

Should I delay my appeal, until my judicial ethics complaint is resolved? NO. You must proceed with whatever remedy is available to you within the court system to correct any judicial errors you believe were committed in your case, and you must do so within the time prescribed by law. Note: Your complaint of judicial misconduct is a matter totally separate and independent of your litigation and will have no effect on any legal decision on appeal.

Can I get a judicial officer removed from my case if I file a complaint against him/her with the JIC? No. An allegation of judicial misconduct is not a substitute for recusal procedures, and you should seek the advice of your attorney as to the procedure for attempting to remove a judge from your case. The Commission usually does not consider a complaint while a matter is pending before the Court.

Can JIC give legal advice? No. The Commission is not authorized to give legal advice to citizens or represent clients. However, it is authorized to render advisory opinions concerning proper interpretation of the Code of Judicial Conduct to judicial officers. Members of the public are entitled to redacted copies of these advisory opinions.

May I speak privately with individual JIC members or appear before the Commission at a meeting? No. All communications with the Commission must be in writing, addressed, and mailed to the Commission Office.



WVJIC Complaint Process and Frequently Asked Questions.

This brochure is designed to give an overview of the West Virginia Judicial Investigation Commission, the complaint process and answer some frequently asked questions from members of the public.



WVJIC
700 A
4700 MacCorkle Avenue, SE
Charleston, West Virginia 25304
Phone: (304) 558-0169
Fax: (304) 558-0831
Website: <http://www.courtswv.gov/legal-community/judicial-investigation.html>

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What is the Judicial Investigation Commission? The Judicial Investigation Commission (JIC) is an independent body responsible for investigating complaints of judicial misconduct. It is composed of three lay people, three circuit court judges, one family court judge, one magistrate and one senior status judge. The members come from different geographic locations within the State.

What is judicial misconduct? Judicial misconduct is any violation of the Code of Judicial Conduct, which may include, but is not limited to, the following:

- failure to perform duties impartially and diligently,
- failure to dispose promptly of the business of the court,
- conflict of interest, and
- other conduct which reflects adversely on the integrity of the judiciary.

Judicial misconduct does not include:

- rulings on the law and/or the facts,
- matters within the discretion of the trial court,
- rulings on the admissibility of evidence,
- rulings involving alimony, child support, custody or visitation rights,
- sentences imposed by the Court, and believing or disbelieving witnesses.

Who does the JIC investigate? Supreme Court Justices, ICA Judges, Circuit Court Judges, Family Court Judges, Magistrates, Mental Hygiene Commissioners, Juvenile Referees, Special Commissioners or Special Family Court Judges. JIC does **not** investigate Municipal Judges, ALJs, lawyers, law enforcement officers, circuit clerks, etc.

Who may file a complaint with the JIC? Any person, group, or organization with knowledge of possible judicial misconduct may file a complaint. The Commission does not accept anonymous complaints. You must identify yourself in the complaint. Original complaint forms must be mailed to the address listed on the form. Faxed or emailed complaints will not be accepted.

Does the JIC have jurisdiction over legal matters? No. The Commission is not an appellate court. It does not have authority to review, revise or correct the legal or factual validity of any judge's decisions. Such rulings may be appealed to a higher court and must be pursued through the legal process.

Must I use the standard JIC complaint form to file my complaint? Yes. The complaint form must be typed or legibly hand-printed in blue or black ink only. Do not use pencil. In addition to this brochure, you should also review the Code of Judicial Conduct and the entire complaint form before attempting to fill it out. Part IV of the complaint form, which requires you to state specific facts and circumstances that you believe amount to judicial misconduct, must be filled out. JIC will not review any documents or other items included with the complaint unless you complete Part IV. The term "See Attached" is not sufficient. You must state in chronological order facts in support of your allegations.

May I submit documents, transcripts or other items to support my contentions? You may submit such items but are not required to do so. Do not send the entire case file. JIC will only look at those documents which actually support your contentions. Attachments should be kept to a minimum and only to those items which truly aid your claims. Do not send original documents. These documents cannot be returned to you. You should retain a copy of the finished complaint form and attachments for your records.

Are complaints confidential? Rule 2.4 of the Rules of Judicial Disciplinary Procedure provides that the details of complaints filed or investigations conducted by the Office of Disciplinary Counsel shall be confidential. The details/investigation remain confidential unless the judicial officer has been admonished by JIC or a Statement of Charges has been issued. The Rule of Confidentiality attaches and becomes effective upon the filing of the complaint. JIC may find it necessary to disclose the identity and the existence of this complaint to the involved judicial officer. When you file the complaint, you are expressly consenting to any such disclosure to the judicial officer in question.

What happens to my complaint after it is filed? When a complaint is received, it is given a docket number and is reviewed by the Commission, usually at its next regularly scheduled meeting. The Commission gener-

ally meets six times a year. If complaints received do not on their face involve judicial misconduct or otherwise fall outside the Commission's authority they are dismissed and the complainant is so advised. If the complaints are not dismissed, a copy together with all exhibits, is sent to the judicial officer who is given an opportunity to make an informal response by letter. Such response is for the Commission only and a copy is not provided to the complainant. After receipt of the judicial officer's comments, the matter is again considered at the next meeting. The Commission may then (1) dismiss the complaint; (2) send the matter back to Counsel for further investigation; (3) admonish the judicial officer; or (4) find that more formal discipline is appropriate and request that a Statement of Charges be issued. If a Statement of Charges is issued, a hearing will then be held before the Judicial Hearing Board. At hearing, the judicial officer has a right to defend against the charges and to be represented by a lawyer. Witnesses and documents may be subpoenaed, and the complaining party is usually called to testify under oath. If no violation is found, the Judicial Hearing Board will recommend to the State Supreme Court that the complaint be dismissed. If a violation is found, the Commission may recommend to the State Supreme Court that the judicial officer receive a reprimand, censure, suspension, or removal from office. The State Supreme Court makes the final decision and is not required to follow the recommendation of the Judicial hearing Board.

How long does it take to resolve a complaint? The Commission normally meets once every two months, so final disposition may take several months, depending on the complexity of the matter. You will receive written notice of the final disposition at such time as it is appropriate. In addition, the Commission has no emergency powers and cannot, under any circumstances, interfere in any pending or ongoing litigation.

Can a dismissal of a complaint by the JIC be appealed? No. There is no such process set forth in the WV Rules of Judicial Disciplinary Procedure.

Is there a statute of limitations for filing a complaint? A complaint filed more than 2 years after the complainant knew, or in the exercise of reasonable diligence should have known, of the existence of a violation of the Code of Judicial Conduct shall be dismissed.