Frequently Asked Questions

1. **Will my identity be revealed to the judge?**

Generally, yes. The Judicial Qualifications Commission notifies judges about complaints unless there is an overriding reason to withhold this information.

1. **Will my complaint be made public?**

Usually, no, although a complaint may become public if the Judicial Qualifications Commission files formal charges against the judge with the Supreme Court or if the judge requests the matter be made public.

1. **Will filing a complaint with the Judicial Qualifications Commission change the decision in my lawsuit?**

No. Judicial Qualifications Commission proceedings have no effect on decision or appeals.

1. **Will my complaint automatically disqualify the judge from further involvement in my case?**

No. The Judicial Qualifications Commission will only review your complaint to determine whether or not misconduct has occurred. Disqualification is determined in court proceedings by a judge.

1. **Does the Judicial Qualifications Commission act on all complaints?**

Yes. Every complaint is reviewed by the staff and the Judicial Qualifications Commission.

1. **Should I delay any appeal until this request for disciplinary action is concluded?**

No. The Commission reviews only questions of ethical conduct. It does not have authority to review the merits of a judicial decision. If the substance of your complaint is about the merits or outcome of your case or a particular ruling, you should talk with your attorney about the proper course of action, including whether or not to file an appeal. If you seek to change the outcome of your case, discuss this with a lawyer without delay.

1. **If my complaint is justified, will the Judicial Qualifications Commission tell me how the judge was disciplined?**

Yes. At the close of the case you will receive a letter describing the action taken.

What are some examples of judicial misconduct?

Some examples are:

* Improper courtroom demeanor or improper treatment of parties, counsel, witnesses, jurors, court staff and others.
* Failing to promptly dispose of judicial business.
* Conflict of interest.
* Chemical abuse.
* Engaging in improper election campaign activities.
* Receipt of information about a case outside the presence of a party.
* Failure to be impartial.
1. **What if I think the judge’s ruling was wrong?**

A judge’s error in a decision or ruling – by itself – is not misconduct. Appeal may be the only remedy for such an error, or there may be no remedy. Orders as to custody, visitation and setting child support, as well as fines and sentences in traffic or criminal cases – if not outside the parameters set by law – are generally within the discretion of the trial court and are not usually matters for the Commission.

The Commission does not have the authority to direct a judge to take legal action, or to review a case for judicial error, mistake or other legal grounds. These functions are for the State’s appellate courts.

Allegations stemming from a judge’s rulings or exercise of discretion do not provide a basis for the Commission’s action, and personal dissatisfaction alone cannot be grounds for judicial investigation.

1. **What can’t the Commission do?**

The Commission is not an appellate court. The Commission’s authority is limited by law to investigating the complaint and, if appropriate, disciplining the judge. The Commission does not have the authority to issue orders in any case, including ordering anyone to be released from jail, granting a new trial, disqualifying a judge from hearing a case, assigning a new judge to a case or granting or changing custody, visitation or child support orders. Neither the Commission nor its staff is authorized to give legal advice or respond to requests for assistance with individual legal matters.

Members of the Judicial Qualifications Commission and the South Dakota Supreme Court appreciate your interest in our state judges and the high standards of professional conduct set forth for them by the South Dakota Code of Judicial Conduct.