

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT)
OF RULE IV OF THE RULES OF)
PROCEDURE OF THE JUDICIAL)
QUALIFICATIONS COMMISSION)
(APPENDIX TO SDCL 16-1A))

RULE 00-10

A hearing having been held on February 17, 2000, at Pierre, South Dakota, relating to the amendment of Rule IV of the Rules of Procedure of the Judicial Qualifications Commission (Appendix to SDCL 16-1A), and the Court having considered the proposed amendment, the correspondence and oral presentations relating thereto, if any, and being fully advised in the premises, now, therefore, it is

ORDERED that Rule IV of the Rules of Procedure of the Judicial Qualifications Commission (Appendix to SDCL 16-1A) be and it is hereby amended to read in its entirety as follows:

IV. JUDICIAL ELECTIONS

1. Special Committee - Proceedings and Authority.

In every year in which a circuit court judicial election is held in this State and at such other times as the Commission may deem appropriate, a Special Committee on Judicial Election Campaign Intervention ("Special Committee") shall be created whose responsibility shall be to issue advisory opinions and to deal expeditiously with allegations of ethical misconduct in campaigns for judicial office. The membership of such committee shall consist of five (5) members. Two (2) members shall be appointed by the Chair of the Commission and shall be former members of the Commission. Two (2) members shall be appointed by the Chairperson of the Disciplinary Board of the State Bar of South Dakota ("the Board") and shall be former members of the Board. The fifth member shall be appointed by the Chief Justice and shall be a retired circuit court judge or a retired Supreme Court Justice. Any action taken by the Special Committee shall require a majority vote. The objective

Rule 00-10

Both formal and informal opinions shall be advisory only; however, the Commission, the Board and the Supreme Court shall consider reliance by a judicial candidate upon the Special Committee opinion.

- (c) Upon receipt of a complaint or otherwise receiving information facially indicating a violation by a judicial candidate of any provision of Canon 5 of the South Dakota Judicial Code of Conduct during the course of a campaign for judicial office, the secretary or chair of the Commission shall immediately forward a copy of the same by facsimile, if available, and U.S. mail to the Special Committee members and said Committee shall:
- (1) seek, from the complainant and/or the subject of the complaint, such further information on the allegations of the complaint as it deems necessary;
 - (2) conduct such additional investigation as the Committee may deem necessary;
 - (3) determine whether the allegations of the complaint warrant speedy intervention and, if so, immediately issue a confidential cease-and-desist request to the candidate and/or organization believed to be engaging in unethical and/or unfair campaign practices. If the Committee determines that the unethical and/or unfair campaign practice is of a serious and damaging nature, the Committee may, in its discretion, disregard the issuance of a cease-and-desist request and immediately impose the appropriate sanction authorized by the provisions of paragraph (4)(i) and (ii), hereafter described. If the allegations of the complaint do not warrant intervention, the Committee shall dismiss the same and so notify the complaining party.
 - (4) if a cease-and-desist request is disregarded or if the unethical or unfair campaign practices otherwise continue, the Committee is further authorized:
 - (i) to immediately release to all appropriate media outlets, as well as the complaining party and the person and/or organization complained against, a public statement setting out the violations believed to exist. In the event that the violations have continued after the imposition of the cease-and desist-request, the media release shall also include a statement that the candidate and/or organization has failed to honor the cease-and-desist request.
 - (ii) to refer the matter to the full Commission or the Board for such action as may be appropriate under the applicable rules.
- (d) All proceedings under this Rule shall be informal and non-adversarial, and the Special Committee shall act on