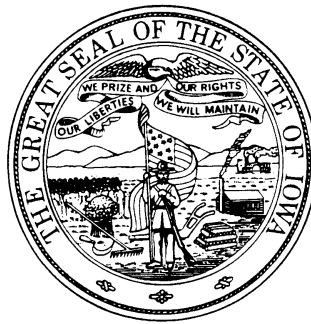


IOWA COURT RULES

FOURTH EDITION

October 2006 Supplement



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KATHLEEN K. WEST
ADMINISTRATIVE CODE EDITOR

PREFACE

The Fourth Edition of the Iowa Court Rules, adopted by the supreme court November 9, 2001, effective February 15, 2002, is published pursuant to Iowa Code section 2B.5(2). Supplements to the loose-leaf compilation will be prepared and distributed as the rules are amended by the court. The date at the top of each page reflects the date the page was published.

Citation: The rules shall be cited as follows:

Chapter 1	Iowa R. Civ. P.
Chapter 2	Iowa R. Crim. P.
Chapter 5	Iowa R. Evid.
Chapter 6	Iowa R. App. P.
Chapter 32	Iowa R. of Prof'l Conduct
Chapter 51	Iowa Code of Judicial Conduct

All other rules shall be cited as "Iowa Ct. R."

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CHAPTER 51

IOWA CODE OF JUDICIAL CONDUCT

CANON 1

A JUDGE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this code should be construed and applied to further that objective. [Court Order November 9, 2001, effective February 15, 2002]

CANON 2

A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES

- A. A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- B. A judge should not allow family, social, or other relationships to influence judicial conduct or judgment. A judge should not lend the prestige of the office to advance the private interests of others; nor should a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.
- C. A judge shall not hold membership in any organization that the judge knows practices invidious discrimination on the basis of race, sex, religion or national origin. [Amended Court Order July 7, 1994, effective September 1, 1994; November 9, 2001, effective February 15, 2002]

CANON 3

A JUDGE SHOULD PERFORM THE DUTIES OF OFFICE IMPARTIALLY AND DILIGENTLY

The judicial duties of a judge take precedence over all other activities. Judicial duties include all the duties of the office prescribed by law. In the performance of these duties, the following standards apply:

A. Adjudicative Responsibilities.

- (1) A judge should be faithful to the law and maintain professional competence in it. A judge should be unswayed by partisan interests, public clamor, or fear of criticism.
- (2) A judge should maintain order and decorum in all proceedings.
- (3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers,

and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of court staff, court officials, and others subject to the judge's direction and control.

- (4) A judge should accord to every person who is legally interested in a proceeding, or that person's lawyer, full right to be heard according to law, and except as authorized by law, neither initiate nor consider *ex parte* or other communications concerning a pending or impending proceeding. A judge, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before that judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.
- (5) A judge should dispose promptly of the business of the court.
- (6) A judge should abstain from public comment about a pending or impending proceeding in any court, and should require similar abstention on the part of court personnel subject to the judge's direction and control. This subsection does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.
- (7) Subject at all times to the authority of the presiding judge to control the conduct of proceedings before the court to ensure decorum and prevent distractions and to ensure the fair administration of justice in the pending cause, electronic media and still photography coverage of public judicial proceedings in the trial and appellate courts of this state shall be allowed in accordance with the Rules for Expanded Media Coverage found in chapter 25 of the Iowa Court Rules.
- (8) A judge shall not in the performance of judicial duties by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon sex, race, national origin, or ethnicity, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.
- (9) A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon sex, race, national origin, or ethnicity, against parties, witnesses, counsel or others. This section does not preclude legitimate advocacy when sex, race, national origin or ethnicity are issues in the proceeding.

- (10) A judge shall not, with respect to cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

B. *Administrative Responsibilities.*

- (1) A judge should diligently discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.
- (2) A judge should require court staff and court officials subject to the court's direction and control to observe the same applicable standards of fidelity and diligence that apply to a judge.
- (3) A judge should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware.
- (4) A judge should not make unnecessary appointments. A judge should exercise the power of appointment only on the basis of merit, avoiding nepotism and favoritism. A judge should not approve compensation of appointees beyond the fair value of services rendered.

C. *Disqualification.*

- (1) A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following instances:
 - a. The judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
 - b. The judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning the matter;
 - c. The judge knows that the judge, individually or as a fiduciary, or the judge's spouse or minor child residing in the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;
 - d. The judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person, is any of the following:

- i. A party to the proceeding, or an officer, director, or trustee of a party;
 - ii. Acting as a lawyer in the proceeding;
 - iii. Known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or
 - iv. To the judge's knowledge likely to be a material witness in the proceeding.
 - e. The judge, while seeking appointment for a judicial vacancy or serving as a judge, has made a public statement, other than in a prior judicial decision or opinion, that commits, or appears to commit, the judge to reach a particular result with respect to an issue in the proceeding or a controversy in the proceeding.
- (2) A judge should inform himself or herself about any personal and fiduciary financial interests, and make a reasonable effort to be informed about the personal financial interests of the judge's spouse and minor children residing in the judge's household.
 - (3) For the purposes of this section:
 - a. The degree of relationship is calculated according to the civil law system;
 - b. "Fiduciary" includes such relationships as executor, administrator, trustee, and guardian;
 - c. "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:
 - i. Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;
 - ii. An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;
 - iii. The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;
 - iv. Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

- D. *Remittal of Disqualification.* A judge disqualified by the terms of Canon 3(C)(1)(c) or Canon 3(C)(1)(d) may, instead of withdrawing from the proceeding, disclose on the record the basis of the disqualification. If, based on such disclosure, the parties and lawyers, independently of the judge's participation, all agree in writing that the judge's relationship is immaterial or that the judge's financial interest is insubstantial, the judge is no longer disqualified, and may participate in the proceeding. The agreement, signed by all parties and lawyers, shall be incorporated in the record of the proceeding. [Amended Court Order July 19, 1989, effective September 1, 1989; November 9, 2001, effective February 15, 2002; May 31, 2006]

CANON 4

A JUDGE MAY ENGAGE IN ACTIVITIES TO IMPROVE THE LAW, THE LEGAL SYSTEM, AND THE ADMINISTRATION OF JUSTICE

A judge, subject to the proper performance of judicial duties, may engage in the following quasi-judicial activities, if in doing so the judge does not cast doubt on the judge's capacity to decide impartially any issue that may come before the judge:

- A. A judge may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.
- B. A judge may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and may otherwise consult with an executive or legislative body or official, but only on matters concerning the administration of justice.
- C. A judge may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. A judge may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising activities. A judge may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice. [Court Order November 9, 2001, effective February 15, 2002]

CANON 5

A JUDGE SHOULD REGULATE EXTRA-JUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL DUTIES

- A. *Avocational Activities.* A judge may write, lecture, teach, and speak on nonlegal subjects, and engage

in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of office or interfere with the performance of judicial duties.

- B. *Civic and Charitable Activities.* A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of judicial duties. A judge may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

- (1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.
- (2) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of office for that purpose, but may be listed as an officer, director, or trustee of such an organization. A judge should not be a speaker or the guest of honor at an organization's fund raising events, but may attend such events.
- (3) A judge should not give investment advice to such an organization, but may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

- C. *Financial Activities.*

- (1) A judge should refrain from financial and business dealings that tend to reflect adversely on impartiality, interfere with the proper performance of judicial duties, exploit the judge's judicial position, or involve the judge in frequent transactions with lawyers or persons likely to come before the court on which the judge serves.
- (2) Subject to the requirements of Canon 5(C)(1), a judge may hold and manage investments, including real estate, and engage in other remunerative activity, but should not serve as an officer, director, manager, advisor, or employee of any business.
- (3) A judge should manage investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, investments and other financial interests that might require frequent disqualification should be divested.

- (4) A judge should not accept or solicit a gift, bequest, favor or loan from anyone if the conduct is prohibited by Iowa Ct. R. 22.22. In addition, neither a judge nor a member of the judge's family should accept a gift, bequest, favor, or loan from anyone except as follows:
 - a. A judge may accept a gift incident to a public testimonial to the judge; books supplied by publishers on a complimentary basis for official use; or an invitation to the judge and the judge's spouse to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice;
 - b. A judge or a member of the judge's family may accept ordinary social hospitality; a gift, bequest, favor, or loan from a relative; a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; or a scholarship or fellowship awarded on the same terms applied to other applicants;
 - c. A judge or a member of the judge's family may accept any other gift, bequest, favor, or loan only if the donor is not a party or other person whose interests have come or are likely to come before the judge, and, if its value exceeds \$100, the judge reports it in the statement of personal disclosure required by Iowa Ct. R. 22.26;
 - d. For the purposes of Canon 5(C), "member of the judge's family" means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household.
 - (5) A judge is not required by this code to disclose the judge's income, debts, investments, or other financial interests, except as provided in Canon 3 and Iowa Ct. R. 22.26.
 - (6) Information acquired by a judge in the judge's judicial capacity should not be used or disclosed by the judge in financial dealings or for any other purpose not related to the judge's official duties.
- D. *Fiduciary Activities.* A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties. "Member of the judge's family" includes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. As a family fiduciary a judge is subject to the following restrictions:

- (1) A judge should not serve if it is likely that as a fiduciary the judge will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.
 - (2) While acting as a fiduciary a judge is subject to the same restrictions on financial activities that apply to the judge in a personal capacity.
- E. *Arbitration.* A judge should not act as an arbitrator or mediator.
- F. *Practice of Law.* A judge should not practice law after assuming judicial duties. *See* Iowa Ct. R. 22.11. [Amended Court Order April 29, 1980]
- G. *Extra-judicial Appointments.* A judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. A judge, however, may represent country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities. [Court Order November 9, 2001, effective February 15, 2002]

CANON 6

COMPENSATION RECEIVED FOR QUASI-JUDICIAL AND EXTRAJUDICIAL ACTIVITIES

A judge may receive compensation and reimbursement of expenses for the quasi-judicial and extrajudicial activities permitted by this code, if the source of such payments does not give the appearance of influencing the judge in the judge's judicial duties or otherwise give the appearance of impropriety and the compensation is not prohibited by Iowa Ct. Rs. 22.24 and 22.25. [Court Order November 9, 2001, effective February 15, 2002]

CANON 7

A JUDGE SHOULD REFRAIN FROM POLITICAL ACTIVITY INAPPROPRIATE TO THE JUDICIAL OFFICE

- A. *Political Conduct in General.*
- (1) A judge should not:
 - a. Act as a leader or hold any office in a political organization;
 - b. Make speeches for a political organization or candidate or publicly endorse a candidate for public office;
 - c. Solicit funds for or pay an assessment or make a contribution to a political organization or candidate, attend political gatherings, or purchase tickets for political party dinners, or other functions.

- (2) A judge should resign from office when becoming a candidate either in a party primary or in a general election for a nonjudicial office, except that a judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention, if otherwise permitted by law to do so.
- (3) A judge should not engage in any political activity except on behalf of measures to improve the law, the legal system, or the administration of justice except as provided in Canon 7(B). [Amended Court Order March 21, 1988, effective May 2, 1988]
- B. *Campaign Conduct.*
 - (1) A judge who is a candidate for retention in judicial office:
 - a. Should maintain the dignity appropriate to judicial office, and should encourage family members to adhere to the same standards of political conduct that apply to judges;
 - b. Should prohibit public officials or employees subject to the judge's direction or control from doing for the judge that which is prohibited under this Canon; and except to the extent authorized under Canon 7(B)(2), the judge should not allow any other person to do for the judge that which is prohibited under this Canon;
 - c. Should not misrepresent the judge's identity, qualifications, present position, or other fact;
 - d. Should not make any statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court;
 - e. Should not, with respect to cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office.
 - (2) A judge who is a candidate for retention in office without a competing candidate, and whose candidacy has drawn active opposition, may campaign in response thereto and may establish committees of responsible persons to obtain publicly stated support and campaign funds. [Amended Court Order March 21, 1988, effective May 2, 1988; November 9, 2001, effective February 15, 2002; May 31, 2006]

*COMPLIANCE WITH THE
CODE OF JUDICIAL CONDUCT*

Anyone, whether or not a lawyer, who is an officer of a judicial system performing judicial functions, including an associate juvenile judge, hospitalization or probate referee, special master, or magistrate, is a judge for the purpose of this code. All judges should comply with this code except as provided below.

- A. *Part-time Judge.* A part-time judge is a judge who serves on a continuing or periodic basis, but is permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. A part-time judge:
 - (1) Is not required to comply with Canon 5(C)(2), (D), (E), (F), and (G).
 - (2) Shall not practice law in the court on which the judge serves.
 - (3) Shall not practice law before another magistrate or represent a client seeking appellate review of a magistrate's decision. [Amended Court Order December 19, 1979; June 28, 1985, effective July 1, 1985; March 21, 1988, effective May 2, 1988; December 29, 1992, effective January 1, 1993]
- B. *Permitted Practices.* When it would not otherwise be prohibited by the Iowa Rules of Professional Conduct, a magistrate may appear as counsel for a client in a matter that is within the jurisdiction of a magistrate so long as the matter is heard by a district judge or a district associate judge.* Partners or associates of a magistrate may appear before a magistrate other than their partner or associate. [Court Order March 21, 1988, effective May 2, 1988; April 20, 2005, effective July 1, 2005]
- C. *Senior or Retired Judge.* A senior judge or a retired judge who is eligible for recall to judicial service should comply with all the provisions of this code except Canons 5(E) and 5(G), but shall not act as an arbitrator or mediator or hold an extra-judicial appointment prohibited by Canon 5(G) while assigned to judicial service or when such action or appointment will interfere with an assignment to judicial service. A senior judge or a retired judge shall not use the title "senior judge" or the title "judge" in any form while acting as an arbitrator or mediator. [Amended Court Order December 19, 1979; April 24, 1981; March 21, 1988, effective May 2, 1988; November 9, 2001, effective February 15, 2002]

*See Iowa Code §602.1605

EFFECTIVE DATE OF COMPLIANCE

A person to whom this code becomes applicable should arrange that person's affairs as soon as reasonably possible to comply with it. If, however, the demands of time and the possibility of conflicts of interest are not substantial, a person who holds judicial office on the date this code becomes effective may:

- A. Continue to act as an officer, director, or nonlegal advisor of a family business;
- B. Continue to act as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a family member. [Amended Court Order March 21, 1988, effective May 2, 1988; November 9, 2001, effective February 15, 2002]

CHAPTER 52
RULES OF PROCEDURE OF THE STATE OF IOWA
COMMISSION ON JUDICIAL QUALIFICATIONS

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CHAPTER 52

RULES OF PROCEDURE OF THE STATE OF IOWA

COMMISSION ON JUDICIAL QUALIFICATIONS

Rule 52.1 Authorization and scope. The rules in this chapter are adopted pursuant to Iowa Code section 602.2105. They apply to all proceedings, functions, and responsibilities of the commission. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.2 Definitions. In this chapter unless the content or subject matter otherwise requires:

“*Chairperson*” means the presiding officer of the commission and includes the chairperson of the commission, the vice chairperson, or any acting chairperson designated by the commission to preside in the absence of the chairperson.

A “*charge*” is the written specification by which formal proceedings are instituted pursuant to Iowa Code section 602.2104.

“*Commission*” means the commission on judicial qualifications.

A “*complaint*” shall be any written communication to the commission which indicates a violation of Iowa Code section 602.2106(3).

“*Employee*” means an officer or employee of the judicial branch, except a judicial officer subject to the jurisdiction of the commission.

“*Judicial officer*” means a supreme court justice, a court of appeals judge, a district court judge, a district associate judge, associate juvenile judge, associate probate judge, or magistrate of this state subject to the jurisdiction of the commission.

“*Oath*” is synonymous with “affirmation” and “swear” is synonymous with “affirm.”

“*Shall*” is mandatory and “*may*” is permissive. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.3 Officers and staff.

52.3(1) The commission shall elect a chairperson and a vice chairperson to serve for the calendar year and until successors are elected.

52.3(2) The state court administrator or designee of the state court administrator shall be executive secretary of the commission.

52.3(3) The commission may employ such additional investigative personnel as it deems necessary.

52.3(4) The commission may employ or contract for the employment of legal counsel. However, the attorney general shall prosecute the charge(s) before the commission on behalf of the state. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.4 Replacement of interested judicial member.

52.4(1) If the judicial member of the commission is the subject of a complaint before the commission under rule 52.9, the chief justice of the supreme court shall appoint a district judge of another judicial district to the commission until the person charged is exonerated, or for the unexpired portion of the term if the person charged is not exonerated.

52.4(2) If the judicial member of the commission is a resident judge of the same judicial district as the judicial officer who is the subject of a complaint before the commission under rule 52.9, the chief justice of the supreme court shall appoint a district judge of another judicial district to the commission to act as the judicial member during that proceeding. However, if the judicial member recuses himself or herself from the matter prior to the commission acting on the complaint, and a quorum is present to act on the matter, the judicial member shall not be replaced by the chief justice of the supreme court, unless formal proceedings under rule 52.12 are commenced.

52.4(3) The executive secretary shall notify the chief justice of the supreme court of any need for such replacement appointment. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.5 Confidentiality.

52.5(1) Notwithstanding the provisions of Iowa Code chapters 21 and 22, all records, papers, proceedings, meetings, and hearings of the commission shall be confidential, unless the commission applies to the supreme court to retire, discipline, or remove a judicial officer or employee.

52.5(2) If the commission applies to the supreme court to retire, discipline, or remove a judicial officer or employee, the following records and papers shall become public documents:

- a. The initial complaint(s).
- b. The notice of charge(s) filed by the commission initiating the charge(s) against the judicial member or employee.
- c. All pleadings, motions and discovery filed with the commission after the notice of charge(s).
- d. A transcript of any hearing of the commission that was made by a certified shorthand reporter.
- e. All exhibits admitted at any hearing of the commission.
- f. The application of the commission made to the supreme court.

52.5(3) Any records and papers contained in the commission's investigation file shall remain privileged and confidential and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the judicial officer, employee, the attorneys, or the attorneys' agents involved in the proceeding before the commission. The judicial officer, employee, the attorneys, or the attorneys' agents involved in the proceeding before the commission shall not disclose any records and papers contained in the commission's investigation file to any third parties unless disclosure is required in the prosecution or defense of the charges. The records and papers contained in the commission's investigation file shall not be admissible in evidence in a judicial or administrative proceeding other than the formal commission proceeding under rule 52.12.

52.5(4) Every witness in every proceeding under this chapter shall swear or affirm to tell the truth, and not to disclose the existence of the proceedings or the identity of the judicial officer or employee until the proceeding is no longer confidential under these rules.

52.5(5) All communications, papers, and materials concerning any complaint which may come into the hands of a commission member shall remain confidential and the member shall keep the same in a safe and secure place.

52.5(6) All statements, communications, or materials received by any person investigating any complaint on behalf of the commission shall be confidential.

52.5(7) The executive secretary, chairperson or a member of the commission designated by the chairperson may issue one or more clarifying announcements when the subject matter of a complaint or charge(s) is of broad public interest and failure to supply information on the status and nature of the formal proceedings could threaten public confidence in the administration of justice. No other member of the commission shall make any public statement concerning any matter before the commission without prior approval of the commission.

52.5(8) Nothing in this chapter shall prohibit the commission from releasing any information regarding possible criminal violations to appropriate law enforcement authorities, wherever located, or any information regarding possible violations of the Iowa Rules of Professional Conduct to the Iowa Supreme Court Attorney Disciplinary Board. [Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

Rule 52.6 Meetings. The commission shall meet at least once in each calendar quarter. Meetings may be held by telephone conference or at such place as the chairperson may designate if no member of the commission objects. If there is an objection by a member of the commission to holding a meeting by telephone conference or at a place other than the Iowa Judicial Branch Building in Des Moines, the meeting shall be held at the Iowa Judicial Branch Building in Des Moines. Special meetings may be called by the chairperson or at the request of three or

more members of the commission. [Court Order November 9, 2001, effective February 15, 2002; April 9, 2003]

Rule 52.7 Quorum. A quorum for the transaction of business by the commission shall consist of four members. Only members present may vote. Members participating in a telephone conference shall be deemed to be present at the meeting. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.8 Minutes. Minutes shall be kept of each meeting of the commission and shall record the action taken, the names of those present, and any other matter that the commission may deem appropriate. The minutes shall be confidential. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.9 Complaints.

52.9(1) A complaint shall be in writing but may be simple and informal. It shall be mailed to or filed with the executive secretary of the commission.

52.9(2) The executive secretary shall promptly acknowledge receipt of any writing and transmit a copy of the writing to each member of the commission.

52.9(3) A complaint may be initiated by the commission's own motion. A separate writing signed by the chairperson shall be filed with the commission if the complaint was initiated on the commission's own motion. This filing shall constitute the complaint. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.10 Initial inquiry.

52.10(1) Upon receipt of a complaint a determination shall be made whether or not the complaint is of substantial nature and involves matters which could be grounds for a charge within the jurisdiction of the commission to make application to the supreme court:

a. To retire a judicial officer or employee for permanent physical or mental disability which substantially interferes with the performance of his or her duties.

b. To discipline or remove a judicial officer or employee for persistent failure to perform duties, habitual intemperance, willful misconduct in office, conduct which brings the judicial office into disrepute, or a substantial violation of the canons of judicial ethics.

52.10(2) If the commission finds the complaint on its face is clearly unfounded, frivolous, or could not be the basis for a charge within the jurisdiction of the commission, the complaint shall be dismissed with notice to the complainant.

52.10(3) If the commission finds the complaint on its face is substantial, and, if true, would warrant application to the supreme court the commission may formulate a charge and institute formal proceedings, without any further inquiry or investigation.

52.10(4) Upon the making of the determination provided in rule 52.10(1), when the commission has received a complaint or initiated a complaint on its own motion, the commission or the chairperson may direct that an additional inquiry be made by the executive secretary, or a commission member. The chairperson of the commission may further direct that the judicial officer or employee about whom a complaint has been made be notified that a complaint has been received, and of the substance of the complaint. When such notice is directed it shall advise the judicial officer or employee that the matter is in a preliminary stage and is not the subject of a formal investigation under rule 52.11(1), nor is the notice intended to be notice required under rule 52.11(2) of the commission. In such circumstances the judicial officer or employee shall be notified that because of the substance of the complaint or the commission's concern, the commission or chairperson feels that it would be desirable for the judicial officer or employee to provide in writing a report to the commission concerning matters referred to in the notice, and that it is requested, but not required, that the judicial officer or employee give to the commission such report.

52.10(5) The commission or the chairperson may request the complainant to clarify the complainant's original statement to furnish additional information, to disclose sources of information, or to verify by affidavit statements of fact within the complainant's knowledge.

52.10(6) The commission or the chairperson may also initiate inquiries of other sources.

52.10(7) The commission shall dismiss the complaint and so inform the complainant if the initial inquiry confirms the fact that the complaint is clearly unfounded, frivolous, or could not be the basis for a charge within the jurisdiction of the commission. If the judicial officer or employee has been given notice of the initial inquiry as contemplated in rule 52.10(4), the judicial officer or employee shall likewise be informed of the dismissal of the complaint.

52.10(8) If after the initial inquiry the complaint appears to be substantiated in whole or in part but does not warrant application to the supreme court the commission may dispose of the complaint informally by conference with or communication to the judicial officer or employee. The complainant shall be notified of such action.

52.10(9) The commission shall direct that an investigation of the complaint be made if the initial inquiry indicates that the complaint may constitute a charge within the commission's jurisdiction and formal proceedings have not been initiated.

52.10(10) The commission may formulate a charge and institute formal proceedings if the initial inquiry indicates that the matter investigated appears to be substantiated and, if true, would warrant application to the supreme court. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.11 Investigation and disposition.

52.11(1) The commission may direct an investigation on its own motion, without any initial inquiry under rule 52.10.

52.11(2) The judicial officer or employee involved shall be notified of the investigation and the nature of the complaint. The commission in its discretion may disclose the name of the complainant or that the investigation is on the commission's own motion. Notification shall be by prepaid certified or registered mail marked "confidential" and addressed to the judicial officer's chambers, employee's business address or last known residence of the judicial officer or employee. The judicial officer or employee may be requested to provide in writing a report to the commission concerning matters referred to in the complaint. The judicial officer or employee shall be notified that it is not mandatory that the judicial officer or employee provide such report.

52.11(3) In the event the investigation indicates that the complaint has merit, then the commission in its discretion may grant to the judicial officer or employee an opportunity to present to the commission such information relevant to the complaint as the judicial officer or employee may desire to submit.

52.11(4) The commission shall dismiss the complaint and so inform the judicial officer or employee and the complainant if the investigation shows it to be groundless.

52.11(5) After the investigation, if the complaint appears to be substantiated in whole or in part but does not warrant application to the supreme court, the commission may dispose of the complaint informally by conference with or communication to the judicial officer or employee. The complainant shall be notified of such action.

52.11(6) The commission shall formulate a charge and institute formal proceedings if the investigation indicates that the matter investigated appears to be substantiated and, if true, would warrant application to the supreme court. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.12 Formal proceedings.

52.12(1) The service of the notice of charge(s) shall constitute the commencement of formal proceedings against a judicial officer or employee.

52.12(2) Formal proceedings to inquire into a charge shall be entitled "Before the Commission on Judicial Qualifications, State of Iowa. Inquiry Concerning (name of judicial officer or employee)."

52.12(3) The notice of charge(s) shall specify the charge(s) against the judicial officer or employee with a concise, general summary of the alleged facts on which it is based, and shall state the time and place of hearing. The hearing shall be held in the county where the judicial officer or employee resides unless the commission and the judicial officer or employee agree to a different location.

52.12(4) The notice of charge(s) shall be signed by the chairperson of the commission or on the chairperson's behalf by the executive secretary of the commission pursuant to the express direction of the chairperson.

52.12(5) The notice of charge(s) shall be sent by prepaid certified or registered mail addressed to the judicial officer or employee at the judicial officer's or employee's residence and marked "confidential," at least 20 days prior to the time set for the hearing.

52.12(6) A copy of the complaint upon which the notice of charge(s) is based and the complete investigative file shall be sent to the judicial officer or employee with the notice of charge(s). The investigative file of the commission does not include the recommendations of the attorney general to the commission. The recommendations of the attorney general to the commission are privileged and are not to be transmitted. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.13 Answer. Within 15 days after service of the notice of formal proceedings, the judicial officer or employee may file a verified answer at the office of the commission in the Iowa Judicial Branch Building in Des Moines. [Court Order November 9, 2001, effective February 15, 2002; April 9, 2003]

Rule 52.14 Allowable motions — prehearing conference.

52.14(1) The following prehearing motions may be filed:

a. A judicial officer or employee may request that the hearing be held at a place other than the county where the judicial officer or employee resides. Such motion shall be contained in the answer or filed with the commission in the time for filing an answer. The chairperson or a member of the commission designated by the chairperson shall have authority to rule on this motion. A hearing need not be held prior to entering a ruling. Any hearing may be held telephonically and without a record being made of the hearing.

b. Either party may file a motion regarding discovery disputes which shall be governed by rule 52.15.

c. Either party may request a prehearing conference. The chairperson or a member of the commission designated by the chairperson may conduct the prehearing conference. The prehearing conference may be held telephonically and without a record being made of the hearing. The commission on its own motion may require a prehearing conference.

d. Either party may file a motion for a continuance which may be granted pursuant to rule 52.16.

52.14(2) The commission will not consider any other prehearing motions or applications.

52.14(3) The commission will not consider any dispositive motions prior to the close of all the evidence of a hearing.

52.14(4) The action of the chairperson or a single member of the commission designated by the chairperson under rule 52.14, 52.15 or 52.16 may be reviewed by the commission on its own motion or a motion of a party. A motion by a party for review of an action of the chairperson or a single member of the commission designated by the chairperson shall be served and filed within ten days after the filing of the challenged order. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.15 Discovery.

52.15(1) In any formal proceeding taken by the commission, discovery shall be permitted as provided in Iowa Rs. Civ. P. 1.501 to 1.517 inclusive; 1.701 and 1.702; and in 1.714 to 1.717. The judicial officer or employee against whom a notice of charge(s) has been filed, in addition to the restriction stated in Iowa R. Civ. P. 1.503(1), shall not be required to answer an interrogatory pursuant to Iowa R. Civ. P. 1.509, a request for admission pursuant to Iowa R. Civ. P. 1.510, a question upon oral examination pursuant to Iowa R. Civ. P. 1.701, or a question upon written interrogatories, pursuant to Iowa R. Civ. P. 1.710, if the answer would be self-incriminatory. In addition thereto, evidence and testimony may be perpetuated as provided in Iowa Rs. Civ. P. 1.721 to 1.728.

52.15(2) The time to respond to any discovery allowed under rule 52.15(1) shall be 15 days, regardless of time allowed by the Iowa Rules of Civil Procedure.

52.15(3) All discovery shall be timed so that it is completed, including the time to receive responses to all propounded discovery, no later than 50 days after service of the notice of charge(s).

52.15(4) All motions or applications pertaining to discovery shall be filed with the commission as soon as practicable. The chairperson or a member of the commission designated by the chairperson shall have authority to rule on any motions or applications. A hearing need not be held prior to entering a ruling. Any hearing may be held telephonically and without a record being made of the hearing. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.16 Continuances. The commission may grant reasonable continuances but only upon written application supported by affidavit. The motion for continuance shall be filed with the commission as soon as the reason for continuance becomes apparent to the movant. The chairperson or a member of the commission designated by the chairperson shall have authority to rule on any motion for continuance. A hearing need not be held prior to entering a ruling. Any hearing may be held telephonically and without a record being made of the hearing. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.17 Final hearing.

52.17(1) The commission may proceed with the final hearing at the time and place set, whether or not the judicial officer or employee has filed an answer or appears at the hearing.

52.17(2) The chairperson of the commission shall preside over and conduct the final hearing. The presentation of evidence shall conform to the Iowa Rules of Civil Procedure and the Iowa Rules of Evidence insofar as such rules may be applicable to cases tried in equity.

52.17(3) All evidence received shall be taken only on oath or affirmation.

52.17(4) The attorney general, on behalf of the state, shall present the case in support of the charge(s) before the commission.

52.17(5) A complete record of the evidence shall be made by a certified shorthand reporter. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.18 Procedural rights of judicial officer or employee.

52.18(1) The judicial officer or employee may defend and shall have the right to participate in the proceedings in person and by counsel, to cross-examine, to be confronted by witnesses, and to present evidence in accordance with the Iowa Rules of Civil Procedure and the Iowa Rules of Evidence.

52.18(2) A judicial officer shall continue judicial duties during the pendency of any complaint, charge(s), investigation, or formal proceeding unless otherwise ordered by the commission. An employee shall continue his or her duties during the pendency of any complaint, charge(s), investigation, or formal proceeding unless otherwise ordered by the commission. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.19 Amendment to notice of charge(s) or answer. Amendments shall be governed by the Iowa Rules of Civil Procedure. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.20 Subpoena power.

52.20(1) The commission shall have subpoena power during any investigation conducted on its behalf compelling the appearance of persons or the production of documents before the person designated to conduct the investigation on behalf of the commission. [Court Order November 9, 2001, effective February 15, 2002]

52.20(2) The commission shall have subpoena power on behalf of the state and the judicial officer or employee compelling the appearance of persons or the production of documents during discovery and the final hearing.

52.20(3) Disobedience of the commission's subpoena shall be punishable as contempt in the district court in and for the county in which the hearing is to be held or where the investigation is being conducted.

52.20(4) Any application for a subpoena shall be made to the commission's executive secretary or chairperson. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.21 Privilege in defamation actions. The making of charges before the commission, the giving of evidence or information before the commission or to its investigator and the presentation of transcripts, extensions of evidence, briefs, and arguments in the supreme court shall be privileged in actions for defamation. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.22 Physical or medical examinations. Where a judicial officer's or employee's physical or mental health is in issue, the commission may order the judicial officer or employee to submit to a physical or mental examination by a duly licensed health care professional designated by the commission. The failure of the judicial officer or employee to submit to a physical or mental examination ordered by the commission may be considered by the commission, unless it appears that such failure was due to circumstances beyond the control of the judicial officer or employee. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.23 Compensation of witnesses. Each witness compelled to attend any proceedings under this chapter, other than an officer or employee of the state or a political subdivision, shall receive for attendance the same fees and mileage allowed by law to a witness in a civil case, payable from the commission's funds. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.24 Findings and determination by commission.

52.24(1) In accordance with its findings on the evidence at the hearing, the commission shall dismiss the charge(s) or make application to the supreme court to retire, discipline, or remove the judicial officer or employee. A copy of the application shall be sent to the judicial officer or employee by prepaid certified or registered mail. Copies shall also be provided to the attorneys of record.

52.24(2) Any application by the commission to the supreme court or any action by the commission which affects the final disposition of a complaint shall require the affirmative vote of at least four commission members who were present at the hearing.

52.24(3) Any person filing a complaint with the commission shall be notified by ordinary mail of its final disposition. [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.25 Application to supreme court. If the commission makes application to the supreme court to retire, discipline, or remove a judicial officer or employee, it shall promptly file in the supreme court all items set forth in rule 52.5(2). [Court Order November 9, 2001, effective February 15, 2002]

Rule 52.26 Letters of caution and warning. In some cases, the commission may conclude that a judicial officer's or employee's conduct has been questionable but does not amount to misconduct, or that misconduct of a very minor nature has occurred which does not warrant formal discipline. In these cases, the commission may inform the judicial officer or employee that no present formal disciplinary action will be taken but that the judge should avoid similar conduct in the future. [Court Order November 9, 2001, effective February 15, 2002]

Historical notes from Third Edition of the Iowa Court Rules:

[Court Order December 26, 1985, effective February 3, 1986; April 30, 1987, effective June 1, 1987; August 31, 1987, effective October 1, 1987; January 10, 1990; July 5, 2000]