

Questions for Judicial Review Council Nominees

By: Michelle Kirby, Senior Legislative Attorney
May 14, 2019 | 2019-R-0112

Judicial Review Council

The Judicial Review Council investigates and resolves complaints or internal referrals about state judges, family support magistrates, and workers' compensation commissioners regarding misconduct, disability, or substance abuse. 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 ([CGS § 51-51k](#)).

Every complaint of misconduct is thoroughly investigated. If, after investigation, the council determines that no misconduct has occurred, it dismisses the complaint. If the council determines that misconduct may have occurred, it schedules a probable cause hearing to determine whether probable cause exists to believe that judicial misconduct has occurred. The hearing 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 that (1) created the appearance of impropriety or (2) constitutes an unfavorable judicial practice. If the council 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 such as public censure; suspension without pay for up to one year; recommend suspension or removal from office to the state Supreme Court or the Governor, as applicable; or exonerate the judicial officer from all charges.

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 it. 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 for incompetent performance of judicial duties. What type of evidence would you look for to determine whether a judge's performance was incompetent?
5. 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?
6. In your opinion, to what extent does a judge's, commissioner's, 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?
7. How would you handle a referral that a respondent had a substance abuse problem or mental infirmity?
8. 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?
9. 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. How legitimate is this concern? How would you balance the public's right to know against the right of judicial confidentiality?
10. The council's annual report states that many complaints filed in past years deal with issues that are outside the council's jurisdiction and more appropriate for an appellate court. Is there a better way to inform people about what is, and is not, an appropriate matter to file with the council?
11. The annual report also cites a significant increase in the number of multiple complaints by single filers (making up 23% of total complaints in FY 18 and 14% of total complaints in FY 17). How should the council respond to these complainants?

MK:kl