

STATEMENT OF
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TO THE
JOINT LEGISLATIVE BUDGET COMMITTEE HEARING
ON THE
2025-26 EXECUTIVE BUDGET



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Overview

I am pleased to report that Governor Hochul's Executive Budget proposes a fiscal year 2025-26 appropriation of \$9,330,000 for the Commission on Judicial Conduct, which is what the Commission requested. This represents an increase of \$430,000 over the previous year, intended to cover contractual and other mandated rises in costs, and to fill vacant staff positions. The Commission essentially requested a maintenance budget. No new projects or programs are contemplated.

I appreciate that the Governor and Legislature respect the Commission's work. Some highlights this year:

- Over 3,250 new complaints received and processed – a record;
- Over 650 preliminary inquiries or full-scale investigations authorized;
- 24 judges publicly disciplined (7 more than last year), including:
 - 16 removals or permanent resignations (3 more than last year).

I also know that the Legislature understands the Commission's unique relationship to the Executive and Judicial Branches. We perform a purely Judicial Branch function: investigating and, where appropriate, disciplining judges for ethical misconduct. While it would be a serious conflict for our funding to come from or be controlled by the Judicial Branch whose officers we oversee, it would also be a serious breach of the separation of powers doctrine for the Governor or others in the Executive Branch to control the entity that reprimands or removes judges from office.

Thus, it was decided at our creation in 1978 that the Commission's budget would be submitted to the Legislature by the Governor. The Commission's traditional liaison to the Executive has been the Counsel to the Governor, and on financial matters, of course, the Division of the Budget (DOB).

Prior to the Governor's submission of this year's budget, I had cordial conversations and emails with Budget Director Blake Washington and gubernatorial Counsel Brian Mahanna, and we were all on the same page as to what the Executive would propose regarding the Commission.

The excellent relationship presently enjoyed by the Commission and DOB has not always been the case. There have been times when, without so much as a single conversation, the Executive recommended far less than what the Commission needed to fulfill its important constitutional mandate.

To address that untenable situation, the Senate last year overwhelmingly passed a bill (S4398, A4980) that would codify in statute what the Constitution already makes clear: the Commission on Judicial Conduct is not a gubernatorial agency, and it should not be treated as if it were. The bill would require that our annual budget request be transmitted to the Legislature in the same way as the Judiciary's budget – with comment but without amendment by the Executive.

As you know, the legislation also addressed two other important reforms: extending the Commission's jurisdiction so that judges may not evade public

discipline by leaving office when we open an investigation, and fostering transparency by making our proceedings public upon filing formal disciplinary charges, as they are in 38 other states.

Background: The Commission's Unique Constitutional Status

The Commission on Judicial Conduct is created in the Constitution to enforce judicial ethics by investigating and disciplining judges for misconduct. Since 1978, we have handled over 70,000 complaints and publicly disciplined 972 judges.¹

The Commission's design is purposefully and uniquely independent. Its 11 members are appointed by leaders of the judicial, legislative and executive branches, but no one appoints a controlling number, and the Commission itself elects a Chair and designates a full-time Administrator/Counsel as chief executive officer.² Commission members serve without compensation.

To avoid an obvious conflict, our funding is not controlled by the Judiciary or the Office of Court Administration. It comes from the Legislature, which considers both the Governor's recommendation in the Executive Budget and the Commission's response. But the Commission is not an Executive agency reporting to the Governor. Indeed, the Commission is created in the Judiciary Article of the

¹ More statistics are presented on page 5.

² The Commission is comprised of four judges, five lawyers, and two non-lawyers. The Governor appoints four members, the Chief Judge appoints three, and one each is appointed by the Assembly Speaker, the Assembly Minority Leader, the Senate President Pro Tempore, and the Senate Minority Leader.

Constitution, its statutory operating authority is in the Judiciary Law, and its function is strictly limited to Judicial Branch ethics enforcement.³

Of course, we strive for a collaborative relationship with the Executive Branch – as do other constitutionally independent entities such as the Office of the Attorney General, the Office of the State Comptroller and the Judicial Branch – but our constitutional independence is essential to public confidence in our work.

Thankfully, the Legislature has been especially sensitive to the constitutional issues at stake and, significantly, has supplemented the Executive’s budget recommendation for us multiple times since 2007, by more than \$3 million.

Codifying the Commission’s Budgetary Relationships

Too often in the past, we have been disadvantaged by Executive officials or staff unattuned to the Commission’s constitutional independence or unappreciative of the fundamental separation-of-powers principle at stake. With us as with the Legislature and court system, working relations with gubernatorial staffs can vary.

It is critically important, therefore, to build some stability into the budget process, equivalent to existing law that requires the Governor to transmit the Judiciary’s budget to the Legislature with comment but without revision. To that end, we support legislation would add a new subdivision 7 to Judiciary Law Section 42, as follows:

³ Article VI, Section 22, of the Constitution; Article 2-A, Sections 40-48, of the Judiciary Law.

The commission shall transmit its annual budget request to the governor for inclusion in the executive budget without revision but with such recommendation as the governor may deem proper.

We have also discussed two other important statutory proposals: extending the Commission's jurisdiction so that judges may not evade discipline by resigning from office, and fostering transparency by making its formal disciplinary charges public, as they are in the majority of states.

The Commission's Record of Accomplishment

The Commission may well be the most consistently effective ethics-enforcement entity in government, as reflected in this record of accomplishment since its creation almost 50 years ago:

- Over 70,000 complaints processed, including a record 3,250 in 2024.
- Over 10,000 preliminary reviews and inquiries since 2001.⁴
- Approximately 10,000 full-scale investigations.
- 972 public dispositions:
 - 185 removals
 - 147 permanent resignations
 - 352 censures
 - 288 admonitions
- Approximately 1,830 confidential cautionary letters were issued to judges.
- 212 investigations are currently pending.

⁴ The Commission did not statistically track this category prior to 2001.

Conclusion

I appreciate the warm reception and thoughtful consideration the Legislature always gives me. I hope you support the Commission's request and the Governor's recommendation for a budget of \$9.33 million. Even more, I hope we finally memorialize in statute a budgetary process that accounts for the Commission's unique constitutional status and protects the fundamental separation-of-powers doctrine on which it is based.

SELECTED BUDGET FIGURES: 1978 TO PRESENT								
Fiscal Year	Budget	New Complaints	Prelimin Inquiries	New Investig'ns	Pending Year End	Attys / Investig'rs	Public Disciplines	Total Staff
1978-79	\$1.6m	641	NA	170	324	21 / 18	25	63
2023-24	\$8.1m	2,982	570	208	204	22/8	17	49
2024-25	\$8.9m	3,250	510	159	212	24/9	24	52
2025-26	\$9.3m ¹	~	~	~	~	24/9	~	56 ²

¹ Proposed

² Projected