

Amendment H: Judicial Discipline Procedures and Confidentiality

Placed on the ballot by the legislature • Passes with 55 percent of the vote

1 **Amendment H proposes amending the Colorado Constitution to:**

- 2 • create an independent board separate from the Colorado Supreme Court to
3 preside over ethical misconduct hearings involving judges; and
4 • allow for increased public access to information about judicial discipline
5 proceedings.

6 **What Your Vote Means**

7 **YES**

8 A “yes” vote on Amendment H changes
9 how judicial discipline cases are handled
10 by creating an independent board to
11 conduct hearings, reducing the Colorado
12 Supreme Court’s role in these hearings,
13 and allowing more information to be
14 shared earlier with the public.

15 **NO**

16 A “no” vote on Amendment H means that
17 the Colorado Supreme Court will continue
18 to select the judges who preside over
19 judicial discipline misconduct hearings,
20 and cases remain confidential unless
21 punishment is publically issued at the end
22 of the process.

23 **Summary and Analysis of Amendment H**

24 **What is judicial misconduct and discipline?**

25 Colorado judges must follow a code of conduct. Judicial misconduct occurs when a judge
26 acts unethically or in ways that discredit the courts. Common misconduct complaints include
27 improper demeanor, alcohol and drug use, conflicts of interest, inappropriate
28 communication, and mistreatment or harassment of staff. Any person may file a complaint,
29 and judges found to have violated judicial ethics may be disciplined publicly or privately,
30 depending upon the seriousness of the misconduct.

31 **How are judicial discipline cases currently handled?**

32 Pursuant to the Colorado Constitution, the Commission on Judicial Discipline (Commission),
33 an independent state agency charged with investigating allegations of misconduct against
34 judges, screens and investigates complaints. Members of the Commission are appointed by
35 the Colorado Supreme Court and the Governor. The screening process eliminates complaints
36 that ask to review a judge’s ruling or order a new trial, and those found to have merit are
37 investigated. Thereafter, the Commission either issues a private reprimand, dismisses the
38 complaint, or forwards findings about the more serious cases to the Colorado Supreme

1 Court. The forwarded cases are reviewed further and tried by judges appointed by the
 2 Colorado Supreme Court. After the trial, the Colorado Supreme Court receives disciplinary
 3 recommendations and agrees on a final ruling. Misconduct cases are made public only in
 4 the final stage of proceedings when judges are publicly punished.

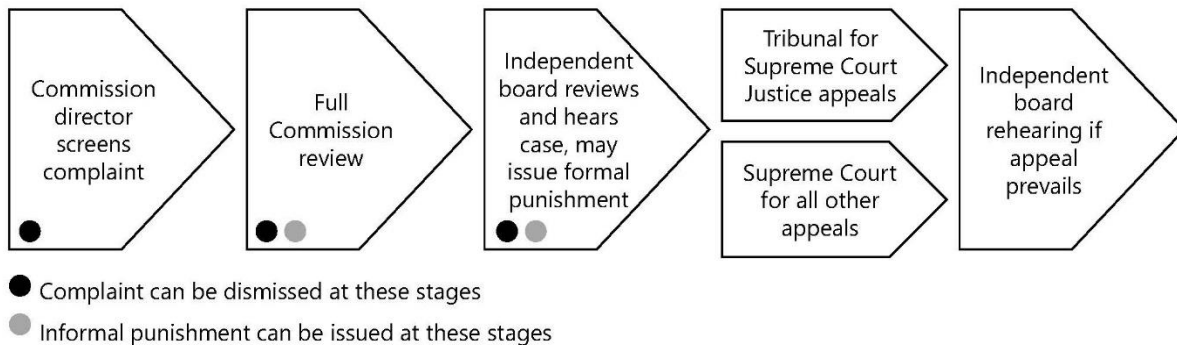
5 **What changes does Amendment H make to the judicial discipline process?**

6 Amendment H establishes the Independent Judicial Discipline Adjudicative Board
 7 (independent board) to preside over judicial discipline hearings and make disciplinary
 8 recommendations. The independent board consists of four district court judges appointed
 9 by the Supreme Court, and four attorneys and four citizens appointed by the Governor. The
 10 new independent board's decisions are considered final unless there is proof of a legal or
 11 factual error. If a case involves a Colorado Supreme Court justice, the appeal is heard by a
 12 tribunal made up of randomly selected appellate and district court judges. Formal charges
 13 against judges are also made public at the beginning of the hearing.

14 The flow chart below summarizes the new discipline process.

15
 16

Figure 1
Judicial Discipline Proceedings Under Amendment H



1 Table 1 compares current practices with those proposed in Amendment H.

2 **Table 1**

3 **Current Judicial Discipline Proceedings Compared to Amendment H**

Current Judicial Discipline	Judicial Discipline Under Amendment H
Formal Disciplinary Hearings	
The Colorado Supreme Court appoints judges to hear cases, make disciplinary recommendations, and determine sanctions against judges accused of misconduct.	The independent board, made up of an equal number of attorneys, judges, and citizens, conducts judicial discipline hearings and determines sanctions.
Discipline Cases Involving Colorado Supreme Court Justices	
A tribunal made up of seven randomly selected Court of Appeals judges hear cases involving Colorado Supreme Court justices. If the proposed sanction recommended by the tribunal is rejected by the accused judge, the Colorado Supreme Court makes the final decision.	The independent board hears discipline cases for Supreme Court justices. Seven randomly selected Colorado Court of Appeals and District Court judges review any appeal made by a Colorado Supreme Court justice who has been disciplined.
Colorado Supreme Court Role	
The Colorado Supreme Court is the final arbiter of cases after receiving disciplinary recommendations and makes rules about the process.	Colorado Supreme Court role is limited to appeals. Rules for the process are established by an independent body.
Public Access to Information	
Formal judicial disciplinary hearings are held privately until the announcement of public sanctions.	Charges against a judge can be made public upon the start of proceedings
Appointments	
Commission members are appointed by the Colorado Supreme Court and the Governor and confirmed by the Senate. Colorado Supreme Court appoints special master judges to hear discipline cases. The State Court Administrator selects judges for the tribunal that hears cases involving Supreme Court justices.	Commission members and the new adjudicative board are appointed by the Colorado Supreme Court and the Governor and confirmed by the Senate. The State Court Administrator randomly selects judges for the tribunal to hear appeals from Supreme Court justices.

4 **Why is Amendment H on the ballot?**

5 In 2023, the Colorado legislature passed three bipartisan bills about judicial discipline
6 procedures and workplace culture, including Amendment H. The other two bills address
7 confidentiality, complaint filing and reporting, and data collection, as well as created a new
8 office to assist judicial employees with workplace and other complaints.

For information on those issue committees that support or oppose the measures on the ballot at the November 5, 2024, election, go to the Colorado Secretary of State’s elections center web site hyperlink for ballot and initiative information:

<https://coloradosos.gov/pubs/elections/Initiatives/InitiativesHome.html>

1 **Arguments For Amendment H**

- 2 1) Colorado judges should not have direct influence and oversight over the discipline of
3 their colleagues. Amendment H aims to enhance the autonomy, transparency, integrity,
4 and independence of the judicial discipline process. Historically, judicial discipline has
5 largely been self-regulated, facing challenges in oversight and self-protection. This
6 amendment serves to enhance public confidence and trust in the courts. Finally, this
7 measure is a compromise recommended by nearly all members of the General Assembly
8 and the Judicial Branch.

9 **Arguments Against Amendment H**

- 10 1) The current system works. Judges understand how to review cases, hold hearings, and
11 make impartial and hard decisions. As a result, they are well-suited to hear judicial
12 discipline cases. The amendment transfers this authority to attorneys and citizens, who
13 cannot fully understand judicial ethics and the unique challenges of being a judge. The
14 judiciary’s existing system of checks and balances, such as nomination and retention
15 elections, ensures only the best become and remain judges.

16 **Fiscal Impact of Amendment H**

- 17 **State spending.** The measure will increase state costs by about \$50,000 per year. This
18 funding provides compensation and training to members of the newly created judicial
19 discipline board and rulemaking committee.