

COURT ON THE JUDICIARY

Annual Report for Fiscal Year 2018

Jurisdiction and Powers of the Court

Under Article IV, Section 37 of the Delaware Constitution, the Court on the Judiciary has the power to discipline a judicial officer appointed by the Governor for wilful misconduct in office, wilful and persistent failure to perform duties, the commission after appointment as a judicial officer of an offense involving moral turpitude, and other persistent misconduct in violation of the Delaware Judges' Code of Judicial Conduct.

The Court on the Judiciary may also retire a judicial officer for a permanent mental or physical disability that interferes with the proper performance of the duties of judicial office.

Members of the Court on the Judiciary

The Court on the Judiciary is comprised of the Chief Justice and the Justices of the Delaware Supreme Court, the Chancellor of the Court of Chancery, the President Judge of the Superior Court, the Chief Judge of the Family Court, the Chief Judge of the Court of Common Pleas, and the Chief Magistrate of the Justice of the Peace Court.

The Preliminary Investigatory Committee

When a complaint states a claim within the jurisdiction of the Court on the Judiciary, the Chief Justice will designate a panel of up to three members of the Preliminary Investigatory Committee to investigate the complaint and file a written report. The Preliminary Investigatory Committee has twelve members—eight members of the Delaware Bar and four non-lawyer residents of Delaware.

Filings and Dispositions

In fiscal year 2018, the Court on the Judiciary docketed eighteen complaints. Sixteen complaints were dismissed *sua sponte* under Court on the Judiciary Rule 5.1(b). One complaint was dismissed as moot. One complaint was referred to a panel of the Preliminary Investigatory Committee under Rule 5.1(c) and dismissed

under Rule 8(a) after the panel found no probable cause to proceed. One complaint was referred to a panel of the Preliminary Investigatory Committee under Rule 5.1(c). Under Rule 12, the Court approved one judicial officer's consent to a private reprimand.

Of Note

Effective March 6, 2018, the Court amended the Court on the Judiciary Rules.

- Rule 5.1(b) was amended to require the unanimous approval of the Chief Justice and two other Justices of the Supreme Court before a petitioner's complaint against a judicial officer can be dismissed without further proceedings.
- Rule 6(a) was amended to reflect that a judicial officer does not have a right to counsel until a complaint is referred to a panel of the Preliminary Investigatory Committee.
- Rule 6(b) was amended to state that a lawyer who represents a judicial officer in a disciplinary action may, but is not required to, serve as counsel on a pro bono basis if the Court does not have funds available to pay the lawyer.
- Rule 8 was amended to allow the Court on the Judiciary to consider a complaint that previously was dismissed, but only to determine if the judicial officer has engaged in a pattern of misconduct.