

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

KATHERINE STOCKS
Director and State Court
Administrator



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AGENDA

**Commission to Study the Rules Governing Judicial Discipline and Update, as
Necessary, the Nevada Code of Judicial Conduct**

Date and Time of Meeting: June 20, 2022 @ 2:00 pm

Place of Meeting: Remote Access via Zoom (Zoom.com or Zoom app, see “Notices” for access information)

All participants attending remotely should mute their microphones when not speaking; it is highly recommended that teleconference attendees use a landline and handset in order to reduce background noise.

- I. Call to Order
 - A. Call of Roll
 - B. Determination of a Quorum
 - C. Welcome and Opening Remarks
- II. Public Comment
- III. Discussion of Commission Scope and Mission
 - A. Authority of the NJDC to Adopt Rules (***Tab 1; Pages 3-5***)
- IV. Review of Procedural Rules of the Nevada Commission on Judicial Discipline (***Tab 2; Pages 6-21***)
- V. Review of NRS Chapter 1 (***Tab 3; Pages 22-39***)
- VI. Additional Suggested Items for Commission Review
 - A. Commissioner Term Limits
 - B. Structure of Commission Proceedings
 1. Nationwide Judicial Discipline Commission Survey (***Tab 4; Pages 40-56***)
 - C. Gender Equality in Panel Membership
 - D. Electronic Testimony of Witnesses
 - E. Oral Argument and Prescribed Time Limit for Ruling on Prehearing Motions

F. Review of NJDC's Decision to Not Investigate Instances of Misconduct by Judicial Candidates During the 2020 Election Cycle

VII. Other Items/Discussion

VIII. Next Meeting Date and Location

A. TBD

IX. Public Comment

X. Adjournment

- Action items are noted by * and typically include review, approval, denial, and/or postponement of specific items. Certain items may be referred to a subcommittee for additional review and action.
- Agenda items may be taken out of order at the discretion of the Chair to accommodate persons appearing before the Commission and/or to aid in the time efficiency of the meeting.
- If members of the public participate in the meeting, they must identify themselves when requested. Public comment is welcomed by the Commission but may be limited at the discretion of the Chair.
- The Commission is pleased to provide reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If assistance is required, please notify Commission staff by phone or by email no later than two working days prior to the meeting, as follows: Jamie Gradick, (775) 687-9808 - email: jgradick@nvcourts.nv.gov
- This meeting is exempt from the Nevada Open Meeting Law (NRS 241.030)
- At the discretion of the Chair, topics related to the administration of justice, judicial personnel, and judicial matters that are of a confidential nature may be closed to the public.
- **Notice of this meeting was posted in the following locations:** Nevada Supreme Court website: www.nvcourts.gov; Carson City: Supreme Court Building, Administrative Office of the Courts, 201 South Carson Street; Las Vegas: Nevada Supreme Court, 408 East Clark Avenue.

Meeting ID: 827 7026 6442
Participant Passcode: 046528

Please Note: Those attending via mobile device should use the Zoom application to access the meeting.

TAB 1

NRS 1.462 Proceedings before Commission; applicable rules.

1. Proceedings before the Commission are civil matters designed to preserve an independent and honorable judiciary.

2. Except as otherwise provided in [NRS 1.425](#) to [1.4695](#), inclusive, or in the procedural rules adopted by the Commission, after a formal statement of charges has been filed, the Nevada Rules of Civil Procedure apply.

(Added to NRS by [2009, 1336](#))

The Constitution of the State of Nevada

Sec. 21. Commission on Judicial Discipline; Code of Judicial Conduct.

1. A justice of the Supreme Court, a judge of the court of appeals, a district judge, a justice of the peace or a municipal judge may, in addition to the provision of Article 7 for impeachment, be censured, retired, removed or otherwise disciplined by the Commission on Judicial Discipline. Pursuant to rules governing appeals adopted by the Supreme Court, a justice or judge may appeal from the action of the Commission to the Supreme Court, which may reverse such action or take any alternative action provided in this subsection.

2. The Commission is composed of:

(a) Two justices or judges appointed by the Supreme Court;

(b) Two members of the State Bar of Nevada, a public corporation created by statute, appointed by its Board of Governors; and

(c) Three persons, not members of the legal profession, appointed by the Governor.

Ê The Commission shall elect a Chairman from among its three lay members.

3. If at any time the State Bar of Nevada ceases to exist as a public corporation or ceases to include all attorneys admitted to practice before the courts of this State, the Legislature shall provide by law, or if it fails to do so the Supreme Court shall provide by rule, for the appointment of attorneys at law to the positions designated in this Section to be occupied by members of the State Bar of Nevada.

4. The term of office of each appointive member of the Commission, except the first members, is 4 years. Each appointing authority shall appoint one of the members first appointed for a term of 2 years. If a vacancy occurs, the appointing authority shall fill the vacancy for the unexpired term. An appointing authority shall not appoint more than one resident of any county. The Governor shall not appoint more than two members of the same political party. No member may be a member of a commission on judicial selection.

5. The Legislature shall establish:

(a) In addition to censure, retirement and removal, the other forms of disciplinary action that the Commission may impose;

(b) The grounds for censure and other disciplinary action that the Commission may impose, including, but not limited to, violations of the provisions of the Code of Judicial Conduct;

(c) The standards for the investigation of matters relating to the fitness of a justice or judge; and

(d) The confidentiality or nonconfidentiality, as appropriate, of proceedings before the Commission, except that, in any event, a decision to censure, retire or remove a justice or judge must be made public.

6. The Supreme Court shall adopt a Code of Judicial Conduct.

7. The Commission shall adopt rules of procedure for the conduct of its hearings and any other procedural rules it deems necessary to carry out its duties.

8. No justice or judge may by virtue of this Section be:

(a) Removed except for willful misconduct, willful or persistent failure to perform the duties of his office or habitual intemperance; or

(b) Retired except for advanced age which interferes with the proper performance of his judicial duties, or for mental or physical disability which prevents the proper performance of his judicial duties and which is likely to be permanent in nature.

9. Any matter relating to the fitness of a justice or judge may be brought to the attention of the Commission by any person or on the motion of the Commission. The Commission shall, after preliminary investigation, dismiss the matter or order a hearing to be held before it. If a hearing is ordered, a statement of the matter must be served upon the justice or judge against whom the proceeding is brought. The Commission in its discretion may suspend a justice or judge from the exercise of his office pending the determination of the proceedings before the Commission. Any justice or judge whose removal is sought is liable to indictment and punishment according to law. A justice or judge retired for disability in accordance with this Section is entitled thereafter to receive such compensation as the Legislature may provide.

10. If a proceeding is brought against a justice of the Supreme Court, no justice of the Supreme Court may sit on the Commission for that proceeding. If a proceeding is brought against a judge of the court of appeals, no judge of the court of appeals may sit on the Commission for that proceeding. If a proceeding is brought against a district judge, no district judge from the same judicial district may sit on the Commission for that proceeding. If a proceeding is brought against a justice of the peace, no justice of the peace from the same township may sit on the Commission for that proceeding. If a proceeding is brought against a municipal judge, no municipal judge from the same city may sit on the Commission for that proceeding. If an appeal is taken from an action of the Commission to the Supreme Court, any justice who sat on the Commission for that proceeding is disqualified from participating in the consideration or decision of the appeal. When any member of the Commission is disqualified by this subsection, the Supreme Court shall appoint a substitute from among the eligible judges.

11. The Commission may:

(a) Designate for each hearing an attorney or attorneys at law to act as counsel to conduct the proceeding;

(b) Summon witnesses to appear and testify under oath and compel the production of books, papers, documents and records;

(c) Grant immunity from prosecution or punishment when the Commission deems it necessary and proper in order to compel the giving of testimony under oath and the production of books, papers, documents and records; and

(d) Exercise such further powers as the Legislature may from time to time confer upon it.

TAB 2

Procedural Rules of the Nevada Commission on Judicial Discipline

I. GENERAL PROVISIONS

Rule 1. Scope of Rules.

These rules carry out the obligation of the Nevada Commission on Judicial Discipline to adopt rules of procedure for the conduct of its hearings and other procedural rules necessary to carry out its duties as imposed by Section 21(7) of Article 6 of the Constitution of Nevada.

Rule 2. Definitions.

In these rules, unless the context requires otherwise:

1. "Alternate" means any judge designated by the Nevada Supreme Court to act in place of a specific judicial member of the Commission. "Alternate," when referring to a bar member, means any lawyer designated by the Board of Governors of the State Bar of Nevada to act in place of a specific lawyer member of the Commission. "Alternate," when referring to a lay member, means any lay member designated by the Governor to act in place of a specific lay member of the Commission.
2. "Commission" means the Nevada Commission on Judicial Discipline.
3. "Executive Director" means any person who serves in the administrative capacity as Executive Director of the Commission.
4. ~~"General Counsel" means any person who serves in the capacity of legal advisor to the Commission.~~
5. "Formal Statement of Charges" means the document filed by the designated Prosecuting Officer.
6. "Judicial Misconduct" means commission of any act which is a ground for discipline set forth in NRS 1.4653.
7. "Member" shall include such Alternates who have been seated in any specific meeting, case, or proceeding.
8. ~~"Prosecuting Officer"~~Prosecutor means an attorney designated by the commission to file and prosecute a complaint or a formal statement of charges.
9. "Judge" shall have the meaning as set forth in NRS 1.428.
10. "Reasonable Probability" means a finding by the Commission that there is a reasonable probability the evidence available

for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the Respondent named in the complaint.

11. "Respondent" means any supreme court justice, appellate court judge, district judge, justice of the peace, or municipal court judge or referee, master, or commissioner who is the subject of any disciplinary or removal proceedings instituted in accordance with these rules.

12. "Service" and "notice" mean service or notice by personal delivery or by registered mail or certified mail, return receipt requested, or by electronic means (email). "Serve" and "notify" have corresponding meanings.

Rule 3. Structure; Meetings; Formal Hearings.

1. A Respondent may not participate as a member of the Commission in any proceeding involving a charge against Respondent.

2. A member of the Commission who cannot serve by reason of disqualification, resignation, inability to attend or any other reason is to be replaced by his or her alternate(s).

3 In the event of such a replacement, an Alternate must act and vote in the place of the absent member. In proceedings against a municipal judge or justice of the peace, ~~within 20 days after service of a Formal Statement of Charges, the Respondent may file a demand with the Commission's clerk, sending a copy to the Chief Justice, requesting that~~ the Nevada Supreme Court shall substitute as judicial members of the Commission judges serving in courts of limited jurisdiction outside the county in which the Respondent presides. ~~3.~~The Commission may be convened by the chairperson or on request of three or more members. Meetings may be held on not less than three (3) days' notice, but this requirement may be waived by consent of all the members.

4. A quorum for the conduct of business other than the hearing and decision of formal disciplinary proceedings is four members. The action of a majority of the members present at any meeting at which a quorum is present is the action of the Commission, except that no Respondent may be censured, temporarily suspended under rule 9, removed or retired from office or punished for contempt, unless five (5) or more members so concur.

5. Commission business requiring approval of the members may be transacted either at an in-person meeting or by telephone, videoconference, electronic mail ("email") or other informal poll of all members appointed, the majority concurring, but if any member objects to such a poll, the matter must be deferred until the next telephonic or in-person meeting.

6. Any member of the Commission or sitting Alternate member may be disqualified upon challenge for cause by the Respondent or by counsel prosecuting a complaint or a Formal Statement of Charges. A challenge must be heard by the Commission, and the Commission may disqualify any commissioner who by reason of ~~4~~ actual or implied bias would, in the opinion of a majority of the members present, either be prevented from adjudicating the matter in a fair and impartial manner or, by reason of facts creating an appearance of impropriety, be prevented from adjudicating the matter in a manner consistent with maintenance of public confidence in the Commission.

7. A challenge for implied bias must be allowed on a showing of any of the grounds relating to jurors which are enumerated in NRS 16.050.

8. No later than 20 days prior to the commencement of a hearing upon a Formal Statement of Charges, counsel appointed to present evidence in support thereof or counsel for the Respondent may exercise a single peremptory challenge to any of the Commission members. The peremptory challenge must be filed in writing with the clerk of the Commission. A formal hearing may proceed before a quorum of five (5) members of the Commission.

9. No member may vote by substitution or proxy.

II. PRIVILEGED COMMUNICATIONS

Rule 4. Privileged Communications. The following are privileged communications and shall not be divulged to any person or court.

1. All communications between the Commission and its staff.

2. All deliberations of the Commission, including all meeting minutes of the Commission.

3. All communications either oral or written between ~~General counsel and/or~~ Executive Director and members of the Commission.

4. All communications between ~~General Counsel or~~ Executive Director and Commission staff, ~~prosecuting officers~~the prosecutor, or Commission investigators.

Rule 5. Violations of the Nevada Code of Judicial Conduct.

Members of the Commission who are judges are subject to disciplinary proceedings before the Commission for violations of the Nevada Code of Judicial Conduct, and are also subject to removal as members of the Commission upon order of the Nevada Supreme Court.

Rule 6. Formal Charges.

Upon the filing of the ~~Formal Statement of Charges~~Complaint, said ~~Statement~~Complaint and other documents later formally filed with the Commission shall be made accessible to the public, and hearings shall be open. The Commission's deliberative sessions and meeting minutes must remain private and shall not be disclosed. The filing of the ~~Formal Statement of Charges~~Compliant does not justify the Commission, its counsel or staff in making public any correspondence, notes, work papers, interview reports, or other evidentiary matter, except at the ~~formal~~ hearing or with explicit consent of the Respondent.

Rule 7. Public Statements by Commission.

In any case in which the subject matter becomes public, through independent sources, or upon a finding of reasonable probability and filing of a ~~Formal Statement of Charges~~Complaint, the Commission may issue statements as it deems appropriate in order to confirm the pendency of the investigation, to clarify the procedural aspects of the disciplinary proceedings, to explain the right of the Respondent to a fair hearing without prejudice, and to state that the Respondent denies the allegations. At all times, however, the Commission, its counsel and staff shall refrain from any public or private discussion about the merits of any pending or impending matter, or discussion which might otherwise prejudice a Respondent's reputation or rights to due process.

II. JURISDICTION AND GROUNDS FOR DISCIPLINE

Rule 8. Grounds for Discipline.

The jurisdiction of the Commission extends to all justices and judges, including senior or part-time judges, and anyone whether

or not a lawyer who is an officer of a judicial system and who performs or formerly performed judicial functions, including an officer such as a magistrate, court commissioner, special master or referee. In the absence of fraud or bad faith occurring in the commission of an act constituting a ground for discipline set forth in NRS 1.4653, the Commission shall take no action against a Judge for making findings of fact, reaching a legal conclusion, expressing views of law or policy in a judicial opinion, or otherwise declaring or applying the law in the course of official duties. The Commission shall not review or base charges upon differences of opinion between Judges as to matters of law, or as to other issues committed to judicial or administrative discretion. Claims of error shall be left to the appellate process, unless supported by evidence of abuse of authority, a disregard for fundamental rights, an intentional disregard of the law, a pattern of legal error, or an action taken for a purpose other than the faithful discharge of judicial duty.

Rule 9. Suspension.

1. The Commission may suspend a Judge from the exercise of the office in accordance with NRS 1.4675 and NRS 1.4677(1).
2. The Commission shall give the Respondent seven (7) days' notice of its intention to suspend. The Judge may submit documents in opposition to suspension which shall be considered by the Commission. The Commission shall hold a public hearing before ordering such a suspension unless the Judge waives the right to the hearing.
3. A Respondent suspended under these rules may appeal to the Nevada Supreme Court.
4. The Commission shall promptly file a certified copy of the notice of suspension with the clerk of the Nevada Supreme Court.

Rule 10. Initiation of Procedure.

1. Except as provided in subsections 2 and 3, initial ~~complaints~~ accusations of Judicial Misconduct must be made in writing upon oath or declaration under penalty of perjury and may be made by the ~~person complaining~~ accuser. Such ~~a complaint~~ an accusation must contain facts which, if true, would establish grounds for discipline as set forth in NRS 1.4653.

2. ~~A complaint~~An accusation may be initiated by 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-accusation~~ from another person, the Executive Director of the Commission may file a complaint.

3. In exceptional circumstances, in which the Commission has substantial reason to believe that ~~a complainant~~an accuser may in likelihood suffer untoward risk of embarrassment, harassment, or other detrimental consequences, the Commission may on request, authorize its Executive Director to sign and swear to ~~a complaint-an accusation~~on information and belief, in the ~~complainant's-accuser's~~ stead.

4. ~~A complaint~~An accusation will be reviewed by Commission staff to ensure that it meets the minimum requirements as required by statute. Except for ~~complaints-accusations~~ filed by the Executive Director, all ~~complaints-accusations~~ shall be sworn or declared under penalty of perjury. ~~Accusations~~Complaints that do not meet the statutory requirements may be dismissed administratively by Commission staff with the Commission subsequently ratifying such administrative dismissals, if appropriate, at its next scheduled Commission meeting.

5. All ~~accusations~~complaints shall be reviewed by the Commission to determine whether they state facts, which if true, establish grounds for discipline as set forth in the Nevada Revised Statutes.

6. The Commission may either dismiss the ~~accusation~~complaint or authorize an investigation.

7. A ~~accuser~~complainant may file a request for reconsideration of a dismissed ~~accusation~~complaint. Unless additional facts are alleged which in the opinion of the General Counsel require reconsideration of the dismissed ~~accusation~~complaint by the Commission, the matter may be dismissed administratively by Commission staff with the Commission ratifying such dismissals, if appropriate, at its next scheduled meeting.

Rule 11. Investigation.

1. The Commission staff may perform minimal investigation as may be necessary to aid the Commission in properly reviewing an accusation~~complaint~~.

2. A full investigation may not commence without Commission authorization.

3. After an investigation is authorized by the Commission, the Executive Director shall hire an investigator or investigators as necessary to properly carry out the duties of the Commission. Once an investigation is authorized, it shall be directed by the Executive Director.

4. Investigations are not limited to the matters raised in the accusation~~complaint~~. Investigations may encompass any matters either raised in the accusation~~complaint~~ or disclosed during the investigative process. When matters that are totally unrelated to the issues raised in the accusation~~complaint~~ are uncovered, they shall not be investigated without first receiving Commission approval.

Rule 12. Determination to Require an Answer.

1. The Commission shall review all reports of the investigation to determine whether there is sufficient reason to require the Respondent to answer. If there is insufficient reason to proceed, the Commission may dismiss an accusation ~~a complaint~~ with or without a letter of caution. A letter of caution is not to be considered an event of discipline. The Commission may take into consideration a dismissal with a letter of caution in subsequent complaints against a Respondent when considering the appropriate discipline to be imposed.

2. If the Commission determines it could in all likelihood make a determination that there is a Reasonable Probability the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action, it shall require the Respondent named in the accusation~~complaint~~ to respond.

3. The Commission shall serve the accusation~~complaint~~ upon the Respondent who shall have 30 days in which to respond to the accusation~~complaint~~. Failure of the Respondent to answer the accusation~~complaint~~ shall be deemed an admission that the facts alleged in the accusation~~complaint~~ are true and establish grounds for discipline.

4. In preparing to respond to a determination of Reasonable Probability, the Respondent has the right to inspect all records of the Commission relating to the disciplinary action against the Respondent and to be fully advised as to the contents of

such records. Privileged communications and work product of the Commission's counsel are not subject to inspection. To the extent practicable, the Respondent shall be supplied with all records of the Commission subject to inspection along with service of the accusationcomplaint.

5. Amendment of allegations in the accusationcomplaint, prior to a finding of Reasonable Probability, may be permitted by the Commission. The Respondent shall be given notice of any amendments, and additional time as may be necessary to respond to the accusationcomplaint.

6. The commission investigator may compel by subpoena the attendance of witnesses and the production of pertinent books, papers and documents for purposes of investigation. Subpoenas must be issued by the executive director of the commission in the same manner as subpoenas are issued by clerks in the district courts of this state.

Rule 13. Finding of Reasonable Probability.

1. Based upon the accusationcomplaint and all relevant evidence presented in the reports of any investigation conducted by the Commission or referred to in documents and memoranda in the Respondent's response and supporting documents, the Commission shall make a finding of whether there is Reasonable Probability for disciplinary action against the Judge named in the accusationcomplaint.

2. If the Commission makes a finding that such a Reasonable Probability does not exist, the Commission shall dismiss the accusationcomplaint. The Commission may issue a letter of caution accompanying its dismissal.

3. A finding of Reasonable Probability authorizes the Executive Director to designate a Prosecuting Officer who must sign under oath a Formal Statement of ChargesComplaint against the Judge.

V. PROCEDURE AFTER FINDING OF REASONABLE PROBABILITY

Rule 14. Filing of a Complaint~~formal Statement of Charges~~.

If Reasonable Probability is found, a Complaint ~~Formal Statement of Charges~~ shall be filed. The Formal Statement of Charges is a public document, as are other pleadings, motions, challenges, and supporting affidavits subsequently filed. The Complaint ~~Formal Statement of Charges~~ shall be filed with the clerk of the Commission.

Rule 15. Content of ~~Complaint~~Formal Statement of Charges. The ~~Complaint~~ Formal Statement of Charges must contain a clear reference to the specific provisions of statutes, the Nevada Code of Judicial Conduct and the Nevada Constitution which are deemed to justify procedures before the Commission, together with a clear statement of all acts and omissions which are alleged to warrant action by the Commission under those provisions, identifying the dates, times and places to the extent possible that the acts or omissions are alleged to have occurred.

Rule 16. Service of ~~the Complaint~~Formal Statement of Charges. The Respondent shall be served within ten (10) days of filing a copy of the ~~Formal Statement of Charges~~Complaint.

Rule 17. Respondent's Answer. Within 20 days after service of the ~~Formal Statement of Charges~~Complaint, the Respondent shall file with the Commission an original and one copy of an answer. The answer must set forth in ordinary and concise language all denials, affirmative defenses and mitigating factors upon which the Respondent intends to rely at the hearing. The Executive Director may, for good cause, extend the time for Respondent's answer for a period not to exceed 30 additional days. Failure to answer the ~~Complaint~~Formal Statement of Charges shall constitute an admission that the facts alleged in the formal complaint are true and establish grounds for discipline pursuant to NRS1.4653.
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Rule 18. Formal Hearing.

1. When the answer has been filed, a formal hearing shall be scheduled, if practicable, within 60 days unless waived by both the Commission and the Respondent. The Respondent and all counsel must be notified of the time and place of the hearing and must first be consulted concerning the scheduling thereof to accommodate, where possible, the schedules of the Respondent and counsel and those of their witnesses. The proper venue for judicial hearings and proceedings shall be determined by the Commission at its sole discretion.

2. If the Respondent or counsel should fail to appear at the hearing, the respondent shall be deemed to have admitted the factual allegations contained in the formal complaint and shall be deemed to have conceded the merits of the complaint. Absent good cause, the Commission shall not continue or delay

proceedings because of the respondent's or counsel's failure to appear.

3. All documents required or permitted to be filed with the Commission in formal, public cases must strictly comply with the Commission's Public Case Filing Procedures attached hereto as Exhibit "A" and incorporated herein by reference.

Rule 19. Discovery.

1. A. Within ten (10) days after service of the notice of the Commission's Prehearing Order, the Commission and the Respondent shall exchange the following material and information within their possession or control to the extent not previously provided:

(a) The names and addresses of persons who have knowledge of facts relating to the complaint against the Respondent; ~~13~~

(b) Any written or recorded statements made by these persons and the substance of any oral statements claimed to have been made by the Respondent; (

c) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations; and (d) Any books, papers, documents, photographs or tangible objects pertaining to the case.

B. Additional discovery requests shall only be permitted with leave of the Commission.

2. The Commission's and Respondent's obligations under this rule extends to material and information in the possession or control of any persons who, on behalf of the Commission or the Respondent, have participated in any investigation of the charges.

3. If, subsequent to complying with these discovery provisions, the Commission or Respondent discovers additional material or information which is subject to disclosure, the additional material or information must be promptly disclosed.

4. True work product of counsel is not subject to discovery.

Rule 20. Subpoena and Inspection.

The Respondent and Prosecuting ~~Officer~~ ~~or~~ are entitled to compel attendance at the formal hearing of witnesses, including the Respondent, by subpoena, and to provide for the production of

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documents, books, accounts and other records. Subpoenas must be issued by the Executive Director of the Commission in the same manner as subpoenas are issued by clerks in the district courts of this state.

Rule 21. Witnesses. Witnesses are entitled to appear with counsel, who may represent and advise them on matters affecting their rights.

Rule 22. Public Hearing. The formal hearing shall be held in public before the Commission. All testimony must be under oath. All hearings shall be reported verbatim.

Rule 23. Presiding Officer. At the commencement of the hearing, the chairperson shall designate a member of the Commission who is either a Judge or a lawyer to preside at the hearing.

Rule 24. Rules of Evidence and Due Process. The rules of evidence applicable to civil proceedings apply at the hearing, and the Respondent shall be accorded due process of law.

Rule 25. Burden of Proof. ~~Counsel appointed by the Commission~~ ~~to~~ The Prosecutor shall present the evidence against the Respondent ~~have and has~~ the burden of proving, by clear and convincing legal evidence, the facts justifying discipline in conformity with the averments of the ~~Formal Statement of Charges~~ Complaint.

Rule 26. Cross-Examination, Evidence, and Time Restrictions. The Commission and the Respondent are each entitled to present evidence and produce and cross-examine witnesses, subject to the rules of evidence applicable to civil proceedings. The Commission may limit the time each party is allowed to present evidence.

Rule 27. Order of Dismissal. If the Commission determines either that the charges against the Respondent have not been proven by clear and convincing evidence, or that discipline is not warranted in light of facts made to appear in mitigation or avoidance, it shall forthwith prepare and file its order publicly dismissing the ~~charges-Complaint.against the Respondent~~. Any sitting member of the Commission who does not agree with the order, which has been approved by other Commission members, must be allowed ten (10) days in which to prepare and sign a concurring or dissenting opinion. All orders and opinions shall be 15 concurrently filed.

Rule 28. Decision to Discipline.

1. Within 20 days after reaching a decision that discipline should be imposed, the Commission shall prepare and adopt a written statement of the nature of the proceeding, findings of fact, and conclusions of law on the issues presented by the ~~Formal Statement of Charges~~Complaint and the answer thereto, if any. The Commission may include in its decision a summary of evidence admitted. When the foregoing have been formulated, any sitting Commission member who wishes to dissent or protest shall be allowed ten (10) days for that purpose. Upon filing, the Commission must promptly serve a copy of the foregoing on the Respondent.

2. Upon adoption and filing of a decision which orders the censure, removal, retirement or other discipline of a Respondent, the Commission must file a certified copy of the decision with the clerk of the Nevada Supreme Court. Rule 29. Consent Orders. Upon written consent of the Respondent, the Commission may order the Respondent's censure, removal, retirement, or other discipline at any stage of the proceedings either prior to or following a determination of Reasonable Probability and the filing of a ~~Formal Statement of Charges~~Complaint, unless waived by Respondent, and such Orders take effect immediately. All such Consent Orders shall contain the allegations and charges that would be set forth in a ~~Formal Statement of Charges~~Complaint had one been filed. A certified copy of the Order must be filed with the Clerk of the Nevada Supreme Court and a copy of the Order must be served on the Respondent and placed on the website of the Commission.

VI. MENTAL OR PHYSICAL DISABILITY

Rule 30. Disability. Complaints of mental or physical disability must be made in writing and may be made by any person. Such a complaint must contain facts, which, if true, would justify retirement of a respondent who is disabled in the manner defined in the Nevada Revised Statutes.

Rule 31. Procedure for Carrying Out Responsibilities Regarding Physical or Mental Disability.

1. The same procedures as are employed with respect to discipline for Judicial Misconduct shall be followed by the Commission in regard to physical or mental disability. A ~~Formal Statement of Charges~~Complaint filed after a determination of

Reasonable Probability must be under oath. All conduct or omissions relied upon must be alleged with particularity, and must show a substantial disability which is likely to be permanent.

2. If ~~a complaint~~ an accusation received by the Commission alleges that a Judge is incapacitated, and the Commission determines after conducting an investigation that there is Reasonable Probability to file a formal complaint, the Commission shall attempt to resolve the matter informally.

3. The Commission may request the Respondent to submit to medical, psychiatric, or psychological testing by a physician selected by the Commission who is licensed to practice medicine in the State of Nevada.

4. If the Commission is unable to resolve the matter informally, and the Judge has not retained counsel at his or her own expense, the Commission shall appoint an attorney to represent the Judge at public expense.

5. Should a Respondent deny all or part of the charges contained in the complaint alleging incapacity, it shall be deemed to be consent on the part of the Respondent to submit to medical, psychiatric or psychological testing by a physician selected by the Commission who is licensed to practice medicine in the State of Nevada.

6. The doctor-patient relationship shall not apply with regard to the findings of the medical practitioner designated by the Commission whose report must be furnished to the Commission and the Respondent. The findings of a physician appointed by the Commission are not privileged communications.

7. Unless the Commission excludes them, after notice and hearing, upon a showing that they have interfered with the orderly conduct of the examination, the Respondent is entitled to have counsel and a medical expert of the Respondent's choice present during all phases of any examination ordered by the Commission.

8. A Respondent who retires during the pendency of an involuntary retirement proceedings shall be deemed to have retired voluntarily.

Rule 32. Effect of Denial. When there is a denial of a ~~Formal Statement of Complaint Charges~~ relating to the physical or mental

condition of the Respondent, by such denial the Respondent must be deemed to have consented to a physical or mental examination by a qualified medical practitioner designated by the Commission.

VII. REFERRAL; APPEAL

Rule 33. Referral. Whenever a Respondent is removed or retired on grounds which reflect unfavorably on the Respondent's fitness to practice law in Nevada, the Commission shall refer relevant information and evidentiary matter to the State Bar of Nevada.

Rule 34. Appeal. 1. A Respondent may appeal an order of censure, removal, retirement, or other discipline to the Nevada Supreme Court in accordance with rules adopted by the Nevada Supreme Court in regard thereto.

2. An appeal shall be taken by filing a notice of appeal with the clerk of the Commission within fifteen (15) days after service on the Respondent of the Commission's formal order of censure, removal, retirement, public reprimand or other discipline together with its formal findings of fact and conclusions of law.

3. Respondent may request all or a part of the transcript within ten (10) days after filing of a notice of appeal. The written request shall be filed with the clerk of the Commission who shall order the transcript prepared.

4. The cost of the transcript shall be assessed to the Respondent when a final decision in discipline proceedings is adverse.

VIII. ADMINISTRATIVE PROVISIONS

Rule 35. Expenses, Costs and Fees.

1. Witnesses may be entitled to fees and mileage allowances in accordance with the Nevada Rules of Civil Procedure.

(a) In the event that Respondent is disciplined by the Commission, the Commission may recover from Respondent any incurred fees and mileage allowances of, and costs of services upon, witnesses ordered by the Respondent.

(b) No Judge or attorney employed by the State of Nevada or its subdivisions may be allowed any fees for attending as a witness.

Rule 36. Amendments and Supplemental Rules.

1. The Commission may amend and supplement these rules as it deems necessary.

2. The Commission may adopt procedures for its internal operations which are 19 consistent with these rules and appropriate to its function.

Rule 37. Computation of Time. Time limitations in these rules shall be computed as in the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure, except that three (3) days shall not be added to the prescribed period for any notice or paper served upon a party by electronic means (email).

TAB 3

NRS 1.425 Definitions. As used in [NRS 1.425](#) to [1.4695](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 1.4253](#) to [1.4296](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by [1995, 800](#); A [1997, 1094](#); [2009, 1338](#); [2015, 950](#); [2017, 339](#))

NRS 1.4253 “Admonish” defined. “Admonish” means to issue a written expression of disapproval of a judge for one or more violations of the Revised Nevada Code of Judicial Conduct by the judge as described in [NRS 1.4653](#). The expression of disapproval may include a warning to the judge to avoid similar conduct in the future.

(Added to NRS by [2009, 1336](#))

NRS 1.4257 “Censure” defined. “Censure” means to issue a formal, written condemnation of a judge for one or more violations of the Revised Nevada Code of Judicial Conduct by the judge as described in [NRS 1.4653](#) that do not require the removal or barring of the judge from office because there are substantial mitigating factors.

(Added to NRS by [2009, 1336](#))

NRS 1.426 “Commission” defined. “Commission” means the Commission on Judicial Discipline.

(Added to NRS by [1997, 1087](#))

NRS 1.4263 ~~“Complaint”~~ “Accusation” defined. ~~“Complaint”~~ “Accusation” means information in any form and from any source that alleges or implies judicial misconduct or incapacity.

(Added to NRS by [2009, 1336](#))

NRS 1.4267 ~~“Formal statement of chargesComplaint”~~ defined. ~~“Formal statement of chargesComplaint”~~ means a document setting forth the specific acts of judicial misconduct or incapacity, including any amendment thereto.

(Added to NRS by [2009, 1336](#))

NRS 1.427 “Incapacitated” defined. “Incapacitated” means unable to perform the duties of office because of advanced age or mental or physical disability.

(Added to NRS by [1997, 1087](#); A [2009, 1338](#))

NRS 1.428 “Judge” defined. “Judge” means:

1. A justice of the Supreme Court;
2. A judge of the Court of Appeals;
3. A judge of the district court;
4. A judge of the municipal court;
5. A justice of the peace;
6. Any other officer of the Judicial Branch of this State, whether or not the officer is an attorney, who presides over judicial proceedings, including, but not limited to, a magistrate, court commissioner, special master or referee; and
7. Any person who formerly served in any of the positions described in subsections 1 to 6, inclusive, if the conduct at issue for purposes of [NRS 1.425](#) to [1.4695](#), inclusive, occurred while the person was serving in such a position.

(Added to NRS by [1997, 1087](#); A [2009, 1338](#); [2013, 1712](#); [2015, 950](#))

NRS 1.4291 “Letter of caution” defined. “Letter of caution” means a private, written communication to a judge to:

1. Remind the judge of ethical responsibilities;
2. Warn the judge to avoid similar conduct in the future; or
3. Disapprove of conduct that may create the appearance of impropriety.

(Added to NRS by [2009, 1336](#))

NRS 1.4292 “Removal” defined. “Removal” means a decision issued by the Commission to require a judge to permanently leave his or her judicial office for conduct described in [NRS 1.4653](#).

(Added to NRS by [2009, 1336](#))

NRS 1.4293 “Remove” defined. “Remove” means to require a judge to permanently leave his or her judicial office for conduct described in [NRS 1.4653](#).

(Added to NRS by [2009, 1336](#))

NRS 1.4294 “Reprimand” defined. “Reprimand” means a severe, written reproof for one or more violations of the Revised Nevada Code of Judicial Conduct by a judge as described in [NRS 1.4677](#).

(Added to NRS by [2009, 1336](#))

NRS 1.4295 “Special counsel” defined. “Special counsel” means the attorney designated by the Commission to:

1. Present evidence at a hearing to suspend a judge held pursuant to [NRS 1.4675](#);
2. File and prosecute a ~~formal statement of charges~~[complaint](#); and
3. Perform other tasks, as directed by the Commission, pursuant to a designation authorized by [NRS 1.4663](#).

(Added to NRS by [2009, 1336](#))

NRS 1.4296 “Suspend” defined. “Suspend” means a decision issued by the Commission to require a judge to temporarily leave his or her office for conduct described in [NRS 1.4675](#).

(Added to NRS by [2009, 1336](#))

NRS 1.430 Compensation of members and employees.

1. Each member of the Commission who is not a judicial officer is entitled to receive a salary of not more than \$80, as fixed by the Commission, for each day’s attendance at each meeting of the Commission.

2. While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

(Added to NRS by [1977, 637](#); A [1985, 128, 393](#); [1989, 1707](#))

NRS 1.440 Jurisdiction of Commission over judges; filing of ~~complaint-accusation~~ or action relating to proceeding of Commission; appointment of justices of the peace and municipal judges to Commission.

1. The Commission has exclusive jurisdiction over the public censure, removal, involuntary retirement and other discipline of judges which is coextensive with its jurisdiction over justices of the Supreme Court and must be exercised in the same manner and under the same rules.

2. Any ~~complaint~~ accusation or action, including, without limitation, an interlocutory action or appeal, filed in connection with any proceeding of the Commission must be filed in the Supreme Court. Any such ~~complaint~~ accusation or action filed in a court other than the Supreme Court shall be presumed to be frivolous and intended solely for the purposes of delay.

3. The Supreme Court shall appoint two justices of the peace and two municipal judges to sit on the Commission for formal, public proceedings against a justice of the peace or a municipal judge, respectively. Justices of the peace and municipal judges so appointed must be designated by an order of the Supreme Court to sit for such proceedings in place of and to serve for the same terms as the regular members of the Commission appointed by the Supreme Court.

(Added to NRS by [1977, 936](#); A [1983, 108](#); [1995, 800](#); [1997, 1094](#); [2005, 305](#); [2009, 1338](#); [2015, 951](#))

NRS 1.445 Appointment of alternate members to Commission.

1. Each appointing authority shall appoint for each position for which the authority makes an appointment to the Commission one or more alternate members. The Governor shall not appoint more than two alternate members of the same political party. An alternate member must not be a member of the Commission on Judicial Selection.

2. An alternate member shall serve:

- (a) When the appointed member is disqualified or unable to serve; or
- (b) When a vacancy exists.

(Added to NRS by [2009, 1336](#); A [2015, 951](#))

NRS 1.450 Assistants; witnesses; expenses. The Commission may:

1. Within the amount of money appropriated by the Legislature for this purpose, employ and compensate as an employee or contract with as an independent contractor:

(a) One or more persons to prepare the budget and manage the fiscal affairs of the Commission and perform other duties relating to the administration of the affairs of the Commission as the Commission directs; and

(b) Attorneys, accountants, investigators, reporters, physicians, technical experts and other necessary persons.

2. Provide for the attendance and compensation of witnesses.

3. Pay from available funds all necessary expenses incurred by the Commission.

(Added to NRS by [1977, 637](#); A [1981, 378](#); [1995, 800](#))

NRS 1.460 Public officers and employees to cooperate with Commission; service of process.

1. All public officers and employees of the State, its agencies and political subdivisions and all officers of the court shall cooperate with the Commission in any lawful investigation or proceeding of the Commission and furnish information and reasonable assistance to the Commission or its authorized representative.

2. All sheriffs, marshals, police officers and constables shall, upon request of the Commission or its authorized representative, serve process on behalf of and execute all lawful orders of the Commission.

(Added to NRS by [1977, 637](#); A [1995, 800](#))

NRS 1.462 Proceedings before Commission; applicable rules.

1. Proceedings before the Commission are civil matters designed to preserve an independent and honorable judiciary.

2. Except as otherwise provided in [NRS 1.425](#) to [1.4695](#), inclusive, or in the procedural rules adopted by the Commission, after a ~~formal statement of charges~~complaint has been filed, the Nevada Rules of Civil Procedure apply.

(Added to NRS by [2009, 1336](#))

NRS 1.464 Reports: Annual; biennial; contents; confidentiality.

1. On or before September 30 of each year, the Commission shall prepare an annual report summarizing the activities of the Commission during the preceding fiscal year. The annual report must include, without limitation, statistical information concerning the period for disposition of ~~complaints-accusations~~ and the length of time that proceedings have been pending before the Commission, and a statement of the budget and expenses of the Commission. The annual report must be made available to the public.

2. On or before September 30 of each odd-numbered year, the Commission shall prepare a biennial report summarizing the activities of the Commission during the preceding 2 fiscal years. The biennial report must include, without limitation, statistical information concerning the period for disposition of ~~complaints-accusations~~ and the length of time that proceedings have been pending before the Commission, and a statement of the budget and expenses of the Commission. The Commission shall file a copy of the biennial report with the Governor, the Majority Leader of the Senate, the Speaker of the Assembly, the Chief Justice of the Supreme Court of Nevada, the Chair of the Senate Standing Committee on Judiciary, the Chair of the Assembly Standing Committee on Judiciary and the State Bar of Nevada. The biennial report must be made available to the public.

3. The information included in the annual and biennial reports prepared pursuant to this section must comply with any and all confidentiality requirements of applicable law and the rules of the Commission adopted pursuant to [NRS 1.4695](#).

(Added to NRS by [2009, 1337](#))

NRS 1.465 Immunity.

1. The following persons are absolutely immune from suit for all conduct at any time in the course of their official duties:

- (a) Any member who serves on the Commission;
- (b) Any person employed by the Commission;
- (c) Any independent contractor of the Commission; and
- (d) Any person who performs services pursuant to [NRS 1.450](#) or [1.460](#) for the Commission.

2. Except as otherwise provided in [NRS 1.4683](#), the following persons are absolutely immune from suit unless convicted of committing perjury before the Commission pursuant to [NRS 199.120](#) to [199.200](#), inclusive:

- (a) A person who files a ~~complaint~~an accusation with the Commission pursuant to [NRS 1.4655](#);
- (b) A person who gives testimony at a hearing held by the Commission pursuant to [NRS 1.4654](#), [1.4673](#) or [1.4675](#); and
- (c) A person who gives a statement to an investigator of the Commission during an authorized investigation.

(Added to NRS by [1995, 800](#); A [1997, 1094](#); [2009, 1338](#); [2017, 339](#))

Proceedings Concerning Disciplinary Action, Forfeiture of Office or Removal From Office

NRS 1.4653 Circumstances under which judge may be disciplined or retired; forfeiture of office by justice of the peace or municipal judge for failure to attend required instruction.

1. The Commission may remove a judge, publicly censure a judge or impose other forms of discipline on a judge if the Commission determines that the judge:

- (a) Has committed willful misconduct;
- (b) Has willfully or persistently failed to perform the duties of office; or
- (c) Is habitually intemperate.

2. The Commission may publicly censure a judge or impose other forms of discipline on a judge if the Commission determines that the judge has violated one or more of the provisions of the Revised Nevada Code of Judicial Conduct in a manner that is not knowing or deliberate.

3. The Commission may retire a judge if the Commission determines that:

- (a) The advanced age of the judge interferes with the proper performance of judicial duties; or
- (b) The judge suffers from a mental or physical disability that prevents the proper performance of judicial duties and is likely to be permanent in nature.

4. The Commission may order a justice of the peace or a municipal judge to forfeit his or her office if he or she fails to attend the instruction required pursuant to [NRS 4.036](#) or [5.026](#), as applicable, unless the Commission finds that there was a reasonable excuse for the failure to attend the instruction.

5. As used in this section:

(a) “Habitually intemperate” means the chronic, excessive use of alcohol or another substance that affects mental processes, awareness or judgment.

(b) “Willful misconduct” includes:

- (1) Conviction of any crime involving moral turpitude;
- (2) A knowing or deliberate violation of one or more of the provisions of the Revised Nevada Code of Judicial Conduct; and

(3) A knowing or deliberate act or omission in the performance of judicial or administrative duties that:

(I) Involves fraud or bad faith or amounts to a public offense; and

(II) Tends to corrupt or impair the administration of justice in a judicial proceeding.

↪ The term does not include claims of error or abuse of discretion in findings of fact, legal decisions or procedural rulings unless supported by evidence of abuse of authority, a disregard for fundamental rights, an intentional disregard of the law, a pattern of legal error or an action taken for a purpose other than the faithful discharge of judicial duty.

(Added to NRS by [1997, 1088](#); A [1999, 93](#); [2009, 1339](#); [2017, 339](#))

NRS 1.4654 Notice to justice of the peace or municipal judge of intention to order forfeiture of office; public hearing; appeal.

1. If the Commission reasonably believes that a justice of the peace or municipal judge failed to attend the instruction required pursuant to [NRS 4.036](#) or [5.026](#), as applicable, without a reasonable excuse, the Commission shall give the justice of the peace or the municipal judge:

(a) Thirty days’ notice of its intention to order the justice of the peace or municipal judge to forfeit his or her office pursuant to this section; and

(b) An opportunity to respond.

2. The Commission shall hold a public hearing before ordering the justice of the peace or municipal judge to forfeit his or her office, unless the justice of the peace or municipal judge waives the right to the hearing. The decision of the Commission must be made public.

3. A justice of the peace or municipal judge ordered to forfeit his or her office pursuant to this section may appeal the order to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to [Section 4 of Article 6](#) of the Nevada Constitution. If a justice of the peace or a municipal judge appeals such an order to forfeit his or her office:

- (a) The standard of review for such an appeal is an abuse of discretion standard; and
- (b) The proceedings held at the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court concerning the order to forfeit office must be open to the public.

(Added to NRS by [2017, 338](#))

NRS 1.4655 Commencement of inquiry regarding alleged misconduct or incapacity of judge; time limitation for considering ~~complaints~~accusations; certain action required.

1. The Commission may begin an inquiry regarding the alleged misconduct or incapacity of a judge upon the receipt of ~~a complaint~~an accusation.

2. The Commission shall not consider ~~complaints~~accusations arising from acts or omissions that occurred more than 3 years before the date of the ~~complaint~~accusation or more than 1 year after the ~~complainant~~accuser knew or in the exercise of reasonable diligence should have known of the conduct, whichever is earlier, except that:

(a) Where there is a continuing course of conduct, the conduct will be deemed to have been committed at the termination of the course of conduct;

(b) Where there is a pattern of recurring judicial misconduct and at least one act occurs within the 3-year or 1-year period, as applicable, the Commission may consider all prior acts or omissions related to that pattern; and

(c) Any period in which the judge has concealed or conspired to conceal evidence of misconduct is not included in the computation of the time limit for the filing of ~~a complaint~~an accusation pursuant to this section.

3. Within 18 months after the receipt of a ~~complaint~~accusation pursuant to this section, the Commission shall:

(a) Dismiss the ~~complaint~~accusation with or without a letter of caution;

(b) Attempt to resolve the ~~complaint~~accusation informally as required pursuant to [NRS 1.4665](#);

(c) Enter into a deferred discipline agreement pursuant to [NRS 1.468](#);

(d) With the consent of the judge, impose discipline on the judge pursuant to an agreement between the judge and the Commission; or

(e) Authorize the filing of a ~~formal statement of the charges~~complaint based on a finding that there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action.

(Added to NRS by [1997, 1088](#); A [2009, 1339](#))

NRS 1.4656 Certain determinations or findings of Commission to be recorded in minutes of proceedings. Except as otherwise expressly provided in [NRS 1.425](#) to [1.4695](#), inclusive, or any other applicable provision of law, a determination or finding by the Commission must be recorded in the minutes of the proceedings of the Commission if the determination or finding is made before:

1. The filing of a ~~formal statement of charges~~complaint against a judge pursuant to [NRS 1.467](#);

2. The Commission suspends a judge pursuant to [NRS 1.4675](#); or

3. The Commission orders a justice of the peace or municipal judge to forfeit his or her office pursuant to [NRS 1.4654](#).

(Added to NRS by [2015, 950](#); A [2017, 340](#))

NRS 1.4657 Required actions upon receipt of ~~complaint~~accusation; letter of caution.

1. The Commission shall, in accordance with its procedural rules, examine each ~~complaint~~ accusation that it receives to determine whether the ~~complaint~~-accusation alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated.

2. If the Commission determines that a ~~complaint~~an accusation does not contain such allegations, the Commission shall dismiss the ~~complaint~~-accusation with or without a letter of caution. A letter of caution is not a form of discipline. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent ~~complaint~~-accusation against a judge unless the letter of caution is not relevant to the misconduct alleged in the subsequent ~~complaint~~accusation.

3. If the Commission determines that a ~~complaint~~an accusation does contain such allegations, the Commission shall authorize further investigation.

(Added to NRS by [1997, 1089](#); A [2009, 1340](#))

NRS 1.466 Issuance and enforcement of subpoenas.

1. During any stage of a disciplinary proceeding, including, but not limited to, an investigation pursuant to [NRS 1.4663](#) and a formal hearing, the Commission may issue a subpoena to compel the attendance or testimony of a witness or the production of any relevant materials, including, but not limited to, books, papers, documents, records, photographs, recordings, reports and tangible objects.

2. If a witness refuses to attend, testify or produce materials as required by the subpoena, the Commission may, in accordance with its procedural rules, hold the witness in contempt and impose a reasonable penalty to enforce the subpoena.

3. If a witness continues to refuse to attend, testify or produce materials as required by the subpoena, the Commission may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance or testimony of the witness or the production of materials;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend, testify or produce materials as required by the subpoena before the Commission, or has refused to answer questions propounded to the witness, ~~and asking~~the Commission may ask for an order of the court compelling the witness to attend, testify or produce materials before the Commission.

4. Upon receipt of such a petition, the court ~~shall~~may enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why the witness has not attended, testified or produced materials before the Commission. A certified copy of the order must be served upon the witness.

5. If it appears to the court that the subpoena was regularly issued by the Commission, the court ~~shall~~may enter an order that the witness appear before the Commission at a time and place fixed in the order and testify or produce materials, and that upon failure to obey the order the witness must be dealt with as for contempt of court.

(Added to NRS by [1997, 1090](#); A [2009, 1340](#))

NRS 1.4663 Appointment of investigator; designation of special counsel; conduct, scope and written report of investigation.

1. If the Commission determines pursuant to [NRS 1.4657](#) that ~~a complaint~~ an accusation alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated, the Commission shall assign or appoint an investigator to conduct an investigation to determine whether the allegations have merit. The Commission may designate special counsel at any time after ~~a complaint~~ an accusation is filed with the Commission pursuant to [NRS 1.4655](#).

2. Such an investigation must be conducted in accordance with procedural rules adopted by the Commission and may extend to any matter that is, in the determination of the Commission, reasonably related to an allegation of misconduct or incapacity contained in the ~~complaint~~ accusation.

3. An investigator assigned or appointed by the Commission to conduct an investigation pursuant to this section may, for the purpose of investigation, compel by subpoena on behalf of the Commission the attendance of witnesses and the production of necessary materials as set forth in [NRS 1.466](#).

4. At the conclusion of the investigation, the investigator shall prepare a written report of the investigation for review by the Commission.

(Added to NRS by [1997, 1089](#); A [2009, 1341](#))

NRS 1.4665 Procedures for allegation of incapacity; informal resolution of ~~complaint~~ accusation relating to incapacity; medical, psychiatric or psychological testing by physician; burden of proof.

1. Except as otherwise provided in this section or in the procedural rules adopted by the Commission, the Commission shall use the same procedures with respect to allegations of incapacity as it uses with respect to allegations of misconduct.

2. The Commission shall attempt to resolve the following matters informally:

(a) ~~A complaint~~ An accusation received by the Commission which alleges that a judge is incapacitated;

(b) A matter in which the preliminary investigation reveals that a judge may have a physical or mental disability; and

(c) A matter in which the judge raises a mental or physical disability as an issue before the filing of the formal statement of charges.

3. An informal resolution by the Commission pursuant to subsection 2 includes, without limitation:

(a) Voluntary retirement by the judge; and

(b) If the disability can be adequately addressed through treatment, a deferred discipline agreement pursuant to [NRS 1.468](#).

4. In attempting to resolve a matter informally, the Commission may request that the judge named in the ~~complaint~~ accusation submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the Commission.

5. If the Commission is unable to resolve the matter informally pursuant to subsection 2, the Commission shall:

(a) Proceed as set forth in [NRS 1.4667](#), [1.467](#) and [1.4673](#).

(b) Unless the judge has retained counsel at his or her own expense, appoint an attorney to represent the judge at public expense.

6. If a judge raises a mental or physical disability as an affirmative defense or in mitigation, the judge shall be deemed to have consented to medical, psychiatric or psychological testing and to have waived the psychologist-patient privilege, doctor-patient privilege, marriage and family therapist-client privilege and social worker-client privilege set forth in [chapter 49](#) of NRS, as applicable. The Commission ~~shall~~may require the judge to produce relevant medical records and to submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the judge. If the judge refuses to produce medical records or submit to an examination, the Commission ~~shall~~may preclude the judge from presenting the medical records or evidence of the results of medical examinations conducted on behalf of the judge and may consider the refusal as evidence that the judge has an incapacity that seriously interferes with the performance of judicial duties of the judge and is likely to become permanent, or as evidence contradicting the claim of a disability by the judge as an affirmative defense or mitigating factor.

7. If a judge raises a mental illness or other disability as a defense or mitigating factor in a proceeding alleging misconduct, the judge has the burden of proving by a preponderance of the evidence that:

- (a) ~~He or she~~The judge has a serious mental illness or other disability;
- (b) The mental illness or other disability caused the misconduct;
- (c) ~~He or she~~The judge has undergone or is undergoing treatment for the mental illness or other disability;
- (d) The treatment has abated the cause of the misconduct; and
- (e) The misconduct is not likely to recur.

8. The findings of a physician selected by the Commission pursuant to this section are not privileged communications.

9. The provisions of this section do not prohibit a judge from having legal counsel and a physician of ~~his or her~~the judge's choice present at a medical, psychiatric or psychological examination conducted pursuant to this section.

10. The Commission shall adopt procedural rules to carry out the provisions of this section. (Added to NRS by [1997, 1089](#); A [2009, 1341](#))

NRS 1.4667 Review of report of investigation; letter of caution; judge to respond to ~~complaint~~accusation under certain circumstances.

1. The Commission shall review the report prepared pursuant to [NRS 1.4663](#) to determine whether there is a reasonable probability that the evidence available for introduction at a ~~any~~formal ~~Judicial Discipline~~redline hearing could clearly and convincingly establish grounds for disciplinary action against a judge.

2. If the Commission determines that such a reasonable probability does not exist, the Commission shall dismiss the ~~complaint~~accusation with or without a letter of caution. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent ~~complaint~~accusation against a judge unless the caution is not relevant to the misconduct alleged in the subsequent ~~complaint~~accusation.

3. If the Commission determines that such a reasonable probability exists, the Commission shall require the judge to respond to the ~~complaint~~accusation in accordance with procedural rules adopted by the Commission.

(Added to NRS by [1997, 1090](#); A [2009, 1343](#))

NRS 1.467 Finding of whether reasonable probability of grounds for disciplinary action exists required; letter of caution; deferred discipline agreement; procedure when reasonable probability is found to exist.

1. After a judge responds to the ~~complaint-accusation~~ as required pursuant to [NRS 1.4667](#), the Commission shall make a finding of whether there is a reasonable probability that the evidence available for introduction at ~~a-any~~ formal hearing could clearly and convincingly establish grounds for disciplinary action against the judge.

2. If the Commission finds that such a reasonable probability does not exist, the Commission shall dismiss the ~~complaint-accusation~~ with or without a letter of caution. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent ~~complaint-accusation~~ against a judge unless the caution is not relevant to the misconduct alleged in the subsequent ~~complaint-accusation~~.

3. If the Commission finds that such a reasonable probability exists, but reasonably believes that the misconduct would be addressed more appropriately through rehabilitation, treatment, education or minor corrective action, the Commission may enter into a deferred discipline agreement with the judge for a definite period as described in [NRS 1.468](#).

4. The Commission shall not dismiss ~~a-complaintan accusation~~ with a letter of caution or enter into a deferred discipline agreement with a judge if:

(a) The misconduct of the judge involves the misappropriation of money, dishonesty, deceit, fraud, misrepresentation or a crime that adversely reflects on the honesty, trustworthiness or fitness of the judge;

(b) The misconduct of the judge resulted or will likely result in substantial prejudice to a litigant or other person;

(c) The misconduct of the judge is part of a pattern of similar misconduct; or

(d) The misconduct of the judge is of the same nature as misconduct for which the judge has been publicly disciplined or which was the subject of a deferred discipline agreement entered into by the judge within the immediately preceding 5 years.

5. If the Commission finds that such a reasonable probability exists and that formal proceedings are warranted, the Commission shall, in accordance with its procedural rules, designate special counsel to sign under oath and file with the Commission a ~~formal statement of complaint charges~~ against the judge.

6. Within 20 days after service of the ~~formal statement of charges complaint~~, the judge shall file an answer with the Commission under oath. If the judge fails to answer the formal statement of charges within that period, the Commission shall deem such failure to be an admission that the charges set forth in the ~~formal statement complaint~~:

(a) Are true; and

(b) Establish grounds for discipline pursuant to [NRS 1.4653](#).

7. The Commission shall adopt rules regarding disclosure and discovery after the filing of a ~~formal statement of charges complaint~~.

8. By leave of the Commission, a ~~statement of formal charges complaint~~ may be amended at any time, before the close of the hearing, to allege additional matters discovered in a subsequent investigation or to conform to proof presented at the hearing if the judge has adequate time, as determined by the Commission, to prepare a defense.

(Added to NRS by [1997, 1090](#); A [2009, 1343](#))

NRS 1.4673 Hearing on formal statement of charges; procedure; actions after formal hearing on charges.

1. Unless a deferred discipline agreement has been entered into with the judge pursuant to [NRS 1.468](#), a hearing on a ~~formal statement of charges~~[complaint](#) must be held. If practicable, the hearing must be held not later than 60 days after:

(a) The judge files an answer; or

(b) The date on which the time period for filing an answer expires if the judge has not filed an answer and has not filed with the Commission a request for an extension of time before the expiration of the period for filing the answer.

2. If formal charges are filed against a judge:

(a) The standard of proof in any proceedings following the ~~formal statement of charges~~[complaint](#) is clear and convincing evidence.

(b) The burden of proof rests on the special counsel except where otherwise provided by specific statute.

(c) The rules of evidence applicable to civil proceedings apply at a hearing held pursuant to subsection 1.

3. Within 60 days after the conclusion of a hearing on a ~~formal statement of charges~~[complaint](#), the Commission shall prepare and adopt written findings of fact and conclusions of law that:

(a) Dismiss all or part of the charges, if the Commission determines that the grounds for discipline have not been proven by clear and convincing evidence; or

(b) Impose such disciplinary actions on the judge as deemed appropriate by the Commission, if the Commission determines that the grounds for discipline have been proven by clear and convincing evidence.

(Added to NRS by [1997, 1090](#); A [2009, 1344](#))

NRS 1.4675 Circumstances under which a judge may be suspended with or without pay; hearing; appeal.

1. The Commission shall suspend a judge from the exercise of office with salary:

(a) While there is pending an indictment or information charging the judge with a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States; or

(b) When the judge has been adjudged mentally incompetent or insane.

2. The Commission may suspend a judge from the exercise of office without salary if the judge:

(a) Pleads guilty, guilty but mentally ill or no contest to a charge of; or

(b) Is found guilty or guilty but mentally ill of,

↳ a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States. If the conviction is later reversed, the judge must be paid his or her salary for the period of suspension.

3. In addition to the grounds set forth in subsection 2, the Commission may suspend a judge from the exercise of office without salary if the Commission determines that the judge:

(a) Has committed serious and repeated willful misconduct;

(b) Has willfully or persistently failed to perform the duties of office; or

(c) Is habitually intemperate,

↳ and the Commission determines that the circumstances surrounding such conduct, including, without limitation, any mitigating factors, merit disciplinary action more severe than censure but less severe than removal.

4. During any stage of a disciplinary proceeding, the Commission may suspend the judge from the exercise of office with salary pending a final disposition of the ~~complaint~~[accusation](#) if

the Commission determines, by a preponderance of the evidence, that the judge poses a substantial threat of serious harm to the public or to the administration of justice.

5. The Commission shall give the judge 7 days' notice of its intention to suspend the judge pursuant to this section and shall give the judge an opportunity to respond. The Commission shall hold a public hearing before ordering such a suspension, unless the judge waives the right to the hearing. The decision of the Commission must be made public.

6. A judge suspended pursuant to this section may appeal the suspension to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to [Section 4 of Article 6](#) of the Nevada Constitution. If a judge appeals such a suspension:

(a) The standard of review for such an appeal is an abuse of discretion standard; and

(b) The proceedings held at the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court concerning the suspension must be open to the public.

7. Within 60 days after a decision by the Commission to suspend a judge pursuant to this section, the Commission shall:

(a) Have a ~~formal statement of charges~~[complaint](#) filed against the judge;

(b) Rescind the suspension; or

(c) Enter into a deferred discipline agreement with the judge pursuant to [NRS 1.468](#).

8. The Commission may suspend a judge pursuant to this section only in accordance with its procedural rules.

(Added to NRS by [1997, 1091](#); A [2007, 1428](#); [2009, 1345](#); [2013, 1712](#))

NRS 1.4677 Forms of discipline.

1. Pursuant to a deferred discipline agreement with the judge entered into pursuant to [NRS 1.468](#) or based on a finding of misconduct following a hearing on a ~~formal statement of charges~~[complaint](#), the Commission may take one or more of the following actions:

(a) Publicly admonish, publicly reprimand or publicly censure a judge.

(b) Impose a fine upon the judge.

(c) Suspend the judge from office without pay.

(d) Require the judge to:

(1) Complete a probationary period pursuant to conditions deemed appropriate by the Commission.

(2) Attend training or educational courses.

(3) Follow a remedial course of action.

(4) Issue a public apology.

(5) Comply with conditions or limitations on future conduct.

(6) Seek medical, psychiatric or psychological care or counseling and direct the provider of health care or counselor to report to the Commission regarding the condition or progress of the judge.

(e) Bar the judge from serving in a judicial office in the future.

(f) Impose any other reasonable disciplinary action or combination of disciplinary actions that the Commission determines will curtail or remedy the misconduct of the judge.

2. The Commission may publicly admonish a judge pursuant to subsection 1 if the Commission determines that the judge has violated one or more of the provisions of the Revised Nevada Code of Judicial Conduct in a manner that is not knowing or deliberate and for which there are no aggravating factors.

3. The Commission may publicly reprimand a judge pursuant to subsection 1 if the Commission determines that the judge has violated one or more of the provisions of the Revised Nevada Code of Judicial Conduct in a manner that is:

- (a) Not knowing or deliberate but for which there are aggravating factors; or
- (b) Knowing or deliberate but for which there are mitigating factors.

(Added to NRS by [1997, 1092](#); A [2009, 1346](#))

NRS 1.468 Deferral of formal disciplinary action.

1. Except as otherwise provided in subsections 2 and 3, if the Commission reasonably believes that a judge has committed an act or engaged in a behavior that would be addressed most appropriately through rehabilitation, treatment, education or minor corrective action, the Commission may enter into an agreement with the judge to defer formal disciplinary proceedings and require the judge to undergo the rehabilitation, treatment, education or minor corrective action.

2. The Commission may not enter into an agreement with a judge to defer formal disciplinary proceedings if the Commission has determined, pursuant to [NRS 1.467](#), that there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the judge pursuant to [NRS 1.4653](#).

3. The Commission may enter into an agreement with a judge to defer formal disciplinary proceedings only in response to misconduct that is minor in nature.

4. A deferred discipline agreement entered into pursuant to this section must be in writing and must specify the conduct that resulted in the agreement. A judge who enters into such an agreement must agree:

- (a) To the specified rehabilitation, treatment, education or minor corrective action;
- (b) To waive the right to a hearing before the Commission; and
- (c) That the agreement will not be protected by confidentiality for the purpose of any subsequent disciplinary proceedings against the judge,

↪ and the agreement must indicate that the judge agreed to the terms set forth in paragraphs (a), (b) and (c). Such an agreement must expressly authorize the Commission to revoke the agreement and proceed with any other disposition of the ~~complaint or formal statement of charges~~accusation or complaint authorized by [NRS 1.467](#) if the Commission finds that the judge has failed to comply with a condition of the agreement.

5. The Executive Director of the Commission shall monitor the compliance of the judge with the agreement. The Commission may require the judge to document his or her compliance with the agreement. The Commission shall give the judge written notice of any alleged failure to comply with any condition of the agreement and shall allow the judge not less than 15 days to respond.

6. If the judge complies in a satisfactory manner with the conditions imposed in the agreement, the Commission may dismiss the ~~complaint~~accusation or take any other appropriate action.

(Added to NRS by [1997, 1092](#); A [2009, 1347](#))

NRS 1.4681 Extension of time limitations on disciplinary action; computation; prima facie evidence of unreasonable delay.

1. The Commission may extend the limitations on time set forth in [NRS 1.425](#) to [1.4695](#), inclusive, for good cause shown.

2. The limitations on time set forth in [NRS 1.425](#) to [1.4695](#), inclusive, must be computed in the same manner as in the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure and must not include:

(a) Periods of delay at the request of or attributable to a judge other than the judge who is the subject of a ~~complaint~~ accusation;

(b) Short periods of delay that are the result of the period between scheduled meetings of the Commission;

(c) Periods in which the judge who is the subject of ~~a complainant~~ accusation and the Executive Director of the Commission or special counsel are negotiating an agreement; or

(d) Periods when the Commission is holding ~~a complainant~~ accusation in abeyance pending the disposition of a court case relating to the ~~complaint~~ accusation.

3. The Commission shall not dismiss ~~a complaint or a formal statement of charges~~ an accusation for failure to comply with the limitations of time set forth in NRS 1.425 to 1.4695, inclusive, unless the Commission determines such a delay is unreasonable and the rights of the judge to a fair hearing have been violated. The fact that an investigation has been conducted more than 24 months after the date the ~~complaint~~ accusation was filed with the Commission is prima facie evidence of an unreasonable delay, which may be rebutted.

(Added to NRS by 2009, 1337)

NRS 1.4683 Confidentiality of existence of proceeding and information and materials related to proceeding; issuance of explanatory statements when name of judge subject of ~~complaint~~ an accusation is made public; exceptions to confidentiality.

1. Except as otherwise provided in this section and NRS 1.4675 and 239.0115, the existence of a proceeding of the Commission must remain confidential until the Commission makes a determination pursuant to NRS 1.467 and the special counsel files a ~~formal statement of charges~~ complaint.

2. Except as otherwise provided in this section, before the filing of a ~~formal statement of charges~~ complaint, a present or former member of the Commission, a present or former member of the staff of the Commission or a present or former independent contractor retained by the Commission shall not disclose information contained in ~~a complainant~~ an accusation or any other information relating to the allegations of misconduct or incapacity. Such persons:

(a) May disclose such information to persons directly involved in the matter to the extent necessary for a proper investigation and disposition of the ~~complaint~~ accusation; and

(b) Shall conduct themselves in a manner that maintains the confidentiality of the disciplinary proceeding.

3. Nothing in this section prohibits a person who files ~~a complainant~~ an accusation with the Commission pursuant to NRS 1.4655, a judge against whom such ~~a complainant~~ an accusation is made or a witness from disclosing at any time the existence or substance of ~~a complainant~~ an accusation, investigation or proceeding. The immunity provided by NRS 1.465 does not apply to such a disclosure.

4. The confidentiality required pursuant to subsection 1 also applies to all information and materials, written or oral, received or developed by the Commission, its staff or any independent contractors retained by the Commission in the course of its work and relating to the alleged misconduct or incapacity of a judge.

5. The Commission shall disclose all testimony given and all materials filed in connection with a proceeding before the Commission if a witness is prosecuted for perjury committed during the course of that proceeding.

6. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if the judge, a third person or the person who filed ~~a complainant~~ an accusation with the Commission pursuant to NRS 1.4655 has made the name of the judge against whom such a

~~complaint~~accusation is made public, the Commission may, at the request of the judge or on its own accord, issue an explanatory statement to maintain confidence in the judicial system and the Commission. In such a statement, the Commission may:

- (a) Confirm or deny that ~~a complaint~~an accusation has been filed;
- (b) Confirm or deny that the Commission is conducting an investigation;
- (c) Confirm that the Commission has dismissed ~~a complaint~~an accusation with or without a letter of caution; and
- (d) Confirm that the Commission has entered into a deferred discipline agreement with the judge.

7. In addition to the information authorized pursuant to subsection 6, a statement issued by the Commission pursuant to subsection 6 may correct any public misinformation concerning the disciplinary proceeding, clarify the procedures of the Commission relating to the disciplinary proceeding and explain that the judge has a right to a fair investigation and, if applicable, a fair hearing without prejudgment. The Commission shall submit such a statement to the judge concerned for comments before the Commission releases the statement. The Commission is not required to incorporate any comments made by the judge in the statement and may release the statement as originally drafted.

8. The Commission may, without disclosing the name of or any details that may identify the judge involved, disclose the existence of a proceeding before it to the State Board of Examiners and the Interim Finance Committee to obtain additional money for its operation from the Contingency Account established pursuant to [NRS 353.266](#).

9. No record of any medical examination, psychiatric evaluation or other comparable professional record made for use in an informal resolution pursuant to subsection 4 of [NRS 1.4665](#) may be made public at any time without the consent of the judge concerned.

10. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, the Commission may release confidential information:

- (a) To the appropriate law enforcement or prosecuting authorities if the Commission determines that it has reliable information which reveals possible criminal conduct by a judge or any other person;
- (b) Upon request to the Board of Governors of the State Bar of Nevada or other appropriate disciplinary authorities of the State Bar of Nevada if the Commission determines that it has reliable information that reveals a possible violation of the Nevada Rules of Professional Conduct by a judge or any other attorney; or
- (c) Pursuant to an order issued by a court of record of competent jurisdiction in this State or a federal court of record of competent jurisdiction.

11. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if a judge signs a waiver, the Commission may release confidential information concerning any ~~complaints~~accusation filed with the Commission pursuant to [NRS 1.4655](#) that are pending or are closed and did not result in a dismissal to:

- (a) An agency authorized to investigate the qualifications of persons for admission to practice law;
- (b) An appointing or nominating authority or a state or federal agency lawfully conducting investigations relating to the selection or appointment of judges; or
- (c) An agency conducting investigations relating to employment with a governmental agency or other employment.

12. If the Commission discloses information concerning a pending complaint-accusation to an agency or authority pursuant to subsection 11, the Commission shall subsequently disclose the disposition of the complaint-accusation to the agency or authority. The Commission shall send a copy of all information disclosed pursuant to subsection 11 to the judge concerned at the same time the Commission sends the information to the agency or authority.

(Added to NRS by [1997, 1092](#); A [2007, 2066](#); [2009, 1348](#); [2015, 951](#))

NRS 1.4687 Public access to formal statement of charges and certain other records; open hearings; private deliberative sessions; certain records privileged.

1. Except as otherwise provided in subsection 2:

(a) Upon the filing of a formal statement of charges-complaint with the Commission by the special counsel, the statement and other documents later formally filed with the Commission must be made accessible to the public, and hearings must be open.

(b) If a formal statement of charges-complaint has not been filed with the Commission and the Commission holds a hearing to suspend a judge pursuant to [NRS 1.4675](#), any transcript of the hearing and any documents offered as evidence at the hearing must be made accessible to the public.

(c) If the Commission holds a hearing to order a justice of the peace or municipal judge to forfeit his or her office pursuant to [NRS 1.4654](#), any transcript of the hearing and any documents offered as evidence at the hearing must be made accessible to the public.

2. Regardless of whether any formal statement of charges-complaint has been filed with the Commission, medical records and any other documents or exhibits offered as evidence which are privileged pursuant to [chapter 49](#) of NRS must not be made accessible to the public.

3. The Commission's deliberative sessions must remain private and any minutes of such sessions must remain confidential.

4. The filing of a formal statement of charges-complaint does not justify the Commission, its counsel, staff or independent contractors retained by the Commission in making public any correspondence, notes, work papers, interview reports or other evidentiary matter, except at the formal hearing or with explicit consent of the judge named in the complaint-accusation

(Added to NRS by [1997, 1093](#); A [2009, 1350](#); [2015, 953](#); [2017, 340](#))

NRS 1.469 Authorized statements by Commission when subject matter becomes public. In any disciplinary proceeding in which the subject matter becomes public, through independent sources, or upon a determination pursuant to [NRS 1.467](#) and filing of a formal statement of charges-complaint, the Commission may issue such statements as it deems appropriate under the circumstances to:

1. Confirm the pendency of the investigation;
2. Clarify the procedural aspects of the disciplinary proceedings;
3. Explain the right of the judge to a fair hearing without prejudice;
4. State that the judge denies the allegations;
5. Explain the reasons for dismissing a complaint-accusation; and
6. Explain why the Commission chose to enter into an agreement with a judge pursuant to subsection 1 of [NRS 1.468](#).

(Added to NRS by [1997, 1093](#))

NRS 1.4694 Rules to be adopted to provide for disposition of complaint-accusation or formal statement of charges-complaint. The Commission shall adopt rules providing for the

disposition of ~~a complaint or formal statement of charges~~ an accusation or complaint at any stage in a disciplinary proceeding, pursuant to:

1. The consent of the judge who is the subject of the ~~complaint~~ accusation or the complaint;
and
2. An agreement between the judge and the Commission.
(Added to NRS by [2009, 1337](#))

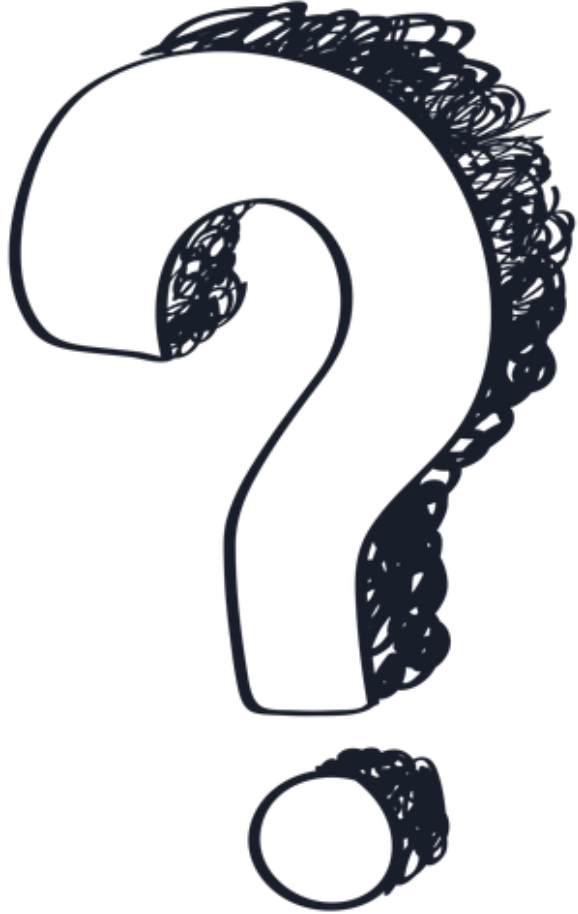
NRS 1.4695 Rules to be adopted to establish privileged status of certain communications. The Commission shall adopt rules to establish the status of particular communications related to a disciplinary proceeding as privileged or nonprivileged.

(Added to NRS by [1997, 1094](#))

TAB 4

Nationwide Judicial Discipline Commission Survey

Mackenzie Clarkson
1L, California Western School of Law
Legal Researcher for the Nevada Judges of
Limited Jurisdiction
Information Updated as of: 5/12/2021



1. What are the term limits for Judicial Discipline Commission members in other states?
2. Do other Commissions bifurcate the process?

Three Year States



Term limits

- Hawaii Commission on Judicial Conduct (3 years) **All members shall be appointed to staggered three-year terms; however, to maintain a commission with staggered terms, initial appointments may be for less than three years.**
- Indiana Commission on Judicial Qualifications (3 years) **Lawyer and citizen members may not serve consecutive terms, but otherwise there is no limit. There is no limit on the terms for the Chief Justice - Chief Justice Shepard served as Chief for over 20 years.**
- Michigan Commission on Judicial Tenure (3 years) - **No Terms Limits.**
- New Hampshire Committee on Judicial Conduct (3 years)
- New Jersey Advisory Committee on Judicial Conduct (3 years)
- North Dakota Commission on Judicial Conduct (3 years) - **Maximum of 2 Term Limits.**
- Ohio Board of Professional Conduct (3 years) - **Maximum of 3 Term Limits.**
- Oklahoma - Court of the Judiciary - Trial Division and Appellate Division (3 years) - **Maximum of 2 Term Limits.**
- Rhode Island Commission on Judicial Tenure and Discipline (3 years) - **No member shall be eligible for reappointment to another term if he or she has served more than six (6) consecutive years. Vacancies other than those arising through the expiration of a term shall be filled for the unexpired portion of the term in the same manner as vacancies due to the expiration of the term.**
- Tennessee Board of Judicial Conduct (3 years) - **2 Consecutive 3-year terms are permitted, after that a 1 year break required before a member may serve again.**
- Vermont Judicial Conduct Board (3 years) - **Maximum of 2 Term Limits.**
- West Virginia Judicial Investigation Commission and Judicial Hearing Board (3 years)
- Wisconsin Judicial Commission (3 years) - **Maximum of 2 Term Limits.**
- Wyoming Commission on Judicial Conduct and Ethics (3 years) - **Maximum of 2 Term Limits.**

Four Year States



Term limits

- Alabama Judicial Inquiry Commission (4 years) **No Term Limits.**
- Alaska Commission on Judicial Conduct (4 years) **No Term Limits.**
- California Commission on Judicial Performance (4 years)
- Colorado Commission on Judicial Discipline (4 years) **Max: 2 Terms.**
- Connecticut Judicial Review Council (4 years) **Per the statute- Members cannot serve 2 consecutive terms. They can serve non-consecutive terms.**
- Delaware Preliminary Investigatory Committee (4 years) **No member shall be appointed to serve for more than two consecutive terms.**
- Georgia Judicial Qualifications Commission (4 years) **After their initial appointments expire (for those that were appointed in 2017), they can serve two more terms. Subsequent appointees also get two terms.**
- Illinois Judicial Inquiry Board (4 years)
- Kansas Commission on Judicial Conduct (4 years) **Members are appointed to the Commission to serve no more than 3 consecutive 4-year terms, except a member initially appointed to serve an unexpired term may serve 3 consecutive 4-year terms thereafter.**
- Kentucky Judicial Retirement and Removal Commission (4 years) **No Term Limits.**
- Louisiana Judiciary Commission (4 years) **No Max, however no member can succeed himself/herself.**
- Maryland Commission on Judicial Disabilities and Maryland Judicial Inquiry Board (4 years or 2 years depending on the member) **Maximum of 10 years for each member.**
- Minnesota Board on Judicial Standards (4 years) **The general limitation is 2 terms, there is one 10-year member.**
- Montana Judicial Standards Commission (4 years) **No Term Limits.**
- Nebraska Commission on Judicial Qualifications (4 years) **No Term Limits.**
- New Mexico Commission on Judicial Standards (4 years)
- New York State Commission on Judicial Conduct (4 years) **No Term Limits.**
- Oregon Commission on Judicial Fitness and Disability (4 years) **Maximum of 2 Terms.**
- Pennsylvania Judicial Conduct Board and Court of Judicial Discipline (4 years) **No Max, however, no member can succeed himself/herself – No member cannot serve consecutive terms.**
- South Carolina Commission on Judicial Conduct (4 years) **No Term Limits.**
- South Dakota Commission on Judicial Qualifications (4 years) **Maximum of 2 Terms.**
- Utah Judicial Conduct Commission (4 years) **2 Terms Max.**
- Virginia Judicial Inquiry and Review Commission (4 years)
- Washington State Commission on Judicial Conduct (4 years) **Max of 2 consecutive 4 year terms**

Five and Six Year States



Term limits

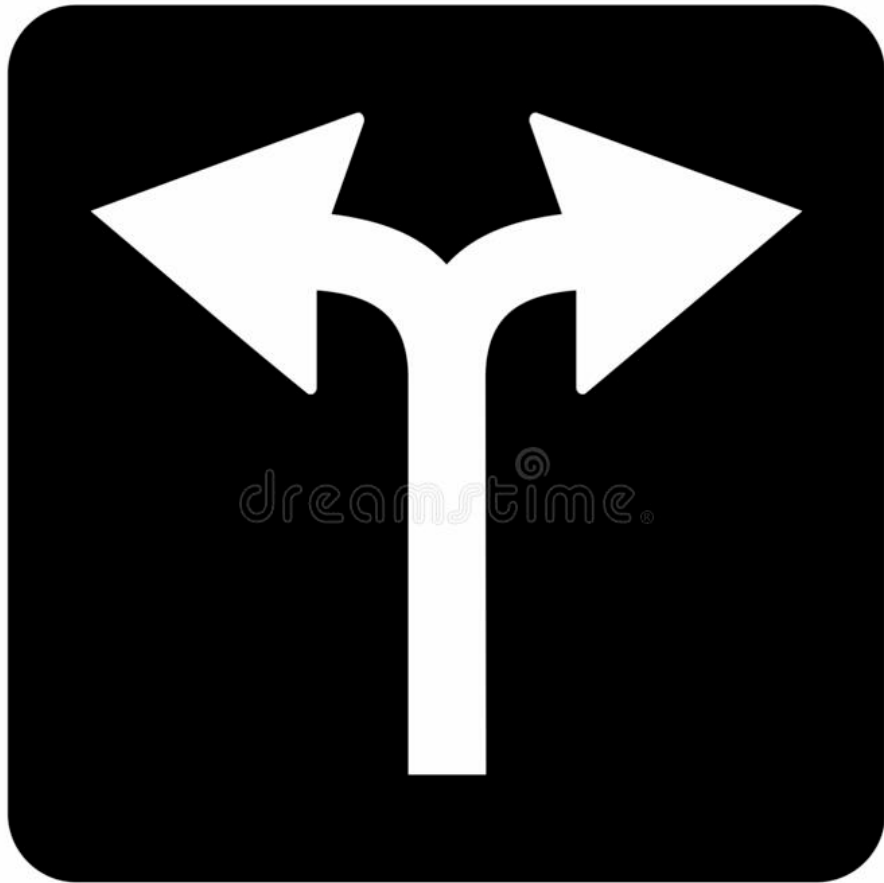
- Alabama Court of the Judiciary (6 years)
- Arizona Commission on Judicial Conduct (6 years)
- Arkansas Judicial Discipline and Disability Commission (6 years) **Max: 2 Terms.**
- District of Columbia (5-6 years, depending on type of member) **Max of 1 six year term; except for the presidential appointee – no limits on terms.**
- Florida Judicial Qualifications Commission (6 years) **No Max.**
- Idaho Judicial Council (6 years) **The Bar appoints two members that can only serve for one term. For the other positions, there is no max, but it is subject to legislative approval.**
- Indiana Commission on Judicial Qualifications (5 years)
- Iowa Commission on Judicial Qualifications (6 years) **Max: 1 Term Limit with 2 extra years (One 8 year term), if completing the term of a member who retires.**
- Maine Committee on Judicial Responsibility and Disability (6 years) **Not Renewable.**
- Massachusetts Commission on Judicial Conduct (6 years)
- Mississippi Commission on Judicial Performance (6 years) **Max: 2 Terms – 1 term as member, and 1 as an alternate (for a total of 12 years maximum) – there are 7 members and 7 alternates that comprise the commission.**
- Missouri Commission on Retirement, Removal, and Discipline (6 years) **No successive terms.**
- Nevada Commission on Judicial Discipline (6 years)
- North Carolina Judicial Standards Commission (6 years) - **Maximum of 1 Term, except for The Court of Appeals Judge.**
- Oklahoma Council on Judicial Complaints (5 years)
- Texas State Commission on Judicial Conduct (6 years) – **No consecutive terms allowed.**



Term limits

The “other” states

- Delaware Board of Examining Officers (Ad hoc)
- Illinois Courts Commission (No provision)

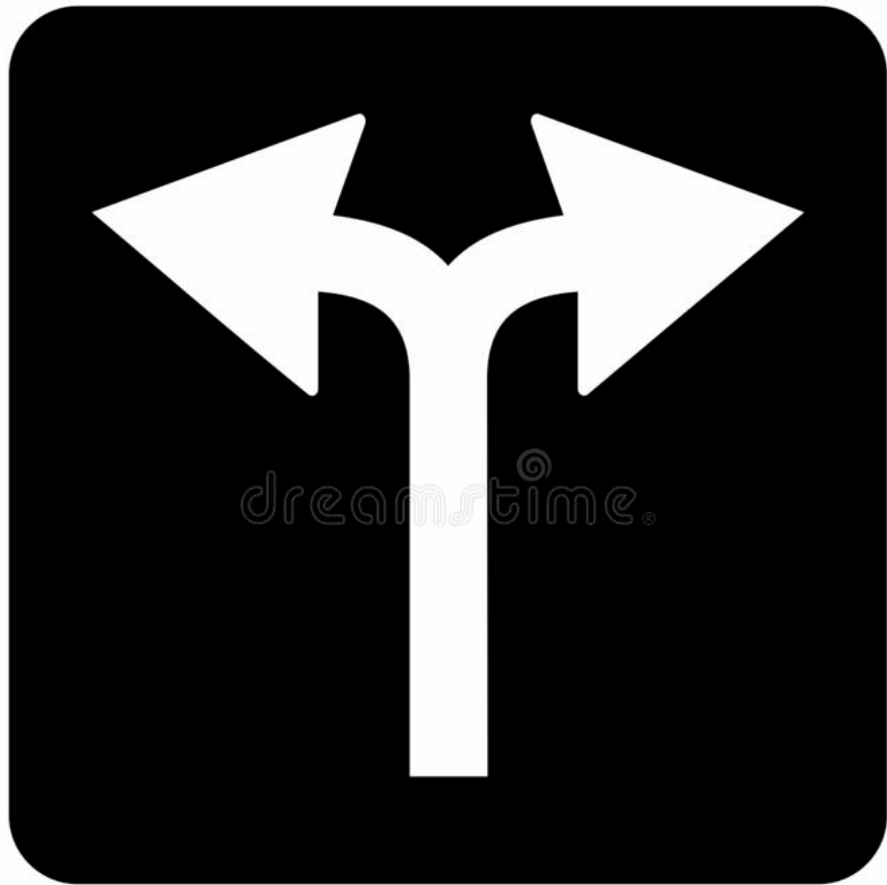


BIFURCATION

At Least Thirty-Two States Bifurcate

1. Alabama
2. Arizona
3. Arkansas
4. Colorado
5. Delaware
6. Florida
7. Georgia
8. Hawaii
9. Idaho
10. Illinois
11. Indiana
12. Iowa
13. Kansas
14. Louisiana
15. Maine
16. Maryland
17. Michigan
18. Mississippi
19. Minnesota
20. Nebraska
21. New Hampshire
22. North Carolina
23. North Dakota
24. Ohio
25. Oklahoma
26. Pennsylvania
27. South Carolina
28. Tennessee
29. Texas
30. Vermont
31. Wisconsin
32. Wyoming

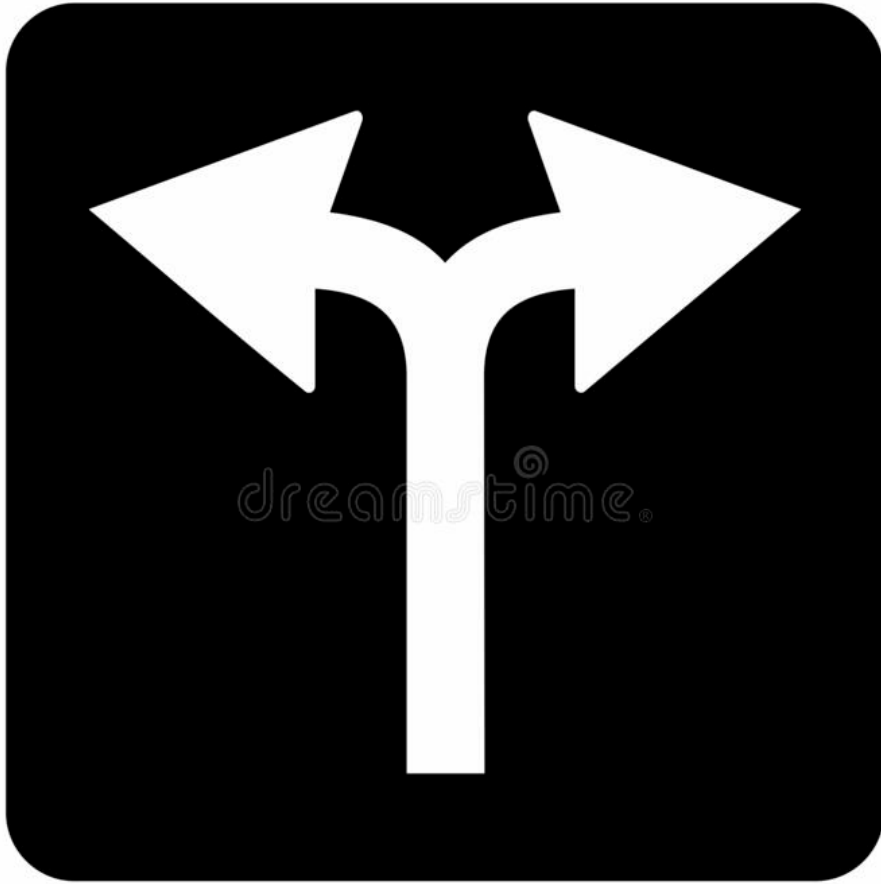
At Least Fourteen States Do Not Bifurcate



BIFURCATION

(see next slide for continuation of list)

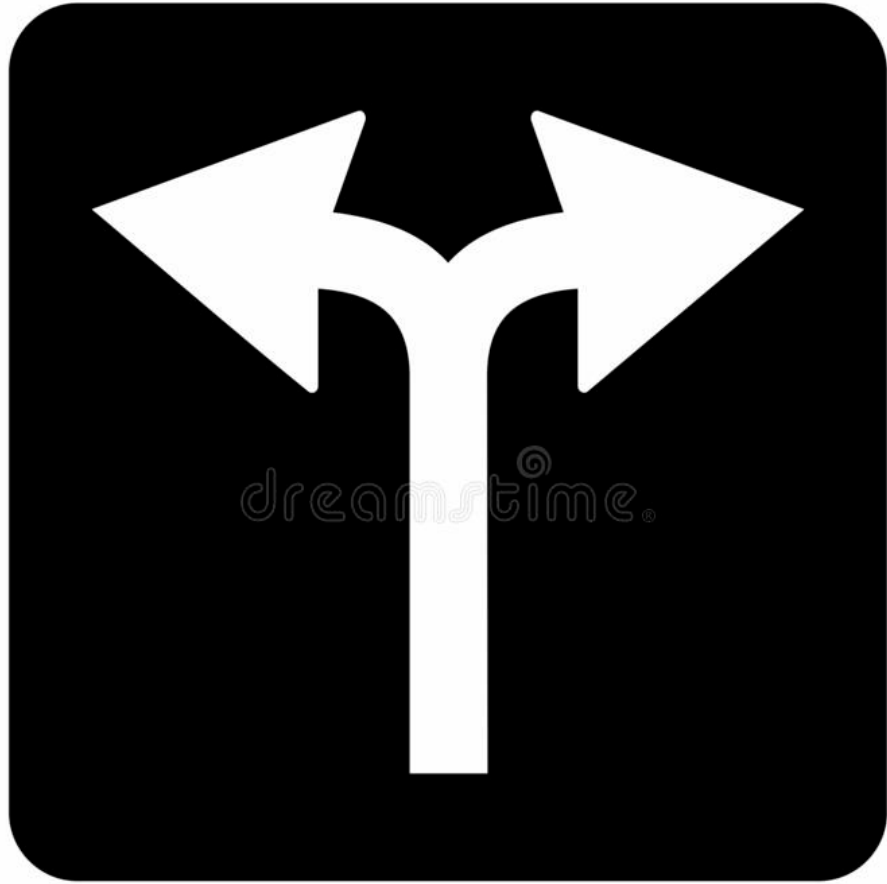
At Least Fourteen States Do Not Bifurcate



BIFURCATION

(see next slide for continuation of list)

At Least Fourteen States Do Not Bifurcate



BIFURCATION

Details on Bifurcation By State



BIFURCATION

Alabama - The Judicial Inquiry Commission determines whether to file a formal complaint that is adjudicated by the Court of the Judiciary.

Arizona - A 3-member investigative panel determines whether to file a formal complaint that is adjudicated by the other 8 members.

Arkansas - 9 alternates are selected in the same manner as members. The 9 alternates are appointed to 3 investigation panels with 3 members each (1 judge, 1 attorney, 1 public member) that may file a formal statement of allegations that is adjudicated by a 9-member hearing panel that does not include any member of the investigation panel.

Colorado: If a complaint does allege misconduct, the Executive Director does the initial investigation and then forwards the information to one of the Commission members to examine it in detail and present it to the rest of the members. They do the adjudication in informal proceedings and can either dismiss it, apply private disciplinary measures, e.g., an admonishment, reprimand, or censure, or refer it to the Supreme Court for formal proceedings. The Court then appoints three special masters to preside over a hearing.

Delaware - A panel of the preliminary investigatory committee determines whether there is probable cause; the board of examining officers conducts the hearing and prepares a report that the Court on the Judiciary reviews.

Florida - The commission is divided into 2 panels: the 9-member investigative panel decides whether to file a formal complaint that is adjudicated by a 6-member hearing panel.

Georgia - The commission is divided into a 7-member investigative panel (2 judge members, 3 attorneys members appointed by governor, senate president, and house speaker, and 2 public members appointed by senate president and house speaker) and a 3-member hearing panel (1 judge member, 1 attorney member appointed by supreme court, and 1 public member appointed by governor).

Hawaii - All findings of the Commission shall be supported by clear and convincing evidence. The Commission shall, in every case, submit a report containing its findings and recommendations, together with a record of its proceedings, to the supreme court within 60 days after the conclusion of its hearing. After the filing of the Commission's report a copy thereof shall be served on the judge. The judge may file exceptions to the report within 20 days from the date of service of a copy thereof or within an additional period not to exceed 20 days granted by the court for good cause shown. Within 60 days after the filing of the report and the filing of exceptions, if any, the judge shall file an opening brief pursuant to the rule governing civil appeals; and other briefs may be filed and oral argument may be had as therein provided. Upon conclusion of the proceedings, the court shall promptly enter an appropriate order.

Idaho - The commission is divided into 3 Panels: an investigatory panel, adjudicatory panel (hearing panel), and a disciplinary panel.

Details on Bifurcation By State



BIFURCATION

Illinois - The Judicial Inquiry Board determines whether to file a complaint that is adjudicated by the Courts Commission.

Indiana - The Commission reviews, investigates, decides on charges, and prosecutes charges. However, the Indiana Commission is different than other states in that the Commission does not actually hear the cases. A Masters' Panel hears the charges in an evidentiary hearing and makes recommendations on the findings of fact/conclusions of law and sanction to the Indiana Supreme Court.

Iowa - Attorney General handles the investigation. The Iowa Judicial Qualifications Commission holds a hearing. The final decision and recommended disciplinary action must go to the Iowa Supreme Court for approval. (only if the complaint is not serious enough) If it is, The Iowa Judicial Qualifications Commission will forward the complaint to the Iowa Attorney General's Office for investigation. Once the investigation is completed, the Attorney General will submit a report on its findings to the commission.

Kansas - The commission is divided into 2 panels; a formal complaint filed by one panel is adjudicated by the other panel.

Louisiana: A group of staff attorneys conducts the investigation. The staff presents their findings to the commission, and the commission decides whether to conduct an evidentiary hearing. If the commission proceeds with a hearing, a hearing officer is appointed. At the close of the hearing, the commission can only recommend discipline based on their findings. The commission must submit their recommended discipline to The Supreme Court of Louisiana, and The Supreme Court considers the case De Novo.

Maine – If the committee believes that a hearing is needed – It is reported and assigned to a member of the The Supreme Court of Maine. That member will file a recommendation to The Supreme Court. If there are objections to the recommendation, the court will hold an oral argument.

Maryland - The Investigative Council conducts an investigation and sends findings to the board. Complaints are considered first by the Judicial Inquiry Board, which files a report and recommendation with the commission.

Details on Bifurcation By State



Michigan – Commission decides to investigate. Staff investigates, including a staff attorney. Commission then decides if public charges will be brought. During public charges, a wall goes between the staff and commission. The staff becomes the prosecutor, and the Master Judge conducts formal proceedings. The Master makes a report to the commission, and the commission makes a recommendation to the Supreme Court. The Supreme Court makes a final decision. The Supreme Court is not a part of the charges or the investigation – but they get the whole record. The commission must defend its position to The Supreme Court.

Mississippi – Commission decides to investigate. Staff carry out the investigation. If a hearing is to take place, the Chair of the Commission appoints a three member panel that acts as the fact finder and the jury for the hearing. After the hearing takes place, the three member panel prepares proposed findings and proposes sanctions. Commission sends the proposed findings and sanctions to the Mississippi Supreme Court for approval.

Minnesota - If the Board files a formal complaint, the Chief Justice of the Minnesota Supreme Court appoints a hearing panel comprised of 1 judge or retired judge, 1 attorney, and 1 member of the public who is a former member of the Board “whenever possible.” After conducting a hearing, the panel may enter into a deferred disposition agreement with the judge, publicly reprimand the judge, or recommend that the judge be removed, retired, suspended, censured, other otherwise disciplined. The Board or the judge may appeal; if there no appeal, the panel’s disposition becomes final after 60 days. If there is an appeal, “the board shall, and the judge may, file briefs with the Court.” The Court may accept the recommendation of the panel or reject or modify it in whole or in part. (Source: Cynthia Gray, Director: Center for Judicial Ethics of the National Center for State Courts <http://www.ncsc.org/Topics/Judicial-Officers/Ethics/Center-for-Judicial-Ethics.aspx>)

Nebraska: The initial complaint goes to the commission members for discussion. There is an informal inquiry and an outside investigator is hired. If a hearing is required, the commission hires a special master to hear the case. Serious disciplinary action has to go to the Nebraska Supreme Court for approval. Public reprimands do not need Supreme Court approval.

Details on Bifurcation By State



BIFURCATION

New Hampshire: After an investigation, if the Committee concludes there is probable cause, it files a formal statement of charges and holds a hearing. If the Committee determines that formal disciplinary action is warranted, the Committee prepares a summary report of its findings and a recommendation concerning sanction with the New Hampshire Supreme Court. If such a request is filed, only the statement of formal charges and the judge's answer shall be filed by the committee, and the supreme court shall appoint a judicial referee to conduct the hearing. After hearing, the judicial referee shall issue a decision including any findings and recommendations for sanctions. A record of the proceedings shall be prepared, which shall include the statement of formal charges, the judge's answer, and any other pleadings, exhibits and a transcript of the hearing. The decision and record shall be filed with the supreme court. If the judge disagrees with the findings or recommendations, the judge may, within 15 days, file a request with the Court for a de novo hearing. The Court then appoints a judicial referee to conduct a de novo hearing and file a decision and record with the Court. After briefing and oral argument, the Court files a written decision and judgment. (Source: Cynthia Gray, Director: Center for Judicial Ethics of the National Center for State Courts <http://www.ncsc.org/Topics/Judicial-Officers/Ethics/Center-for-Judicial-Ethics.aspx>)

North Carolina - The commission is divided into 2 panels; a formal complaint filed by one panel is heard by the other panel.

North Dakota - The investigations are done by the Office of Disciplinary Counsel and presented to the entire Commission for determination of whether probable cause is established for a formal proceeding or if the matter is appropriate for lesser discipline. If formal proceedings move forward, a panel of 4 of the members are appointed to serve as the adjudicative hearing panel.

Ohio - A probable cause panel of the board determines whether to file a formal complaint that is adjudicated by the board. The board hears complaints against both attorneys and judges.

Oklahoma - If the Council on Judicial Complaints finds that a complaint should be the subject of proceedings, The Oklahoma Supreme Court, chief justice, governor, attorney general, bar association, or House of Representatives may file a petition invoking the jurisdiction of the Court on the Judiciary; the trial division holds a hearing; its judgment may be appealed to the appellate division.

Details on Bifurcation By State



BIFURCATION

Pennsylvania - The board determines whether to file a formal complaint that is adjudicated by the Court of Judicial Discipline.

South Carolina - We have a total of 4 rotating panels. Our panels do not participate in every step of the process. In our rules, if a panel has served as an investigative panel in a matter, they are then prohibited from serving as the hearing panel. The hearing panels cannot have any prior knowledge of the case before presiding over the matter.

Tennessee - Members are divided into hearing panels of 6 members and investigative panels of 3 members.

Texas - The State Commission on Judicial Conduct has 13 members: 6 judges, 2 attorneys, and 5 public members. After an investigation, if the Commission does not dismiss a complaint, it may order additional education or privately or publicly sanction the judge (warning, reprimand, or admonishment) or initiate formal proceedings. (1) If the Commission privately or publicly sanctions a judge, the judge may file a written request with the Chief Justice of the Texas Supreme Court for the appointment of 3 appellate justices to act as a Special Court of Review. The Commission then files a charging document, and the Special Court of Review holds a public hearing in which the case is considered from the beginning, as if the Commission had not taken any previous action. The Special Court of Review may dismiss the case, affirm the Commission's decision, impose a greater or lesser sanction, or order the Commission to file formal proceedings. The decision of the Special Court of Review is final. (2) If the Commission decides to initiate formal proceedings or is ordered to do so by the Special Court, the Commission may conduct the fact-finding hearing or it may ask the Texas Supreme Court to appoint a special master (a sitting or retired district or appellate judge) to conduct the hearing. The Commission may adopt the special master's findings in whole or in part, modify the findings, reject them and enter its own findings, or order a hearing for the taking of additional evidence. The Commission may dismiss the case, issue a public censure, reprimand, warning or admonition, or recommend removal or involuntary retirement to a 7-member Review Tribunal appointed by the Texas Supreme Court. A judge may also appeal the Commission's decision to issue a public censure or sanction to a Special Court of Review. (Source: Cynthia Gray, Director: Center for Judicial Ethics of the National Center for State Courts <http://www.ncsc.org/Topics/Judicial-Officers/Ethics/Center-for-Judicial-Ethics.aspx>)

Details on Bifurcation By State



BIFURCATION

Vermont: Following a preliminary investigation, a recommendation is presented either to the Board or to a 3-member investigative panel consisting of 1 judge, 1 attorney, and 1 lay member, appointed by the chair. If the Board or the investigative panel believes that there is probable cause, a formal complaint is filed, and a hearing is held before a panel of at least 5 members of the Board, at least 1 of whom is a lay member. The hearing panel may impose limitations or conditions on the performance of judicial duties, issue a public reprimand, or suspend a judge. If no appeal from a hearing panel order is filed within 30 days, and the Vermont Supreme Court does not order review on its own motion, an order of the panel other than an order imposing a suspension becomes final; if no appeal is filed, an order of suspension becomes final only upon issuance of an order of the Court. Neither the Board nor the Court may remove a judge. The Board was created by a court rule in 1978; the bifurcation was accomplished by an amendment to the rules effective 2002. (Source: Cynthia Gray, Director: Center for Judicial Ethics of the National Center for State Courts <http://www.ncsc.org/Topics/Judicial-Officers/Ethics/Center-for-Judicial-Ethics.aspx>)

Wisconsin - The commission determines whether to file a formal complaint; a 3-judge panel is appointed to conduct the hearing. The Judicial Commission handles the investigation and prosecution process, the Judicial Conduct Panel handles Trial Court/Adjudication, and the Supreme Court of Wisconsin handles Review and Discipline if misconduct is found. The Commission has authority to file a public judicial disciplinary case in the Supreme Court. Once that occurs, a group of three Court of Appeals and/or reserve judges are appointed to handle each case on an ad hoc basis (a “judicial conduct panel”). That group of judges acts as the trial court and makes a recommendation regarding discipline to the Supreme Court (if appropriate).

Wyoming - For each case, the commission is divided into an investigative panel of 3 or more members and an adjudicative panel of 3 or more members; if the investigative panel determines that a formal complaint should be filed, the hearing is before the adjudicative panel.