Legal Authorities

Constitution: Art. 6, §22

Judiciary Law: §§40-48

Rules Governing Judicial Conduct:
22 NYCRR Part 100

Commission Operating Procedures & Rules:
22 NYCRR Parts 7000, 7001
Appointment to the Commission

11 Commission Members

- **Governor** (appoints 4 members)
  - 1 must be a judge
  - 1 must be a lawyer
  - 2 must be non-lawyers

- **Chief Judge** (appoints 3 judge members)
  - 1 must be from Appellate Division
  - 1 must be a town or village justice

- **Four Legislative Leaders** (each appoint one member)
  - May be a lawyer or non-lawyer
  - May not be a judge or former judge
Table of Organization

Commission Members

Administrator & Counsel
- Deputy Admin’r New York City
  - New York City Office
- Deputy Admin’r Albany
  - Albany Office
- Deputy Admin’r Rochester
  - Rochester Office
- Deputy Admin’r Litigation
- Clerk of the Commission
  - Chief Administrative Officer
  - Administrative Staff
Jurisdiction

The Commission has jurisdiction over 3,400 Judges and Justices of the State Unified Court System

No jurisdiction over:
• Administrative Law Judges
• Judicial Hearing Officers
• NYC Housing Court Judges
• Non-judges
• Federal Judges
Quick Overview of Complaint & Disciplinary Process

- Complaint received
- Initial review & inquiry by staff
- Commission reviews all complaints

If Warranted:

- Investigation
- Formal charges filed against judge
- Due process proceedings
- Commission determination
- Review by Court of Appeals
Confidentiality

Judiciary Law Sections 44 & 45

- All proceedings are confidential unless:
  - Judge waives confidentiality
  - Commission determines to publicly discipline a judge
Incoming Complaints

- Staff analyzes incoming complaints, conducts initial review and inquiry where necessary (e.g. interviews, document review)

The Commission receives over 1,900 complaints per year
10-Year Overview of Complaints

- **New Complaints**
- **Preliminary Inquiries**
- **Investigations**
Commission Review of Complaints

- Commission reviews all incoming complaints, including results of initial reviews & inquiries.
- Considers complaints on its own motion and directs Administrator to file complaint.
Disposition of New Complaints

Commission may:

✓ Dismiss complaint
✓ Refer to another agency (e.g. attorney grievance committee, District Attorney)
✓ Authorize investigation, including testimony from the judge
The Investigation

After Commission Authorizes Investigation

Witnesses interviewed; subpoenas issued, records reviewed

Commission reviews results of investigation

Judge’s testimony may be taken

Judge may present information to Commission

Complaint dismissed or closed

Complaint closed pursuant to stipulation. Judge agrees to vacate judicial office and never seek nor accept judicial office in the future. Stipulation becomes public.

Letter of Dismissal and Caution to judge

Referral to another agency

Formal Written Complaint against judge
Three Stages of a Formal Disciplinary Proceeding

The following three charts depict the various stages involved in resolving a Formal Written Complaint:

- pleadings and motions
- evidentiary hearing or stipulated agreement
- oral argument and Commission determination
- Court of Appeals review
Formal Written Complaints

1. Commission authorizes Formal Written Complaint (i.e. Charges)

2. Charges drawn & verified by Administrator; served on judge
   - Judge may move to dismiss charges
   - Judge files Answer

3. Administrator & judge may stipulate to close case if judge resigns; Commission must approve
4. Administrator & judge submit Agreed Statement of Facts for Commission approval
5. Administrator or judge move for summary determination; Commission decides
6. Commission appoints a referee to preside at hearing
Formal Written Complaints

**Stipulation**
- Judge agrees to vacate office and never seek nor accept judicial office in the future.
- The stipulation, and decision and order closing the matter, become public

**Agreed Statement of Facts**
- Stipulates as to facts, misconduct, and may include sanction
- If no sanction in Agreed Statement, Commission entertains written and oral argument as to sanction

**Summary Determination**
- If granted, Commission entertains written and oral argument as to sanction

**The Hearing**
- Referee presides
- Rules of evidence
- Post-hearing briefs to referee
- Referee files report w/ Commission
- Findings of fact
- Conclusions of law
- Commission entertains written and oral argument on referee’s report, sanction

**Commission Renders Determination**

*Stage Two*
Formal Written Complaints

Stage Three

Private

Commission Determination

Letter of Caution
Dismissal of Charges

Public

Admonition
Censure
Removal from Office
Retirement for Disability

Review by Court of Appeals
New York State’s Highest Court
(at request of disciplined judge)
**A Brief History**

The following pages offer a brief history of the development of the Commission system in New York.
Before there was a Commission...

Court on the Judiciary
(Ad hoc court for discipline of higher court judges)

Appellate Divisions
(Discipline of lower court judges)

No permanent judicial disciplinary staff, office or procedures
Temporary Commission (1974)

1974: New York State Legislature created a Temporary State Commission on Judicial Conduct, with limited authority to investigate complaints and recommend action against judges for engaging in misconduct. The Commission’s authority was expanded by constitutional amendments in 1976 and 1978 (following pages).

1960: California is first to create a judicial disciplinary commission.

Today: All 50 states and the District of Columbia have a judicial disciplinary commission of some sort.
Constitutional Amendment (1976)

- 9 Commission Members
- Powers:
  - Investigate complaints
  - Privately Admonish Judges
  - Commence Hearings before Court on the Judiciary and Appellate Division
  - Courts decide whether to Censure, Suspend or Remove Judges from office
2nd Constitutional Amendment (1978)

- 11 Commission Members instead of 9
- Powers:
  - Investigate complaints
  - Conduct formal disciplinary hearings
  - Determine that a judge be publicly admonished, censured, removed from office, retired for disability
  - Decisions are final unless disciplined judge seeks review in Court of Appeals
For More Information
Please Visit the Commission’s Website:
www.cjc.ny.gov