

GEORGIA JUDICIAL QUALIFICATIONS COMMISSION

2018 ANNUAL REPORT

INTRODUCTION

The Judicial Qualifications Commission submits the following annual report for 2018.

First, this report details a number of administrative actions designed to make the operations of the Commission more efficient, more transparent, and better able to serve the public and the judiciary.

Second, this report discusses the Commission's continuing commitment to judicial education and assistance. Commission members and staff have presented at various conferences to help educate Georgia judges about the Code of Judicial Conduct. Additionally, the report discusses actions taken to update and revise formal advisory opinions.

Third, this Report provides numbers and other data detailing the Commission's case load in 2018.

PART ONE: INTERNAL AND ADMINISTRATIVE IMPROVEMENTS

I. Implementation of a Case Management System

The Commission made a substantial investment in purchase of a case management system known as Time Matters. This system allows the Commission to maintain its records regarding complaints filed against judges in a digitized form. Previously, all files relating to complaints filed against judges were retained in paper files. Time Matters eliminates the need for extensive space to store files, ensures that the integrity of the files will be maintained, and provides the ability to research case histories and generate various reports. With Time Matters, the Commission can quickly retrieve all complaints filed against judges in the past and review the substance of those complaints. For any particular time period, the case management system allows the Commission to efficiently determine the number of complaints against a judge, the number of complaints previously filed by a complainant, the number of complaints filed by different categories of complainants, such as judges, lawyers, litigants, etc., the number of cases filed against each Court level, the number of cases filed in each Court, and the number of each type of complaint filed.

This new case management system brings the Commission into the 21st century and greatly enhances its efficiency.

II. Website Revision

The Commission completely revised and implemented a new website. The website now contains considerably more information than the previous site, is easier to navigate with dropdown menus, and provides optimal search capability in the database of formal advisory opinions. Of particular importance, the website now allows complaints to be filed online for the first time. This ability to file complaints online, along with the additional material contained on the website, makes the Commission much more transparent and accessible to the public.

III. Formal Advisory Opinions Update

Over the years, the Commission has published approximately 250 formal advisory opinions. With a change in the Code of Judicial Conduct and Rules, many of these opinions were outdated, and most contained cites to the Code and Rules that are no longer valid. During 2018, the Commission completely reviewed, revised, and updated all formal advisory opinions so that they are all current and all contain accurate citations to the Code.

PART TWO: JUDICIAL EDUCATION AND ASSISTANCE

IV. Continuing Judicial Education

One of the most important functions of the Commission, in addition to enforcing the Code, is to help educate judges. Accordingly, Commission members and staff have presented at numerous conferences hosted by the Institute of Continuing Judicial Education (“ICJE”) in 2018.¹ As a part of these ICJE conferences, Commission members and staff present an overview of the Commission’s role, structure, and functions. Furthermore, members and staff provide examples of judicial misconduct, common pitfalls for judges, and answer questions. These conferences have included, among others, presentations to Superior Court, State Court, Magistrate Court, Municipal Court, and Juvenile Court judges. The Commission recognizes the importance of judicial education in preventing ethical issues in the first place. The Commission hopes that its continued role in these conferences provides a useful educational component for the judiciary.

V. Guidance for Judges and Judicial Candidates: Director’s Opinions and Formal Advisory Opinions

¹ The ICJE is a “resource consortium” of the Georgia Judicial Branch, the State Bar, and Georgia’s accredited law schools. Significantly, the ICJE bears the main responsibility in providing training and continuing education for the state’s judges and other court personnel. More information about the ICJE is available at its website, <http://icje.uga.edu>.

Pursuant to Commission Rule 28, the Commission's Director may render an Opinion (i.e. a "Director's Opinion") regarding his or her interpretation of the Code of Judicial Conduct as applied to a given state of facts. A Director's Opinion is merely the Director's personal interpretation of the Code as applied to the facts of a given inquiry and is not binding on the requestor, the Investigative Panel, the Hearing Panel, or the Supreme Court. Judges, judicial candidates, or other interested parties are often faced with time-sensitive ethical dilemmas. Director's Opinions help answer such dilemmas, and judges or judicial candidates are encouraged to reach out to the Director via e-mail or phone. Once an inquiry has been received, the Director typically issues a written opinion approximately one week later.

These written Director's Opinions identify the question posed, the applicable Code provision(s), relevant Formal Advisory Opinions from the Commission, persuasive authority from other ethics commissions or courts, provide analysis, and conclude with an answer. The Director then forwards a copy of that opinion to the requesting party. The Presiding Officer of the Hearing Panel also receives a copy to consider the merits of the opinion and to determine whether the issue requires a Formal Advisory Opinion.

In 2018, the Director rendered nearly sixty written opinions on a wide-range of ethic's topics including: part-time judges practicing law, judges serving on charitable and community boards, judges' political activity, ex-parte communications, fundraising activities, judges hosting events, and a judge judging a beauty pageant. These written opinions will keep a record of how the Director has informally interpreted the Code, help develop institutional knowledge over the coming years, and can serve as the basis for new Formal Advisory Opinions.

VI. Monthly Meetings of the Investigative Panel

This past year, the Investigative Panel of the Commission met approximately once a month. These meetings typically occurred at the State Bar of Georgia Conference Center in Atlanta, Georgia.

In advance of these meetings, Investigative Panel members received materials related to various ongoing investigations of judicial misconduct. Members reviewed these materials in preparation for the meeting itself. During these meetings, members discussed the status of the various cases, voted on dispositions of cases, met with judges, and dealt with other administrative matters.

This practice of monthly meetings at the State Bar was the historical practice of the Commission under the old rules and continues to work well. The Investigative Panel plans to continue these meetings in the future at the State Bar with occasional meetings at locations around the State.

PART THREE: CASE NUMBERS AND DATA FROM 2018

VII. Commission Investigations

At any given time, the Commission’s Investigative Panel is conducting between fifteen to thirty active investigations of judicial misconduct. There are two general stages of investigation: preliminary investigations and full investigations. In a preliminary investigation, the Investigative Panel will often interview the complainant, any witnesses, and/or ask a judge to respond to allegations of misconduct. Oftentimes, a preliminary investigation will show that a complaint is unfounded. Other times, however, a preliminary investigation will show that allegations of judicial misconduct are true or at least deserve further and more in-depth investigation. If that is the case, the Investigative Panel can vote to initiate a full investigation, which gives the Director and staff subpoena power. Typically, half of the Commission’s pending investigations are at the preliminary investigative stage and the other half are at a full investigative stage.²

VIII. Commission Hearings

The Investigative Panel filed formal charges in one case in 2018, and a hearing before the Hearing Panel is scheduled to take place in January 2019. Commission hearings are open to the general public to promote transparency. Consistent with this goal, the Presiding Officer of the Hearing Panel and the Investigative Panel continue to work together to develop amendments to ensure efficient hearings that also guarantee due process.

IX. Complaint Data

The charts and numbers below reflect the complaints received and processed in 2018. This data does not reflect complaints that the Commission has not processed or acted upon.

Number of Complaints Received	363
Number of Complaints Rejected due to no merit or lack of jurisdiction	212
Number of Complaints Investigated	151

² Pursuant to Commission Rule 11, Commission investigations are confidential until the filing of Formal Charges with the Hearing Panel.

a. Classification of Complaints

Litigants, Friends, Relatives	228
Inmates	94
Judges	8
Attorneys	9
Media/Public Information/Comm. Initiated	13
Self-Report	1
Court personnel	6
Law enforcement/Prosecutors	3

b. Classes of Judges/Types of Court

Juvenile	15
Magistrate	60
Municipal/Recorder's	18
Probate	13
State	28
Superior	218
Judicial Candidate	1
Supreme	10

c. Categories of Complaints

Judicial Decision/Discretion	39
Mental Impairment/Incapacity	13
Bias/Prejudice/ Partiality	59
Failure to Timely Dispose/Rule	46
Ex-parte communication	48
Conflict of interest/ Failure to Recuse	33
Denial of fair hearing	28
Demeanor/ Injudicious Temperament	35
Mistreats lawyers/litigants	22
Campaign Activity	8
Failure to follow law	36
Use of judicial position for personal gain	14

d. Disposition of Complaints³

Rejected after initial review	212
Dismissed after preliminary investigation	104
Concluded with Instruction/Caution to Judge	22
Concluded with Admonishment to Judge (now a “Private Admonition” under Commission Rule 6.B)	5
Judge Resigned During Investigation	5
Pending	18

CONCLUSION: LOOKING TOWARDS THE FUTURE

The Commission’s key undertakings of 2018 were the modernization of its case management system as well as various administrative improvements, such as overhauling its website. Based upon the website’s new online complaint system, which streamlines the complaint process, the Commission expects the number of complaints filed in 2019 to surpass the number filed in 2018. Additionally, the Commission continues to issue more Director’s Opinions than it has in previous years, and it expects that number to continue to rise in 2019. Ultimately, these trends indicate the Commission’s success in fostering public accessibility and that by continuing to evolve and modernize with the times, the Commission remains committed to public transparency and judicial integrity.

For more information, please visit the Commission’s website, www.gajqc.com.

/s/ Ben F. Easterlin, IV
Ben F. Easterlin, IV
Director
Judicial Qualifications Commission

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³ Numbers in this table do not correspond with the number of docketed cases as dockets from previous years are resolved in the present year and other dockets continue forward.