



OLR RESEARCH REPORT

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QUESTIONS FOR JUDICIAL REVIEW COUNCIL ATTORNEY NOMINEE

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JUDICIAL REVIEW COUNCIL

The Judicial Review Council investigates and resolves complaints involving misconduct, disability, or substance abuse of state judges, family support magistrates, and workers' compensation commissioners. It consists of 12 regular members and 13 alternates. Six regular members and three alternates are members of the general public; judges and practicing attorneys are each represented by three regular and two alternates. Commissioners and family support magistrates are each represented by three alternates.

Virtually all complaints are dismissed without investigation. When one goes forward, the council investigates to determine whether probable cause exists to believe that judicial misconduct has occurred. The investigation is confidential unless the judicial officer being investigated ("the respondent") requests that it be public.

If the council determines that the evidence has not established probable cause of judicial misconduct, the complaint is dismissed. If the council determines that no misconduct has occurred, but that the judicial officer has acted in a manner that creates the appearance of impropriety or constitutes an unfavorable judicial practice, it may issue an admonishment to the judicial officer.

If the preliminary investigation indicates that probable cause exists that the judicial officer is guilty of misconduct, the council holds a public hearing to determine the respondent's guilt or innocence. If the judicial officer is found guilty of misconduct, the council may impose a range of sanctions: public censure, suspension without pay for a period of up to one year, or a referral of the matter to the state Supreme Court or the governor with a recommendation of suspension for more than one year or removal from office.

QUESTIONS

1. What made you interested in serving as a council member?
2. The law requires the council to have 12 regular and 13 alternate members. In your view, does having a group of this size make it more difficult to complete tasks?
3. In most cases, the law requires complainants to file complaints within one year of the act that generated the complaint. On the other hand, there is no statute of limitations for filing grievances with the Statewide Grievance Committee. What do you see as the pros and cons of having a relatively short limitation period?
4. The statutes provide for the removal, suspension, or censure of judges, magistrates, or commissioners whose temperament adversely affects the "orderly carriage of justice." What type of temperament would you consider this to be?
5. The statutes provide for removal, suspension, or censure of judges for incompetent performance of judicial duties. What type of evidence would you look for to determine whether a judge's performance was incompetent?
6. Legislation has been proposed in the past to allow the council to fine respondents, in addition to imposing a range of sanctions already permitted. What do you think of this idea?

7. Among the things the council considers in its deliberations are whether the evidence submitted and review of its records shows that an action that is the subject of a complaint reveals a pattern of inappropriate conduct. In your opinion, can a respondent be found guilty based on a single incident?
8. In your opinion, to what extent does a judge, commissioner, or magistrate's personal life affect his or her ability to adequately perform his or her duties? Would it be appropriate to sanction a respondent for something that occurred in his or her personal life, whether it affected his or her official duties?
9. How would you handle a complaint alleging that a respondent had a substance abuse problem?
10. Do you believe that frequent demeaning references to ethnic or racial minorities, members of religious minorities, or women should be grounds for action? What would the appropriate action be?
11. In the last several years, state courts have adopted policies to improve public access to court proceedings and records. Some argue that the public's confidence in the fairness of the council's deliberations has been undermined by procedures that require (1) its initial investigations to be conducted in secret, (2) exclusion of the public from probable cause hearings, and (3) various records to be kept confidential. Is this a legitimate concern? How would you balance the conflicting beliefs in the public's right to know against the right of judicial confidentiality?
12. Other concerns are based on the infrequency with which the council conducts probable cause hearings and the fact that it exonerates virtually all respondents. For example, the council's annual report for fiscal year 2012 shows that it did not hold any public hearings and dismissed complaints against all 136 of the judicial officials whose conduct had been the source of a complaint. What might explain the high dismissal rate?

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