

STANDARDS FOR EVALUATING JUDICIAL DISCIPLINE CASES

The following non-exclusive factors may be considered by the Board in evaluating judicial discipline cases. The Board's thorough focus and evaluation of the nature and extent of the misconduct helps clarify its decision-making process.

The Nature of the Misconduct

- Whether the misconduct occurred in the judge's official capacity or in the judge's private life
- Whether the misconduct occurred in the courtroom or in the judge's administrative role
- Whether the judge exploited the judicial position to satisfy personal desires
- Whether the misconduct constituted a crime, particularly one of a type over which the judge's court has jurisdiction
- Whether the misconduct involved dishonest acts or moral turpitude
- Whether the judge acted in bad faith, good faith, or negligently
- Whether the judge's act was spontaneous, premeditated or deliberate
- Whether the judge was motivated by compassion for others or for personal profit, vindictiveness, ill-will, or other dishonest and selfish motives
- Whether the conduct involved the appearance of impropriety or an actual impropriety
- Whether the misconduct affected or appeared to affect the administration of justice
- Whether the misconduct undermined the ability of the justice system to discover the truth or to reach the most just result or merely delayed the result
- Whether the judge's conduct was contrary to a public policy to which the state has made a commitment
- Whether the misconduct involved the unequal application of justice on the basis of such considerations as race, color, ethnic background, gender, or religion
- Whether the misconduct evidenced lack of independence or impartiality

The Extent of the Misconduct

- Whether the misconduct was an isolated instance or part of a pattern or course of conduct
- The actual or potential for harm to the court system, to litigants, and to the public's perception of the fairness of the judicial system
 - ✓ The number of victims
 - ✓ The vulnerability of the victims

- ✓ Whether there was indirect economic detriment to the public

The Judge's Culpability

- Whether the judge was suffering from personal or emotional problems
- Whether the judge was suffering from physical or mental disability
- Whether the judge was impaired by alcoholism or drug abuse
- Whether the judge's problems were due to stress
- Whether there was judicial precedent establishing that the judge's conduct was unethical
- Whether other judges have been disciplined for similar misconduct
- Whether the judge asked for and complied with a judicial ethics advisory opinion
- Whether the judge ignored others' efforts to persuade the judge to change his or her behavior

The Judge's Conduct in Response to the Board's Inquiry

- Whether the judge acknowledged the misconduct, took responsibility, or showed remorse
- Whether the judge made an effort to change his or her conduct
- Whether the judge attempted to blame his or her conduct on others
- Whether the judge failed to respond to the Board's inquiry
- Whether the judge advanced an unlikely defense
- Whether the judge attempted to interfere with witnesses
- Whether the judge was candid or less than forthcoming with Board counsel or Board Investigator
- Whether the judge presented false evidence or gave false testimony to Board counsel
- Whether the judge gave evasive testimony
- Whether the judge showed a contemptuous attitude toward Board proceedings

The Judge's Record

- The length of time the judge has served
 - ✓ Whether the judge was experienced and should have been familiar with the high standards for judicial behavior
- Inexperience in the practice of law
- Whether the judge had previous Notices of Full Investigation (NOFIs) or Letters of Counsel
 - ✓ The remoteness of any previous Board action
 - ✓ The similarity between the previous conduct and the current conduct

- ✓ Whether the judge complied with prior Board recommendations
- The judge's reputation
 - ✓ Positive contributions made by the judge to the court and community
 - ✓ The judge's commitment to fairness and innovative procedural reform
 - ✓ The judge's ability to fairly, effectively and efficiently run a court with a heavy caseload