

IN THE SUPREME COURT, STATE OF WYOMING

OCTOBER TERM, A.D. 2006

In the Matter of the Repeal of the Rules  
Governing the Commission on Judicial  
Conduct and Ethics, Adopted by Orders  
dated November 29, 1996, and  
January 29, 1997, and Adopting Revised  
Rules Governing the Commission on  
Judicial Conduct and Ethics

IN THE SUPREME COURT  
STATE OF WYOMING  
FILED

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JUDY PACHECO, CLERK

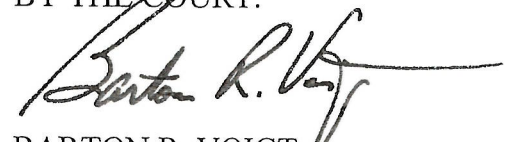
**ORDER REPEALING THE EXISTING RULES GOVERNING THE COMMISSION ON  
JUDICIAL CONDUCT AND ETHICS AND ADOPTING REVISED RULES GOVERNING THE  
COMMISSION ON JUDICIAL CONDUCT AND ETHICS**

The Commission on Judicial Conduct and Ethics has recommended that the Court repeal the existing Rules Governing the Commission on Judicial Conduct and Ethics and adopt the revised Rules Governing the Commission on Judicial Conduct and Ethics. The revised rules are attached hereto. The Court, having examined the proposed revisions, finds them advisable. It is therefore,

**ORDERED** that the existing Rules Governing the Commission on Judicial Conduct and Ethics be, and they hereby are, repealed and, further, that the revised Rules Governing the Commission on Judicial Conduct and Ethics be, and they hereby are, adopted in the form attached hereto to be effective this date. The revised rules shall be published in the advance sheets of the Pacific Reporter, the Wyoming Reporter, and in the Wyoming Court Rules and, further, they shall thereupon be spread at length upon the journal of the Court.

DATED this 15<sup>th</sup> day of November, 2006.

BY THE COURT:

  
BARTON R. VOIGT  
Chief Justice

# **RULES GOVERNING THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS**

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**Rule 1. Scope of title.**

These rules are promulgated pursuant to Wyo. Const. art. 5, § 6(e)(iv). They apply to all proceedings before the Commission involving the censure, suspension, removal, retirement, imposition of monetary sanctions, or other discipline of a judge.

**Rule 2. Definitions.**

In these rules, unless the context or subject matter otherwise requires:

- (a) “Civil misconduct” means “a finding by any court, tribunal, agency, or commission of any local, state or federal authority, of misconduct, contempt, or refusal to comply with lawful orders or mandates.”

- (b) "Clear and convincing evidence" means "that kind of proof which must persuade the members of the adjudicatory panel that the truth of a contention is highly probable."
- (c) "Commission" means "the Commission on Judicial Conduct and Ethics."
- (d) "Commission chair" means "the person who presides over the full commission and includes a commission vice chair when acting in the capacity as the commission chair."
- (e) "Conduct prejudicial to the administration of justice that brings the judicial office into disrepute" includes, without limitation, "a violation of the Wyoming Code of Judicial Conduct."
- (f) "Criminal misconduct" means "a conviction arising from violation of any local, state or federal criminal law, statute, regulation, rule, or ordinance."
- (g) "Disability" means "a mental or physical condition, or mental and physical condition combined, that seriously interferes with a judge's performance of duties and is, or is likely to become, permanent."
- (h) "Disciplinary counsel" means "any person appointed by the Commission or a panel to gather and present evidence before the commission or a panel and perform other duties assigned by the commission or a panel pursuant to these rules."
- (i) "Formal proceedings" refers to the initiation of the process by which allegations against a judge are to be made, heard, and determined by an adjudicatory panel.
- (j) "Hearing officer" is the member of a panel selected or appointed to conduct any hearing or other proceeding.
- (k) "Judge" means "any person or judicial officer performing judicial functions or exercising judicial powers in the judicial branch of Wyoming government, including, but not limited to, justices of the Wyoming Supreme Court, district court judges and commissioners, circuit court judges and magistrates, and municipal judges and alternate municipal judges, whether serving full time or part time, including a retired judge, commissioner or magistrate who has been given a general or special appointment to hear cases by the Wyoming Supreme Court."
- (l) "Judicial misconduct" means "any action occurring during the judge's tenure, that constitutes, including, but not limited to, the following:



- (1) willful misconduct in office;
- (2) willful or persistent failure to perform duties;
- (3) habitual intemperance to include alcohol or substance abuse; or
- (4) conduct prejudicial to the administration of justice that brings the judicial office into disrepute."
- (m) "Judicial tenure" means "any service by a judge in any judicial capacity at any time."
- (n) "Mail" and "mailed" include ordinary mail and personal delivery.
- (o) "Oath" is synonymous with "affirmation," and "swear" is synonymous with "affirm."
- (p) "Panel" refers to an investigatory panel or an adjudicatory panel.
- (q) "Presiding officer" means "the presiding member of an investigatory or adjudicatory panel making administrative decisions."
- (r) "Registered mail" means "either registered or certified mail, deposited with the United States Postal Service, with postage prepaid and with a request for a return receipt."
- (s) "Rules" means "the Rules Governing the Commission on Judicial Conduct and Ethics."
- (t) "Shall" is mandatory and "may" is permissive.
- (u) "Verify" means "to confirm or substantiate by oath or affirmation."
- (v) "Wyoming Supreme Court" means "the Wyoming Supreme Court" or "Special Wyoming Supreme Court as set forth in Wyo. Const. art. 5, § 6."

**Rule 3. Selection of judges as commission members.**

- (a) Wyoming judges of the district courts shall select two of their number as members of the Commission. The judges of the district courts shall meet, as necessary,

on or before January 31st of each year so as to ensure that appointments to the Commission are current and consistent with Wyo. Const. art. 5, § 6.

(b) Wyoming judges of the circuit courts shall select one of their number as a member of the Commission. The judges of the circuit courts shall meet, as necessary, on or before the 31st of January of each year so as to ensure that appointments are current and consistent with Wyo. Const. art. 5, § 6.

(c) The Commission shall inform the presiding officer of the District Judges Division of the Judicial Council and the presiding officer of the Circuit Court Judges Division of the Judicial Council of vacancies on the Commission of judge members and new members shall thereafter be selected or appointed by the appropriate body within 30 days of the notification.

**Rule 4. Commission members appointed by the Wyoming State Bar and the Governor of Wyoming.**

(a) The Wyoming State Bar shall appoint three of its numbers as members of the Commission. Upon notification of a vacancy of a member of the Commission appointed by the bar, as provided for in these rules, the bar shall fill vacancies as necessary.

(b) The Governor of Wyoming shall appoint six electors of the state who are not active or retired judges or attorneys, which appointments shall be confirmed by the Wyoming Senate. Upon notification of a vacancy of a member of the Commission appointed by the governor, as provided for in these rules, the governor shall fill vacancies as necessary.

**Rule 5. Removal of members of the Commission.**

Upon a showing of good cause, sufficient notice, and after an opportunity for hearing before the Commission, a member or members of the Commission may be removed by a majority vote of the members of the Commission, except the member or members of the Commission affected by that vote. The governor may remove any member he appoints as provided in Wyo. Stat. Ann. § 9-1-202 (Lexis 2005); members elected by the judges may be removed by majority vote, respectively, of all full-time, active district judges or full-time, active circuit court judges; and the Wyoming State Bar may remove any member it appoints.

**Rule 6. Organization and authority of Commission.**

(a) Commission; commission chair; commission vice chair; investigatory and adjudicatory panels. The full Commission shall select one of its members to serve as commission chair, and one of its members to serve as commission vice chair in the event the commission chair is unable to serve because of absence, illness, conflict, recusal, or other reason. The commission chair may divide the full Commission into investigatory panels of three or more members and adjudicatory panels of three or more members. The commission chair shall prescribe the duration and time of panel membership. The investigatory and adjudicatory panels shall include members from each category of membership--lawyer, judge, and elector. Membership on the panels shall rotate in a manner determined by the Commission, provided that no member shall sit on both the investigatory and adjudicatory panel in the same proceeding. The full Commission shall meet periodically as determined by the commission chair to consider administrative and procedural matters and shall meet at the call of the commission chair on an ad hoc basis for disposition hearings.

(b) Commission chair. The commission chair shall preside over meetings and hearings of the full Commission. In the event formal proceedings are commenced, the commission chair shall appoint a member (who may be the commission chair) to serve as the hearing officer of the adjudicatory panel. The commission chair shall from time to time designate presiding officers of all panels.

(c) Presiding officer. The presiding officer of each panel shall schedule, convene and preside over panel hearings and shall appoint a member of the panel (who may be the presiding officer) to serve as the hearing officer of any hearing or other proceeding of the panel.

(d) Authority to administer oaths and issue subpoenas. In addition to those persons authorized to administer oaths in accordance with law, the commission chair, the commission vice chair, a presiding officer, and a hearing officer are authorized to administer oaths or affirmations to all witnesses appearing before the Commission or any commission panel, or at any proceeding or hearing. The commission chair, commission vice chair, a presiding officer, and a hearing officer have the authority to issue subpoenas in the name of the Commission as provided by these rules.

(e) Powers and duties of the Commission.

(1) The Commission shall have the duty and broad authority (which may be delegated as provided in these rules or rules adopted by the Commission) to:

(A) adopt its own rules of procedure for discipline and disability proceedings not inconsistent with these rules and subject to the approval of the Wyoming Supreme Court, except in such instances or situations



where the commission chair declares, as approved by a majority vote of all members of the Commission, that an emergency exists which necessitates the issuance of a special rule or special rules;

(B) adopt internal policies and procedures of operation, adopt official forms, and conduct its administrative functions as may be deemed, from time to time, appropriate by a majority vote of members of the Commission;

(C) hire and retain an executive director, disciplinary counsel and other staff;

(D) conduct investigations and review the recommendations of disciplinary counsel after investigation and authorize investigations, commence formal proceedings, conduct hearings on formal proceedings or dismiss a complaint;

(E) rule on prehearing motions, conduct hearings, make findings, conclusions and recommendations to the Wyoming Supreme Court for sanctions, including imposition of monetary sanctions as deemed appropriate, or dismiss a case, pursuant to these rules;

(F) consider and implement such other forms of discipline, including, but not limited to, temporary discipline or interim suspension as provided for in these rules, or permanent discipline as provided for in these rules;

(G) appoint masters in appropriate cases, review the findings of the masters, and make findings, conclusions, and recommendations to the Wyoming Supreme Court for sanctions, including imposition of monetary sanctions as deemed appropriate, or dismiss a case, pursuant to these rules;

(H) maintain the Commission's records;

(I) prepare the Commission's budget for its approval and administer the funds;

(J) notify the appropriate appointing authority of vacancies on the Commission;

(K) prepare an annual report of the Commission's activities and maintain statistics concerning the operation of the Commission and make available the report and statistics which are not confidential;



(L) inform the public of the existence and operation of the judicial discipline system, including the Commission's address and telephone number;

(M) perform such other supervisory functions as the Wyoming Supreme Court may from time to time direct;

(N) make assignment to investigatory and adjudicatory panels; and

(O) refer potential violations of law by a judge or by any other individual or entity, or evidence thereof, to the appropriate authorities.

(f) Powers and duties of investigatory panel.

(1) The investigatory panel shall have the duty and broad authority to:

(A) review statements or complaints received by the Commission concerning allegations of judicial misconduct, criminal misconduct, civil misconduct, or disability; conduct reviews and make inquiries; conduct examinations; impose temporary discipline or interim suspension as provided for in these rules; refer violations of any of these rules concerning confidentiality to appropriate authorities; refer criminal violations to appropriate prosecuting authorities; issue subpoenas; conduct hearings and other proceedings; make dismissals; issue letters of correction; issue or recommend deferred discipline agreements; issue stipulated private censures; and refer probable cause findings against a judge to an adjudicatory panel for formal proceedings;

(B) evaluate all information or allegations reaching the attention of the Commission from any source that reasonably gives rise to the need for further inquiry or investigation;

(C) commence investigations on its own motion on matters concerning alleged disability, judicial misconduct, criminal misconduct, or civil misconduct falling within the jurisdiction of the Commission;

(D) appoint disciplinary counsel, if needed, to proceed with investigation, deferred discipline agreement, or formal proceedings; and

- (E) maintain records and files confidentially in accordance with these rules and transmit files to the adjudicatory panel for formal proceedings as appropriate.
- (g) Powers and duties of adjudicatory panel.
  - (1) The adjudicatory panel shall have the duty and broad authority to:
    - (A) appoint disciplinary counsel, if needed, to proceed with investigation, deferred discipline agreement, or formal proceedings; evaluate all information or allegations reaching the attention of the adjudicatory panel or from any source that reasonably gives rise to the need for further inquiry or investigation; maintain records and files confidentially in accordance with these rules; review notices of formal proceedings and amended notices of formal proceedings concerning allegations of judicial misconduct, criminal misconduct, civil misconduct, or disability; conduct reviews and make inquiries; impose temporary discipline or interim suspension as are provided for in these rules; refer violations of any of these rules concerning confidentiality to appropriate authorities; refer criminal violations to appropriate prosecuting authorities; issue subpoenas; conduct hearings and other proceedings; issue letters requiring remedial action; issue or recommend deferred discipline agreements; issue stipulated private censures; rule on prehearing motions; conduct hearings and other proceedings related to formal proceedings; make findings, conclusions and recommendations to the Wyoming Supreme Court; or dismiss a case;
    - (B) adopt internal policies and procedures for convening and conducting adjudicatory hearings; and
    - (C) conduct adjudicatory hearings and make adjudicatory findings.
- (h) Expenses. Members shall be reimbursed for reasonable and necessary expenses incurred pursuant to their duties.

**Rule 7. Staff for Commission and disciplinary counsel.**

- (a) The Commission shall employ an executive director who shall receive and process inquiries, maintain custody of the Commission's records and files, transmit files between the Commission and its panels at the direction of the commission chair or as otherwise provided by these rules, and perform such other duties as may be assigned by

the Commission. The Commission may employ other staff to assist in the performance of duties assigned to the Commission.

(b) The Commission may retain or contract for services with an attorney to serve as disciplinary counsel. Disciplinary counsel may not serve in a judicial capacity or maintain a practice of law that would conflict with the duties of disciplinary counsel. Disciplinary counsel shall be bound by the same rules of confidentiality as the Commission. Disciplinary counsel shall make no representations, statements, promises, or agreements to any person or entity other than as provided by these rules or without the express authority of the presiding officer of an investigatory panel or adjudicatory panel, as the case may be, concerning any matter for which disciplinary counsel is retained and hired. Disciplinary counsel shall have the duty and authority to:

- (1) conduct investigations upon request of an investigatory panel;
- (2) file and prosecute formal proceedings when directed to do so by an investigatory panel; and
- (3) perform other duties as may be assigned, including, but not limited to, presentation of information or evidence at any hearings or other proceedings before an investigatory panel or an adjudicatory panel, preparation of findings, recommendations, stipulations, settlement agreements, and orders of discipline.

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**Rule 8. Quorum of Commission.**

Except as otherwise provided in these rules, a quorum for the transaction of commission business shall be two-thirds of the Commission members eligible to participate in the matter being considered, but in no event fewer than four members, and the vote of the majority of the Commission at any meeting with a quorum present shall be the act of the Commission. Commission members may participate in any meeting by telephone except that commission members who are part of the adjudicatory panel shall appear in person at the adjudicatory hearing. If there are an insufficient number of members eligible to decide any case before the Commission, the commission chair shall make written request to the appointing authority of recused or ineligible members to appoint temporary replacement commission members for that case. If the replacements are not named by the appointing authority within 15 days, the commission chair may appoint the temporary replacement members from the same category as the recused or ineligible member.

**Rule 9. Interested member of Commission; ex parte contacts.**



- (a) A judge who is a member of the Commission shall not participate as such member in any proceedings involving the judge's own discipline, removal, or retirement.
- (b) No member of the Commission shall serve in the capacity as a member of both the investigatory panel and the adjudicatory panel in the same proceeding.
- (c) Members of the Commission shall recuse themselves in any matter in which recusal would be required of a judicial officer under the Wyoming Code of Judicial Conduct. Once a member of the Commission is recused from a proceeding for any reason, such member shall not subsequently be permitted to consider any aspect of such proceeding.
- (d) Members of the Commission shall not engage in ex parte communications regarding a case with the judge, judge's counsel, disciplinary counsel, or any witness, except that before making a determination to file formal proceedings in a case, a panel may communicate with the disciplinary counsel as may be required to perform its duties in accordance with these rules. For administrative purposes only, the commission chair or a presiding officer or hearing officer of a panel may confer with disciplinary counsel and the judge's counsel or the judge, if pro se. Members of the Commission are permitted to engage in ex parte communications with persons seeking information from them only to the extent that such persons are provided with a means of contacting the Commission, obtaining a copy of these rules, or informing such persons or entities of the dismissal of a case or that appropriate action was taken by the Commission, as permitted by these rules. Following the filing of formal proceedings, members of the Commission shall not engage in ex parte communications regarding a case with the judge, counsel for the judge, disciplinary counsel, or any witness, except that staff may communicate with disciplinary counsel and others as required to perform their duties in accordance with these rules. Anything to the contrary notwithstanding, the commission chair, the investigatory panel, or the presiding officer of a panel may communicate with disciplinary counsel; and the commission chair, the investigatory panel, the presiding officer of a panel, and the hearing officer of the adjudicatory panel may communicate with disciplinary counsel, the judge, or counsel for the judge only as expressly permitted by these rules.

**Rule 10. Proceedings confidential; exceptions to confidentiality; public release of information.**

- (a) Proceedings. Unless otherwise permitted by these rules, or unless revealed in public documents or a public hearing, all proceedings before the Commission and all information, communications, materials, papers, files, and transcripts, written or oral, received or developed by the Commission in the course of its work, shall be confidential.



No member of the Commission or its staff and no employee or agent of the Commission, disciplinary counsel and disciplinary counsel's staff, no attorney, and no testifying witness shall disclose such proceeding, information, communications, materials, papers, files, or transcripts, except in the course of official duty or as otherwise authorized by these rules. Any violation of the provision for confidentiality shall constitute an act of contempt and be punishable as such. Any violation by any person of the requirements of confidentiality shall be dealt with in accordance with these rules, and the Commission may refer any violation to the appropriate tribunals, authorities, agencies, commissions, or bodies. A record filed by the Commission with the Wyoming Supreme Court loses its confidential character upon its filing. In the event of a private censure, except when the complaint was initiated by a member of the Commission or by the Commission, the complainant shall be advised in general terms that appropriate corrective action has been taken. In the event that a complaint has been dismissed, except when the complaint was initiated by a member of the Commission or by the Commission, the complainant shall be advised that the matter has been closed. The Commission may, in its discretion, release statistical information that does not identify judges whose cases are confidential. The deliberations of the Commission, whether oral or written, shall remain confidential.

(b) Exceptions to confidentiality. The Commission may refer potential violations of law by a judge or by any other individual or entity, or evidence thereof, to the appropriate authorities. The Commission may disclose information to any committee, commission, agency, or body within or outside the State of Wyoming empowered to investigate, regulate, or adjudicate matters incident to the legal profession (excluding matters involving criminal conduct); however, the Commission may send the judge a copy of all documents or other matters disclosed. The Commission may disclose information upon inquiry by any state or federal appointment authority, committee, commission, agency, or body empowered to conduct investigations in connection with the selection or appointment of judges.

(c) Public release of information. In any case in which the subject matter of an investigation, proceeding, or determination becomes public through independent sources or through a waiver of confidentiality by the judge, or in extreme circumstances when the confidence of the public in the judiciary is involved, or when the interests of the judge involved would be adversely affected, or when the interests of the Commission would be adversely affected, the Commission may issue statements as deemed appropriate in order to confirm the pendency of an investigation, to clarify the procedural aspects of the proceedings, to explain the right of the judge to a fair hearing without pre-judgment, and to state that the judge denies the allegations. The statement shall be first submitted to the judge involved for comment or criticism prior to its release, but the Commission, in its discretion, may release the statement as originally prepared or as the Commission deems appropriate.

(d) Notices, pleadings, documents, correspondence, and communications. All notices, pleadings, documents, letters, and papers mailed or otherwise transmitted in any form directed to a judge, counsel for a judge, members of the Commission, staff of the Commission, disciplinary counsel, or any other person or entity pursuant to these rules shall be enclosed in a cover marked "Personal and Confidential".

(e) Oath of witnesses. Every witness in every proceeding under these rules shall be sworn to tell the truth and not to disclose the existence of the proceeding or the identity of the judge until the proceeding is no longer confidential under these rules. Violation of the oath shall be an act of contempt and punishable as such.

(f) Review of file contents. Investigatory panel members shall have the authority to investigate facts through letters, information obtained by subpoena and other means of inquiry directed to the complainant, the judge, court officials, attorneys and all others. The investigatory panel may, in its discretion, share the information and responses with the complainant, the judge, and the parties' attorneys. The Commission is not required to follow any request by the complainant, judge, or complainant's attorney to withhold dissemination of information provided in response to a confidential investigatory panel inquiry. Otherwise, the confidentiality of these matters as provided by these rules shall apply.

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**Rule 11. Defamatory material.**

The filing of papers with or the giving of testimony before the Commission shall be privileged in any action for defamation. A writing that was privileged prior to its filing with the Commission does not lose its privilege by the filing. A record filed by the Commission in the Wyoming Supreme Court continues to be privileged.

**Rule 12. Jurisdiction; temporary discipline or interim suspension; subpoenas.**

(a) Commission. The Commission or its panels shall receive, investigate, hear, and adjudicate allegations of judicial misconduct, criminal misconduct, civil misconduct, or disability; impose temporary discipline or interim suspension as provided for in these rules; approve discipline; and make recommendations to the Wyoming Supreme Court for appropriate discipline, including the imposition of monetary sanctions, censure, removal or retirement of a judge.

(1) The Commission may recommend retirement of a judge for disability.



(2) The Commission may recommend censure or removal of a judge upon a finding that a judge has engaged in judicial misconduct, criminal misconduct or civil misconduct.

(3) The Commission or a panel may impose discipline in the form of private censure and such an imposition of discipline need not be recommended to or approved by the Wyoming Supreme Court.

(b) Investigatory panel. The investigatory panel shall, on behalf of the Commission, have the broad authority as provided in these rules.

(c) Adjudicatory panel. The adjudicatory panel shall, on behalf of the Commission, have jurisdiction to conduct formal proceedings upon a receipt of a determination from the investigatory panel that formal proceedings should be instituted. The adjudicatory panel shall make findings and adjudications concerning allegations of judicial misconduct, criminal misconduct, civil misconduct and disability, and:

(1) where none is proven by clear and convincing evidence, shall dismiss the case; or

(2) where proven by clear and convincing evidence, shall make an adjudication and submit findings to the full Commission for disposition.

(d) Temporary discipline or interim suspension. If there is probable cause to believe that the judge poses an imminent threat of substantial harm to the public or any other person or any entity, a panel may order such temporary discipline or interim suspension as may be appropriate under the circumstances. Any such order shall set forth the full factual basis for the temporary discipline or interim suspension and shall be effective immediately upon issuance. The order shall be served upon the judge or upon the attorney for the judge as provided by these rules. The judge shall have 20 days from the date of service of the order to request dissolution or modification of the order. The request and factual basis for dissolution or modification of the order shall be verified, in writing, and served upon the panel issuing the order.

(e) Disposition. Upon a finding of judicial misconduct, criminal misconduct, civil misconduct or disability of a judge, the full Commission shall convene and shall have jurisdiction to make and transmit appropriate findings and recommendations for censure, removal or retirement, and imposition of monetary sanctions, to the Wyoming Supreme Court or impose discipline in the form of private censure, including, but not limited to, imposition of monetary sanctions where appropriate.

(f) A judge, clerk, court employee, member of the bar, or other officer of the court shall comply with a request made by the Commission, the commission chair, the presiding officer of an investigatory panel, the presiding officer or hearing officer of an adjudicatory panel, or disciplinary counsel in aid of any investigation or any proceeding involving any judge.

(g) Issuance, service, and return of subpoenas; enforcement of subpoenas.

(1) Every subpoena shall:

(A) be styled "The State of Wyoming";

(B) state that the proceeding is pending before the Commission or a panel of the Commission;

(C) not name the judge who is the subject of the matter pending before the Commission or a panel;

(D) be signed by the commission chair, a presiding officer or hearing officer of a panel, and the date of its issuance shall be noted thereon;

(E) be addressed to a person designated by the issuing officer to make service thereof;

(F) command each person or entity to whom it is directed to attend and give testimony by deposition or at a hearing, or to produce and permit inspection and copying of designated books, documents or tangible things in the possession, custody or control of that person or entity, or to permit inspection of premises, at a time and place therein specified; and,

(G) set forth the protections to each person or entity as provided by these rules for persons or entities which are the subject of a subpoena.

A command to produce evidence or to permit inspection may be joined with a command to appear at a hearing or at deposition, or may be issued separately.

(2) A subpoena may be issued to command attendance or production at a hearing without notice to other parties. A subpoena to command attendance at deposition, or to produce and permit inspection and copying of designated books, documents or tangible things before hearing, or to permit inspection of premises before hearing, may be issued after or concurrently with reasonable notice, served



in the manner prescribed by these rules, to any affected parties of the deposition, production or inspection.

(3) The commission chair, a presiding officer or hearing officer of a panel may, on the request of a panel or at the written request of the judge or of disciplinary counsel, issue a subpoena for attendance at a hearing or proceeding of any witness or witnesses or for the production of any documents or other tangible thing.

(4) A subpoena may be served by the sheriff, by a deputy sheriff, or by any other person who is not a party and is not a minor, at any place within the State of Wyoming. Service of a subpoena upon a person or entity named therein shall be made by delivering a copy thereof to such person or entity and, if a person's attendance is commanded, by tendering to that person the statutory witness fees for one day's attendance and the mileage allowed by law. Any witness subject to a subpoena residing in a county other than that in which the hearing is to be held shall be paid, after the hearing, the statutory per diem allowance for state employees for each day or part thereof necessarily spent by such witness in traveling to and from the place of hearing and in attendance at the hearing. Subpoenas may be executed and returned at any time, and shall be served by delivering a copy of such subpoena to the witness or entity.

(5) A subpoena for hearing may require the person subpoenaed to appear at the hearing irrespective of the person's place of residence, place of employment, or where such person regularly transacts business in person.

(6) A person commanded by subpoena to appear at a deposition may be required to attend only in the county wherein that person resides or is employed or regularly transacts business in person, or at such other convenient place as is fixed by the officer issuing the subpoena. A nonresident of the state may be required to attend only in the county wherein that nonresident is served with a subpoena or at such other convenient place as is fixed.

(7) The officer responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person or entity subject to that subpoena.

(A) A person or entity commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition or hearing.

(B) A person or entity commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance, if such time is less than 14 days after service, serve upon the Commission or a panel written objection to inspection or copying of any or all of the designated materials or of the premises.

(C) On timely motion, the Commission or a panel shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance;
- (ii) requires, in the case of a deposition or production prior to hearing, a person to travel outside that person's county of residence or employment or a county where that person regularly transacts business in person; or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or
- (iv) subjects a person or entity to undue burden.

(8) A person or entity responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(9) When information or material subject to a subpoena is withheld on a claim that it is privileged or subject to protection, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced.

(10) The Commission, on its own or by and through disciplinary counsel, may bring an action to enforce a subpoena in the district court of any county in which the hearing or proceeding is conducted or in which the person or entity subject to a subpoena resides or is found.

### **Rule 13. Investigatory panel.**

(a) Complaints. All complaints shall be in writing and may be initiated by a member of the Commission based upon any source that may be deemed reasonably reliable. Complaints shall be verified and addressed to the Commission, except when initiated by

commission inquiry. By presenting to the Commission (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief formed after an inquiry reasonable under the circumstances:

- (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(b) Investigation. Upon receiving a complaint alleging facts indicating that a judge has engaged in judicial misconduct, criminal misconduct, civil misconduct, or that the judge has a disability, the investigatory panel shall review the information and shall act as follows:

- (1) Dismissal. It may forthwith dismiss unfounded, frivolous or trivial complaints.
- (2) Investigation. For complaints not dismissed forthwith, the investigatory panel shall make an investigation or direct disciplinary counsel to make an investigation to determine whether or not the complaint warrants further examination. In making an investigation, the investigatory panel or disciplinary counsel may obtain and consider any information deemed pertinent.
- (3) Physical or mental evaluation. If an investigation indicates that the physical or mental health of the judge is in issue, the investigatory panel may require that the judge submit to physical and/or mental examinations of the judge by independent examiners. The results of the examination shall be transmitted to the judge and to the presiding officer for consideration by the panel. Service of the results of examination shall be in accordance with these rules. The failure of the judge to testify or to submit to an examination ordered by a panel may be considered, unless it appears that such failure was due to circumstances beyond the judge's control.



(4) If the investigation does not disclose sufficient cause to warrant further proceedings, the case shall be dismissed. In such event, the complainant shall be notified that the case is closed.

(5) If after investigation, the investigatory panel finds reasonable cause to believe that the judge engaged in judicial misconduct, criminal misconduct, civil misconduct, or that the judge has a disability, then formal proceedings shall be instituted and the file shall be referred to the adjudicatory panel.

(c) Commission initiated investigations. Upon receiving a complaint by a member of the Commission, the commission chair may appoint an investigatory panel which may make, or require disciplinary counsel to make, an investigation on the basis of information coming to the Commission's attention from other sources that, if substantiated, would constitute judicial misconduct, criminal misconduct, civil misconduct, or that the judge has a disability.

(d) Notice of investigation. When the judge is notified of an investigation or ordered to submit to an examination, such notice or order shall be given by registered mail addressed to the judge at the judge's chambers and the judge's last known residence. If the investigatory panel or disciplinary counsel are informed that the judge is represented by counsel, then counsel for the judge shall be notified of any investigation or examination by mail addressed to counsel in lieu of notifying the judge.

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**Rule 14. Disposition of subsequent complaints.**

(a) When the Commission is presented with a complaint which is the same or substantially similar to a previous complaint from the same complainant against the same judge, the matter shall be presented to the commission chair. The commission chair shall consider whether the subsequent complaint presents new issues of fact material to judicial conduct and ethics not previously addressed. If the subsequent complaint presents no such new issues, then the matter may be disposed of summarily by the commission chair.

(b) When the Commission is presented with a complaint or when an investigatory panel or disciplinary counsel learns of conduct by a judge which does not in and of itself give probable cause that judicial misconduct, criminal misconduct, or civil misconduct has occurred, but is of such nature which indicates that a potential pattern of judicial misconduct, criminal misconduct, or civil misconduct may be indicated, the commission chair may assign the matter to an investigatory panel.



**Rule 15. Closure of case.**

When a complaint has been dismissed, the case is closed. No information concerning a closed case shall be released to anyone other than commission members, except as may be otherwise authorized in these rules. When a complaint has been dismissed, the complainant shall be notified that the case is closed.

**Rule 16. Settlement.**

A judge accused of judicial misconduct, criminal misconduct, or civil misconduct or who is alleged to have a disability who wishes to propose a settlement of a complaint, complaints, or formal proceedings, whether or not admitting judicial misconduct, criminal misconduct, civil misconduct, or disability, may present a settlement proposal to disciplinary counsel, or if no disciplinary counsel has been appointed, to the presiding officer of a panel. If no presiding officer of the adjudicatory panel has been appointed, it may be presented to the commission chair. Disciplinary counsel or the presiding officer of the adjudicatory panel or the commission chair have no authority to settle any case, but may comment upon a judge's proposal. Any proposal may be referred to the full Commission which may accept it, reject it, or propose an alternative, with or without a hearing. Disciplinary counsel may propose a settlement to the judge after consultation and approval of the presiding officer of the investigatory panel or the presiding officer of the adjudicatory panel if formal proceedings have been commenced which, if acceptable to the judge, may be referred to the Commission. A judge who proposes or agrees to a settlement proposal waives any complaint that consideration of settlement compromises the Commission or any of its members in any proceedings.

**Rule 17. Formal proceedings; adjudicatory panel selection; designation of presiding officer and hearing officer; notice.**

(a) Upon the receipt of a written referral for the institution of formal proceedings from any investigatory panel, the commission chair shall select three or more members of the Commission (who were not involved in serving on the investigatory panel) to serve on an adjudicatory panel for the particular case. The commission chair shall further designate a member of the panel to act as the presiding officer. The presiding officer of the adjudicatory panel shall select a hearing officer. The presiding officer of the adjudicatory panel may act as the hearing officer.

(b) In writing; title of proceedings. Upon receipt of a referral for institution of formal proceedings from the investigatory panel, the executive director of the Commission shall, without delay, refer the file to disciplinary counsel for preparation and issuance of a

- (c) Content; opportunity to reply. The notice shall specify in ordinary and concise language the nature of the allegations made against the judge, shall include the names of the adjudicatory panel members, and shall advise the judge of the right to file a written, verified answer to the allegations made against the judge within 20 days after service of the notice upon the judge. There shall be no voir dire examination of any members of the adjudicatory panel.
- (d) Amendments to notice or answer. Disciplinary counsel has an obligation to timely supplement the allegations made against the judge contained in the notice as discovery and additional information becomes available. The judge shall be given reasonable time by the presiding officer or hearing officer of the adjudicatory panel to file a verified amended written answer to any supplemental allegations made against the judge, if any. Any request for recusal shall be filed at the time of filing an answer. The request shall be in writing. The grounds shall be set forth in the request. In the event that the adjudicatory panel member refuses to act upon the request for recusal, the adjudicatory panel shall determine whether the adjudicatory panel member subject to the request for recusal should be disqualified from participating in the adjudicatory panel.
- (e) Service. Except as hereafter provided, the notice shall be served by personal service of a copy thereof upon the judge by a member of the Commission, or by some person designated by the commission chair, and the person serving the notice shall promptly notify the Commission in writing of the date on which the same was served. If it appears to the commission chair upon affidavit that, after reasonable effort for a period of 10 days, personal service could not be had, service may be made upon the judge by mailing, by registered mail, a copy of the notice addressed to the judge at the judge's chambers and a copy thereof addressed to the judge's last known residence. If

disciplinary counsel is informed that the judge is represented by counsel, then counsel for the judge shall be notified by mail addressed to counsel in lieu of notifying the judge. Notice of supplementation of allegations made against the judge shall be served upon the judge by registered mail addressed to the judge at the judge's chambers and the judge's last known residence. If disciplinary counsel is informed that the judge is represented by counsel, then counsel for the judge shall be notified of any supplementation of allegations made against the judge by mail addressed to counsel in lieu of notifying the judge.

(f) Answer. Within 20 days after service of the notice of formal proceedings, the judge may file with the Commission a legible answer which shall be verified. The judge shall be given reasonable time by the presiding officer or hearing officer of the adjudicatory panel to file a verified amended written answer to any supplemental allegations made against the judge, if any.

(g) Other amendments. At any time prior to its determination, the presiding officer or hearing officer of the adjudicatory panel may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts, whether occurring before or after the commencement of the hearing. In case such an amendment is made, the judge shall be given a reasonable time both to answer the amendment and to prepare and present a defense against the matters alleged.

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**Rule 18. Powers and duties of presiding officer or hearing officer of adjudicatory panel.**

The presiding officer or hearing officer of the adjudicatory panel shall have the following powers and responsibilities:

- (a) administer oaths and affirmations;
- (b) conduct such proceedings or conferences as may be necessary, set and establish dates for exchange of information, conferences, and hearings, issue subpoenas, and receive, hear and determine all motions;
- (c) establish the terms, conditions and limitations of discovery and rule upon all discovery motions, including those pertaining to depositions, and when requested by disciplinary counsel, the judge, counsel for the judge or a member of the adjudicatory panel, to preside over a deposition;
- (d) open and officially close any hearing or other formal proceeding and preside over the hearing and regulate its proceedings;



- (e) rule upon the admissibility of all evidence, and receive all relevant evidence; and
- (f) sign the written decision and order at the conclusion of the proceedings and sign all other orders necessary to facilitate the orderly disposition of the case.

**Rule 19. Hearing.**

- (a) Setting time and place before Commission. Upon the filing of an answer or upon the expiration of the time for its filing, the presiding officer or hearing officer of the adjudicatory panel shall order a hearing to be held, setting a time and place for the hearing and giving notice of such hearing by registered mail to the judge at least 30 days prior to the date set. In the event that the hearing must be rescheduled and/or held at a different place than was originally noticed, the presiding officer or hearing officer of the adjudicatory panel shall give reasonable notice to the judge, counsel, and disciplinary counsel consistent with due process rights.
- (b) Issuance, service, and return of subpoenas. The presiding officer of the adjudicatory panel shall, at the written request of the judge or disciplinary counsel or other authorized person presenting the case in support of the allegations made against the judge, issue a subpoena for any witness or witnesses or for the production of any documents or other tangible thing in accordance with these rules.
- (c) Proceeding on time; absence of answer or appearance. At the time and place set for hearing, the adjudicatory panel shall proceed with the hearing whether or not the judge has filed an answer or appears at the hearing.
- (d) Presentation of case; failure to answer, appear, or testify. Disciplinary counsel has the burden of proving, by clear and convincing evidence, the facts justifying discipline in conformity with the averment of the formal statement of allegations made against the judge. Disciplinary counsel shall present the case in support of the allegations made against the judge set forth in the notice of formal proceedings together with such supplementation of allegations made against the judge as have been made and noticed prior to the date of the hearing. The failure of the judge to answer or to appear at the hearing shall not, standing alone, be taken as evidence of the truth of the facts alleged to constitute grounds for suspension, censure, removal, or retirement. The failure of the judge to testify or to submit to an examination ordered by a panel may be considered, unless it appears that such failure was due to circumstances beyond the judge's control.

- (e) Record of hearing. The proceedings at the hearing shall be reported verbatim, stenographically or by any other means determined appropriate by the presiding officer or hearing officer of the adjudicatory panel.
- (f) Number of adjudicatory panel members at hearing. No fewer than three members shall be present when the evidence is produced.
- (g) Evidence; rulings thereon. The Wyoming Rules of Evidence applicable to civil proceedings apply at the hearing. At a hearing before the adjudicatory panel, legal evidence only shall be received, and oral evidence shall be taken only on oath or affirmation. The hearing officer of the adjudicatory panel shall determine all evidentiary and procedural matters at the hearing.
- (h) Use of allegations from dismissed cases. If a complaint has been dismissed, the allegations made in that complaint shall not be used for any purpose in any judicial disciplinary proceedings against the judge unless it forms a basis of an allegation or set of allegations indicating a pattern of misconduct or disability. If additional information becomes known to disciplinary counsel regarding a complaint that has been dismissed before the filing of formal proceedings, the allegations may be reinvestigated at the direction of an investigative panel.
- (i) Depositions; use as evidence. Depositions, either on oral examination or on written interrogatories, of witnesses who reside out of the state or whose personal attendance at the hearing cannot, for good reason, be procured, may be taken and used in evidence upon application to and order of the presiding officer or hearing officer of the adjudicatory panel. Such order may be made on stipulation of the parties or after hearing on reasonable notice.

**Rule 20. Discovery.**

- (a) Prehearing conference. Within 30 days of the date when the filing of the answer was due, the presiding officer or hearing officer of the adjudicatory panel shall schedule a prehearing conference, which shall be recorded by such means as the presiding officer or hearing officer shall determine, with disciplinary counsel and with the judge or counsel for the judge. At the prehearing conference, the presiding officer or hearing officer shall set dates by which disciplinary counsel and the judge or counsel for the judge shall exchange information as to identification of witnesses and relevant documents as provided for in these rules. The date and place of the hearing may be set at the prehearing conference. The presiding officer or hearing officer shall determine whether and to what extent any prehearing matter should be heard in a teleconference or submitted for decision in writing without a hearing or teleconference.



(b) Witnesses. By the date set by the presiding officer or hearing officer of the adjudicatory panel, disciplinary counsel and the judge or counsel for the judge shall exchange the names and addresses of all persons known to have knowledge of the relevant facts. Disciplinary counsel or the judge or counsel for the judge may withhold such information only with permission of the presiding officer or hearing officer of the adjudicatory panel who can authorize withholding of the information only for good cause shown, taking into consideration the materiality of the information possessed by the witness and the position the witness occupies in relation to the judge. The presiding or hearing officer's review of the withholding request is to be in camera, but disciplinary counsel must advise the judge or counsel for the judge of the request without disclosing the subject of the request. The presiding officer or hearing officer of the adjudicatory panel shall set a date for the exchange of the names and addresses of all witnesses the parties may intend to call at the hearing. Disciplinary counsel and the judge or counsel for the judge may take depositions only of witnesses to be called at the hearing and other witnesses who are unavailable to testify. Depositions of other persons may be taken only with permission of the presiding officer or hearing officer of the adjudicatory panel and only for good cause shown. Any witness testifying at a deposition shall be informed of the confidentiality of the proceedings and such witness shall be required to swear or affirm as part of the oath that such witness shall not disclose the existence of the proceeding, the identity of the judge, or the subject of the testimony or evidence.

(c) Other evidence. By the date set by the presiding officer or hearing officer, disciplinary counsel and the judge or counsel for the judge shall exchange:

(1) non-privileged evidence relevant to the formal allegations made against the judge including any supplementation of allegations made against the judge, documents to be presented at the hearing, witness statements and summaries of interviews with witnesses who may be called at the hearing; and

(2) other material only upon good cause shown to the presiding officer or hearing officer of the adjudicatory panel.

(d) Duty of supplementation. Both parties have a continuing duty to supplement information required to be exchanged under this rule.

(e) Completion of discovery unless extended by the presiding officer or hearing officer. All discovery shall be completed by the date determined by the presiding officer or hearing officer of the adjudicatory panel.

(f) Failure to disclose. The adjudicatory panel may preclude either party from calling a witness at the hearing if the party has not provided the opposing party with the witness's



name and address, any statements, if any exist, taken from the witness or any summaries, if any exist, of any interviews with the witness.

(g) Resolution of disputes. Disputes concerning discovery shall be determined in the sole discretion of the presiding officer or hearing officer.

(h) Civil rules not applicable. Proceedings under these rules are not subject to the Wyoming Rules of Civil Procedure.

(i) Anything to the contrary notwithstanding, attorney notes or attorney work product are not discoverable. All communications of disciplinary counsel with an investigatory panel, including but not limited to disciplinary counsel's investigative report, shall be and remain confidential, and shall not be discoverable.

**Rule 21. Procedural rights of judge.**

(a) To evidence; counsel; witnesses. Once a formal proceeding has commenced, a judge shall have the right and reasonable opportunity to defend against the allegations made against the judge by the introduction of evidence, to be represented by counsel, and to examine and cross-examine witnesses. The judge is entitled to present evidence and cross-examine witnesses, subject to the Wyoming Rules of Evidence. The judge may retain and have the assistance of counsel at the judge's own expense. Appearance of counsel constitutes an appearance by the judge. The judge shall also have the right to the issuance of subpoenas for attendance of witnesses to testify or produce books, documents, tangible things, and other evidentiary matters in accordance with these rules.

(b) To transcript of testimony. When a transcript of the testimony has been prepared at the expense of the Commission, a copy thereof shall, upon request, be available for purchase by the judge and counsel in connection with the proceedings. Upon payment therefor, the judge shall have the right, without any order or approval of the Commission, to have all or any testimony in the proceedings transcribed at the judge's expense.

(c) Judge incompetent. If the judge has been adjudged incompetent by a court of competent jurisdiction or if it appears to the Commission at any time during the proceedings that the judge is not competent, the Commission may appoint legal counsel unless the judge has a guardian. In the appointment of such legal counsel, consideration shall be given to the wishes of the judge's immediate family. Whenever these rules provide for serving or giving notice or sending any matter to the judge, such notice or matter shall be served, given, or sent to counsel for the judge.

**Rule 22. Hearing additional evidence.**

The Commission or a panel may order a hearing for the taking of additional evidence at any time while the matter is pending before it. The order shall set the time and place of hearing and shall indicate the matters on which the evidence is to be taken. A copy of such order shall be sent by registered mail to the judge or by mail to counsel for the judge giving reasonable notice thereof prior to the date of hearing.

**Rule 23. Order of discipline.**

(a) Admission. At any time after the filing of formal proceedings and before final adjudication, the judge may agree with disciplinary counsel and admit any or all of the formal allegations made against the judge in exchange for a stated recommendation. The agreement shall be submitted to the entire Commission which shall:

(1) accept the agreement and submit it to the Wyoming Supreme Court, if appropriate; or

(2) reject the agreement at which time the matter shall proceed.

(b) Rejection of agreement. If the agreement is rejected by the Commission, the admission may be withdrawn by the judge and, if withdrawn, cannot be used against the judge in any proceedings.

(c) Affidavit of consent. A judge who admits any or all of the formal allegations made against the judge shall sign an affidavit stating that:

(1) there is presently pending a proceeding involving allegations of judicial misconduct, criminal misconduct, civil misconduct or disability;

(2) the facts set forth in the affidavit are true;

(3) the consent is freely, knowingly and voluntarily rendered under no improper influence and after the judge considered his or her rights under these rules and knowingly waived such rights;

(4) the judge consents to any sanction; and

(5) the judge agrees to accept the final decision by the Wyoming Supreme Court, if appropriate.

(d) Order of discipline. The Commission shall file the affidavit with the Wyoming Supreme Court. The affidavit shall remain confidential until it is accepted by the Wyoming Supreme Court. The Wyoming Supreme Court may reject the recommendation and enter an appropriate order or enter the order recommended. The final order shall be based upon the formal allegations made against the judge and any admission.

**Rule 24. Final adjudication.**

(a) Final adjudication in favor of the judge. If the adjudicatory panel by majority vote fails to find judicial misconduct, criminal misconduct, civil misconduct or disability by clear and convincing evidence, then the proceedings shall be dismissed and the record shall show an adjudication in favor of the judge.

(b) Final adjudication against the judge. If the adjudicatory panel by majority vote finds judicial misconduct, criminal misconduct, civil misconduct or disability by clear and convincing evidence, then the adjudicatory panel shall set forth and transmit its findings to the entire Commission for disposition.

(c) Within a reasonable time following the hearing before the adjudicatory panel, the adjudicatory panel shall submit to the full Commission the record of proceedings, including a full transcript of the testimony and all matters received in evidence, and submit the decision setting forth the finding of facts, conclusions of law and any minority opinions. A copy of the decision shall be served on the judge or counsel for the judge.

(d) The judge is not entitled to a full evidentiary hearing before the full Commission following the submission of the record and decision by the adjudicatory panel. The judge has the right to appear, at the judge's sole election, in person, through counsel or in writing, at or prior to the full commission hearing at which the full Commission takes any action relative to the judge's case.

(e) Disposition. After receipt of an adjudicatory panel's findings against a judge, the entire Commission shall convene to determine the nature of the sanction to be imposed against the judge after affording the judge reasonable notice and a reasonable amount of time to appear before the Commission as provided by these rules. Upon a majority vote of the entire Commission, the Commission shall make its recommendation for censure, removal or retirement, including imposition of monetary sanctions, and transmit its record and recommendations forthwith to the Wyoming Supreme Court.

(f) Retirement for disability. In a proceeding involving a judge's alleged disability, if after a hearing before the Commission, a majority of the Commission members finds by



clear and convincing evidence that a judge suffers from a disability, it shall recommend that the Wyoming Supreme Court retire the judge for disability.

**Rule 25. Record of commission proceedings.**

The Commission shall keep a record of all proceedings concerning a judge. The Commission's determination shall be entered in the record and notice thereof shall be sent by registered mail to the judge. In all proceedings resulting in a recommendation to the Wyoming Supreme Court for discipline, the Commission shall prepare a transcript of the evidence and of all proceedings therein and shall make written findings of fact and conclusions of law with respect to the issues of fact and law in the proceedings. Such findings shall include a finding as to costs or fees incurred or paid by the Commission in connection with any proceedings concerning a judge.

**Rule 26. Certification of commission recommendation to Wyoming Supreme Court.**

Upon making a determination recommending the censure, retirement, or removal of a judge, including any recommendation for imposition of monetary sanctions, the Commission shall, in a timely manner, file a copy of the recommendation, certified by the commission chair, together with the transcript and the findings and conclusions and an itemization of costs and fees incurred or paid by the Commission, with the clerk of the Wyoming Supreme Court and shall concurrently send by registered mail to the judge or to the judge's counsel notice of such filing, together with a copy of such recommendation, findings and conclusions and an itemization of costs and fees incurred or paid by the Commission, if any. This constitutes a final appealable order for purposes of appellate review.

**Rule 27. Review procedure in Wyoming Supreme Court.**

(a) Petition. A petition to the Wyoming Supreme Court to modify or reject the recommendation of the commission for censure, removal or retirement may be filed within 30 days after the filing with the clerk of the Wyoming Supreme Court of a certified copy of the recommendation. The verified petition, in six copies, shall be based on the record, shall specify the grounds relied on, and shall be accompanied by petitioner's brief in six copies and proof of service of a copy of the petition and of the brief on disciplinary counsel and the presiding commissioner at the commission address. Within 20 days after service on the commission, disciplinary counsel shall serve and file a respondent's brief. Within 15 days after service of such brief, the petitioner may file a reply brief, of which a copy shall be served on disciplinary counsel and the presiding commissioner.

(b) Failure to file petition. Failure to file a petition within the time provided may be deemed a consent to a determination on the merits based upon the record filed by the commission.

(c) Applicable rules. The Rules of the Supreme Court of Wyoming shall apply to proceedings in the Wyoming Supreme Court for review of a recommendation of the commission, except where express provision is made to the contrary or where the application of a particular rule would be clearly impracticable, inappropriate or inconsistent.

(d) Special supreme court. Upon the occurrence of a circumstance necessitating the appointment of a special supreme court, the Wyoming Supreme Court will designate five district judges who are not members of the commission to act in the place of the supreme court for the limited purposes contemplated by Art. 5, § 6 of the Wyoming Constitution.

**Rule 28. Contempt.**

Any violation by any person of the requirements of the Commission's rules and orders shall constitute contempt and shall be punishable as such. The Commission may initiate a proceeding pursuant to Rule 42, W.R.Cr.P., before any district judge, requiring any person accused of violating the Commission's rules or orders to appear and show cause why such person should not be held in contempt.