



STATE OF WASHINGTON  
COMMISSION ON JUDICIAL CONDUCT

P.O. Box 1817, Olympia, WA 98507 • (360) 753-4585 FAX (360) 586-2918

July 9, 2020

Robert Ferguson, AG  
Michelle Carr, AAG  
Office of the Attorney General  
PO Box 40100  
Olympia, WA 98504-0100

Dear Mr. Ferguson and Ms. Carr:

The Commission on Judicial Conduct (CJC) is an independent agency of the judicial branch of state government authorized by Article IV, §31, of the Washington State Constitution to enforce the Code of Judicial Conduct and to require mandatory retirement for judges suffering from a permanent disability. A copy of Article IV, §31 is enclosed. The CJC, as directed by the constitution, functions pursuant to a set of rules of procedure, the CJCRP. Also enclosed please find the Commission's Rules of Procedure, the CJCRP.

Under Article IV, §31(4), the CJC has the authority to admonish, reprimand, or censure any judge or justice for violating the Code of Judicial Conduct. Neither that provision nor the CJC's enabling statute, RCW 2.64, gives the CJC the authority to suspend a judge or justice. Instead, the CJC may, after a hearing, recommend a suspension to the Washington Supreme Court, which has the authority to do so pursuant to the CJC's request.

Neither the constitution nor RCW 2.64 contains an express provision allowing the CJC to request the interim suspension of a judge from office when that judge is either charged with or convicted of a felony, or when there is reasonable cause to believe that a judge is suffering from a mental/emotional/psychological or other disability that renders them unable to fulfil their judicial duties and whose continued service would pose an immediate and substantial harm to the public or the administration of justice.

The CJC's existing process is deliberative and takes considerable time, so that completion of the CJC's regular process without such an interim suspension provision could leave a judge on the bench for months or longer while their fitness to serve is severely compromised, damaging public trust and confidence in the integrity, independence, and competence of that judge in particular and in the judiciary as a whole.



Robert Ferguson, AG  
Michelle Carr, AAG  
July 9, 2020  
Page 2

Thirty-two other states in the United States have interim suspension provisions, either in their state constitutions, by statute, or by state supreme court and/or judicial conduct commission rule. The CJC has, in conjunction with other stakeholders, begun an analysis of whether such a provision could be established in Washington State by means of amending the state commission and state supreme court rules. In light of this context, I request a response to the following question:

Absent a constitutional amendment, can the CJC create a rule, consistent with Article IV §31, under the CJCRP to request the Washington Supreme Court to order the interim suspension of a judge or justice charged with or convicted of a felony or any judge or justice suffering from a mental, emotional, psychological, or physical disability that renders them unable to fulfill their judicial duties, and whose continued service would pose an immediate and substantial harm to the public or to the administration of justice?

Sincerely,



Lin-Marie Nacht  
Commission Chair