

Chapter JC 4

MISCONDUCT

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JC 4.01 Allegation. The commission shall consider any allegation of misconduct from any source which reasonably indicates the existence of a cause justifying inquiry. Any person may submit a statement to the commission alleging misconduct by a judge. The person may request that his or her identity be kept confidential, which request shall be complied with prior to the filing of a formal complaint with the supreme court under s. 757.85 (5), Stats. The executive director may seek additional facts to include in the allegation. Allegations of misconduct shall be reduced to writing. The executive director shall make preliminary evaluations of the allegations.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79.;am. Register, February, 1982, No. 314, eff. 3-1-82.

JC 4.02 Screening. (1) If the chairperson requests, the screening committee shall screen any allegation under s. JC 4.01, which is not initiated by the commission. The committee shall either recommend that the allegation be dismissed under sub. (2) or determine that the allegation indicates possible misconduct warranting investigation and refer the matter to the executive director for investigation under s. JC 4.03.

(2) If the committee votes to dismiss the allegation, the matter shall be referred to the commission. The commission may vote either to dismiss the allegation or that the allegation indicates possible misconduct warranting investigation under s. JC 4.03. If an allegation is dismissed the commission shall notify the person who made the allegation and may notify the judge.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79.;am. Register, February, 1982, No. 314, eff. 3-1-82.

JC 4.03 Investigation. (1) If the commission or the screening committee determines that an investigation is warranted, the matter shall be referred to the executive director for investigation. The executive director shall notify the person who made the allegation of the investigation. The executive director shall also notify the judge of the investigation unless the commission determines otherwise for good cause. The executive director shall conduct a full, fair and prompt investigation. The investigation shall be conducted so as to avoid unnecessary embarrassment to and publicity for the judge. Persons contacted for information shall be directed not to disclose that an investigation is being conducted or the nature of any inquiries. Any person providing information may request that his or her identity be kept confidential. The request shall be complied with prior to the filing of a formal complaint with the supreme court under s. 757.85 (5), Stats. A judge, if notified under this subsection, may present such evidence to the executive director as the judge deems appropriate.

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(2) The commission, by its chairperson or executive director, may issue subpoenas to compel the attendance and testimony of witnesses and to command the production of books, papers, documents or tangible things designated in the subpoena in connection with an investigation.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79.;am. Register, February, 1982, No. 314, eff. 3-1-82.

JC 4.04 Report to commission. (1) The executive director shall report to the commission on the status of all cases at each meeting.

(2) The executive director shall prepare a report of each investigation made, which shall be given or mailed to each commission member.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79.;am. Register, February, 1982, No. 314, eff. 3-1-82.

JC 4.05 Commission consideration. After considering the report of the investigation under s. JC 4.03, and the facts furnished to it, the commission shall dismiss the allegation or find that there is cause to proceed further. If the allegation is dismissed, the commission shall notify the person who made the allegation and shall notify the judge if he or she has been notified of the investigation or may notify the judge if he or she has not been previously notified of the investigation. If the commission determines that there is a cause to proceed further, the judge shall then be notified and be given an opportunity to respond. The judge shall be given the substance of the allegation and may be given such further information concerning the allegation as the commission deems proper under the circumstances.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79.;am. Register, February, 1982, No. 314, eff. 3-1-82.

JC 4.06 Response by the judge. The judge may present a response to the commission. The commission shall determine the method of presentation of the response and so advise the judge. The judge may appear in person or by counsel, or both, before the commission.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79.;am. Register, February, 1982, No. 314, eff. 3-1-82.

JC 4.07 Commission finding. (1) Following the conclusion of proceedings under s. JC 4.05 or 4.06, the commission may vote to do any of the following:

(a) Refer the matter back to the executive director for further investigation under s. JC 4.03. In such a case, the judge has an additional right to respond under s. JC 4.06 if the commission again decides there is cause to proceed further under s. JC 4.05.

(b) Find that probable cause does not exist that a judge has engaged or is engaging in misconduct, and dismiss the allegation.

(c) Find that by reason of the lapse of time or other circumstances the conduct described in the allegation is no longer relevant to his or her continued conduct as a judge, and dismiss the allegation.

(d) Find that the alleged misconduct involves any of the following and dismiss the allegation with such admonition as the commission deems appropriate:

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1. The violation of only one standard of the code of judicial ethics.
2. The violation of a rule of the code of judicial ethics which is not wilful.
3. The failure to perform official duties which is not wilful or persistent.
4. The alleged misconduct does not warrant prosecution because of its minor nature or other circumstances.

(e) Find that any misconduct specified in the allegation is caused by a mental or physical condition for which treatment is appropriate and, with the agreement of the judge, hold open the allegation until the judge completes an appropriate treatment program. Upon successful completion of the program and demonstration that the conduct is unlikely to be repeated, the allegation shall be dismissed. Otherwise, a finding shall be made under par. (f) or (g).

(f) Find that probable cause exists that a judge has engaged or is engaging in misconduct, and file a formal complaint with the supreme court under s. 757.85 (5), Stats.

(g) Make such other disposition of the matter as is appropriate under the circumstances.

(2) In this section "probable cause" means that it is more probable than not that misconduct occurred.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79; am. (1) (d), r. (1) (f), renum. (1) (g) to be (1) (f) and am., cr. (1) (d) 1. to 4. and (1) (g), Register, February, 1982, No. 314, eff. 3-1-82.