

Supreme Court of Texas

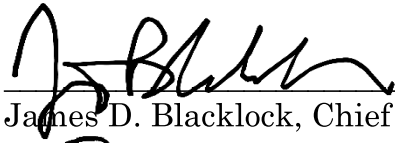
Misc. Docket No. 25-9061

Preliminary Approval of Amendments to the Procedural Rules for the State Commission on Judicial Conduct, Now Titled the Disciplinary Rules for Judges and Judicial Candidates

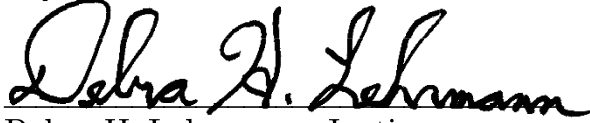
ORDERED that:

1. The Court invites public comments on proposed amendments to the Procedural Rules for the State Commission on Judicial Conduct, now titled the Disciplinary Rules for Judges and Judicial Candidates.
2. Because the rules have been completely rewritten, this Order includes only a clean version of the rules as amended.
3. To effectuate the Act of June 2, 2025, 89th Leg., R.S., ch. 1130 (S.B. 293), the amendments are effective September 1, 2025. Additional changes may be made in response to public comments. The Court requests public comments be submitted in writing to rulescomments@txcourts.gov by December 1, 2025.
4. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to the Governor, the Lieutenant Governor, and each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.

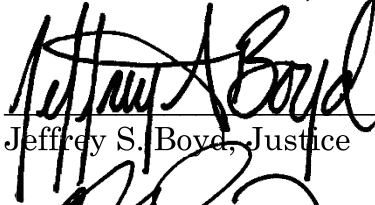
Dated: August 29, 2025.



James D. Blacklock, Chief Justice



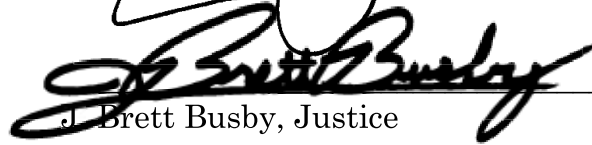
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



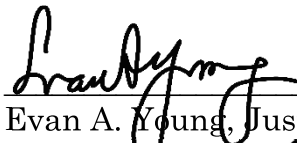
J. Brett Busby, Justice



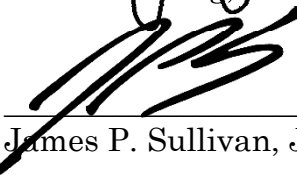
Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice



James P. Sullivan, Justice

Disciplinary Rules for Judges and Judicial Candidates

September 1, 2025

Rule 1. Governing Laws

Article V, Section 1-a of the Texas Constitution; Article XV, Sections 6 and 8 of the Texas Constitution; Chapter 66 of the Civil Practice and Remedies Code; Chapters 33 and 39 of the Government Code; and these rules govern the procedures for the discipline of judges and judicial candidates.

Rule 2. Definitions

- (a) “Admonition” is the sanction level above an education order.
- (b) “Censure” is a public order of denunciation issued after a formal proceeding.
- (c) “Chairperson” is the presiding officer of the Commission.
- (d) “Clerk” is the person who assists with filings before the Commission, a special master, or a Special Court of Review.
- (e) “Complainant” is a person who files a complaint against a judge or judicial candidate before the Commission. If the Commission itself files a complaint, the complainant is the Commission.
- (f) “Education order” is a sanction requiring a judge or judicial candidate to complete additional education and may include the assignment of a mentor judge. It is the lowest sanction level.
- (g) “Examiner” means a person the Commission appoints to gather and present evidence before a special master, the Commission, a Special Court of Review, or a Review Tribunal. An examiner may include a Commission employee or special counsel.
- (h) “Formal hearing” is the evidentiary phase of a formal proceeding before the Commission or a special master.
- (i) “Formal proceeding” is a proceeding ordered by the Commission to determine whether a judge or judicial candidate should be subject to a public sanction, a censure, suspension, removal, or retirement.

- (j) “Judge” is a judge of an appellate court, district court, business court, constitutional county court, statutory county court, municipal court, justice court, or any other special court created by the Legislature; a retired or former judge serving by assignment under Chapter 74 or 75 of the Government Code; or a master or magistrate appointed to serve a trial court.
- (k) “Judicial candidate” is a person who seeks or has sought election as a judge.
- (l) “Official-misconduct misdemeanor” is a misdemeanor involving an act related to a judicial office, an act involving moral turpitude, or an intentional or knowing violation of a law while acting in an official capacity as a judge.
- (m) “Reprimand” is the most severe sanction generally available to the Commission before conducting a formal proceeding.
- (n) “Review Tribunal” is a panel of seven Court of Appeals justices selected by the Chief Justice of the Supreme Court. The Review Tribunal determines whether to uphold the Commission’s recommendation for the removal or retirement of a judge.
- (o) “Sanction” is an education order or an order providing for an admonition, a warning, or a reprimand. It may be private or public.
- (p) “Special Court of Review” is a panel of three Court of Appeals justices selected by the Chief Justice of the Supreme Court to review a sanction or censure issued by the Commission.
- (q) “Special Master” is a person appointed by the Supreme Court to conduct a formal proceeding.
- (r) “Warning” puts the judge or judicial candidate on notice that the actions identified are improper. It is more severe than an admonition but less severe than a reprimand.
- (s) “Willful or persistent conduct clearly inconsistent with the proper performance of a judge’s duties” includes:
 - (1) willful, persistent, and unjustifiable failure to timely execute the business of the court, considering the quantity and complexity of the business, including failure to meet deadlines, performance measures or standards, or clearance rate requirements set by statute, administrative rule, or binding court order;
 - (2) willful violation of a provision of the Texas penal statutes or the Code of Judicial Conduct;

- (3) persistent or willful violation of the rules promulgated by the Supreme Court;
- (4) incompetence in the performance of the duties of the office;
- (5) failure to cooperate with the Commission;
- (6) violation of a provision of a voluntary agreement to resign from judicial office in lieu of disciplinary action;
- (7) persistent or willful violation of Article 17.15 of the Code of Criminal Procedure, involving bail; and
- (8) persistent or willful violation of Section 22.302(a) of the Government Code, involving oral arguments.

Rule 3. Filing a Complaint

- (a) *Who May File.* A person may file with the Commission a complaint against a judge or judicial candidate for misconduct, substance abuse, physical incapacity, mental incapacity, or a combination.
- (b) *Requirements.* The complaint must be in writing and sworn under penalty of perjury in the form approved by the Commission.
- (c) *Confidentiality Request.* The complainant may request that the Commission keep the complainant's identity confidential. The Commission must grant the confidentiality request unless the complainant appears at an informal hearing under Rule 4 or a complaint advances to a formal proceeding under Rule 5, at which point the judge or judicial candidate is entitled to know the identity of the complainant. If the Commission is the complainant, it must not seek to keep its identity confidential. The Commission's complaint form must warn the complainant of the potential for disclosure of the complainant's identity.
- (d) *Deadline to File Misconduct Complaint.* A complaint alleging misconduct must be filed with the Commission within 7 years after:
 - (1) the alleged misconduct occurred; or
 - (2) the complainant knew, or with the exercise of reasonable diligence should have known, of the alleged misconduct.
- (e) *Additional Documentation.* A complainant may submit additional documentation to support the complaint. The documentation must be submitted within 45 days after filing the complaint.

- (f) *Fines and Other Sanctions for False Complaints.* The Commission, special master, Special Court of Review, or Review Tribunal may fine and impose other sanctions against a complainant who knowingly files a false complaint against a judge or judicial candidate. The Commission's complaint form must warn the complainant of the potential for fines and other sanctions for filing a false complaint. The Commission must publish notice of the fines and sanctions imposed for filing a false complaint on the Commission's website.
- (g) *Commission-Initiated Complaint.* Upon receiving a report of misconduct, substance abuse, physical incapacity, or mental incapacity that does not meet the requirements of a complaint, the Commission may file a complaint on its own initiative. A Commission-initiated complaint must be filed within 45 days of receiving the report. The Commission must comply with rules for other complaints, including investigatory deadlines and recordkeeping requirements.
- (h) *Commission Duties to Complainant.* The Commission must:
 - (1) notify the complainant of the complaint's disposition as provided in Section 33.033 of the Government Code; and
 - (2) until the complaint's disposition, provide a status update to the complainant quarterly, unless the update would jeopardize an investigation.
- (i) *Reconsideration of Complaint.*
 - (1) Request for Reconsideration. A complainant may request reconsideration of a dismissed complaint. The complainant may only make one such request. The complainant must submit the request within 30 days after receiving notice of dismissal under paragraph (h)(1) and must provide additional evidence of misconduct to support reconsideration of the complaint.
 - (2) Denied Request. The Commission must deny a request for reconsideration if the complainant does not meet the requirements in paragraph (1). A request for reconsideration is denied by operation of law if the Commission does not reopen the complaint within 60 days of the request.
 - (3) Granted Request. The Commission must grant a request for reconsideration if the complainant meets the requirements in paragraph (1). After granting the request, the Commission must vote either to:
 - (A) affirm the original decision to dismiss the complaint; or

- (B) reopen the complaint.
- (4) Notice. The Commission must notify the complainant of the denial of the request under paragraph (2) or the results of the Commission's vote under paragraph (3).
- (5) Reopened Complaint. If the Commission reopens the complaint, Commission staff not involved in the original investigation must conduct the subsequent investigation as provided in these rules.

Rule 4. Informal Proceedings Before the Commission

- (a) *Applicability.* Except where otherwise specified, this rule and Rule 6 apply to misconduct complaints, including complaints involving felonies and official-misconduct misdemeanors, substance abuse complaints, and incapacity complaints. Additional procedures for felonies and official-misconduct misdemeanors are provided in Rule 10. If a complaint involves allegations of substance abuse or incapacity, the specific requirements and deadlines for substance abuse or incapacity complaints govern over the more general to the extent the rules conflict.
- (b) *Preliminary Investigation.*
 - (1) Misconduct Complaints. As soon as practicable after a complaint is filed with the Commission alleging misconduct of a judge or judicial candidate, staff:
 - (A) must conduct a preliminary investigation of the filed complaint;
 - (B) must draft recommendations for Commission action; and
 - (C) may, if staff determine that deficiencies in the complaint preclude further investigation, dismiss the complaint without Commission action.
 - (2) Substance Abuse and Incapacity Complaints. Within 30 days after a complaint alleging substance abuse or incapacity is filed, staff:
 - (A) must conduct a preliminary investigation of the filed complaint;
 - (B) must present in writing to each member of the Commission the results of the investigation; and
 - (C) may, if staff determine that deficiencies in the complaint preclude further investigation, dismiss the complaint without Commission action.

- (3) Deficient Complaint. A deficient complaint includes conduct alleged that, if true, does not constitute misconduct by a judge or judicial candidate.
- (c) *Staff Report.* At least 10 days before a scheduled Commission meeting, staff must provide each member of the Commission a staff report containing:
 - (1) a list of dismissed complaints under paragraphs (b)(1)(C) and (b)(2)(C);
 - (2) a list of complaints for which staff have conducted a preliminary investigation under paragraph (b) but the Commission has not issued a Commission report under paragraph (g); and
 - (3) for each complaint in paragraph (2):
 - (A) the results of the staff's preliminary investigation, including whether staff have commenced a full investigation under paragraph (f)(2);
 - (B) the staff's recommendations for Commission action regarding each complaint; and
 - (C) the deadline for the Commission report under paragraph (g).
- (d) *Staff Recommendations.*
 - (1) Misconduct Complaints. In making recommendations under paragraph (c)(3)(B), staff must recommend dismissal of a misconduct complaint if staff determine that:
 - (A) the complaint is unfounded or frivolous; or
 - (B) the deadline for filing the complaint under Rule 3(d) has passed and no good cause exists for a full investigation.
 - (2) Substance Abuse and Incapacity Complaints. In making recommendations under paragraph (c)(3)(B), staff must recommend dismissal of a substance abuse or incapacity complaint if staff determine that the complaint is unfounded, is frivolous, or does not bring into question the judge or judicial candidate's ability to perform the official duties of a judge.
- (e) *Commission Action on Staff Report.*
 - (1) Misconduct Complaints.

- (A) The Commission must dismiss a misconduct complaint without full investigation if it determines from the staff report that:
 - (i) the complaint is unfounded or frivolous; or
 - (ii) the complaint is late-filed and there is no good cause for a full investigation.
 - (B) The Commission must conduct a full investigation of a misconduct complaint if the Commission determines from the staff report that:
 - (i) the complaint is not unfounded or frivolous; and
 - (ii) good cause exists for a full investigation.
 - (2) Substance Abuse and Incapacity Complaints.
 - (A) The Commission must dismiss a substance abuse or incapacity complaint without full investigation if it determines from the staff report that:
 - (i) the complaint is unfounded or frivolous; or
 - (ii) the complaint does not bring into question the judge or judicial candidate's ability to perform the official duties of a judge.
 - (B) If the Commission determines that the complaint brings into question the judge or judicial candidate's ability to perform the official duties of a judge and that it is not unfounded or frivolous, the Commission must provide written notice of the complaint—by mail and email—to the judge or judicial candidate and must subpoena the judge or judicial candidate to appear before the Commission at its next regularly scheduled meeting. Rule 5(f)(4) governs this appearance. Following the judge's or judicial candidate's appearance, the Commission must either dismiss the complaint or conduct a full investigation under Rule 5(f).
- (f) *Full Investigation.*
- (1) In General. In conducting a full investigation, the Commission may:
 - (A) order the judge or judicial candidate to submit a written response to the complaint;

- (B) request that the judge or judicial candidate to appear informally before the Commission under paragraph (4);
 - (C) allow the complainant to appear informally before the Commission under paragraph (4);
 - (D) order the deposition of any person under paragraph (5); or
 - (E) any combination of the above.
- (2) When Authorized. When authorized by the Commission, staff may conduct a full investigation before filing the staff report, if based on the preliminary investigation, a full investigation is necessary before the next Commission meeting.
- (3) Notice to Judge or Judicial Candidate. Within 7 days after commencing a full investigation, the Commission must send—by mail and email—the judge or judicial candidate:
- (A) notice of the full investigation’s commencement;
 - (B) notice of the nature of the complaint being investigated;
 - (C) a copy of the complaint and supporting documentation;
 - (D) notice of the judge’s or judicial candidate’s right to respond within 30 days, to request an informal hearing, and attend, including through counsel, each future Commission meeting at which the complaint is included in the staff report;
 - (E) a request that the judge or judicial candidate provide an email address for use during the investigation; and
 - (F) notice of the Commission’s deadline for issuing its report and the earliest potential date the complaint will be submitted for Commission action.
- (4) Informal Appearance.
- (A) The Commission must notify the judge or judicial candidate of a request for an informal appearance at least 30 days before the date the appearance schedule.
 - (B) The judge or judicial candidate’s testimony may be proffered during the informal appearance and documentary evidence received. No other testimony may be taken.

- (C) If proffered, the judge or judicial candidate's testimony must be under oath and recorded. The Commission must furnish a transcribed copy of the recording to the judge or judicial candidate and to the complainant on request within 10 days after the request.
 - (D) The informal appearance of a judge or judicial candidate before the Commission is a closed proceeding, except the judge or judicial candidate may elect to have the appearance open to the public or to a person or persons designated by the judge or judicial candidate. The right to an open appearance does not preclude placing of witnesses under the rule as provided by Texas Rule of Civil Procedure 267.
 - (E) The judge or judicial candidate may request to appear informally in the judge or judicial candidate's response.
 - (F) The Commission must not allow an informal appearance by a complainant without notice to the judge or judicial candidate and an opportunity to be heard. Any testimony proffered at the complainant's informal appearance must be under oath and recorded.
- (5) Deposition.
- (A) If the Commission orders a deposition, the Commission must serve the order on the person who is the subject of the deposition and the judge or judicial candidate who is the subject of the full investigation. The Commission must serve the deposition order a reasonable time before the deposition.
 - (B) The order must notify the witness of the date, time, and the place of the deposition or the intent to take the deposition by electronic means. Depositions are governed by Texas Rules of Civil Procedure 190.2 and 199, except that the proceeding is confidential before the filing of formal charges.
 - (C) The judge or judicial candidate or the witness may object to the deposition in writing. The objection must be presented to the Commission before the time specified for compliance.
 - (D) The Commission may file an application in a district court to enforce the deposition order.
- (g) *Commission Report; Disposition of Full Investigation.* Except as provided in paragraph (h), the Commission must issue a report and determine any action

to be taken regarding the complaint within 120 days after the date of the first Commission meeting at which the complaint was included in the staff report. Each member of the Commission must certify the report by signing the report. The signature may be electronic. The Commission may take the following actions after a full investigation:

- (1) dismiss the complaint;
- (2) issue an education order, which may be issued in combination with another sanction;
- (3) issue an admonition;
- (4) issue a warning;
- (5) issue a reprimand;
- (6) if the subject of the investigation is a judge:
 - (A) accept the judge's resignation in lieu of discipline;
 - (B) initiate formal proceedings under Rule 5 to publicly sanction, censure, suspend, remove, or retire the judge or prohibit future service as a judge; or
 - (C) suspend the judge, if the complaint involves a felony or official-misconduct misdemeanor; or
- (7) if the subject of the investigation is a judicial candidate, initiate formal proceedings under Rule 5 to publicly sanction or censure the judicial candidate.

(h) *Notice of Commission Action.*

- (1) To Judge or Judicial Candidate. The Commission must notify the judge or judicial candidate of:
 - (A) a dismissal under paragraph (b)(1)(C) or (b)(2)(C) within 5 business days of the dismissal;
 - (B) dismissal before full investigation under paragraph (e) within 5 business days after the Commission meeting where the Commission dismisses the complaint;
 - (C) dismissal after full investigation under paragraph (g)(1) within 5 business days after the Commission meeting where the Commission dismisses the complaint;

- (D) initiation of a formal proceeding under paragraph (g)(6)(B) or (g)(7) within 5 business days after the Commission meeting where the Commission initiates formal proceedings; or
 - (E) any other action after full investigation under (g) within 7 business days after the Commission meeting where the Commission determines to take the action.
- (2) To Public. As appropriate, the Commission must publish notice of the Commission's action on the internet. If the Commission plans to publish under this paragraph, the Commission must notify the judge or judicial candidate in the notice provided under paragraph (1). The judge or judicial candidate may object in writing. The Commission must wait at least 5 business days after the notice provided under paragraph (1) to publish.
- (i) *Extension for Extenuating Circumstances.* If extenuating circumstances cause the Commission to fail to timely issue a report and determine the action to be taken regarding the complaint, the Commission may order an extension. The extension must not exceed 240 days from the date of the first Commission meeting at which the complaint was included in the staff report.
 - (j) *Additional Extension for Multiple Misconduct Complaints.* If a complaint against a judge or judicial candidate alleges multiple instances of misconduct or the Commission determines multiple misconduct complaints have been submitted against the judge or judicial candidate, the Commission may order an additional extension. The additional extension must not exceed 90 days after the date on which the extension under paragraph (i) expires.

Rule 5. Formal Proceedings Before the Commission

- (a) *Docket Entry.* If the Commission, upon a finding of good cause, initiates a formal proceeding under Rule 4 (g)(6)(B) or (g)(7), the Commission must docket the formal proceeding as: "Before the State Commission on Judicial Conduct Inquiry Concerning a Judge or Judicial Candidate, No. _____".
- (b) *Notice Contents.* The Commission's notice of a formal proceeding required under Rule 4(h)(1)(D) must state:
 - (1) the charges against the judge or judicial candidate;
 - (2) the alleged facts upon which such charges are based;
 - (3) if the charges are based on the judge's persistent or willful violation of Article 17.15 of the Code of Criminal Procedure, that the Commission

will, within 21 days, recommend to the Supreme Court that the judge be suspended from office;

- (4) the specific standards the Commission contends the judge or judicial candidate violated;
- (5) that the judge or judicial candidate has the right to file a written answer to the charges within 15 days after service of the notice; and
- (6) instructions for how to file an answer, including the name and contact information of the clerk.

(c) *Service of Notice.*

- (1) General Rule. The notice must be served on the judge or judicial candidate by personal service by a person designated by the Chairperson.
- (2) Service by Mail. The Chairperson may permit service by registered or certified mail if the designated person made reasonable unsuccessful efforts to effectuate service over a period of 10 days and submits a sworn statement explaining those efforts. Service by mail must be addressed to the judge or judicial candidate's last known residence and, if a judge, to the judge's chambers. The envelope must be marked "personal and confidential." Service by mail is complete upon deposit of the notice in the mail.
- (3) Notice to Clerk. The designated person must promptly notify the clerk of the date of personal service or, when permitted, the date of mailing.

- (d) *Answer.* The judge or judicial candidate may file with the Commission an answer to the charges. The answer must be filed within 15 days after service of the notice of formal proceedings. Upon filing an answer to the charges, the judge or judicial candidate must designate an email address for subsequent notices.

(e) *Medical Examination for Substance Abuse or Incapacity Complaints.*

- (1) Medical Examination Permitted. If the Commission initiates a formal proceeding, the Commission may require the judge or judicial candidate to submit to a medical examination upon a finding of good cause for a medical examination.
- (2) Time; Suspension with Pay. If the Commission requires a medical examination under paragraph (1), the Commission must:

- (A) order the judge or judicial candidate to submit to a physical or mental examination by one or more qualified physicians or psychologists selected and paid for by the Commission;
 - (B) notify the judge or judicial candidate of the examination at least 10 days before the date of the examination; and
 - (C) if the subject of the complaint is a judge:
 - (i) suspend the judge from office with pay for a period not to exceed 90 days; and
 - (ii) notify the judge of the suspension.
- (3) **Contents of Medical Examination Notice.** The examination notice provided under paragraph (2) must include the examining physician's or psychologist's name and the date, time, and place of the examination.
- (4) **Medical Report.** Each examining physician or psychologist must file a written report of the examination with the Commission. The report will be received as evidence without further formality. The examining physician or psychologist must provide the judge or judicial candidate a copy of the report when it is provided to the Commission. The examining physician or psychologist may be required to provide oral or deposition testimony at the request of the Commission or of the judge or judicial candidate.
- (5) **Suspension.** If the Commission determines that a judge is unable to perform official duties because of substance abuse or physical or mental incapacity, the Commission must:
- (A) recommend that the Supreme Court suspend the judge from office under Rule 7; or
 - (B) enter into a voluntary agreement with the judge for suspension with pay until the Commission determines that the judge is physically and mentally competent to resume official duties.
- (6) **Refusal to Comply.** If the judge or judicial candidate refuses to submit to a physical or mental examination ordered by the Commission, the Commission may:
- (A) petition a district court for an order compelling the judge or judicial candidate to submit to a physical or mental examination, demonstrating good cause for such an examination; and

- (B) recommend that the Supreme Court suspend the judge from office, if the district court finds good cause and orders the judge or judicial candidate to comply.
- (f) *Setting Formal Hearing; Request for Special Master.* Upon the filing of an answer or the expiration of the time for its filing, the Commission may set a time and place for a formal hearing by the Commission or file a request with the Clerk of the Supreme Court to appoint a special master.
- (g) *Appointment of Special Master.* Within 20 days after receipt of the Commission's request to appoint a Special Master, the Supreme Court must appoint an active or retired judge of a district or appellate court to hear and take evidence in the matter. The special master must set a time and place for the formal hearing. The special master has the power of a district judge in the enforcement of orders pertaining to witnesses, evidence, and procedure.
- (h) *Formal Hearing.*
 - (1) Notice. The Commission or the special master must notify the judge or judicial candidate of the formal hearing at least 20 days before the hearing date.
 - (2) Open to the Public. The formal hearing is open to the public.
 - (3) Record. A record of the formal hearing must be made by a court reporter or court recorder.
 - (4) Failure to Appear. The Commission or special master must hold the formal hearing even if the judge or judicial candidate has not filed an answer or does not appear for the hearing. The failure of the judge or judicial candidate to answer or appear is not evidence of the truth of the facts alleged.
 - (6) Rules of Procedure and Evidence. The Commission or special master must adhere to the rules of procedure governing the trial of civil actions, but a judge or judicial candidate is not entitled to a jury trial. The admission of evidence is governed by the rules of evidence for civil actions.
 - (7) Discovery. The Commission must expedite discovery on request. The judge or judicial candidate must not request discovery of:
 - (A) the discussions, thought processes, or individual votes of Commission members; or

- (B) the discussions or thought processes of employees of the Commission, including special counsel for the Commission.
- (8) Judge or Judicial Candidate Rights. The judge or judicial candidate has:
 - (A) the right to discovery and to introduce evidence;
 - (B) the right to the issuance of subpoenas for attendance of witnesses to testify or produce books, papers, and other evidentiary matter;
 - (C) the right to examine and cross-examine witnesses;
 - (D) the right to confront the judge's or judicial candidate's accusers;
 - (E) the right to a transcript of the testimony prepared at the expense of the Commission; and
 - (F) the right to appointment of and representation by a guardian ad litem, if the judge or judicial candidate is adjudged insane or incompetent, or if it appears to the Commission at any time during the proceedings that the judge or judicial candidate is not competent.
- (9) Guardian Ad Litem. In the appointment of a guardian ad litem under paragraph (8)(F), preference must be given, so far as practicable, to members of the judge's or judicial candidate's immediate family. The guardian or guardian ad litem may claim and exercise any right and privilege and make any defense for the judge or judicial candidate with the same force and effect as if claimed, exercised, or made by the judge or judicial candidate, if competent.
- (10) Commission Rulings.
 - (A) In a hearing before the Commission, the following will preside over the formal hearing:
 - (i) the Chairperson, when present;
 - (ii) the Vice-Chairperson, in the absence of the Chairperson; or
 - (iii) a judicial member of the Commission designated by the Chairperson, in the absence of both.
 - (B) Procedural and other interlocutory rulings must be made by the person presiding. Rulings are deemed consented to by the other members unless one or more calls for a vote. If a vote is called, rulings are made by vote under Rule 16.

(i) *Special Master Report.*

- (1) Report. After a formal hearing by a special master, the special master must promptly send the Commission and the judge or judicial candidate a report that contains:
 - (A) a brief statement of steps taken by the special master, including the formal hearing;
 - (B) the special master's findings of fact, which must be based on a preponderance of the evidence; and
 - (C) a transcript of the formal hearing.
- (2) Statement of Objections. Within 15 days after the special master submits the report to the Commission and the judge or judicial candidate, the examiner or the judge or judicial candidate may file with the clerk a statement of objections to the report, setting forth all objections to the report and all reasons in opposition to the findings as grounds for censure, suspension, removal, or retirement. The examiner must send the statement of objections to the judge or judicial candidate.

(i) *Commission Review.*

- (1) Additional Hearing. If a statement of objections is filed, or if the Commission in the absence of such a statement proposes to modify or reject the special master's findings, the Commission must give the judge or judicial candidate and the examiner an opportunity to be heard at a hearing before the Commission. The Commission must send notice of the time and place of such hearing at least 10 days before the hearing.
- (2) Commission Decision. After the additional hearing, the Commission may:
 - (A) dismiss the complaint;
 - (B) issue an education order, which may be issued in combination with another sanction;
 - (C) issue an admonition;
 - (D) issue a warning;
 - (E) issue a reprimand;
 - (F) issue a censure; or

- (G) if the subject of the investigation is a judge:
 - (i) accept the judge's resignation in lieu of discipline;
 - (ii) recommend to the Review Tribunal the removal or retirement of a judge under Rule 8;
 - (iii) suspend the judge, if the complaint involves a felony or official misconduct misdemeanor;
 - (iv) recommend to the Supreme Court the suspension of the judge with or without pay under Rule 7, if the complaint involves certain incompetence or certain willful or persistent conduct as provided in Article V, Section 1-a(6) of the Texas Constitution and Section 33.001 of the Government Code; or
- (H) if the judge is a retired or former judge, recommend that the Review Tribunal prohibit the judge from future judicial service, including holding judicial office or sitting as a judge by assignment.
- (j) *Amendments to Notice or Answer.* The special master or the Commission may allow amendments to the notice of formal proceedings and the answer within a reasonable time before commencement of the formal hearing. After the formal hearing has commenced, the notice may be amended to conform to proof adduced at the hearing. If an amendment is made, the judge or judicial candidate must be given reasonable time to answer the amendment and to prepare and present a defense. A judge or judicial candidate must not be disciplined for a charge or facts not included in the notice.
- (k) *Extension of Time.* The Chairperson may extend for periods not to exceed 30 days in the aggregate the time for filing an answer, for the commencement of a hearing before the Commission, and for filing a statement of objections to the special master's report. The special master may similarly extend the time for the commencement of a hearing before the special master.

Rule 6. Review by Special Court of Review

- (a) *Applicability.* A judge or judicial candidate who has been sanctioned under Rule 4 or 5 or censured under Rule 5 in a final order by the Commission may request review of the order by a Special Court of Review. This rule does not apply to a decision by the Commission to initiate formal proceedings, recommend suspension, recommend removal, recommend retirement, or recommend prohibiting future service as a judge.

- (b) *Request.* The request for appointment of a Special Court of Review must be filed with the Clerk of the Supreme Court within 30 days after the Commission issues the order.
- (c) *Appointment.* Within 10 days after the request is filed, the Chief Justice will select the Special Court of Review. The Special Court of Review is composed of 3 Court of Appeals judges. It must not include a judge from the Court of Appeals district of the requesting judge or judicial candidate or a judge appointed to the Commission. The Chief Justice will notify the judge or judicial candidate and the Commission of the names of the justices appointed to the Special Court of Review and the date of their appointment.
- (d) *Charging Document; Record.* Within 15 days after the appointment of the Special Court of Review, the Commission must file with the clerk designated to serve the Special Court of Review a charging document that includes a copy of the final Commission order and any additional charges to be considered by the Special Court of Review. The Commission must also file any records that it considered in making its decision to sanction or censure the judge or judicial candidate.
- (e) *Clerk Duties.* The clerk must send the charging document to the judge or judicial candidate and to each member of the Special Court of Review.
- (f) *Hearing.*
 - (1) *Hearing Required.* The Special Court of Review must conduct a hearing on the charging document at a time and place set by the Special Court of Review. A record of the hearing must be made by a court reporter or court recorder.
 - (2) *Deadline.* Except as provided in paragraph (3), the hearing must be conducted within 30 days after the charging document is filed.
 - (3) *Extensions.* For good cause shown, the Special Court of Review may grant one or more continuances. However, the continuance or continuances granted must not exceed 60 days cumulatively.
- (g) *Standard of Review.*
 - (1) *Review of an Order Imposed Without a Formal Proceeding.* In reviewing a final order imposed under Rule 4 without a formal proceeding, the Special Court of Review must conduct a trial de novo as that term is used in the appeal of cases from justice to county court. The hearing under paragraph (f) is governed by the rules of law, evidence, and procedure that apply to civil actions, but the judge or judicial candidate is not entitled to trial by jury. The Special Court of Review must expedite

discovery on request. The judge or judicial candidate must not request discovery of:

- (A) the discussions, thought processes, or individual votes of Commission members; or
 - (B) the discussions or thought processes of employees of the Commission, including special counsel for the Commission.
- (2) **Review of an Order Imposed After Formal Proceeding.** In reviewing a final order imposed under Rule 5 after a formal proceeding, the review by the Special Court of Review is a de novo review of the record of the proceedings that resulted in the sanction or censure. The Special Court of Review must base its review on the law and facts presented in the formal proceeding and any additional evidence that the court may permit for good cause shown.
- (h) *Decision.* Within 60 days after the hearing, the Special Court of Review must decide to:
- (1) dismiss the complaint;
 - (2) affirm the Commission's decision;
 - (3) impose a lesser or greater sanction; or
 - (4) order to the Commission to file a formal proceeding.
- (i) *Decision Not Appealable.* The Special Court of Review's decision is not appealable.
- (j) *Opinion.* The Special Court of Review must hand down a written opinion that addresses every issue raised necessary to final disposition of the appeal. Any member of the Special Court of Review may file an opinion dissenting from or concurring in the Special Court of Review's decision.
- (k) *Public Information.* A document filed with the Special Court of Review, the hearing by the Special Court of Review, and any evidence introduced at the hearing is public information.

Rule 7. Review of Suspension Recommendation

After considering the record and the Commission's recommendation, the Supreme Court may suspend a judge from office, with or without pay, pending final disposition of the complaint. On suspension of a judge, the Supreme Court will send a copy of the suspension order to the appropriate city, county, and state officials.

Rule 8. Review of Recommendation for the Removal or Retirement of a Judge or Prohibition of Future Judicial Service

- (a) *Application.* This rule applies when the Commission recommends:
 - (1) the removal or retirement of a judge; or
 - (2) that a retired or former judge serving by assignment under Chapter 74 or 75 of the Government Code be prohibited from future service as a judge.
- (b) *Appointment Request.* If the Commission decides to recommend the removal or retirement of a judge or the prohibition of future judicial service, the Commission must promptly file with the Clerk of the Supreme Court a request for appointment of a Review Tribunal.
- (c) *Appointment.* The Chief Justice will select by lot the Review Tribunal. The Special Court of Review is composed of 7 Court of Appeals judges. Each Court of Appeals must designate one of its justices for inclusion in the list from which the selection is made. A Court of Appeals must not designate a Commission member. The justice whose name is drawn first by the Chief Justice will be the chair of the Review Tribunal. The Clerk of the Supreme Court will notify the Review Tribunal, the Commission, and the judge of the appointment. No Commission member may serve on the Review Tribunal.
- (d) *Initial Filings.* After receiving notice of appointment, the Commission must promptly file with the Clerk of the Supreme Court:
 - (1) a copy of its recommendation under paragraph (a), certified by the Chairperson or Secretary of the Commission;
 - (2) the Commission's findings and conclusions;
 - (3) the transcript of any hearing conducted as part of a formal proceeding under Rule 5 and any testimony under oath, whether proffered at a formal or an informal proceeding;
 - (4) any pleadings filed or evidence introduced as part of a formal proceeding under Rule 5; and
 - (5) the special master report, if any, under Rule 5.
- (e) *Petition to Reject and Brief.* The judge may file a petition to reject the recommendation for removal or retirement. The petition must be filed with the Clerk of the Supreme Court within 30 days after the Commission's initial

filings in paragraph (d). The petition must be accompanied by a supporting brief.

- (f) *Response Brief.* Within 20 days after the filing of the petition and supporting brief, the Commission must file a response brief.
- (g) *Briefing Requirements.* Texas Rule of Appellate Procedure 9 and 28 govern the form and contents of briefs to the extent practicable.
- (h) *Service Requirements.* Texas Rule of Appellate Procedure 9 governs service requirements.
- (i) *Oral Argument.* The Review Tribunal must set oral argument at least 30 days after the petition and brief are filed under paragraph (d). Texas Rule of Appellate Procedure 39 governs the oral argument.
- (k) *Standard for Removal or Retirement.* A judge may be removed from office for willful or persistent violation of rules promulgated by the Supreme Court, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful or persistent conduct clearly inconsistent with the proper performance of the judge's duties or that casts public discredit upon the judiciary or administration of justice. A judge may be removed or retired from office for mental or physical incapacity seriously interfering with the performance of the judge's duties, which is or is likely to become permanent in nature.
- (l) *Review Tribunal Decision.* Within 90 days after the initial filings, the Review Tribunal must render a decision. In a retirement or removal order, the Review Tribunal may prohibit the judge from holding judicial office in the future.
- (m) *Opinion.* The Review Tribunal must hand down a written opinion that addresses every issue raised necessary to final disposition of the appeal. Any member of the Review Tribunal may file an opinion dissenting from or concurring in the Review Tribunal's decision.
- (n) *Motion for Rehearing.* The Review Tribunal may direct that no motion for rehearing will be entertained, in which event its decision will be final on entry. If the Review Tribunal does not so direct, the judge may, within 15 days after the Review Tribunal's decision, file with the Clerk of the Supreme Court a motion for leave to file a motion for rehearing and the motion for rehearing.
- (o) *Public Information.* A document filed with the Review Tribunal, the oral argument, any additional evidence introduced, and the Review Tribunal's opinion are public information.

Rule 9. Appeal of Review Tribunal Decision to Supreme Court

- (a) *Judge May Appeal.* A judge may appeal a decision of the Review Tribunal to the Supreme Court under the substantial evidence rule.
- (b) *Appellate Rules.* The Texas Rules of Appellate Procedure apply to an appeal to the Supreme Court.

Rule 10. Felonies and Official-Misconduct Misdemeanors

- (a) *On Indictment or Charge.* Upon a judge's indictment or charge with a felony or official-misconduct misdemeanor, the Commission must immediately:
 - (1) suspend a judge from office, with or without pay;
 - (2) file a complaint against the judge for misconduct stemming from the offense; or
 - (3) both.
- (b) *Hearing.* If the judge is suspended under paragraph (a)(1), the judge may request a hearing to demonstrate that continued service would not jeopardize the interests of parties involved in court proceedings over which the judge would preside nor impair public confidence in the judiciary. The request must be filed with the Commission within 30 days after receipt of the suspension order. The Commission must schedule a hearing within 30 days after the request is filed. Within 60 days after the hearing, the Commission must notify the judge whether the suspension will be continued, withdrawn, or modified.
- (c) *On Conviction or Deferred Adjudication.*
 - (1) Absent an appeal, a judge is automatically removed from the office if the judge is convicted of or is granted deferred adjudication for a felony or an official-misconduct misdemeanor.
 - (2) If the judge appeals, the Commission must suspend the judge without pay during the pendency of the appeal.

Rule 11. Attorney Representation

- (a) *Judge or Judicial Candidate Representation.* A judge or judicial candidate may be represented by counsel in any disciplinary proceeding before the Commission, a special master, a Special Court of Review, a Review Tribunal, or the Supreme Court and at any meeting of the Commission.

- (b) *Commission Representation.* On request of the Commission, the attorney general must act as its counsel generally or in a particular investigation or proceeding.

Rule 12. Confidentiality and Privilege of Proceedings

- (a) *In General.* Except as provided in paragraph (b), all papers filed with and proceedings before the Commission are confidential, and the filing of papers with, and the giving of testimony before the Commission are privileged.

- (b) *Exceptions.*

- (1) A formal hearing under Rule 5 and any evidence introduced during the formal hearing, including papers, records, documents, and pleadings filed with the clerk are public information.
- (2) A judge or judicial candidate may elect to have any other hearing open to the public or to persons designated by the judge.
- (3) If the Commission issues a public sanction, the record of the informal appearance and the documents presented to the Commission during the informal appearance that are not protected by attorney-client or work product privilege are public information.
- (4) The disciplinary record of a judge or judicial candidate is admissible in a subsequent proceeding before the Commission, a special master, a Special Court of Review, or a Review Tribunal.
- (5) On the filing of a written request by a judge or judicial candidate, the Commission may release to the person designated in the request, including the judge or judicial candidate, the number, nature, and disposition of a complaint filed against the judge or judicial candidate with the Commission, except that the Commission may refuse to release the identity of a complainant.
- (6) If the Commission issues an order suspending a judge who has been indicted for a felony or charged with an official-misconduct misdemeanor, the order, any withdrawal of the order, and all records and proceedings related to the suspension are public.
- (7) The Commission may release to the Office of the Chief Disciplinary Counsel of the State Bar of Texas information indicating that an attorney, including a judge who is acting in the judge's capacity as an attorney, has violated the Texas Disciplinary Rules of Professional Conduct.

- (8) A voluntary agreement to resign from judicial office in lieu of disciplinary action by the Commission is public upon the Commission's acceptance of the agreement. The agreement and any agreed statement of facts relating to the agreement are admissible in a subsequent proceeding before the Commission. An agreed statement of facts may be released if the judge violates a term of the voluntary agreement.
- (9) Any sanction the Commission issues against a judge or judicial candidate for knowingly making a false declaration on an application for a place on the ballot as a candidate for a judicial office described by Section 141.0311 of the Election Code; any withdrawal of such sanction; and all records and proceedings related to the sanction are public information.
- (10) The Commission may provide information to the Sunset Advisory Commission as provided in Section 33.0322 of the Texas Government Code.
- (11) To protect the public interest, the Commission may disclose information relating to an investigation or proceeding to the following recipients if necessary for the recipient to perform an additional duty or function:
 - (A) a law enforcement agency;
 - (B) a public official who is authorized or required by law to appoint a person to serve as judge;
 - (C) the Supreme Court; or
 - (D) an entity that provides Commission-ordered education to judges.

Rule 13. Notice

- (a) *In Writing.* Any notice required by these rules must be in writing.
- (b) *Email Permitted.* Written notice may be sent by email to the judge or judicial candidate and to counsel, if the judge or judicial candidate is represented by counsel, unless otherwise specified in the rules. The Commission must confirm that the email address it uses for notifying the judge or judicial candidate is reasonably calculated to give the judge or judicial candidate actual knowledge of the contents of the notice. If the judge or judicial candidate provides an email address to the Commission to use in a disciplinary proceeding, the Commission must use that email address.
- (c) *Guardian.* If the judge or judicial candidate has a guardian or guardian ad litem, notice must also be sent to the guardian or guardian ad litem.

Rule 14. Subpoenas

- (a) *Issuance.* The Chairperson, a member of the Commission, a special master, or a member of a Special Court of Review may—on majority vote or request of staff, the examiner, the judge, or the judicial candidate—issue a subpoena for attendance of any witness or witnesses who reside within Texas.
- (b) *Form.* The subpoena:
 - (1) must:
 - (A) state “The State of Texas” and the style of the proceeding;
 - (B) state that the proceeding is pending before the Commission, a special master, or a Special Court of Review;
 - (C) state the time and place at which the witness is required to appear;
 - (D) state the person or official body at whose instance the witness is summoned;
 - (E) state the date of issuance;
 - (F) be signed by the Chairperson, a member of the Commission, a special master, or a member of the Special Court of Review; and
 - (G) be addressed to any Texas peace officer or to a person designated by the Chairperson to make service; and
 - (2) may command the person to whom it is directed to produce the books, papers, documents or tangible things designated therein.
- (c) *Service.* A subpoena may be executed and returned at any time and must be served by delivering a copy of such subpoena to the witness.
- (d) *Return.* The person serving the subpoena must file a return thereof, showing the time and manner of service, or service thereof may be accepted by any witness by a written memorandum, signed by such witness, attached to the subpoena.
- (e) *Enforcement.* A Commission subpoena for the attendance or testimony of a witness or for the production of documents is enforceable by contempt proceedings in a district court or by a special master or Special Court of Review. A special master or a Special Court of Review may enforce by contempt a subpoena issued by the Commission, a special master, or a Special Court of Review.

Rule 15. Decisions by Commission, Special Court of Review, Review Tribunal, and Supreme Court

(a) *By Commission.*

- (1) Quorum. Seven Commission members constitute a quorum.
- (2) Votes Needed Generally. Except as provided in paragraph (3), Commission decisions, including the decision to initiate a complaint under Rule 3(g) and to order an extension under Rule 4(h) and (i), must be made by a majority of the Commission members present.
- (3) Votes Needed for Certain Actions. The vote of at least seven Commission members is needed to:
 - (A) censure a judge or judicial candidate under Rule 5;
 - (B) suspend a judge to conduct—or based on the results of—the judge’s medical examination under Rule 5(e);
 - (C) suspend a judge based on the judge’s indictment or charge with a felony or an official-misconduct misdemeanor under Rule 10;
 - (D) recommend suspension of a judge, without or without pay, to the Supreme Court under Rule 7; or
 - (E) recommend the removal or retirement of a judge or to prohibit future service as a judge to a Review Tribunal under Rule 8.

(b) *By Special Court of Review, Review Tribunal, or Supreme Court.* A majority of a Special Court of Review, a Review Tribunal, or the Supreme Court, which constitutes a quorum, must agree on a decision.

Rule 16. *Ex Parte* Contacts

Except as authorized by law, *ex parte* communications by any Commission member about a pending complaint to any judge or judicial candidate who is the subject of a Commission investigation or who is involved in a Commission proceeding are prohibited. The same applies to a special master when there is a proceeding before the special master or member of a Special Court of Review, a Review Tribunal, or the Supreme Court when there is a proceeding before the relevant court or tribunal.

Rule 17. Notification of Law Enforcement Investigation.

(a) *Investigation Hold Permitted.* Except as provided in paragraph (b), on notice by a law enforcement agency investigating conduct for which a complaint has been filed with the Commission, the Commission may place a complaint file on

hold and decline further investigation that would jeopardize the law enforcement agency's investigation.

- (b) *Exception.* The Commission must continue an investigation that would not jeopardize a law enforcement investigation regarding the conduct subject to the complaint and may discipline the judge or judicial candidate based on the complaint.

Rule 18. Commission Administrative Duties

- (a) *File Maintenance.* The Commission must maintain a file on each written complaint filed with the Commission. The file must include:
 - (1) the name of the judge or judicial candidate who is the subject of the complaint;
 - (2) the name of the person who filed the complaint;
 - (3) the date on which the complaint was filed;
 - (4) the subject matter of the complaint;
 - (5) additional documentation submitted by the complainant supporting the complaint;
 - (6) the name of each person contacted in relation to the complaint;
 - (7) a summary of the results of the review or investigation of the complaint; and
 - (8) if the Commission dismisses the complaint, an explanation of the reason for dismissing the complaint.
- (b) *Extension Notice.* If the Commission orders an extension of time under Rules 4(h) or (i), the Commission must timely inform the following of the extension without disclosing confidential information regarding the complaint:
 - (1) the Governor;
 - (2) the Lieutenant Governor;
 - (3) the Speaker of the House of Representatives;
 - (4) the presiding officer of each legislative standing committee with primary jurisdiction over the judiciary;
 - (5) the Chief Justice of the Supreme Court;

- (6) the Office of Court Administration; and
 - (7) the Presiding Judge of the administrative judicial region where the judge serves or where the judicial candidate is campaigning to serve.
- (c) *Bail Reprimand Notice.* If, after a formal proceeding, the Commission issues a reprimand for a judge's persistent or willful violation of Article 17.15 of the Code of Criminal Procedure, the Commission must send notice of the reprimand to:
 - (1) the Governor;
 - (2) the Lieutenant Governor;
 - (3) the Speaker of the House of Representatives;
 - (4) the presiding officer of each legislative standing committee with primary jurisdiction over the judiciary;
 - (5) the Chief Justice of the Supreme Court;
 - (6) the Office of the Court Administration;
 - (7) the Presiding Judge of the administrative judicial region in which is located the court the reprimanded judge serves; and
 - (8) each judge of a constitutional county court in the geographic region in which the reprimanded judge serves.
- (d) *Reporting to Supreme Court.* The Commission must send to the Supreme Court a copy of reports required by statute, including the reports required by Sections 33.005, 33.008, 33.040 of the Government Code.
- (e) *Suspension Notice.* When the Commission orders the suspension of a judge, the Commission must send a copy of the suspension order to the appropriate city, county, and state officials.
- (f) *Education Noncompliance.* The Commission must publicly list on its website judges who have been suspended for noncompliance with judicial-education requirements set forth in governing statutes or rules.