

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-10-0022
Petition to Amend Rules of the)
Commission on Judicial Conduct) **FILED 02/19/2010**
)
_____)

**ORDER
AMENDING THE RULES OF
THE COMMISSION ON JUDICIAL CONDUCT**

The Commission on Judicial Conduct has requested that the Court adopt proposed amendments to the Commission's rules. Upon consideration, and good cause appearing,

IT IS ORDERED that Rules 9, 16, 17, and 18, Rules of the Commission on Judicial Conduct, be amended in accordance with the attachment hereto. Because of the technical nature of the amendments, the proposal shall not be open for public comment under Rule 28, Rules of the Supreme Court, and the amendments shall be effective as of the date of signing.

DATED this _____ day of February, 2010.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution
E Keith Stott

ATTACHMENT*

RULES OF THE COMMISSION ON JUDICIAL CONDUCT

* * *

Rule 9. Public Access and Confidentiality

(a) Public access. As a general rule, complaints against judges shall be disclosed to the public following final disposition. In dismissed cases, however, only the complaint and the commission's order shall be public after all identifying information pertaining to an individual or court has been redacted. ~~The record in~~ informal proceedings, the record, as defined in these rules, shall be public after the complainant and the judge are notified of the outcome of the proceedings and the time provided for further commission review has expired. ~~The record in~~ formal proceedings, the record shall be public after the filing of the judge's response to formal charges or the expiration of the time provided for such a response, the entry of an order approving an agreement for discipline by consent, or the waiver of confidentiality by the judge.

(b) Confidential matters. All other commission correspondence, draft documents, computer records, investigative reports, attorney work product, commission deliberations, and records in dismissed cases, except as provided in the preceding paragraph, are confidential; ~~provided that, following entry of an order of dismissal, the~~

* Changes or additions in text are indicated by underlining and deletions from text are indicated by ~~strikeouts~~.

~~complaint and the order of dismissal shall be made public but with all identifying information regarding any person or court redacted and the judge and complainant designated only by number.~~

(c)-(d) [No change in text.]

* * *

Rule 16. Dispositions in gGeneral.

(a) Dismissal. The commission may dismiss a complaint that fails to allege an act of judicial misconduct, that lacks sufficient evidence to support an investigation, that is solely appellate in nature, or that is otherwise frivolous, unfounded or outside its jurisdiction. ~~A dismissal may be issued with confidential comments reminding a judge of ethical obligations or recommending changes in behavior or procedures.~~

(b) Dismissal with comments. The commission may dismiss a complaint with confidential comments, including, but not limited to, an advisory letter reminding a judge of ethical obligations or recommending changes in behavior or procedures, or a warning letter alerting a judge to the potential consequences of conduct that creates an appearance of impropriety.

~~**(b) Additional forms of discipline.** If the commission finds an act of judicial misconduct, in addition to any other sanction or sanctions imposed, the commission may direct a judge to participate in professional counseling, judicial education, mentoring, or other similar activities.~~

(c) Consultation. The commission may confer confidentially with a judge at any time

to discuss disciplinary alternatives including voluntary retirement or resignation. If a judge agrees to retire or resign while a complaint is pending, the commission may dismiss the complaint or take other appropriate action consistent with these rules. The commission may also encourage a judge to participate in professional counseling, judicial education, mentoring or other similar activities.

(d) [No change in text.]

Rule 17. Informal ~~s~~Sanctions

(a) [No change in text.]

(b) Other informal sanctions. The commission may take any other informal action consistent with these rules, including, but not limited to, directing a judge to participate in professional counseling, judicial education, mentoring or similar activities, and~~the assessment of assessing~~ attorney fees and costs.

Rule 18. Formal Sanctions

(a)-(d) [No change in text.]

(e) Other formal sanctions. The commission may recommend the imposition of other formal sanctions consistent with these rules, including, but not limited to, directing a judge to participate in professional counseling, judicial education, mentoring or similar activities, and~~the assessment of assessing~~ attorney fees and costs.

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