



UTAH JUDICIAL CONDUCT COMMISSION ANNUAL REPORT FY 2016

2540 Washington Blvd., Suite 703
Ogden, Utah 84401
Telephone: (801) 626-3369
www.jcc.utah.gov

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 2016

Of the 85 complaints received in FY 2016, 79 have been resolved and 6 are still pending.

Complaints Received in FY 2016

Judge Type	Number of Judges	Number of Complaints Received	Number of Judges Named in Complaints
Supreme Court	5	1	1
Court of Appeals	7	0	0
District	72	51	42
Juvenile	30	10	6
Justice Court	98	21	16
Pro Tempore	60	2	1
Active Senior	39	0	0
Total	311	85	66

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 2016.

Dismissals with Warnings Issued by the Judicial Conduct Commission

There were no dismissals with warnings issued by the Judicial Conduct Commission during FY 2016.

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 seven times during FY 2016.

Administrative Rules

The JCC's administrative rules are available on-line at www.rules.utah.gov.

JCC Commissioners

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

Public member Robert Behunin resigned during FY 2016 due to continually increasing responsibilities at Utah State University where he serves as Vice-President for Commercialization and Regional Development.

Public member Lois Richins completed her eight years of JCC eligibility at the conclusion of FY 2016.

Website

The JCC's website, 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 2016, the legislative appropriation was \$251,800. The JCC had non-lapsing savings from FY 2015 in the amount of \$3,507, and the Division of Finance provided a one-time contribution of \$25,000, resulting in total available funds in the amount of \$280,307. JCC expenses for FY 2016 were \$256,432, leaving a balance of \$23,875.

JCC Staff

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

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>