

§ 7A-377. Procedures.

(a) Any citizen of the State may file a written complaint with the Commission concerning the qualifications or conduct of any justice or judge of the General Court of Justice, and thereupon the Commission shall make such investigation as it deems necessary. The Commission may also make an investigation on its own motion. The Commission shall not make an investigation, whether initiated upon its own motion or by written complaint of a citizen of this State, when the motion or complaint is based substantially on a legal ruling by a district or superior court judge and the legal ruling has not yet been reviewed and ruled on by either the North Carolina Court of Appeals or the North Carolina Supreme Court. The Commission is limited to reviewing judicial conduct, not matters of law. The Commission may issue process to compel the attendance of witnesses and the production of evidence, to administer oaths, and to punish for contempt. No justice or judge shall be recommended for public reprimand, censure, suspension, or removal unless he has been given a hearing affording due process of law.

(a1) Unless otherwise waived by the justice or judge involved, all papers filed with and proceedings before the Commission, including any investigation that the Commission may make, are confidential, and no person shall disclose information obtained from Commission proceedings or papers filed with or by the Commission, except as provided herein. Those papers are not subject to disclosure under Chapter 132 of the General Statutes.

(a2) Information submitted to the Commission or its staff, and testimony given in any proceeding before the Commission, shall be absolutely privileged, and no civil action predicated upon that information or testimony may be instituted against any complainant, witness, or his or her counsel.

(a3) If, after an investigation is completed, the Commission concludes that a letter of caution is appropriate, it shall issue to the judge a letter of caution in lieu of any further proceeding in the matter. The issuance of a letter of caution is confidential in accordance with subsection (a1) of this section.

(a4) Repealed by Session Laws 2013-404, s. 3, effective August 23, 2013.

(a5) If, after an investigation is completed, the Commission concludes that disciplinary proceedings should be instituted, the notice and statement of charges filed by the Commission, along with the answer and all other pleadings, remain confidential. Disciplinary hearings ordered by the Commission are confidential, and recommendations of the Commission to the Supreme Court, along with the record filed in support of such recommendations are confidential. Testimony and other evidence presented to the Commission is privileged in any action for defamation. At least five members of the Commission must concur in any recommendation to issue a public reprimand, censure, suspend, or remove any judge. A respondent who is recommended for public reprimand, censure, suspension, or removal is entitled to a copy of the proposed record to be filed with the Supreme Court, and if the respondent has objections to it, to have the record settled by the Commission's chair. The respondent is also entitled to present a brief and to argue the respondent's case, in person and through counsel, to the Supreme Court. A majority of the members of the Supreme Court voting must concur in any order of public reprimand, censure, suspension, or removal. The Supreme Court may approve the recommendation, remand for further proceedings, or reject the recommendation. A justice of the Supreme Court or a member of the Commission who is a judge is disqualified from acting in any case in which he is a respondent.

(a6) Upon issuance of a public reprimand, censure, suspension, or removal by the Supreme Court, the notice and statement of charges filed by the Commission along with the answer and all other pleadings, and recommendations of the Commission to the Supreme Court along with the record filed in support of such recommendations, are no longer confidential.

(b) Repealed by Session Laws 2006-187, s. 11, effective January 1, 2007.

(c) The Commission may issue advisory opinions to judges, in accordance with rules and procedures adopted by the Commission.

(d) The Commission has the same power as a trial court of the General Court of Justice to punish for contempt, or for refusal to obey lawful orders or process issued by the Commission. (1971, c. 590, s. 1; 1973, c. 808; 1989 (Reg. Sess., 1990), c. 995, s. 2; 1997-72, s. 2; 2006-187, s. 11; 2013-404, s. 3; 2019-243, s. 31(a).)