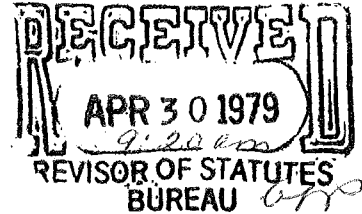


JC 1 to 6



CERTIFICATE

STATE OF WISCONSIN)
JUDICIAL COMMISSION) SS.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Natalie Smith, Executive Director of the Judicial Commission, and custodian of the official records of said Commission, do hereby certify that the annexed rules relating to the Commission's organization and proceedings were duly approved and adopted by this Commission on April 27, 1979. I further certify that said copy has been compared by me with the original on file in this Commission, and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Commission in the City of Madison, this 30th day of April, 1979.

Natalie Smith

Natalie Smith, (SEAL)
Executive Director

ORDER OF THE JUDICIAL COMMISSION ADOPTING, AMENDING OR REPEALING RULES

Pursuant to authority vested in the judicial commission by sections 757.81 to 757.99, Wis. Stats., the commission hereby repeals, amends, and adopts rules as follows:

Chapter JC 1 to JC 6 of the Wis. Adm. Code are adopted to read:

CHAPTER JC 1

AUTHORIZATION AND DEFINITIONS

JC 1.01 AUTHORIZATION. The rules in chapters JC 1 to JC 6 Wis. Adm. Code are adopted by the commission pursuant to s. 757.83 (3), Stats., and relate to ss. 757.81 to 757.99, Stats.

JC 1.02 DEFINITIONS. The definitions in s. 757.81, Stats., apply in chapters JC 1 to JC 6 Wis. Adm. Code. In addition, in chapters JC 1 to JC 6 Wis. Adm. Code:

(1) "Allegation" means a charge of misconduct or disability directed to the commission.

(2) "Complaint" means a written document from the commission directed to the supreme court charging misconduct and requesting appropriate discipline or a formal hearing.

(3) "Executive director" means the executive director of the commission.

(4) "Judge" means a judge of any court established by or pursuant to article VII, section 2 or 14, of the constitution, or a supreme court justice, but does not include a court commissioner.

(5) "Person" means any natural person, any partnership, corporation, group, association or organization or any political body. "Person" includes the executive director, the commission or any commissioner.

(6) "Petition" means a written document from the commission directed to the supreme court alleging that a judge has a temporary or permanent disability and requesting appropriate action or a formal hear-

ing.

CHAPTER JC 2

COMMISSION ORGANIZATION

JC 2.01 OFFICERS. The officers of the commission are a chairperson and vice chairperson. The term for each office is one year. An officer may serve no more than 2 consecutive terms in a particular office, but is eligible to serve in an office other than the one previously held. Officers shall be elected at the first meeting after August 1 of each year.

JC 2.02 MEETINGS. (1) Regular meetings shall be held every other month at a time and place fixed by the chairperson. Sufficient notice shall be given to enable the commissioners so notified to attend the meetings.

(2) Special meetings shall be held at the request of the chairperson or at the request of any 3 commissioners. Commissioners shall be notified of the meeting not less than 72 hours in advance of the meeting.

(3) Emergency meetings shall be held at the request of any 5 commissioners. Commissioners shall be notified of the meeting not less than 24 hours in advance of the meeting.

(4) Any notice given under this section shall be given in person, in writing or by telephone, whichever is most practicable.

JC 2.03 SCREENING COMMITTEE. The chairperson shall appoint a screening committee consisting of at least 3 commissioners to serve at the pleasure of the chairperson.

CHAPTER JC 3

GENERAL PROVISIONS

JC 3.01 CONFIDENTIALITY. The proceedings of the judicial commission prior to the filing of a formal complaint concerning misconduct or a petition concerning disability are confidential, unless a valid waiver of confidentiality has been made by the judge. If a person who makes an allega-

tion under section JC 4.01 or 5.01 Wis. Adm. Code breaches the confidentiality of the investigation, the commission may dismiss the allegation, admonish the person or take other appropriate action. If a judge requests that any clarifying statement be made regarding an investigation, the commission may do so.

JC 3.02 INDEPENDENT INVESTIGATION. The commission may vote to have an independent person investigate a particular allegation of misconduct or disability. The person shall have the authority, duties and responsibilities of the executive director with respect to the investigation.

JC 3.03 REVISED ALLEGATION. The commission may decide after an investigation has started that a particular allegation of misconduct is properly an allegation of disability or that a particular allegation of disability is properly an allegation of misconduct. If an allegation is revised in this manner, all proceedings shall cease and a new allegation shall be made under section JC 4.01 or 5.01 Wis. Adm. Code, whichever is applicable.

JC 3.04 DISQUALIFICATION. A member shall not participate in any matter if a judge similarly situated would be disqualified in a court proceeding. In cases other than mandatory disqualification if any question of propriety of participation is raised it shall be decided by a majority of the commissioners present and voting.

JC 3.05 INTERNAL PROCEEDINGS. The commission shall prescribe procedures for its internal proceedings as the commission deems appropriate.

JC 3.06 REQUEST FOR FINANCIAL STATEMENT. If the commission receives a request for information relating to or a copy of a financial statement which has been filed with the commission as required by the code of judicial ethics, notice of the request, with the name of the person making the request if it is readily available, shall be given to the judge. The person making the request need not give the commission his or her name,

but if the person gives the commission his or her name, the judge shall be told. This section does not apply to requests made by news media reporters.

JC 3.07 COMMISSION NOT TO ACT AS APPELLATE COURT. The commission shall not function as an appellate court to review the decisions of a court or judge or to exercise superintending or administrative control over determinations of courts or judges.

JC 3.08 JURISDICTION. Allegations may be considered only if they relate to actions taken while the judge holds judicial office or acts as a reserve judge. Conduct by the person occurring as an attorney prior to assuming office or conduct subsequent to leaving judicial office, unless in the capacity of a reserve judge, is not within the jurisdiction of the commission.

CHAPTER JC 4

MISCONDUCT

JC 4.01 ALLEGATION. The commission shall consider any allegation of misconduct from any source which reasonably indicates the existence of a cause justifying inquiry and direct that the allegation be investigated under section JC 4.03 Wis. Adm. Code. Any person may submit a statement to the commission alleging misconduct by a judge. The person may request that his or her identity or information or both be kept confidential. The executive director and the commission shall comply with such requests. The executive director may seek additional facts from the person so that the allegation contains as much information as possible. Allegations of misconduct shall be reduced to writing.

JC 4.02 SCREENING. (1) The screening committee shall screen any allegation under section JC 4.01 Wis. Adm. Code, which is not initiated by the commission. The committee shall either recommend that the allegation be dismissed under sub. (2) or determine that the allegation indicates

possible misconduct warranting investigation and refer the matter to the executive director for investigation under section JC 4.03 Wis. Adm. Code.

(2) If the committee votes to dismiss the allegation, the matter shall be referred to the commission. The commission may vote either to dismiss the allegation or that the allegation indicates possible misconduct warranting investigation under section JC 4.03 Wis. Adm. Code. If an allegation is dismissed the commission shall notify the person who made the allegation and may notify the judge.

JC 4.03 INVESTIGATION. (1) If an investigation is warranted, the matter shall be referred to the executive director for investigation. The commission shall notify the person who made the allegation of the investigation; and the commission shall notify the judge of the investigation unless the commission determines otherwise for good cause. The executive director shall conduct a full, fair, prompt and complete investigation. The investigation shall be conducted inconspicuously to avoid unnecessary embarrassment to and publicity for the judge. Persons contacted for information shall be directed not to disclose that the investigation is being conducted or the nature of any inquiries which may be made. Any person giving information may request that his or her identity or information or both be kept confidential. The executive director and the commission shall comply with such requests. A judge, if notified under this subsection, may present such evidence to the executive director as the judge deems appropriate.

(2) Upon the request of any commissioner, the executive director, the person making the allegation or the judge, the commission may issue subpoenas to compel the attendance and testimony of witnesses and to command the production of books, papers, documents or tangible things designated in the subpoena in connection with an investigation.

JC 4.04 REPORT TO COMMISSION. (1) The executive director shall

report to the commission on the status of all cases at each meeting.

(2) When an investigation is completed, the executive director shall prepare a report of the investigation which shall be given or mailed to each commission member.

JC 4.05 COMMISSION CONSIDERATION. When the commission determines that investigation under section JC 4.03 Wis. Adm. Code is complete, the commission shall dismiss the allegation or find that there is cause to proceed further. In making this decision, the commission may consider only information which at this stage of the proceedings is not subject to a request for confidentiality. If the allegation is dismissed, the commission shall notify the person who made the allegation and shall notify the judge if he or she has been notified of the investigation or may notify the judge if he or she has not been previously notified of the investigation. If the commission determines that there is cause to proceed further, the judge shall then be notified and be given an opportunity to respond. The judge shall be provided a copy of all information considered by the commission in making its decision to proceed further. Material received from a person with a request for confidentiality shall not be considered by the commission or be given to the judge unless a waiver of confidentiality has been obtained from the person.

JC 4.06 RESPONSE BY THE JUDGE. The judge may present a response to the commission. The commission shall determine the method of presentation of the response and so advise the judge. The judge may appear in person and by counsel before the commission.

JC 4.07 COMMISSION FINDING. (1) Following the conclusion of proceedings under section JC 4.05 or 4.06 Wis. Adm. Code, the commission may vote to do any of the following:

(a) Refer the matter back to the executive director for further investigation under section JC 4.03 Wis. Adm. Code. In such a case, the

judge has an additional right to respond under section JC 4.06 Wis. Adm. Code if the commission again decides there is cause to proceed further under section JC 4.05 Wis. Adm. Code.

(b) Find that probable cause does not exist that a judge has engaged or is engaging in misconduct, and dismiss the allegation.

(c) Find that by reason of the lapse of time or other circumstances the conduct described in the allegation is no longer relevant to his or her continued conduct as a judge, and dismiss the allegation.

(d) Find that the judge committed a minor violation of a rule of the code of judicial ethics or a minor failure to perform an official duty and dismiss the allegation with an admonition to the judge that the conduct constituted a violation or a failure to properly perform and the conduct shall be corrected in the future.

(e) Find that any misconduct specified in the allegation is caused by a mental or physical condition for which treatment is appropriate and, with the agreement of the judge, hold open the allegation until the judge completes an appropriate treatment program. Upon successful completion of the program and demonstration that the conduct is unlikely to be repeated, the allegation shall be dismissed. Otherwise, a finding shall be made under par. (f) or (g).

(f) Find that probable cause exists that a judge has engaged or is engaging in misconduct, that the judge does not dispute the allegation of misconduct and file a formal complaint for appropriate discipline with the supreme court.

(g) Find that probable cause exists that a judge has engaged or is engaging in misconduct, that the judge does dispute the allegation of misconduct and file a formal complaint for a hearing under s. 757.87, Stats., with the supreme court.

(2) In this section "probable cause" means that it is more probable

than not that misconduct occurred.

CHAPTER JC 5

DISABILITY

JC 5.01 ALLEGATION. The commission shall consider any allegation that a judge has a disability from any source which reasonably indicates the existence of a cause justifying inquiry and direct that the allegation be investigated under section JC 5.03 Wis. Adm. Code. Any person may submit a statement to the commission alleging that a judge has a disability. The person may request that his or her identity or information or both be kept confidential. The executive director and the commission shall comply with such requests. The executive director may seek additional facts from the person so that the allegation contains as much information as possible. Allegations of disability shall be reduced to writing.

JC 5.02 SCREENING. (1) The screening committee shall screen any allegation under section JC 5.01 Wis. Adm. Code which is not initiated by the commission. The committee shall either recommend that the allegation be dismissed under sub. (2) or determine that the allegation indicates possible disability warranting investigation and refer the matter to the executive director for investigation under section JC 5.03 Wis. Adm. Code.

(2) If the committee votes to dismiss the allegation, the matter shall be referred to the commission. The commission may vote either to dismiss the allegation or that the allegation indicates possible disability warranting investigation under section JC 5.03 Wis. Adm. Code. If an allegation is dismissed, the commission shall notify the person who made the allegation and may notify the judge.

JC 5.03 INVESTIGATION. (1) If an investigation is warranted, the matter shall be referred to the executive director for investigation. The commission shall notify the person who made the allegation of the investi-

gation; and the commission shall notify the judge of the investigation unless the commission determines otherwise for good cause. The executive director shall conduct a full, fair, prompt and complete investigation. The investigation shall be conducted inconspicuously, to avoid unnecessary embarrassment to and publicity for the judge. Persons contacted for information shall be directed not to disclose that the investigation is being conducted or the nature of any inquiries which may be made. Any person giving information may request that his or her identity or information or both be kept confidential. The executive director and the commission shall comply with such requests. A judge, if notified under this subsection, may present such evidence to the executive director as the judge deems appropriate.

(2) The commission may require a judge who is under investigation for disability to submit to a medical examination arranged by the commission.

(3) Upon the request of any commissioner, the executive director, the person making the allegation or the judge, the commission may issue subpoenas to compel the attendance and testimony of witnesses and to command the production of books, papers, documents or tangible things designated in the subpoena in connection with an investigation.

JC 5.04 REPORT TO COMMISSION. (1) The executive director shall report to the commission on the status of all cases at each meeting.

(2) When an investigation is completed, the executive director shall prepare a report of the investigation which shall be given or mailed to each commission member.

JC 5.05 COMMISSION CONSIDERATION. When the commission determines that investigation under section JC 5.03 Wis. Adm. Code is complete, the commission shall dismiss the allegation or find that there is cause to proceed further. In making this decision, the commission may consider

only information which at this stage of the proceedings is not subject to a request for confidentiality. If the allegation is dismissed, the commission shall notify the person who made the allegation and shall notify the judge if he or she has been notified of the investigation or may notify the judge if he or she has not been previously notified of the investigation. If the commission determines that there is cause to proceed further, the judge shall then be notified and be given an opportunity to respond. The judge shall be provided a copy of all information considered by the commission in making its decision to proceed further. Material received from a person with a request for confidentiality shall not be considered by the commission or be given to the judge unless a waiver of confidentiality has been obtained from the person.

JC 5.06 RESPONSE BY THE JUDGE. The judge may present a response to the commission. The commission shall determine the method of presentation of the response and so advise the judge. The judge may appear in person and by counsel before the commission.

JC 5.07 COMMISSION FINDING. (1) Following the conclusion of proceedings under section JC 5.05 or 5.06 Wis. Adm. Code, the commission may vote to do any of the following:

(a) Refer the matter back to the executive director for further investigation under section JC 5.03 Wis. Adm. Code. In such a case, the judge has an additional right to respond under section JC 5.06 Wis. Adm. Code if the commission again decides there is cause to proceed further under section JC 5.05 Wis. Adm. Code.

(b) Find that probable cause does not exist that a judge has a disability and dismiss the allegation.

(c) Find that any disability specified in the allegation is caused by a mental or physical condition for which treatment is appropriate and, with the agreement of the judge, hold open the allegation for a reasonable

time until the judge completes an appropriate treatment program. Upon successful completion of the program and demonstration that the disability is removed, the allegation shall be dismissed. Otherwise, a finding shall be made under par. (d), (e), (f) or (g).

(d) Find that probable cause exists that a judge has a temporary disability, that the judge does not dispute the fact that he or she has a temporary disability and file a petition for appropriate action with the supreme court.

(e) Find that probable cause exists that a judge has a temporary disability, that the judge does dispute the fact that he or she has a temporary disability and file a petition for a hearing under s. 757.87, Stats., with the supreme court.

(f) Find that probable cause exists that a judge has a permanent disability, that the judge does not dispute the fact that he or she has a permanent disability and file a petition for appropriate action with the supreme court.

(g) Find that probable cause exists that a judge has a permanent disability, that the judge does dispute that he or she has a permanent disability and file a petition for a hearing under s. 757.87, Stats., with the supreme court.

(2) In this section, "probable cause" means that it is more probable than not that the judge has a disability.

CHAPTER JC 6

PROSECUTION

JC 6.01 PROSECUTOR. The commission may authorize the executive director or may hire counsel to prosecute a case on behalf of the commission.

The rules contained herein take effect on the first day of the month following publication of the rules in the Wisconsin Administrative regis-

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Dated at Madison, Wisconsin April 30, 1979

JUDICIAL COMMISSION

By *Natalie Smith*
Natalie Smith,
Executive Director

(End)