



OFFICE OF THE
ADMINISTRATOR FOR
THE COURTS

MARY CAMPBELL McQUEEN
Administrator

August 10, 2000

Douglas A. Schafer
Attorney at Law
Rust Building, Suite 1050
950 Pacific Avenue
PO Box 1134
Tacoma, Washington 98401-1134

Dear Mr. Schafer:

In response to your letter of August 4, 2000 concerning "any procedure for suspending a judge during the pendency of a Commission on Judicial Conduct proceeding" the following information was located in my agency's files. A letter from David Akana to then Chief Justice Barbara Durham dated February 6, 1996 and a proposed new DRJ 15. I am enclosing a copy of that letter.

According to Supreme Court Rules Committee materials that draft rule was forwarded to the judicial associations and the Court of Appeals for comment. However, in light of the existing assignment authority granted under RCW 2.56.030(3), the proposed DRJ was unnecessary and therefore, no further action was required.

I trust this answers your inquiry. If you need additional information, please contact me.

Sincerely,

Mary C. McQueen

[Click to jump to RCW 2.56.030\(3\)](#)

Justice Charles Johnson was Chair of the Supreme Court Rules Committee that refused to adopt the CJC's proposed emergency suspension rule. The Legislature's delegation in RCW 2.56.030 of duties to the administrator for the courts does not obviate the need for an emergency suspension procedure, as the following one proposed by the CJC. But it appears the judges view the Legislature as empowered to prescribe such a procedure in RCWs.

Enclosure

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<--- Schafer inquired of Justice Johnson about the possible emergency suspension of Judge "Cadillac" Anderson on Feb. 8 and 9, 1996, because of the clear evidence of his corruption, but Johnson asserted the Court was simply powerless to do that.

February 6, 1996

The Honorable Barbara Durham
Chief Justice
Washington State Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

Dear Chief Justice Durham:

Enclosed is the draft rule for interim suspension discussed at the November 27, 1995 meeting. The draft attempts to incorporate the comments presented.

The Commission considered the draft rule at its business meeting on Friday, February 2, 1996, and directed me to send it to you.

If there is anything further we can do, please contact me.

Respectfully,

A handwritten signature in cursive script that reads "David Akana".

David Akana
Executive Director

DA:jmc

cc: Ruth Schroeder, Chair, Commission on Judicial Conduct
Mary McQueen, Administrator OAC
Nancy Sullins, Manager, Legal Services

PROPOSED AMENDMENTS TO DISCIPLINE RULES FOR JUDGES (DRJ)

1. DRJ 1(a) and 1(b) shall be amended to change the reference from "Judicial Qualifications Commission" to "Commission on Judicial Conduct."
2. There shall be added a new rule DRJ 15 to be entitled "Petitions for Interim Suspensions" to read as follows:
 - (a) **Upon Finding of Risk to Public.** When it appears to the Commission, after the judge has been given notice and an opportunity to respond, that continuation of judicial service by a judge during the pendency of any proceeding before the Commission will result in immediate and substantial harm, loss, or damage to the public, to the integrity of the judiciary or to the administration of justice, the Commission may petition the Supreme Court for an order suspending the judge, with full pay, during the pendency of the Commission's proceedings.
 - (b) **Petition.** A petition shall include such evidence and documents considered by the Commission in making its determination. The Commission shall serve a copy of the petition upon the judge or the judge's legal counsel and file proof of service with the Supreme Court.
 - (c) **Show Cause Order.** Upon filing the petition, an order signed by the Chief Justice of the Supreme Court shall be issued requiring the judge to appear before the Court in such manner and on such date as the Chief Justice may set, and then and there show cause, if any, why the petition for suspension should not be granted. A copy of the order to show cause shall be served upon the judge or judge's counsel at least ___ days before the scheduled hearing. The Court may provide for hearing argument in person, in writing, or through the

use of any means of communication by which all members of the Court and the parties and/or their respective counsel can hear each other during the hearing.

(d) **Answer to Petition.** The judge may answer the petition. Failure to answer shall not result in default or waive the right to appear at the show cause hearing.

(e) **Filing of Answer.** A copy of any answer shall be filed with the Supreme Court and served upon the Commission at least ___ days before the scheduled show cause hearing.

(f) **Record Before the Court.** The record before the Court shall be the petition and such argument and materials submitted pursuant to this rule.

(g) **Order of the Court.** If it shall appear to the Supreme Court, upon filing and review of a petition for interim suspension pursuant to this rule, that continuation of judicial service by the judge during the pendency of the Commission's proceedings will result in immediate and substantial harm, loss or damage to the public, to the integrity of the judiciary, or to the administration of justice, the Court may order an interim suspension of the judge with pay during the pendency of such Commission proceeding.

(h) **Duration of Order.** Any order of interim suspension issued pursuant to this rule shall automatically stay in effect until the conclusion of the Commission's proceedings, including any appeal thereof, unless the order is terminated or modified by the Supreme Court upon a showing that such order is no longer necessary to protect the interests of the public, the integrity of the judiciary, or the administration of justice. At any time during the pendency of an interim order of suspension, either the Commission or the judge may petition the Supreme Court for termination or modification of such order.

(i) **Notice of Final Commission Action.** When an interim suspension has been ordered under this rule, and the Commission's proceeding against the judge is concluded, the Commission shall provide written notice of its final determination to the judge and to the Supreme Court within ____ days.