



# UTAH JUDICIAL CONDUCT COMMISSION ANNUAL REPORT FY 2015

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## Creation and Authority of the Judicial Conduct Commission

Although it existed previously as a legislatively created body, Utah's Judicial Conduct Commission (JCC) was constitutionally established in 1984. Constitution of Utah, Article VIII, Section 13. The constitution authorizes the Legislature to statutorily establish the composition and procedures of the JCC. Those provisions are found in Utah Code Ann., Title 78A, Chapter 11.

The JCC is empowered to investigate and conduct confidential hearings regarding complaints against state, county and municipal judges throughout the state. The JCC may recommend the reprimand, censure, suspension, removal, or involuntary retirement of a judge for any of the following reasons:

- action which constitutes willful misconduct in office;
- final conviction of a crime punishable as a felony under state or federal law;
- willful and persistent failure to perform judicial duties;
- disability that seriously interferes with the performance of judicial duties; or
- conduct prejudicial to the administration of justice which brings a judicial office into disrepute.

Prior to the implementation of any such JCC recommendation, the Utah Supreme Court reviews the JCC's proceedings as to both law and fact. The Supreme Court then issues an order implementing, rejecting, or modifying the JCC's recommendation.

## Number of Complaints Received in FY 2015

Of the 70 complaints received in FY 2015, 69 have been resolved and 1 is still pending.

Complaints Received in FY 2015			
Judge Type	Number of Judges	Number of Complaints Received	Number of Judges Named in Complaints
Supreme Court	5	0	0
Court of Appeals	7	1	3
District	71	39	30
Juvenile	30	6	6
Justice Court	98	17	14
Pro Tempore	67	7	7
Active Senior	66	0	0
<b>Total</b>	<b>344</b>	<b>70</b>	<b>60</b>

## Confidentiality of JCC Records and Proceedings

Except in certain limited circumstances specified by statute, all complaints, papers and testimony received or maintained by the JCC, and the record of any confidential hearings conducted by the JCC, are confidential, and cannot be disclosed.

## Sanctions and Other Resolutions

### Sanctions Implemented by the Utah Supreme Court

There were no public sanctions implemented by the Utah Supreme Court during FY 2015.

### Dismissals with Warnings Issued by the Judicial Conduct Commission

**Dismissal with a Warning.** On September 16, 2014, the JCC dismissed a complaint filed against a justice court judge who had acted impatiently toward an individual who interrupted court proceedings. The JCC found that the judge's actions violated Rule 2.8(B), which requires judges to act with patience, dignity and courtesy. However, the JCC also found that the misconduct was troubling but relatively minor misbehavior for which no public sanction was warranted.

**Dismissal with a Warning.** On November 18, 2014, the JCC dismissed a self-reported complaint against a justice court judge who, while wearing a judicial robe, participated in the ALS ice-bucket challenge and challenged other judges and court administrators to participate. The judge posted a video of his participation and challenges online, but immediately removed the video when he became aware of the violation. The JCC found that the judge's actions violated Rule 3.7(A), which prohibits judges from engaging in many fund-raising activities. However, the JCC also found that the misconduct was troubling but relatively minor misbehavior for which no public sanction was warranted.

**Dismissal with a Warning.** On January 20, 2015, the JCC dismissed a complaint filed against a relatively new district court judge who had engaged in a few minor ex parte communications about a pending civil case. The JCC found that the judge's actions violated Rule 2.9(A), which prohibits most ex parte communications. However, the JCC also found that the misconduct was troubling but relatively minor misbehavior for which no public sanction was warranted.

**Dismissal with a Warning.** On March 17, 2015, the JCC dismissed a self-reported complaint against a new district court judge who had, during the judicial appointment process, publicly endorsed a candidate for public office. The JCC found that the judge's actions violated Rule 4.1(A), which prohibits judges and judicial candidates from participating in many political activities. However, the JCC also found that the misconduct was troubling but relatively minor misbehavior for which no public sanction was warranted.

## Administrative Affairs

### Meetings

The JCC meets as needed on the third Tuesday of each month at the Utah Law & Justice Center in Salt Lake City. The JCC met 8 times during FY 2015.

### Administrative Rules

The JCC's administrative rules are available online at [www.rules.utah.gov](http://www.rules.utah.gov).

### JCC Commissioners

Robert Behunin  
James Jardine  
Rep. Brian King, Chair  
Tami King  
Sen. Karen Mayne  
Rep. Kraig Powell  
Lois Richins  
Hon. Stephen Roth  
Hon. Todd Shaughnessy  
Sen. Stephen Urquhart, Vice-Chair  
Terry Welch

Judge Deno Himonas, who had served on the JCC since 2012, became a member of the Utah Supreme Court in February 2015. In March 2015, Judge Todd Shaughnessy was appointed to fill the vacancy.

### JCC Staff

Colin Winchester, Executive Director  
Aimee Thoman, Investigative Counsel  
Sara Sherman, Office Technician

### Website

The JCC's website, [www.jcc.utah.gov](http://www.jcc.utah.gov), contains in-depth information, links to related sites, annual reports, copies of public discipline documents, and downloadable complaint forms.

### JCC Statutes

The statutes governing the JCC are located in Utah Code Ann., Title 78A, Chapter 11.

### Budget

Most of the JCC's budget is appropriated annually by the Legislature. For FY 2015, the legislative appropriation was \$244,119. JCC expenses for FY 2015 were \$240,613, leaving a balance of \$3,506.

## UTAH JUDICIAL CONDUCT COMMISSION – COMPLAINT RESOLUTION PROCESS

INITIAL SCREENING	PRELIMINARY INVESTIGATION	FULL INVESTIGATION	FORMAL PROCEEDINGS	SUPREME COURT
<p>Executive Director reviews each “complaint” to determine whether it is a complaint within the JCC’s jurisdiction.</p> <p>Staff returns non-JCC complaints (i.e., complaints against bar members or court employees) to complainant with appropriate instructions.</p> <p>For JCC complaints, staff prepares electronic and hard-copy files, sends acknowledgment letter to complainant, and returns hard-copy file to Executive Director.</p> <p>Executive Director assigns investigator.</p> <p><i>Note: Anonymous complaints are submitted directly to JCC members, who review and discuss the complaint and vote to either take no action or to have staff conduct a preliminary investigation.</i></p>	<p>Investigator conducts preliminary investigation, writes preliminary investigation report, and recommends whether to dismiss or to proceed to full investigation as to some or all allegations.</p> <p>Executive Director reviews preliminary investigation report and recommendation, and may revise either.</p> <p>Staff distributes preliminary investigation report and recommendation, along with pertinent materials, to JCC members.</p> <p>JCC meets, reviews and discusses preliminary investigation report and recommendation, and votes to dismiss, to have staff conduct additional preliminary investigation, or to proceed to full investigation as to some or all allegations.</p>	<p>Staff provides judge with copy of complaint and other pertinent materials and asks judge to respond in writing to identified allegations.</p> <p>Investigator conducts additional investigation, if necessary, as to issues raised in judge’s response. Investigator may write supplemental investigation report and may make recommendation whether to dismiss or to proceed to formal proceedings.</p> <p>Staff distributes judge’s response and any supplemental investigation report and recommendation, along with pertinent materials, to JCC members.</p> <p>JCC meets, reviews and discusses judge’s response and any supplemental investigation report and recommendation, and votes to dismiss, to have staff conduct additional investigation, or to proceed to formal proceedings as to some or all allegations.</p>	<p>Staff prepares formal complaint and serves same upon judge via certified mail.</p> <p>Judge may file written response.</p> <p>Matter may be resolved by dismissal, stipulated resolution or confidential hearing.</p> <p>A stipulated resolution may recommend:                      Reprimand                      Censure                      Suspension                      Removal from Office                      Involuntary Retirement</p> <p>After a confidential hearing, the JCC may dismiss the matter or may recommend:                      Reprimand                      Censure                      Suspension                      Removal from Office                      Involuntary Retirement</p>	<p>Staff files JCC’s findings of fact, recommendation and other statutorily required materials with Supreme Court.</p> <p>JCC’s recommendation becomes public upon filing. All other materials become public only upon Supreme Court order.</p> <p>Supreme Court reviews JCC’s proceedings as to both law and fact, and implements, modifies or rejects JCC’s recommendation.</p> <p><i>Note: JCC dismissals are not reviewed by the Supreme Court.</i></p>