

Chapter 2.64 RCW
COMMISSION ON JUDICIAL CONDUCT

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Rules of court: See *Discipline Rules for Judges (DRJ)*.

RCW 2.64.010 Definitions—Application. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Admonishment" means a written disposition of an advisory nature that cautions a judge or justice not to engage in certain proscribed behavior. An admonishment may include a requirement that the judge or justice follow a specified corrective course of action.

(2) "Censure" means a written action of the commission that requires a judge or justice to appear personally before the commission, and that finds that conduct of the judge or justice violates a rule of judicial conduct, detrimentally affects the integrity of the judiciary, undermines public confidence in the administration of justice, and may or may not require a recommendation to the supreme court that the judge or justice be suspended or removed. A censure shall include a requirement that the judge or justice follow a specified corrective course of action.

(3) "Commission" means the commission on judicial conduct provided for in Article IV, section 31 of the state Constitution, which is authorized to recommend to the supreme court, after notice and hearing, the suspension or removal of a judge or justice for violating a rule of judicial conduct, or the retirement of a judge or justice for disability.

(4) "Judge or justice" includes justices of the supreme court, judges of the court of appeals, judges of the superior courts, judges

of any court organized under Titles 3 or 35 RCW, judges pro tempore, court commissioners, and magistrates.

(5) "Removal" means a written recommendation by the commission and a finding by the supreme court that the conduct of a judge or justice is a violation of a rule of judicial conduct and seriously impairs the integrity of the judiciary and substantially undermines the public confidence in the administration of justice to such a degree that the judge or justice should be relieved of all duties of his or her office.

(6) "Reprimand" means a written action of the commission that requires a judge or justice to appear personally before the commission, and that finds that the conduct of the judge or justice is a minor violation of the code of judicial conduct and does not require censure or a formal recommendation to the supreme court that the judge or justice be suspended or removed. A reprimand shall include a requirement that the judge or justice follow a specified corrective course of action.

(7) "Retirement" means a written recommendation by the commission and a finding by the supreme court that a judge or justice has a disability which is permanent, or likely to become permanent, and that seriously interferes with the performance of judicial duties.

(8) "Suspension" means a written recommendation by the commission and a finding by the supreme court that the conduct of a judge or justice is a violation of a rule of judicial conduct and seriously impairs the integrity of the judiciary and substantially undermines the public confidence in the administration of justice to such a degree that the judge or justice should be relieved of the duties of his or her office by the court for a specified period of time, as determined by the court.

This chapter shall apply to any judge or justice, regardless of whether the judge or justice serves full time or part time, and regardless of whether the judge or justice is admitted to practice law in this state. [1989 c 367 s 1; 1987 c 186 s 1; 1981 c 268 s 2.]

Contingent effective date—1989 c 367: "This act shall take effect upon the effective date of an amendment to Article IV, section 31 of the state Constitution making changes to the commission on judicial conduct. If such amendment is not validly submitted to and approved and ratified by the voters at a general election held in November 1989, this act shall be null and void in its entirety." [1989 c 367 s 12.] Substitute Senate Joint Resolution No. 8202 was approved and ratified by the voters at the November 7, 1989, general election.

RCW 2.64.020 Membership—Terms. The commission shall consist of eleven members. One member shall be a judge selected by and from the court of appeals judges; one member shall be a judge selected by and from the superior court judges; one member shall be a judge selected by and from the limited jurisdiction court judges; two members shall be selected by the state bar association and be admitted to the practice of law in this state; and six members shall be nonlawyers appointed by the governor. The term of each member of the commission shall be four years. [2005 c 15 s 1; 1989 c 367 s 2; 1987 c 186 s 2; 1981 c 268 s 3.]

Contingent effective date—2005 c 15: "This act takes effect January 1, 2006, if the proposed amendment to Article IV, section 31 of the state Constitution (Senate Joint Resolution No. 8207, changing the membership of the commission on judicial conduct) is validly submitted to and is approved and ratified by the voters at the next general election. If the proposed amendment is not approved and ratified, this act is void in its entirety." [2005 c 15 s 2.] Senate Joint Resolution No. 8207 was approved and ratified by the voters at the November 8, 2005, general election.

Contingent effective date—1989 c 367: See note following RCW 2.64.010.

Terms of additional members—1987 c 186 s 2: "Notwithstanding RCW 2.64.020, the initial term of one of the members added to the commission on judicial conduct by section 2, chapter 186, Laws of 1987 shall end on June 16, 1990, and the term of the other member shall end on June 16, 1991, as determined by lot." [1987 c 186 s 3.]

RCW 2.64.030 Disqualification—Vacancies—Limitations on terms—Alternates—Removal. Commission membership shall terminate if a member ceases to hold the position that qualified him or her for appointment. Vacancies caused by disqualification or resignation shall be filled by the appointing authority for the remainder of the term. No person may serve more than two consecutive four-year terms. A person may be reappointed after a lapse of one year. A member, rather than his or her successor, shall continue to participate in any hearing in progress at the end of his or her term, or when the member ceases to hold the position that qualified him or her for appointment. The appointing authority shall appoint an alternate to serve during a member's temporary disability, disqualification, or inability to serve. No member may otherwise be removed from the commission before the end of his or her term except upon good cause found by the appointing authority. [1981 c 268 s 4.]

RCW 2.64.040 Compensation and travel expenses. Commission members and alternate members shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060. [1984 c 287 s 8; 1981 c 268 s 5.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

RCW 2.64.050 Employment of personnel—Expenditures authorized. The commission may employ personnel, including attorneys, and make any other expenditures necessary for the effective performance of its duties and the exercise of its powers. The commission may hire attorneys or others by personal service contract to conduct initial proceedings regarding a complaint against a judge or justice. Commission employees shall be exempt from the civil service law, chapter 41.06 RCW. [1989 c 367 s 3; 1981 c 268 s 6.]

Contingent effective date—1989 c 367: See note following RCW 2.64.010.

RCW 2.64.055 Disciplinary actions authorized. The commission is authorized to impose the following disciplinary actions, in increasing order of severity: (a) Admonishment; (b) reprimand; or (c) censure. If the conduct of the judge or justice warrants more severe disciplinary action, the commission may recommend to the supreme court the suspension or removal of the judge or justice. [1989 c 367 s 4.]

Contingent effective date—1989 c 367: See note following RCW 2.64.010.

RCW 2.64.057 Investigation of conduct occurring prior to, on, or after December 4, 1980. The commission is authorized to investigate and consider for probative value any conduct that may have occurred prior to, on, or after December 4, 1980, by a person who was, or is now, a judge or justice when such conduct relates to a complaint filed with the commission against the same judge or justice. [1989 c 367 s 5.]

Contingent effective date—1989 c 367: See note following RCW 2.64.010.

RCW 2.64.060 Administration of oaths—Powers as to witnesses, papers, books, etc.—Subpoenas. Each member of the commission, and any special master appointed by the commission, may administer oaths. The commission may summon and examine witnesses and compel the production and examination of papers, books, accounts, documents, records, certificates, and other evidence for the determination of any issue before or the discharge of any duty of the commission. The commission shall also issue subpoenas at the request and on behalf of any judge or justice under inquiry. All subpoenas shall be signed by a member of the commission or a special master appointed by the commission. Subpoenas shall be served and witnesses reimbursed in the manner provided in civil cases in superior court. [1981 c 268 s 7.]

RCW 2.64.070 Refusal to obey subpoena—Powers of superior court. If a person refuses to obey a subpoena issued by the commission or refuses to answer any proper question during a hearing or proceeding, the superior court of any county in which the hearing or proceeding is conducted or in which the person resides or is found shall have jurisdiction, upon application by the commission, to order the person to appear before the commission, to produce evidence if so ordered, or to give testimony concerning the matter under investigation. Failure to obey the order of the court may be punished as contempt. [1981 c 268 s 8.]

RCW 2.64.080 Privilege from suit. Members and employees of the commission, including any lawyers or special masters temporarily employed by the commission, are absolutely privileged from suit in any

action, civil or criminal, based upon any disciplinary proceedings or upon other official acts as members or employees of the commission. Statements made to the commission or its investigators or other employees are absolutely privileged in actions for defamation. This absolute privilege does not apply to statements made in any other forum. [1981 c 268 s 9.]

RCW 2.64.092 Administrative procedure act not applicable. The adjudicative proceedings, judicial review, and civil enforcement provisions of chapter 34.05 RCW, the administrative procedure act, do not apply to any investigations, initial proceedings, public hearings, or executive sessions involving the discipline or retirement of a judge or justice. [1989 c 367 s 7.]

Contingent effective date—1989 c 367: See note following RCW 2.64.010.

RCW 2.64.094 Suspension of judge or justice. If the commission adopts a recommendation that a judge or justice be removed, the judge or justice shall be suspended, with salary, from his or her judicial position upon filing of the recommendation with the supreme court and until a final determination is made by the supreme court. [1987 c 186 s 6.]

RCW 2.64.096 Disclosure of material tending to negate determination. Whenever the commission determines that there is probable cause to believe that a judge or justice has violated a rule of judicial conduct or that the judge or justice suffers from a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties, the commission shall disclose to the judge or justice any material or information within the commission's knowledge which tends to negate the determination of the commission, except as otherwise provided by a protective order. [1989 c 367 s 10.]

Contingent effective date—1989 c 367: See note following RCW 2.64.010.

RCW 2.64.100 Proposed operating budgets—Reports to legislature. The commission shall prepare and present to the legislature proposed operating budgets for the commission in accordance with the provisions of chapter 43.88 RCW. The commission shall report to the legislature in the manner required by law, with due regard for the confidentiality of proceedings before the commission. [1981 c 268 s 11.]

RCW 2.64.111 Exemption from public disclosure—Records subject to public disclosure, when. All pleadings, papers, evidence records, and files of the commission, including complaints and the identity of complainants, compiled or obtained during the course of an investigation or initial proceeding involving the discipline or retirement of a judge or justice, are exempt from the public

disclosure requirements of chapter 42.56 RCW during such investigation or initial proceeding. As of the date of a public hearing, all those records of the initial proceeding that were the basis of a finding of probable cause are subject to the public disclosure requirements of chapter 42.56 RCW. [2005 c 274 s 201; 1989 c 367 s 6.]

Contingent effective date—1989 c 367: See note following RCW 2.64.010.

RCW 2.64.113 Confidentiality—Violations. The commission shall provide by rule for confidentiality of its investigations and initial proceedings in accordance with Article IV, section 31 of the state Constitution.

Any person violating a rule on confidentiality is subject to a proceeding for contempt in superior court. [1989 c 367 s 9.]

Contingent effective date—1989 c 367: See note following RCW 2.64.010.

RCW 2.64.115 Application of open public meetings act—Exemptions. The commission is subject to the open public meetings act, chapter 42.30 RCW. However, investigations, initial proceedings, public hearings, and executive sessions involving the discipline or retirement of a judge or justice are governed by this chapter and Article IV, section 31 of the state Constitution and are exempt from the provisions of chapter 42.30 RCW. [1989 c 367 s 8.]

Contingent effective date—1989 c 367: See note following RCW 2.64.010.

RCW 2.64.120 Independent part of judicial branch. The commission shall for all purposes be considered an independent part of the judicial branch of government. [1981 c 268 s 13.]