

Regulations of Connecticut State Agencies

TITLE 51. Courts

Agency

Judicial Selection Commission

Subject

Merit Selection of Judges

Inclusive Sections

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Merit Selection of Judges

ARTICLE I

General Provisions

Sec. 51-44a-1. Creation

The Judicial Selection Commission was established by section 2 of article twenty-five of the amendments to The Constitution of the State of Connecticut, and section 51-44a of the General Statutes. The commission consists of twelve members appointed as provided by section 51-44a of the General Statutes.

(Effective December 22, 1994)

Sec. 51-44a-2. Authority

(a) The commission shall seek qualified candidates (including incumbent judges seeking appointment to a different court) for consideration by the governor for nomination as judges for the superior court, appellate court, and supreme court, as provided by section 51-44a (f) of the General Statutes,

(b) The commission shall evaluate incumbent judges who seek reappointment to the same court, as provided by section 51-44a (e), of the General Statutes.

(Effective December 22, 1994)

Sec. 51-44a-3. Principal office and official address

(a) The principal office of the commission is located at 165 Capitol Avenue, Room 241, Hartford, CT 06106.

(b) All communications shall be addressed to the Judicial Selection Commission at its principal office.

(Effective December 22, 1994)

Sec. 51-44a-4. Commission operation-signature of documents

(a) The members of the commission shall elect a chair from among the members appointed by the Governor, as provided in section 51-44a (c) of the General Statutes.

(b) The commission's recommendations and findings shall be signed by the chair on behalf of the commission.

(Effective December 22, 1994)

Sec. 51-44a-5. Applicability of regulations

These rules govern practice and procedure before the Judicial Selection Commission of the State of Connecticut under the applicable laws of the State of Connecticut, except where otherwise provided by statute.

(Effective December 22, 1994)

Sec. 51-44a-6. Definitions

The definitions provided by section 51-44a of the General Statutes govern the interpretation and application of sections 51-44a-1 to 51-44a-21, inclusive, of these regulations. In addition, and except as otherwise required by the context:

(1) “Candidates for judicial office” means persons who have submitted complete applications for consideration for appointment as a judge and judges who have submitted completed applications for reappointment to the same court or appointment to a different court.

(2) “Commission” means the Judicial Selection Commission of the State of Connecticut.

(3) “Commissioner” means a person appointed to serve as a member of the commission when acting as such.

(4) “Chair” means the commissioner elected to preside at all meetings and any hearing of the commission pursuant to section 51-44a of the General Statutes. The members of the commission may, by vote, designate a vice chair or another commissioner to serve as chair in the event the commissioner elected chair is for any reason unable to serve.

(5) “Interview” means the portion of the commission procedures, as authorized by section 51-44a of the General Statutes, in which the commission meets with and interviews a candidate for judicial office.

(6) “Preliminary examination” means the procedure used by the commission, including any background investigation; public comment; comment from the Connecticut Bar Association Judiciary Committee, the Judicial Branch Chief Court Administrator, the Statewide Grievance Committee, and any report and recommendation from the Judicial Review Council; applications and related documents submitted to the commission; and an interview of a candidate by which the commission makes a decision whether or not to recommend a candidate for consideration for judicial appointment or to conduct a hearing as provided in section 51-44a (e) of the General Statutes.

(7) “Hearing” means the proceedings by which the commission makes further inquiry concerning an incumbent judge following a preliminary examination, as provided in section 51-44a (e) of the General Statutes.

(Effective December 22, 1994)

Sec. 51-44a-7. Staff

The commission shall employ such staff as is necessary for the performance of its functions and duties, as provided in section 51-44a (k), of the General Statutes.

(Effective December 22, 1994)

ARTICLE II

Procedure for Consideration of Candidates for Judicial Office

Sec. 51-44a-8. Solicitation of candidates

(a) As provided in section 51-44a (f) of the General Statutes, the commission shall seek

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qualified candidates for consideration by the Governor for nomination as judges for the Superior Court, Appellate Court and Supreme Court.

(b) All candidates seeking consideration for appointment to judicial office, including incumbent judges seeking reappointment, or appointment to a different court, shall complete the appropriate application forms promulgated by the commission.

(c) The commission shall seek such background information as it deems appropriate, including interviews with the bar, judges, and the general public on each candidate for judicial office, including incumbent judges seeking reappointment, or appointment to a different court, and including any transcript of a relevant public hearing, inquiry or proceeding prior to conducting an interview with the candidate.

(d) Prior to conducting an interview with judges seeking reappointment or appointment to a different court, the commission will obtain from the Judicial Review Council, pursuant to section 51-51q of the General Statutes, its recommendation concerning appointment or reappointment, including the report of any complaint filed against any such judge, the disposition of such complaint, and any investigation of such judge by the Judicial Review Council, provided the Judicial Selection Commission shall not consider any investigation of the Judicial Review Council which resulted in the exoneration of a judge.

(e) Prior to conducting an interview with judges seeking reappointment or appointment to a different court, the commission will solicit comment from:

- (1) The Connecticut Bar Association Judiciary Committee;
- (2) The Judicial Branch Chief Court Administrator; and

(3) The practicing bar, by publishing notice in appropriate legal periodicals, including, but not limited to, the Connecticut Law Journal, the Connecticut Law Tribune, and the Connecticut Trial Lawyers publication. These notices will be placed in the periodicals sufficiently far in advance to insure that comments will be received before the first interview.

(Effective December 22, 1994)

Sec. 51-44a-9. Interviews

(a) The commission shall conduct an interview with each candidate for judicial office.

(b) The interview of a judge seeking reappointment shall be held at such a time that, if the commission votes that further inquiry is necessary and that the commission will hold a hearing, notice of the hearing, as provided in section 51-44a (e) can be sent to the judge not less than 180 days before the convening of the legislative session that will consider the judge's reappointment.

(Effective December 22, 1994)

Sec. 51-44a-10. Continuation of interviews

After commencing the interview of a candidate for judicial office, the commission may, upon a vote of a majority present and voting, continue the interview in order to obtain additional information concerning the candidate for judicial office before voting to

recommend or not to recommend.

(Effective December 22, 1994)

Sec. 51-44a-11. Quorum and voting

(a) A quorum of the commission for taking official action, as determined in accordance with section 51-44a (e) and (i) of the General Statutes, shall be required for the commission to act.

(b) Votes of the commission on recommendations for the appointment as a judge or for reappointment as a judge shall be in accordance with section 51-44a (e) and (i) of the General Statutes.

(c) Within thirty days after the completion of the interview with a judge seeking reappointment, the commission shall vote whether it will then recommend that judge for reappointment. In the event that the commission determines that further inquiry is necessary, it shall proceed in accordance with section 51-44a (e) and (g) of the General Statutes to schedule and conduct a hearing. In no event shall any incumbent judge be denied a recommendation for reappointment without being afforded a hearing in accordance with the statutes.

(d) The chair shall promptly notify in writing each candidate for judicial office of the commission's decision whether to recommend or not to recommend.

(Effective December 22, 1994)

Formal Requirements

Sec. 51-44a-12. Hearings, record and procedure

(a) When further inquiry is necessary before a recommendation of reappointment may be made, the commission shall conduct a hearing in accordance with the procedure contained in section 51-44a (e) and (g) of the General Statutes.

(b) The commission shall conduct the hearing in such order and form and with such methods of proof as it deems best suited to the discovery of facts and to determine whether the incumbent judge has the legal ability, competence, integrity, character, and temperament for reappointment. The commission may receive any relevant documentary or oral evidence. The decision by the commission shall be based solely upon the evidence produced at the hearing together with any prior statements to the commission made by the incumbent judge.

(c) A list of witnesses, together with any statements or documents in the hands of the commission that will be used in the case in chief by the commission at the hearing, shall be produced for the use of the incumbent judge not less than ten days before the date of commencement of the hearing.

(d) All testimony at a hearing shall be given under oath to be administered by a person so authorized by statute.

(e) The chair or his designee from the commissioners who are lawyers shall decide all evidentiary issues.

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(f) Witnesses may be examined or cross examined by any commissioner.

(g) A judge appearing at a hearing shall be entitled to counsel, to present evidence, and to examine and cross examine witnesses. The commission shall issue subpoenas requested by the judge or his or her counsel to require the attendance of witnesses and the production of any books or papers at the hearing.

(h) At any hearing held on an incumbent judge, a record of the proceedings shall be made by a court reporter or monitor designated by the commission.

(i) There shall be a presumption that each incumbent judge who seeks reappointment to the same court qualifies for retention in office.

(Effective December 22, 1994)

Sec. 51-44a-13. Subpoenas issued by the commission

Subpoenas may be issued and enforced by the commission as provided in section 51-44a (g) of the General Statutes.

(Effective December 22, 1994)

Sec. 51-44a-14. Minutes

Minutes shall be kept and maintained on the votes of the commission and other actions taken by it. The minutes shall be sent to all members of the commission as soon as possible after meetings.

(Effective December 22, 1994)

Sec. 51-44a-15. Decisions of the commission

Decisions of the commission on the recommendation of candidates for judicial office shall be final, subject to a request for a rehearing, as provided in section 51-44a (e) of the General Statutes.

(Effective December 22, 1994)

ARTICLE III

Confidentiality and Public Information

Sec. 51-44a-16. Public information

(a) The blank application forms for consideration for appointment as a new judge, for appointment to a different court, and for reappointment as a judge are public information.

(b) In January of each year, the chair of the commission shall report to the joint standing committee on judiciary as required in section 51-44a (m) of the General Statutes. These reports are public information.

(c) In order to prepare the annual report to the joint standing committee on judiciary, voluntary information regarding gender, race, religion, national origin, and years of experience as a member of the Connecticut Bar is requested of candidates. This data is used

solely for the purpose of preparing the report to the joint standing committee on the judiciary, and is not public information.

(d) Where the commission determines, based on its preliminary examination, that further inquiry is necessary for a judge seeking reappointment to the same court and decides to conduct a hearing, the judge may request the hearing be open to the public, in which case the hearing will be open to the public.

(Effective December 22, 1994)

Sec. 51-44a-17. Confidential information

Except as provided in subsections (e) and (m) of section 51-44a of the General Statutes and section 51-44a-17 of these regulations, all investigations, deliberations, files, minutes, and records of the commission shall be confidential and not open to the public or subject to disclosure, pursuant to section 51-44a (j) of the General Statutes.

(Effective December 22, 1994)

ARTICLE IV

Qualifications and Criteria

Sec. 51-44a-18. Purpose of judicial selection commission in evaluating candidates for judicial office and judges for reappointment to the same court or to a different court

The Judicial Selection Commission believes that the fundamental role of judges in our system of law calls for judges to be individuals of the highest personal integrity, professional experience uncommon qualities of temperament, intelligence, and character. In evaluating candidates for judicial office and judges for reappointment to the same or a different court, the Judicial Selection Commission shall apply the standards and criteria contained in sections 51-44a-20 through 51-44a-21, inclusive, of these regulations.

(Effective December 22, 1994)

Sec. 51-44a-19. Minimum qualifications

(a) The following are the minimum qualifications for a candidate for judicial office.

(1) The candidate has a reputation for truth, faithfulness, honesty, integrity, and fair dealing.

(2) The candidate possesses “judicial temperament,” which means that he or she possesses those personal qualities of patience, industry, courteousness, demeanor and faithfulness to the duties of the office which are essential in a good jurist.

(3) The candidate possesses legal ability that is exemplified by professional excellence, a degree of intellect and a technical proficiency equal to that required by the highest standards of the practicing bar.

(4) The candidate’s physical or mental health is such that the candidate can fulfill the duties of the office with reasonable accommodation.

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(b) The following considerations militating against recommendation will be given such weight as the Judicial Selection Commission believes appropriate, according to the circumstances:

- (1) Conviction of any crime since the candidate's admission to the bar.
- (2) Censure by any grievance committee or court short of suspension or disbarment.
- (3) Personal conduct and characteristics that are prejudicial to the performance of his or her duties as a judge.

(Effective December 22, 1994)

Sec. 51-44a-20. Criteria for candidates for judicial office

The following criteria shall be considered in evaluating candidates for judicial office:

- (1) Does the candidate possess the statutory qualifications for office?
- (2) Does the candidate possess the minimum qualifications under sections 51-44a-1 to 51-44a-21, inclusive, of these regulations for judicial appointment?
- (3) Does the prospect possess legal ability that is exemplified by professional excellence, a degree of intellect and a technical proficiency equal to that required by the highest standards of the practicing bar?
- (4) Is the candidate generally intelligent and knowledgeable?
- (5) Is the candidate capable of making up his or her mind and rendering decisions?
- (6) Is the candidate prompt in the performance of duties and obligations?
- (7) Would the candidate be an impartial judge rather than an advocate?
- (8) Could the candidate act without being duly affected by criticism, partisan demands, public clamor or considerations of personal popularity or notoriety?
- (9) Does the candidate possess the qualities of honesty and integrity?
- (10) Could the candidate, as a judge, be fair, impartial, and free from prejudice and bias?
- (11) Is the candidate courteous and considerate?
- (12) Is the candidate patient, attentive and temperate?
- (13) Would the candidate respect the confidence inherent in the office of a judge?
- (14) Is the candidate free of tendencies which would indicate the possibility of abuse of the power or prestige of office?
- (15) Is the candidate free from activities or relationships which might tend to interfere with the candidate's performance as a judge?
- (16) Would the candidate conscientiously perform the duties of a judge?
- (17) Is the candidate industrious and well organized?
- (18) Is the candidate courageous?
- (19) Can the candidate live and carry out family obligations on the judicial salary? If not, what are or would be other sources of income?
- (20) Given that the essential functions of being a judge are the ability to preside over a court, to analyze cases, and to render decisions based on the law and facts, can the candidate perform these essential functions with or without reasonable accommodation?
- (21) Does the candidate have the ability to express himself or herself clearly and to write

clear and concise opinions?

(22) Is the candidate's personal conduct compatible with judicial dignity?

(23) Could the candidate conduct judicial proceedings with appropriate dignity and decorum and within the canons of the Code of Judicial Conduct?

(Effective December 22, 1994)

Sec. 51-44a-21. Criteria for incumbent judges who seek reappointment to the same court or elevation to a different court

(a) A judge seeking reappointment to the same court or to a different court shall possess, at a minimum, those qualities contained in sections 51-44a-19 and 51-44a-20 of these regulations required of candidates for judicial office.

(b) The past performance of a judge shall be considered in evaluating the judge for reappointment to the same court or appointment to a different court. In evaluating the past performance of the judge, the following criteria shall be considered:

(1) Has the judge avoided impropriety and the appearance of impropriety?

(2) Has the judge remained free from personal bias?

(3) Does the judge have the ability to decide issues based on the law and the facts without regard for the identity of the parties or counsel, the popularity of the decision, and without concern for or fear of criticism?

(4) Do the actions and decisions of the judge demonstrate his or her impartiality?

(5) Does the judge exhibit appropriate "judicial temperament"?

(6) Has the judge issued legally sound decisions?

(7) Is the judge knowledgeable of the substantive, procedural, and evidentiary law of Connecticut?

(8) Does the judge demonstrate an understanding and knowledge of the factual and legal issues before the court?

(9) Does the judge properly apply judicial precedents and other appropriate sources of authority?

(10) Are bench rulings and other oral communications by the judge reasonably clear and coherent?

(11) Does the judge have the ability in written opinions to explain clearly and logically the facts and issues of a case and the relevant legal precedents?

(12) Is the judge sensitive to the impact his or her demeanor and other nonverbal communications may have on all parties and participants, jurors, and the public?

(13) Is the judge attentive to and prepared for proceedings before the court?

(14) Does the judge exercise adequate control over proceedings before him or her?

(15) Does the judge show courtesy to all parties and participants?

(16) Does the judge show a willingness to permit every person legally interested in a proceeding to be heard, unless precluded by law or rules of court?

(17) Does the judge devote appropriate time to all pending matters?

(18) Does the judge discharge administrative responsibilities diligently?

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(19) Does the judge exercise appropriate responsibility for matters on calendars under his or her control?

(20) Does the judge promptly handle pending matters?

(21) Is the judge punctual in meeting time commitments?

(22) Are time commitments met in accordance with the law and rules of court,

(23) Does the judge attend and participate in judicial and continuing legal education programs?

(24) Does the judge, consistent with the highest principles of the law, ensure that the court is serving the public to the best of its ability and in such a manner as to instill public confidence in the court system?

(25) Is the judge effective and cooperative in working with other judges.

(26) When part of a multi judge panel, is the judge effective in exchanging ideas and opinions with other judges during the decision making process?

(27) Does the judge appropriately and with good authority critique the work of colleagues?

(28) Does the judge facilitate the performance of administrative responsibilities of other judges?

(29) Does the judge adhere to the canons of the Code of Judicial Conduct?

(30) Does the judge accept responsibility for a fair share of the judicial workload?

(31) Is the judge productive?

(Effective December 22, 1994)

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Organization and Rules of Procedure

Sec. 51-51k-1. Creation

The Judicial Review Council is established by section 51-51k of the General Statutes, as amended.

(Effective December 28, 1994)

Sec. 51-51k-2. Authority and duties

(a) The Council is responsible for receiving and investigating complaints against judges, compensation commissioners, and family support magistrates involving conduct prohibited by statute or the Code of Judicial Conduct, in accordance with section 51-51l of the General Statutes.

(b) The Council has the authority to discipline judges, compensation commissioners, and family support magistrates in accordance with section 51-51n of the General Statutes.

(c) The Council may, in accordance with section 51-49 of the General Statutes, retire the chief justice or any judge of the supreme court, or the appellate court, or the superior court, or the chief state's attorney, a deputy chief state's attorney, or any state's attorney governed by section 51-49 of the General Statutes, or any public defender, chief public defender or deputy public defender governed by section 51-49 of the General Statutes, or any family support magistrate governed by section 51-49 of the General Statutes, or any compensation commissioner who has become so permanently incapacitated as to be unable to fulfill adequately the duties of such office.

(d) The Council has the authority, in accordance with section 51-45c of the General Statutes, to investigate the alleged mental infirmity or mental illness or drug dependency or alcohol addiction of any judge or family support magistrate when such matter is referred to it by the chief court administrator under section 51-45b of the General Statutes.

(Effective December 28, 1994)

Sec. 51-51k-3. Membership and terms of office

(a) The Council is composed of members and alternates appointed by the Governor with the approval of the General Assembly, as set forth in section 51-51k (a) of the General Statutes.

(b) The terms of all members shall be as set forth in section 51-51k (c) of the General Statutes.

(Effective December 28, 1994)

Sec. 51-51k-4. Complaints

(a) Complaints made to the Council shall be on forms available at each superior court clerk's office or from the office of the executive director of the Council.

(b) The complaint shall be typewritten or printed, shall be signed under oath by the complainant, and shall be sent or delivered to the office of the Council together with any

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additional supporting materials which the complainant wishes to submit.

(c) All complaints shall be specific as to the identity of the judge, compensation commissioner, or family support magistrate, date and place of occurrence of the alleged offense or offenses, and details of complaint.

(d) The Council shall, not later than five days after its receipt of a complaint, notify the complainant thereof by mail.

(e) The Council shall, not later than five days after the initiation of an investigation by it on its motion, or the receipt of a complaint, notify by registered or certified mail, return receipt requested, the judge, compensation commissioner, or family support magistrate under investigation or against whom such complaint has been filed. A copy of any such complaint and a Reply to Complaint form shall accompany such notice.

(f) Each member of the Council shall be furnished with a copy of the complaint and supporting documents, if any, within five days of its receipt.

(g) The Council may initiate an investigation if it has reason to believe (1) conduct under section 51-51i of the General Statutes has occurred, or (2) there may exist with previous complaints a pattern of behavior which would lead to a reasonable belief that such conduct has occurred.

(h) Although complaints regarding issues which are subject to appellate review are not within the jurisdiction of the Council, any complaint which contains allegations of prohibited conduct separate from issues which are subject to appellate review shall be investigated as to such prohibited conduct only.

(i) Once a complaint has been received, it shall be the complaint of the Council to be investigated by the Council as set forth in these rules.

(Effective December 28, 1994)

Sec. 51-51k-5. Response to complaints

The judge, compensation commissioner or family support magistrate may, within twenty days after receipt of the notice of the complaint, unless a reasonable extension is granted by the executive director, send a written reply to the complaint to the Council. He or she may elect (a) that any investigation of probable cause be open to the public rather than closed as provided by statute and (b) whether to appear and to present himself or herself and to offer information which may lead to clear him or her of probable cause to believe he or she is guilty of conduct under section 51-51i of the General Statutes.

(Effective December 28, 1994)

Sec. 51-51k-6. Procedure on complaints

The procedure on a complaint shall be an investigation to determine whether probable cause, to believe that the person being investigated is guilty of conduct set forth in section 51-51i of the General Statutes, exists, and an open hearing if such probable cause is found to exist.

(Effective December 28, 1994)

Sec. 51-51k-7. Investigation

(a) In its investigation, the Council shall review the complaint, including any attachments, the respondent's reply, if any, and any other evidence before it, and determine (1) whether it alleges conduct under section 51-51i of the General Statutes by a judge, compensation commissioner, or family support magistrate as defined in section 51-51h of the General Statutes, (2) whether such complaint has been brought within the time limited by section 51-51l (d) of the General Statutes, and (3) whether it alleges conduct under section 51-51i of the General Statutes and whether any evidence exists that such conduct has occurred.

(b) In investigating a complaint against a compensation commissioner, the Council shall apply the Code of Ethics adopted by the compensation commissioners which is on file at the council office.

(c) During the investigation, the Council shall review its records for other complaints against the respondent to determine whether there may be a pattern of conduct which warrants the need for further investigation as to whether or not conduct subject to section 51-51i of the General Statutes has occurred. A prior complaint which has been dismissed on its merits shall not be considered in determining a pattern of behavior.

(d) If the Council determines that the complaint does not allege conduct subject to section 51-51i of the General Statutes, that such conduct does not involve a judge, compensation commissioner, or family support magistrate as defined in section 51-51h of the General Statutes, or that such complaint was not brought within the time limited, or that insufficient evidence exists showing that said conduct occurred, it shall dismiss the complaint without further investigation and give notice to the complainant and respondent of such action.

(Effective December 28, 1994)

Sec. 51-51k-8. Public hearings

(a) The public hearing shall be scheduled at a time and place to be determined by the Council, but only after reasonable notice to the judge, compensation commissioner, or family support magistrate.

(b) Such notice shall be sent to the respondent by registered or certified mail, return receipt requested, with a copy of said notice being sent to any counsel for the judge, compensation commissioner, or family support magistrate.

(c) Such notice shall notify the judge, compensation commissioner, or family support magistrate that he or she may attend the hearing, be represented by counsel, may elect to testify, may call witnesses, present evidence and may examine or cross examine witnesses, and contain the specific charges that will be the subject of the hearing.

(d) Reasonable notice of such public hearing, its time, place, and subject matter shall be sent to the complainant by registered or certified mail, return receipt requested, and such notice shall also be published, no later than ten days prior to the date of any hearing, once in a newspaper having a substantial circulation in the municipality wherein the respondent resides and once in a newspaper having a substantial circulation in the judicial district

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wherein the alleged conduct occurred, and shall be sent to the secretary of the state.

(e) The notice to the complainant shall inform the complainant that he or she may attend the hearing, but may not participate in the hearing.

(f) A record shall be made of the hearing.

(g) The Council shall designate one of its members with legal training to rule on evidentiary issues in every proceeding.

(h) All testimony shall be given under oath.

(i) The executive director shall present evidence pertaining to the alleged conduct of the respondent.

(j) Witnesses may be examined and cross examined by the executive director, any member of the Council, and the respondent judge, compensation commissioner, or family support magistrate or his or her legal counsel.

(k) The Council has the burden of finding by clear and convincing evidence the facts justifying the action taken by the Council.

(l) After all evidence and arguments have been presented at a public hearing, the Council shall determine whether the judge, compensation commissioner, or family support magistrate is guilty of conduct under section 51-51i of the General Statutes. Upon appropriate motion and vote, the deliberations of the Council may be held in executive session unless the respondent requests such deliberations be conducted in public. Upon appropriate motion and vote, the Council shall go out of executive session and return to public session. Subsequent to returning to public session, the Council shall, by recorded motion and vote, determine whether the judge, compensation commissioner, or family support magistrate is guilty of such conduct.

(m) The Council shall, not later than fifteen days after the close of a public hearing, publish its findings together with a memorandum of its reasons therefor once in the Connecticut Law Journal.

(Effective December 28, 1994)

Sec. 51-51k-9. Discipline

(a) If, after the completion of an investigation, the Council finds that conduct under section 51-51i of the General Statutes has not occurred, but the judge, compensation commissioner, or family support magistrate has acted in a manner which gives the appearance of impropriety or constitutes an unfavorable judicial or magisterial practice, the Council may issue an admonishment to the judge, compensation commissioner, or family support magistrate recommending a change in judicial or magisterial conduct or practice. If an admonishment is issued, the Council shall inform the complainant, if any, that an admonishment was issued, provided the admonishment is the result of misconduct alleged in the complaint, and the substance of the admonishment shall not be disclosed.

(b) If, after a public hearing, the Council finds the judge, compensation commissioner, or family support magistrate not guilty of such conduct, it shall exonerate him or her.

(c) If the judge, compensation commissioner, or family support magistrate is found guilty

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of such conduct, the Council may (1) publicly censure the judge, compensation commissioner, or family support magistrate, (2) suspend the judge, compensation commissioner, or family support magistrate for a definite term not to exceed one year, (3) refer the matter to the supreme court with a recommendation that the judge or family support magistrate be suspended for a period longer than one year, (4) refer the matter to the supreme court with a recommendation that the judge or family support magistrate be removed from office or to the governor with a recommendation that the compensation commissioner be removed from office.

(d) If public censure is recommended, the chairperson shall prepare and forward the censure in writing to the judge, compensation commissioner, or family support magistrate being censured, the chief justice, the chief court administrator and the joint standing committee on judiciary and the complainant, at least ten days prior to the publication of the censure. The censure shall be a public record as defined in section 1-19 of the General Statutes. An appeal from the decision of the Council for public censure shall automatically stay the publication of the censure. A public censure shall be published once in the Connecticut Law Journal.

(e) Any decision of the Council may be appealed by an aggrieved judge or family support magistrate as provided in section 51-51r of the General Statutes.

(f) In the event the Council conducts its deliberations in executive session, the court reporter shall record the motions and votes to go into executive session and return to public session, but shall not be present during the deliberations. The executive director shall not be present during the deliberations.

(Effective December 28, 1994)

Sec. 51-51k-10. Disability retirement

(a) Disability retirement of persons governed by section 51-49 of the General Statutes may be considered by the Council upon application of the person seeking retirement, or upon its own motion.

(b) If the Council raises the issue of permanent incapacity of such person, it shall, within five business days of raising such issue, notify such person by registered or certified mail, return receipt requested, that it is investigating said issue.

(c) All such investigations and proceedings hereunder shall be confidential.

(d) Any such person being so investigated, whether on application or Council motion, shall furnish the Council with access to or authorization for access to any pertinent medical and physical records and reports relevant to incapacity and shall submit to any independent medical examination requested by the Council. A copy of the report of any independent medical examination shall be sent by registered or certified mail, return receipt requested, to the respondent within five business days of its receipt by the Council.

(e) Any medical records or reports generated or produced in such an investigation shall be maintained in a separate, locked file or file cabinet, accessible only by the executive director of the Council.

(f) A hearing to determine incapacity, which shall be closed to the public, shall be scheduled at a time and place to be determined by the Council, but only after reasonable notice to such person being investigated.

(g) Such notice shall contain the information that the person being investigated may attend the hearing, be represented by counsel, may elect to testify, may call witnesses, present evidence and may examine or cross examine witnesses.

(h) A record shall be made of the hearing.

(i) Any reporter or language interpreter present at the hearing shall be sworn as to confidentiality.

(j) After all evidence and arguments have been presented, the Council shall, in executive session, unless the person being investigated requests it be open, determine whether said person is so permanently incapacitated as to be unable to fulfill adequately the duties of his or her office, and should be retired or whether there is any reasonable accommodation which can be made for the incapacity so that said person can perform all the essential functions of his or her position.

(Effective December 28, 1994)

Sec. 51-51k-11. Mental infirmity or mental illness or drug dependency or alcohol addiction

(a) The Council shall investigate every referral by the chief court administrator of the mental infirmity or mental illness or drug dependency or alcohol addiction of a judge or family support magistrate.

(b) All proceedings hereunder shall be confidential unless the judge or family support magistrate requests that such proceedings be open.

(c) Not later than five days after receipt of such matter from the chief court administrator, the Council shall, by registered or certified mail, return receipt requested, notify the judge or family support magistrate under investigation by such referral.

(d) The Council may request the judge or family support magistrate to furnish access to or authorization for access to all medical and other records pertaining to said physical and mental condition, drug dependency or alcohol addiction of such judge or family support magistrate. If a judge or family support magistrate declines to furnish or submit such authorization or record, or if further information is needed, the Council may request the judge or family support magistrate to submit to independent medical or other examinations at the expense of the judicial department. A copy of the results of any independent examination shall be sent to the judge or family support magistrate by registered or certified mail, return receipt requested, within five business days of its receipt by the Council.

(e) Any medical records or reports generated or produced in such an investigation shall be maintained in a separate, locked file or file cabinet, accessible only by the executive director of the Council.

(f) If a judge or family support magistrate fails or refuses to submit to an independent examination requested by the Council, unless such failure or refusal is due to circumstances

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beyond the judge's or family support magistrate's control, the judge or family support magistrate shall be precluded from submitting reports of medical or other examinations done on the judge's or family support magistrate's behalf.

(g) The Council may consider such judge's or family support magistrate's refusal or failure to submit to such examination as evidence that the judge or family support magistrate has a mental infirmity or mental illness or drug dependency or addiction to alcohol.

(h) The Council shall conduct a hearing to determine if the judge or family support magistrate suffers from a mental infirmity or mental illness or drug dependency or alcohol addiction. Such hearing shall be closed to the public unless the person being investigated requests it be open.

(i) The hearing shall be scheduled at a time and place to be determined by the Council, but only after reasonable notice to the judge or family support magistrate.

(j) Such notice shall contain the information that the judge or family support magistrate may attend the hearing, be represented by counsel, may elect to testify, may call witnesses, present evidence and may examine or cross examine witnesses.

(k) A record shall be made of the hearings.

(l) Any reporter or language interpreter present at the hearing shall be sworn as to confidentiality.

(m) After all evidence and arguments have been presented at a hearing, the Council shall make its finding in executive session unless the respondent requests the finding be made in a public session.

(n) If the Council finds that a judge or family support magistrate is suffering from a temporary mental infirmity, mental illness, drug dependency or addiction to alcohol which prevents the judge or family support magistrate from performing his or her judicial or magisterial duties, either on a full-time or part-time basis, the Council shall request the judge or family support magistrate to seek appropriate treatment.

(o) Upon completion of such treatment program, and a finding by the Council that such judge or family support magistrate can fully perform his or her duties, the Council shall report said finding to the chief court administrator within three business days of such finding.

(p) If the judge or family support magistrate refuses to seek treatment, or does not fully cooperate in the treatment program, the Council may (1) publicly censure the judge or family support magistrate, (2) suspend the judge or family support magistrate for a definite term not to exceed one year, (3) refer the matter to the supreme court with a recommendation that the judge or family support magistrate be suspended for a period longer than one year, or (4) refer the matter to the supreme court with a recommendation that the judge or family support magistrate be removed from office.

(q) If the Council finds that a judge is permanently incapable of adequately fulfilling his or her duties because of mental infirmity or mental illness or drug dependency or addiction to alcohol, the judge shall thereupon be retired.

(r) If the Council finds that a family support magistrate is permanently incapable of

adequately fulfilling his or her duties because of mental infirmity or mental illness or drug dependency or addiction to alcohol, the family support magistrate shall be removed from office.

(Effective December 28, 1994)

Sec. 51-51k-12. Council vote

The Council may take any action upon a majority vote of its members present and voting, except that twelve members of the council shall constitute a quorum for any action to publicly censure a judge, compensation commissioner, or family support magistrate, suspend a judge, compensation commissioner, or family support magistrate for any period, refer the matter to the Supreme Court with a recommendation that a judge or family support magistrate be suspended for a period longer than one year or refer the matter to the Supreme Court with a recommendation that a judge or family support magistrate be removed from office or to the governor with a recommendation that a compensation commissioner be removed from office, and the concurring vote of seven of such members shall be required.

(Effective October 20, 1995)

Sec. 51-51k-13. Conflict of interest

(a) Any member of the Council who has a conflict of interest in any matter before the Council shall be disqualified from participating in any proceeding of the Council in that matter.

(b) A member shall have such conflict of interest when such member, his or her spouse, his or her child, or his or her business associate (1) has a direct personal or financial interest in said matter; (2) has a business, personal or financial relationship with any complainant, witness or respondent in said matter; (3) has direct personal knowledge of disputed evidentiary matters before the Council; (4) is related to a complainant, witness or respondent in said matter; (5) is a judge against whom the complainant has made a previous complaint; (6) is an attorney who has any matter pending in a trial court or an appeal court involving a respondent against whom a complaint has been made; or, (7) in any other situation, believes that he or she has, or may appear to have, a conflict of interest.

(c) The fact that a member who is a judge, compensation commissioner, or family support magistrate may work with or have a social relationship with a respondent shall not, by itself, be a conflict of interest. In the event a claim of conflict on that ground is made or raised by a member, the remaining members of the Council shall examine the nature of the relationship and determine whether it would be likely to unduly influence said member or give an appearance of such possible impropriety or bias.

(d) Any situation that does or may violate any professional or ethical code to which a member is subject shall constitute a conflict of interest as to that member.

(Effective December 28, 1994)

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Subject

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Organization, Rules of Procedure, and Appointment and Removal of Attorneys

PART I: Definitions and General Provisions

Sec. 51-275a-1. Definitions

“Chairman” means the member of the Criminal Justice Commission appointed by the Governor to serve as Chairman.

“Chief State’s Attorney” means the chief of the Division of Criminal Justice appointed by the Criminal Justice Commission in accordance with Conn. Gen. Stat. § 51-278 (a).

“Commission” means the Criminal Justice Commission except that where specifically so provided by statute “Commission” means the members of the Commission other than the Chief State’s Attorney.

“Division of Criminal Justice” means the agency in the executive department established pursuant to Conn. Gen. Stat. § 51-276 in charge of the investigation and prosecution of all criminal matters in the Superior Court.

“Meeting” means any hearing or proceeding of a quorum of the Criminal Justice Commission in which the business of the Criminal Justice Commission is being conducted.

“Member” means the Chief State’s Attorney or any of the six individuals nominated by the Governor and appointed by the General Assembly to serve on the Criminal Justice Commission, except that “Member” does not include the Chief State’s Attorney in those areas where statute specifically provides that the Criminal Justice Commission means the members of the Commission other than the Chief State’s Attorney.

“Person” shall have the same meaning as set forth in subsection (k) of Conn. Gen. Stat. § 1-1.

“Presiding Officer” means a member of the Commission designated by the Commission to preside over a hearing conducted in accordance with these regulations.

“Quorum” means four members of the Criminal Justice Commission.

(Effective September 17, 1987)

Sec. 51-275a-2. Description of organization

The Criminal Justice Commission was established by virtue of Conn. Const. Amend. Art. XXIII and Conn. Gen. Stat. Sec. 51-275a (a). The Commission is composed of the Chief State’s Attorney and six members nominated by the Governor and appointed by the General Assembly. Two of the members of the Commission are judges of the Superior Court. One of the members of the Commission is appointed by the Governor as Chairman. The Commission is responsible for the appointment and discipline, unless otherwise provided by collective bargaining agreement, of attorneys in the Division of Criminal Justice, according to law.

(Effective April 27, 1993)

Sec. 51-275a-3. Meetings

(a) The Commission will hold its meetings in accordance with the provisions of the

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Freedom of Information Act. The Chairman may cancel meetings.

(b) The Chairman may call special or emergency meetings of the Commission whenever he feels that such meetings are necessary.

(c) Notice of meetings shall be provided to members of the Commission and to the public in accordance with the requirements of the Freedom of Information Act.

(d) A quorum of the Commission must be present at a meeting in order for business of the Commission to be conducted.

(e) Minutes of meetings shall be kept in accordance with the provisions of the Freedom of Information Act.

(Effective September 17, 1987)

Sec. 51-275a-4. Requests for information, and complaints

(a) Records of the Commission will be made available for inspection and copying pursuant to the requirements of the Freedom of Information Act. Requests for inspection or copying records of the Commission should be addressed to the Chairman of the Criminal Justice Commission, c/o OCSA, 340 Quinipiac Street, P.O. Box 5000, Wallingford, CT 06492.

(b) Any complaint concerning the performance or conduct of any employee of the Division of Criminal Justice shall be in writing and sent to the Chairman, c/o OCSA, 340 Quinipiac Street, P.O. Box 5000, Wallingford, CT 06492. The Chairman shall take whatever action he deems to be appropriate including investigation of the complaint by himself, or referral to the Chief State's Attorney or appropriate State's Attorney for investigation. The chairman may call a meeting of the Commission to discuss and act on any complaint or results of the investigation of any complaint. Nothing in this section shall be construed to require the Chairman to take any action on a complaint.

(Effective April 27, 1993)

Sec. 51-275a-5. Official address

All written communications directed to the Commission should be sent to the Chairman of the Criminal Justice Commission, c/o OCSA, 340 Quinipiac Street, P.O. Box 5000, Wallingford, CT 06492.

(Effective April 27, 1993)

PART II: Miscellaneous Proceedings

Sec. 51-275a-6. Petitions concerning adoption of regulations

Sec. 51-275a-6.1. General rule

These rules set forth the procedure to be followed by the Commission in the disposition of petitions concerning the initiation of proceedings to promulgate, amend, or repeal a

regulation of the Commission.

(Effective September 17, 1987)

Sec. 51-275a-6.2. Form of petitions

Any interested person may at any time petition the Commission to initiate proceedings to promulgate, amend or repeal any regulation of the Commission. The petition shall set forth clearly and concisely the text of the proposed regulation, amendment or repeal. Such petition shall also state the facts and arguments in support thereof, either in the petition or in a brief annexed thereto. The petition shall be addressed to the Chairman and sent to him by mail, or delivered in person during normal business hours to the Office of the Chief State's Attorney which shall then forward the petition to the Chairman. The petition shall be signed by the petitioner and shall furnish the address of the petitioner and the name and address of petitioner's attorney, if applicable.

(Effective September 17, 1987)

Sec. 51-275a-6.3. Procedure after petition filed

(a) Upon receipt of the petition, the Commission shall within thirty (30) days determine whether to deny the petition or to initiate regulation making proceedings in accordance with law.

(b) If the Commission denies the petition, the petitioner shall be given notice in writing stating the reasons for the denial.

(c) If the Commission grants the petition, it shall initiate regulation making proceedings. The Commission may modify or restructure the proposed regulation before notice of intent to adopt regulations is published.

(Effective September 17, 1987)

Sec. 51-275a-7. Requests for declaratory rulings

Sec. 51-275a-7.1. General rule

These rules set forth the procedure to be followed by the Commission in the disposition of requests for declaratory rulings as to the applicability of any statute administered or enforced by the Commission or applicability of any regulation or order of the Commission.

(Effective September 17, 1987)

Sec. 51-275a-7.2. Form of petition for declaratory ruling

(a) Any interested person may at any time request a declaratory ruling of the Commission with respect to the applicability of any statute administered or enforced by the Commission, or applicability of any regulation or order of the Commission.

(b) Such request shall be addressed to the Commission and sent to the Chairman of the Commission by mail or delivered in person during normal business hours to the Office of the Chief State's Attorney which shall then forward the request to the Chairman. A request

which was mailed shall be considered to have been filed at the time it is received at the Office of the Chief State's Attorney.

(c) Such request shall be made by way of a petition in the following form:

(1) The petition shall be in writing and shall state the factual background of the issue.

(2) The petition shall be signed by a person on his own behalf or as representative of an organization in whose behalf it is made and shall state the address of such person or organization and the name and address of the petitioner's attorney, if applicable.

(3) A petitioner shall send a copy of the petition by registered or certified mail to any person or organization that may be immediately affected by the petition. The petition shall state the persons or organizations so notified. If the petitioner is in doubt as to who should be notified it may apply to the Commission for an Order of Notice.

(4) The petition shall clearly and concisely state the substance and nature of the request. It shall identify the statute, regulation or order concerning which the request is made and shall identify the particular aspect thereof to which the question of applicability is directed.

(5) The petition shall state the position of the petitioner with respect to the question of applicability.

(6) The petition or brief attached thereto may include an argument in support of the position of the petitioner with such legal citation as may be appropriate.

(Effective September 17, 1987)

Sec. 51-275a-7.3. Procedure after petition filed

(a) Within thirty days following the receipt of the petition, the Chairman will determine whether or not the petition complies with the requirements of Sec. 51-275a-7.2 (c) of these regulations.

(b) If the Chairman determines that the petition does not comply with Sec. 51-275a-7.2 (c) of these regulations, he will send a letter to the petitioner informing him of the noncompliance.

(c) Where the Chairman has determined that a petition is in the correct form, he shall refer the petition to the Commission for a decision, and send a letter to the petitioner stating that he has referred the petition to the Commission. The Chairman may, on his own motion, or on the request of the petitioner, include an Order of Notice requiring the petitioner to notify other interested persons of the petition. Any person provided notice in an Order of Notice may move for permission to intervene in accordance with these regulations. For the purposes of declaratory ruling proceedings, the parties are the petitioner, any person or organization whose motion to intervene is granted, and the Chief State's Attorney should he participate in the proceeding.

(Effective September 17, 1987)

Sec. 51-275a-7.4. Intervention

Any person desiring to intervene in any proceeding arising out of a petition for a declaratory ruling shall file with the Commission, at least five days before the date a hearing

is scheduled, a written motion to intervene, setting forth the facts upon which such person claims an interest in the proceeding. Such motion shall be served upon all the parties. Failure to serve the motion upon all parties is itself sufficient cause for the denial of the motion, except that the Commission may excuse the failure to serve any party if the moving party shows good cause. The Commission shall rule upon any such motion to intervene as a preliminary matter at the hearing. The Commission may permit intervention to such an extent and upon such conditions as it determines may effectuate the purpose of the hearing. Any intervention is permissive only.

(Effective September 17, 1987)

Sec. 51-275a-7.5. Hearing

(a) Where a petition has been referred to the Commission for a decision, it shall be assigned for a hearing at the next meeting of the Commission after the referral. The Chairman shall provide notice of the hearing to the petitioner and to any person or organization responding to the order of notice at least two weeks prior to the scheduled date of the hearing. Once the hearing commences, it may be continued to such time and place as the Commission designates at any point during the hearing.

(b) Where any party desires to present evidence, the order of proceedings shall be as follows:

- (1) Parties may make opening statements, if they desire.
- (2) Parties may present evidence.
- (3) Parties shall present closing arguments.

(c) At each stage of the proceedings, the parties shall proceed in the following order:

- (1) The petitioner shall proceed first.
- (2) Following the petitioner, all parties in support of the petition shall proceed in such order as the Commission shall determine.
- (3) Then, all parties in opposition to the petition shall proceed in such order as the Commission shall determine.

(4) The Commission in its discretion may allow the petitioner the opportunity for rebuttal.

(5) For the purposes of this section, any party that is uncertain as to whether it supports or opposes the petition shall present its factual and legal position along with the parties opposing the petition.

(Effective September 17, 1987)

Sec. 51-275a-7.6. Rules of evidence

(a) No formal rules of evidence shall govern proceedings on a petition for a declaratory ruling. It is within the discretion of the Commission to receive any oral or documentary evidence, but the Commission shall exclude any evidence it deems to be irrelevant, immaterial or unduly repetitious. Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy

with the original if the original is readily available, and such comparison will not unduly delay the hearing. All evidence shall be taken in the presence of the Commission. The Commission may request such additional information as it deems necessary to render a decision. In order to enter a document or record into evidence at the hearing, the party must identify the document or record and must allow it to be marked. The party offering the exhibit shall provide eight copies for the Commission and one copy for each party. Other parties will be allowed to inspect the document or record and to state any objections to the proposed exhibit. A member of the Commission designated by the Chairman shall rule on objections, as specified below. If the objection is overruled, the Commission shall receive the document or record into evidence. It is solely the function of the Commission to assess the weight and credibility of the witnesses and evidence. All evidence admitted and the names and addresses of all witnesses shall be made a part of the record of the proceeding.

(b) All rulings as to the admissibility of evidence shall be made by a member designated by the Chairman. The ruling shall be conclusive, except that if any member of the Commission desires a vote as to a ruling on evidence, said member may immediately following the ruling request a vote by the Commission. If such a request is made, the ruling shall stand unless overruled by a majority vote of those members present. The opportunity of a Commission member to request a Commission vote on an evidentiary ruling is waived if it is not made immediately after the ruling.

(Effective September 17, 1987)

Sec. 51-275a-7.7. Closing argument

Prior to the close of the hearing, each party shall be entitled to present legal argument to the Commission. The petitioner is entitled to open and close the legal argument. The Commission may prescribe a time limit for this argument at the hearing, before the parties give their closing argument.

(Effective September 17, 1987)

Sec. 51-275a-7.8. Transcript

All hearings on petitions for declaratory rulings shall be transcribed. Parties desiring transcripts are to order them from the reporter transcribing the hearing.

Requests for copies or certified copies of transcripts that have been filed with the Commission will be processed in accordance with the provisions of the Freedom of Information Act.

(Effective September 17, 1987)

Sec. 51-275a-7.9. Posthearing brief

Each party shall have the opportunity to file a post hearing brief at a time to be designated by the Commission. The Chairman shall notify all parties when the transcript has been filed.

(Effective September 17, 1987)

Sec. 51-275a-7.10. Decision

The Commission shall expeditiously issue its declaratory ruling after the receipt of posthearing briefs as soon as practicable given the scope and complexity of the issues presented in the petition. A copy of the decision of the Commission shall be sent to each party, or if represented by an attorney, to the attorney for the party, and to any other person who has filed a written request for a copy with the Commission.

(Effective September 17, 1987)

Sec. 51-275a-7.11. Review

Any person who has filed a Petition for a Declaratory Ruling who is aggrieved by an adverse ruling by the Commission on his Petition, or is aggrieved by the failure or refusal of Commission to issue such a ruling may seek review of that action in accordance with Conn. Gen. Stat. § 4-176.

(Effective September 17, 1987)

PART III: Appointment of Attorneys in the Division of Criminal Justice

Sec. 51-275a-8. Appointment of Chief State's Attorney

The Commission appoints the Chief State's Attorney in accordance with Conn. Gen. Stat. § 51-278 (a).

(Effective September 17, 1987)

Sec. 51-275a-9. Appointment of Deputy Chief State's Attorneys

(a) The Commission appoints two Deputy Chief State's Attorneys, one of whom shall be Deputy Chief State's Attorney for operations and one of whom shall be Deputy Chief State's Attorney for personnel, finance and administration, in accordance with Conn. Gen. Stat. § 51-278 (b) (1) (A).

(b) The Commission designates one Deputy Chief State's Attorney who shall, in the absence or disqualification of the Chief State's Attorney, exercise the powers and duties of the Chief State's Attorney until the Chief State's Attorney resumes his duties, in accordance with Conn. Gen. Stat. § 51-278 (b) (1) (A).

(c) When a Deputy Chief State's Attorney is unable to perform his duties due to absence or other cause, the Commission may designate any other employee of the Division of Criminal Justice to exercise the power and duties of that Deputy Chief State's Attorney until the Deputy Chief State's Attorney is able to resume his duties.

(Effective September 17, 1987)

Sec. 51-275a-10. Appointment of State's Attorneys

The Commission appoints a State's Attorney for each judicial district in accordance with Conn. Gen. Stat. § 51-278 (b) (1) (B).

(Effective September 17, 1987)

Sec. 51-275a-11. Appointment of other attorneys

The Commission appoints Assistant State's Attorneys and Deputy Assistant State's Attorneys in accordance with Conn. Gen. Stat. § 51-278 (b) (1) (B).

(Effective September 17, 1987)

Sec. 51-275a-12. Recommendations on filling vacancies

(a) When there are vacancies in Assistant State's Attorney or Deputy Assistant State's Attorney positions in the office of the Chief State's Attorney or the housing division of the Superior Court, the Commission shall make its appointment from the recommendations of the Chief State's Attorney.

(b) When there are vacancies in Assistant State's Attorney or Deputy Assistant State's Attorney positions in any judicial district, the Commission shall make its appointment from the recommendations of the Chief State's Attorney or the appropriate State's Attorney.

(Effective September 17, 1987)

Part IV: Removal of Attorneys in the Division of Criminal Justice

Sec. 51-275a-13. Removal of the Chief State's Attorney

(a) Whenever the Commission has reason to believe or is of the opinion that the Chief State's Attorney is guilty of misconduct, material neglect of duty or incompetence in the conduct of his office, it shall make such investigation as it deems proper, and shall prepare a statement in writing of the charges against such official summoning him to appear before the Commission at a date named and show cause why he should not be removed from office. Such official shall have the right to appear with counsel and witnesses and be fully heard. If after full hearing of all evidence, the Commission finds that the evidence warrants the removal of such official, the Commission shall make a written order to that effect and shall cause a copy thereof to be given such official and shall also file a copy thereof with the Secretary of the State. Upon the filing of such copy with the Secretary of the State, the office held by such official shall become vacant, and the Commission may thereupon proceed to fill such vacancy in the manner provided by law.

(b) The procedure set forth in these regulations for initiating, hearing, and deciding removal proceedings against other attorneys in the Division of Criminal Justice shall govern initiation of, hearing on and decision on proceedings for the removal of the Chief State's Attorney, except that only the Commission shall have the authority to recommend the removal of the Chief State's Attorney.

(Effective September 17, 1987)

Sec. 51-275a-14. Removal of other attorneys in the Division of Criminal Justice

Sec. 51-275a-14.1. Initiation of removal proceedings

(a) The Chief State's Attorney may recommend the removal of any Deputy Chief State's Attorney, State's Attorney, Assistant State's Attorney or Deputy Assistant State's Attorney

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in the Division of Criminal Justice, unless otherwise provided by collective bargaining agreement.

(b) A State's Attorney may recommend the removal of any Assistant State's Attorney or Deputy Assistant State's Attorney serving under his supervision, unless otherwise provided by collective bargaining agreement.

(c) At any time after receiving a recommendation from the Chief State's Attorney or a State's Attorney for removal, the Commission may take whatever action it deems appropriate which may include but is not necessarily limited to one of the following actions:

(1) The Commission may dismiss the recommendation if it does not feel that the recommendation warrants further consideration by the Commission. Dismissal of a recommendation for removal is without prejudice to the Chief State's Attorney's or the appropriate State's Attorney's renewing the recommendation at a later time.

(2) The Commission may request the Chief State's Attorney or the appropriate State's Attorney to provide more information with the recommendation. The Commission may request more information more than once.

(3) The Commission may vote to initiate proceedings to consider whether or not to remove the attorney who is the subject of the recommendation.

(d) The Commission may, on its own motion, initiate proceedings to consider whether or not to remove any Deputy Chief State's Attorney, State's Attorney, Assistant State's Attorney or Deputy Assistant State's Attorney, unless otherwise provided by collective bargaining agreement.

(e) Upon a vote to initiate proceedings to consider whether or not any Deputy Chief State's Attorney, State's Attorney, Assistant State's Attorney or Deputy Assistant State's Attorney should be removed, whether upon the recommendation of the Chief State's Attorney or the appropriate State's Attorney, or by the Commission upon its own motion, the Commission shall frame the charges against the employee. Removal charges shall be in writing and shall contain: (1) the legal authority under which the removal will be considered, (2) a reference to statutes or regulations involved, (3) a concise statement of the matters asserted and of the conduct forming the basis of the charges, (4) the fact that removal is being sought, and (5) if the charges were initiated following a recommendation for removal by the Chief State's Attorney or the appropriate State's Attorney, they shall have attached to them a copy of the recommendation for removal. The Commission may also consider a form of discipline less severe than removal without the need to amend the charges or file new charges.

(f) The charges shall be served upon the employee who is the subject of charges by hand delivery or by U.S. Mail, certified, return receipt requested. Where service by hand is used, the person serving the charges shall file an affidavit with the Commission stating the manner of service. Any other notices to be provided in connection with the charges, other than notice provided on the record at a hearing, shall be sent by first class U.S. Mail, postage prepaid, certified, return receipt requested.

(Effective April 27, 1993)

Sec. 51-275a-14.2. Hearing of removal proceedings

(a) Proceedings for Removal shall be considered at a hearing to be conducted by the Commission.

(b) The employee who is the subject of disciplinary charges may be represented by himself or by counsel whom he designates.

(c) (1) Where the proceedings for removal were initiated following a recommendation for removal by the Chief State's Attorney, or the appropriate State's Attorney, the disciplinary case against the employee shall be presented by the Chief State's Attorney, the appropriate State's Attorney, or their designees.

(c) (2) Where the charges were initiated by the Commission on its own motion, the case against the employee shall be presented by a person or persons designated by the Commission.

(d) Following the initiation of removal proceedings, and the designation of the person or persons who will present the case against the employee, the Commission shall have no communication regarding the disciplinary case with any party or his representative except upon notice and opportunity for all parties to participate.

(e) The parties to proceedings for removal are the employee who is the subject of the charges and the authority recommending removal unless the authority recommending removal is the Commission in which case the parties shall be the employee who is the subject of the charges and the person or persons designated by the Commission to present the case against the employee.

(f) The person or persons presenting the case against the employee has the burden of going forward and of establishing by a preponderance of the evidence that there is just cause for removing the employee.

(Effective September 17, 1987)

Sec. 51-275a-14.3. Hearing and decision by commission

(a) In conducting a hearing, the Commission shall be presided over by the Chairman, or by a member of the Commission designated by the Commission, who shall be referred to in these regulations as the presiding officer.

(b) The presiding officer shall schedule a hearing. Notice of the time, date and place of the hearing will be provided to the employee subject to the disciplinary charges, to his counsel, if any, and to the person or persons who will be presenting the case against the employee. The presiding officer may, in his sole discretion, grant postponements of the hearing at the request of a party. The Commission may grant postponements on its own motion.

(c) Prior to the hearing, the presiding officer may schedule an informal prehearing conference between the parties or their representatives and the presiding officer or other member of the Commission, if requested by both parties or at the direction of the presiding officer. The following issues may be considered at such a prehearing conference:

(1) Simplifying or narrowing issues in dispute, if feasible.

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(2) Discussing the scheduling of the hearing and of matters to be considered at the hearing.

(3) Obtaining stipulations as to matters of fact.

(4) Obtaining stipulations as to the authenticity or admissibility of documents.

(d) A prehearing conference need not be recorded, but a written record will be made of any stipulations. Any such written record will be signed by the parties, or their representatives.

(e) In the course of presiding over the hearing, the presiding officer shall:

(1) Regulate the course of the hearing and the conduct of the parties and their counsel therein.

(2) Insure that all testimony is given under oath.

(3) Rule upon offers of proof and questions of the admissibility of evidence, subject to a vote by the Commission, if any member of the Commission asks for a vote immediately subsequent to the ruling.

(4) Consider and rule upon all motions, subject to a vote by the Commission, if any member of the Commission asks for a vote prior to the decision on the motion.

(5) Take any other action necessary to insure the proper conduct of the hearing.

(f) After the hearing is formally called to order, the presiding officer shall enter the charges and the notice of hearing into the record, enter any stipulations into the record, rule upon any pending motions, and any other preliminary matters deemed necessary by the presiding officer, and the hearing shall then proceed in the following order:

(1) Opening argument by the person or persons presenting the case against the employee.

(2) Opening argument on behalf of the employee.

(3) Case in chief against the employee.

(4) Case in chief on behalf of the employee.

(5) Rebuttal or further evidentiary proceedings, in the discretion of the Commission, if the Commission is of the belief that further evidentiary proceedings would provide assistance in fully developing the facts.

(g) No formal rules of evidence shall govern removal proceedings. It is within the discretion to the presiding officer to receive any oral or documentary evidence, but he shall exclude any evidence he deems to be irrelevant, immaterial or unduly repetitious. The presiding officer shall be guided, but not bound by, the rules of evidence as applied in the courts of the State of Connecticut. Documentary evidence may be received in the forms of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original if the original is readily available, and such comparison will not unduly delay the hearing. All evidence shall be taken in the presence of the Commission. The Commission may request such additional information as it deems necessary to render a decision. In order to enter a document or record into evidence at the hearing, the party must identify the document or record and must allow it to be marked. The party offering the exhibit shall provide eight copies for the Commission and one copy for each party. Other parties will be allowed to inspect the document or record and to state any objections to the

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proposed exhibit. The presiding officer shall rule on objections except that immediately following a ruling sustaining an objection to the admissability of any document, any member of the Commission may request a vote by the Commission on the objection. If such a request is made, the ruling of the hearing officer sustaining the objection shall stand unless overruled by majority vote of those members present, in which case the Commission shall receive the document into evidence. It is solely the function of the Commission to assess the weight and credibility of the witnesses and evidence. All evidence admitted and the names and addresses of all witnesses shall be made a part of the record of the proceeding.

(h) Following the completion of the presentation of evidence, the Commission will set a deadline for receipt of written argument. The parties should, in addition to anything else they may wish to present in their written argument, address the issue of whether or not there is just cause for removal and the appropriateness of removal as opposed to some lesser penalty. The Commission may set limits on the length of written arguments.

(i) Following the receipt of written argument, oral argument may be scheduled by the Commission at the request of either party or at the direction of the Commission. The person or persons presenting the case against the employee shall open and close the argument, and the Commission may apportion the time allotted to the parties as they see fit. The Commission may set limits on the length of oral argument.

(j) The hearing and the meeting at which oral argument is to be received shall be transcribed. Parties should make their own arrangements with the stenographer for copies of the transcript, if desired.

(k) Following oral argument, or if oral argument is not conducted, following the deadline for presentation of written argument, the Commission shall render a final decision. If the Commission decides that disciplinary action is not warranted, the Commission will inform the parties of that determination. If the Commission decides that removal is warranted, the Commission shall issue a written decision which shall include findings of fact and conclusions of law separately stated, articulating the reasons for the action, findings as to the acts or omissions upon which the recommended action is based, and the effective date of the action.

(l) Where the Commission determines that disciplinary action less than removal is appropriate, the Commission shall issue a final decision imposing the lesser form of discipline.

(m) A copy of the final decision shall be sent by U.S. Mail, postage prepaid, certified mail, return receipt requested, to each party, to the Chief State's Attorney and to the appropriate State's Attorney, if any.

(Effective September 17, 1987)