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Organization and Rules of Procedure

Sec. 51-51k-1. Creation

The Judicial Review Council is established by section 51-51k of the General Statutes, as amended.

(Effective December 28, 1994)

Sec. 51-51k-2. Authority and duties

(a) The Council is responsible for receiving and investigating complaints against judges, compensation commissioners, and family support magistrates involving conduct prohibited by statute or the Code of Judicial Conduct, in accordance with section 51-51l of the General Statutes.

(b) The Council has the authority to discipline judges, compensation commissioners, and family support magistrates in accordance with section 51-51n of the General Statutes.

(c) The Council may, in accordance with section 51-49 of the General Statutes, retire the chief justice or any judge of the supreme court, or the appellate court, or the superior court, or the chief state's attorney, a deputy chief state's attorney, or any state's attorney governed by section 51-49 of the General Statutes, or any public defender, chief public defender or deputy public defender governed by section 51-49 of the General Statutes, or any family support magistrate governed by section 51-49 of the General Statutes, or any compensation commissioner who has become so permanently incapacitated as to be unable to fulfill adequately the duties of such office.

(d) The Council has the authority, in accordance with section 51-45c of the General Statutes, to investigate the alleged mental infirmity or mental illness or drug dependency or alcohol addiction of any judge or family support magistrate when such matter is referred to it by the chief court administrator under section 51-45b of the General Statutes.

(Effective December 28, 1994)

Sec. 51-51k-3. Membership and terms of office

(a) The Council is composed of members and alternates appointed by the Governor with the approval of the General Assembly, as set forth in section 51-51k (a) of the General Statutes.

(b) The terms of all members shall be as set forth in section 51-51k (c) of the General Statutes.

(Effective December 28, 1994)

Sec. 51-51k-4. Complaints

(a) Complaints made to the Council shall be on forms available at each superior court clerk's office or from the office of the executive director of the Council.

(b) The complaint shall be typewritten or printed, shall be signed under oath by the complainant, and shall be sent or delivered to the office of the Council together with any additional supporting materials which the complainant wishes to submit.

(c) All complaints shall be specific as to the identity of the judge, compensation commissioner, or family support magistrate, date and place of occurrence of the alleged offense or offenses, and details of complaint.

(d) The Council shall, not later than five days after its receipt of a complaint, notify the complainant thereof by mail.

(e) The Council shall, not later than five days after the initiation of an investigation by it on its motion, or the receipt of a complaint, notify by registered or certified mail, return receipt requested, the judge, compensation commissioner, or family support magistrate under investigation or against whom such complaint has been filed. A copy of any such complaint and a Reply to Complaint form shall accompany such notice.

(f) Each member of the Council shall be furnished with a copy of the complaint and supporting documents, if any, within five days of its receipt.

(g) The Council may initiate an investigation if it has reason to believe (1) conduct under section 51-51i of the General Statutes has occurred, or (2) there may exist with previous complaints a pattern of behavior which would lead to a reasonable belief that such conduct has occurred.

(h) Although complaints regarding issues which are subject to appellate review are not within the jurisdiction of the Council, any complaint which contains allegations of prohibited conduct separate from issues which are subject to appellate review shall be investigated as to such prohibited conduct only.

(i) Once a complaint has been received, it shall be the complaint of the Council to be investigated by the Council as set forth in these rules.

(Effective December 28, 1994)

Sec. 51-51k-5. Response to complaints

The judge, compensation commissioner or family support magistrate may, within twenty days after receipt of the notice of the complaint, unless a reasonable extension is granted by the executive director, send a written reply to the complaint to the Council. He or she may elect (a) that any investigation of probable cause be open to the public rather than closed as provided by statute and (b) whether to appear and to present himself or herself and to offer information which may lead to clear him or her of probable cause to believe he or she is guilty of conduct under section 51-51l of the General Statutes.

(Effective December 28, 1994)

Sec. 51-51k-6. Procedure on complaints

The procedure on a complaint shall be an investigation to determine whether probable cause, to believe that the person being investigated is guilty of conduct set forth in section 51-51i of the General Statutes, exists, and an open hearing if such probable cause is found to exist.

(Effective December 28, 1994)

Sec. 51-51k-7. Investigation

(a) In its investigation, the Council shall review the complaint, including any attachments, the respondent's reply, if any, and any other evidence before it, and determine (1) whether it alleges conduct under section 51-51i of the General Statutes by a judge, compensation commissioner, or family support magistrate as defined in section 51-51h of the General Statutes, (2) whether such complaint has been brought within the time limited by section 51-51l (d) of the General Statutes, and (3) whether it alleges conduct under section 51-51i of the General Statutes and whether any evidence exists that such conduct has occurred.

(b) In investigating a complaint against a compensation commissioner, the Council shall apply the Code of Ethics adopted by the compensation commissioners which is on file at the council office.

(c) During the investigation, the Council shall review its records for other complaints against the respondent to determine whether there may be a pattern of conduct which warrants the need for further investigation as to whether or not conduct subject to section 51-51i of the General Statutes has occurred. A prior complaint which has been dismissed on its merits shall not be considered in determining a pattern of behavior.

(d) If the Council determines that the complaint does not allege conduct subject to section 51-51i of the General Statutes, that such conduct does not involve a judge, compensation commissioner, or family support magistrate as defined in section 51-51h of the General Statutes, or that such complaint was not brought within the time limited, or that insufficient evidence exists showing that said conduct occurred, it shall dismiss the complaint without further investigation and give notice to the complainant and respondent of such action.

(Effective December 28, 1994)

Sec. 51-51k-8. Public hearings

(a) The public hearing shall be scheduled at a time and place to be determined by the Council, but only after reasonable notice to the judge, compensation commissioner, or family support magistrate.

(b) Such notice shall be sent to the respondent by registered or certified mail, return receipt requested, with a copy of said notice being sent to any counsel for the judge, compensation commissioner, or family support magistrate.

(c) Such notice shall notify the judge, compensation commissioner, or family support magistrate that he or she may attend the hearing, be represented by counsel, may elect to testify, may call witnesses, present evidence and may examine or cross examine witnesses, and contain the specific charges that will be the subject of the hearing.

(d) Reasonable notice of such public hearing, its time, place, and subject matter shall be sent to the complainant by registered or certified mail, return receipt requested, and such notice shall also be published, no later than ten days prior to the date of any hearing, once in a newspaper having a substantial circulation in the municipality wherein the respondent resides and once in a newspaper having a substantial circulation in the judicial district wherein the alleged conduct occurred, and shall be sent to the secretary of the state.

(e) The notice to the complainant shall inform the complainant that he or she may attend the hearing, but may not participate in the hearing.

(f) A record shall be made of the hearing.

(g) The Council shall designate one of its members with legal training to rule on evidentiary issues in every proceeding.

(h) All testimony shall be given under oath.

(i) The executive director shall present evidence pertaining to the alleged conduct of the respondent.

(j) Witnesses may be examined and cross examined by the executive director, any member of the Council, and the respondent judge, compensation commissioner, or family support magistrate or his or her legal counsel.

(k) The Council has the burden of finding by clear and convincing evidence the facts justifying the action taken by the Council.

(l) After all evidence and arguments have been presented at a public hearing, the Council shall determine whether the judge, compensation commissioner, or family support magistrate is guilty of conduct under section 51-51i of the General Statutes.

Upon appropriate motion and vote, the deliberations of the Council may be held in executive session unless the respondent requests such deliberations be conducted in public. Upon appropriate motion and vote, the Council shall go out of executive session and return to public session. Subsequent to returning to public session, the Council shall, by recorded motion and vote, determine whether the judge, compensation commissioner, or family support magistrate is guilty of such conduct.

(m) The Council shall, not later than fifteen days after the close of a public hearing, publish its findings together with a memorandum of its reasons therefor once in the Connecticut Law Journal.

(Effective December 28, 1994)

Sec. 51-51k-9. Discipline

(a) If, after the completion of an investigation, the Council finds that conduct under section 51-51i of the General Statutes has not occurred, but the judge, compensation commissioner, or family support magistrate has acted in a manner which gives the appearance of impropriety or constitutes an unfavorable judicial or magisterial practice, the Council may issue an admonishment to the judge, compensation commissioner, or family support magistrate recommending a change in judicial or magisterial conduct or practice. If an admonishment is issued, the Council shall inform the complainant, if any, that an admonishment was issued, provided the admonishment is the result of misconduct alleged in the complaint, and the substance of the admonishment shall not be disclosed.

(b) If, after a public hearing, the Council finds the judge, compensation commissioner, or family support magistrate not guilty of such conduct, it shall exonerate him or her.

(c) If the judge, compensation commissioner, or family support magistrate is found guilty of such conduct, the Council may (1) publicly censure the judge, compensation commissioner, or family support magistrate, (2) suspend the judge, compensation commissioner, or family support magistrate for a definite term not to exceed one year, (3) refer the matter to the supreme court with a recommendation that the judge or family support magistrate be suspended for a period longer than one year, (4) refer the matter to the supreme court with a recommendation that the judge or family support magistrate be removed from office or to the governor with a recommendation that the compensation commissioner be removed from office.

(d) If public censure is recommended, the chairperson shall prepare and forward the censure in writing to the judge, compensation commissioner, or family support magistrate being censured, the chief justice, the chief court administrator and the joint standing committee on judiciary and the complainant, at least ten days prior to the publication of the censure. The censure shall be a public record as defined in section 1-19 of the General Statutes. An appeal from the decision of the Council for public censure shall automatically stay the publication of the censure. A public censure shall be published once in the Connecticut Law Journal.

(e) Any decision of the Council may be appealed by an aggrieved judge or family support magistrate as provided in section 51-51r of the General Statutes.

(f) In the event the Council conducts its deliberations in executive session, the court reporter shall record the motions and votes to go into executive session and return to public session, but shall not be present during the deliberations. The executive director shall not be present during the deliberations.

(Effective December 28, 1994)

Sec. 51-51k-10. Disability retirement

(a) Disability retirement of persons governed by section 51-49 of the General Statutes may be considered by the Council upon application of the person seeking retirement, or upon its own motion.

(b) If the Council raises the issue of permanent incapacity of such person, it shall, within five business days of raising such issue, notify such person by registered or certified mail, return receipt requested, that it is investigating said issue.

(c) All such investigations and proceedings hereunder shall be confidential.

(d) Any such person being so investigated, whether on application or Council motion, shall furnish the Council with access to or authorization for access to any pertinent medical and physical records and reports relevant to incapacity and shall submit to any independent medical examination requested by the Council. A copy of the report of any independent medical examination shall be sent by registered or certified mail, return receipt requested, to the respondent within five business days of its receipt by the Council.

(e) Any medical records or reports generated or produced in such an investigation shall be maintained in a separate, locked file or file cabinet, accessible only by the executive director of the Council.

(f) A hearing to determine incapacity, which shall be closed to the public, shall be scheduled at a time and place to be determined by the Council, but only after reasonable notice to such person being investigated.

(g) Such notice shall contain the information that the person being investigated may attend the hearing, be represented by counsel, may elect to testify, may call witnesses, present evidence and may examine or cross examine witnesses.

(h) A record shall be made of the hearing.

(i) Any reporter or language interpreter present at the hearing shall be sworn as to confidentiality.

(j) After all evidence and arguments have been presented, the Council shall, in executive session, unless the person being investigated requests it be open, determine whether said person is so permanently incapacitated as to be unable to fulfill adequately the duties of his or her office, and should be retired or whether there is any reasonable accommodation which can be made for the incapacity so that said person can perform all the essential functions of his or her position.

(Effective December 28, 1994)

Sec. 51-51k-11. Mental infirmity or mental illness or drug dependency or alcohol addiction

(a) The Council shall investigate every referral by the chief court administrator of the mental infirmity or mental illness or drug dependency or alcohol addiction of a judge or family support magistrate.

(b) All proceedings hereunder shall be confidential unless the judge or family support magistrate requests that such proceedings be open.

(c) Not later than five days after receipt of such matter from the chief court administrator, the Council shall, by registered or certified mail, return receipt requested, notify the judge or family support magistrate under investigation by such referral.

(d) The Council may request the judge or family support magistrate to furnish access to or authorization for access to all medical and other records pertaining to said physical and mental condition, drug dependency or alcohol addiction of such judge or family support magistrate. If a judge or family support magistrate declines

to furnish or submit such authorization or record, or if further information is needed, the Council may request the judge or family support magistrate to submit to independent medical or other examinations at the expense of the judicial department. A copy of the results of any independent examination shall be sent to the judge or family support magistrate by registered or certified mail, return receipt requested, within five business days of its receipt by the Council.

(e) Any medical records or reports generated or produced in such an investigation shall be maintained in a separate, locked file or file cabinet, accessible only by the executive director of the Council.

(f) If a judge or family support magistrate fails or refuses to submit to an independent examination requested by the Council, unless such failure or refusal is due to circumstances beyond the judge's or family support magistrate's control, the judge or family support magistrate shall be precluded from submitting reports of medical or other examinations done on the judge's or family support magistrate's behalf.

(g) The Council may consider such judge's or family support magistrate's refusal or failure to submit to such examination as evidence that the judge or family support magistrate has a mental infirmity or mental illness or drug dependency or addiction to alcohol.

(h) The Council shall conduct a hearing to determine if the judge or family support magistrate suffers from a mental infirmity or mental illness or drug dependency or alcohol addiction. Such hearing shall be closed to the public unless the person being investigated requests it be open.

(i) The hearing shall be scheduled at a time and place to be determined by the Council, but only after reasonable notice to the judge or family support magistrate.

(j) Such notice shall contain the information that the judge or family support magistrate may attend the hearing, be represented by counsel, may elect to testify, may call witnesses, present evidence and may examine or cross examine witnesses.

(k) A record shall be made of the hearings.

(l) Any reporter or language interpreter present at the hearing shall be sworn as to confidentiality.

(m) After all evidence and arguments have been presented at a hearing, the Council shall make its finding in executive session unless the respondent requests the finding be made in a public session.

(n) If the Council finds that a judge or family support magistrate is suffering from a temporary mental infirmity, mental illness, drug dependency or addiction to alcohol which prevents the judge or family support magistrate from performing his or her judicial or magisterial duties, either on a full-time or part-time basis, the Council shall request the judge or family support magistrate to seek appropriate treatment.

(o) Upon completion of such treatment program, and a finding by the Council that such judge or family support magistrate can fully perform his or her duties, the Council shall report said finding to the chief court administrator within three business days of such finding.

(p) If the judge or family support magistrate refuses to seek treatment, or does not fully cooperate in the treatment program, the Council may (1) publicly censure the judge or family support magistrate, (2) suspend the judge or family support magistrate for a definite term not to exceed one year, (3) refer the matter to the supreme court with a recommendation that the judge or family support magistrate be suspended for a period longer than one year, or (4) refer the matter to the supreme

court with a recommendation that the judge or family support magistrate be removed from office.

(q) If the Council finds that a judge is permanently incapable of adequately fulfilling his or her duties because of mental infirmity or mental illness or drug dependency or addiction to alcohol, the judge shall thereupon be retired.

(r) If the Council finds that a family support magistrate is permanently incapable of adequately fulfilling his or her duties because of mental infirmity or mental illness or drug dependency or addiction to alcohol, the family support magistrate shall be removed from office.

(Effective December 28, 1994)

Sec. 51-51k-12. Council vote

The Council may take any action upon a majority vote of its members present and voting, except that twelve members of the council shall constitute a quorum for any action to publicly censure a judge, compensation commissioner, or family support magistrate, suspend a judge, compensation commissioner, or family support magistrate for any period, refer the matter to the Supreme Court with a recommendation that a judge or family support magistrate be suspended for a period longer than one year or refer the matter to the Supreme Court with a recommendation that a judge or family support magistrate be removed from office or to the governor with a recommendation that a compensation commissioner be removed from office, and the concurring vote of seven of such members shall be required.

(Effective October 20, 1995)

Sec. 51-51k-13. Conflict of interest

(a) Any member of the Council who has a conflict of interest in any matter before the Council shall be disqualified from participating in any proceeding of the Council in that matter.

(b) A member shall have such conflict of interest when such member, his or her spouse, his or her child, or his or her business associate (1) has a direct personal or financial interest in said matter; (2) has a business, personal or financial relationship with any complainant, witness or respondent in said matter; (3) has direct personal knowledge of disputed evidentiary matters before the Council; (4) is related to a complainant, witness or respondent in said matter; (5) is a judge against whom the complainant has made a previous complaint; (6) is an attorney who has any matter pending in a trial court or an appeal court involving a respondent against whom a complaint has been made; or, (7) in any other situation, believes that he or she has, or may appear to have, a conflict of interest.

(c) The fact that a member who is a judge, compensation commissioner, or family support magistrate may work with or have a social relationship with a respondent shall not, by itself, be a conflict of interest. In the event a claim of conflict on that ground is made or raised by a member, the remaining members of the Council shall examine the nature of the relationship and determine whether it would be likely to unduly influence said member or give an appearance of such possible impropriety or bias.

(d) Any situation that does or may violate any professional or ethical code to which a member is subject shall constitute a conflict of interest as to that member.

(Effective December 28, 1994)