



QUESTIONS FOR JUDICIAL REVIEW COUNCIL NOMINEE

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JUDICIAL REVIEW COUNCIL

The Judicial Review Council investigates and resolves complaints involving misconduct or disability of, or substance abuse by, 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 attorneys are each represented by three regular members 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.

The council dismisses a complaint when it does not find probable cause. It issues an admonishment if there is no misconduct but the judicial officer acted in a manner creating the appearance of impropriety or that constitutes an unfavorable judicial practice. If the preliminary investigation finds probable cause, the council holds a public hearing. If the judicial officer is found guilty of misconduct, the council may impose a range of sanctions: public censure, suspension without pay for up to one year, or a referral to the state Supreme Court or the governor with a recommendation of suspension for more than one year or removal from office.



QUESTIONS

1. Why do you want to serve on the council?
2. Do you think ordinary citizens know enough about the council and its duties? If not, do you have suggestions for better publicizing the council?
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 against attorneys 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 the 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 expand the sanctions available to the council by allowing it to fine respondents. What do you think of this idea? Are there other types of sanctions the council should be able to impose?
7. 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 or not it affected his or her official duties?
8. How would you handle a complaint alleging that a respondent had a substance abuse problem?
9. 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?
10. In recent 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 (a) its initial investigations to be conducted in secret, (b) exclusion of the public from probable cause hearings, and (c) various records to be kept confidential. Is this a legitimate concern? How would you balance the public's right to know against the right of judicial confidentiality?

11. 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 shows that it dismissed all 93 complaints it disposed of during FY 15. These complaints included 231 allegations. The report states that the complaints were dismissed either after an investigation or because they were barred by the statute of limitations. Do you have any thoughts on the high dismissal rate?
12. The council's annual report states that the "overwhelming majority" of complaints filed in FY 15 do not deal with judicial misconduct and many deal with issues that are appropriate for an appellate court and not the council. How should the council respond to these complainants? Is there a better way to timely inform people about the forum where they can properly raise their issues?

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