



IN RE AMENDMENTS TO THE RULES GOVERNING COMPLAINTS ON JUDICIAL MISCONDUCT

2023 OK 73

Decided: 06/19/2023

THE SUPREME COURT OF THE STATE OF OKLAHOMA

Cite as: 2023 OK 73, ___ P.3d ___

In re: AMENDMENTS TO THE RULES GOVERNING COMPLAINTS ON JUDICIAL MISCONDUCT, 5 O.S.2021, CH. 1, APP. 4A.

ORDER

¶1 Pursuant to the general administrative authority that Article VII, Section 6 of the Oklahoma Constitution vests in this Court over all courts of this State except the Court on the Judiciary and the Senate sitting as a Court of Impeachment, the Court hereby adopts the attached amendments to the Rules Governing Complaints on Judicial Misconduct, 5 O.S.2021, ch. 1, app. 4A. Said amendments are adopted in place of the rules originally adopted in October of 2006. *In re Rules Governing Complaints on Judicial Misconduct*, 2006 OK 82, 186 P.3d 926. A clean copy of the amended rules is attached as "Exhibit A."

¶2 DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 19TH DAY OF JUNE, 2023.

/s/Chief Justice

KANE, C.J.; ROWE, V.C.J.; and KAUGER, WINCHESTER, EDMONDSON, COMBS, GURICH (by separate writing), DARBY, and KUEHN, JJ., concur.

Gurich, J., with whom Kauger, J., joins, specially concurring:

I CONCUR in the proposed amendments to the Rules Governing Complaints on Judicial Misconduct, 5 O.S. 2021, ch.1 app.4A. I write separately to emphasize that active retired judges remain subject to the Code of Judicial Conduct and all Rules Governing Complaints on Judicial Misconduct, while retired judges remain subject to the Oklahoma Rules of Professional Conduct and Rules Governing Disciplinary Proceedings.

"EXHIBIT A"

Rules Governing Complaints on Judicial Misconduct

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Preface

The Supreme Court adopts Rules Governing Complaints on Judicial Misconduct under its exclusive supervisory and administrative power over the inferior courts as provided under **Article VII of the Oklahoma Constitution**. These rules are promulgated to preserve the integrity and public trust of the Judicial Branch of Government. The following procedure provides a uniform process to investigate and administer judicial discipline for misconduct that does not warrant removal from office, disqualification from holding future judicial office, or compulsory retirement which is otherwise administered by the Court on the Judiciary.

Rule 1.

Nature of Complaint

The purpose of the complaint process is to provide the highest standards for conduct of judges and judicial candidates as set forth in

- 1. Article VII of the Oklahoma Constitution;**
- 2. Code of Judicial Conduct, 5 O.S.2021, app.4, Canons 1-4;**
- 3. State Statute, 20 O.S.2021 § 1404; and**
- 4. State Statute, 20 O.S.2021 § 1404.1.**

These rules provide a venue for any person to complain about a judge or judicial candidate who the person believes has engaged in misconduct as defined or set forth herein.

This judicial misconduct procedure is not intended to be exercised to challenge a judge's decision in a particular case; or to be used in instances of erroneous findings of fact or conclusions of law in the absence of fraud, corrupt motive or bad faith on the judge's part, unless such findings or conclusions constitute such an abuse of discretion as to otherwise violate one of the rules of discipline described in the Code of Judicial Conduct. Appellate review and disqualification procedures exist and should be utilized to address concerns regarding findings of fact, conclusions of law and disqualification issues.

Rule 2

Timeliness

Complaints should be filed in a timely manner, the determination of which shall be made by the investigating and/or reviewing body based on the context of the complaint.

Rule 3

Council on Judicial Complaints

To ensure independent investigation of the complaint, the Council on Judicial Complaints is authorized to receive and investigate complaints regarding a judge as defined in 20 O.S.2021, § 1404 or a judicial candidate as defined in 20 O.S.2021, § 1404.1. Investigation of the complaint shall be in conformity with the procedures set forth in 20 O.S.2021, §§ 1651 et seq.

If, after an investigation, the Council on Judicial Complaints finds evidence of misconduct that does not warrant removal from office, disqualification from holding future judicial office, or compulsory retirement by the Court on the Judiciary, it shall forward all papers concerning the same, together with its findings, to the Chief Justice of the Oklahoma Supreme Court for review and

possible discipline. If the Council forwards findings to the Chief Justice, it shall provide written notice to the complainant and to the judge or judicial candidate within 20 days thereof. It is within the Council's discretion whether to share the contents of its findings with the judge or judicial candidate.

It is not contemplated that every violation of a Rule will result in the referral of findings to the Chief Justice. If, after an investigation, the Council on Judicial Complaint finds evidence of misconduct or the appearance of misconduct that does not warrant referral of its findings to the Chief Justice, it may issue a letter of caution to the judge or judicial candidate and advise the complainant that the complaint has been dismissed with a warning or letter of caution to the judge or judicial candidate. The warning or letter of caution shall not constitute an adjudication.

Nothing herein contained shall be construed to prevent the Council on Judicial Complaints from forwarding findings to the Chief Justice for review and possible discipline of a judge who retired during the pendency of an investigation, a judge whose term expired during the pendency of an investigation due to an unsuccessful election, or an unsuccessful candidate in a judicial election.

Rule 4

Review by Chief Justice

a. Purpose - When findings are sent to the Chief Justice by the Council on Judicial Complaints, the Chief Justice will review the findings for further action before determining whether to set the matter to be heard by the Supreme Court in conference.

b. Inquiry - The Chief Justice may conduct an inquiry including, but not limited to, requesting the judge, former judge, or judicial candidate in question file a written response to the findings or communicating orally or in writing with the complainant, the judge, former judge, or judicial candidate and any others who may have knowledge of the matter. The Chief Justice also has the authority to review any transcripts or other relevant documents.

c. Corrective Action - The proceeding will be concluded if the Chief Justice determines that appropriate action has been taken to remedy the problem raised by the complainant or that action on the Council's findings is no longer necessary because of intervening events. At the Chief Justice's discretion, he or she may also return the matter to the Council on Judicial Complaints for further investigation or refer to the Trial Division of the Court on the Judiciary for removal, disqualification from holding future judicial office, and/or compulsory retirement.

d. Disciplinary Action - If the proceeding is not dismissed and the problem has not been remedied, the Chief Justice shall take the following action: forward the Council's findings to the other members of the Supreme Court. The judge, former judge, or judicial candidate who is the subject of the proceeding is then allowed 10 days to file a written response to the findings with the members of the Supreme Court. The Vice Chief Justice may appoint an additional panel member, if needed, from the state judiciary. After considering the findings and response, the Court may then choose to impose any combination of appropriate discipline to include a private reprimand, mandatory education paid for by the judge or judicial candidate, mandatory mentorship, suspension with or without pay, public reprimand, or censure. The Supreme Court may also refer the matter to the Trial Division of the Court on the Judiciary for removal, disqualification from holding future judicial office, and/or compulsory retirement.

e. Dismissal - Proceedings will be dismissed if a majority of the Court concludes that the Council's findings are not appropriate for consideration.

f. Notice of Action - The Chief Justice shall notify the complainant, judge, former judge, or judicial candidate and the Council on Judicial Complaints when the matter has been addressed within 90 days of receiving the findings.

g. Nothing herein contained shall be construed to prevent the Supreme Court or the Chief Justice thereof from applying the provisions of Rule 4 to a judge who retires, a judge whose term expires due to an unsuccessful election, or a non-incumbent candidate who loses election during the pendency of the Council's investigation or these proceedings.

Rule 5

Confidentiality

The details of complaints filed or investigations conducted by the Council on Judicial Complaints shall be confidential. Any correspondence shall be considered confidential, not subject to public inspection.

A complainant or witness appearing before the Council on Judicial Complaints who reveals or causes to be revealed to the public any information about a proposed or pending judicial complaint may be subject to contempt proceedings.

Rule 6

Amendments

The Supreme Court reserves the right to amend, modify or clarify these rules by the authority vested by Article VII of the Oklahoma Constitution.

Citationizer[®] Summary of Documents Citing This Document

Cite Name Level

None Found.

Citationizer: Table of Authority

Cite Name

Level

Oklahoma Supreme Court Cases

Cite	Name	Level
<u>2006 OK 82, 186 P.3d 926,</u>	<u>IN RE: RULES GOVERNING COMPLAINTS ON JUDICIAL MISCONDUCT</u>	Discussed

Title 20. Courts

Cite	Name	Level
<u>20 O.S. 1404,</u>	<u>Additional Grounds for Removal of Judicial Officer</u>	Cited
<u>20 O.S. 1404.1,</u>	<u>Candidate for Judicial Office - Standards of Conduct - Removal - Disqualification</u>	Cited
<u>20 O.S. 1651,</u>	<u>Public Policy</u>	Cited

