

The State of New Hampshire

Judicial Conduct Committee

603-427-9295



Introduction:

The Judicial Conduct Committee has eleven members, consisting of judges, lawyers, and public representatives, and meets twelve or more times each year.

All of the members read all of the reports of alleged judicial misconduct that are filed with the Committee. However, because each meeting agenda may contain as many as ten or more reports and since each report can be lengthy and can include many pages of attachments, the Committee asks a reporter to fill out a summary "Cover Sheet." This Cover Sheet enables Committee members to keep in mind, as they read, who is filing the report of judicial misconduct, what the report is all about, and what kind of supporting evidence they should be looking for. The Committee feels that this summarizing and focusing of the allegations can also be helpful to the reporter.

Process:

Attached is a Report of Alleged Judicial Misconduct Cover Sheet, which we ask that you fill out and return to the Committee in order that it may be considered by the Committee along with your report. Again, this summary information will **not** be a substitute for your report, which will be read and considered in its entirety by each Committee member. The Cover Sheet is simply designed to enable the members to read each report, no matter how complicated and detailed, while looking for the instances of judicial misconduct (and for the supporting evidence) that are being alleged.

Rulings of the Court NOT Reviewed as Substitute for Appeal:

The Committee also urges you to be aware of what it does and does not do. It does **not** review the judge's findings and rulings, for example, unless it can be shown that these have been the result of a persistent bad-faith disregard of the law. The Committee has found that a sizable majority of the reports of judicial misconduct that it receives must be dismissed because they essentially involve dissatisfaction with a judge's decisions, findings, or rulings, rather than misconduct, and is therefore a substitute for an appeal. A report of judicial misconduct that merely alleges that a judge made a wrong

decision or ignored the facts or misapplied the law is outside the Committee's jurisdiction and will not be docketed. The Committee has no power to change the result in a particular case; only an appellate court can do that. In such a case you may wish to consult a lawyer about filing an appeal.

Three other important rules regarding the acceptance of reports of judicial misconduct for docketing should be mentioned:

Judicial Misconduct:

1. The conduct complained of must be judicial misconduct - that is, conduct that is contrary to the Code of Judicial Conduct. Some examples of judicial misconduct are improper demeanor, rudeness and mistreatment of litigants; offensive remarks; gender or other bias; favoritism; receiving private communications from parties or their lawyers; conflicts of interest; excessive delay in decision-making; neglect of administrative duties; and conduct off the bench bringing the judicial office into disrepute.

Staleness:

2. Reports of judicial misconduct arising out of conduct that took place over two years prior to receipt of the report will ordinarily be dismissed for staleness. If, however, the last episode of an alleged pattern of recurring judicial conduct occurs within the two-year period, the Committee may consider all prior acts or omissions alleged to be a part of the pattern.

Affirmation:

3. The report must be typed or in legible handwriting in ink and signed by the reporter under oath or affirmation. The following language or language that is substantially equivalent, must appear above the reporter's signature: "I hereby swear or affirm under the pains and penalties of perjury that the information contained in this Cover Sheet and accompanying report is true to the best of my knowledge."

Docketing as a Complaint:

If, after review by the Committee, the Committee determines that the allegations contained in the report satisfy the requirements for docketing as a complaint as set forth in section (5) (c) of Supreme Court Rule 40, the report is docketed as a complaint and response from the judge is obtained. In this connection, you should be aware that the Committee has access to trial transcripts and audio recordings.

Duty to Maintain Confidentiality under Supreme Court Rule 40 (3):

Nothing in the rule of confidentiality as set forth in Supreme Court Rule 40 (3) prevents a reporter from publicly disclosing the conduct of a judge which he or she believes violates the Code of Judicial Conduct or is otherwise inappropriate. Supreme Court Rule 40 (3) does prohibit a reporter, however, from publicly disclosing the fact that a report against a judge has been filed with the Committee regarding alleged misconduct until a statement of formal charges is prepared and filed as described in section 9(a) of Supreme Court Rule 40 or until the report is finally disposed of by the Committee. Once the report or complaint has been disposed of by the Committee, a reporter may make a public disclosure concerning the filing of a report including the conduct complained of and any action taken by the Committee.

Appearance before the Judicial Conduct Committee:

A reporter has no right to appear before the Committee in support of a report but may be required to attend as a witness in the course of a Committee investigation or hearing.

Judge's Response to Complaint:

Supreme Court Rule 40 (7) (c) provides that should a report be docketed as a complaint by the Committee and responded to by the judge, you shall be provided with a copy of the judge's response upon the Executive Secretary's receipt of a written request by you for this material.

No Provision for "Status Up-dates" to Reporters:

Please take note that the procedures of the Judicial Conduct Committee, which are governed entirely by Supreme Court Rule 40, make no provision for status updates to individuals who have filed a report of judicial misconduct with the Committee. Supreme Court Rule 40 provides only that, upon the dismissal of a report or complaint, the Committee shall notify the reporter in writing as to the reason for the Committee's dismissal of the report or complaint and that in the event that the Committee moves forward with formal charges and schedules a hearing, the Committee shall give notice to the reporter of the date, time and place of the hearing. Also take note that Supreme Court Rule 40 provides that upon receipt of any report of judicial misconduct, the Committee may elect to: 1- dismiss the report; 2- elevate the report to the level of a complaint; 3- conduct a preliminary investigation; 4- issue a statement of formal charges and Notice of Hearing; 5- conclude the matter at any stage of the process or proceeding by way of resolution and/ or adjustment or stipulation; and, 6- in the case of a report relating to a trial or judicial proceeding in progress, hold the matter in abeyance until the termination of the trial or proceeding.

Non-retention of Correspondence, Documents and Other Materials Not Accompanied by a Properly Filed Report:

Finally, please also take note that any correspondence, documents and/or other materials forwarded to the Judicial Conduct Committee which are not accompanied by or followed up with a properly completed, signed and dated Cover Sheet or equivalent will be discarded after 90 days as a properly completed Cover Sheet or equivalent must be received by this office before any report may be docketed and brought before the Committee under Supreme Court Rule 40.

Thank you for cooperating with the Committee's requests.