

**THE WEST VIRGINIA STATE BAR
COMMISSION ON JUDICIAL INDEPENDENCE**

- (a) The West Virginia State Bar Commission on Judicial Independence is created to provide appropriate and timely responses to criticism of judges and courts and to promote a better understanding of the judicial system.
- (b) The President of The West Virginia State Bar, upon approval of the Board of Governors, will appoint the Commission as set forth herein. The terms of service shall be three years. Initial terms may be staggered. Appointments should be made to ensure diversity. The President will designate the Chairperson.
 - (1) Public Members: Three (3) members who have never been licensed to practice law in any jurisdiction and who are not employees of governmental units.
 - (2) Lawyers: Five (5) members who are practicing lawyers or full professors at the West Virginia University College of Law.
- (c) The responsibilities of the Commission shall be:
 - (1) To respond to unjust criticism when rules of conduct prevent response by the individuals subject to the criticism;
 - (2) To address errors or inaccuracies in reporting criticism of judges and courts;
 - (3) To be available as a resource for obtaining unbiased information concerning judicial activities and court process;
 - (4) To encourage dissemination of information to the public about noteworthy achievements and improvements within the justice system; and
 - (5) To seek a better understanding within communities of the legal system and the roles of judges and lawyers.
- (d) Response to unjust criticism will be conducted as follows.
 - (1) Referrals of criticisms of judges or courts may be received by any member. The referring person must be available to assist in gathering background and factual information.
 - (2) The Chairperson will designate a member to gather all pertinent information including a copy of any text of the criticism.
 - (3) The judge or court may be asked to provide information necessary for the Commission to evaluate the criticism

- (4) The Commission shall not release a response unless at least five (5) members agree that a response is warranted and agree on the text of the response.
- (e) The Commission shall determine under what circumstances a response is warranted. Except in unusual circumstance, response is appropriate when the criticism:
- (1) Is serious and will most likely have more than a passing or *de minimis* effect on a community;
 - (2) Displays a lack of understanding of the legal system or the role of the judge;
 - (3) Is materially inaccurate;
 - (4) Provides an opportunity to inform the public about the value of an independent judiciary; or
 - (5) Provides an opportunity to inform the public about an important aspect of the administration of justice.
- (f) Except in unusual circumstances, the Commission will not issue a response when:
- (1) The criticism is a fair comment or opinion;
 - (2) The comment stems from personal conflicts between a judge and the critic;
 - (3) Issues are raised which must be addressed by the Judicial Investigation Commission;
 - (4) A response would prejudice a matter at issue in a pending proceeding; or
 - (5) A lengthy investigation is necessary to develop the facts at issue.
- (g) When a response by an individual or association has addressed the concerns raised by the unfair criticism, the Commission may choose to forego publishing its response.