

28 U.S.C. JUDICIARY AND JUDICIAL PROCEDURE > CHAPTER 16: COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE

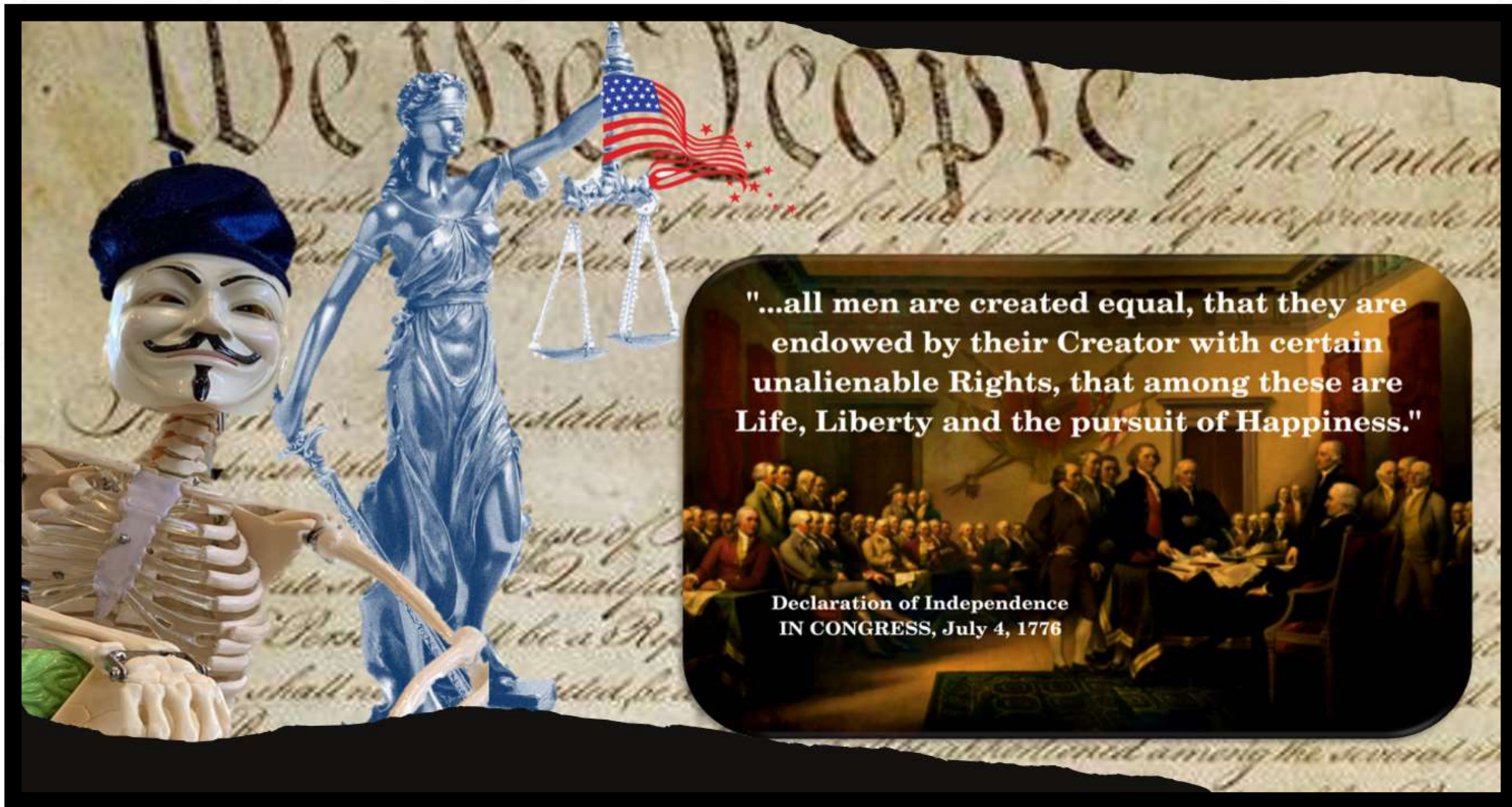
This breakdowns the processes taken by federal judges when handling complaints against judges for misconduct or disability.



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Source: <https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title28-chapter16&edition=prelim>



What is the purpose of the Judicial Conduct and Disability Act of 1980?

28 U.S.C. Chapter 16



The Purpose of this Act **WAS** to hold judges accountable for misconduct that would have been prejudicial to the effective and expeditious administration of the business of the courts.

Unfortunately, the process is fuel with Conflict-of-Interest issues that have led to questions in the process and doesn't seem to be working as originally intended based on an in-depth analysis of 25 years of data extracted from the reports submitted in accordance with the act.

See [28 USC Ch. 16: COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE \(house.gov\)](https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title28-chapter16&edition=prelim) >
<https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title28-chapter16&edition=prelim>

Who can file a complaint against Judges?

28 U.S.C. § 351 (a)

ANY PERSON WHO alleges that a judge ...

- ☐ Has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.
- ☐ Is unable to discharge all the duties of the office by reason of mental or physical disability.



See [28 USC Ch. 16: COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE \(house.gov\)](https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title28-chapter16&edition=prelim) >
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Who is responsible for Identifying Complaints [Judge Defined] ?

28 U.S.C. § 351 (b)



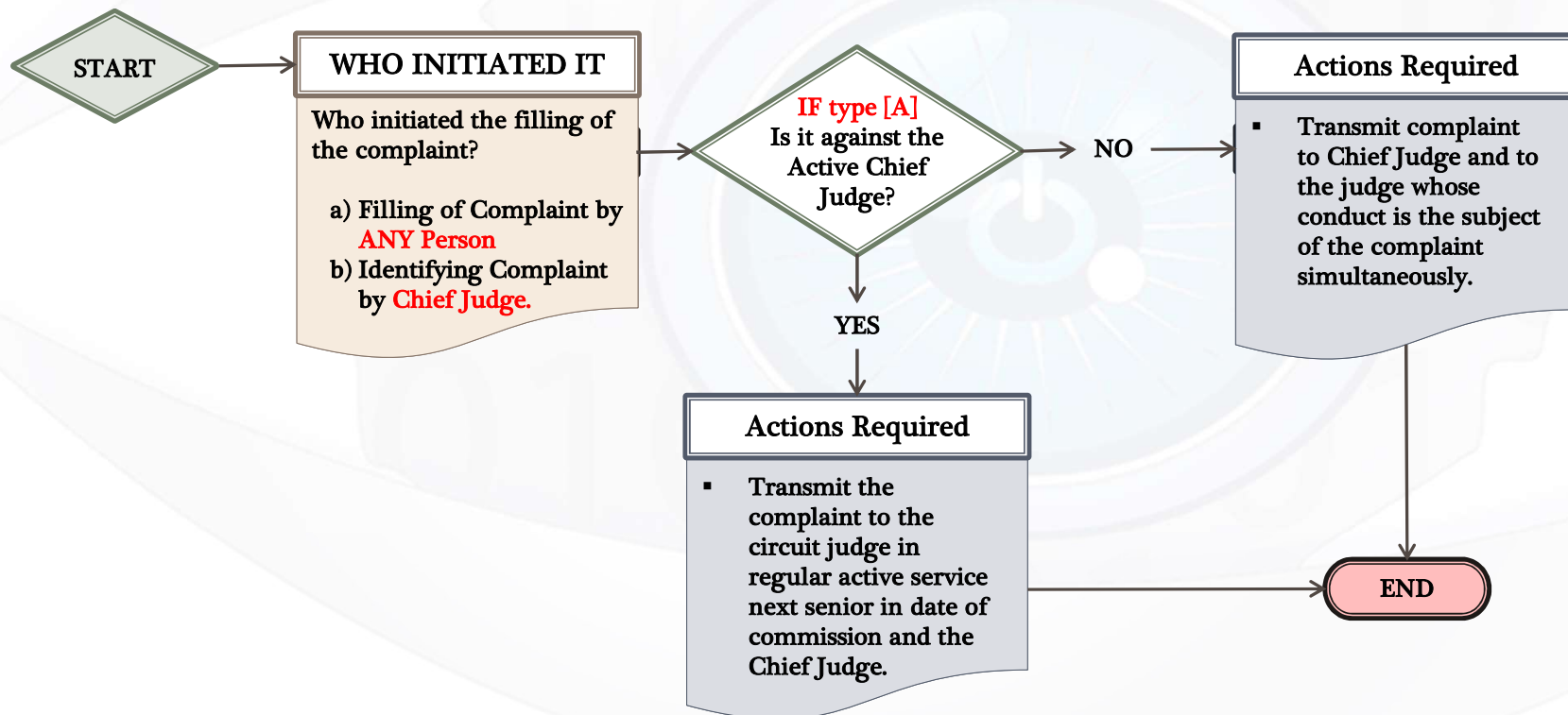
The Chief Judge of [each] circuit, in the interest of the effective and expeditious administration of the business of the courts and on the basis of information available, MAY by written order stating reasons, identify a complaint to comply with the requirements noted under 28 U.S.C. Chapter 16- Complaints Against Judges and Judicial Discipline and thereby dispense with filing of a written complaint.

See 28 USC Ch. 16: COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE ([house.gov](https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title28-chapter16&edition=prelim)) >
<https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title28-chapter16&edition=prelim>

What steps should the clerk take upon receiving a complaint? [Transmittal Process]

28 U.S.C. § 351 (c)

Upon receipt of a complaint, the clerk should follow the steps in the diagram below ...



Who falls under the definition of Judge?

28 U.S.C. § 351 (d)(1)

According to *28 U.S.C. Chapter 16- Complaints Against Judges and Judicial Discipline* the term “JUDGE” applies to the following types....

- ☐ Circuit Judge
- ☐ District Judge
- ☐ Bankruptcy Judge
- ☐ Magistrate Judge

NOTE: *28 U.S.C. §363*> Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit

The *United States Court of Federal Claims, the Court of International Trade, and the Court of Appeals for the Federal Circuit shall each prescribe rules, consistent with the provisions of this chapter, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints.* In investigating and taking action with respect to any such complaint, each such court shall have the powers granted to a judicial council under this chapter.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1854.)





§ 352 REVIEW OF COMPLAINT BY CHIEF JUDGE PROCESS

Overview

Who is considered a Chief Judge?



- A Chief Judge [*also known as the presiding judge*], is the highest-ranking or most senior member of a court or tribunal that has more than one judge.
- The primary responsibility is the Administration of the Court.
- They assume the role of Chief Judge based on seniority. This criteria also applies to District and Circuit Chiefs.
- They are senior in commission of those judges who are:
 - 1) Sixty-four (64) years of age or under.
 - 2) Have served for One (1) year or more as a judge.
 - 3) Have not previously served as chief judge.

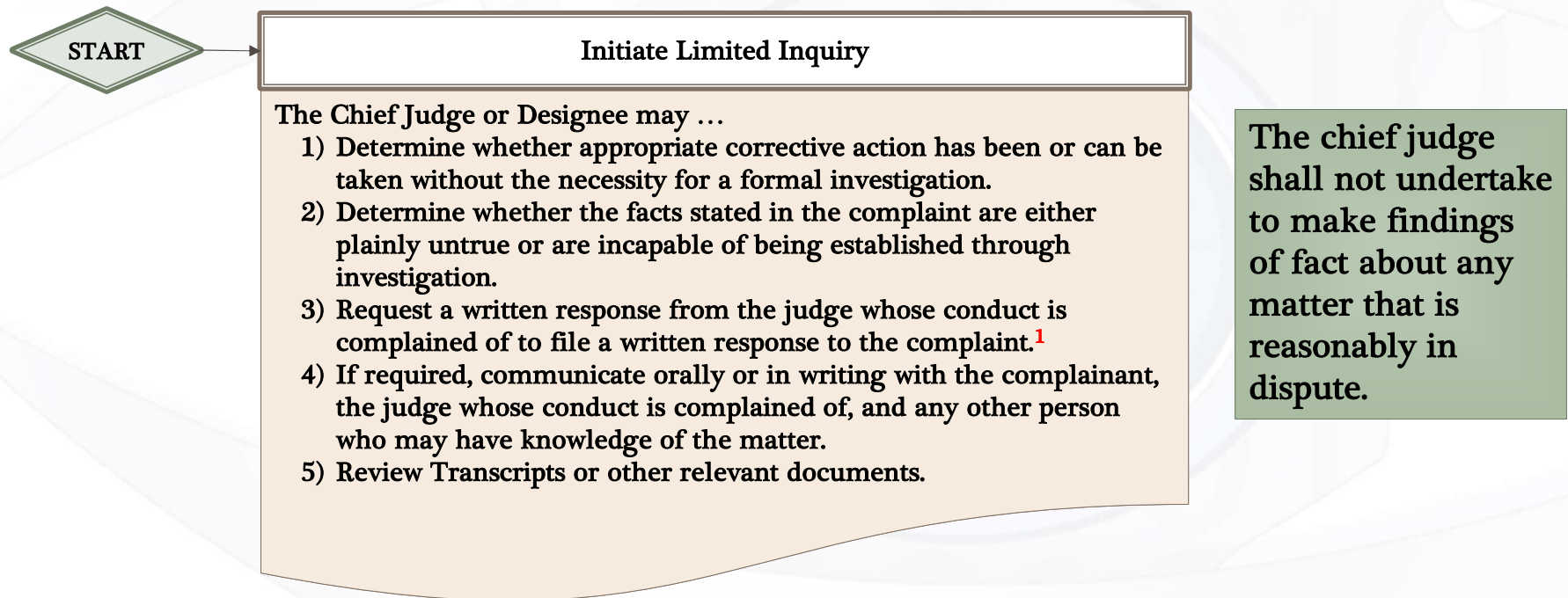
What are the requirements to be a Chief Judge?

- To qualify for the role, a judge **MUST** be in active service and hold seniority over the court's commissioned judges who are sixty-four (64) years or under, have served one (1) year or more, and have not previously served as chief judge.
- Chief Judges serve for a term of Seven (7) years until another judge becomes eligible to serve in the position.
- No judge is permitted to serve as chief judge after reaching the age of seventy (70) years unless no other judge is qualified to served.
- Unlike the Chief Justice of the United States, a Chief Judge returns to active service after the expiration of their term and does not create a vacancy on the court by the fact of their promotion.
- As of 2023- the Chief Judge is selected by the President of the United States.



Step 1: Expeditious Review; Limited Inquiry

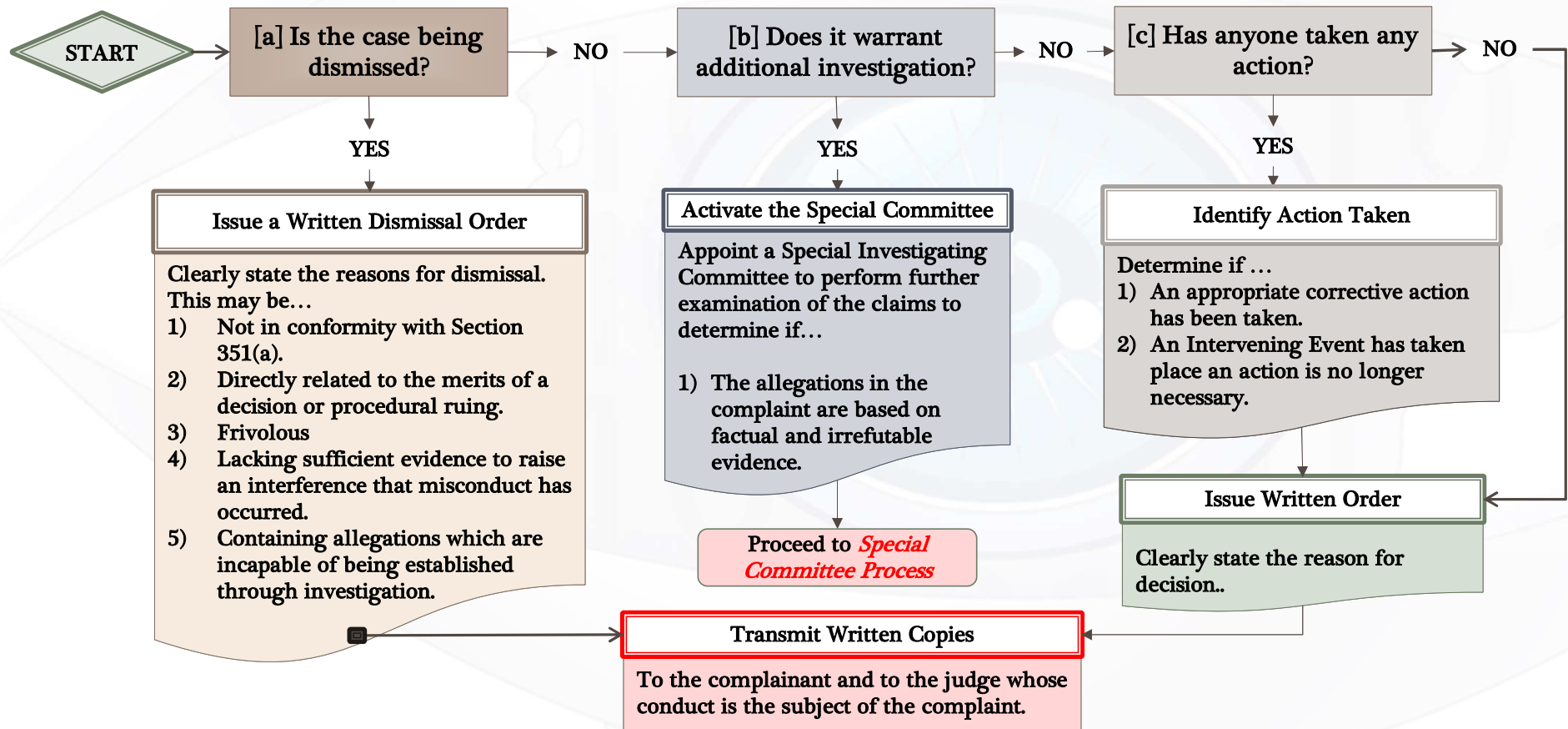
28 U.S.C. § 352 (a)



1. The response **SHALL NOT** be made available to the complainant unless authorized by the judge filing the response.

After expeditiously reviewing a complaint under subsection (a), follow the process below ...

Step 2: Actions by Chief Judge following Review 28 U.S.C. § 352 (b)



Step 3: Review of Orders of Chief Judge

28 U.S.C. § 352 (c)



A complainant or judge aggrieved by a final order of the chief judge under this section *may petition the judicial council of the circuit for review thereof.*



The denial of a petition for review of the chief judge's order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1849.)

Step 4: Referral of Petitions for Review to Panels of the Judicial Council

28 U.S.C. § 352 (d)

28 U.S.C. § 358

D

Each judicial council may, *pursuant to rules prescribed under section 358*, refer a petition for review filed under subsection (c) to a panel of *no fewer than 5 members of the council, at least 2 of whom shall be district judges*

§358. Rules [a] Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this *28 U.S.C. chapter 16*, including the processing of petitions for review, as each considers to be appropriate.

§358 [b] Required Provisions

Rules prescribed under subsection (a) shall contain provisions requiring that ...

- 1) Adequate prior notice of any investigation be given in writing to the judge whose conduct is the subject of a complaint under this chapter.
- 2) The judge whose conduct is the subject of a complaint under this chapter be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing.
- 3) The complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

§358 [c] Procedures

Any rule prescribed under this section shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such rule shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference. *No rule promulgated under this section may limit the period of time within which a person may file a complaint under this chapter.*



§ 353 SPECIAL COMMITTEES

Process Overview

Step 1: Special Committees Appointment

28 U.S.C. § 353 (a)

IF no order is entered under section 352(b), the Chief Judge shall promptly ...

1

Appoint himself or herself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint.

2

Certify the complaint and any other documents pertaining thereto to each member of such committee.

3

Provide written notice to the complainant and the judge whose conduct is the subject of the complaint of the action taken under this subsection.

Step 2: Change in Status or Death of Judges

28 U.S.C. § 353 (b)

A judge appointed to a special committee under subsection §353 (a) ...

A

May continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his or her term as chief judge terminates under subsection (a)(3) or (c) of section 45.

28 U.S.C. § 45 (a)(3)

- A. Except as provided in subparagraph (C), the chief judge of the circuit appointed under paragraph (1) shall serve for a term of seven years and shall serve after expiration of such term until another judge is eligible under paragraph (1) to serve as chief judge of the circuit.
- B. Except as provided in subparagraph (C), a circuit judge acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge has been appointed who meets the qualifications under paragraph (1).
- C. No circuit judge may serve or act as chief judge of the circuit after attaining the age of seventy years unless no other circuit judge is qualified to serve as chief judge of the circuit under paragraph (1) or is qualified to act as chief judge under paragraph (2).

28 U.S.C. § 45 (c)

If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as circuit judge, he may so certify to the Chief Justice of the United States, and thereafter the chief judge of the circuit shall be such other circuit judge who is qualified to serve or act as chief judge under subsection (a).

For information on 28 U.S.C. §28 (a) go to <https://www.law.cornell.edu/uscode/text/28/45>

B

IF a judge appointed to a committee under subsection (a) dies, or retires from office under section 371(a), while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee.

Step 3: Investigation by Special Committee

28 U.S.C. § 353 (c)

Each committee appointed under subsection (a) shall ...

1

Conduct an investigation as extensive as it considers necessary.

2

Expediently file a comprehensive written report thereon with the Judicial Council of the circuit.

- ☐ Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council of the circuit.



§ 354 ACTION BY JUDICIAL COUNCIL

Process Overview

What is the Judicial Council?

The Judicial Council was formed in accordance with **28 U.S. Code § 332- Judicial Councils of Circuits**. Each circuit's chief judge serves as chair of the judicial council in their circuit. An equal number of additional circuit and district judges comprise each judicial council. Each judicial council shall make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit.

Judicial councils are intended to:

1. Oversee certain aspects of appeals and district court operations.
2. Review local court rules for consistency with national rules of procedure.
3. Approve district court plans on topics such as equal employment opportunity and jury selection.
4. Review complaints of judicial misconduct.

28 U.S.C. § 332- Judicial Councils of Circuits

28 U.S.C. § 332 (a)
28 U.S.C. 371

Question	Answer
Who heads the Council? [a1]	The Chief Judge of each Judicial Circuit.
How often shall they hold a meeting? [a1]	At least twice each year and at such places as they may designate.
Who are the members of the council? [a1]	The chief judge of the circuit, who shall preside, and an equal number of circuit judges and district judges of the circuit, as such number is determined by majority vote of all such judges of the circuit in regular active service.
How long shall members of the council serve? [a2]	They can be members for terms established by a majority vote of all judges of the circuit in regular active service.
Who may serve as a member of the council? [a3]	Except for the chief judge of the circuit, either judges in regular active service or judges retired from regular active service under section <u>371(b)</u> of this title may serve as members of the council.
Who MAY NOT be considered for membership? [a3]	Retired judges from regular active service under section <u>371(b)</u> MAY NOT be considered for meeting the requirements of section <i>371 (f)(1)(A), (B), or (C)</i> .

§371 (b)(1) Any justice or judge of the United States appointed to hold office during good behavior may retain the office but retire from regular active service after attaining the age and meeting the service requirements, whether continuous or otherwise...

371 (f)(1)(A), (B), or (C). ????? > Should this be **(e)** (1)(A)(B), (C) ???

There is no F under 28 U.S.C. § 371

See 28 U.S. Code § 371 - Retirement on salary; retirement in senior status | U.S. Code | US Law | LII / Legal Information Institute (cornell.edu) >
<https://www.law.cornell.edu/uscode/text/28/371#b>

See 28 U.S. Code § 332 - Judicial councils of circuits | U.S. Code | US Law | LII / Legal Information Institute (cornell.edu) >
<https://www.law.cornell.edu/uscode/text/28/332>

28 U.S.C. § 332- Judicial Councils of Circuits

28 U.S.C. § 332 (a-c)
28 U.S.C. 371

§371 (a) Any justice or judge of the United States appointed to hold office during good behavior may retire from the office after attaining the age and meeting the service requirements, whether continuous or otherwise ...

§371 (b)(1) Any justice or judge of the United States appointed to hold office during good behavior may retain the office but retire from regular active service after attaining the age and meeting the service requirements, whether continuous or otherwise...

Question	Answer
How many district judges may serve in the council simultaneously? [a4]	No more than one district judge from any one district shall serve simultaneously on the council, UNLESS at least ONE district judge from each district within the circuit is already serving as a member of the council.
What happens if a member dies, becomes disable, retires or resigns from the council? [a5]	If any of the events falls under 371 (a) or 372 (b) of this title, or disability of a member – a replacement member shall be designated to serve the remainder of the unexpired term by the chief judge of the circuit.
Who MUST attend the council meetings? [a6]	Each member of the council SHALL attend each council meeting UNLESS excused by the Chief Judge of the Circuit.
What should be the proper title of the Council? (b)	The Judicial Council of the Circuit.
Who is responsible for the Reporting Task? (c)	The Chief Judge.
To whom the semi-annual reports shall be sent? (c)	The Director of the Administrative Office of the United States Courts.
What actions shall the council take? (c)	Any action deemed necessary.

See [28 U.S. Code § 332 - Judicial councils of circuits | U.S. Code | US Law | LII / Legal Information Institute \(cornell.edu\)](https://www.law.cornell.edu/uscode/text/28/332) >
<https://www.law.cornell.edu/uscode/text/28/332>

28 U.S.C. § 332- Judicial Councils of Circuits

28 U.S.C. § 332 (d) (1)

Question	Answer
What actions should the Judicial Council take? [d1]	Each judicial council shall make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit.
What should the council do about general orders issued? [d1]	Any general order relating to practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment.
When should the order so relating take effect? [d1]	It shall take effect upon the date specified by such judicial council.
Who shall receive a copy of such order? [d1]	A copy of the order shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public.
Is the council authorized to hold hearings? [d1]	Yes. The council may ... <ol style="list-style-type: none">1. Hold hearings2. Take sworn testimony3. Issue subpoenas and subpoenas duces tecum.
Who shall issue the Subpoenas? [d1]	Subpoenas and subpoenas duces tecum shall be issued by the clerk of the court of appeals, at the direction of the chief judge of the circuit or his designee and under the seal of the court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or agency thereof

See [28 U.S. Code § 332 - Judicial councils of circuits | U.S. Code | US Law | LII / Legal Information Institute \(cornell.edu\)](https://www.law.cornell.edu/uscode/text/28/332) >
<https://www.law.cornell.edu/uscode/text/28/332>

28 U.S.C. § 332- Judicial Councils of Circuits

28 U.S.C. § 332 (d) (2-4)

Question	Answer
Who is responsible for carrying the orders issued by the council? [d2]	ALL judicial officers and employees of the circuit shall promptly carry into effect ALL orders of the Judicial Council.
What happens in the case of failure to comply with an order or subpoena issued under this chapter 16 of this title? [d2]	A judicial council or a special committee appointed under <u>section 353 of this title</u> may institute a contempt proceeding in any district court in which the judicial officer or employee of the circuit who fails to comply with the order made under this subsection shall be ordered to show cause before the court why he or she should not be held in contempt of court.
When should regular business of the courts be referred to the council? [d3]	Unless an impediment to the administration of justice is involved, there is no need to refer general business to the council.
How often shall each council review the rules prescribed under Section <i>2071: Rule-making Power of 28 U.S.C.</i> for consistency with the rules prescribed under section <i>2072: Rules of procedure and evidence; power to prescribe of 28 U.S.C.</i> ? [d4]	Each judicial council shall periodically review the rules prescribed under section 2071 by district courts within its circuit for consistency with the rules prescribed under section 2072.
How often shall the council modify or abrogate inconsistent rules? [d4]	During the course of review, whenever a rule is found to be inconsistent, the council may modify or abrogate the rule [upon discovery].

28 U.S.C. § 332 [d4]- Judicial Councils of Circuits [§ 2071 >Rule-making power generally]

28 U.S.C. § 2071

Question	Answer
Who is responsible for prescribing rules for the conduct of Judicial Business? [a]	The <i>U.S. Supreme Court and ALL courts established by Act of Congress</i> may from time to time prescribe rules for the conduct of their business. Such rules shall be consistent with Acts of Congress and rules of practice and procedure prescribed under <i>28 U.S.C. §2072</i> .
How should the rules be prescribed? [b]	Any rule prescribed by a court, other than the Supreme Court, under subsection [a] shall be prescribed <i>ONLY after giving appropriate public notice and an opportunity for comment</i> . Such rule shall take effect upon the date specified by the prescribing court and shall have such effect on pending proceedings as the prescribing court may order.
How long should the rule remain in effect? [c]	<p>1) <i>A rule of a district court</i> prescribed under subsection (a) shall remain in effect unless modified or abrogated by the judicial council of the relevant circuit.</p> <p>2) <i>Any other rule prescribed by a court other than the Supreme Court</i> under subsection (a) shall remain in effect unless modified or abrogated by the judicial council of the relevant circuit.</p>
Who shall receive a copy of the rules? [d]	<p><u>District Court Rules</u> > Copies of rules prescribed under section (a) shall be furnished to the judicial council.</p> <p><u>All Other Rules</u> prescribed by a court other than the Supreme Court > Copies of rules prescribed under subsection (a) shall be furnished to the <i>Director of the Administrative Office of the United States Courts and made available to the public.</i></p>
What happens if a court determines that there is an immediate need for a rule? [e]	The court may proceed under this section without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.
Can a rule be prescribed by a district court outside of this section? [f]	No. District Courts MAY NOT prescribe a rule unless it is bound to 28 U.S.C. <i>§2071</i> . section.

28 U.S.C. § 332 [b4]- Judicial Councils of Circuits

[§ 2072 Rules of Procedure and Evidence; power to prescribe

28 U.S.C. § 2072

Question	Answer
Who has the power to prescribe general rules of practice and procedure and rules of evidence? [a]	The Supreme Court has the power to prescribe such rules for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals.
Can the rules abridge, enlarge, or modify any substantive right? [b]	No. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.
Can the rule define when a ruling of a district court is final?	<p>Yes. Such rules may define when a ruling of a district court is final for the purposes of appeal under 28 U.S.C. §1291 which states ...</p> <div><p><i>"The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title."</i></p></div>

See 28 USC 2072: Rules of procedure and evidence; power to prescribe ([house.gov](https://www.house.gov))

28 U.S.C. § 332- Judicial Councils of Circuits

[Circuit Executive Appointment and Role]

28 U.S.C. § 332 (e)

Question	Answer
Who can appoint a Circuit Executive?	The Judicial Council of each circuit.
What are the qualifications that must be taken into account by the Judicial Council when selecting a Circuit Executive?	The Judicial council must take into account... 1) The experience in administrative and executive positions. 2) The familiarity with court procedures and special training.
What are the duties of a Circuit Executive?	
<p>A Circuit Executive shall exercise such administrative powers and perform such duties as may be delegated to him by the circuit council. The duties include, but are not limited to ...</p> <ol style="list-style-type: none"> 1) Exercising administrative control of ALL non-judicial activities of the court of appeals of the circuit in which he/she is appointed. 2) Administering the personnel system of the court of appeals of the circuit. 3) Administering the budget of the court of appeals of the circuit. 4) Maintaining a modern accounting system. 5) Establishing and maintaining property control records and undertaking a space management program. 6) Conducting studies relating to the business and administration of the courts within the circuit and preparing appropriate recommendations and reports to the chief judge, the circuit council, and the Judicial Conference. 7) Collecting, compiling, and analyzing statistical data with a view to the preparation and presentation of reports based on such data as may be directed by the chief judge, the circuit council, and the Administrative Office of the United States Courts. 8) Representing the circuit as its liaison to the courts of the various States in which the circuit is located, the marshal's office, State and local bar associations, civic groups, news media, and other private and public groups having a reasonable interest in the administration of the circuit. 9) Arranging and attending meetings of the judges of the circuit and of the circuit council, including preparing the agenda and serving as secretary in all such meetings. 10) Preparing an annual report to the circuit and to the Administrative Office of the United States Courts for the preceding calendar year, including recommendations for more expeditious disposition of the business of the circuit. All duties delegated to the circuit executive shall be subject to the general supervision of the chief judge of the circuit. 	

28 U.S.C. § 332- Judicial Councils of Circuits

28 U.S.C. § 332 (f, g)

Question	Answer
How is the Chief Executive's salary established? [f1]	The Judicial Conference of the United States determines the salary not to exceed the annual rate of level IV of the Executive Schedule pay rates under section 5315 of title 5.
How long shall the circuit executive serve? [f2]	At the pleasure of the Judicial Council of the Circuit.
Can the Circuit Executive appoint employees/staff under him/her? [f3]	Yes. The Circuit Executive may appoint, with the approval of the council, necessary employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.
Is the Circuit Executive and his/her staff deemed officers and employees of the U.S. Judicial Branch? [f4]	Yes. They are deemed to be officers and employees of the judicial branch of the United States Government within the meaning of subchapter III of chapter 83 (relating to civil service retirement), chapter 87 (relating to Federal employees' life insurance program), and chapter 89 (relating to Federal employees' health benefits program) of title 5, United States Code.
When shall Judicial Council Reports be submitted to the Administrative Office of the United States Courts? [g]	No later than January 31 st of each year. The Report must include the number and nature of orders entered under section 332 during the preceding calendar year that relate to judicial misconduct or disability.

See [28 U.S. Code § 332 - Judicial councils of circuits | U.S. Code | US Law | LII / Legal Information Institute \(cornell.edu\)](https://www.law.cornell.edu/uscode/text/28/332) >
<https://www.law.cornell.edu/uscode/text/28/332>

28 U.S.C. § 332- Judicial Councils of Circuits

28 U.S.C. § 332 (h)

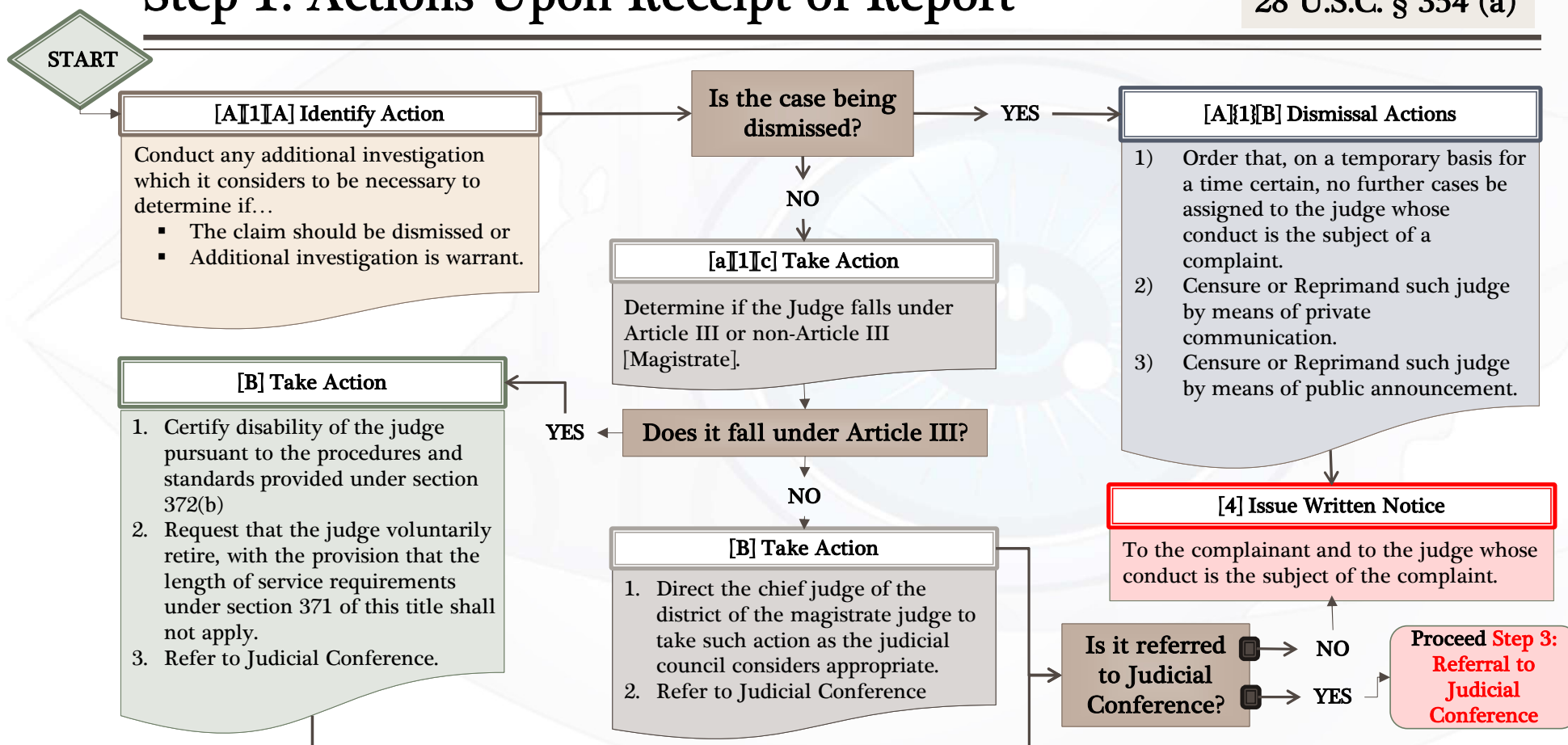
Question	Answer
Who may appoint a Circuit Executive to the U.S. Court of Appeals for the Federal Circuit? [h1]	The United States Court of Appeals for the Federal Circuit may appoint a circuit executive, who shall serve at the pleasure of the court.
What must the court take into account when selecting a Circuit Executive? [h1]	The court shall take into account ... 1) Their experience in administrative and executive positions. 2) Familiarity with Court Procedures and Special Training.
What kind of power and responsibilities does a Circuit Executive for the Federal Court of Appeals have? [h1]	The circuit executive shall exercise such administrative powers and perform such duties as may be delegated by the court. The duties delegated to the circuit executive may include the duties specified under §332 (e) of this section, insofar as such duties are applicable to the Court of Appeals for the Federal Circuit.
What shall be the salary of the Circuit Executive to the U.S. Court of Appeals for the Federal Circuit? [h2]	The salary shall be paid the salary established under §332 (f).
Can the Circuit Executive appoint employees/ staff under them? [h3]	Yes. They may appoint, with the approval of the court, necessary employees in such number as may be approved by the Director of Administrative Office of the United States Courts.
Are the Circuit Executive and his staff deemed Officers and Employees of the Judicial Branch? [h4]	Yes. They may be deemed to be officers and employees of the U.S. within the meaning of the statutes specified under §332 (f)(4).
Can the court appoint a clerk instead of a circuit executive? [h5]	Yes. The court may appoint either a circuit executive under this subsection or a clerk under section 28 U.S.C. §711, but NOT BOTH, or may appoint a combined circuit executive/clerk who shall be paid the salary of a circuit executive.

See 28 U.S. Code § 332 - Judicial councils of circuits | U.S. Code | US Law | LII / Legal Information Institute (cornell.edu) >
<https://www.law.cornell.edu/uscode/text/28/332>

The judicial council of a circuit, upon receipt of a report filed under section 353 (c) shall ...

Step 1: Actions Upon Receipt of Report

28 U.S.C. § 354 (a)



Step 2: Limitations on Judicial Council Regarding Removals

28 U.S.C. § 354 (a)(3)

Article III Judges

Under no circumstances may the judicial council order removal from office of any judge appointed to hold office during good behavior.

Non-Article III Judges [Magistrate, Bankruptcy Judges]

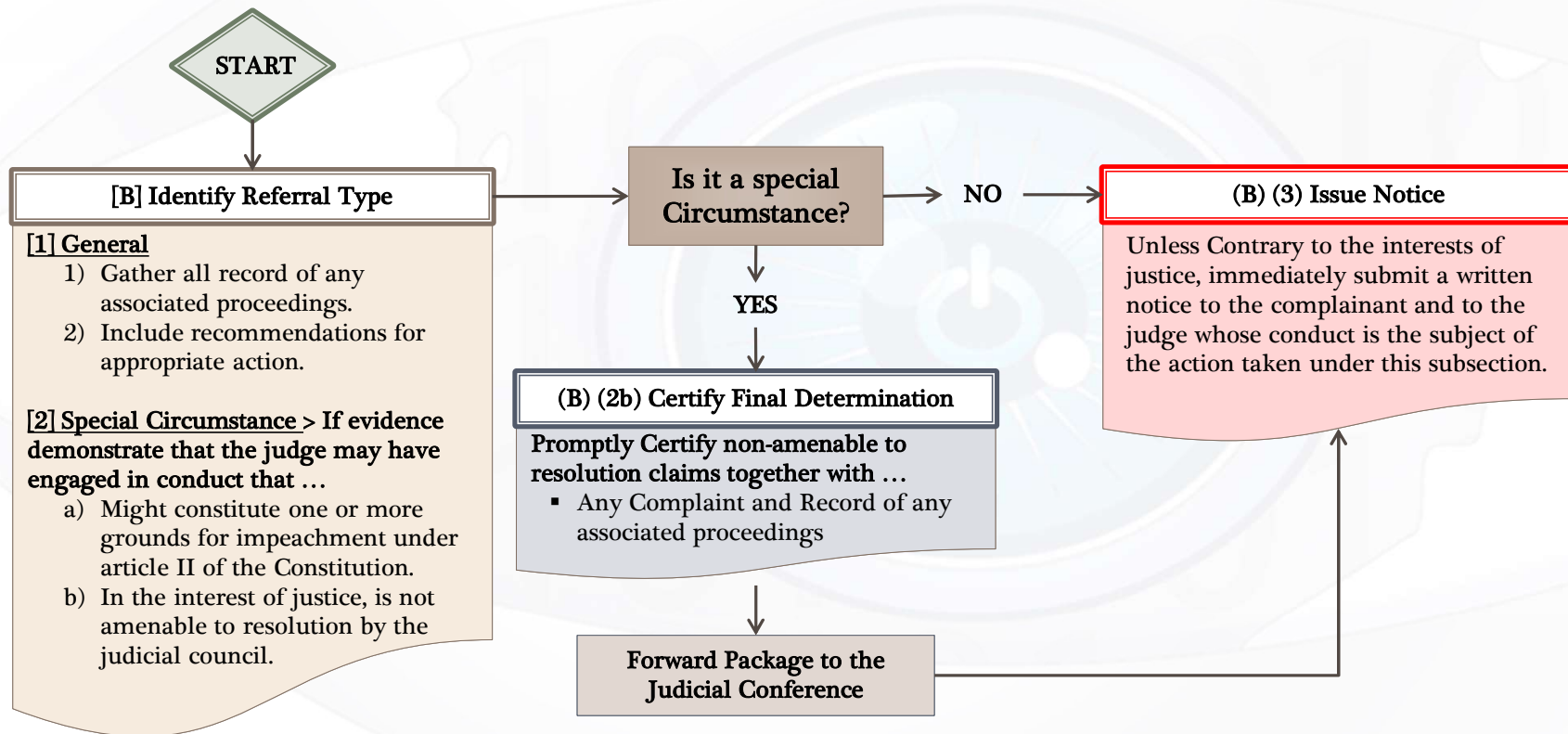
Any removal of a non-article III judges under this subsection shall be in accordance with the following sections ...

MAGISTRATE JUDGE > 28 U.S.C. § 631 (i) Removal of a magistrate judge during the term for which he is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but a magistrate judge's office shall be terminated if the conference determines that the services performed by his office are no longer needed. Removal shall be by the judges of the district court for the judicial district in which the magistrate judge serves; where there is more than one judge of a district court, removal shall not occur unless a majority of all the judges of such court concur in the order of removal; and when there is a tie vote of the judges of the district court on the question of the removal or retention in office of a magistrate judge, then removal shall be only by a concurrence of a majority of all the judges of the council. In the case of a magistrate judge appointed under the third sentence of subsection (a) of this section, removal shall not occur unless a majority of all the judges of the appointing district courts concur in the order of removal; and where there is a tie vote on the question of the removal or retention in office of a magistrate judge, then removal shall be only by a concurrence of a majority of all the judges of the council or councils. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge, and he shall be accorded by the judge or judges of the removing court, courts, council, or councils an opportunity to be heard on the charges.

MAGISTRATE JUDGE > 28 U.S.C. § 152 (e) A bankruptcy judge may be removed during the term for which such bankruptcy judge is appointed, only for incompetence, misconduct, neglect of duty, or physical or mental disability and only by the judicial council of the circuit in which the judge's official duty station is located. Removal may not occur unless a majority of all of the judges of such council concur in the order of removal. Before any order of removal may be entered, a full specification of charges shall be furnished to such bankruptcy judge who shall be accorded an opportunity to be heard on such charges.

Step 3: Referral To Judicial Conference [Article III Judges]

28 U.S.C. § 354 (b)





§ 355 ACTION BY JUDICIAL CONFERENCE

Process Overview

28 U.S.C. §331 > Judicial Conference of the United States

Question	Answer
Who can the U. S. Chief Justice summon annually to attend the conference?	The U.S. Chief Justice shall summon (i) the Chief Judge of EACH Judicial Circuit; (ii) the Chief Judge of the Court of International Trade; and (iii) a District judge from each judicial circuit at such time and place in the U.S. as he may designate.
Who shall preside the conference and what shall be the name of such?	The Chief Justice shall preside the conference and it is to be known as the Judicial Conference of the United States. If necessary, he may also call a special sessions of the conference at such times and places as he may designate.
Who selects the district judge to be summon from each judicial circuit?	The Circuit and District Judges of the circuit shall select those to be summon.
How long are the members required to serve?	They shall serve as a member of the Judicial Conference of the U.S. for a term of not less than three (3) consecutive years nor more than five (5) successive years, as established by majority vote of all circuit and district judges of the circuit.
Who can serve as a member of the Judicial Conference?	A District Judge can be either a judge in regular active service or a judge retired from regular service under section 28 U.S.C. §371 (b).
What needs to be addressed during the Judicial Conference?	The conference shall... <ol style="list-style-type: none"> 1. Make a comprehensive survey of the condition of business in the court of the United States. 2. Prepare Plans for assignment of judges to or from circuits or districts where necessary. 3. Carry a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law.
Who is required to attend the Conference?	Every judge summoned shall attend UNLESS excused by the Chief justice and shall REMAIN throughout the sessions of the conference and advise as to the needs of his circuit or cort and as to any matters in respect of which the administration of justice in the courts may be improved.

28 U.S.C. §331 > Judicial Conference of the United States [Cont.]

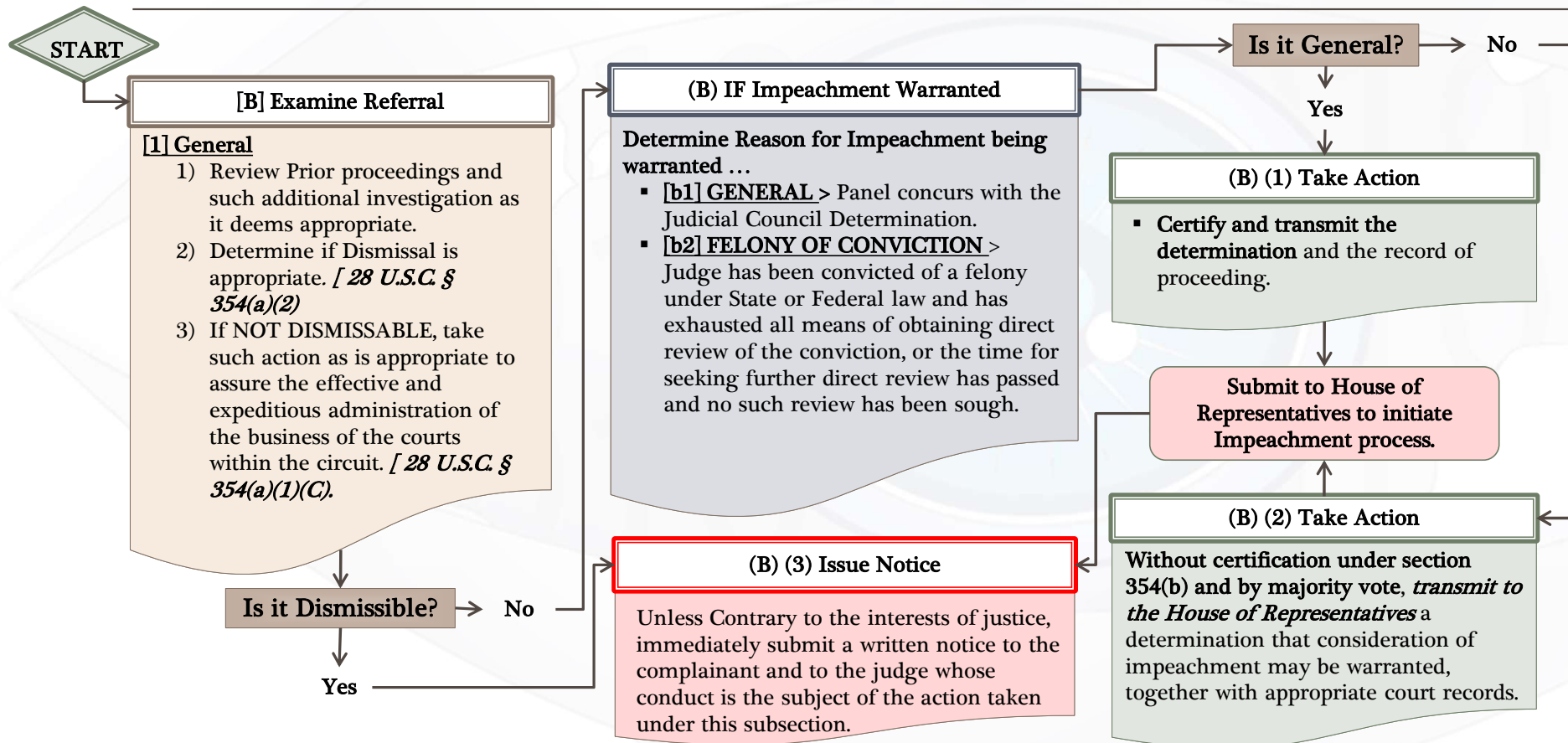
Question	Answer
What kind of authority does the Conference have?	The Conference is authorized to exercise the authority provided under 28 U.S.C. Chapter 16 as the conference, or through a standing committee.
Can the Judicial Conference establish a standing committee?	Yes. The standing committee shall be appointed by the Chief Justice and all petitions for review shall be reviewed by that committee. The standing committee may (i) hold hearings; (ii) take sworn testimony ; (iii) take sworn testimony; (iv) issue subpoenas and subpoenas duces tecum, and; (v) make necessary and appropriate orders in the exercise of its authority.
Who within the court shall issue the subpoenas and subpoenas duces tecum?	They shall be issued by the clerk of the Supreme Court or by the clerk of any court of appeals, at the direction of the Chief Justice or his designee and under the seal of the court and shall be served in the manner provided under rule 45 (c) of the Federal Rules of Civil Procedures for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or any agency thereof.
Can the Conference prescribe and modify rules for the exercise of authority provided in 28 U.S.C. Chapter 16?	Yes. They have the ability to prescribe and modify the rules under chapter 16. All judicial officers and employees of the United States shall promptly carry into effect all orders of the Judicial Conference, or the standing committee established pursuant to this section.
Can changes made to the rules based on the outcome of a continuous study of operation and effect of general rules of practice and procedures be submitted to the Supreme Court for consideration?	Yes. Any changes or additions to the rules as the Conference may deem desirable to promote simplicity in procedures, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the Conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in accordance with law.
Which laws shall the Judicial Conference members review?	They shall review rules prescribed under 28 U.S.C. §2071 by the courts, other than the Supreme Court and the district courts, for consistency with Federal law. In addition, it may modify or abrogate any such rule so reviewed found inconsistent in the course of such review.

28 U.S.C. §331 > Judicial Conference of the United States [Cont.]

Question	Answer
Who shall notify the Conference of cases to which the United States is a party?	The Attorney General shall, upon request of the Chief Justice, report on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.
Who shall submit reports to Congress and how often?	<i>The Chief Justice</i> shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.
Whom shall the Judicial Conference consult in regard to security requirements for the Judicial Branch of the Federal Government?	<p>They shall consult the Director of United States Marshals Service on a continuing basis to ensure that the views of the Judicial Conference regarding the security requirements for the Judicial Branch are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources.</p> <p>NOTE: "Judicial Security" in this stance includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel.</p>
Who retains the final authority regarding the security requirements for the judicial branch of the Federal Government?	The United States Marshals Service retains FINAL Authority.

Step 1: Judicial Conference Considerations

28 U.S.C. § 355





§ 356 SUBPOENA POWER

Process Overview

Step 2: Subpoena Power

28 U.S.C. § 356 (b)
28 U.S.C. § 331 / 332

[a] Judicial Councils and Special Committees > In conducting any investigation under this chapter, the judicial council, or a special committee appointed under section 353, shall have full subpoena powers as provided in section 332(d).

28 U.S.C. § 332(d)(1) – Judicial Councils of circuits

5th sentence > The Conference or the standing committee may hold hearings, take sworn testimony, issue subpoenas and subpoenas duces tecum, and make necessary and appropriate orders in the exercise of its authority. Subpoenas and subpoenas duces tecum shall be issued by the clerk of the Supreme Court or by the clerk of any court of appeals, at the direction of the Chief Justice or his designee and under the seal of the court and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or any agency thereof.

See [28 U.S. Code § 332 - Judicial councils of circuits | U.S. Code | US Law | LII / Legal Information Institute \(cornell.edu\)](https://www.law.cornell.edu/uscode/text/28/332) >
<https://www.law.cornell.edu/uscode/text/28/332>

[b] Judicial Conference and Standing Committees > In conducting ANY investigation under this chapter, *the Judicial Conference or a standing committee appointed by the Chief Justice under section 331* shall have FULL subpoena powers as provided under that section.

28 U.S.C. § 331 – Judicial Conference of the United States

4th Paragraph, 5th sentence > The Conference or the standing committee may hold hearings, take sworn testimony, issue subpoenas and subpoenas duces tecum, and make necessary and appropriate orders in the exercise of its authority. Subpoenas and subpoenas duces tecum shall be issued by the clerk of the Supreme Court or by the clerk of any court of appeals, at the direction of the Chief Justice or his designee and under the seal of the court and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or any agency thereof.

See [28 U.S. Code § 331 - Judicial Conference of the United States | U.S. Code | US Law | LII / Legal Information Institute \(cornell.edu\)](https://www.law.cornell.edu/uscode/text/28/331) >
<https://www.law.cornell.edu/uscode/text/28/331>

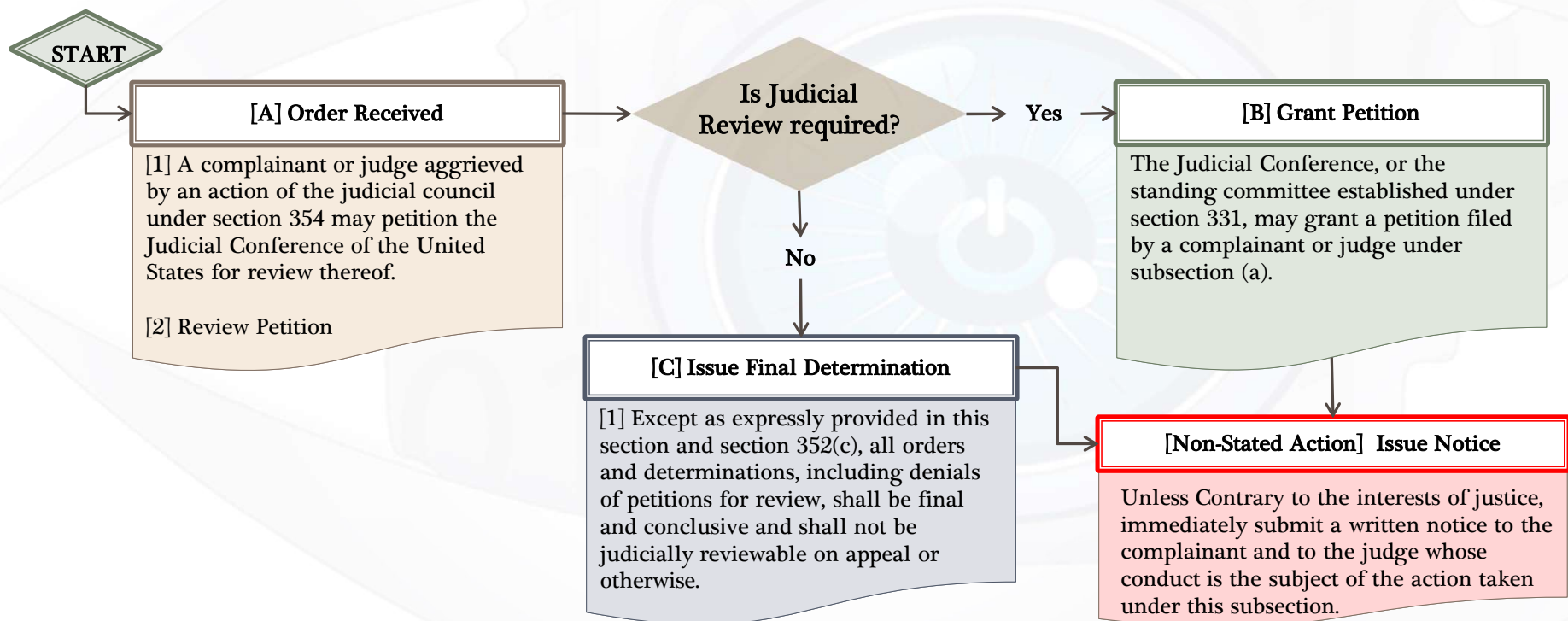


§ 357 REVIEW OF ORDERS AND ACTIONS

Process Overview

Step 1: Review of Orders and Actions

28 U.S.C. § 357





§ 358 RULES

Process Overview

Rules

28 U.S.C. § 358

Question	Answer
Who can prescribe rules for the conduct of proceedings under 28 U.S.C. Chapter 16? [a]	Each judicial council and the Judicial Conference may prescribe such rules, including the processing of petitions for review as each considers to be appropriate.
What provisions are required for rule prescription? [b]	<p>The rules prescribed under Chapter 16 shall contain provisions that ...</p> <ol style="list-style-type: none">1) adequate prior notice of any investigation be given in writing to the judge whose conduct is the subject of a complaint under chapter 16.2) The judge whose conduct is the subject of a complaint under this chapter be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and3) the complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.
When can the rules prescribed under Chapter 16 be made or amended? [c]	<i>Only after giving appropriate public notice and an opportunity for comment.</i> Any such rule shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference. No rule promulgated under this section may limit the period of time within which a person may file a complaint under this chapter.



§ 363 COURT OF FEDERAL CLAIMS, COURT OF INTERNATIONAL TRADE, COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Process Overview

Applicability to Non-District/Circuit Courts

28 U.S.C. § 363

The Courts of ...

- 1) Federal Claims
- 2) International Trade
- 3) Court of Appeals for the Federal Circuit

Shall each prescribe rules, consistent with the provisions of *28 U.S.C. Chapter 16*, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such court shall have the powers granted to a judicial council under *28 U.S.C. Chapter 16*.



PROCESS ASSESSMENT ISSUES

Overview

Issue 1: Conflict of Interest



The biggest issue with the process noted under ***28 U.S.C. Chapter 16 – Complaints Against Judges and Judicial Discipline*** is that complains are reviewed and processed by peers instead of a 3rd Party Assessors that are not directly tied to the judges accused of misconduct.

28 U.S.C. § 332: Judicial Councils of Circuits	Who are the members of the council? [a1]	The chief judge of the circuit, who shall preside, and an equal number of circuit judges and district judges of the circuit, as such number is determined by majority vote of all such judges of the circuit in regular active service.
28 U.S.C. § 331: Judicial Conference of the United States	Who can the U. S. Chief Justice summon annually to attend the conference?	The U.S. Chief Justice shall summon (i) the Chief Judge of EACH Judicial Circuit; (ii) the Chief Judge of the Court of International Trade; and (iii) a District judge from each judicial circuit at such time and place in the U.S. as he may designate.



It is widely known that 99% of the time peers will rather protect themselves and ignore the misconduct than actually do what's right. It is also widely known that those in power and who are deemed responsible for an entire entity hardly ever take accountability for their actions and instead opt to protect their personal image by ensuring that any issues within their court stay within the court. Therefore, a peer's review is often full of Bias and Prejudice and cannot be deemed appropriate due to conflict of interest.

Issue 2: Impeachment Process



Reports submitted to comply with the requirements noted under this chapter were examined from 1997 until 2022. The Data clearly shows that 98% of the claims against judges were dismissed. During this period, based on data within the Federal Judicial Center, only two (2) judges were submitted for impeachment. One (1) was acquitted, One (1) was convicted. The last judge impeached was thirteen (13) years ago.

Date	Judge	Status	Charges
June 18 th , 2009	Samuel B. Kent U.S. District Court for the Southern District of Mississippi	Acquitted <u>House of Representatives</u> > Opted to NOT pursue further articles of impeachment. <u>Senate</u> > Dismissed the articles.	Sexual Assault, obstructing and impeding an official proceeding, and making false and misleading statements.
March 11 th , 2010	G. Thomas Porteous, Jr. U.S. District Court for the Eastern District of Louisiana	Convicted <u>House of Representatives</u> > Opted to proceed with the Impeachment. <u>Senate</u> > Convicted and Remove from Office December 8, 2010.	Accepting bribes and making false statements under penalty of perjury.



There's two many questions to note in this presentation in regard to the analysis noted. Having undergone through the judicial system and witnessing firsthand the level of corruption within the courts, both federal and state level as it pertains to corrupted judges - one must wonder if the dismissal of every claim ever examined was indeed valid or they were done to protect corrupted judges from facing removal. Unfortunately, for a full understanding, the claims submitted must be carefully examined along with testimonies from the claimants to fully grasp why 98% of claims were dismissed.

See <https://www.fjc.gov/history/judges/impeachments-federal-judges> >



RECOMMENDATIONS

Overview

Recommendation



- **Chapter 16 Process** > Integrate a 3rd Party Assessor team to review ALL complaints submitted against Judges in order to eliminate conflict of interest and Bias decisions.
The 3rd party Assessors MUST NOT be related to the active judges [nepotism] or existing or current judges within the Judicial System but shall be someone who has no direct affiliation to the judges and sufficient legal knowledge to provide the Council and the Judicial Conference non-bias recommendations.
- Re-examine claims submitted in the past few years [as far as available] to identify the judges with the most complaints in order to initiate proper investigation on the claims.
- **Impeachment Process** > Review the Impeachment Process PowerPoint Breakdown for recommendations. [Inferior Court Judges should go through a normal trial vs. Impeachment. Impeachment shall apply only to U.S. Supreme Court Judges.]

References

- United States Department of Justice > <https://www.justice.gov/>
- United States Courts Administration > <https://www.uscourts.gov/>
- Title 28: Judiciary and Judicial Procedure [*Enacted June 25, 1948*] > <https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title28&saved=%7CZ3JhbnVsZWlkOlVTQy1wcmVsaW0tdGl0bGUyOC1zZWNoaW9uMjA3Mg%3D%3D%7C%7C%7C0%7Cfalse%7Cprelim&edition=prelim>