

**INDIANA JUDICIAL NOMINATING COMMISSION**  
**INDIANA COMMISSION ON JUDICIAL QUALIFICATIONS**

**Fiscal Year 2010-2011**

**Adrienne Meiring, Counsel**

The Indiana Judicial Nominating Commission (“Nominating Commission”) and the Indiana Commission on Judicial Qualifications (“Qualifications Commission”) are established by Article 7, section 9, of the Indiana Constitution. The Chief Justice of Indiana, Randall T. Shepard, is the *ex officio* Chairman of both Commissions. The other six members, who serve three-year terms, are three lawyers elected by other lawyers in their districts and three non-lawyers appointed by the Governor. In addition to the Chief Justice, the elected and appointed Commission members as of June 30, 2011 were: John O. Feighner, Esq., of Fort Wayne; Mike Gavin of Warsaw; Molly Kitchell of Lebanon; Fred McCashland of Indianapolis; James O. McDonald, Esq., of Terre Haute; and William E. Winingham, Jr., Esq., of Indianapolis. Christine Keck of Evansville and John C. Trimble, Esq., of Indianapolis also served during the fiscal year. The Nominating Commission met on eleven occasions and the Qualifications Commission met six times during the fiscal year.

Although comprised of the same members, the two Commissions perform distinct functions. The Nominating Commission appoints the Chief Justice of Indiana from among the five Supreme Court Justices. The Nominating Commission also solicits and interviews candidates to fill vacancies on the Supreme Court, the Court of Appeals, and the Tax Court. It selects three nominees for each vacancy, and the Governor appoints one of the nominees to fill the vacancy.

In May 2010, Justice Theodore R. Boehm announced that he would step down from the Indiana Supreme Court on September 30, 2010. After publicizing the vacancy, the Nominating Commission conducted interviews of 34 candidates. The Commission completed its evaluation of the candidates in August 2010 and sent the following names to the Governor for his selection of Justice Boehm's replacement: Judge Steven David of Boone County, Judge Robyn Moberly of Marion County, and attorney Karl Mulvaney of Indianapolis. On September 17, 2010, Governor Daniels appointed Judge Steven David to the Indiana Supreme Court.

Judge Thomas G. Fisher announced in August 2010 that he would retire from the Indiana Tax Court at the end of the year. The Nominating Commission interviewed fourteen candidates for the vacancy. After completing its final evaluation of the candidates in October 2010, the Commission forwarded the following names to the Governor for his selection of the next Indiana Tax Court judge: attorney Joby Jerrells of Bloomington, Judge Karen Love of Hendricks County, and attorney Martha Wentworth of Indianapolis. On December 22, 2010, Governor Daniels appointed Martha Wentworth to the Indiana Tax Court.

The Nominating Commission also certifies former judges as Senior Judges to help qualifying courts with their caseloads. During this fiscal year, the Nominating Commission certified nineteen new Senior Judges and recertified 91 Senior Judges. Three senior judge applications were denied during the fiscal year.

The Qualifications Commission investigates allegations of ethical misconduct brought against Indiana judges, judicial officers, and candidates for judicial office. Periodically, the Commission privately cautions judges who have committed relatively minor or inadvertent violations of the Code of Judicial Conduct. In the most serious cases, the Qualifications Commission prosecutes formal disciplinary charges in public proceedings before the Supreme Court. Additionally, the Qualifications Commission and its staff provide judges and judicial candidates with advice about their ethical obligations, and Commission counsel responded to several hundred informal requests for advice during the fiscal year.

The Qualifications Commission considered 380 complaints alleging judicial misconduct this fiscal year. It dismissed 165 complaints summarily because they did not raise valid issues of judicial misconduct and instead were complaints about the outcomes of cases or otherwise were outside the Commission's jurisdiction. Another 187 were dismissed on the same grounds after Commission staff examined court documents or conducted informal interviews.

Of the remaining twenty-eight cases on the Qualifications Commission's docket, the Commission requested the judges' responses to the allegations and conducted inquiries or investigations. Of those, four complaints were dismissed after the Qualifications Commission concluded the judges had not violated the Code of Judicial Conduct. The Commission dismissed three additional complaints when the judges took remedial actions. The Qualifications

Commission sent advisory letters or privately cautioned seven other judges for deviations from their ethical obligations. The Qualifications Commission's decision to caution a judge rather than proceed to formal, public charges depends upon the seriousness of the violation, the judge's acknowledgement of the violation, whether the conduct was intentional or inadvertent, whether the judge has a history of meritorious complaints, and other mitigating or aggravating circumstances.

In one case, the Qualifications Commission agreed to close its investigation into a judge's alleged ethical misconduct on the condition that the judge immediately resign. That matter involved claims that the judge routinely mishandled cases by imposing remedies that exceeded the judge's legal authority when defendants failed to pay court debts.

The Qualifications Commission concluded another case against a judicial officer this fiscal year by issuing a public admonition in lieu of filing charges. The Commission found probable cause to file disciplinary charges against Judge Charles W. Hunter, Beech Grove City Court, for making injudicious public comments to a television reporter regarding the judge's son parking in a handicapped parking space without the appropriate placard displayed. Judge Hunter agreed to accept a public admonition in lieu of public charges; therefore, charges were not filed, and the Commission publicly admonished him. (Public Admonition of Judge Charles W. Hunter, Beech Grove City Court, May 5, 2011.)

During the fiscal year, the Supreme Court resolved two public disciplinary cases filed by the Commission. In *In re Hughes*, 947 N.E.2d 418 (Ind. 2011), the Court accepted a conditional agreement from the Commission and Judge William J. Hughes to a Public Reprimand for his arrest for operating a vehicle while intoxicated. In *In re Young*, 943 N.E.2d 1276 (Ind. 2011), the Court suspended Judge William E. Young for 30 days without pay, after accepting a conditional agreement submitted by the Commission and the judge regarding the judge's conduct while presiding over traffic cases. The parties agreed that Judge Young failed to uphold the integrity of the judiciary and did not act fairly and impartially when he made intemperate remarks to a defendant during her bench trial and when he engaged in a pattern of conduct aimed at discouraging litigants from exercising their trial rights, which included imposing increased penalties against litigants who exercised the right to trial.

The Commission also filed disciplinary charges against another judge this fiscal year. In

*Matter of Harkin*, Case No. 45S00-1106-JD-00390, the Commission charged Judge Jeffrey A. Harkin, Hammond City Court, with misconduct for improperly referring infraction defendants to a traffic school and then dismissing their cases rather than imposing court fees, as required by statute. At the end of the fiscal year, that case was awaiting the appointment of a panel of Masters.

Nine inquiries or investigations were pending at the end of the fiscal year.

The Nominating Commission and Qualifications Commission are staffed by the Division of State Court Administration with a full-time attorney and an administrative assistant. A more detailed report about the Commission and its members and activities may be found at [www.IN.gov/judiciary/jud-qual](http://www.IN.gov/judiciary/jud-qual).