

## Chapter JC 5

## DISABILITY

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**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.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79.

**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.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79.

**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 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.

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(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.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79.

**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.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79.

**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.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79.

**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.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79.

**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,

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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 he has a disability.

History: Cr. Register, May, 1979, No. 281, eff. 6-1-79.