

Judicial Discipline and Accountability

Overview:

Providing effective remedies for judicial misconduct helps preserve judicial independence and maintain trust and confidence in the integrity of the courts. This lesson will introduce participants to judicial misconduct and how state court judges are subject to disciplinary action.

Objectives:

- Determine what constitutes judicial misconduct for state court judges;
- Analyze appropriate sanctions for judicial misconduct;
- Apply the Code of Judicial Conduct to specific cases; and
- Differentiate between unpopular rulings and ethical violations.

Materials Needed:

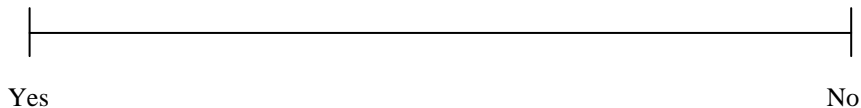
Handouts A and B
Code of Judicial Conduct (Appendices)
Copies of fact strips/see Short Takes section

Time Needed:

Two to three hours

Procedures:

1. Using the Each One, Teach Many activity, introduce participants to Article V of the Florida Constitution. Using fact strips from Article V have everyone find 5 people each with different facts. Each person will meet 5 people and learn 5 different facts. Give 10-15 minutes. Discuss by asking the full group what new facts they learned. Using a resource person (judge or attorney) in an inquiry-based dialogue, facilitate a full group discussion of the facts.
2. Ask participants what knowledge, skills, and qualities/characteristics they would want in a judge. Brainstorm with the full group. Then ask each individual participant to select his/her top three and write each one on a post-it note. On large chart paper, title pages Knowledge, Skills, and Qualities/Characteristics and hang them around the room. Ask participants to post their choices under the proper category. Review and discuss.
3. Place signs on one wall designating a continuum with Yes and No at opposite ends. Ask participants to write on a sheet of paper their individual positions on the following statement. Include 2-3 statements clarifying their position. Then have participants stand by the area which reflects their position. Have several participants orally give their positions. Make sure both sides get equal time.



“Should judges be disciplined for unpopular rulings.”

4. Review with participants Handout A – Judicial Discipline and Accountability. Discuss questions at the conclusion.
5. Distribute copies of the Code of Judicial Conduct (appendices section). Divide participants into groups of five. Give each group a canon to review. Have each group develop a poster and presentation to educate the public about each canon. Lengthier canons can be given to two groups. One group should also do the preamble. Have small groups present to the entire audience in order and keep posters on display.



6. Simulate the work of the Judicial Qualifications Commission. Listed in Handout B are several hypotheticals depicting cases before the Judicial Qualifications Commission. The content of these cases is similar to actual cases investigated by the JQC since 1996. In this activity participants will apply their knowledge of the Code of Judicial Conduct to actual case scenarios to review allegations of judicial misconduct and determine the appropriate sanctions in each case. Group guidelines follow.
- A. Divide audience into groups of five. Assign each group one or several cases to review.
 - B. Each group represents a Judicial Qualifications Commission and should apply the Code of Judicial Conduct to each scenario.
 - C. Determine if misconduct has occurred and draft sanctions to recommend to the Supreme Court of Florida. Refer to Article V, Section 12(1) of the Florida Constitution. Beyond the sanctions listed, are there other specific recommendations you would add? Rather than sending this case to the Supreme Court, would you recommend less formal action?
 - D. Each small group should report its recommendations to the full group/audience.

Note:

In reviewing these cases, remember these are hypotheticals. Each group will simulate a JQC panel to discuss the possibility of judicial misconduct. Each group will determine if formal action is needed, citing the appropriate canon violation in the Code of Judicial Conduct. Additionally specific disciplinary recommendations should be provided for Supreme Court review as applicable.

To review actual outcomes of similar cases, visit the Supreme Court of Florida website at <http://www.flcourts.org/pubinfo/jqc/index.html>

About the Code of Judicial Conduct for Facilitator

The Code of Judicial Conduct provides the ethical guidelines for the conduct of judges in Florida's court system. A detailed copy is attached. See appendices.

Questions for discussion.

1. What is the function of the JQC?
2. Where are the ethical standards for judges found?
3. When does a complaint against a judge become public?
4. Is the JQC part of the Supreme Court?
5. What types of discipline can be recommended by the JQC?

Note: Review Article V, Section 12 of the Florida Constitution.



This activity was developed by Annette Boyd Pitts, Executive Director of The Florida Law Related Education Association, Inc. Special thanks to Brooke Kennerly, Executive Director of the Florida Judicial Qualifications Commission for her substantive review of this material.

Judicial Discipline and Accountability

Introduction:

Providing effective remedies for judicial misconduct helps preserve judicial independence and maintain trust and confidence in the integrity of the courts. Article V of the Florida Constitution provides for a Judicial Qualifications Commission, an independent agency to investigate alleged misconduct by judges in our state courts system. Judges, lawyers, and non-lawyers serve on the Commission. The JQC does not have authority over federal judges. In the federal court system, federal judges abide by the Code of Conduct for United States Judges.

The Process:

In Florida, individuals submit their complaints about state judges in writing to the Judicial Qualifications Commission in Tallahassee. No special forms are needed. The ethical standards judges must follow are in the Code of Judicial Conduct. Persons seeking judicial office such as in an election must also abide by Canon 7 of the Code. The Judicial Qualifications Commission not only investigates complaints submitted by individuals, the JQC can also initiate their own investigations. During the investigation phase, all JQC complaints and proceedings are confidential.

The case becomes public only when the JQC files with the Supreme Court of Florida a notice of formal charges. At this point, the Court acts only as the custodian of public records filed with it during the pending investigation. Any further action will be undertaken by the JQC.

A panel of JQC members will hear further proceedings against the judge. The amount of time varies from case to case. Some judges agree to some type of discipline which means the JQC proceedings stop and the case will go to the Supreme Court for final determination. If a judge disagrees with or contests the charges, additional time and proceedings are involved.

Supreme Court of Florida:

The JQC is not a program of the Supreme Court. The JQC investigates complaints and recommends sanctions to the Supreme Court. The case actually goes to the Florida Supreme Court once the JQC has concluded its hearings. This is when the Judicial Qualifications Commission files its findings and recommendation for any discipline with the Supreme Court. Briefs can be filed with the Supreme Court before it decides the case. If oral argument is scheduled, it is announced in advance in the Court's Press Summaries which are available on-line.

Types of Discipline:

The Judicial Qualifications Commission may recommend one or more of the following forms of discipline.

- No discipline
- A fine
- A public reprimand administered during a formal Supreme Court session
- Suspension from office
- Removal from office
- Involuntary retirement due to disability

The JQC files its findings and recommendation for any discipline with the Florida Supreme Court. All Florida Supreme Court proceedings are broadcast on the Internet. Video archives are also available.

Types of Cases:

The vast majority of complaints received by the JQC are outside the scope and authority of the Commission. For instance, most of the complaints last year were from individuals who were not pleased with the outcome of a case or disagreed with the decision of a presiding judge. Errors in judicial decision-making may be reviewable through the appellate process, not the JQC. Remedies in certain instances may also include remedial legislation or constitutional amendment if appropriate. The JQC is responsible only for allegations of judicial misconduct or misbehavior according to the Code of Judicial Conduct as well as incapacity to hold office.

Wide ranges of allegations are received annually with the vast majority not considered legitimate JQC functions.



About the Code of Judicial Conduct for Facilitator

The Code of Judicial Conduct provides the ethical guidelines for the conduct of judges in Florida's court system. A detailed copy is attached. See appendices.

Questions for discussion.

1. What is the function of the JQC?
2. Where are the ethical standards for judges found?
3. When does a complaint against a judge become public?
4. Is the JQC part of the Supreme Court?
5. What types of discipline can be recommended by the JQC?

Note: Review Article V, Section 12 of the Florida Constitution.



Handout B: Cases

Case 1.

Judge Cattlins was elected to county court in 1998. In her campaign against the incumbent judge, Cattlins made certain pledges and promises in favor of law enforcement. She also asserted that the incumbent judge was “soft on crime.” Cattlins defeated the incumbent judge and now sits on county court. The JQC Hearing Panel, comprised of judges, attorneys, and lay citizens received testimony and documentary evidence. Judge Cattlins was represented at the hearing by her attorney.

Campaign literature was introduced demonstrating statements that Cattlins would help law enforcement by putting criminals where they belong. Cattlins also gave radio interviews during the campaign, which exhibited hostility towards defendants in criminal cases. She presented herself as a pro-prosecution/pro-law enforcement judge. Cattlins also misrepresented specific outcomes of cases heard by the incumbent judge she was running against.

Candidate Cattlins publicized details of pending cases of two criminal defendants in a manner that could have impacted the outcome of the cases or impaired the fairness of the proceedings.

During the campaign, Cattlins engaged in conduct unbecoming a candidate for judicial office. Cattlins conveyed the message in her campaign that it is permissible for judges to rule in a predisposed manner in certain types of cases. Cattlins’ statements conveyed the impression that a judge’s role is to combat crime rather than judge those who appear before the court in a fair and impartial manner.

During the JQC hearing, Cattlins did not deny her position during the campaign. Evidence introduced against Cattlins included campaign literature and radio excerpts. Judge Cattlins felt that she was not bound by all of the Canons governing judges because she was a candidate not a judge during the campaign. She felt her speech was constitutionally protected. Judge Cattlins presented 15 persons as character witnesses and 200 affidavits attesting to her skills as a sitting judge.

Case 2.

Judge Landers is a Florida Judge in South Florida. She has been a judge in criminal court for five years. Judge Landers has a close friend who is currently involved in a heated divorce and custody battle in the same circuit. Judge Landers is deeply concerned because the judge hearing her friend’s case has decided to put the child temporarily in foster care because of the volatile circumstances in the home.

Judge Landers was outraged at the decision. She stormed into the other judge’s hearing room and spoke in the presence of others about the case in a loud and angry voice. Judge Landers proceeded to inform the judge of her concerns about the child’s father and tried to influence his decision in the case.

While the child was in foster care, Judge Landers also contacted one of the foster care workers and a detective conducting a criminal investigation in the case. Judge Landers expressed her displeasure with the conclusions in the case. She asked to be informed regularly. She indicated her personal interest in the case. Complaints were filed against Judge Landers by her friend’s estranged husband and the judge hearing her friend’s case.

Judge Landers denies being rude to the judge hearing her friend’s case. Judge Landers initially stated that she had not contacted anyone regarding this case. Later she remembered calling the detective.



Handout B: Cases

PAGE 2 OF 2

Case 3.

Judge Casey has been assigned to hear a controversial case dealing with an armed robbery of a local convenience store. During the robbery, a teenager was shot. There were no eyewitnesses and the store surveillance camera was malfunctioning. Days later, police received an anonymous tip that a young man standing at the bus stop wearing jeans and a green t-shirt was carrying a gun. The tipster indicated the gun had been used in the robbery.

The police arrived within five minutes and saw a young man matching the description. They immediately searched the juvenile and found a gun. In court, the young man's attorney filed a motion to suppress the gun as evidence stating that an anonymous tip was not enough to permit the police to search the defendant. The judge agreed. With no gun as evidence, there would be no case. The public was in an uproar. Protests began as well as a letter writing campaign to the JQC asking for the judge's removal. The local mayor has gone on television urging the public to insist on the judge's removal.

Judge Casey asserts he has applied his knowledge of the law to the facts in this case to make his decision. He feels this is public reaction to an unpopular ruling.

Case 4.

The Judicial Qualifications Commission has received complaints from several individuals that a state judge in one of Florida's 20 judicial circuits has appeared in court smelling of alcohol. The judge's behavior was allegedly rude and hostile. Two attorneys also wrote the JQC to report that Judge Braman had made demeaning remarks to them and told them to leave his courtroom. Three other judges from the same circuit also submitted complaints citing they smelled alcohol on Judge Braman's breath immediately prior to a court proceeding.

Judge Braman has been seen drinking with lawyers who appear before him in court. The JQC has investigated these allegations. Judge Braman admits he once had a drinking problem but he attended counseling and no longer does. He denies all allegations except that he does go to a local bar occasionally for a social drink. Lawyers from the community also go there. Judge Braman has been a county court judge for three years.

Case 5.

Judge Cane received a \$200,000 loan from a friend to help finance her judicial election. After the check was issued to Judge Cane's brother/treasurer, Judge Cane accepted the funds with full knowledge of the contributor. Judge Cane's friend says she loaned the money to Judge Cane to help with her campaign.

Judge Cane's friend owns a huge corporation in Florida. The company is frequently sued for negligence. The JQC has been investigating the contribution since it exceeds the \$500 limit on contributions prescribed by law. Judge Cane failed to report the contribution as required by law including name, address and occupation of the contributor.

Judge Cane won the election.



Note:

In reviewing these cases, remember these are hypotheticals. Each group will simulate a JQC panel to discuss the possibility of judicial misconduct. Each group will determine if formal action is needed, citing the appropriate canon violation in the Code of Judicial Conduct. Additionally specific disciplinary recommendations should be provided for Supreme Court review as applicable.

To review actual outcomes of similar cases, visit the Supreme Court of Florida website at <http://www.flcourts.org/pubinfo/jqc/index.html>

