

# Judicial council takes no action against former Judge Alex Kozinski

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**(CNN)** — Nearly eight weeks after a federal judicial council received a sexual harassment complaint against California-based US Appeals Court Judge Alex Kozinski, the council said Monday that it was dismissing the grievance because Kozinski had stepped down in December.



The council said it conducted no investigation and was not reaching a ruling the merits of the complaint.

But it maintains the charges are serious.

"We recognize that the complaint references grave allegations of inappropriate misconduct, which the federal judiciary cannot tolerate," [the judicial council of the 2nd Circuit wrote](#).

However, since Kozinski has retired, the council has dropped the matter.

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[The Washington Post](#) reported in December that six former clerks or junior staffers claimed that Kozinski subjected them to inappropriate sexual conduct or comments. Other women subsequently came forward.

The 67-year-old Kozinski is eligible for a \$217,600 annual pension, a figure based on the standard appellate judge salary, according to David Sellers, spokesman for the Administrative Office of the US Courts.

Susan Estrich, Kozinski's lawyer, declined to comment.

When he announced his retirement on December 18, Kozinski said in a statement, "I've always had a broad sense of humor and a candid way of speaking to both male and female law clerks alike. In doing so, I may not have been mindful enough of the special challenges and pressures that women face in the workplace. It grieves me to learn that I caused any of my clerks to feel uncomfortable; this was never my intent."

A recent CNN investigation found that judges who are subject to a serious complaint often leave the bench, immediately halting any investigation.

The CNN report also found that, overall, very few of the more than one thousand complaints filed each year against federal judges are deeply investigated. Seldom are judges reprimanded, suspended or subject to other disciplinary action.

University of Pittsburgh law professor Arthur Hellman, who has studied the judiciary's complaint system, said, "By resigning before the investigation even began, Kozinski avoided any kind of inquiry."

It is unlikely any congressional committee would take up the Kozinski case, Hellman added, questioning why members of Congress would take the time to look specifically into the conduct of an individual who has left the bench. However, he said, lawmakers may want to look more broadly at judicial sexual harassment and other misconduct.

## **Sending copy of four-page report to Congress**

The council said that "given the seriousness of the conduct alleged," it was asking the Committee on Judicial Conduct and Disability of the US Judicial Conference to forward a copy of the order "to any relevant Congressional committees for their information." It was not clear what the judicial council hoped would come of that action, particularly because Kozinski has already stepped down.

Congress may forcibly remove a judge from office through the process of impeachment and conviction. The House of Representatives, which is responsible for any impeachment, typically begins a proceeding only on a recommendation of the Judicial Conference.

Only three times in the past 30 years have federal judges been impeached by the House and convicted by the Senate, for issues related to bribery and perjury.

## **Previous complaints against Kozinski**

After the Kozinski harassment claims emerged, Chief Justice John Roberts established a working group to examine the judiciary's procedures for protecting court employees from misconduct. The group is scheduled to report back to Roberts in May.

Kozinski underwent a separate disciplinary process in 2009 after the Los Angeles Times reported that Kozinski was maintaining a publicly accessible website of sexually explicit



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images. He publicly apologized and took the server offline. A judicial council admonished Kozinski but concluded no further discipline was warranted.

The Philadelphia-based 3rd Circuit judicial council that pursued the 2009 claim noted that, "The judge recognizes that some members of the public, upon learning he possessed the material, may have the misimpression that he has demeaning or disdainful attitudes toward women, creating in the minds of some people what he called 'a highly distorted picture' of him. The judge testified, 'It is especially unfortunate that this happened on account of images and videos that I care absolutely nothing about.'"