



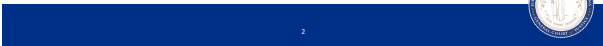
JUDICIAL STANDARDS & MAGISTRATES

MAGISTRATES' CONFERENCE 2024

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JUDICIAL STANDARDS OVERVIEW

- Article IV of the NC Constitution was amended in 1971 to allow the General Assembly to adopt an alternative to impeachment
- The Judicial Standards Commission was created in 1973 and today maintains the central features recommended by the Courts Commission:
 - ❑ Mixed composition of judges, lawyers, and citizens appointed by the three branches of government
 - ❑ Confidentiality of proceedings until the Supreme Court concludes that discipline is warranted
 - ❑ Investigation of complaints alleging violations of the Code of Judicial Conduct



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COMMISSION MEMBERS AND STRUCTURE

Full Commission:

14 Members

- Chairperson – COA Judge
- Vice-Chairperson – COA Judge
- Four Superior Court Judges
- Four District Court Judges
- Four Public Members
(Attorneys or Non-Attorneys)

Each Panel (A & B) has:

- COA Judge
- Two Superior Court Judges
- Two District Court Judges
- Two Public Members



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JSC JURISDICTION

District & Superior Court Judges

Court of Appeals Judges

Supreme Court Justices

Industrial Commission Commissioners and Deputy Commissioners



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SO... YOU'RE SAYING WE'RE NOT COVERED BY THE JSC...

Magistrates do not fall under Judicial Standards' jurisdiction.

Why am I here?

- As judicial actors, you may experience judicial misconduct or become involved with our investigation process.
- You wear black robes – people think you are judges, so we regularly get complaints about magistrates.
- Your actions (or lack thereof) can have significant consequences on the judges who supervise you AND on the advice we provide to those judges about how to address your conduct.
- The Magistrates' Code is largely based on the Code of Judicial Conduct.



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FUNCTIONS OF JUDICIAL STANDARDS

- Investigations and Disciplinary Proceedings:
 - The Commission serves as an administrative arm of the North Carolina Supreme Court to conduct investigations and disciplinary hearings and make recommendations where appropriate for the Supreme Court to publicly discipline a judge
 - The Commission has no authority to publicly discipline a judge – the only disciplinary action the Commission can undertake independently is to issue a private letter of caution; some cases are also resolved on consent orders upon the judge's resignation in lieu of a disciplinary hearing
 - *How does this impact you? You may be called as a witness OR your actions may serve as the basis of a complaint against a judge.*
- Advisory Committee:
 - Commission staff issues "informal advisory opinions" by email that are reviewed by the panels
 - The full Commission can issue a "formal advisory opinion" if so requested
 - *How does this impact you?*
 - *The Magistrates' Code is based largely on the Code of Judicial Conduct – If questions arise, we can always provide informal advice on how we would advise judges in similar situations (consult with CDCJ).*
 - *We also provide judges with advice about your conduct and how to address it.*



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VIEW OF JUDICIAL STANDARDS

- In the past, Judicial Standards has been viewed as the "boogey-man" amongst judges and court staff and there has been a leerness to contact us or participate in our process out of fear of being "got."
- Tremendous efforts have been made over the past few years to prioritize Judicial Standards as a resource for judges and court staff as opposed to a disciplinary body.
 - This includes encouraging judges and court staff to contact us, educating judges when mistakes are made, and being sure that we provide clear advice on how judges should conduct themselves.
- However, we are still a complaint-driven entity: when we receive a complaint, it is placed on a calendar for the respective Panels' reviews.
- *How does this impact you? Use us as a resource! Please do not hesitate to reach out if something happens in your jurisdiction, even if just to receive some guidance on how best to respond with the judge in question.*



COMPLAINTS

- While reviewing complaints, the Commission members are encouraged to:
 - Be neutral.
 - We are not a political body.
 - Our goal is to be an entity that individuals from all different backgrounds feel comfortable reaching out to.
 - Be consistent.
 - Be fair.
 - We aim to give both the complainants and judges their fair shot. This oftentimes means giving complainants the benefit of the doubt and initiating informal ("preliminary") investigations to vet their complaints.



WHEN YOU HEAR FROM US...

- Preliminary Investigations:
 - Most of the time, you will be contacted by our office while we are informally vetting complaints.
 - Usually, our investigator will initiate contact and make a request. We ask for the minimum amount we need in order to properly vet the complaint. This oftentimes includes:
 - Courtroom audios
 - Court files or specific orders/paperwork
 - Interviews
 - Note: This includes juvenile files! See NCGS 7A-375 & our Rules (approved by the Supreme Court).
 - If/when this occurs, please understand:
 - We are not taking the complainant's side.
 - At this phase, we are simply vetting the complaint and the judge does not know. There is a reason for this.
 - Our confidentiality rules.



CONFIDENTIALITY – NCGS 7A-377(A1) & (A6)

(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.

(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.



JUDICIAL STANDARDS & YOU

- Please understand how much we appreciate you. Your cooperation is integral to our process and we would not be able to function as efficiently as we do without you.
- Our process is set up to protect you.
 - Providing information to Judicial Standards is also confidential.
 - The only exception to this rule is when a judge is charged. This is rare and your name would only be revealed as a potential witness if you were otherwise involved in the underlying allegations.
- If you have questions or concerns, please reach out to us. We want to be a resource for all of you, as well.



CODE OF JUDICIAL CONDUCT

- ▶ Preamble
- ▶ Canons 1-7
 - ▶ Canons 1 & 2: Ethical duties of judges both on and off the bench
 - ▶ Canon 3: Ethical duties of judges while undertaking official duties
 - ▶ Canons 4 & 5: Ethical duties of judges in personal and civic activities
 - ▶ Canon 6: Gift and income reporting
 - ▶ Canon 7: Ethical duties of judges when engaged in political conduct
- ▶ Statute of Limitations



CANONS 1 & 2:

A JUDGE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY AND SHOULD AVOID IMPROPRIETY IN ALL OF THEIR ACTIVITIES.

- *Comparable to Magistrates' Code Rules 1 & 2*
 - General provisions that apply to a judge's conduct **on AND off the bench**
 - Their personal conduct must at all times and in all places be professional, civil and appropriate
 - Unlawful (civil & criminal) conduct, social media activity, etc.
 - Their actions reflect on the judiciary and can threaten public confidence in the courts
 - Limits outside influence on the judge and abuse of the prestige of the office for personal gain or to help others
- How does this impact you?*
- *No special treatment for friends/family/co-workers – ex. setting bonds.*
 - *Be aware of your conduct and how it may appear to others.*
 - Professionalism
 - Appearance of bias (ex. role change for attorneys)
 - With great power (black robe), comes great responsibility.



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CANON 3:

A JUDGE SHOULD PERFORM THE DUTIES OF THE JUDGE'S OFFICE IMPARTIALLY AND DILIGENTLY.

Canon 3A –adjudicative duties

Canon 3B – administrative duties

Canon 3C & D –disqualification

Comparable to Magistrates' Code Rule 3



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CANON 3A: ADJUDICATIVE DUTIES

Key Points: Judges must always strive to:

- Be "faithful to the law" and "maintain professional competence in it"
- Accord everyone, even pro se litigants, a "full right to be heard"
- Decide cases "unswayed by partisan interests, public clamor, or fear of criticism"
- Ensure "order and decorum" in the courtroom and ensure that you, everyone who appears before you, and everyone you supervise is "patient, dignified and courteous" at all times, even towards pro se litigants and sovereign citizens
- No **ex parte** communications, unreasonable delays, public comments on pending cases

How does this impact you?

Comparable to Magistrates' Code Rule 3B

Follow the law and the directives of your Chief District Court Judge. If you disagree, take the steps necessary to voice these concerns. Do not act unilaterally.

Training

- Duty to hear and adjudicate cases
- Public perception when you refuse to do so (see Rules 1 & 2)
- Backlogs/impacts on others



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COMMON PROBLEMS: CANON 3A

- Decisional delay and tardiness to court or adjourning early
- Excessive continuances
- Professionalism on the bench – demeanor and cell phones
- Abuse of the contempt power
- Abuse of other authority in the courtroom
- Failing to give each party a FULL AND FAIR opportunity to be heard
- Ex parte communications and “telephone justice”

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CANON 3B: ADMINISTRATIVE DUTIES

Key Points:
 Be professional, courteous and collegial with your colleagues and court staff!
 Pay attention to best practices in judicial administration, including case management
 Make sure court staff are also professional, courteous and collegial to each other and members of the public – they should “observe the standards of fidelity and diligence” that you do
 No favoritism or nepotism in making appointments

How does this impact you?
Comparable to Magistrates’ Code Rule 3C
Your actions (or lack thereof) can cause:
 (1) HR issues/JSC complaints against your Chief District Court Judge or
 (2) retention/HR issues for you through advice we provide to your Chief District Court Judge/Senior Resident Superior Court Judge

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CANONS 3C & 3D: DISQUALIFICATION & REMITTAL

- Elected to hear and decide cases but...
- Judges have a duty to disqualify when their impartiality may reasonably be questioned.
- Subjective and Objective Analysis
 - Common Objective Disqualification Issues:
 - Family members who are parties or witnesses
 - Family members who are attorneys in the case
 - Judge’s prior involvement in the case (as an attorney)
 - Judge’s personal knowledge of facts of the case
 - Judge or their family’s financial interest in the outcome
 - Judge’s personal attorney is appearing before them
 - Statements judge made publicly or on social media that suggest a bias
- Sometimes, disclosure and seeking a remittal may be appropriate.

Comparable to Magistrates’ Code Rule 3E
Impact of how you conduct yourself on your appearance of bias
Communication with your Chief District Court Judge

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