



MISSISSIPPI COMMISSION ON JUDICIAL PERFORMANCE POLICIES AND PROCEDURES, Effective October 7, 2016

Accepted by the Full Commission on October 7, 2016, vacating any and all policies and procedures heretofore enacted.,



PURPOSE

The purpose of the Mississippi Commission on Judicial Performance (“Commission”) was created in 1979 by the Mississippi Legislature and the voters of the State of Mississippi by constitutional amendment. The Commission shall enforce the standards of judicial conduct, inquire into judicial disability and conduct, protect the public from judicial misconduct and disabled judges and protect the judiciary from unfounded allegations. All proceedings before the Commission shall be of a civil nature, not criminal, as the purpose of the Commission is to be rehabilitative and educational as well as disciplinary. *Rules of the Mississippi Commission on Judicial Performance* Rule 1(B)

All proceedings before the Commission conform with the Mississippi Constitution of 1890, as Amended, Section 177A, the Mississippi Code of 1972, Annotated, Title 9, Chapter 19, the Code of Judicial Conduct of Mississippi Judges and the Rules of the Mississippi Commission on Judicial Performance. Other policies and procedures enumerated below are guidelines for the use of those with business before the Commission and are subordinate to the Mississippi Constitution of 1890, as Amended, Section 177A, the Mississippi Code of 1972, Annotated, Title 9, Chapter 19, the Code of Judicial Conduct of Mississippi Judges and the Rules of the Mississippi Commission on Judicial Performance.

GENERAL

The Commission meets on scheduled dates to conduct Commission business. The Commission meetings are closed and the business conducted is confidential. Generally, Commission meetings are conducted according to Robert’s Rules of Order and follow the same general format of: call to order, consideration and approval of the minutes of the previous meeting, old business consideration, new business considerations, status reports of pending Formal Complaints, report(s) of information discovered in investigation of cases assigned for further investigation, consideration of new complaints and adjournment.

COMMISSION MEETINGS

After a complaint is filed with the Commission, the complaint, along with supporting documents provided with the complaint are provided to three Commissioners to review and present oral synopses to the full Commission for its consideration. After hearing the synopsis, the full Commission votes to investigate further, dismiss for lack of evidence, dismiss for lack of jurisdiction, dismiss as a matter of appellate review, or file a Formal Complaint. The Commission may also take other actions, as it deems appropriate.

INVESTIGATIONS

When the Commission orders that a complaint be investigated further, the Investigator and/or staff is responsible for investigating the issue complained of in the complaint, specific or general issues as directed by the Commission and other issues discovered while investigating the original complaint and reporting his/her findings back to the Commission at the next scheduled meeting. The investigation may include obtaining court documents, interviewing witnesses, requesting transcripts, and any other action he/she deems necessary to obtain the requested information. The Investigator and/or staff informs those with whom he/she speaks of the confidential nature of the inquiries and makes every effort at maintaining confidentiality throughout the investigation. At his/her discretion, he/she may contact the judge directly informing him/her of the allegations and seeking a response directly from the judge. When this is done, the Investigator and/or staff provides the judge with a copy of the complaint filed with the Commission. Regardless of whether the Investigator or staff provides the complaint during investigation, pursuant to the Rules, a judge is provided a copy of the complaint within 90 days of its filing, unless the complaint has been previously dismissed.

DISMISSALS

When the Commission has voted to dismiss a complaint against a judge, a letter is sent to the Complainant notifying him/her of the dismissal. If the judge has previously been notified of the complaint, the judge will also receive a copy of the dismissal. In the event that the judge was not notified of the complaint, and the Commission votes to dismiss, the judge will not receive notice of the dismissal and will be unaware that such was ever pending before the Commission. The purpose for not notifying the judges in these circumstances is to protect them from unfounded complaints.

INFORMAL COMMISSION ACTIONS

The Commission may determine that actions reported in a complaint have merit, but that the behavior is not such to require the filing of a Formal Complaint. In these cases, it may vote to send the judge correspondence directing his attention to the behavior and cautioning him regarding his future actions. These informal commission actions are intended to educate and/or rehabilitate the judge in an effort to prevent similar behavior in the future.

FORMAL COMPLAINTS

When the Commission has determined that the behavior complained of in the complaint are founded and is of such a nature as to necessitate formal action, it votes to file a Formal Complaint. The Executive Director and/or staff attorney(s) draft a Formal Complaint and serve the Complaint upon the judge. After service, the judge is allowed thirty (30) days to file a written Answer to the Formal Complaint. The Complaint procedure is civil, following the Mississippi Rules of Civil Procedure and in accordance with the Mississippi Constitution of 1890, as Amended, Section 177A, the Mississippi Code of 1972, Annotated, Title 9, Chapter 19, the Code of Judicial Conduct of Mississippi Judges and the Rules of the Mississippi Commission on Judicial Performance.

A Formal Complaint may be resolved in a number of ways: Memorandum of Understanding between the Commission and the Judge (called a “Respondent” in the proceedings), Stipulation of Facts and Recommendations and a Formal Hearing. The Memorandum of Understanding and Stipulation of Facts and Recommendations are agreements, like settlements, where the parties agree to certain terms to resolve the Formal Complaint. If the parties are unable to resolve the Formal Complaint, the parties will proceed to a Formal Hearing. The Formal Hearing is a civil hearing tried before a committee of three (3) Commission Members, in accordance with the Mississippi Rules of Civil Procedure and Mississippi Rules of Evidence. Witnesses and documents may be called and/or subpoenaed and the hearing is transcribed by a certified court reporter, provided by the Commission. Everyone participating in a Formal Hearing is required to execute an Oath of Secrecy to maintain the confidentiality of the proceedings.

Within thirty (30) days of the completion of a Formal Hearing, the Hearing Committee presents its Findings to the Commission for filing. Each party has ten (10) days to file objections to the Committee Findings. The Committee Findings and any objections filed are presented to the full Commission at its next scheduled meeting. The full Commission may adopt or reject the Committee’s Findings and Recommendations. The Commission then files its Commission’s Findings and Recommendations.

If the recommendation includes a private admonishment for the judge, the Chief Justice of the Mississippi Supreme Court is notified that a private admonishment has been issued, and the confidentiality of the proceedings remains intact. In cases where a public reprimand is recommended, the Commission Findings are filed with the Mississippi Supreme Court, along with a record of the proceedings, and the case is then a matter of public record. A Respondent may appeal a private admonishment to the Mississippi Supreme Court, and the matter would remain confidential.

COMPLAINANTS

Complainants serve a crucial role in the mission of the Commission in that they are the primary source of information on judges’ actions in the courtrooms and communities. Their cooperation is necessary throughout the complaint process; however, they are not the Commission’s “clients,” do not have input into the course and direction of the complaint and cannot withdraw a complaint, once filed. They will be notified of general action and ultimate resolution, the details of which will remain confidential in accordance with the Rules.

COMMISSION STAFF

The Commission Staff serves at the will and pleasure of the Commission. The Commission is a state-funded agency, and the structure of the staff is subject to change based on circumstances such as need and funding. The Executive Director is a licensed Mississippi attorney that agrees to

refrain from any private practice of law and serving in any judicial capacity while employed as the Executive Director. The Director supervises all other Commission staff, and may authorize other staff to act in his/her stead, as needed. Although the Director and staff serve at the will and pleasure of the Commission, all adhere to State Employees policies and procedures. In addition to state employee policies and procedures, all staff employees agree to maintain the confidentiality of all Commission business as a requisite of their employment.