
ARTICLE VII
US RULES FOR JUDICIAL-CONDUCT AND
JUDICIAL-DISABILITY PROCEEDINGS (ALL-IN-ONE DOCUMENT)

REVIEW BY COMMITTEE ON JUDICIAL CONDUCT AND DISABILITY

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ARTICLE VII Review by Committee on Judicial Conduct and
Disability

RULES 21 through 22

RULE 21 | COMMITTEE ON JUDICIAL CONDUCT AND DISABILITY

(a) Committee Review. The Committee on Judicial Conduct and Disability, consisting of seven members, considers and disposes of all petitions for review under (b) of this Rule, in conformity with the Committee's jurisdictional statement. Its review of judicial-council orders is for errors of law, clear errors of fact, or abuse of discretion. Its disposition of petitions for review is ordinarily final. The Judicial Conference may, in its sole discretion, review any such Committee decision, but a complainant or subject judge does not have a right to this review.

(b) Reviewable Matters.

(1) Upon petition. A complainant or subject judge may petition the Committee for review of a judicial-council order entered in accordance with:

(A) Rule 20(b)(1)(A), (B), (D), or (E); or

(B) Rule 19(b)(1) or (4) if one or more members of the judicial council dissented from the order.

(2) Upon Committee's initiative. At its initiative and in its sole discretion, the Committee may review any judicial-council order entered under Rule 19(b)(1) or (4), but only to determine whether a special committee should be appointed. Before undertaking the review, the Committee must invite that judicial council to explain why it believes the appointment of a special committee is unnecessary, unless the reasons are clearly stated in the council's order denying the petition for review. If the Committee believes that it would benefit from a submission by the subject judge, it may issue an appropriate request. If the Committee determines that a special committee should be appointed, the Committee must issue a written decision giving its reasons.

(c) Committee Vote. Any member of the Committee from the same circuit as the subject judge is disqualified from considering or voting on a petition for review related to that subject judge. Committee decisions under (b) of this Rule must be by majority vote of the qualified Committee members. Those members hearing the petition for review should serve in that capacity until final disposition of the petition, whether or not their term of committee membership has ended. If only six

members are qualified to consider a petition for review, the Chief Justice shall select an additional judge to join the qualified members to consider the petition. If four or fewer members are qualified to consider a petition for review, the Chief Justice shall select a panel of five judges, including the qualified Committee members, to consider it.

(d) Additional Investigation. Except in extraordinary circumstances, the Committee will not conduct an additional investigation. The Committee may return the matter to the judicial council with directions to undertake an additional investigation. If the Committee conducts an additional investigation, it will exercise the powers of the Judicial Conference under 28 U.S.C. §331.

(e) Oral Argument; Personal Appearance. There is ordinarily no oral argument or personal appearance before the Committee. In its discretion, the Committee may permit written submissions.

(f) Committee Decision. A Committee decision under this Rule must be transmitted promptly to the Judicial Conference. Other distribution will be by the Administrative Office at the direction of the Committee chair.

(g) Finality. All orders of the Judicial Conference or of the Committee (when the Conference does not exercise its power of review) are final.

Commentary

This Rule is largely self-explanatory.

Rule 21(a) is intended to clarify that the delegation of power to the Committee on Judicial Conduct and Disability to dispose of petitions for review does not preclude review of such dispositions by the Judicial Conference. However, there is no right to such review in any party.

Rules 21(b)(1)(B) and (b)(2) are intended to fill a jurisdictional gap as to review of a dismissal or a conclusion of a complaint under Rule 19(b)(1) or (4). Where one or more members of a judicial council reviewing a petition have dissented, the complainant or the subject judge has the right to petition for review by the Committee. Under Rule 21(b)(2), the Committee may review such a dismissal or conclusion in its sole discretion, whether or not a dissent occurred, and only as to the appointment of a special committee. Any review under Rule 21(b)(2) will be conducted as soon as practicable after the dismissal or conclusion at issue. No party has a right to such review, and such review will be rare.

Rule 21(c) provides for review only by Committee members from circuits other than that of the subject judge. The Rule provides that every petition for review must be considered and voted on by at least five, and if possible by seven, qualified Committee members to avoid the possibility of tie votes. If six, or four or fewer, members are qualified, the Chief Justice shall appoint other judges to join the qualified members to consider the petition for review. To the extent possible, the judges whom the Chief Justice selects to join the qualified members should be drawn from among former members of the Committee.

Under this Rule, all Committee decisions are final in that they are unreviewable unless the Judicial Conference, in its discretion, decides to review a decision. Committee decisions, however, do not necessarily constitute final action on a complaint for purposes of Rule 24.

RULE 22 | PROCEDURES FOR REVIEW

(a) Filing Petition for Review. A petition for review of a judicial-council decision on a reviewable matter, as defined in Rule 21(b)(1), may be filed by sending a brief written statement to the Committee on Judicial Conduct and Disability at JCD_PetitionforReview@ao.uscourts.gov or to:

Judicial Conference Committee on Judicial Conduct and Disability
Attn: Office of the General Counsel
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, D.C. 20544

The Administrative Office will send a copy of the petition for review to the complainant or the subject judge, as the case may be.

(b) Form and Contents of Petition. No particular form is required. The petition for review must contain a short statement of the basic facts underlying the complaint, the history of its consideration before the appropriate judicial council, a copy of the council's decision, and the grounds on which the petitioner seeks review. The petition for review must specify the date and docket number of the judicial-council order for which review is sought. The petitioner may attach any documents or correspondence arising in the course of the proceeding before the judicial council or its special committee. A petition for review should not normally exceed 20 pages plus necessary attachments. A petition for review must be signed by the petitioner or his or her attorney.

(c) Time. A petition for review must be submitted within 42 days after the date of the order for which review is sought.

(d) Action on Receipt of Petition. When a petition for review of a judicial-council decision on a reviewable matter, as defined in Rule 21(b)(1), is submitted in accordance with this Rule, the Administrative Office shall acknowledge its receipt, notify the chair of the Committee on Judicial Conduct and Disability, and distribute the petition to the members of the Committee for their deliberation.

Commentary

Rule 22 is self-explanatory.

APPENDIX

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