



**PROCEDURES FOR
FILING A
COMPLAINT WITH
THE COUNCIL ON
PROBATE JUDICIAL
CONDUCT**

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Under the Auspices of
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186 Newington Road
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(860) 231-2442**

1. WHAT TYPE OF COMPLAINT MAY BE CONSIDERED?

The Council on Probate Judicial Conduct focuses its attention, examination, and findings on the ethical and professional **conduct** of the probate judge against whom a complaint has been filed. The Council is not a court. It is a special tribunal established by the Connecticut legislature with the authority given to it by the legislature under the applicable statutes. For that reason, the Council does not sit to hear and decide matters that are properly the subject of an appeal to the superior court from a probate court.

The Connecticut General Statutes state that:

The Council on Probate Judicial Conduct shall investigate every written complaint brought before it alleging conduct of judges of probate which may violate any law or canon of ethics applicable to judges of probate, or failure to perform properly the duties of the office, or conduct prejudicial to the impartial and effective administration of justice which brings the judicial office in disrepute, or final conviction of a felony or of a misdemeanor involving moral turpitude, or disbarment or suspension as an attorney-at-law, or the willful failure to file a financial statement or the filing of a fraudulent financial statement required under [law]. . . . C.G.S. §45a-63(a).

Therefore, if your complaint arises from a disagreement over a judge's **decision** in a proceeding in which you were involved, then the Council on Probate Judicial Conduct may **not** be the proper forum in which to resolve the merits of the dispute. **You do** have the right to appeal from the judge's decision to the superior court. Please note that the appeal must generally be made within 30 days of the issuance of the probate decree, but there are important exceptions to this rule depending on the circumstances and the nature of the proceeding. The booklets published by the Office of the Probate Court Administrator contain general information about the period for appeals in various matters, but they are not a substitute for competent professional advice. You should consult legal counsel for more specific information about the appeals process. Complaints to the Council should concern misconduct of the type described above and in the Code of Probate Judicial Conduct, the relevant titles of which are listed at the end of this pamphlet.

2. TO WHOM SHOULD I DIRECT A COMPLAINT I MAY HAVE AGAINST A JUDGE OF PROBATE?

The Council on Probate Judicial Conduct was established by law in 1975 for the purpose of receiving and investigating complaints against judges of probate and of possibly recommending further action to be taken against such judges when appropriate. The Council consists of five members who serve for four-year terms. By law, the composition of the Council is as follows: one judge of probate elected by the judges of probate, one referee appointed by the chief justice from among the state referees who have retired from the supreme court or superior court, one person appointed by the governor who shall be an attorney-at-law, and two persons appointed by the governor who are not attorneys-at-law. The Council elects the chairperson from among its members.

3. IS THERE A CODE OF ETHICS APPLICABLE TO JUDGES OF PROBATE THAT DEFINES WHAT IS OR IS NOT PROPER CONDUCT FOR A JUDGE OF PROBATE?

The Code of Probate Judicial Conduct encompasses eight canons of ethics by which judges of probate are bound. The first five canons are ethical principles patterned primarily after the model code recommended by the American Bar Association. The sixth canon discusses financial documents that the

Council may need to examine after a complaint has been filed. The seventh canon provides for the establishment of guidelines of conduct for judges under the Code, and the eighth canon deals with judges' requests for advance rulings. As noted above, the title of each canon appears at the end of this pamphlet.

The judges of probate originally adopted the Code in January of 1976, and it has been amended from time to time as the need has arisen. For a complete copy of the Code of Probate Judicial Conduct, which provides the specific rules under each canon, contact the Office of the Probate Court Administrator, 186 Newington Road, West Hartford, CT 06110. The telephone number is (860) 231-2442.

4. WHAT IS THE PROCEDURE FOR FILING A COMPLAINT AGAINST A JUDGE OF PROBATE?

The confidential complaint form, PC-41, which must be signed under penalty of false statement, is available on the Judicial Branch Web site: www.jud.ct.gov. (Click on "Council on Probate Judicial Conduct" under "Quick Links" on the main page for the probate courts.) It is also available at the Office of the Probate Court Administrator, 186 Newington Road, West Hartford, CT 06110. The name of the judge, the probate district in which the judge serves, a description of the nature of the complaint, and other facts that may be of assistance to the Council in conducting its investigation will be required on the complaint form. The completed complaint form should be forwarded to the Council on Probate Judicial Conduct in care of Attorney Richard Banbury, the Executive Director of the Council. Mr. Banbury can be contacted by mail in care of Rome, McGuigan, P.C., One State Street, Hartford, CT 06103. The complaint must be brought within eight years of the date of the alleged misconduct. If the Council determines that the complaint alleges conduct described in question 1, it will investigate the complaint.

In connection with its investigation, the Council may appoint an attorney to serve as its legal counsel. Legal counsel shall direct any investigation ordered by the Council, conduct the examination and cross-examination of witnesses, and present relevant evidence. Legal counsel may, if the Council so directs, function as executive director and, in that capacity, receive any written complaints or other documents directed to the Council, give any notice required under C.G.S. §§45a-63 through 45a-65, maintain the records of the Council, and perform such other duties as the Council deems necessary for the conduct of its business. The complaint form and information concerning the filing of a complaint with the Council may also be obtained from Attorney Banbury at the address listed above or by telephone at 860-549-1000.

The names of the Council members are listed on the Judicial Branch Web site. (Click on "Council on Probate Judicial Conduct" under "Quick Links" on the main page for the probate courts.) This information is also available in the *State Register and Manual* in your local library or by calling the Office of the Probate Court Administrator in West Hartford at (860) 231-2442.

5. HOW WILL I KNOW WHAT ACTION IS BEING TAKEN ON MY COMPLAINT?

No later than five days after receiving the complaint, the Council will notify you by registered or certified mail that it has received the complaint. The judge against whom the complaint has been filed will receive similar notice. He or she will also receive a copy of the complaint. If the judge wishes to do so, he or she may file a written response with the Council.

If the Council determines that the complaint alleges misconduct under C.G.S. §45a-63a, it shall investigate the complaint. You will be notified of the time, place, and nature of the hearing if the

Council schedules a probable cause hearing. The judge and any other necessary parties will also receive notice. Before or after the probable cause hearing, a representative of the Council may contact you to provide information. You may come to the hearing with your evidence, and you may bring witnesses to the hearing.

Any judge subject to a probable cause hearing shall have the right to appear and be heard before the Council and to offer any information that may tend to clear the judge of probable cause that the judge has committed an act of judicial misconduct. The judge shall have the right to be represented by counsel and examine and cross-examine witnesses who testify at the probable cause hearing.

After the hearing and after any further investigation required by the Council, you will be notified. The notification will be made not later than seven business days after the investigation has been completed. The Council will inform you whether or not it has found that probable cause exists that a judge has committed an act of judicial misconduct. The judge will receive similar notification.

6. WILL THE PROBABLE CAUSE HEARING AND INVESTIGATION BE OPEN TO THE PUBLIC?

The investigation to determine probable cause and its disclosure will be confidential, unless the judge under investigation requests, in writing, that it be open. Anyone who appears before the Council at a probable cause hearing for the purpose of providing information shall not disclose knowledge of such investigation or the subject of any testimony to a third party.

If the Council finds that judicial misconduct under C.G.S. §45a-63(a) has **not** been committed, but that the judge has acted in a manner that gives the appearance of impropriety or constitutes an unfavorable judicial practice, the Council may issue a private admonishment to such judge recommending a change in judicial conduct or practice. You, as the complainant, will be notified accordingly, and you will be advised that the private admonishment and processing of the complaint shall remain confidential pursuant to C.G.S. §45a-63(d).

If at least three members of the Council conclude that probable cause **does exist** that the judge has committed an act of judicial misconduct, the Council will hold a full hearing concerning the misconduct or complaint. The full hearing will be open to the public.

The Council shall give at least 30 days' written notice of the public hearing to you and to the probate judge. This notice shall include, but not be limited to, the following:

- 1) a statement of the date, time, place, and nature of the hearing,
- 2) a statement of the legal authority and jurisdiction under which the public hearing is to be held, and
- 3) a short and plain statement of the matters and facts asserted in the complaint or determined upon investigation to constitute probable cause that the judge has committed an act of judicial misconduct.

You and any person you request to testify at the full hearing will be entitled to counsel. In addition, any witness subpoenaed to appear before the Council to testify in relation to the complaint shall be entitled to counsel.

The judge who is the subject of the complaint will also have the right to be represented by counsel, to examine and cross-examine witnesses, and to present evidence and argument. The judge's attorney shall file a written appearance with the Council. The judge or his attorney may file any necessary, appropriate, or relevant motions in writing within 20 days after receiving the allegations that are the

subject matter of the hearing. If the judge elects not to respond, there shall be a presumption that the allegations are denied.

7. WHAT WILL HAPPEN AT THE PUBLIC HEARING, IF ONE IS HELD?

A quorum of the Council, which is three members, shall be present at all hearings conducted by the Council. At the full public hearing, the Council will hear evidence, under oath, from witnesses and will make a record of all proceedings, including all evidence received and considered. The judge who is the subject of the hearing and his or her attorney will be allowed to examine and cross-examine all witnesses. You will also be entitled to have an attorney present during your testimony, as is any person you request as a witness or any person compelled by subpoena to testify before the Council concerning the complaint. The hearing need not be conducted under the formal rules of evidence, but it will be conducted in a manner designed to promote the interests of justice.

After all testimony has been given and received, the Council will publish its findings, together with a memorandum of its reasons therefor, not later than 15 days after the close of said hearing.

8. WHAT POSSIBLE ACTIONS MAY BE TAKEN AGAINST THE JUDGE OF PROBATE AFTER A PUBLIC HEARING?

Depending on its findings, there are several possible actions the Council may take against a judge after a full public hearing. The Council may recommend public admonishment or public censure, or it may exonerate the judge. A public admonishment or censure recommended by at least three members of the Council who attended the hearing and signed by the chairman will be forwarded, in writing, to the judge of probate. (The other members of the Council recommending the public admonishment or censure may also sign the document.) A copy shall be furnished to the Chief Justice, the Chief Court Administrator, the Probate Court Administrator, the President-Judge of the Connecticut Probate Assembly, the town clerk or clerk in each town in the district served by such judge of probate, and to you as the complainant.

Within 20 days of receiving notice of public admonishment or public censure by the Council, the judge may appeal the decision to the Connecticut Supreme Court. A judge filing such an appeal shall notify the Council of its filing before the expiration of the time for filing an appeal. Within two weeks of receiving notice of the appeal, the Council shall file a finding-of-fact and conclusions therefrom.

If the facts warrant such action, the Council, upon a vote of at least three of its members, may recommend to the House of Representatives of the General Assembly the institution of impeachment proceedings against the judge of probate. In the event of such a recommendation, the Council shall forward its findings to the clerk of the House of Representatives, along with a memorandum of the reasons for such action and a report of its investigation and a recommendation for the institution of impeachment proceedings.

If the Council exonerates a judge of probate following the public hearing, a copy of the proceeding and report shall be furnished to the judge, the Probate Court Administrator, and to you as the complainant. This exoneration shall be a matter of public record pursuant to C.G.S. §45a-65(e).

The Council may also find that judicial misconduct under C.G.S. §45a-63(a) has **not** been committed, but that the judge has acted in a manner that gives the appearance of impropriety or constitutes an unfavorable judicial practice. In that case, the Council will issue a private admonishment

recommending a change in judicial conduct or practice. Only the judge, the complainant, and the Probate Court Administrator will be notified of such action, which shall be a matter of public record pursuant to C.G.S. §45a-65(e).

Pursuant to C.G.S. §45a-68, the Council on Probate Judicial Conduct will provide a form for the Statement of Financial Interests, which will be filed under penalty of false statement by each judge of probate on or before April 15 for any year in which the judge holds such position. Copies of the Statement of Financial Interests filed by each judge of probate are available at the Office of the Probate Court Administrator in West Hartford.

CONCLUSION

If you decide to file a complaint against a judge of probate, your complaint will receive the serious attention it deserves. As you have read in question 8 above, the possible actions to be taken against a judge are quite serious. If such sanction is merited, your complaint will have served the public interest. Since complaints that are not found to have merit can cause great embarrassment and inconvenience to the judge, we ask that you carefully consider the nature of your complaint before initiating any action.



CODE OF PROBATE JUDICIAL CONDUCT

- CANON 1.** A judge shall uphold the integrity and independence of the judiciary.
- CANON 2.** A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.
- CANON 3.** A judge shall perform the duties of judicial office impartially and diligently.
- CANON 4.** A judge shall so conduct all extra-judicial activities as to minimize the risk of conflict with judicial obligations.
- CANON 5.** A judge or judicial candidate shall refrain from inappropriate political activity.
- CANON 6.** Reports of compensation and income of Judges of Probate.
- CANON 7.** Guidelines of conduct.
- CANON 8.** Advance Rulings.

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