpoena duces tecum issued for the Commission's confidential and investigatory files by the Senate Rules Committee. The court held that the legislative subpoena power may not be used to compel violation of the Commission's confidentiality rules, which were enacted pursuant to constitutional and legislative commands.

Appendices

APPENDIX A

WASHINGTON STATE CONSTITUTION ARTICLE IV, SECTION 31

(1) There shall be a commission on judicial conduct, existing as an independent agency of the judicial branch, and consisting of a judge selected by and from the court of appeals judges, a judge selected by and from the superior court judges, a judge selected by and from the limited jurisdiction court judges, two persons admitted to the practice of law in this state selected by the state bar association, and six persons who are not attorneys appointed by the governor.

(2) Whenever the commission receives a complaint against a judge or justice, or otherwise has reason to believe that a judge or justice should be admonished, reprimanded, censured, suspended, removed, or retired, the commission shall first investigate the complaint or belief and then conduct initial proceedings for the purpose of determining whether probable cause exists for conducting a public hearing or hearings to deal with the complaint or belief. The investigation and initial proceedings shall be confidential. Upon beginning an initial proceeding, the commission shall notify the judge or justice of the existence of and basis for the initial proceeding.

(3) Whenever the commission concludes, based on an initial proceeding, that there is probable cause to believe that a judge or justice has violated a rule of judicial conduct or that the judge or justice suffers from a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties, the commission shall conduct a public hearing or hearings and shall make public all those records of the initial proceeding that provide the basis for its conclusion. If the commission concludes that there is not probable cause, it shall notify the judge or justice of its conclusion.

(4) Upon the completion of the hearing or hearings, the commission in open session shall either dismiss the case, or shall admonish, reprimand, or censure the judge or justice, or shall censure the judge or justice and recommend to the supreme court the suspension or removal of the judge or justice, or shall recommend to the supreme court the retirement of the judge or justice. The commission may not recommend suspension or removal unless it censures the judge or justice for the violation serving as the basis for the recommendation. The commission may recommend retirement of a judge or justice for a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties.

(5) Upon the recommendation of the commission, the supreme court may suspend, remove or retire a judge or justice. The office of a judge or justice retired or removed by the supreme court becomes vacant, and that person is ineligible for judicial office until eligibility is reinstated by the supreme court. The salary of a removed judge or justice shall cease. The supreme court shall specify the effect upon salary when it suspends a judge or justice. The supreme court may not suspend, remove, or retire a judge or justice until the commission, after notice and hearing, recommends that action be taken, and the supreme court conducts a hearing, after notice, to review commission proceedings and findings against the judge or justice.

(6) Within thirty days after the commission admonishes, reprimands, or censures a judge or justice, the judge or justice shall have a right of appeal de novo to the supreme court.

(7) Any matter before the commission or supreme court may be disposed of by a stipulation entered into in a public proceeding. The stipulation shall be signed by the judge or justice and the commission or court. The stipulation may impose any terms and conditions deemed appropriate by the commission or court. A stipulation shall set forth all material facts relating to the proceeding and the conduct of the judge or justice.

(8) Whenever the commission adopts a recommendation that a judge or justice be removed, the judge or justice shall be suspended immediately, with salary, from his or her judicial position until a final determination is made by the supreme court.

(9) The legislature shall provide for commissioners' terms of office and compensation. The commission shall employ one or more investigative officers with appropriate professional training and experience. The investigative officers of the commission shall report directly to the commission. The commission shall also employ such administrative or other staff as are necessary to manage the affairs of the commission.

(10) The commission shall, to the extent that compliance does not conflict with this section, comply with laws of general applicability to state agencies with respect to rule-making procedures, and with respect to public notice of and attendance at commission proceedings other than initial proceedings. The commission shall establish rules of procedure for commission proceedings including due process and confidentiality of proceedings.

APPENDIX B

REVISED CODE OF WASHINGTON CHAPTER 2.64

RCW

2.64.010 Definitions — Application.
2.64.020 Membership — Terms.
2.64.030 Disqualification—Vacancies—Limitations on terms—Alternates—Removal.
2.64.040 Compensation and travel expenses.
2.64.050 Employment of personnel—Expenditures authorized.
2.64.055 Disciplinary actions authorized.
2.64.057 Investigation of conduct occurring prior to, on, or after December 4, 1980.
2.64.060 Administration of oaths—Powers as to witnesses, papers, books, etc.—Subpoenas.
2.64.070 Refusal to obey subpoena—Powers of superior court.
2.64.080 Privilege from suit.
2.64.092 Administrative procedure act not applicable.
2.64.094 Suspension of judge or justice.
2.64.096 Disclosure of material tending to negate determination.
2.64.100 Proposed operating budgets—Reports to legislature.
2.64.111 Exemption from public disclosure—Records subject to public disclosure, when.
2.64.113 Confidentiality—Violations.
2.64.115 Application of open public meetings act—Exemptions.
2.64.120 Independent part of judicial branch.
2.64.910 Severability—1981 c 268.

RCW 2.64.010 Definitions—Application. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Admonishment" means a written disposition of an advisory nature that cautions a judge or justice not to engage in certain proscribed behavior. An admonishment may include a requirement that the judge or justice follow a specified corrective course of action.

(2) "Censure" means a written action of the commission that requires a judge or justice to appear personally before the commission, and that finds that conduct of the judge or justice violates a rule of judicial conduct, detrimentally affects the integrity of the judiciary, undermines public confidence in the administration of justice, and may or may not require a recommendation to the supreme court that the judge or justice be suspended or removed. A censure shall include a requirement that the judge or justice follow a specified corrective course of action.

(3) "Commission" means the commission on judicial conduct provided for in Article IV, section 31 of the State Constitution, which is authorized to recommend to the supreme court, after notice and hearing, the suspension or removal of a judge or justice for violating a rule of judicial conduct, or the retirement of a judge or justice for disability.

(4) "Judge or justice" includes justices of the supreme court, judges of the court of appeals, judges of the superior courts, judges of any court organized under Titles 3 or 35 RCW, judges pro tempore, court commissioners, and magistrates.

(5) "Removal" means a written recommendation by the commission and a finding by the supreme court that the conduct of a judge or justice is a violation of a rule of judicial conduct and seriously impairs the integrity of the judiciary and substantially undermines the public confidence in the administration of justice to such a degree that the judge or justice should be relieved of all duties of his or her office.

(6) "Reprimand" means a written action of the commission that requires a judge or justice to appear personally before the commission, and that finds that the conduct of the judge or justice is a minor violation of the code of judicial conduct and does not require censure or a formal recommendation to the supreme court that the judge or justice be suspended or removed. A reprimand shall include a requirement that the judge or justice follow a specified corrective course of action.

(7) "Retirement" means a written recommendation by the commission and a finding by the supreme court that a judge or justice has a disability which is permanent, or likely to become permanent, and that seriously interferes with the performance of judicial duties.

(8) "Suspension" means a written recommendation by the commission and a finding by the supreme court that the conduct of a judge or justice is a violation of a rule of judicial conduct and seriously impairs the integrity of the judiciary and substantially undermines the public confidence in the administration of justice to such a degree that the judge or justice should be relieved of the duties of his or her office by the court for a specified period of time, as determined by the court.

This chapter shall apply to any judge or justice, regardless of whether the judge or justice serves full time or part time, and regardless of whether the judge or justice is admitted to practice law in this state.

RCW 2.64.020 Membership—Terms. The commission shall consist of eleven members. One member shall be a judge selected by and from the court of appeals judges; one member shall be a judge selected by and from the superior court judges; one member shall be a judge selected by and from the limited jurisdiction court judges; two members shall be selected by the state bar association and be admitted to the practice of law in this state; and six members shall be nonlawyers appointed by the governor. The term of each member of the commission shall be four years.

RCW 2.64.030 Disqualification—Vacancies—Limitations on terms—Alternates—Removal. Commission membership shall terminate if a member ceases to hold the position that qualified him or her for appointment. Vacancies caused by disqualification or resignation shall be filled by the appointing authority for the remainder of the term. No person may serve more than two consecutive four-year terms. A person may be reappointed after a lapse of one year. A member, rather than his or her successor, shall continue to participate in any hearing in progress at the end of his or her term, or when the member ceases to hold the position that qualified him or her for appointment. The appointing authority shall appoint an alternate to serve during a member's temporary disability, disqualification, or inability to serve. No member may otherwise be removed from the commission before the end of his or her term except upon good cause found by the appointing authority.

RCW 2.64.040 Compensation and travel expenses. Commission members and alternate members shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

RCW 2.64.050 Employment of personnel—Expenditures authorized. The commission may employ personnel, including attorneys, and make any other expenditures necessary for the effective performance of its duties and exercise of its powers. The commission may hire attorneys or others by personal service contract to conduct initial proceedings regarding a complaint against a judge or justice. Commission employees shall be exempt from the civil service law, chapter 41.06 RCW.

RCW 2.64.055 Disciplinary actions authorized. The Commission is authorized to impose the following disciplinary actions, in increasing order of severity: (a) Admonishment; (b) reprimand; or (c) censure. If the conduct of the judge or justice warrants more severe disciplinary action, the commission may recommend to the supreme court the suspension or removal of the judge or justice.

RCW 2.64.057 Investigation of conduct occurring prior to, on, or after December 4, 1980. The commission is authorized to investigate and consider for probative value any conduct that may have occurred prior to, on, or after December 4, 1980, by a person who was, or is now, a judge or justice when such conduct relates to a complaint filed with the commission against the same judge or justice.

RCW 2.64.060 Administration of oaths—Powers as to witnesses, papers, books, etc.—Subpoenas. Each member of the commission, and any special master appointed by the commission, may administer oaths. The commission may summon and examine witnesses and compel the production and examination of papers, books, accounts, documents, records, certificates, and other evidence for the determination of any issue before or the discharge of any duty of the commission. The commission shall also issue subpoenas at the request and on behalf of any judge or justice under inquiry. All subpoenas shall be signed by a member of the commission or a special master appointed by the commission. Subpoenas shall be served and witnesses reimbursed in the manner provided in civil cases in superior court.

RCW 2.64.070 Refusal to obey subpoena—Powers of superior court. If a person refuses to obey a subpoena issued by the commission or refuses to answer any proper question during a hearing or proceeding, the superior court of any county in which the hearing or proceeding is conducted or in which the person resides or is found shall have jurisdiction, upon application by the commission, to order the person to appear before the commission, to produce evidence if so ordered, or to give testimony concerning the matter under investigation. Failure to obey the order of the court may be punished as contempt.

RCW 2.64.080 Privilege from suit. Members and employees of the commission, including any lawyers or special masters temporarily employed by the commission, are absolutely privileged from suit in any action, civil or criminal, based upon any disciplinary proceedings or upon other official acts as members or employees of the commission. Statements made to the commission or its investigators or other employees are absolutely privileged in actions for defamation. This absolute privilege does not apply to statements made in any other forum.

RCW 2.64.092 Administrative procedure act not applicable. The adjudicative proceedings, judicial review, and civil enforcement provisions of chapter 34.05 RCW the administrative procedure act, do not apply to any investigations, initial proceedings, public hearings, or executive sessions involving the discipline or retirement of a judge or justice.

RCW 2.64.094 Suspension of judge or justice. If the commission adopts a recommendation that a judge or justice be removed, the judge or justice shall be suspended, with salary, from his or her judicial position upon filing of the recommendation with the supreme court and until a final determination is made by the supreme court.

RCW 2.64.096 Disclosure of material tending to negate determination. Whenever the commission determines that there is probable cause to believe that a judge or justice has violated a rule of judicial conduct or that the judge or justice suffers from a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties, the commission shall disclose to the judge or justice any material or information within the commission's knowledge which tends to negate the determination of the commission, except as otherwise provided by a protective order.

RCW 2.64.100 Proposed operating budgets-Reports to legislature. The commission shall prepare and present to the legislature proposed operating budgets for the commission in accordance with the provisions of chapter 43.88 RCW. The commission shall report to the legislature in the manner required by law, with due regard for the confidentiality of proceedings before the commission.

RCW 2.64.111 Exemption from public disclosure— Records subject to public disclosure, when. All pleadings, papers, evidence records, and files of the commission, including complaints and the identity of complainants, compiled or obtained during the course of an investigation or initial proceeding involving the discipline or retirement of a judge or justice, are exempt from the public disclosure requirements of chapter 42.56 RCW during such investigation or initial proceeding. As of the date of a public hearing, all those records of the initial proceeding that were the basis of a finding of probable cause are subject to the public disclosure requirements of chapter 42.56 RCW.

RCW 2.64.113 Confidentiality —Violations. The commission shall provide by rule for confidentiality of its investigations and initial proceedings in accordance with Article IV, section 31 of the state Constitution.

Any person violating a rule on confidentiality is subject to a proceeding for contempt in superior court.

RCW 2.64.115 Application of open public meetings act—Exemptions. The commission is subject to the open public meetings act, chapter 42.30 RCW. However, investigations, initial proceedings, public hearings, and executive sessions involving the discipline or retirement of a judge or justice are governed by this chapter and Article IV, section 31 of the state Constitution and are exempt from the provisions of chapter 42.30 RCW.

RCW 2.64.120 Independent part of judicial branch. The commission shall for all purposes be considered an independent part of the judicial branch of government.

RCW 2.64.910 Severability—1981 c 268. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

APPENDIX C

COMMISSION ON JUDICIAL CONDUCT RULES OF PROCEDURE (CJCRP)

PREFACE

Pursuant to Article IV, Section 31 of the Washington State Constitution, the Commission on Judicial Conduct adopted rules of procedure and rules for confidentiality effective on September 18, 1996, and subsequently amended such rules effective on September 15, 1999, on January 15, 2000, on January 16, 2001, and on October 20, 2005, May 10, 2007, July 14, 2007 and June 18, 2010, and May 26, 2023.

COMMISSION ON JUDICIAL CONDUCT RULES OF PROCEDURE (CJCRP)

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PREAMBLE

The regulation of judicial conduct is critical to preserving the integrity of the judiciary and enhancing public confidence in the judicial system. Such regulation should provide a fair and reasonable process for the handling of complaints and inquiries about members of the judiciary concerning their conduct and ability to perform judicial duties.

These rules are adopted pursuant to Washington State Constitution, Article IV, Section 31. The rules balance a number of competing interests: The public interest that complaints against judges are given serious consideration and that judges are held to high standards of behavior; the rights of judges to fair treatment in the disposition of complaints against them; the interest of judges and complainants in the confidentiality of complaints; the public interest in encouraging participation in the disciplinary process by protecting complainants and witnesses from retribution or harassment; and the interest of the judges and the public in having judicial disciplinary complaints resolved promptly and accurately.

All proceedings before the commission on judicial conduct involving judges as defined in these rules shall proceed exclusively under the rules set forth in this chapter.

TERMINOLOGY

Definitions. In these rules: “Admonishment” means a written action of the commission of an advisory nature that cautions a respondent not to engage in certain proscribed behavior. An admonishment may include a requirement that the respondent follow a specified corrective course of action. Admonishment is the least severe disciplinary action the commission can issue.

“Censure” means a written action of the commission that requires a respondent to appear personally before the commission and that finds that conduct of the respondent violates a rule of judicial conduct, detrimentally affects the integrity of the judiciary, undermines public confidence in the administration of justice, and may or may not require a recommendation to the supreme court that the respondent be suspended (with or without pay) or removed. A censure shall include a requirement that the respondent follow a specified corrective course of action. Censure is the most severe disciplinary action the commission can issue.

“Chair” means one of the members elected by the commission to perform the duties of the chair and includes the acting chair.

“Commission” means the commission on judicial conduct.

“Commission counsel” means the legal advisor for the commission.

“Complaint” means information in any form from any source received by the commission that alleges or from which a reasonable inference can be drawn that a judge committed misconduct or is incapacitated. If there is no written complaint from another person, the investigator’s written statement of the allegations constitutes the complaint.

“Court Personnel” means employees of the court, including judges, administrators, independently contracted court staff, regular court staff; county clerks and clerk employees; and attorneys.

“Disability” means “incapacity.”

“Discipline” includes admonishment, reprimand, censure, censure with recommendation for suspension, censure with recommendation for removal, and any other sanction the commission is authorized to impose.

“Disciplinary counsel” means a lawyer retained by the commission to investigate and/or to represent the commission in designated proceedings.

“Documentary evidence” means any business record, public record, handwriting, typewriting, printing, Photostatting, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, drawings, charts, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

“Fact-Finder” means the commission, or at the discretion of the commission, a subcommittee of the commission or a master appointed by the commission. The fact-finder shall compile the evidentiary record upon which the commission shall base its decision.

"Hearing" means a public proceeding at which the issues of law and fact are tried before the commission.

"Incapacity" means any physical, mental, or emotional condition from which a respondent suffers which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties. As used in these rules, "incapacity" shall have the same meaning as "disability" in Washington State Constitution, Article IV, Section 31.

"Investigation" means an inquiry, including a search for and examination of evidence concerning allegations, divided into two stages: Preliminary investigation conducted after receipt of the complaint and initial proceedings conducted after authorization from the commission.

"Investigative officer" means a person or persons employed or retained by the commission who investigates and reports the findings to the commission.

"Judge" means those officers of a judicial system who perform judicial functions and who are subject to the Code of Judicial Conduct, such as justices of the supreme court, judges of the court of appeals, judges of the superior court, judges of any court organized under Titles 3, 35, or 35A RCW, judges pro tempore, court commissioners, and magistrates. The term includes full-time and part-time judges and judges who have been or have not been admitted to the practice of law in Washington.

"Medical privilege" shall refer to any confidential, privileged communication between respondent and any health care provider recognized by law.

"Meeting" includes a regular meeting or a special meeting. Business meetings are subject to the Open Public Meetings Act, chapter 42.30 RCW. Investigations, initial proceedings, public hearings, and executive sessions involving the discipline or retirement of a judge are governed by Article IV, Section 31, of the state Constitution and are exempt from chapter 42.30 RCW.

"Member" means a member of the commission and includes alternates acting as members during a member's disqualification or inability to serve.

"Misconduct" means any conduct by a respondent constituting grounds for discipline.

"Party" means the respondent or the commission as the context suggests.

"Presiding Officer" shall be the person designated by the Chair or the Commission to perform the duties of the presiding officer for a specific matter.

"Public member" means a member of the commission who is neither a lawyer nor a judge.

"Record" means the formal statement of charges and all documents filed thereafter in a proceeding including the verbatim report of the hearing on the statement of charges if a verbatim report has been prepared.

"Reprimand" means a written action of the commission that requires a respondent to appear personally before the commission and that finds that the conduct of the respondent is a violation of the Code of Judicial Conduct and does not require censure or a recommendation to the supreme court that the respondent be suspended or removed. A reprimand shall include a requirement that the respondent follow a specified corrective course of action. Reprimand is an intermediate level of disciplinary action the commission can issue.

"Respondent" means the judge or former judge who is the subject of a complaint or statement of charges.

"Statement of charges" means the formal charges of judicial misconduct or incapacity, including any amendment thereto, filed by the commission upon a determination of probable cause.

SECTION I. ORGANIZATION AND STRUCTURE

RULE 1. DISCIPLINARY AUTHORITY

The disciplinary authority of the commission extends to every judge subject to the Washington State Constitution, Article IV, Section 31, and the Code of Judicial Conduct.

RULE 2. THE COMMISSION ON JUDICIAL CONDUCT

(a) Purpose. The commission on judicial conduct administers the judicial discipline and incapacity provisions of the Washington State Constitution, Article IV, Section 31.

(b) Jurisdiction.

(1) *Judges*. The commission has jurisdiction over judges regarding allegations of misconduct occurring prior to or during service as a judge and regarding allegations of incapacity during service as a judge.

(2) *Former judges*. The commission has continuing jurisdiction over former judges regarding

allegations of misconduct occurring prior to or during service as a judge.

RULE 3. ORGANIZATION AND AUTHORITY OF THE COMMISSION

(a) Meetings. Meetings shall be scheduled as necessary. The commission shall meet periodically as determined by the commission to consider administrative and other matters. The chair may call meetings of the commission other than regularly scheduled meetings upon the chair's own motion; the chair shall call a meeting upon the written request of three members of the commission. Business meetings may be conducted by telephone conference calls or other telecommunications means within the provisions of the Open Public Meetings Act, whereby each participant in the meeting can simultaneously hear the others and further, whereby at least one site, identified by proper notice, shall provide the capability for members of the public to hear the conference. Other meetings and executive sessions may be conducted by telephone conference calls.

(b) Officers. The commission shall elect one of its members to serve as chair, another to serve as vice-chair, and another to serve as secretary for such terms as the commission shall determine. The vice-chair shall perform the duties of the chair whenever the chair is absent or unable to act.

(c) Quorum. Six members of the commission shall constitute a quorum for the transaction of business.

A vote of six members of the commission shall be required to adopt rules.

A finding of probable cause shall require the concurrence of six members of the commission.

The concurrence of six members of the commission shall be required to make a decision in a proceeding.

The chair will arrange for an alternate member selected by the appropriate appointing authority to serve in the place of a member whenever a member is disqualified or unable to serve. The alternate member so called upon shall have all the authority of a member of the commission during the time the member is unable to serve.

(d) Powers and duties. The duty and authority of the commission shall include but not be limited to:

(1) Adopting rules of procedure for discipline and incapacity proceedings;

(2) Appointing commission counsel;

(3) Employing an executive director and other staff;

(4) Appointing investigative officers;

(5) Retaining disciplinary counsel;

(6) Reviewing the recommendation of the investigative officer and/or disciplinary counsel after screening and a preliminary investigation, and either authorizing a full investigation of a complaint against a respondent in initial proceedings or dismissing the complaint;

(7) Reviewing the findings of the investigative officer and/or disciplinary counsel after a full investigation of a complaint against a respondent in initial proceedings and dismissing the matter, making a finding of probable cause, or, after making a finding of probable cause, instructing disciplinary counsel to file a statement of charges;

(8) Ruling on prehearing motions, conducting hearings on a statement of charges, and making findings, conclusions, and a decision;

(9) Where appropriate, making recommendations to the supreme court for discipline pursuant to Rule 24; or

(10) Dismissing the case.

(e) Recusal.

(1) A member of the commission should disqualify himself or herself if his or her impartiality might reasonably be questioned because of a conflict of interest or personal bias or prejudice.

(2) If a member who is a judge or judge pro tem becomes a respondent to a statement of allegations (Rule 17) or statement of charges (Rule 19), that member shall be disqualified from attending further meetings and shall not perform any commission duties until proceedings on the allegations and/or charges are completed. Should the member be disciplined by the commission, the issue of that member's continuing participation on the commission shall be referred to the member's appointing authority for a decision on whether the member should continue to serve on the commission on judicial conduct.

(3) Respondent may file an affidavit challenging for cause any member who respondent believes cannot impartially consider the statement of charges. The affidavit must be filed within seven days after service of the notice of hearing identifying those members assigned to conduct the hearing. The commission chair, or vice-chair, will decide any challenge for cause if the member does not disqualify himself or herself.

(4) **Presiding Officer, Authority.** The presiding officer shall have authority to: Determine the order of presentation of evidence;

(5) Identify the materials initially to be provided to the participating members;

(6) Administer oaths and affirmations;

(7) Issue subpoenas;

(8) Confer with participating panel members on all procedural matters, objections, and motions;

(9) Rule on offers of proof and receive relevant evidence;

(10) Direct the course of additional questioning of witnesses by participating panel members during the course of a public disciplinary proceeding;

(11) Take any appropriate action necessary to maintain order during the hearing;

(12) Permit or require oral argument or briefs and determine the time limits for submission thereof;

(13) Chair the deliberations of the participating members;

(14) Announce the commission decision in an open session;

(15) Take any other action necessary and authorized by any applicable statute or rule or by the hearing panel;

(16) Waive any requirement of these rules applicable to a public proceeding unless a party shows that it would be prejudiced by such a waiver.

RULE 4. INVESTIGATIVE OFFICER

(a) Appointment. The commission may appoint one or more full-time or part-time investigative officers.

(b) Powers and duties. The duty and authority of the investigative officer shall include but not be limited to:

(1) Receiving and screening complaints, referring complainants to other agencies when appropriate, conducting preliminary investigations, recommending to the commission, and upon authorization, conducting full investigations, notifying complainants about the status and disposition of their complaints, and making recommendations to the commission on the disposition of complaints after full investigation;

(2) Maintaining permanent records of the investigative and subsequent proceedings set forth in *(1)* of this subsection; and

(3) Performing other duties at the direction of the commission.

RULE 5. COMMISSION COUNSEL

(a) Appointment. The commission may appoint a commission counsel to assist the commission.

(b) Powers and duties. The commission may delegate functions to the commission counsel, including but not limited to the duty and authority to:

(1) Advising the commission during its deliberations and drafting decisions, orders, reports and other documents;

(2) Employing and supervising other staff necessary to the performance of the commission's duties;

(3) Performing other duties at the direction of the commission.

SECTION II. GENERAL PROVISIONS

RULE 6. DISCIPLINE

(a) Grounds. Any conduct that violates the Code of Judicial Conduct is grounds for discipline that shall be issued or administered in open session.

(b) Discipline. The commission shall have the authority to:

(1) Admonish;

(2) Reprimand;

(3) Censure;

(4) Censure and recommend to the supreme court the suspension of the respondent with or without pay;

(5) Censure and recommend to the supreme court the removal of the respondent from judicial office; and

(6) Impose any other sanction the commission is authorized to administer. The vote of any member of the commission to impose a particular disciplinary action shall be deemed an assent to impose all lesser disciplinary actions.

(c) Mitigating/aggravating factors.[1] Whenever the commission finds grounds for discipline, it shall consider the following nonexclusive factors in determining the appropriate discipline to be ordered:

(1) Characteristics of Misconduct.

(A) Whether the misconduct is an isolated instance or evidence of a pattern of conduct;

(B) The nature, extent, and frequency of occurrence of the acts of misconduct;

(C) Whether the misconduct occurred in or out of the courtroom;

(D) Whether the misconduct occurred in the judge's official capacity or in the judge's private life;

(E) Whether the judge flagrantly and intentionally violated the oath of office;

(F) The nature and extent to which the acts of misconduct have been injurious to other persons;

(G) The extent to which the judge exploited the judge's official capacity to satisfy personal desires; and

(H) The effect the misconduct has upon the integrity of and respect for the judiciary.

(2) Service and Demeanor of the Judge.

(A) Whether the judge has acknowledged or recognized that the acts occurred;

(B) Whether the judge has evidenced an effort to change or modify the conduct;

(C) The judge's length of service in a judicial capacity;

(D) Whether there has been prior disciplinary action concerning the judge;

(E) Whether the judge cooperated with the commission investigation and proceeding; and

(F) The judge's compliance with an opinion by the ethics advisory committee shall be considered by the commission as evidence of good faith.

(d) Sanctions. The sanction imposed by the commission shall be appropriate to the level of culpability. A sanction shall be sufficient to restore and maintain the dignity and honor of the position and to protect the public by assuring that the judge will refrain from acts of misconduct in the future.

(e) Required appearance. The judge shall personally appear before the commission to receive an order imposing a reprimand or a censure.

RULE 7. PROOF

Findings of violations of the Code of Judicial Conduct or incapacity shall be based upon clear, cogent and convincing evidence as that term has been defined by the Washington supreme court. "Clear, cogent and convincing" has been defined to mean highly likely. A contention has been proved by clear, cogent and convincing evidence if it is established that it is highly likely to be true. This level of proof requires a greater weight of evidence than "preponderance of the evidence," which has been defined to mean that a contention is simply more likely to be true than not true, but less than the evidence required by "beyond a reasonable doubt," which has been defined to mean that a contention almost certainly is true.

RULE 8. CIVIL RULES APPLICABLE

Except as otherwise provided in these rules, the rules of evidence applicable to civil proceedings and the rules of civil procedure shall apply in all public proceedings under these rules.

RULE 9. RIGHT TO COUNSEL

Respondent may retain counsel and have assistance of counsel at his or her own expense. Appearance of counsel constitutes an appearance by respondent.

RULE 10. EX PARTE CONTACTS

Following filing of a statement of charges, members of the commission shall not engage in ex parte communications regarding a case with respondent, respondent's counsel, disciplinary counsel, or any witness, except that such members may communicate with staff and others as required to perform their duties in accordance with these rules.

RULE 11. CONFIDENTIALITY

(a) Investigative and initial proceedings.

(1) Before the commission files a statement of charges alleging misconduct by or incapacity of a judge, all proceedings, including commission deliberations, investigative files, records, papers and matters submitted to the commission, shall be held confidential by the commission, disciplinary counsel, investigative officers, and staff except as follows:

(A) With the approval of the commission, the investigative officer may notify respondent that a complaint has been received and may disclose the name of the person making the complaint to respondent pursuant to Rule 17(e).

(B) The commission may inform a complainant or potential witness of the date when respondent is first notified that a complaint alleging misconduct or incapacity has been filed with the commission. The name of the respondent, in the discretion of the commission, may not be used in written communications to the complainant.

(C) The commission may disclose information upon a waiver in writing by respondent when:

(i) Public statements that charges are pending before the commission are substantially unfair to respondent; or

(ii) Respondent is publicly accused or alleged to have engaged in misconduct or with having a disability, and the commission, after a preliminary investigation, has determined that no basis exists to warrant further proceedings or a recommendation of discipline or retirement.

(D) The commission has determined that there is a need to notify another person or agency in order to protect the public or the administration of justice.

(2) The commission and court personnel shall keep the fact that a complaint has been made, or that a statement has been given to the commission, confidential during the investigation and initial proceeding except as provided under Rule 11.

(A) No person providing information to the commission shall disclose information they have obtained from the commission concerning the investigation, including the fact that an investigation is being conducted, until the commission files a statement of charges, dismisses the complaint, or otherwise concludes the investigation or initial proceeding.

(b) Hearings on statement of charges.

(1) After the filing of a statement of charges, all subsequent shall be public, except as may be provided by protective order.

(2) The statement of charges alleging misconduct or incapacity shall be available for public inspection. Investigative files and records shall not be disclosed unless they formed the basis for probable cause. Those records of the initial proceeding that were the basis of a finding of probable cause shall become public as of the date of the fact-finding hearing.

(3) Disciplinary counsel's work product shall be confidential.

(c) Commission deliberations.

All deliberations of the commission in reaching a decision on the statement of charges shall be confidential.

(d) General Applicability.

(1) No person shall disclose information obtained from commission proceedings or papers filed with the commission, except that information obtained from documents disclosed to the public by the commission pursuant to Rule 11 and all information disclosed at public hearings conducted by the commission are not deemed confidential under Rule 11.

(2) Any person violating Rule 11 may be subject to a proceeding for contempt in superior court.

(3) A judge shall not intimidate, coerce, or otherwise attempt to induce any person to disclose, conceal or alter records, papers, or information in violation of Rule 11. Violation of Rule 11 (d)(3) may be charged as a separate violation of the Code of Judicial Conduct.

(4) If the commission or its staff initiates a complaint under Rule 17 (b)(1), then Rule 11 (a)(1) as it applies to the commission shall govern the commission and its staff.

(5) These confidentiality rules also apply to former commission members, disciplinary counsel, investigative counsel and staff with regard to

information they had access to while serving the commission.

RULE 12. ACCESS TO COMMISSION COMPLAINT RECORDS

(a) **Policy and Purpose.**

It is the policy of the Commission on Judicial Conduct (Commission) to facilitate access to complaint records as provided by Article IV, Section 31 of the Washington State Constitution. Access to Commission case records is not absolute and shall be consistent with confidentiality requirements as provided by Article IV, Section 31 of the Washington State Constitution, with reasonable expectations of personal privacy as provided by Article I, Section 7 of the Washington State Constitution, and shall not unduly burden the Commission or substantially interfere with agency operations and the administration of justice.

(b) **Scope.**

This rule applies to all Commission complaint and investigative records, regardless of the physical form of the record, the method of recording the record or the method of storage of the record. Administrative records are not within the scope of this rule.

(c) **Definitions.**

(1) "Access" means the ability to view or obtain a paper or electronic copy of a Commission record.

(2) "Administrative record" means any record pertaining to day-to-day agency operations or the administration of the Commission, including any committee appointed by the commission.

(3) "Commission" means collectively, the appointed regular and alternate members comprising the Commission on Judicial Conduct and its staff as an organization, including temporary or contract employees.

(4) "Executive Director" means the Commission's chief executive appointed by Commission members to supervise and administer day-to-day agency operations.

(5) "Investigation records" include but are not limited to: All pleadings, papers, evidence records, and files of the commission, including complaints and the identity of complainants, compiled, or obtained during an investigation or initial proceeding of a complaint alleging judicial misconduct or disability.

(6) "Panel deliberation materials," regardless of physical format, are those materials used or created by a Commission hearing panel during case deliberations.

(7) "Probable cause records" include only those specific records of the initial proceeding that were the basis of a finding of probable cause as identified by the Commission members pursuant to CJCRP 17(d)(4)(C).

(8) "Fact-finding records" include probable cause records, statement of charges, and subsequent records filed as part of official fact-finding proceedings and any stipulated agreement, and excluding records sealed by the presiding officer.

(9) "Identifiable public record" means existing public records that do not require substantial alteration or manipulation, as determined by the Commission, to produce.

(d) **Access.**

(1) The Commission's records on complaints that are under investigation or are dismissed are investigation records and are permanently exempt from public access and disclosure as required by Article IV, Section 31 of the Washington State Constitution, and established case law. Once a Statement of Charges is served on the respondent judge, documents filed thereafter are presumptively considered public records. Stipulated resolutions must be filed at a public meeting and are thereafter public records. Records requests for public complaint records are deemed satisfied and the Commission is not obligated to respond further if requesters are directed to the Commission's website, www.cjc.state.wa.us, and all the releasable and identifiable case records in the request are available in this location. There is no charge for records available on the Commission's website. Records requested and provided in an alternative manner, outside the Commission's website, are subject to the Commission's published fee schedule.

(2) The public shall have access to probable cause records as of the date of a public hearing except those specifically excluded under Commission rules.

(3) Requests for general information about the Commission do not constitute requests for identifiable public records. The Commission is not obligated to respond to requests that are not for existing and identifiable public records. Merely including the phrase "public records request" or similar language in a request does not in and of itself, constitute a proper request for identifiable public records and does not obligate the Commission to respond

to the request as a public records request. The Commission is not obligated to respond more than once to a requester for the same records.

(4) Panel deliberation materials are not public and shall not be provided as public records.

(5) It is the Commission's policy to respond to requests for public records within five business days of receipt with either (1) the requested records or (2) an explanation why the Commission cannot provide the records. The Commission may seek clarification of requests. If no clarification is received, the Commission is not obligated to respond further, and the request is deemed satisfied. If additional time is required for a response, the Commission will state this to the requester and provide a new estimated timeline for response. The Commission may provide records in batches as they are available to provide the fullest assistance to requesters.

(6) The Commission will provide access to identifiable public records during regular business hours as published on its website after arrangements for viewing the records is made in advance.

(7) A fee may not be charged to view identifiable public records at the Commission's office.

(8) Fees charged for research, scanning, and copying shall be determined by the Executive Director and published on the Commission's website. The Executive Director will evaluate fee schedules from time to time and cause such fees to be updated and published on the Commission's website.

(9) If a fee is assessed, it must be paid in full prior to the Commission fulfilling a partial or complete request. The Commission is not obligated to fulfill a partial request, or complete request if the required fee is not paid. The request is deemed satisfied if no fee is paid and the Commission will close the request without further obligation to respond further.

(e) **Method for requesting records.**

The public records form provided on the Commission's website should be used for expediency. Alternatively, written requests shall include the following: current date, name, mailing address or email address, and phone number of the requester, preferred delivery method of the records and a description of the identifiable public records requested. Requests are directed to the Commission's Records Request Officer.

(f) **Appeals.**

Appeals of denials of access to Commission records shall be made within 30 days of the denial, and directed to the Commission's Executive Director. A denial by the Executive Director may be appealed within 30 days to the Executive Committee of the Commission. The decision of the Executive Committee is final. Requests for appeals should be made in the same manner as above.

[Adopted May 26, 2023]

RULE 12.1 ACCESS TO COMMISSION ADMINISTRATIVE RECORDS

(a) Policy and Purpose.

It is the policy of the Commission on Judicial Conduct (Commission) to facilitate access to administrative records as provided by Article IV, Section 31 of the Washington State Constitution. Access to Commission administrative records is not absolute and shall be consistent with confidentiality requirements as provided by Article IV, Section 31 of the Washington State Constitution and shall not unduly burden the Commission or substantially interfere with agency operations and the administration of justice.

(b) Scope.

This rule applies to all Commission administrative records, regardless of the physical form of the record, the method of recording the record or the method of storage of the record. Complaint records are not within the scope of this rule.

(c) Definitions.

(1) "Access" means the ability to view or obtain a paper or electronic copy of a Commission record.

(2) "Administrative record" means any record pertaining to day-to-day agency operations or the administration of the Commission, including any committee appointed by the commission.

(3) "Commission" means collectively, the appointed regular and alternate members comprising the Commission on Judicial Conduct and its staff as an organization, including temporary or contract employees.

(4) "Executive Director" means the Commission's chief executive appointed by Commission members to supervise and administer day-to-day agency operations.

(5) "Preliminary investigation records" include but are

not limited to: All pleadings, papers, evidence records, and files of the commission, including complaints and the identity of complainants, compiled, or obtained during an investigation or initial proceeding of a complaint alleging judicial misconduct or disability.

(6) "Probable cause case records" include only those specific records of the initial proceeding that were the basis of a finding of probable cause pursuant to CJCRP 17(d)(4)(C).

(7) "Identifiable public record" means existing records that do not require substantial alteration or manipulation, as determined by the Commission to produce. Requests for information or answers to questions do not constitute requests for identifiable public records. The Commission is not obligated to respond to requests that are not for existing and identifiable public records. Merely including the phrase "public records request" or similar language in a request does not in and of itself, constitute a proper request for identifiable public records and does not obligate the Commission to respond to the request. The Commission is not obligated to respond more than once to a requester for duplicative requests for the same public records.

(8) "Public" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency, however constituted, or any other organization or group of persons, however organized.

(d) Access.

(1) Administrative Records — Access. Commission administrative records are subject to public disclosure unless access is exempted or prohibited under this rule, other Commission rules, federal statutes, state statutes, court orders, or case law. To the extent that records access would be exempt or prohibited if the Public Records Act applied to the Commission's administrative records, access is also exempt or prohibited under this rule. In addition, to the extent required to prevent a significant risk to individual privacy or safety interests, the Commission shall redact identifying details in a manner consistent with this rule when it makes available or publishes any public record; however, in each instance, the justification for the redaction shall be provided in writing.

(2) Public records requests for administrative records are deemed satisfied and the Commission is not obligated to respond further if requesters are directed to the Commission's website, www.cjc.state.wa.us, and all the releasable records are available in this location. There is no charge for records available on the Commission's website. Records requested and provided in an alternative manner, outside the Commission's website, are subject to the Commission's published fee schedule.

(3) It is the Commission's policy to respond to requests for public records within five (5) business days of receipt with either (1) the requested records or (2) an explanation why the Commission cannot provide the records. The Commission may seek clarification of requests. If no clarification is received, the Commission is not obligated to respond further, and the request is deemed satisfied. If additional time is required for a response, the Commission will state this to the requester and provide a new estimated timeline for response. The Commission may provide records in batches as they are available to provide the fullest assistance to requesters.

(4) The Commission will provide access to identifiable public records during regular business hours as published on its website after arrangements for viewing the records is made in advance.

(5) A fee may not be charged to view identifiable public records at the Commission's office.

(6) Fees charged for research, scanning, and copying shall be determined by the Executive Director and published on the Commission's website. The Executive Director will evaluate fee schedules from time to time and cause such fees to be updated and published on the Commission's website.

(7) If a fee is assessed, it must be paid in full prior to the Commission fulfilling a partial or complete request. The Commission is not obligated to fulfill a partial request, or complete request if the required fee is not paid. The request is deemed satisfied if no fee is paid and the Commission will close the request without further obligation to respond further.

(8) RECORDS REQUESTS THAT INVOLVE HARASSMENT, INTIMIDATION, THREATS TO SECURITY, OR CRIMINAL ACTIVITY. The Commission may deny a records request if it determines that: the request was made to harass or intimidate the Commission or its employees; fulfilling the request would likely threaten the security of the Commission; fulfilling the request would likely threaten the safety or security of Commission members, staff, family members of Commission members or staff, or any other person; or fulfilling the request may assist criminal activity.

(e) Method for requesting records.

The public records form provided on the Commission's website should be used for expediency. Alternatively, written requests shall include the following: current date, name, mailing address or email address, and phone number of the requester, preferred delivery method of the records and a description of the identifiable public records requested. Requests shall be made to the Commission's Records Request Officer.

(f) Appeals.

Appeals of denials of access to Commission records shall be made within 30 days of the denial, and directed to the Commission's Executive Director. The decision of the Executive Director may be appealed within 30 days to the Executive Committee of the Commission. The decision of the Executive Committee is final. Requests for appeals should be made in the same manner as above.

[Adopted May 26, 2023]

RULE 13. SERVICE

(a) Service of papers on the commission in any matter concerning a respondent shall be given by delivering or mailing the papers to the commission's office.

(b) If service is by mail, service shall be deemed complete three days after posting with the U.S. Mail, postage prepaid.

(c) All documents may be filed with the commission via facsimile machine. However, filing will not be deemed accomplished unless the following procedures are strictly observed:

(1) A facsimile document will be stamped "filed" by the commission only between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be "filed" on the following business day. The facsimile copy shall constitute the original document for all purposes.

(2) All transmissions are sent at the risk of the sender.

(d) Service of the statement of charges in any disciplinary or incapacity proceeding shall be made by personal service upon a respondent.

RULE 14. SUBPOENA POWER

(a) Oaths. Oaths and affirmations may be administered by any member of the commission or any other person authorized by law.

(b) Subpoenas for investigation, deposition, or hearing. The commission may summon and examine witnesses or delegate the power to disciplinary counsel or an investigative officer to examine such witnesses and compel the production and examination of papers, books, accounts, documents, records, certificates, and other evidence for the determination of any issue before, or the discharge of any duty, of the commission. All subpoenas shall be signed by a member of the commission. Following service of the statement of charges, a respondent has a right to issuance of subpoenas for the attendance of witnesses to testify or produce evidentiary matters for hearing or permitted discovery.

(c) Enforcement of subpoenas. The commission may bring action to enforce a subpoena in the superior court of any county in which the hearing or proceeding is conducted or in which the person resides or is found.

(d) Quashing subpoena. Any motion to quash a subpoena so issued shall be heard and determined by the commission or its presiding officer.

(e) Service, witnesses, fees. Subpoenas shall be served and witnesses reimbursed in the manner provided in civil cases in superior court. Expenses of witnesses shall be borne by the party calling them.

RULE 15. [RESERVED]

RULE 16. NOTIFICATION OF FINAL DISPOSITION

The commission shall notify the complainant in writing of the final disposition of a proceeding under these rules. The commission in its sole discretion may also notify another agency or person who was contacted during an investigation or initial proceeding about the disposition of a proceeding.

SECTION III. DISCIPLINARY PROCEEDINGS

RULE 17. SCREENING AND INVESTIGATION

(a) General. An investigative officer employed by the commission will conduct the investigation aided by disciplinary counsel if deemed appropriate by the commission.

(b) Screening.

(1) Any named or anonymous organization, association, or person, including a member of the commission or staff, may make a complaint of judicial misconduct or incapacity to the commission. A complaint may be made orally or in writing.

(2) The investigative officer shall evaluate all complaints to determine whether:

(A) The person against whom the allegations are made is a judge subject to the disciplinary authority of the commission; and either

(B) The facts alleged, if true, would constitute misconduct or incapacity; or

(C) The investigative officer has grounds to believe that upon further inquiry such facts might be discovered. If not, the investigative officer shall recommend to the commission to dismiss the matter or, if appropriate, refer the complainant to another agency.

(c) Preliminary investigation.

(1) Upon receipt of a complaint, the investigative officer shall make a prompt, discreet, preliminary investigation and evaluation. Failure of a person making the complaint to supply requested additional information may result in dismissal of that complaint. The investigative officer may interview witnesses and examine evidence to determine whether grounds exist to believe the allegations of complaints. No subpoena shall be issued to obtain testimony or evidence until authorized by a member of the commission. The investigative officer will assemble documentary evidence, declarations, sworn statements, and affidavits of witnesses for consideration by the commission. The investigative officer shall recommend to the commission that it authorize a full investigation when there is evidence supporting the allegations against a respondent. The investigative officer may recommend a full investigation when there are grounds to believe that evidence supporting the allegations could be obtained by subpoena or further investigation. Where there are no such grounds, the matter shall be dismissed. Where there is a basis to proceed, the commission will forward those supporting records into the initial proceedings.

(2) If the complaint alleges that a respondent is suffering a possible physical and/or mental incapacity which may seriously impair the performance of judicial duties, or is exhibiting conduct which may be the result of such incapacity, the commission may order a respondent to submit to physical and/or mental examinations conducted at commission expense by a practitioner or health care provider selected by the commission. The failure or refusal of a respondent to submit to physical and/or mental examinations ordered by the commission may, in the discretion of the commission, preclude respondent from presenting the results of other physical and/or mental examinations on his or her behalf.

(3) Upon determination of the commission to commence initial proceedings, it shall direct the investigative officer to file a statement of allegations setting forth the nature of the complaint with sufficient specificity to permit a response.

(d) Initial proceedings.

(1) The respondent who is the subject of initial proceedings will be provided with a copy of the statement of allegations and shall be given a reasonable opportunity to respond.

(2) Within twenty-one days after the service of the notice to respondent, respondent may file a written response admitting or denying the allegations with the commission. Respondent shall personally review and sign any response. The proceedings will not be delayed if there is no response or an insufficient response.

(3) After considering the response, if any, the commission shall order the filing of a statement of charges if it determines that probable cause exists that respondent has violated a rule of judicial conduct or may be suffering from an incapacity.

(4) After initial proceedings, the commission shall:

(A) Dismiss the case;

(B) Stay the proceedings; or

(C) Find that probable cause exists that respondent has violated a rule of judicial conduct or may be suffering from an incapacity that seriously interferes with the performance of judicial duties and is permanent or likely to become permanent. Upon such a finding of probable cause, the commission shall identify the records of the initial proceedings that are the basis for the finding and order the service and filing of a statement of charges. The commission shall also identify those materials and information within the commission's knowledge which tend to negate the determination of the commission.

(5) If the commission determines that there are insufficient grounds for further commission proceedings, the respondent and the person making the complaint will be so notified.

(e) Notice of complaint to respondent. With the approval of the commission, the investigative officer may notify respondent that a complaint has been received and may disclose the name of the person making the complaint. Disclosure shall be discretionary with the commission.

RULE 18. [RESERVED]

RULE 19. STATEMENT OF CHARGES

(a) General. The statement of charges shall give fair and adequate notice of the nature of the alleged misconduct or incapacity. The statement of charges shall be filed at the commission's offices and a copy of the statement of charges shall be served upon respondent with proof of service filed at the commission.

(b) Amendments to statement of charges or answer. The commission, at any time prior to its decision, may allow or require amendments to the statement of charges or the answer. The statement of charges may be amended to conform to the proof or set forth additional facts, whether occurring before or after the commencement of the hearing. Except for amendments to conform to the proof by evidence admitted without objection at a hearing, if an amendment substantially affects the nature of the charges, respondent will be given reasonable time to answer the amendment and prepare and present a defense against the new matter raised.

RULE 20. ANSWER

(a) Time. Respondent shall file a written answer with the commission and serve a copy on disciplinary counsel within twenty-one days after service of the statement of charges, unless the time is extended by the commission.

(b) Waiver of privilege. The raising of a mental or physical condition by respondent as a defense constitutes a waiver of respondent's medical confidentiality privilege.

RULE 21. FAILURE TO ANSWER/FAILURE TO APPEAR

(a) Failure to answer. Failure to answer the formal charges shall constitute an admission of the factual allegations. In the event respondent fails to answer within the prescribed time, the statement of charges shall be deemed admitted. The commission shall proceed to determine the appropriate discipline.

(b) Failure to appear. If respondent fails to appear when ordered to do so by the commission, respondent shall be deemed to have admitted the factual allegations which were to be the subject of such appearance and to have conceded the merits of any motion or recommendations to be considered at such appearance. Absent good cause, the commission shall not continue or delay proceedings because of respondent's failure to appear.

RULE 22. DISCLOSURE AND DISCOVERY

(a) Disclosure.

(1) **Required disclosure**. Within fourteen days after the filing of the answer, disciplinary counsel shall disclose to respondent or respondent's lawyer the records identified by the commission pursuant to Rule 17(d)(4)(C), unless otherwise provided by commission protective order.

(2) Upon written demand after the time for filing an answer has expired, the commission and respondent will each disclose within fourteen days thereof, or such additional time as the commission may allow, with a continuing obligation of disclosure thereafter, the following:

(A) Names and addresses of all witnesses whose testimony that party expects to offer at the hearing;

(B) A brief summary of the expected testimony of each witness;

(C) Copies of signed or electronically or stenographically recorded statements of anticipated witnesses; and

(D) Copies of documentary evidence which may be offered.

(3) Witnesses or documentary evidence not disclosed may be excluded from evidence.

(b) Discovery following statement of charges.

(1) The taking of depositions, the requests for admissions, and all other discovery procedures authorized by Rules 26 through 37 of the Superior Court Civil Rules are available only upon stipulation or prior permission of the presiding officer upon a showing of good cause.

(2) Absent good cause, all discovery shall be completed within sixty days of the filing of the answer.

(3) Disputes concerning discovery shall be determined by the commission or presiding officer before whom the matter is pending. These decisions of the commission may not be appealed before the entry of the final order.

RULE 23. STIPULATIONS

(a) Submission. At any time prior to the final disposition of a proceeding, respondent may stipulate to any or all of the allegations or charges in exchange for a stated discipline. The stipulation shall set forth all material facts relating to the proceeding and the conduct of respondent. The stipulation may impose any terms and conditions deemed appropriate by the commission, and shall be signed by respondent and disciplinary counsel. The agreement shall be submitted to the commission, which shall either approve or reject the agreement. If the stipulation is rejected by the commission, the stipulation shall be deemed withdrawn and cannot be used by or against respondent in any proceedings.

(b) Entry of Order. If the commission accepts the agreement, it shall enter an order in open session.

RULE 24. HEARING

(a) Scheduling. Upon receipt of respondent's answer or upon expiration of the time to answer, the commission shall schedule a public hearing and notify disciplinary counsel and respondent of the date, time, and place of the hearing. Respondent will be provided at least fourteen days notice of hearing, which will also include the name or names of the commission members and the presiding officer, if any.

(b) Conduct of hearing.

(1) All testimony shall be under oath.

(2) Disciplinary counsel shall present the case in support of the statement of charges.

(3) Disciplinary counsel may call respondent as a witness.

(4) Both parties shall be permitted to present evidence and produce and cross-examine witnesses.

(5) The hearing shall be recorded verbatim. Whenever a transcript is requested by respondent, disciplinary counsel, or a member of the commission, a transcript of the hearing shall be produced at the requesting party's expense.

(6) Counsel may recommend and argue for a discipline appropriate to the misconduct supported by the evidence, including argument on aggravating and mitigating factors.

(7) Disciplinary counsel and respondent may submit their respective proposed findings, conclusions, and recommendations for discipline or order of dismissal to the commission.

(8) Where a member of the commission has not heard all the evidence, that member shall not participate in any deliberations or decisions.

(9) At least six members, or their alternates, must continually be present during presentation of testimony at the hearing.

(c) Dismissal or recommendation for discipline. The commission shall dismiss the case, discipline respondent, or in the case of incapacity, recommend to the supreme court the retirement of respondent.

(d) Submission of the report. After the hearing, the commission shall file the record of the proceeding and a decision setting forth written findings of fact, conclusions of law, any minority opinions, and the order, within ninety days following the evidentiary hearing or after the filing of the transcript if one is requested, unless the presiding officer extends the time. The decision shall be announced in open session. If personal attendance is required, respondent shall have at least fourteen days notice of the announcement, unless otherwise agreed. A copy of the decision shall be served upon respondent.

(e) Motion for reconsideration. The commission decision is final fourteen days after service unless a motion for reconsideration is filed by respondent or disciplinary counsel. A motion for reconsideration, if filed, shall be specific and detailed, with appropriate citations to the record and legal authority. Any response to the motion must be filed within fourteen days after service. The motion will be decided without oral argument unless requested by the commission. If the motion for reconsideration is denied, the decision is final when the order denying the motion is filed. If the motion for reconsideration is granted, the reconsidered decision is final when filed in the commission's office.

RULE 25. REVIEW BY SUPREME COURT

(a) Within thirty days after the commission admonishes, reprimands, or censures a respondent, the respondent shall have a right of appeal de novo to the supreme court.

(b) Within fourteen days after the decision is final, a commission decision recommending the suspension, removal, or retirement of a respondent will be filed in the supreme court and served on the respondent. The notice of the decision served on respondent shall state the date the decision was filed in the supreme court and shall specify the period during which respondent may challenge the commission recommendation as provided in the *Discipline Rules for Judges*.

(c) If the commission recommendation is that respondent be removed, respondent shall be suspended, with salary (as provided by the Constitution), from that judicial position effective upon filing the recommendation with the supreme court; such suspension with pay will remain in effect until a final determination is made by the supreme court.

(d) The commission shall transmit to respondent those portions of the record required by the *Discipline Rules for Judges* or these rules, and shall certify the record of the commission proceedings to the supreme court.

(e) If the supreme court remands a case, the commission will proceed in accordance with the order on remand.

RULE 26. [RESERVED]

SECTION IV. SPECIAL PROCEEDINGS

RULE 27. CASES INVOLVING ALLEGATIONS OF MENTAL OR PHYSICAL INCAPACITY

(a) Initiation of incapacity proceeding. An incapacity proceeding can be initiated by complaint, by a claim of inability to defend in a disciplinary proceeding, or by an order of involuntary commitment or adjudication of incompetency.

(b) Proceedings to determine incapacity generally. All incapacity proceedings shall be conducted in accordance with the procedures for disciplinary proceedings, except:

(1) The purpose of the incapacity proceedings shall be to determine whether respondent suffers from an incapacity which is permanent or likely to become permanent and which seriously interferes with respondent's ability to perform judicial duties;

(2) If the commission concludes that respondent suffers from an incapacity, it shall recommend retirement of respondent;

(3) If it appears to the commission at any time during the proceedings that respondent is not competent to act, or if it has been previously judicially determined that respondent is not competent to act, the commission will appoint a guardian ad litem for respondent unless respondent already has a guardian who will represent respondent's interests. In the appointment of a guardian ad litem, consideration may be given to the wishes of the members of respondent's immediate family. The guardian or guardian ad litem may claim and exercise any right and privilege, including without limit retaining counsel, and make any defense for respondent which respondent could have claimed, exercised, or made if competent. Any notice to be served on respondent will also be served on the guardian or guardian ad litem.

(c) Waiver. The raising of mental or physical condition as a defense to or in mitigation of a statement of charges constitutes a waiver of medical privilege.

(d) Stipulated disposition.

(1) The commission shall designate one or more qualified medical, psychiatric, psychological or other experts to examine respondent prior to the hearing on the matter. The expert or experts shall report to the commission and the parties.

(2) After receipt of the examination report, disciplinary counsel and respondent may agree upon proposed findings of fact, conclusions, and order. The stipulated disposition shall be submitted to the commission for a recommendation to the supreme court. The final decision on the recommendation shall be made by the court.

(3) If the stipulated disposition is rejected by the court, it shall be deemed withdrawn and cannot be used by or against respondent in any proceedings.

(e) Reinstatement from incapacity status.

(1) No respondent retired based upon an incapacity proceeding may resume active status except by order of the supreme court.

(2) Any respondent retired based upon an incapacity proceeding shall be entitled to petition for reinstatement of eligibility.

(3) Upon the filing of a petition for reinstatement of

eligibility, the commission may take or direct whatever action it deems necessary or proper to determine whether the incapacity has been removed, including a direction for an examination of respondent by or through qualified medical, psychological, or other experts, or qualified program or referral, designated by the commission.

(4) With the filing of a petition for reinstatement of eligibility, respondent shall be required to disclose the name of each qualified medical, psychological, or other expert, or qualified program or referral whom or in which respondent has been examined or treated since the transfer to retirement status. Respondent shall furnish to the commission written consent to the release of information and records relating to the incapacity if requested by the commission or commission-appointed medical or psychological experts.

RULE 28. REINSTATEMENT OF ELIGIBILITY

An individual, whose eligibility for judicial office had been removed by the supreme court, or by resignation and stipulated order in a proceeding before the commission, may file with the commission a petition for reinstatement of eligibility. The petition shall set forth the residence and mailing address of the petitioner, the date of removal by the supreme court, or resignation and stipulated order in the proceeding before the commission and a concise statement of facts justifying reinstatement. The petition shall be a public document.

The commission may refer the petition to the investigative officer for investigation of the character and fitness of the petitioner to be eligible for holding judicial office. The investigative officer may seek and consider any information from any source that may relate to the issues of character and fitness or the reinstatement. The investigation shall be confidential.

Petitioner shall make an affirmative showing by clear, cogent and convincing evidence, that reinstatement will not be detrimental to the integrity and standing of the judiciary and the administration of justice, or be contrary to the public interest.

In cases where the supreme court has removed the individual's eligibility for judicial office, the commission will recommend to the supreme court in writing that the petitioner should or should not be reinstated to eligibility to hold judicial office as provided by these rules and the Discipline Rules for Judges. In cases where the individual stipulated in a proceeding at the commission level to ineligibility for judicial office, the commission shall deliberate in executive session, and issue a public decision granting or denying the petitioner's reinstatement request for eligibility to hold judicial office. The commission will provide a copy of the recommendation or decision to petitioner or petitioner's lawyer.

The petitioner shall be responsible, and shall make adequate provision, for payment of all costs and reasonable attorneys' fees in these proceedings in a manner determined by the commission. Failure to pay the amount assessed shall be grounds to dismiss the petition.

RULE 29. COMPLIANCE PROCEEDINGS

(a) Whenever the commission or supreme court enters an order of discipline which includes terms and conditions that prescribes behavior for, or requires a corrective course of action by, the respondent, the investigative officer shall investigate, evaluate and report on compliance with the order. If the commission has reason to believe that further disciplinary action is appropriate, the commission shall conduct an initial proceeding. The investigation and initial proceeding shall be conducted as provided in Rule 17 and shall be confidential. Compliance proceedings shall be conducted in accordance with the procedures for disciplinary proceedings under these rules, except as provided in subsection (b).

(b) Upon application and submission of sufficient information by respondent, the commission may find that respondent has complied with or satisfied the terms and conditions of a disciplinary order. The commission may concur with the application, dispense with further compliance proceedings and enter an order certifying respondent's compliance with the disciplinary order and shall make public the application and information upon which it based its conclusions, except as otherwise provided by protective order.

(c) This rule does not limit any other power to enforce an order of the commission or decision of the supreme court.

COMMENTS

Comment on Rule 3:

The Open Public Meetings Act does not apply to Commission judicial disciplinary proceedings. Wa. Const. Art. IV Sec. 31(10); RCW 2.64.115; and RCW 42.30.140(2).

Comment on Rule 7:

The "clear, cogent and convincing" standard is consistent with the recommendations of the American Bar Association for judicial conduct agencies[2] and continues to be used by the great majority of judicial conduct agencies across the United States, including the present Washington

Commission. It is a standard of proof that requires more than the "preponderance" standard commonly found in civil matters but less than the "beyond a reasonable doubt" standard in criminal cases. Like the "clear preponderance" standard used in the Washington lawyer discipline cases,[3] both standards can be described as being an intermediate standard of proof that is lower than the beyond a reasonable doubt standard used in criminal proceedings, but more than the preponderance standard used in civil actions.

Comment on Rule 11:

The integrity of investigations would be harmed, the privacy interests of individuals, and the independence of the judiciary would be adversely affected without providing for limited restrictions of information learned or provided to the Commission during the investigation. Confidentiality is critical for the integrity of the Commission investigations, and often influences whether a person who works directly with a judge is willing to file a complaint or disclose misconduct in an investigation. Prohibiting disclosure that a complaint has been filed, or that a person has been interviewed, protects those persons from questioning by their supervising judge, or by others. The confidentiality required during the investigation of a complaint also protects the independence of the judiciary by preventing unfounded complaints from being used to threaten or distract judges. After considering alternate ways of providing this necessary protection, the Commission has concluded that the temporary restrictions on public disclosure in this rule are the narrowest restrictions that will provide the confidentiality needed for persons who disclose misconduct or file complaints and for the judges under investigation. The reason lawyers are covered by this rule is that they are officers of the court and are especially charged with maintaining the integrity and independence of the judiciary.

NOTES

[1] The factors are set forth in *In re Deming,* 108 Wn.2d 82, 119-120 (1987)*, Discipline of Ritchie*, 123 Wn.2d 725 (1994), *In re Kaiser,* 111 Wn.2d 275 (1988), and *In re Blauvelt*, 115 Wn.2d 735 (1990)

[2] See Professional Discipline for Lawyers and Judges, National Center for Professional Responsibility and the American Bar Association, 1979, pages 44-45. The Commission adopted former Rule 14(d) which stated: "The fact-finder must find by clear, cogent, and convincing evidence that the judge has violated a rule of judicial conduct or that the judge has a disability which is or is likely to become permanent and which seriously interferes with the performance of judicial duties."

3 RLD 4.11(b).

APPENDIX D

CURRENT CODE OF JUDICIAL CONDUCT

***This code applies to conduct occurring on or after: January 1, 2011**

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CANON 1

A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

RULE 1.1 Compliance with the Law
RULE 1.2 Promoting Confidence in the Judiciary
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CANON 2

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RULE 3.3 Testifying as Character Witness
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RULE 3.5 Use of Nonpublic Information
RULE 3.6 Affiliation with Discriminatory Organizations
RULE 3.7 Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities
RULE 3.8 Appointments to Fiduciary Positions
RULE 3.9 Service as Arbitrator or Mediator
RULE 3.10 Practice of Law
RULE 3.11 Financial, Business, or Remunerative Activities
RULE 3.12 Compensation for Extrajudicial Activities
RULE 3.13 Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value
RULE 3.14 Reimbursement of Expenses and Waivers of Fees or Charges
RULE 3.15 Reporting Requirements

CANON 4

A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.

RULE 4.1 Political and Campaign Activities of Judges and Judicial Candidates in General
RULE 4.2 Political and Campaign Activities of Judicial Candidates in Public Elections
RULE 4.3 Activities of Candidates for Appointive Judicial Office
RULE 4.4 Campaign Committees
RULE 4.5 Activities of Judges Who Become Candidates for Nonjudicial Office

PREAMBLE

[1] An independent, fair and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of judges of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

[2] Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

[3] The Washington State Code of Judicial Conduct establishes standards for the ethical conduct of judges and judicial candidates. It is not intended as an exhaustive guide. The Code is intended, however, to provide guidance and assist judges in maintaining the highest standards of judicial and personal conduct, and to provide a basis for regulating their conduct through the Commission on Judicial Conduct.

[Adopted effective January 1, 20111; Amended effective August 8, 2023.]

SCOPE

[1] The Washington State Code of Judicial Conduct consists of four Canons, numbered Rules under each Canon, and Comments that generally follow and explain each Rule. Scope and Terminology sections provide additional guidance in interpreting and applying the Code. An Application section establishes when the various Rules apply to a judge or judicial candidate.

[2] The Canons state overarching principles of judicial ethics that all judges must observe. They provide important guidance in interpreting the Rules. A judge may be disciplined only for violating a Rule.

[3] The Comments that accompany the Rules serve two functions. First, they provide guidance regarding the purpose, meaning, and proper application of the Rules. They contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. Comments neither add to nor subtract from the binding obligations set forth in the Rules. Therefore, when a Comment contains the term "must," it does not mean that the Comment itself is binding or enforceable; it signifies that the Rule in question, properly understood, is obligatory as to the conduct at issue.

[4] Second, the Comments identify aspirational goals for judges. To implement fully the principles of this Code as articulated in the Canons, judges should strive to exceed the standards of conduct established by the Rules, holding themselves to the highest ethical standards and seeking to achieve those aspirational goals, thereby enhancing the dignity of the judicial office.

[5] The Rules of the Washington State Code of Judicial Conduct are rules of reason that should be applied consistent with constitutional requirements, statutes, other court rules, and decisional law, and with due regard for all relevant circumstances. The Rules should not be interpreted to impinge upon the essential independence of judges in making judicial decisions.

[6] Although the black letter of the Rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. It is recognized, for example, that it would be unrealistic to sanction judges for minor traffic or civil infractions. Whether discipline should be imposed should be determined through a reasonable and reasoned application of the Rules. The relevant factors for consideration should include the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, including the willfulness or knowledge of the impropriety of the action, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the judicial system or others.

[7] The Code is not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

APPLICATION

The Application section establishes when the various Rules apply to a judge, court commissioner, or judge pro tempore. [amendment effective June 4, 2015]

I. APPLICABILITY OF THIS CODE

(A) A judge, within the meaning of this Code, is anyone who is authorized to perform judicial functions, including an officer such as a magistrate, court commissioner, part- time judge or judge pro tempore.

(B) The provisions of the Code apply to all judges except as otherwise noted for part-time judges and judges pro

tempore.

(C) All judges shall comply with statutory requirements applicable to their position with respect to reporting and disclosure of financial affairs. [Amendment effective June 4, 2015]

COMMENT

[1] The Rules in this Code have been formulated to address the ethical obligations of any person who serves a judicial function, and are premised upon the supposition that a uniform system of ethical principles should apply to all those authorized to perform judicial functions.

[2] This Code and its Rules do not apply to any person who serves as an administrative law judge or in a judicial capacity within an administrative agency.

[3] The determination of whether an individual judge is exempt from specific Rules depends upon the facts of the particular judicial service.

[4] The Legislature has authorized counties to establish and operate drug courts and mental health courts. Judges presiding in these special courts are subject to these Rules, including Rule 2.9 (A)(1) on ex parte communications, and must continue to operate within the usual judicial role as an independent decision maker on issues of fact and law. But the Rules should be applied with the recognition that these courts may properly operate with less formality of demeanor and procedure than is typical of more traditional courts. Application of the rules should also be attentive to the terms and waivers in any contract to which the individual whose conduct is being monitored has agreed in exchange for being allowed to participate in the special court program.

II. PART-TIME JUDGE

(A) A part-time judge is not required to comply:

(1) with Rule 2.10 (Judicial Statements on Pending and Impending Cases), except while serving as a judge; or

(2) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), and 3.14 (Reimbursement of Expenses and Waivers of Fees or Charges).

(B) A part-time judge shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

(C) When a person who has been a part-time judge is no longer a part-time judge, that person may act as a lawyer in a proceeding in which he or she served as a judge or in any other proceeding related thereto only with the express consent of all parties pursuant to the Rules of Professional Conduct.

COMMENT

[1] Part-time judges should be alert to the possibility of conflicts of interest and should liberally disclose on the record to litigants appearing before them the fact of any extrajudicial employment or other judicial role, even if there is no apparent reason to withdraw.

[2] In view of Rule 2.1, which provides that the judicial duties of judges should take precedence over all other activities, part-time judges should not engage in outside employment which would interfere with their ability to sit on cases that routinely come before them.

III. JUDGE PRO TEMPORE

A judge pro tempore is not required to comply:

(A) except while serving as a judge, with Rule 1.2 (Promoting Confidence in the Judiciary), Rule 2.4 (External Influences on Judicial Conduct), Rule 2.10 (Judicial Statements on Pending and Impending Cases); Rule 3.1 (Extrajudicial Activities in General); Rule 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General) or 4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office); or [amendment effective June 4, 2015]

(B) at any time with Rules 3.2 (Appearances before Governmental Bodies and Consultation with Government Officials), 3.3 (Acting as a Character Witness), or 3.4 (Appointments to Governmental Positions), or with Rules 3.6 (Affiliation with Discriminatory Organizations), 3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), or 3.12 (Compensation for Extrajudicial Activities).

(C) A judge pro tempore shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

(D) When a person who has been a judge pro tempore is no longer a judge pro tempore, that person may act as a

lawyer in a proceeding in which he or she served as a judge or in any other proceeding related thereto only with the express consent of all parties pursuant to the Rules of Professional Conduct.

VI. TIME FOR COMPLIANCE

A person to whom this Code becomes applicable shall comply immediately with its provisions, except that those judges to whom Rules 3.8 (Appointments to Fiduciary Positions) and 3.11 (Financial, Business, or Remunerative Activities) apply shall comply with those Rules as soon as reasonably possible, but in no event later than one year after the Code becomes applicable to the judge.

COMMENT

[1] If serving as a fiduciary when selected as judge, a new judge may, notwithstanding the prohibitions in Rule 3.8, continue to serve as fiduciary, but only for that period of time necessary to avoid serious adverse consequences to the beneficiaries of the fiduciary relationship and in no event longer than one year. Similarly, if engaged at the time of judicial selection in a business activity, a new judge may, notwithstanding the prohibitions in Rule 3.11, continue in that activity for a reasonable period but in no event longer than one year.

TERMINOLOGY

The first time any term listed below is used in a Rule in its defined sense, it is followed by an asterisk (*).

"Aggregate," in relation to contributions for a candidate, means not only contributions in cash or in-kind made directly to a candidate's campaign committee, but also all contributions made indirectly with the understanding that they will be used to support the election of a candidate or to oppose the election of the candidate's opponent. See Rules 2.11 and 4.4.

"Appropriate authority" means the authority having responsibility for initiation of disciplinary process in connection with the violation to be reported. See Rules
2.14 and 2.15.

"Contribution" means both financial and in-kind contributions, such as goods, professional or volunteer services, advertising, and other types of assistance, which, if obtained by the recipient otherwise, would require a financial expenditure. See Rules 2.11, 2.13, 3.7, 4.1, and 4.4.

"De minimis," in the context of interests pertaining to disqualification of a judge, means an insignificant interest that could not raise a reasonable question regarding the judge's impartiality. See Rule 2.11.

"Domestic partner" means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married. See Rules 2.11, 2.13, 3.13, and 3.14.

"Economic interest" means ownership of more than a de minimis legal or equitable interest. Except for situations in which the judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

(1) an interest in the individual holdings within a mutual or common investment fund;

(2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge's spouse, domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant;

(3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or

(4) an interest in the issuer of government securities held by the judge.

See Rules 1.3 and 2.11.

"Fiduciary" includes relationships such as executor, administrator, trustee, or guardian. See Rules 2.11, 3.2, and 3.8.

"Financial Support" shall mean the total of contributions to the judge's campaign and independent expenditures in support of the judge's campaign or against the judge's opponent as defined by RCW 42.17.020.
See Rule 2.11.

"Impartial," "impartiality," and "impartially" mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge. See Canons 1, 2, and 4, and Rules 1.2, 2.2, 2.10, 2.11, 2.13, 3.1, 3.12, 3.13, 4.1, and 4.2.

"Impending matter" is a matter that is imminent or expected to occur in the near future. See Rules 2.9, 2.10, 3.13, and 4.1.

"Impropriety" includes conduct that violates the law, court rules, or provisions of this Code, and conduct

that undermines a judge's independence, integrity, or impartiality. See Canon 1 and Rule 1.2.

"Independence" means a judge's freedom from influence or controls other than those established by law. See Canons 1 and 4, and Rules 1.2, 3.1, 3.12, 3.13, and 4.2.

"Integrity" means probity, fairness, honesty, uprightness, and soundness of character. See Canon 1 and Rule 1.2.

"Invidious discrimination" is a classification which is arbitrary, irrational, and not reasonably related to a legitimate purpose. Differing treatment of individuals based upon race, sex, gender, religion, national origin, ethnicity, sexual orientation, age, or other classification protected by law, are situations where invidious discrimination may exist. See Rules 3.1 and 3.6.

"Judicial candidate" means any person, including a sitting judge, who is seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election or appointment authority, authorizes or, where permitted, engages in solicitation or acceptance of contributions or support, or is nominated for election or appointment to office. See Rules 2.11, 4.1, 4.2, and 4.4.

"Knowingly," "knowledge," "known," and "knows" mean actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances. See Rules 2.11, 2.13, 2.15, 2.16, 3.6, and 4.1.

"Law" encompasses court rules as well as statutes, constitutional provisions, and decisional law. See Rules 1.1, 2.1, 2.2, 2.6, 2.7, 2.9, 3.1, 3.4, 3.9, 3.12, 3.13, 3.14,
3.15, 4.1, 4.2, 4.4, and 4.5.

"Member of the candidate's family" means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the candidate maintains a close familial relationship.

"Member of the judge's family" means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Rules 3.7, 3.8, 3.10, and 3.11.

"Member of a judge's family residing in the judge's household" means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household. See Rules 2.11 and 3.13.

"Nonpublic information" means information that is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute or court order or impounded or communicated in camera, and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports. See Rule 3.5.

"Part-time judge" Part-time judges are judges who serve on a continuing or periodic basis, but are permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than a full-time judge. A person who serves part-time as a judge on a regular or periodic basis in excess of eleven cases or eleven dockets annually, counted cumulatively without regard to each jurisdiction in which that person serves as a judge, is a part-time judge.

"Pending matter" is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition. See Rules 2.9, 2.10, 3.13,
and 4.1.

"Personally solicit" means a direct request made by a judge or a judicial candidate for financial support or in-kind services, whether made by letter, telephone, or any other means of communication. See Rule 4.1.

"Political organization" means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office. For purposes of this Code, the term does not include a judicial candidate's campaign committee created as authorized by Rule 4.4. See Rules 4.1 and 4.2.

"Pro tempore judge" Without regard to statutory or other definitions of a pro tempore judge, within the meaning of this Code a pro tempore judge is a person who serves only once or at most sporadically under a separate appointment for a case or docket. Pro tempore judges are excused from compliance with certain provisions of this Code because of their infrequent service as judges. A person who serves or expects to serve part-time as a judge on a regular or periodic basis in fewer than twelve cases or twelve dockets annually, counted cumulatively without regard to each jurisdiction in which that person serves as a judge, is a pro tempore judge.

"Public election" includes primary and general elections, partisan elections, nonpartisan elections, and retention elections. See Rules 4.2 and 4.4.

"Third degree of relationship" includes the following persons:

great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece. See Rule 2.11.

CANON 1

A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

RULE 1.1
Compliance with the Law

A judge shall comply with the law,* including the Code of Judicial Conduct.

COMMENT
See Scope [6].

RULE 1.2
Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence,* integrity,* and impartiality* of the judiciary, and shall avoid impropriety and the appearance of impropriety.*

COMMENT

[1] Public confidence in the judiciary is eroded by improper conduct. This principle applies to both the professional and personal conduct of a judge.

[2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the Code.

[3] Conduct that compromises the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary.

[4] Judges should participate in activities that promote ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

[5] Actual improprieties include violations of law, court rules, or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

[6] A judge should initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judge must act in a manner consistent with this Code.

RULE 1.3
Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests* of the judge or others, or allow others to do so.

COMMENT

[1] It is improper for a judge to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to his or her judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use judicial letterhead to gain an advantage in conducting his or her personal business.

[2] A judge may provide a reference or recommendation for an individual based upon the judge's personal knowledge. The judge may use official letterhead if the judge indicates that the reference is personal and if there is no likelihood that the use of the letterhead would reasonably be perceived as an attempt to exert pressure by reason of the judicial office.

[3] Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees, and by responding to inquiries from such entities concerning the professional qualifications of a person being considered for judicial office.

[4] Special considerations arise when judges write or contribute to publications of for-profit entities, whether related or unrelated to the law. A judge should not permit anyone associated with the publication of such materials to exploit the judge's office in a manner that violates this Rule or other applicable law. In contracts for publication of a judge's writing, the judge should retain sufficient control over the advertising to avoid such exploitation.

CANON 2

A JUDGE SHOULD PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

RULE 2.1
Giving Precedence to the Duties of Judicial Office

The duties of judicial office, as prescribed by law,* shall take precedence over all of a judge's personal and extrajudicial activities.

COMMENT

[1] To ensure that judges are available to fulfill their judicial duties, judges must conduct their personal and extrajudicial activities to minimize the risk of conflicts that would result in frequent disqualification. See Canon 3.

[2] Although it is not a duty of judicial office unless prescribed by law, judges are encouraged to participate in activities that promote public understanding of and confidence in the justice system.

RULE 2.2
Impartiality and Fairness

A judge shall uphold and apply the law,* and shall perform all duties of judicial office fairly and impartially.*

COMMENT

[1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

[3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.

[4] At times, judges have before them unrepresented litigants whose lack of knowledge about the law and about judicial procedures and requirements may inhibit their ability to be heard effectively. A judge's obligation under Rule 2.2 to remain fair and impartial and to uphold and apply the law does not preclude the judge from making reasonable accommodations to ensure an unrepresented litigant's right to be heard, so long as those accommodations do not give the unrepresented litigant an unfair advantage. This rule does not require a judge to make any particular accommodation.

[Amended effective September 20, 2022]

RULE 2.3
Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

(C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, against parties, witnesses, lawyers, or others.

(D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making reference to factors that are relevant to an issue in a proceeding.

COMMENT

[1] A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

[2] Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and lawyers in the proceeding, jurors, the media, and others an appearance of bias or prejudice. A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.

[3] Harassment, as referred to in paragraphs (B) and (C), is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

[4] Sexual harassment includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome.

[5] "Bias or prejudice" does not include references to or distinctions based upon race, color, sex, religion, national origin, disability, age, marital status, changes in marital status, pregnancy, parenthood, sexual orientation, or social or economic status when these factors are legitimately relevant to the advocacy or decision of the proceeding, or, with regard to administrative matters, when these factors are legitimately relevant to the issues involved.

RULE 2.4
External Influences on Judicial Conduct

(A) A judge shall not be swayed by public clamor, or fear of criticism.

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.

(C) A judge shall not convey or authorize others to convey the impression that any person or organization is in a position to influence the judge.

COMMENT

[1] Judges shall decide cases according to the law and facts, without regard to whether particular laws or litigants are popular or unpopular with the public, the media, government officials, or the judge's friends or family.

RULE 2.5
Competence, Diligence, and Cooperation

(A) A judge shall perform judicial and administrative duties, competently and diligently.

(B) A judge shall cooperate with other judges and court officials in the administration of court business.

COMMENT

[1] Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office.

[2] In accordance with GR 29, a judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.

[3] Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to take reasonable measures to ensure that court officials, litigants, and their lawyers cooperate with the judge to that end.

[4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

RULE 2.6
Ensuring the Right to Be Heard

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.*

(B) Consistent with controlling court rules, a judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but should not act in a manner that coerces any party into settlement.

COMMENT

[1] The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.

[2] The judge plays an important role in overseeing the settlement of disputes, but should be careful that efforts to further settlement do not undermine any party's right to be heard according to law. The judge should keep in mind the effect that the judge's participation in settlement discussions may have, not only on the judge's own views of the case, but also on the perceptions of the lawyers and the parties if the case remains with the judge after settlement efforts are unsuccessful. Among the factors that a judge should consider when deciding upon an appropriate settlement practice for a case are (1) whether the parties have requested or voluntarily consented to a certain level of participation by the judge in settlement discussions, (2) whether the parties and their counsel are relatively sophisticated in legal matters,(3)whether the case will be tried by the judge or a jury, (4) whether the parties participate with their counsel in settlement discussions, (5) whether any parties are unrepresented by counsel, and (6) whether the matter is civil or criminal.

[3] Judges must be mindful of the effect settlement discussions can have, not only on their objectivity and impartiality, but also on the appearance of their objectivity and impartiality. Despite a judge's best efforts, there may be instances when information obtained during settlement discussions could influence a judge's decision making during trial, and, in such instances, the judge should consider whether disqualification or recusal may be appropriate. See Rule 2.11(A)(1).

[4] Judges should endeavor to ensure unrepresented litigants have a fair opportunity to participate in proceedings. While not required, judges may find the following nonexhaustive list of steps consistent with

these principles and helpful in facilitating the right of unrepresented litigants to be heard:

1. Identifying and providing resource information to assist unrepresented litigants. Judges should endeavor to identify resources early in the case so as to reduce the potential for delay.

2. Informing litigants with limited-English-proficiency of available interpreter services.

3. Providing brief information about the proceeding and evidentiary and foundational requirements.

4. Using available courtroom technology to assist unrepresented individuals to access and understand the proceedings (e.g., remote appearances, use of video displays to share court rules, statutes, and exhibits).

5. Asking neutral questions to elicit or clarify information.

6. Attempting to make legal concepts understandable by minimizing use of legal jargon.

7. Starting the hearing with a quick summary of the case history of the issues that will be addressed.

8. Explaining at the beginning of the hearing that you may be asking questions and that this will not indicate any view on your part. It will merely mean that you need to get the information to decide the case.

9. Working through issues one by one and moving clearly back and forth between the two sides during the exploration of each issue.

10. Inviting questions about what has occurred or is to occur.

11. Permitting narrative testimony.

12. Allowing parties to adopt their written statements and pleadings as their sworn testimony. This provision would not limit opportunities for cross-examination or be permitted in a manner that would prejudice the other party in the presentation of their case.

13. Asking questions to establish the foundation of evidence, when uncertain.

14. Clarifying with the parties whether they have presented all of their evidence and explaining that no additional testimony or evidence will be permitted once the evidentiary portion of the case is completed.

15. Prior to announcing the decision of the court, reminding the parties that they have presented all of their evidence, that they will be given an opportunity to ask questions once the court has issued its ruling, and that they should not interrupt the court.

16. If unable to do what a litigant asks because of neutrality concerns, explaining the reasons in those terms.

17. Announcing the decision, if possible, from the bench, taking the opportunity to encourage litigants to explain any problems they might have complying.

18. Explaining the decision and acknowledging the positions and strengths of both sides.

19. Making sure, by questioning, that the litigants understand the decision and what is expected of them, while making sure that they know you expect compliance with the ultimate decision.

20. Where relevant, informing the litigants of what will be happening next in the case and what is expected of them.

21. Making sure, if practicable, that the decision is given in written or printed form to the litigants.

22. Informing the parties of resources that are available to assist with drafting documents, as well as compliance or enforcement of the order. Examples include but are not limited to courthouse facilitator programs, advocates, lists of treatment providers, and child support enforcement.

23. Thanking the parties for their participation and acknowledging their efforts.

[Adopted September 20, 2022]

RULE 2.7
Responsibility to Decide

A judge shall hear and decide matters assigned to the judge, except when disqualification or recusal is required by Rule 2.11 or other law.*

COMMENT

[1] Judges must be available to decide the matters that come before the court. Although there are times when disqualification is necessary to protect the rights of litigants and preserve public confidence in the independence, integrity, and impartiality of the judiciary, judges must be available to decide matters that come before the courts. Unwarranted disqualification may bring public disfavor to the court and to the judge personally. The dignity of the court, the judge's respect forfulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge's colleagues require that a judge not use disqualification or recusal to avoid cases that present difficult, controversial, or unpopular issues.

RULE 2.8
Decorum, Demeanor, and Communication with Jurors

(A) A judge shall require order and decorum in proceedings before the court.

(B) A judge shall be patient, dignified, and courteous to

litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

(C) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding.

COMMENT

[1] The duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 2.5 to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

[2] Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case.

[3] A judge who is not otherwise prohibited by law from doing so may meet with jurors who choose to remain after trial but should be careful not to discuss the merits of the case.

RULE 2.9
Ex Parte Communications

(A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending* or impending matter,* before that judge's court except as follows:

(1) When circumstances require it, ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, or ex parte communication pursuant to a written policy or rule for a mental health court, drug court, or other therapeutic court, is permitted, provided:

(a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and

(b) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond.

(2) A judge may obtain the written advice of a disinterested expert on the law applicable to a proceeding before the judge, if the judge affords the parties a reasonable opportunity to object and respond to the advice received.

(3) A judge may consult with court staff and court officials whose functions are to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility personally to decide the matter.

(4) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to settle matters pending before the judge.

(5) A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law* to do so.

(B) If a judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judge shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.

(C) A judge shall not investigate facts in a matter pending or impending before that judge, and shall consider only the evidence presented and any facts that may properly be judicially noticed, unless expressly authorized by law.

(D) A judge shall make reasonable efforts, including providing appropriate supervision, to ensure that this Rule is not violated by court staff, court officials, and others subject to the judge's direction and control.

COMMENT

[1] To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.

[2] Whenever the presence of a party or notice to a party is required by this Rule, it is the party's lawyer, or if the party is unrepresented, the party, who is to be present or to whom notice is to be given.

[3] The proscription against communications concerning a proceeding includes communications with lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted by this Rule.

[4] A judge may initiate, permit, or consider ex parte communications expressly authorized by law, such as when serving on therapeutic or problem-solving courts, mental health courts, or drug courts. In this capacity, judges may assume a more interactive role with parties, treatment

providers, probation officers, social workers, and others.

[5] A judge may consult on pending matters with other judges, or with retired judges who no longer practice law and are enrolled in a formal judicial mentoring program (such as the Washington Superior Court Judges' Association Mentor Judge Program). Such consultations must avoid ex parte discussions of a case with judges or retired judges who have previously been disqualified from hearing the matter, and with judges who have appellate jurisdiction over the matter. [amended July 10, 2013, effective September 1, 2013]

[6] The prohibition against a judge investigating the facts in a matter extends to information available in all mediums, including electronic.

[7] A judge may consult ethics advisory committees, outside counsel, or legal experts concerning the judge's compliance with this Code. Such consultations are not subject to the restrictions of paragraph (A)(2).

RULE 2.10
Judicial Statements on Pending and Impending Cases

(A) A judge shall not make any public statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending* in any court, or make any nonpublic statement that would reasonably be expected to substantially interfere with a fair trial or hearing.

(B) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial* performance of the adjudicative duties of judicial office.

(C) A judge shall require court staff, court officials, and others subject to the judge's direction and control to refrain from making statements that the judge would be prohibited from making by paragraphs (A) and (B).

(D) Notwithstanding the restrictions in paragraph (A), a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a personal capacity.

(E) Subject to the requirements of paragraph (A), a judge may respond directly or through a third party to allegations in the media or elsewhere concerning the judge's conduct in a matter.

COMMENT

[1] This Rule's restrictions on judicial speech are essential to the maintenance of the independence, integrity, and impartiality of the judiciary.

[2] This Rule does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity. In cases in which the judge is a litigant in an official capacity, such as a writ of mandamus, the judge must not comment publicly.

[3] Depending upon the circumstances, the judge should consider whether it may be preferable for a third party, rather than the judge, to respond or issue statements in connection with allegations concerning the judge's conduct in a matter.

[4] A judge should use caution in discussing the rationale for a decision and limit such discussion to what is already public record or controlling law.

RULE 2.11
Disqualification

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality* might reasonably be questioned, including but not limited to the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge* of facts that are in dispute in the proceeding.

(2) The judge knows* that the judge, the judge's spouse or domestic partner,* or a person within the third degree of relationship* to either of them, or the spouse or domestic partner of such a person is:

(a) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(b) acting as a lawyer in the proceeding;

(c) a person who has more than a de minimis* interest that could be substantially affected by the proceeding; or

(d) likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary,* or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household,* has an

economic interest* in the subject matter in controversy or in a party to the proceeding.

(4) [Reserved]

(5) The judge, while a judge or a judicial candidate,* has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

(6) The judge:

(a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer or a material witness in the matter during such association;

(b) served in governmental employment, and in such capacity participated personally and substantially as a public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy;

(c) was a material witness concerning the matter; or

(d) previously presided as a judge over the matter in another court.

(B) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or domestic partner and minor children residing in the judge's household.

(C) A judge disqualified by the terms of Rule 2.11(A)(2) or Rule 2.11(A)(3) may, instead of withdrawing from the proceeding, disclose on the record the basis of the disqualification. If, based on such disclosure, the parties and lawyers, independently of the judge's participation, all agree in writing or on the record that the judge's relationship is immaterial or that the judge's economic interest is de minimis, the judge is no longer disqualified, and may participate in the proceeding. When a party is not immediately available, the judge may proceed on the assurance of the lawyer that the party's consent will be subsequently given.

(D) A judge may disqualify himself or herself if the judge learns by means of a timely motion by a party that an adverse party has provided financial support for any of the judge's judicial election campaigns within the last six years in an amount that causes the judge to conclude that his or her impartiality might reasonably be questioned. In making this determination the judge should consider:

(1) the total amount of financial support provided by the party relative to the total amount of the financial support for the judge's election,

(2) the timing between the financial support and the pendency of the matter, and

(3) any additional circumstances pertaining to disqualification.

COMMENT

[1] Under this Rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A)(1) through (5) apply. In many jurisdictions in Washington, the term "recusal" is used interchangeably with the term "disqualification."

[2] A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

[3] The rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In matters that require immediate action, the judge must disclose on the record the basis for possible disqualification and make reasonable efforts to transfer the matter to another judge as soon as practicable.

[4] The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not itself disqualify the judge. If, however, the judge's impartiality might reasonably be questioned under paragraph (A), or the relative is known by the judge to have an interest in the law firm that could be substantially affected by the proceeding under paragraph (A)(2)(c), the judge's disqualification is required.

[5] A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.

[6] "Economic interest," as set forth in the Terminology section, means ownership of more than a de minimis legal or equitable interest. Except for situations in which a judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

(1) an interest in the individual holdings within a mutual or common investment fund;

(2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge's spouse, domestic partner, parent, or child serves as a director, officer, advisor, or other participant;

(3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or

(4) an interest in the issuer of government securities held by the judge.

[7] [Reserved]
[8] [Reserved]

RULE 2.12
Supervisory Duties

(A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act with fidelity and in a diligent manner consistent with the judge's obligations under this Code.

(B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.

COMMENT

[1] A judge is responsible for his or her own conduct and for the conduct of others, such as staff, when those persons are acting at the judge's direction or control. A judge may not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate the Code if undertaken by the judge.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judge with supervisory authority must take the steps needed to ensure that judges under his or her supervision administer their workloads promptly.

RULE 2.13
Administrative Appointments

(A) In making administrative appointments, a judge:

(1) shall exercise the power of appointment impartially* and on the basis of merit; and

(2) shall avoid nepotism and unnecessary appointments.

(B) A judge shall not appoint a lawyer to a position under circumstances where it would be reasonably to be interpreted to be quid pro quo for campaign contributions or other favors, unless:

(1) the position is substantially uncompensated;

(2) the lawyer has been selected in rotation from a list of qualified and available lawyers compiled without regard to their having made political contributions; or

(3) the judge or another presiding or administrative judge affirmatively finds that no other lawyer is willing, competent, and able to accept the position.

(C) A judge shall not approve compensation of appointees beyond the fair value of services rendered.

COMMENT

[1] Appointees of a judge include assigned counsel, officials such as referees, commissioners, special masters, receivers, and guardians, and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by paragraph (A).

[2] Unless otherwise defined by law, nepotism is the appointment or hiring of any relative within the third degree of relationship of either the judge or the judge's spouse or domestic partner, or the spouse or domestic partner of such relative.

RULE 2.14
Disability and Impairment

A judge having a reasonable belief that the performance of a lawyer or another judge is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall take appropriate action, which may include a confidential referral to a lawyer or judicial assistance program.

COMMENT

[1] "Appropriate action" means action intended and reasonably likely to help the judge or lawyer in question address the problem and prevent harm to the justice system. Depending upon the circumstances, appropriate action may include but is not limited to speaking directly to the impaired person, notifying an individual with supervisory responsibility over the impaired person, or making a referral to an assistance program.

[2] Taking or initiating corrective action by way of referral to an assistance program may satisfy a judge's responsibility under this Rule. Assistance programs have many approaches for offering help to impaired judges and lawyers, such as intervention, counseling, or referral to appropriate health care professionals. Depending upon the gravity of the conduct that has come to the judge's attention, however, the judge may be required to take other action, such as reporting the impaired judge or lawyer to the appropriate authority, agency, or body. See Rule 2.15.

RULE 2.15
Responding to Judicial and Lawyer Misconduct

(A) A judge having knowledge* that another judge has committed a violation of this Code that raises a substantial question regarding the judge's honesty, trustworthiness, or fitness as a judge in other respects should inform the appropriate authority.*

(B) A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects should inform the appropriate authority.

(C) A judge who receives credible information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action.

(D) A judge who receives credible information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct should take appropriate action.

COMMENT

[1] Judges are not required to report the misconduct of other judges or lawyers. Self regulation of the legal and judicial professions, however, creates an aspiration that judicial officers report misconduct to the appropriate disciplinary authority when they know of a serious violation of the Code of Judicial Conduct or the Rules of Professional Conduct. An apparently isolated violation may indicate a pattern of misconduct that only a disciplinary violation can uncover. Reporting a violation is especially important where the victim is unlikely to discover the offense.

[2] While judges are not obliged to report every violation of the Code of Judicial Conduct or the Rules of Professional Conduct, the failure to report may undermine the public confidence in legal profession and the judiciary. A measure of judgment is, therefore, required in deciding whether to report a violation. The term "substantial" refers to the seriousness of the possible offense and not the quantum of evidence of which the judge is aware. A report should be made when a judge or lawyer's conduct raises a serious question as to the honesty, trustworthiness or fitness as a judge or lawyer.

[3] Appropriate action under sections (C) and (D) may include communicating directly with the judge or lawyer who may have violated the Code of Judicial Conduct or the Rules of Professional Conduct, communicating with a supervising judge or reporting the suspected violation to the appropriate authority or other authority or other agency or body.

[4] Information about a judge's or lawyer's conduct may be received by a judge in the course of that judge's participation in an approved lawyers or judges assistance program. In that circumstance there is no requirement or aspiration of reporting (APR 19(b) and DRJ 14(e)).

RULE 2.16
Cooperation with Disciplinary Authorities

(A) A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.

(B) A judge shall not retaliate, directly or indirectly, against a person known* or suspected to have assisted or cooperated with an investigation of a judge or a lawyer.

COMMENT

[1] Cooperation with investigations and proceedings of judicial and lawyer disciplinary agencies, as required in paragraph (A), instills confidence in judges' commitment to the integrity of the judicial system and the protection of the public.

CANON 3

A JUDGE SHALL CONDUCT THE JUDGE'S PERSONAL AND EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF JUDICIAL OFFICE.

RULE 3.1
Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law* or this Code. However, when engaging in extrajudicial activities, a judge shall not:

(A) participate in activities that will interfere with the proper performance of the judge's judicial duties;

(B) participate in activities that will lead to frequent disqualification of the judge; except activities expressly allowed under this code. This rule does not apply to national or state military service;

(C) participate in activities that would undermine the judge's independence,* integrity,* or impartiality;*

(D) engage in conduct that would be coercive; or

(E) make extrajudicial or personal use of court premises, staff, stationery, equipment, or other resources, except for incidental use permitted by law.

COMMENT

[1] Participation in both law-related and other extrajudicial activities helps integrate judges into their communities, and furthers public understanding of and respect for courts and the judicial system. To the extent that time permits, and judicial independence and impartiality are not compromised, judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing, teaching, or participating in scholarly research projects. In addition, judges are permitted and encouraged to engage in educational, religious, charitable, fraternal or civic extrajudicial activities not conducted for profit, even when the activities do not involve the law. See Rule 3.7.

[2] Discriminatory actions and expressions of bias or prejudice by a judge, even outside the judge's official or judicial actions, are likely to appear to a reasonable person to call into question the judge's integrity and impartiality. Examples include jokes or other remarks that demean individuals based upon their race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status. For the same reason, a judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination.

[3] While engaged in permitted extrajudicial activities, judges must not coerce others or take action that would reasonably be perceived as coercive. For example, depending upon the circumstances, a judge's solicitation of contributions or memberships for an organization, even as permitted by Rule 3.7(A), might create the risk that the person solicited would feel obligated to respond favorably, or would do so to curry favor with the judge.

[4] Before speaking or writing about social or political issues, judges should consider the impact of their statements under Canon 3.

RULE 3.2
Appearances before Governmental Bodies and Consultation with Government Officials

A judge shall not appear voluntarily at a public hearing before, or otherwise consult with, an executive or a legislative body or official, except:

(A) in connection with matters concerning the law, the legal system, or the administration of justice;

(B) in connection with matters about which the judge acquired knowledge or expertise in the course of the judge's judicial duties; or

(C) when the judge is acting in a matter involving the judge's, the judge's marital community's, or the judge's domestic partnership's legal or economic interests, or those of members of the judge's immediate family residing in the judge's household, or when the judge is acting in a fiduciary* capacity. In engaging in such activities, however, judges must exercise caution to avoid abusing the prestige of judicial office.

COMMENT

[1] Judges possess special expertise in matters of law, the legal system, and the administration of justice, and may properly share that expertise with governmental bodies and executive or legislative branch officials.

[2] In appearing before governmental bodies or consulting with government officials, judges must be mindful that they remain subject to other provisions of this Code, such as Rule 1.3, prohibiting judges from using the prestige of office to advance their own or others' interests, Rule 2.10, governing public comment on pending and impending matters, and Rule 3.1(C), prohibiting judges

from engaging in extrajudicial activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

RULE 3.3
Acting as a Character Witness

A judge shall not act as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly summoned.

COMMENT

[1] A judge who, without being subpoenaed, acts as a character witness abuses the prestige of judicial office to advance the interests of another. See Rule 1.3. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to act as a character witness.

[2] This rule does not prohibit judges from writing letters of recommendation in non-adjudicative proceedings pursuant to Rule 1.3, comments [2] and [3].

RULE 3.4
Appointments to Governmental Positions

A judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice. A judge may represent his or her country, state, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities.

COMMENT

[1] Rule 3.4 implicitly acknowledges the value of judges accepting appointments to entities that concern the law, the legal system, or the administration of justice. Even in such instances, however, a judge should assess the appropriateness of accepting an appointment, paying particular attention to the subject matter of the appointment and the availability and allocation of judicial resources, including the judge's time commitments, and giving due regard to the requirements of the independence and impartiality of the judiciary.

RULE 3.5
Use of Nonpublic Information

A judge shall not intentionally disclose or use nonpublic information* acquired in a judicial capacity for any purpose unrelated to the judge's judicial duties.

COMMENT

[1] This rule is not intended to affect a judge's ability to act on information as necessary to protect the health or safety of any individual if consistent with other provisions of this Code and/or law.

RULE 3.6
Affiliation with Discriminatory Organizations

(A) A judge shall not hold membership in any organization that practices invidious discrimination on the bases of race, sex, gender, religion, national origin, ethnicity, sexual orientation or other classification protected by law.

(B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

COMMENT

[1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired.

[2] Whether an organization practices invidious discrimination is a complex question to which judges should be attentive at all times, given the prevailing state and federal law. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends on how the organization selects members, as well as other relevant factors, such as the organization's purposes or activities, and whether the organization is dedicated to the preservation or religious, ethnic, or cultural values of legitimate common interest to its members.

[3] If a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization.

[4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule.

RULE 3.7
Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

(A) assisting such an organization or entity in planning related to fundraising, and participating in the management and investment of the organization's or entity's funds, or volunteering services or goods at fundraising events as long as the situation could not reasonably be deemed coercive;

(B) soliciting* contributions* for such an organization or entity, but only from members of the judge's family,* or from judges over whom the judge does not exercise supervisory or appellate authority;

(C) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fundraising purpose, the judge may do so only if the event concerns the law, the legal system, or the administration of justice;

(D) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:

(1) will be engaged in proceedings that would ordinarily come before the judge; or

(2) will frequently be engaged in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

COMMENT

[1] The activities permitted by Rule 3.7 generally include those sponsored by or undertaken on behalf of public or private not-for-profit educational institutions, and other not-for-profit organizations, including law-related, charitable, and other organizations.

[2] Even for law-related organizations, a judge should consider whether the membership and purposes of the organization, or the nature of the judge's participation in or association with the organization, would conflict with the judge's obligation to refrain from activities that reflect adversely upon a judge's independence, integrity, and impartiality.

[3] Mere attendance at an event, whether or not the event serves a fundraising purpose, does not constitute a violation of paragraph (C). It is also generally permissible for a judge to serve as an usher or a food server or preparer, or to perform similar functions, at fundraising events sponsored by educational, religious, charitable, fraternal, or civic organizations. Such activities are not solicitation and do not present an element of coercion or abuse the prestige of judicial office.

[4] Identification of a judge's position in educational, religious, charitable, fraternal, or civic organizations on letterhead used for fundraising or membership solicitation does not violate this Rule. The letterhead may list the judge's title or judicial office if comparable designations are used for other persons.

[5] In addition to appointing lawyers to serve as counsel for indigent parties in individual cases, a judge may promote broader access to justice by encouraging lawyers to participate in pro bono legal services, if in doing so the judge does not employ coercion, or abuse the prestige of judicial office. Such encouragement may take many forms, including providing lists of available programs, training lawyers to do pro bono legal work, and participating in events recognizing lawyers who have done pro bono work.

[6] A judge may not directly solicit funds, except as permitted under Rule 3.7(B), however a judge may assist a member of the judge's family in their charitable fundraising activities if the procedures employed are not coercive and the sum is de minimis.

[7] [Reserved.]

[8] A judge may provide leadership in identifying and addressing issues involving equal access to the justice system; developing public education programs; engaging in activities to promote the fair administration of justice; and convening, participating or assisting in advisory committees and community collaborations devoted to the improvement of the law, the legal system, the provision of services, or the administration of justice.

[9] A judge may endorse or participate in projects and programs directly related to the law, the legal system, the administration of justice, and the provision of services to those coming before the courts, and may actively support the need for funding of such projects and programs.

RULE 3.8
Appointments to Fiduciary Positions

(A) A judge shall not accept appointment to serve in a fiduciary* position, such as executor, administrator, trustee, guardian, attorney in fact, or other personal representative, except for the estate, trust, or person of a member of the judge's family,* and then only if such service will not interfere with the proper performance of judicial duties.

(B) A judge shall not serve in a fiduciary position if the judge as fiduciary will likely be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves, or one under its appellate jurisdiction.

(C) A judge acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to a judge personally.

(D) If a person who is serving in a fiduciary position becomes a judge, he or she must comply with this Rule as soon as reasonably practicable, but in no event later than one year after becoming a judge.

COMMENT

[1] A judge should recognize that other restrictions imposed by this Code may conflict with a judge's obligations as a fiduciary; in such circumstances, a judge should resign as fiduciary. For example, serving as a fiduciary might require frequent disqualification of a judge under Rule 2.11 because a judge is deemed to have an economic interest in shares of stock held by a trust if the amount of stock held is more than de minimis.

RULE 3.9
Service as Arbitrator or Mediator

A judge shall not act as an arbitrator or a mediator or perform other judicial functions in a private capacity unless authorized by law.*

COMMENT

[1] This Rule does not prohibit a judge from participating in arbitration, mediation, or settlement conferences performed as part of assigned judicial duties. Rendering dispute resolution services apart from those duties, whether or not for economic gain, is prohibited unless it is authorized by law.

[2] Retired, part-time, or pro tempore judges may be exempt from this section. (See Application)

RULE 3.10
Practice of Law

(A) A judge shall not practice law. A judge may act pro se or on behalf of his or her marital community or domestic partnership and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family,* but is prohibited from serving as the family member's lawyer in any adjudicative forum.

(B) This rule does not prevent the practice of law pursuant to national or state military service.

COMMENT

[1] A judge may act pro se or on behalf of his or her marital community or domestic partnership in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. A judge must not use the prestige of office to advance the judge's personal or family interests. See Rule 1.3.

RULE 3.11
Financial, Business, or Remunerative Activities

(A) A judge may hold and manage investments of the judge and members of the judge's family.*

(B) A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may manage or participate in:

(1) a business closely held by the judge or members of the judge's family; or

(2) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

(C) A judge shall not engage in financial activities permitted under paragraphs (A) and (B) if they will:

(1) interfere with the proper performance of judicial duties;

(2) lead to frequent disqualification of the judge;

(3) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves; or

(4) result in violation of other provisions of this Code.

(D) As soon as practicable without serious financial detriment, the judge must divest himself or herself of

investments and other financial interests that might require frequent disqualification or otherwise violate this Rule.

COMMENT

[1] Judges are generally permitted to engage in financial activities, subject to the requirements of this Rule and other provisions of this Code. For example, it would be improper for a judge to spend so much time on business activities that it interferes with the performance of judicial duties. See Rule 2.1. Similarly, it would be improper for a judge to use his or her official title or appear in judicial robes in business advertising, or to conduct his or her business or financial affairs in such a way that disqualification is frequently required. See Rules 1.3 and 2.11.

[2] There is a limit of not more than one (1) year allowed to comply with Rule 3.11(D). (See Application Part IV)

RULE 3.12
Compensation for Extrajudicial Activities

A judge may accept reasonable compensation for extrajudicial activities permitted by this Code or other law* unless such acceptance would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality.*

COMMENT

[1] A judge is permitted to accept honoraria, stipends, fees, wages, salaries, royalties, or other compensation for speaking, teaching, writing, and other extrajudicial activities, provided the compensation is reasonable and commensurate with the task performed. The judge should be mindful, however, that judicial duties must take precedence over other activities. See Rule 2.1.

[2] Compensation derived from extrajudicial activities may be subject to public reporting. See Rule 3.15.

RULE 3.13
Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value

(A) A judge shall not accept any gifts, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law* or would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality.*

(B) Unless otherwise prohibited by law, or by paragraph (A), a judge may accept the following:

(1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;

(2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending* or
impending* before the judge would in any event require disqualification of the judge under Rule 2.11;

(3) ordinary social hospitality;

(4) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not judges;

(5) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not judges;

(6) scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated persons who are not judges, based upon the same terms and criteria;

(7) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use; or

(8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner,* or other family member of a judge residing in the judge's household,* but that incidentally benefit the judge.

(9) gifts incident to a public testimonial;

(10) invitations to the judge and the judge's spouse, domestic partner, or guest to attend without charge:

(a) an event associated with a bar-related function or other activity relating to the law, the legal system, or the administration of justice; or

(b) an event associated with any of the judge's educational, religious, charitable, fraternal or civic activities permitted by this Code, if the same invitation is offered to nonjudges who are engaged in similar ways in the activity as is the judge.

COMMENT

[1] Whenever a judge accepts a gift or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as intended to influence the judge's decision in a case. Rule 3.13 imposes restrictions upon the acceptance of such benefits. Acceptance of any gift or thing of value may require reporting pursuant to Rule 3.15 and Washington law.

[2] Gift-giving between friends and relatives is a common occurrence, and ordinarily does not create an appearance of impropriety or cause reasonable persons to believe that the judge's independence, integrity, or impartiality has been compromised. In addition, when the appearance of friends or relatives in a case would require the judge's disqualification under Rule 2.11, there would be no opportunity for a gift to influence the judge's decision making. Paragraph (B)(2) places no restrictions upon the ability of a judge to accept gifts or other things of value from friends or relatives under these circumstances.

[3] Businesses and financial institutions frequently make available special pricing, discounts, and other benefits, either in connection with a temporary promotion or for preferred customers, based upon longevity of the relationship, volume of business transacted, and other factors. A judge may freely accept such benefits if they are available to the general public, or if the judge qualifies for the special price or discount according to the same criteria as are applied to persons who are not judges. As an example, loans provided at generally prevailing interest rates are not gifts, but a judge could not accept a loan from a financial institution at below-market interest rates unless the same rate was being made available to the general public for a certain period of time or only to borrowers with specified qualifications that the judge also possesses.

[4] Rule 3.13 applies only to acceptance of gifts or other things of value by a judge. Nonetheless, if a gift or other benefit is given to the judge's spouse, domestic partner, or member of the judge's family residing in the judge's household, it may be viewed as an attempt to evade Rule 3.13 and influence the judge indirectly. Where the gift or benefit is being made primarily to such other persons, and the judge is merely an incidental beneficiary, this concern is reduced. A judge should, however, remind family and household members of the restrictions imposed upon judges, and urge them to take these restrictions into account when making decisions about accepting such gifts or benefits.

[5] Rule 3.13 does not apply to contributions to a judge's campaign for judicial office. Such contributions are governed by other Rules of this Code, including Rules 4.3 and 4.4.

RULE 3.14
Reimbursement of Expenses and Waivers of Fees or Charges

(A) Unless otherwise prohibited by Rules 3.1 and 3.13(A) or other law,* a judge may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the judge's employing entity, if the expenses or charges are associated with the judge's participation in extrajudicial activities permitted by this Code.

(B) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the judge.

COMMENT

[1] Educational, civic, religious, fraternal, and charitable organizations often sponsor meetings, seminars, symposia, dinners, awards ceremonies, and similar events. Judges are encouraged to attend educational programs, as both teachers and participants, in law- related and academic disciplines, in furtherance of their duty to remain competent in the law. Participation in a variety of other extrajudicial activity is also permitted and encouraged by this Code.

[2] Not infrequently, sponsoring organizations invite certain judges to attend seminars or other events on a fee-waived or partial-fee-waived basis, and sometimes include reimbursement for necessary travel, food, lodging, or other incidental expenses. A judge's decision whether to accept reimbursement of expenses or a waiver or partial waiver of fees or charges in connection with these or other extrajudicial activities must be based upon an assessment of all the circumstances. The judge must undertake a reasonable inquiry to obtain the information necessary to make an informed judgment about whether acceptance would be consistent with the requirements of this Code and Washington law.

[3] A judge must assure himself or herself that acceptance of reimbursement or fee waivers would not appear to a reasonable person to undermine the judge's independence, integrity, or impartiality. The factors that a judge should consider when deciding whether to accept reimbursement or a fee waiver for attendance at a particular activity include:

(a) whether the sponsor is an accredited educational institution or bar association rather than a trade association or a for-profit entity;

(b) whether the funding comes largely from numerous contributors rather than from a single entity and is earmarked for programs with specific content;

(c) whether the content is related or unrelated to the subject matter of litigation pending or impending before the judge, or to matters that are likely to come before the judge;

(d) whether the activity is primarily educational rather than recreational, and whether the costs
of the event are reasonable and comparable to those associated with similar events sponsored by the judiciary, bar associations, or similar groups;

(e) whether information concerning the activity and its funding source(s) is available upon inquiry;

(f) whether the sponsor or source of funding is generally associated with particular parties or interests currently appearing or likely to appear in the judge's court, thus possibly requiring disqualification of the judge under Rule 2.11;

(g) whether differing viewpoints are presented; and

(h) whether a broad range of judicial and nonjudicial participants are invited, whether a large number of participants are invited, and whether the program is designed specifically for judges.

RULE 3.15
Reporting Requirements

A judge shall make such financial disclosures as required by law.

CANON 4

A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.

RULE 4.1
Political and Campaign Activities of Judges and Judicial Candidates in General

(A) Except as permitted by law,* or by Rules 4.2 (Political and Campaign Activities of Judicial Candidates in Public Elections), 4.3 (Activities of Candidates for Appointive Judicial Office), and 4.4 (Campaign Committees), a judge or a judicial candidate* shall not:

(1) act as a leader in, or hold an office in, a political organization;*

(2) make speeches on behalf of a political organization or nonjudicial candidate;

(3) publicly endorse or oppose a nonjudicial candidate for any public office, except for participation in a precinct caucus limited to selection of delegates to a nominating convention for the office of President of the United States pursuant to (5) below.

(4) solicit funds for, pay an assessment to,
or make a contribution* to a political organization or a nonjudicial candidate for public office;

(5) publicly identify himself or herself as a member or a candidate of a political organization, except

(a) as required to vote, or

(b) for participation in a precinct caucus limited to selection of delegates to a nominating convention for the office of President of the United States.

(6) [Reserved]

(7) personally solicit* or accept campaign contributions other than through a campaign committee authorized by Rule 4.4, except for members of the judge's family or individuals who have agreed to serve on the campaign committee authorized by Rule 4.4 and subject to the requirements for campaign committees in Rule 4.4(B).

(8) use or permit the use of campaign contributions for the private benefit of the judge, the candidate, or others except as permitted by law;

(9) use court staff, facilities, or other court resources in a campaign for judicial office except as permitted by law;

(10) knowingly,* or with reckless disregard for the truth, make any false or misleading statement;

(11) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending* in any court; or

(12) in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial* performance of the adjudicative duties of judicial office.

(B) A judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A).

COMMENT

GENERAL CONSIDERATIONS

[1] Even when subject to public election, a judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based upon the expressed views or preferences of the electorate, a judge makes decisions based upon the law and the facts of every case. Therefore, in furtherance of this interest, judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. This Canon imposes narrowly tailored restrictions upon the political and campaign activities of all judges and judicial candidates, taking into account the various methods of selecting judges.

[2] When a person becomes a judicial candidate, this Canon becomes applicable to his or her conduct.

PARTICIPATION IN POLITICAL ACTIVITIES

[3] Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. Therefore, they are prohibited by paragraph (A)(1) from assuming leadership roles in political organizations.

[4] Paragraphs (A)(2) and (A)(3) prohibit judges and judicial candidates from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for nonjudicial public office, respectively, to prevent them from abusing the prestige of judicial office to advance the interests of others. See Rule 1.3. These Rules do not prohibit candidates from campaigning on their own behalf, or from endorsing or opposing candidates for judicial office. See Rule 4.2(B)(2).

[5] Although members of the families of judges and judicial candidates are free to engage in their own political activity, including running for public office, there is no "family exception" to the prohibition in paragraph (A)(3) against a judge or judicial candidate publicly endorsing nonjudicial candidates for public office. A judge or judicial candidate must not become involved in, or publicly associated with, a family member's political activity or campaign for public office. To avoid public misunderstanding, judges and judicial candidates should take, and should urge members of their families to take, reasonable steps to avoid any implication that they are using the prestige of the judicial office to endorse any family member's candidacy or other political activity.

[6] Judges and judicial candidates retain the right to participate in the political process as voters in both primary and general elections. For purposes of this Canon, participation in a caucus-type election procedure does not constitute public support for or endorsement of a political organization or candidate, is not prohibited by paragraphs (A)(2) or (A)(3) and is allowed by Paragraphs (A)(2) and (A)(5). Because Washington uses a caucus system for selection of delegates to the nominating conventions of the major political parties for the office of President of the United States, precluding judges and judicial candidates from participating in these caucuses would eliminate their ability to participate in the selection process for Presidential nominations. Accordingly, Paragraph (A)(3) and (5) allows judges and judicial candidates to participate in precinct caucuses, limited to selection of delegates to a nominating convention for the office of President of the United States. This narrowly tailored exception from the general rule is provided for because of the unique system used in Washington for nomination of Presidential candidates. If a judge or a judicial candidate participates in a precinct caucus, such person must limit participation to selection of delegates for various candidates.

STATEMENTS AND COMMENTS MADE DURING A CAMPAIGN FOR JUDICIAL OFFICE

[7] Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign committees. Paragraph (A)(10) obligates candidates and their committees to refrain from making statements that are false or misleading, or that omit facts necessary to make the communication considered as a

whole not materially misleading.

[8] Judicial candidates are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. For example, false or misleading statements might be made regarding the identity, present position, experience, qualifications, or judicial rulings of a candidate. In other situations, false or misleading allegations may be made that bear upon a candidate's integrity or fitness for judicial office. As long as the candidate does not violate paragraphs (A)(10), (A)(11), or (A)(12), the candidate may make a factually accurate public response. In addition, when an independent third party has made unwarranted attacks on a candidate's opponent, the candidate may disavow the attacks, and request the third party to cease and desist.

[9] Subject to paragraph (A)(11), a judicial candidate is permitted to respond directly to false, misleading, or unfair allegations made against him or her during a campaign, although it is preferable for someone else to respond if the allegations relate to a pending case.

[10] Paragraph (A)(11) prohibits judicial candidates from making comments that might impair the fairness of pending or impending judicial proceedings. This provision does not restrict arguments or statements to the court or jury by a lawyer who is a judicial candidate, or rulings, statements, or instructions by a judge that may appropriately affect the outcome of a matter.

PLEDGES, PROMISES, OR COMMITMENTS INCONSISTENT WITH IMPARTIAL PERFORMANCE OF THE ADJUDICATIVE DUTIES OF JUDICIAL OFFICE

[11] The role of a judge is different from that of a legislator or executive branch official, even when the judge is subject to public election. Campaigns for judicial office must be conducted differently from campaigns for other offices. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in Canon 4 allow candidates to conduct campaigns that provide voters with sufficient information to permit them to distinguish between candidates and make informed electoral choices.

[12] Paragraph (A)(12) makes applicable to both judges and judicial candidates the prohibition that applies to judges in Rule 2.10(B), relating to pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

[13] The making of a pledge, promise, or commitment is not dependent upon, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result. Pledges, promises, or commitments must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal views.

[14] A judicial candidate may make campaign promises related to judicial organization, administration, and court management, such as a promise to dispose of a backlog of cases, start court sessions on time, or avoid favoritism in appointments and hiring. A candidate may also pledge to take action outside the courtroom, such as working toward an improved jury selection system, or advocating for more funds to improve the physical plant and amenities of the courthouse.

[15] Judicial candidates may receive questionnaires or requests for interviews from the media and from issue advocacy or other community organizations that seek to learn their views on disputed or controversial legal or political issues. Paragraph (A)(12) does not specifically address judicial responses to such inquiries. Depending upon the wording and format of such questionnaires, candidates' responses might be viewed as pledges, promises, or commitments to perform the adjudicative duties of office other than in an impartial way. To avoid violating paragraph (A)(12), therefore, candidates who respond to media and other inquiries should also give assurances that they will keep an open mind and will carry out their adjudicative duties faithfully and impartially if elected. Candidates who do respond to questionnaires should post the questionnaire and their substantive answers so they are accessible to the general public. Candidates who do not respond may state their reasons for not responding, such as the danger that answering might be perceived by a reasonable person as undermining a successful candidate's independence or impartiality, or that it might lead to frequent disqualification. See Rule 2.11.

PERSONAL SOLICITATION OF CAMPAIGN FUNDS

[16] Judicial candidates should be particularly cautious in regard to personal solicitation of campaign funds. This can be perceived as being coercive and an abuse of judicial office. Accordingly, a general prohibition on personal solicitation is retained with a narrowly tailored exception contained in Paragraph (A)(7) for members of the judge's family and those who have agreed to serve on the judge's campaign committee. These types of

individuals generally have a close personal relationship to the judicial candidate and therefore the concerns of coercion or abuse of judicial office are greatly diminished. Judicial candidates should not use this limited exception as a basis for attempting to skirt the general prohibition against solicitation of campaign contributions.

RULE 4.2
Political and Campaign Activities of Judicial Candidates in Public Elections

(A) A judicial candidate* in a nonpartisan, public election* shall:

(1) Act at all times in a manner consistent with the independence,* integrity,* and impartiality* of the judiciary;

(2) comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations of this jurisdiction;

(3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by Rule 4.4, before their dissemination; and

(4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities, other than those described in Rule 4.4, that the candidate is prohibited from doing by Rule 4.1.

(B) A candidate for elective judicial office may:

(1) establish a campaign committee pursuant to the provisions of Rule 4.4;

(2) speak on behalf of his or her candidacy through any medium, including but not limited to advertisements, websites, or other campaign literature;

(3) seek, accept, or use endorsements from any person or organization.

COMMENT

[1] Paragraphs (B) permits judicial candidates in public elections to engage in some political and campaign activities otherwise prohibited by Rule 4.1.

[2] Despite paragraph (B), judicial candidates for public election remain subject to many of the provisions of Rule 4.1. For example, a candidate continues to be prohibited from soliciting funds for a political organization, knowingly making false or misleading statements during a campaign, or making certain promises, pledges, or commitments related to future adjudicative duties. See Rule 4.1(A), paragraphs (4), (10), and (12).

[3] Judicial candidates are permitted to attend or purchase tickets for dinners and other events sponsored by political organizations on behalf of their own candidacy or that of another judicial candidate.

[4] In endorsing or opposing another candidate for judicial office, a judicial candidate must abide by the same rules governing campaign conduct and speech as apply to the candidate's own campaign.

[5] Although judicial candidates in nonpartisan public elections are prohibited from running on a ticket or slate associated with a political organization, they may group themselves into slates or other alliances to conduct their campaigns more effectively.

RULE 4.3
Activities of Candidates for Appointive Judicial Office

A candidate for appointment to judicial office may:

(A) communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar agency; and

(B) seek endorsements for the appointment from any person or organization.

COMMENT

[1] When seeking support or endorsement, or when communicating directly with an appointing or confirming authority, a candidate for appointive judicial office must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. See Rule 4.1(A)(12).

RULE 4.4
Campaign Committees

(A) A judicial candidate* subject to public election* may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The candidate is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable law.*

(B) A judicial candidate subject to public election shall direct his or her campaign committee:

(1) to solicit and accept only such campaign contributions* as are reasonable, in any event not to exceed, in the aggregate amount allowed as provided for by law;

(2) not to solicit contributions for a candidate's current campaign more than 120 days before the date when filing for that office is first permitted and may accept contributions after the election only as permitted by law; and

(3) to comply with all applicable statutory requirements for disclosure and divestiture of campaign contributions, and to file with the Public Disclosure Commission all reports as required by law.

COMMENT

[1] Judicial candidates are generally prohibited from personally soliciting campaign contributions or personally accepting campaign contributions. See Rule 4.1(A) (7). This Rule recognizes that judicial candidates must raise campaign funds to support their candidacies, and permits candidates, other than candidates for appointive judicial office, to establish campaign committees to solicit and accept reasonable financial contributions or in-kind contributions.

[2] Campaign committees may solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct campaigns. Candidates are responsible for compliance with the requirements of election law and other applicable law, and for the activities of their campaign committees.

RULE 4.5
Activities of Judges Who Become Candidates for Nonjudicial Office

(A) Upon becoming a candidate for a nonjudicial elective office, a judge shall resign from judicial office, unless permitted by law* to continue to hold judicial office.

(B) Upon becoming a candidate for a nonjudicial appointive office, a judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code.

COMMENT

[1] In campaigns for nonjudicial elective public office, candidates may make pledges, promises, or commitments related to positions they would take and ways they would act if elected to office. Although appropriate in nonjudicial campaigns, this manner of campaigning is inconsistent with the role of a judge, who must remain fair and impartial to all who come before him or her. The potential for misuse of the judicial office, and the political promises that the judge would be compelled to make in the course of campaigning for nonjudicial elective office, together dictate that a judge who wishes to run for such an office must resign upon becoming a candidate.

[2] The "resign to run" rule set forth in paragraph (A) ensures that a judge cannot use the judicial office to promote his or her candidacy, and prevents post- campaign retaliation from the judge in the event the judge is defeated in the election. When a judge is seeking appointive nonjudicial office, however, the dangers are not sufficient to warrant imposing the "resign to run" rule.

[Adopted September 9, 2010; effective January 1, 2011]

APPENDIX E

SUPREME COURT GENERAL RULE 29(h)

PRESIDING JUDGE IN SUPERIOR COURT DISTRICT AND LIMITED JURISDICTION COURT DISTRICT

(h) Oversight of judicial officers. It shall be the duty of the Presiding Judge to supervise judicial officers to the extent necessary to ensure the timely and efficient processing of cases. The Presiding Judge shall have the authority to address a judicial officer's failure to perform judicial duties and to propose remedial action. If remedial action is not successful, the Presiding Judge shall notify the Commission on Judicial Conduct of a judge's substantial failure to perform judicial duties, which includes habitual neglect of duty or persistent refusal to carry out assignments or directives made by the Presiding Judge, as authorized by this rule.

APPENDIX F

MEMBERS' CONDUCT
***POLICIES AND PROCEDURES* PREFACE**

An independent and honorable judiciary is indispensable to justice in our society. As the Commission on Judicial Conduct is charged with maintaining the integrity and independence of the judiciary, a member should participate in establishing, maintaining, and enforcing, and should personally observe, high standards of conduct.

These rules apply equally to members and alternates of the Commission on Judicial Conduct. The use of the term "member" in these policies includes "alternate", unless the context clearly indicates otherwise.

SECTION 1. GENERAL POLICIES.

Policy 1.1 Attendance.

(a) Participation. Decisions by the Commission are enhanced by the participation of all members and alternates at all Commission meetings. Although alternate members may vote on a matter only when their designated regular member does not vote on that matter, alternate members are encouraged to participate in all Commission discussions.

(b) Attendance and Absence. While circumstances may not permit attendance by every member and every alternate member at every meeting, in the interest of case consistency and procedural integrity all members and alternate members are strongly encouraged to attend all Commission meetings. All members and alternate members should make every effort, especially during the first 12 months of their Commission membership, to attend all regularly scheduled meetings, and, during their term of office never to miss more than two consecutive meetings. All members and alternates should also make every effort to attend the annual member education/training session.

Policy 1.2. Meeting Dates. The regular Commission meeting date will be the first Friday of every other month, commencing in February of each year, unless otherwise scheduled by the Commission or the Chair, with the business meeting scheduled at 11:00 a.m. Prior to the beginning of the calendar year, the Chair shall set a full schedule of meetings.

Policy 1.3. Commission Retreat. After consultation with the members, the Chair may schedule an annual retreat for the purpose of reviewing Commission policies, philosophy and rules.

Policy 1.4. Minute Keeping. The secretary of the Commission will maintain two separate sets of minutes, one for the business meetings of the Commission and one for meetings involving the Consideration of Complaints.

Policy 1.5. Amendment of Policies.

(a) Adoption. These policies may only be amended or rescinded, or new policies adopted, by the affirmative vote of a majority of the members of the Commission.

(b) Notification. Notice of any Commission action on these policies shall be given to all members of the Commission at least 30 days before the meeting at which such action will be taken, unless the time period is shortened by unanimous vote of the Commission.

(c) Public Disclosure. Upon adoption, these policies and any amendments shall be made available for public inspection and shall be forwarded to:

Commission on Judicial Conduct
P. O. Box 1817
Olympia, WA 98507

SECTION 2. COMMISSION MEMBERSHIP.

Policy 2.1. Member Obligations.

(a) Notification. When an individual is appointed to the Commission, the member must notify the Washington Public Disclosure Commission (PDC).

(b) Orientation. When a new member is appointed to the Commission, the member shall attend an orientation conducted by the staff.

(c) Financial Disclosure. Members are subject to the financial disclosure requirements of the PDC. A Personal Financial Affairs Statement must be filed annually with the PDC pursuant to Chapter 42.17 RCW.

Policy 2.2. Representation by Members.

(a) Representation before Commission. No member may represent or counsel a judge in a matter before the Commission during the member's term on the Commission or within two years after the member's term has expired.

(b) Communications with Media. Commission members shall not communicate on behalf of the Commission with the news media regarding Commission business, except as provided in this policy. Inquiries about the Commission's official position in all matters may be responded to only by the Executive Director, the Chair of the Commission, or any Commission member designated by the Chair to represent the Commission.

Policy 2.3. Recommendations. The Executive Director may respond to an inquiry regarding a member's length of service with the Commission. Inquiries regarding a member's performance on the Commission, for the purpose of recommendation, are not appropriate for response from the Executive Director, members, or staff, except that the Executive Director or the Chair may, in their discretion, provide comment on a member's performance, but only to that member's appointing authority. Any such comment shall not identify any particular disciplinary matter nor shall it disclose the substance of any deliberations as to any disciplinary matter.

Policy 2.4. Removal of a Member. No member may otherwise be removed from the commission before the end of his or her term except upon good cause found by the appointing authority.

Policy 2.5. Enforcement of Policies. While members and alternates are expected to comply with all member policies, and while most member-policy noncompliance issues can likely be resolved informally and collegially without recourse to the appointing authorities, ultimate enforcement of these policies is in the hands of each member's respective appointing authority. Pursuant to RCW 2.64.030, members may be removed from the Commission before the end of their term only if they cease to hold the position that qualified them for appointment or upon good cause found by the respective appointing authority. Thus, the procedures set forth in this section are not mandatory but are merely voluntary guidelines for a possible course of action.

As used in these policies, the word "should" denotes a preferred, but not mandatory course of conduct, while the words "shall," "will," and "must" denote a mandatory course of conduct.

If a member or alternate fails to comply with a policy stating a mandatory course of conduct, or fails regularly to attend Commission meetings, the Chair or the Executive Director may consult the member or alternate as to the cause of such failure and may, as they may deem appropriate under the circumstances, report thereon to the other members. Depending on the nature and extent of the noncompliance, the Chair or Executive Director may engage in further consultation with the non-complying member or alternate member, and/or may refer the matter to the Commission as a whole, which may, by majority vote of regular members, recommend appropriate further corrective action, which may include a recommendation to that member's appointing authority that such member or alternate be removed from office.

Any recommendation made to an appointing authority to remove a member or alternate member from office should state the basis for the recommendation, list the member conduct policies allegedly violated, and describe the conduct in question. Before the Commission forwards such recommendation to the non-complying member's (or alternate member's) appointing authority, the Commission should notify the non-complying member or alternate member of such recommendation and should give that member or alternate member 10 calendar days to submit to the Commission a written statement agreeing or disagreeing with the Commission recommendation, which statement should then be submitted by the Commission, along with its own recommendation, to the appointing authority.

Unless and until the appointing authority removes a member or alternate member, or that member or alternate member resigns their membership in the Commission, that member or alternate shall retain all powers, and shall be obligated to perform all duties, of regular or alternate membership as the case may be.

SECTION 3. RULES OF CONDUCT.

Policy 3.1. Confidentiality.

(a) General Application. All disciplinary proceedings before the Commission are confidential. The fact that a complaint has been made, or a statement has been given to the Commission and all papers and matters submitted to the Commission together with the investigation and initial proceedings conducted pursuant to the CJCRPs, shall be confidential.

(b) Applicability to Member's Staff. Commission members and their personal staff must maintain the confidentiality of disciplinary proceedings.

(c) Gag Rule. A Commission member shall not speak publicly about a confidential disciplinary proceeding, or about a public disciplinary proceeding before the Commission until the matter is final (i.e., no appeal has been filed and the time for appeal has expired, or if there is an appeal, until the mandate of the Supreme Court has issued.)

(d) File Destruction. Members shall ensure that all confidential documents in their possession are secured. Members shall return their complaint files of closed matters or matters in which the member is disqualified. Members are

advised periodically as to which ongoing files they should have in their complaint notebooks.

(e) Former Members, Disciplinary Counsel, Investigative Counsel and Staff. These confidentiality rules also apply to former commission members, disciplinary counsel, investigative counsel and staff with regard to information they had access to while serving the commission.

Policy 3.2. Appearance of Impropriety.

(a) Private Conduct. A member should respect and comply with the law and should conduct the member's personal and professional business at all times in a manner that promotes public confidence in the integrity and impartiality of the Commission.

(b) Independent Judgment. In discharging responsibilities, a member should not allow the member's family, social, or other relationships to influence the member's conduct or judgment.

(c) Prestige of Office. A member should not lend the prestige of the member's office to advance the private interests of others, nor convey or knowingly permit others to convey the impression that they are in a special position to influence the member.

(d) Testimony before Commission. A member should not testify voluntarily as a character witness in a Commission proceeding.

(e) Financial Dealings. A member should refrain from financial and business dealings that directly or indirectly reflect adversely on the member's impartiality, interfere with the proper performance of Commission duties, or exploit the person's position as a member.

Policy 3.3. Political Activity.

(a) Judicial Campaigns. No member shall participate in any state or local judicial campaign, except where the member is a candidate for judicial office. Members shall not endorse, nor contribute to campaigns for state or local judicial office or state or local judicial appointment. When a member is a leader of an organization that endorses or rates judicial candidates, the member shall not participate in that process.

(b) Non-Judicial Campaigns. A member who is involved in any other political campaign shall not make reference to the member's affiliation with the Commission or act in any way that may indicate support for the candidate by the Commission.

Policy 3.4. Use of Electronic Resources.

(a) Purpose. The purpose of this policy is to communicate to Commission members and employees their limitations and responsibilities for proper use of state resources in general, information technology resources in general, and specifically computers, E-mail and Electronic Communications Resources, Systems and Services, and the Internet.

(b) State Resources Generally. Commission members and employees who use state-owned resources for any purpose are responsible for using the resources in an ethical, legal, and conservative manner. There are three distinct uses of state resources: (1) uses necessary to a member or an employee's conduct of official duties; (2) uses for a purpose other than the conduct of a member or an employee's official duties; and (3) uses which are prohibited.

(c) Uses Necessary to a Member or an Employee's Conduct of Official Duties. Commission on Judicial Conduct members and employees may, within their own discretion and as directed by their supervisor, use state resources to conduct their official duties.

(d) Uses for a Purpose Other Than the Conduct of a Member or an Employee's Official Duties. So long as the use does not involve one of the prohibited uses described below, Commission members and employees may make de minimus use of state resources for a purpose other than the conduct of official duties if the use:

a. Results in little or no cost to the state;
b. Is infrequent;
c. Is brief in duration;
d. Is the most effective use of time and resources;
e. Does not interfere with the performance of official duties;
f. Does not disrupt other members or employees;
g. Does not obligate other members or employees to make a personal use of state resources; and
h. Does not compromise the security or integrity of state property, information, or software.

(e) Uses Which Are Prohibited. The following non-official duty uses are strictly prohibited and no de minimus use is allowed. Commission members and employees are strictly prohibited from using state resources where that use involves:

a. Any campaign or political use;
b. conduct of an outside job or business;
c. supporting, promoting, or soliciting for an outside organization or group, unless provided for by law or authorized by the Executive Director or
d. illegal or inappropriate activities, including, but

not limited to, activities that violate any Commission policy. This includes accessing pornographic or otherwise inappropriate sites that could bring the Commission into disrepute.

Commission members and employees are not to allow others, such as family members and friends, to use state resources under their control. State regulations prohibit commission members and employees from using state resources for personal purposes and then reimbursing the state for the cost incurred. If a violation of these regulations occurs, the member or employee will be required to reimburse the Commission, but the reimbursement does not cure the violation.

(f) Computers. All Commission-owned computers, including without limitation desktop, laptop, and iPad personal computers as well as Commission servers and other platforms, are provided to Commission members and employees for conducting state business.

Commission members and employees are not to install or use on Commission computers or iPads any software that does not further state business purposes, such as games software. Valuable items (i.e. iPads, laptop computers, cellular phones, blackberry devices, digital cameras, etc.) must be secured and not left in plain sight when unattended. Loss, theft, or damage to any state owned equipment must be immediately reported to the Commission office.

(g) Use of State Computer Equipment at Home. Commission members and employees may use agency computer and iPad equipment at home or elsewhere to conduct Commission business. Recognized uses of state computer equipment include but are not limited to: preparation for Commission meetings, remote access to a state network for employment-related purposes, such as network maintenance, trouble-shooting or repair, and supervisory functions. Prior to receiving an iPad or other state computer equipment, members and employees shall sign a written use agreement.

(h) E-mail and Electronic Communications Resources, Systems and Services. Commission email is maintained in a closed system by the agency IT Manager. Commission members should, so far as possible, exclusively use the Commission email system for Commission-related emails. This helps ensure the security of the system and the confidentiality of Commission materials; and allows Commission emails to be maintained and researched efficiently in the event of public records requests, without the need to review personal or work email accounts of members or employees.

Commission members and employees may not download software from the Internet without the permission and assistance of the IT Manager or his/her designee.

(i) No Expectation of Privacy. The Commission has the right to access, inspect, or monitor any Commission-owned State Resource and any Commission member or employee's use of a Commission-owned State Resource. Commission members and employees cannot expect privacy in their use of Commission-owned State Resources, whether that use is one made in their conduct of official duties or is a use made for a purpose other than the conduct of official duties. This applies to all Commission-owned State Resources, including, but not limited to, offices, desks, cabinets, telephones, voice mail, electronic mail, computer hard drives, storage lockers, network storage, and the Internet.

(j) Sanctions. Violations of this policy may result in disciplinary action up to and including termination of employment or membership on the Commission. In addition, there may be separate actions against the employee for violation of the state's ethics law, criminal prosecution, and civil action.

SECTION 4. COMMISSION PROCEEDINGS.

Policy 4.1. Abstention. A member qualified to vote at a meeting of the Commission must vote in favor of or in opposition to each motion brought to a vote during that meeting, unless grounds exist for that member's disqualification.

Policy 4.2. Public Statements. After a judge has been served with a Statement of Charges, the Commission shall issue a public statement to the major wire services and to the local news media where the judge serves, and subsequently issues a public statement when a fact-finding hearing is set and when a final decision is filed.

Policy 4.3. Functions of Presiding Officer.

(a) Role. The Commission or its Chair may select a presiding officer for a disciplinary proceeding. The role of the presiding officer includes making preliminary procedural rulings regarding discovery and other deadlines, and various issues of protocol as they may arise. Issues regarding more substantive or potentially dispositive matters shall be considered by the Commission hearing panel.

(b) Rulings. The presiding officer shall make interim rulings, which may be discussed and considered by the other members of the panel. When there is disagreement with a

ruling by the presiding officer during a hearing, any other participating member may request a recess.

Policy 4.4. Questioning of Witnesses. Members may question witnesses during a hearing at the conclusion of counsel's interrogation, under the direction of the presiding officer.

Policy 4.5. Confidentiality of Proceedings.

(a) Staff Contact. After the Statement of Charges is served on the respondent judge, members shall cease to have contact with the investigative staff concerning substantive matters in that proceeding. Any further interaction between members and investigative staff in that proceeding is limited to logistical matters, where necessary. Members may continue to contact the Executive Director and non-investigative staff in logistical and other collateral matters, such as scheduling of the hearing, the distribution of materials, and other duties. The Commission may direct the Executive Director to facilitate appropriate communications between the Commission, respondent, and disciplinary counsel.

(b) Member Deliberations. After the Statement of Charges is served on the respondent judge and prior to the commencement of the public hearing pursuant to CJCRP 24 in a matter, members shall not discuss testimony or evidence or the merits of the case with anyone other than Commission members and Commission counsel. Because member deliberations require the full participation of all hearing panel members, members are encouraged to limit discussions on a case to discussions with the full panel. If members discuss a case with other members other than with the full panel, however, they are encouraged to summarize those discussions for the full panel so that other members may benefit from those discussions.

After the commencement of the public hearing under CJCRP 24 in a matter, members shall not discuss testimony or evidence or the merits of the case with anyone, including other members, until deliberations in that matter have commenced, at which time they may, as a panel, have such discussions with one another and with Commission counsel.

After the Statement of Charges is served on the respondent judge, members shall not seek or consider information relating to a case except as presented to them in the proceeding or pursuant to the Commission's Rules of Procedure.

Policy 4.6. Recording of Proceedings. During disciplinary proceedings, recordings shall be allowed in facilities which permit such recordings (as cost and availability make it practical to reserve such facilities), provided the media personnel do not distract from the proceedings or impair the dignity of the proceedings. To keep the proceedings from becoming disrupted, media personnel are to observe the following:

(a) Equipment shall be mechanically quiet;
(b) Television and radio coverage should be pooled;
(c) No additional lights or flash shall be used;
(d) Once the proceeding has commenced, cameras should remain stationary until the proceeding has recessed;
(e) Equipment shall be located at a reasonable distance from subject(s) being photographed or video taped; and,
(f) No interview shall be conducted in the hearing room until the proceeding has recessed.

SECTION 5. MEMBER DISQUALIFICATION.

Policy 5.1. Disqualification – General.

(a) Conditions for Disqualification. Members shall disqualify themselves when they cannot participate in a fair and reasonable manner or where their ability to do so might reasonably be questioned, including, for example, where the member:

(1) has a fixed bias or prejudice for or against the judge or complainant, or personal knowledge of disputed evidentiary facts relating to the matter or proceeding;

(2) is a lawyer or judge, and served as a lawyer or judge in connection with any events relating to the matter or proceeding which is the subject of the complaint;

(3) is a lawyer and has a present or past substantial business association with the lawyer who is representing a party;

(4) has been a material witness in the matter pending before the Commission;
[amended December 16, 2016]

(5) has a spouse, child, or other immediate family member who has a financial interest in any events relating to the matter or proceeding, individually or as a fiduciary.

(b) Subject of Complaint. No member shall participate in a proceeding in which the member is the subject of the complaint, a party, or a material witness,

(c) Disqualification by Other Members. If a member is the subject of a complaint, remaining members should disqualify themselves if they have a manifest disqualifying interest or if they doubt their ability to function impartially, as

provided in CJCRP 3(e)(1), unless such disqualification would result in a lack of a quorum under CJCRP 3(c).

(d) Unavailability of Member. Members who are not disqualified under CJC member policies from participating in a matter, but who are otherwise unable or unavailable to participate in a particular matter or proceeding, should disqualify themselves on the basis of their unavailability and should notify the Executive Director and the member's alternate member as promptly as possible. Members shall make all reasonable efforts to be available to participate in Commission work.

Policy 5.2. Disqualification by Lawyer-Members.

(a) Prior Representation. If respondent's attorney has represented a member in the recent past, that member should disqualify himself or herself to avoid the appearance of impropriety. Disqualification based on prior representation for matters in the more distant past is discretionary, and depends on the circumstances of the representation, the agreement of the parties, and the genuine belief of the member as to whether he or she can serve impartially. Such member should disclose the date and nature of the prior representation to the parties and other members.

(b) Appearance before Respondent. When a lawyer-member is appearing before a judge for pretrial or trial proceedings and learns the judge is the subject of a complaint or investigation by the Commission, the lawyer-member shall disqualify himself or herself from participating in that matter.

(c) Request for Respondent's Disqualification. If a lawyer-member is representing a client in a matter which is assigned to a judge against whom the Commission has filed a Statement of Charges, the lawyer-member must seek the judge's disqualification, and, if disqualification is refused, the member shall disqualify himself or herself from participating on matters involving those charges before the Commission.

SECTION 6. PERSONNEL ADMINISTRATION.

Policy 6.1. Annual Evaluations. The Commission will evaluate the Executive Director and investigative officer(s) annually. The Commission may, at its discretion, consult staff and personnel consultants.

Policy 6.2. Compensation.

(a) Staff. Commission staff shall receive any salary increases that are accorded to employees of State government by the Legislature.

(b) Executive Director. The Commission shall establish the salary range for the Executive Director. From time to time, the Commission's Personnel Committee shall review and make recommendations regarding any changes to the range. After considering the annual performance appraisal conducted by the Personnel Committee, the Executive Committee shall set the salary for the Executive Director. Based upon the performance appraisal, the Executive Committee shall also determine any Cost of Living Adjustments established by the Legislature.

Policy 6.3. Complaints Concerning Staff. If a member receives a complaint (written or oral) from a complainant, judicial officer or any other person, about a Commission staff member, other than the executive director, the member shall refer the complaint either to the executive director, the Chair, or the acting Chair.

If a member receives a complaint about the Executive Director, the member shall refer the complaint to the Chair or acting Chair, who shall inform the Executive Committee.

The Chair, Acting Chair or the Executive Committee may initiate an investigation. If the Chair, Acting Chair or Executive Committee is recused or unavailable for a significant period of time, then the complaint shall be referred to the Personnel Committee for a decision on further action or investigation. The Commission members shall be informed of investigative actions taken by the Chair, Acting Chair, Executive Committee or Personnel Committee.

SECTION 7. FINANCIAL RULES.

Policy 7.1. Witness Fees. Pursuant to CJCRP 14(e) and WAC 292-09-150, witnesses appearing for the Commission will be paid in the same amount as the Superior Court pays in the judicial district in which the Commission hearing is being held.

Policy 7.2. Contracted Attorney Services. The Commission will contract with attorneys of demonstrated experience, expertise, and reputation at no more than standard hourly rates, as set by the executive director, for services required.

Policy 7.3 Expense Reimbursement

(a) Lodging. Reimbursement for lodging expenses within 50 miles of an employee's or member's official residence or station is prohibited unless: 1) an overnight stay is necessary because of back-to-back evening/early morning meetings, or 2) an overnight stay is necessary to avoid driving in severe inclement weather, or 3) it is necessary to accommodate a health/safety issue or disability. An exception to this policy for other conditions, on a case-by-case basis, must be requested from the director

of the Office of Financial Management (OFM). Any exception to this policy will be submitted to OFM through the Executive Director.

(b) Meal Reimbursement. Members will be reimbursed up to the state meal allowance if the following conditions are met:

(1) A member is in travel status during the entire meal period for the applicable meal allowance: Breakfast (7:00 a.m. - 8 a.m.); Lunch (12:00 p.m. - 1:00 p.m.); and, Dinner (5:00 p.m. - 6 p.m.) **AND**,

(2) A member is in travel status for at least three (3) hours beyond what is considered a regularly scheduled work day (8 a.m. to 5 p.m.). This is referred to as the three-hour rule. The three hours may consist of hours occurring before, after, or a combination of both before and after what is considered a regularly scheduled work day. ***NOTE****: If a member qualifies for meal reimbursement under the three-hour rule and does not stay overnight, such reimbursement is considered a taxable fringe benefit*, **OR**,

(3) A member incurred a cost for a meal that was an integral part of a meeting or training session (See Meals with Meetings below).

(c) Meals with Meetings. In accordance with regulations of the Office of Financial Management (OFM), the Executive Director may authorize expenditures for meals, coffee, and/or light refreshments at meetings or formal training sessions regardless of travel status and without regard to the three-hour rule when the purpose of the meeting is to conduct official state business or to provide training to state employees or state officials and the meals are an integral part of the business meeting or training session.

(d) Airfare. All airline reservations shall be made through the CJC office to ensure all legally mandated state contracts are adhered to. An exception to this rule would be if a flight was canceled and it was necessary for the traveler to purchase another ticket with personal funds in order to return home. Under this exception, the most economical flight should be chosen and reimbursement would be approved.

(e) Rental Cars. All reservations for rental cars shall be made through the CJC office to ensure that the state contract is adhered to. Rental cars should be used for official state business only. State regulations and other applicable laws strictly limit liability coverage to authorized state uses. Original receipts are necessary for gas purchases in order to claim reimbursement.

(f) Mileage Reimbursement. When a member drives a personal vehicle on agency business, he/she may claim mileage reimbursement at the current state per mile rate. The mileage shall be determined either by an actual odometer reading, from mapping software or from the official state mileage map.

(g) Combining Personal Travel with Business. Members may combine vacation or other personal travel with a legitimate CJC-related trip when; (1) the primary purpose of the trip is official state business; AND, (2) the agency does not incur any extra expenses beyond the normal expenses had the trip occurred without any personal time combined with the trip. Approval for reimbursement must be received from the Executive Director prior to the beginning of the trip.

Policy 7.4. Commission Member Compensation. Members shall be compensated at the rate allowed for 'class four' boards and commissions pursuant to RCW 43.03.250(2), for attending meetings of the Commission. The Chair shall designate official meetings or delegate the Executive Director to do so. Additionally, the Chair or his/her delegate, the Executive Director, may authorize compensation for members who attend other meetings, conferences, or conventions as bona fide representatives of the Commission. Members shall notify staff if they are ineligible for the compensation provided by RCW 43.03.250, or if they elect to waive receipt of compensation. A government-employed member may accept compensation only if the member is not employed full time by a government entity or does not receive compensation from such government-employer for that day. Any member may waive, in writing, in whole or in part, compensation for which the member is otherwise eligible on any given occasion.

For those members eligible to receive compensation for meeting attendance, there is a presumption the compensation is waived if the time to attend the meeting is less than two hours, including travel to and from the meeting. Members should consider the following nonexclusive factors in requesting compensation for meetings requiring less than two hours to attend:

- *loss of income in order to participate;*
- *expenses undergone to participate such as care-taking costs;*
- *any other expense that the commission should reasonably offset for the member's participation.*

Complaint Filing Information

APPENDIX G

INSTRUCTIONS ON FILING A COMPLAINT

To file a complaint, please fill out a complaint form or write a brief statement of your complaint. Complaints may be filed online at the CJC website, www.cjc.state.wa.us, or on the paper form by mail or fax. In addition, please review the confidentiality provisions for additional information on what confidentiality rules apply to you, the complainant. Finally, mail or fax your complaint directly to the Commission's office. **DO NOT** send a copy to the judge.

If you choose to write a letter, the letter should:

- identify the judge
- specify the conduct or action you believe was improper
- identify by name, telephone and address any witnesses
- include any documents or correspondence that may support your allegations

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, safe delivery and return. For security reasons, we do not accept thumb-drives or other removable storage devices. CDs and DVDs will be accepted. If the Commission's investigators require more information, you will be contacted.

Please note: As a result of confidentiality concerns, the Commission **DOES NOT accept** complaint-related correspondence by e-mail. You must either file online via our website at www.cjc.state.wa.us, mail, or fax your complaint form to our office:

Commission on Judicial Conduct
P.O. Box 1817
Olympia, WA 98507
FAX: (360) 586 - 2918

COMPLAINT FORM

STATE OF WASHINGTON
COMMISSION ON JUDICIAL CONDUCT
P.O. Box 1817 Olympia, WA 98507 (360) 753-4585 Fax (360) 586-2918

For Office Use Only

Inq.# _____

CONFIDENTIAL

This form is designed to provide the Commission with information required to make an initial evaluation of your complaint, and to begin an investigation of your allegations. Please read the accompanying materials on the Commission's function and procedures before you complete this form.

▸ **Materials filed in the Commission's confidential records cannot be duplicated for you.**
▸ **If you need to maintain a record, keep a copy.**
▸ **Do not send original records you wish to keep without making prior arrangements for their loan, safe delivery and return.**
▸ **For security reasons, we do not accept thumb-drives or other removable storage devices. CDs and DVDs will be accepted.**

PLEASE TYPE OR PRINT ALL INFORMATION

Your Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Daytime telephone: _____ Evening telephone: _____

Email address: _____

Name of Judge/Commissioner: _____ County: _____

Court level: ❑ Municipal ❑ District ❑ Superior ❑ Appeals ❑ Supreme

Case Name and Docket Number, if applicable: _____

Attorneys involved: _____

If this complaint relates to a trial or other court proceeding, has it been or will it be appealed?

❑ Yes ❑ No ❑ Not applicable

Please provide a brief summary of the unethical actions or behaviors that you believe were committed by this judge or commissioner. (If you wish, you may refer to the Code of Judicial Conduct which you can find in the Washington Court Rules or on our website at www.cjc.state.wa.us.)

Please list the dates of alleged misconduct: _____

SUPPORTING FACTS:
Please state specific facts to support your allegation(s) of judicial misconduct. Include all pertinent dates, and name(s) of witnesses, if known. Attach **copies** of any documents which may support your position. You may attach additional pages if needed.

Signed: _____ Date: _____

Send completed form to: Commission on Judicial Conduct, PO Box 1817, Olympia, WA 98507

Note: Due to confidentiality requirements complaints cannot be accepted via e-mail.

[If you have a disability which requires assistance in filing a complaint or you would like this form in an alternate format, such as Braille, large print or audio tape, contact this office at (360) 753-4585 voice or TDD. We will take reasonable steps to accommodate your needs.]

State of Washington
Commission on Judicial Conduct

CONFIDENTIALITY PROVISIONS

The Commission's duties and procedures are generally described in the State Constitution, Art. IV, Sec. 31. The Constitution declares that "the investigation and initial proceedings shall be confidential." The applicable statutes and Commission rules provide that the Commission conduct its investigations confidentially. Excerpts are provided on the other side of this page for your information.

Confidentiality applies to the Commission and its staff, court personnel, and lawyers, as officers of the court. Confidentiality is intended to encourage complainants to express their concerns without fear of reprisal or retribution. It is further intended to protect a judge's reputation and the integrity of the judicial process from unsubstantiated allegations.

We ask your cooperation in keeping the fact that you have filed a complaint confidential while we conduct the investigation, for the following reasons:

- It is far more difficult to conduct an accurate and thorough investigation if it is not kept confidential.

- If you tell a judge you filed a complaint against him or her, case law is clear that ***does not*** require the judge to step down from your case.

At any time, you **can** tell anyone about the facts on which you base your complaint or statement. In other words, while you are welcome to speak as you wish about what you think the judge did wrong, we ask that you not discuss the fact that you complained to our agency while we are investigating your complaint.

Confidentiality rules continue to apply to the Commission and its staff, regardless of the complaint's disposition. Commission files and records, which have not become public as provided by law, remain confidential.

If you have any questions concerning these rules, please contact the Commission's office for clarification.

Confidentiality Provisions Excerpts

CJCRP RULE 11. CONFIDENTIALITY

(a) Investigative and initial proceedings.

(1) Before the commission files a statement of charges alleging misconduct by or incapacity of a judge, all proceedings, including commission deliberations, investigative files, records, papers and matters submitted to the commission, shall be held confidential by the commission, disciplinary counsel, investigative officers, and staff except as follows:

(A) With the approval of the commission, the investigative officer may notify respondent that a complaint has been received and may disclose the name of the person making the complaint to respondent pursuant to Rule 17(e).

(B) The commission may inform a complainant or potential witness of the date when respondent is first notified that a complaint alleging misconduct or incapacity has been filed with the commission. The name of the respondent, in the discretion of the commission, may not be used in written communications to the complainant.

(C) The commission may disclose information upon a waiver in writing by respondent when:

(i) Public statements that charges are pending before the commission are substantially unfair to respondent; or

(ii) Respondent is publicly accused or alleged to have engaged in misconduct or with having a disability, and the commission, after a preliminary investigation, has determined that no basis exists to warrant further proceedings or a recommendation of discipline or retirement.

(D) The commission has determined that there is a need to notify another person or agency in order to protect the public or the administration of justice.

(2) The commission and court personnel shall keep the fact that a complaint has been made, or that a statement has been given to the commission confidential during the investigation and initial proceeding except as provided under Rule 11.

(3) No person providing information to the commission shall disclose information they have obtained from the commission concerning the investigation, including the fact that an investigation is being conducted, until the commission files a statement of charges, dismisses the complaint, or otherwise concludes the investigation or initial proceeding.

(b) Hearings on statement of charges.

(1) After the filing of a statement of charges, all subsequent proceedings shall be public, except as may be provided by protective order.

(2) The statement of charges alleging misconduct or incapacity shall be available for public inspection. Investigative files and records shall not be disclosed unless they formed the basis for probable cause. Those records of the initial proceeding that were the basis of a finding of probable cause shall become public as of the date of the fact-finding hearing.

(3) Disciplinary counsel's work product shall be confidential.

(c) Commission deliberations. All deliberations of the commission in reaching a decision on the statement of charges shall be confidential.

(d) General Applicability.

(1) No person shall disclose information obtained from commission proceedings or papers filed with the commission, except that information obtained from documents disclosed to the public by the commission pursuant to Rule 11 and all information disclosed at public hearings conducted by the commission are not deemed confidential under Rule 11.

(2) Any person violating Rule 11 may be subject to a proceeding for contempt in superior court.

(3) A judge shall not intimidate, coerce, or otherwise attempt to induce any person to disclose, conceal or alter records, papers, or information in violation of Rule 11. Violation of Rule 11 (d)(3) may be charged as a separate violation of the Code of Judicial Conduct.

(4) If the commission or its staff initiates a complaint under Rule 17 (b)(1), then Rule 11 (a)(1) as it applies to the commission shall govern the commission and its staff.

(5) These confidentiality rules also apply to former commission members, disciplinary counsel, investigative counsel and staff with regard to information they had access to while serving the commission.

Comment on Rule 11:

The integrity of investigations would be harmed, the privacy interests of individuals, and the independence of the judiciary would be adversely affected without providing for limited restrictions of information learned or provided to the Commission during the investigation. Confidentiality is critical for the integrity of the Commission investigations, and often influences whether a person who works directly with a judge is willing to file a complaint or disclose misconduct in an investigation. Prohibiting disclosure that a complaint has been filed, or that a person has been interviewed, protects those persons from questioning by their supervising judge, or by others. The confidentiality required during the investigation of a complaint also protects the independence of the judiciary by preventing unfounded complaints from being used to threaten or distract judges. After considering alternate ways of providing this necessary protection, the Commission has concluded that the temporary restrictions on public disclosure in this rule are the narrowest restrictions that will provide the confidentiality needed for persons who disclose misconduct or file complaints and for the judges under investigation. The reason lawyers are covered by this rule is that they are officers of the court and are especially charged with maintaining the integrity and independence of the judiciary.

RCW 2.64.111 Exemption from public disclosure -- Records subject to public disclosure, when. All pleadings, papers, evidence records, and files of the commission, including complaints and the identity of complainants, compiled or obtained during the course of an investigation or initial proceeding involving the discipline or retirement of a judge or justice, are exempt from the public disclosure requirements of chapter 42.56 RCW during such investigation or initial proceeding. As of the date of a public hearing, all those records of the initial proceeding that were the basis of a finding of probable cause are subject to the public disclosure requirements of chapter 42.56 RCW.

RCW 2.64.113 Confidentiality--Violations. The commission shall provide by rule for confidentiality of its investigations and initial proceedings in accordance with Article IV, section 31 of the state Constitution.

Any person violating a rule on confidentiality is subject to a proceeding for contempt in superior court.

Note: These confidentiality mandates prevent the Commission from providing copies of confidential materials to anyone, except as provided by law. If you need to maintain a record, please keep a copy.

Revised: July 14, 2007

Printed on recycled materials

STATE OF WASHINGTON COMMISSION ON JUDICIAL CONDUCT
PO Box 1817, Olympia, WA 98507 (360) 753-4585 www.cjc.state.wa.us