

**Judicial Qualifications Commission**  
Governor's Boards and Commissions' Portal  
<http://boardsandcommissions.sd.gov/default.aspx>

Secretary  
Judicial Qualifications Commission  
500 E. Capitol Ave.  
Pierre, SD 57501

**JUDICIAL APPLICATIONS AND DISCIPLINE INFORMATION**

*Four things belong to a judge: to hear courteously;  
To answer wisely; to consider soberly;  
And to decide impartially.  
~Socrates~*

**Current Commissioners:**

<b>Kimberly Mortenson, Chair</b>	<b>Appointed: April 8, 2016</b>
<b>Mark S. Roby, Vice Chair</b>	<b>Appointed: July 1, 2017</b>
<b>Hon. Bruce V. Anderson, Secretary</b>	<b>Appointed: September 30, 2015</b>
<b>Hon. Robin J. Houwman</b>	<b>Appointed: May 6, 2016</b>
<b>Rebecca A. Porter</b>	<b>Appointed: July 15, 2016</b>
<b>Timothy M. Engel</b>	<b>Appointed: January 31, 2018</b>
<b>Mark Haigh</b>	<b>Appointed: April 8, 2016</b>

**General Information**

South Dakota judges are governed by high standards of conduct which define proper and improper conduct for judges in both their professional and personal capacities. These standards are set forth in the [South Dakota Code of Judicial Conduct, SDCL ch. 16-2, Appx.](#) Under these standards of conduct, judges must:

- Uphold the integrity and independence of the judiciary;
- Avoid impropriety and appearance of impropriety in all of their activities;
- Perform the duties of judicial office impartially and diligently;
- Conduct their extra-judicial activities as to minimize the risk of conflict with judicial obligations; and
- Refrain from inappropriate political activity.

Discipline of judges in South Dakota is conducted by the Judicial Qualifications Commission pursuant to [South Dakota Constitution, Article V, section 9 and SDCL ch. 16-1A](#). The rules governing judicial disciplinary proceedings are provided in the [Appendix to SDCL ch. 16-1A at section III](#).

The Judicial Qualifications Commission receives, investigates and evaluates allegations of judicial misconduct. Although the Judicial Qualifications Commission reviews complaints about judges, it is an independent entity, separate from the South Dakota Judicial Branch.

The Commission on Judicial Qualifications consists of seven members:

- Two judges of the circuit court, elected by the judicial conference;
- Three members of the bar practicing law in this state, no more than two of whom may be of the same political party, appointed by a majority vote of the state bar commissioners; and
- Two citizens who are not of the same political party, appointed by the Governor.

The term of office for a commission member is four years. No person may serve more than two terms as a member of the commission.

### **Filing a Judicial Application**

Judicial announcements are published in the State Bar Newsletter. Applications may be obtained from either the UJS website or from the Secretary of the Commission. The commission shall require completion of a questionnaire which shall include questions relating to the background and qualifications of the applicant, a waiver of confidentiality of all materials necessary to adequately investigate each applicant, including, but not limited to, disciplinary records of the South Dakota State Bar Disciplinary Board, any other bar association disciplinary records, and records maintained by any law enforcement agency. The investigation will be conducted in a professional manner but may not be entirely confidential. There may be additional investigations and contacts made by JQC members if deemed appropriate. In addition to the application, an applicant will be required to submit two examples of legal articles, books, briefs, or other legal writings, which reflect his/her personal work. Finally, a credit report with credit score not more than 30 days old will need to be submitted.

Thereafter, Commission will schedule interviews and will interview all candidates. By majority vote, the commission shall select two or more qualified persons to fill each judicial vacancy from the list of those persons interviewed who meet the requirements of the South Dakota Constitution, these Rules, and all other legal requirements for the judicial office.

The names of such nominees selected by the commission shall be submitted to the governor in alphabetical order along with a copy of all investigative

information and documents relating to each nominee.

### **Filing a Complaint**

The procedure for filing a complaint for misconduct against a judge in South Dakota is described in [SDCL ch. 16-1A, Appx.III\(2\)](#).

Please use the complaint form which may be downloaded from this site. Any person wishing to file a complaint against a judge should state the facts of his or her particular situation as clearly and as specifically as possible. Under the rules, the complaint must allege facts which would demonstrate:

- A violation of the Judicial Code of Conduct (Appendix to SDCL ch.16-2) (see above);
- Willful misconduct in office;
- Habitual intemperance;
- Disability that seriously interferes with the performance of the judge's duties; or
- Violation of any constitutional provisions or statutes or conduct that is prejudicial to the administration of justice and brings a judicial office into dispute.

Complaints filed against judges must be written and may be directed to:

Secretary  
Judicial Qualifications Commission  
500 E. Capitol Ave.  
Pierre, SD 57501

E-mail complaints are not allowed.

If you choose to submit an anonymous complaint, your complaint may not be able to be investigated by the Judicial Qualifications Commission if the complaint is incomplete or if more information is needed from you in order to proceed.

### **Investigation and Hearings**

The Secretary of the Judicial Qualifications Commission will distribute the written complaint to all members of the Commission. You will receive notice from the Secretary that your complaint was received. Review and investigation of the complaint will be conducted according to the rules governing judicial disciplinary proceedings.

Under these rules, the complaint may be forwarded to the judge complained against. You will receive notice from the Secretary if this happens. The judge is given ten days to respond, and you will receive a copy of the judge's response and be given an opportunity to reply. The response and your reply will be provided to all Commission members.

If the Commission decides to issue a private reprimand, you will receive notice that no formal disciplinary action will be taken. A private reprimand is a written reprimand of the judge by the Commission. However, the Commission may proceed to formal disciplinary proceedings which may include a hearing. You will be notified by the Secretary of the final outcome of any formal disciplinary proceeding.

The Commission dismisses unfounded complaints.

### **Purpose for Judicial Discipline**

The purpose of a disciplinary action involving a judge is, first and foremost, to protect the public. Under the rules, disciplinary proceedings are confidential until they reach the point of the Commission's filing its recommendation with the Supreme Court or the accused judge requests that the matter be made public. The matter is also public if the disciplinary investigation is based upon conviction of a judge for commission of a crime that is a felony under state or federal law, or is one involving moral turpitude.

An honest disagreement about the outcome of a case is not cause for discipline. A mistake or error of judgment is also not cause for discipline. In those matters, the litigants may file an appeal of their case in the appropriate court.

### **Frequently Asked Questions**

#### **1. Will my identity be revealed to the judge?**

*Generally, yes. The Judicial Qualifications Commission notifies judges about complaints unless there is an overriding reason to withhold this information.*

#### **2. Will my complaint be made public?**

*Usually, no, although a complaint may become public if the Judicial Qualifications Commission files formal charges against the judge with the Supreme Court or if the judge requests the matter be made public.*

**3. Will filing a complaint with the Judicial Qualifications Commission change the decision in my lawsuit?**

*No. Judicial Qualifications Commission proceedings have no effect on decision or appeals.*

**4. Will my complaint automatically disqualify the judge from further involvement in my case?**

*No. The Judicial Qualifications Commission will only review your complaint to determine whether or not misconduct has occurred. Disqualification is determined in court proceedings by a judge.*

**5. Does the Judicial Qualifications Commission act on all complaints?**

*Yes. Every complaint is reviewed by the staff and the Judicial Qualifications Commission.*

**6. Should I delay any appeal until this request for disciplinary action is concluded?**

*No. The Commission reviews only questions of ethical conduct. It does not have authority to review the merits of a judicial decision. If the substance of your complaint is about the merits or outcome of your case or a particular ruling, you should talk with your attorney about the proper course of action, including whether or not to file an appeal. If you seek to change the outcome of your case, discuss this with a lawyer without delay.*

**7. If my complaint is justified, will the Judicial Qualifications Commission tell me how the judge was disciplined?**

*Yes. At the close of the case you will receive a letter describing the action taken.*

**8. What are some examples of judicial misconduct?**

*Some examples are:*

- *Improper courtroom demeanor or improper treatment of parties, counsel, witnesses, jurors, court staff and others.*
- *Failing to promptly dispose of judicial business.*
- *Conflict of interest.*

- *Chemical abuse.*
- *Engaging in improper election campaign activities.*
- *Receipt of information about a case outside the presence of a party.*
- *Failure to be impartial.*

## **9. What if I think the judge's ruling was wrong?**

*A judge's error in a decision or ruling – by itself – is not misconduct. Appeal may be the only remedy for such an error, or there may be no remedy. Orders as to custody, visitation and setting child support, as well as fines and sentences in traffic or criminal cases – if not outside the parameters set by law – are generally within the discretion of the trial court and are not usually matters for the Commission.*

*The Commission does not have the authority to direct a judge to take legal action, or to review a case for judicial error, mistake or other legal grounds. These functions are for the State's appellate courts.*

*Allegations stemming from a judge's rulings or exercise of discretion do not provide a basis for the Commission's action, and personal dissatisfaction alone cannot be grounds for judicial investigation.*

## **10. What can't the Commission do?**

*The Commission is not an appellate court. The Commission's authority is limited by law to investigating the complaint and, if appropriate, disciplining the judge. The Commission does not have the authority to issue orders in any case, including ordering anyone to be released from jail, granting a new trial, disqualifying a judge from hearing a case, assigning a new judge to a case or granting or changing custody, visitation or child support orders. Neither the Commission nor its staff is authorized to give legal advice or respond to requests for assistance with individual legal matters.*

Members of the Judicial Qualifications Commission and the South Dakota Supreme Court appreciate your interest in our state judges and the high standards of professional conduct set forth for them by the South Dakota Code of Judicial Conduct.

### **Links**

- [Circuit Judge Application](#)
- [Historical JQC Statistics](#)
- [JQC Complaint Form](#)
- [JQC Statistics](#)
- [Judicial Canons](#)