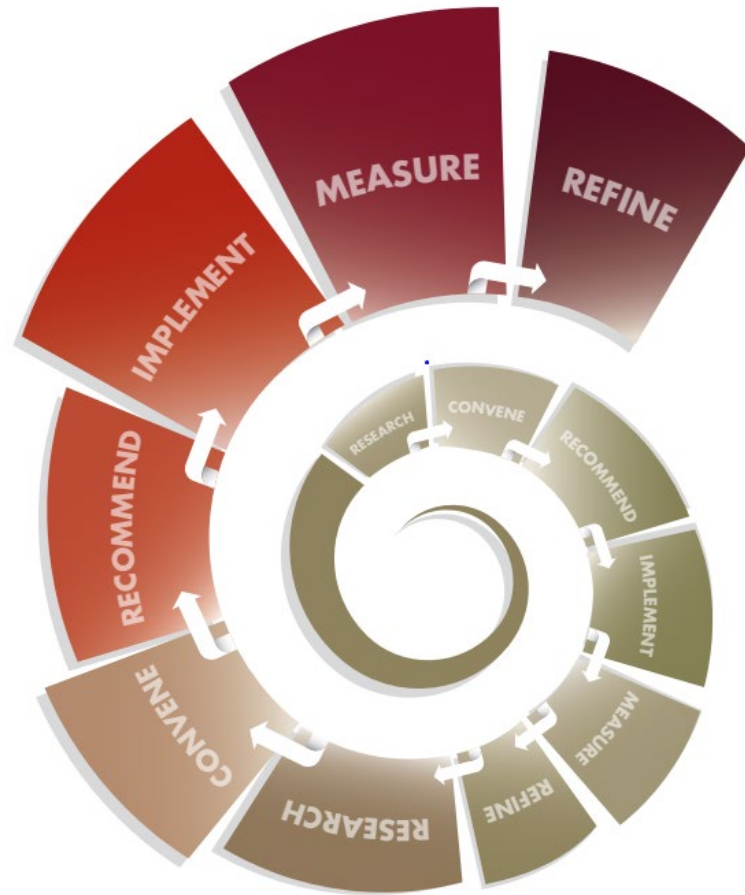





INSTITUTE *for the* ADVANCEMENT  
*of the* AMERICAN LEGAL SYSTEM

**Brittany KT Kauffman**  
**CEO, IAALS**





GOALS AND PRINCIPLES FOR  
JUDICIAL DISCIPLINARY  
SYSTEMS

MARCH 1-2, 2018

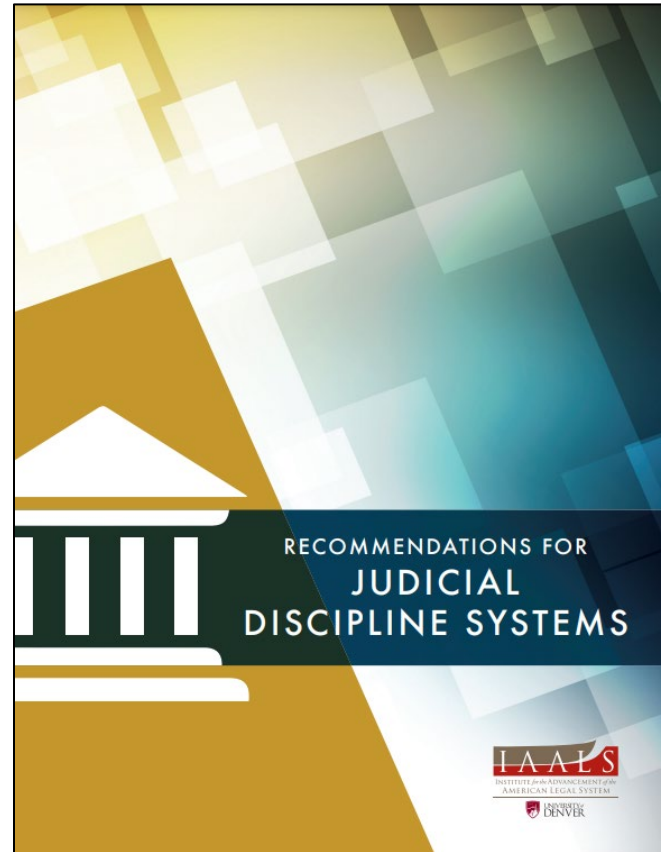
THE STURM FAMILY  
FOUNDATION

DIALOGUES™  
*at the Penrose House—a program of El Pomar Foundation*

IAALS  
INSTITUTE for the ADVANCEMENT of the  
AMERICAN LEGAL SYSTEM

UNIVERSITY OF  
DENVER

# Recommendations for Judicial Discipline Systems



# BROAD GOALS

- Protect the public
- Promote public confidence in the integrity, independence, competence, and impartiality of the judiciary
- Encourage judges to maintain high standards of conduct both on and off the bench.

# HOW COMMISSIONS ACCOMPLISH THESE GOALS

- Through investigations of allegations of misconduct or incapacity and appropriate disciplinary action
- The Montana Constitution, Art VII § 11, provides for removal and discipline

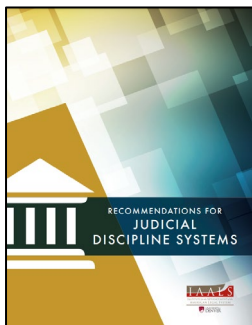
Section 11. **REMOVAL AND DISCIPLINE.** (1) The legislature shall create a judicial standards commission consisting of five persons and provide for the appointment thereto of two district judges, one attorney, and two citizens who are neither judges nor attorneys.

(2) The commission shall investigate complaints, make rules implementing this section, and keep its proceedings confidential. It may subpoena witnesses and documents.

(3) Upon recommendation of the commission, the supreme court may:

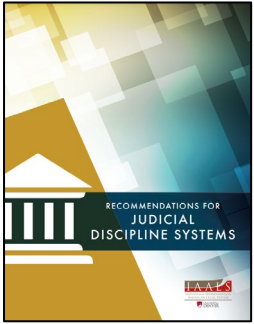
(a) Retire any justice or judge for disability that seriously interferes with the performance of his duties and is or may become permanent; or

(b) Censure, suspend, or remove any justice or judge for willful misconduct in office, willful and persistent failure to perform his duties, or habitual intemperance.



# PROTECTING IMPARTIAL JUDICIAL DECISION-MAKING

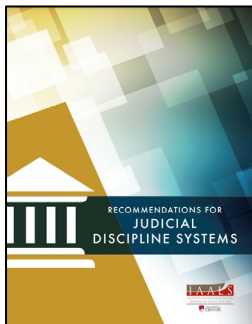
- The disciplinary process is not—and cannot be—another means of appealing an outcome of the case.
- Commissions should clearly explain the difference between conduct that is appropriate for an appeal and conduct that is appropriate for a discipline complaint, and commissioners should carefully screen for the latter, even when the conduct complained about is a judicial decision.



# PROMOTING COMMISSION INDEPENDENCE, IMPARTIALITY, AND INTEGRITY

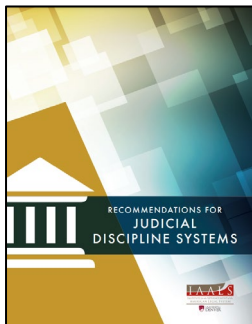
- Diverse Commission Composition
- Legislative Funding Source
- Structure that Separates Investigation from Adjudication
- Written and Thorough Procedural Rules and Codes of Conduct for the Commission
- Orientation and Continuing Education for Commissioners and Staff





# FAIRNESS AND EFFICIENCY IN COMMISSION OPERATIONS

- Initiating Complaints
- Screening of Complaints
- Transparency and Confidentiality of Proceedings
- Orders



# EDUCATION AND DISSEMINATION

- Summary Statistics
- Educating Judges and the Public



INSTITUTE *for the* ADVANCEMENT  
*of the* AMERICAN LEGAL SYSTEM

---



Thank you  
[Iaals.du.edu](http://Iaals.du.edu)