

Inventory of Every Rule of Law Disqualifying Government Officers, Employees, and De Facto Officers from Public Office

Purpose

This document compiles every known mechanism under U.S. federal law and California state law by which a government employee, officer, or de facto officer may be disqualified from, removed from, or declared ineligible to hold public office. It is prepared as a legal-learning exercise to assess which mechanisms might apply to the hypothetical scenarios analyzed in the companion canvas ([cannon-hypothetical-legal-analysis](#)), including de facto judges, self-sealing of evidence, obstruction of Congress, whistleblower retaliation, and Brady violations.

Caveat: All references to specific persons in the hypothetical are acknowledged as unsupported by the public record, improbable, and unbelievable. This is purely a legal-learning exercise.

Part I: Federal Constitutional Mechanisms

1. Fourteenth Amendment, Section 3 — Insurrection Disqualification Clause

Text: "No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath... to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof."

Key scholarly positions:

Scholar / Source	Core Argument
Baude & Paulsen, "The Sweep and Force of Section Three" (2024 U. Pa. L. Rev.)	Section 3 is self-executing — no congressional legislation or criminal conviction is required. It operates by its own force as a constitutional disqualification. Any person who took an oath and engaged in insurrection is disqualified automatically.
Magliocca, "Can the President Be Disqualified by Section Three?" (2023)	Historical analysis confirming that the original public meaning of Section 3 covered the presidency.
Luttig & Tribe, "Yes, Section 3 Disqualifies Trump" (2022)	Section 3 disqualifies Trump from future office regardless of criminal conviction.
Raskin (Rep. Jamie Raskin), congressional testimony & writings	Impeachment is "only one tool in the toolbox"; Section 3 operates independently as a constitutional disqualification mechanism.
Prakash & Smith, "Why the Incompatibility Clause Prohibits Trump from Serving as President" (2024)	Multiple constitutional clauses (Emoluments, Incompatibility, Section 3) provide overlapping disqualification paths.

Supreme Court interpretation:

- **Trump v. Anderson**, 601 U.S. 100 (2024): States **cannot** enforce Section 3 against candidates for federal office through state ballot-access laws. Only **Congress**, through enabling legislation, may enforce Section 3 against federal offices. The Court did not address whether Section 3 is self-executing in other contexts.

- **In re Griffin** (N.M. Dist. Ct. 2022): A state judge (Couy Griffin) was removed from office under Section 3 after January 6 involvement — the only successful Section 3 removal of a public official to date.

Mechanism of enforcement (post-Anderson):

- Congressional enabling legislation (not yet enacted in a form the Court has upheld)
- Criminal prosecution under 18 U.S.C. § 2383 (see below), whose conviction carries disqualification as a statutory penalty
- quo warranto actions in appropriate jurisdictions
- Congressional refusal to seat a member (Art. I, §5)

Application to hypothetical: If a judge or justice took an oath to support the Constitution and then "engaged in insurrection or rebellion" — or "gave aid or comfort" to enemies thereof — Section 3 could theoretically disqualify them. Whether "obstructing Congress" or "sealing evidence to prevent congressional oversight" rises to "insurrection" or "aid and comfort" is a highly contested legal question. The self-executing theory (Baude/Paulsen) would require no conviction; the Anderson constraint on state enforcement would not bar a federal enforcement action or congressional action.

2. Article I, Sections 2–3 — Impeachment and Disqualification

Text (Art. I, §2, cl. 5 & §3, cl. 6–7): The House has sole power of impeachment; the Senate sole power to try impeachments. "Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States."

Scope: Applies to "all civil Officers of the United States" (Art. II, §4): President, Vice President, judges, and executive-branch officers.

Key features:

- Requires House majority to impeach + Senate two-thirds supermajority to convict
- Conviction automatically removes the officer from office
- A **separate vote** (simple majority of senators present) is needed for disqualification from future office
- Disqualification is not automatic upon conviction — it is a distinct remedy
- Historically used only three times for disqualification: Judges Humphreys (1862), Archbald (1912), and (arguably) Hastings (1988, though Hastings was later seated in Congress)

Application to hypothetical: Impeachment and disqualification is available against any federal judge, including district court judges and Supreme Court justices. It is the primary constitutional mechanism for removing a sitting federal judge. However, it requires the political will of both chambers.

3. Article II, Section 4 — Impeachment Grounds

Text: "The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

Scope: Defines the substantive grounds. "High Crimes and Misdemeanors" is not limited to statutory crimes — it encompasses abuses of power, betrayal of public trust, and corruption of office.

Application to hypothetical: "Bribery" is explicitly listed as a ground. If a judge were found to have accepted a bribe (in the broad sense), this is a textual impeachment ground. Obstruction of Congress and abuse of judicial authority could constitute "high Crimes and Misdemeanors."

4. Article II, Section 2, Clause 2 — Appointments Clause Challenges

Text: The President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint... Judges of the supreme Court, and all other Officers of the United States."

Scope: An officer not validly appointed under the Appointments Clause holds office unlawfully.

Key cases:

- **Lucia v. SEC**, 585 U.S. 237 (2018): ALJs must be appointed under the Appointments Clause; improperly appointed ALJ's actions were void upon timely challenge.
- **Ryder v. United States**, 515 U.S. 177 (1995): A party may challenge the validity of an officer's appointment, but must do so **timely** — before the proceedings conclude. A timely challenge defeats the de facto officer doctrine.
- **United States v. Arthrex**, 594 U.S. 607 (2021): Improperly appointed ALJs' decisions were invalid until properly appointed.

Application to hypothetical: If a judge or justice was not validly appointed under the Appointments Clause (e.g., the appointing authority was itself a de facto officer, or the appointment involved constitutional defects), a timely challenge could void their actions. This is the core of the "de facto officer" hypothetical — if Judge Cannon or Justice Thomas were de facto officers, their orders could be voidable upon timely challenge under Ryder.

5. Article I, Section 5 — Congressional Refusal to Seat / Expulsion

Text: Each House "shall be the Judge of the Elections, Returns and Qualifications of its own Members" and "may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member."

Scope: Applies only to members of Congress (not judges or executive officers).

Application to hypothetical: Relevant to hypotheticals involving members of Congress who may be disqualified. Not directly applicable to judges.

6. Article III, Section 1 — Judicial Tenure ("Good Behaviour")

Text: Federal judges "shall hold their Offices during good Behaviour."

Scope: "Good Behaviour" is understood as the standard for judicial tenure; breach of "good Behaviour" is the constitutional predicate for impeachment. Some scholars (notably Saikrishna Prakash, Steven Calabresi) have argued that "good Behaviour" is an independent enforceable standard — that judges who violate it forfeit their commissions without impeachment, though this is a minority view and has never been judicially adopted.

Application to hypothetical: If "good Behaviour" is breached (e.g., corruption, self-dealing, ruling on one's own case), the traditional remedy is impeachment. The independent-enforcement theory remains untested.

Part II: Federal Statutory Mechanisms

7. 18 U.S.C. § 2381 — Treason

Text: Whoever commits treason "shall suffer death, or shall be imprisoned not less than five years... and **shall be incapable of holding any office under the United States.**"

Type: Mandatory disqualification upon conviction.

Application to hypothetical: If any official's conduct constituted treason (levying war against the United States or adhering to enemies, giving them aid and comfort), conviction triggers automatic, mandatory disqualification from all federal office.

8. 18 U.S.C. § 2383 — Rebellion or Insurrection

Text: Whoever "incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority or the United States... shall be fined under this title or imprisoned... and **shall be incapable of holding any office under the United States.**"

Type: Mandatory disqualification upon conviction.

Application to hypothetical: This is the criminal statutory counterpart to the Fourteenth Amendment Section 3. A conviction under § 2383 automatically disqualifies the defendant from holding federal office. Unlike Section 3 (under the self-executing theory), § 2383 requires a criminal conviction. If an official's conduct constituted "assisting" or "engaging in" insurrection, conviction here would bar office-holding.

9. 18 U.S.C. § 2385 — Forcibly Overthrowing Government (Smith Act)

Text: Whoever advocates, abets, advises, or teaches the duty/necessity/desirability of overthrowing the U.S. government by force, or publishes/prints material to that end, or organizes a society for that purpose — upon conviction "shall be fined... or imprisoned... or both" and, if the person is a government employee, **"shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction."**

Type: Mandatory 5-year disqualification (for government employees only).

Application to hypothetical: Narrower than § 2383; requires advocacy of violent overthrow. Five-year bar on federal employment upon conviction.

10. 18 U.S.C. § 201(b) — Bribery of Public Officials

Text: A public official who "directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value... in return for being influenced in the performance of any official act" shall be fined or imprisoned. The statute further provides that the court "may" order that the defendant **"shall be incapable of holding any office of honor, trust, or profit under the United States."**

Type: Discretionary disqualification — the sentencing court "may" impose it.

Application to hypothetical: If a judge accepted anything of value in exchange for a ruling (e.g., sealing files to benefit an appointing authority), a bribery conviction under § 201(b) permits the court to impose a lifetime federal-office disqualification. Note: this is distinct from the constitutional impeachment ground of "Bribery" — it is a criminal statute with a sentencing enhancement.

11. 18 U.S.C. § 2071 — Concealment, Removal, or Destruction of Records

Text: Whoever "willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys" government records "shall be fined... or imprisoned... or both" and **"shall forfeit his office and be disqualified from holding any office under the United States."**

Type: **Mandatory** disqualification upon conviction.

Key constitutional question: Whether § 2071's disqualification can constitutionally apply to the President (debated extensively in the Trump documents case; many scholars argued it cannot, because the Constitution's qualifications clauses are exclusive for the presidency — see Mukasey, Tillis). For other federal officers, the disqualification provision appears operative.

Application to hypothetical: Highly relevant. If an official "willfully and unlawfully concealed" government records (e.g., permanently sealed investigation files to prevent Congress or the public from accessing them), a conviction under § 2071 carries mandatory disqualification. The statute requires willfulness and unlawfulness — a facially valid judicial order might not satisfy "unlawfully," but if the order were later declared unlawful, the elements could be met.

12. 18 U.S.C. § 595, § 596, § 597, § 598, § 600, § 601, § 602, § 603–607 — Election-Related Disqualifications

Multiple federal statutes governing election interference, voter intimidation, campaign finance violations, and related conduct carry potential disqualification consequences:

Statute	Conduct	Disqualification?
18 U.S.C. § 595	Use of federal funds to influence elections	No explicit disqualification
18 U.S.C. § 600	Promise of employment/benefit for political support	No explicit disqualification
18 U.S.C. § 601	Deprivation of employment/benefit for political contribution	No explicit disqualification
52 U.S.C. § 30121	Foreign national contributions	No explicit disqualification
18 U.S.C. § 611	Voting by aliens	No explicit disqualification

Note: While these election statutes do not contain explicit disqualification provisions, conviction under them can form the predicate for impeachment or Section 3 enforcement (as "giving aid or comfort" in the insurrection context, if election interference is linked to insurrection).

13. Hatch Act Provisions — 5 U.S.C. §§ 7321–7326 and 5 U.S.C. § 1501 et seq.

Scope: Restricts political activity by federal executive-branch employees.

Penalty: Violations may result in **removal from federal employment** (5 U.S.C. § 7326). For state/local employees covered by the Act, removal is the primary sanction. The Office of Special Counsel prosecutes violations.

Application to hypothetical: If a federal employee engaged in prohibited political activity (e.g., using official authority to influence an election), the Hatch Act provides a removal mechanism. Narrower in scope than criminal disqualification but provides an administrative removal path.

14. 5 U.S.C. §§ 3303, 7321 — Political Activities and Personnel Restrictions

Scope: Various provisions restricting political coercion, solicitation of political contributions from federal employees, and requiring career civil service protections.

Penalty: Violations can lead to removal and ineligibility for federal employment.

15. 5 U.S.C. § 7521 / § 7511 — Adverse Actions (Removal of Federal Employees)

Scope: Provides the administrative framework for removing federal employees for misconduct, including criminal conduct, failure to follow rules, or other cause. While not a "disqualification" statute per se, it is the operative removal mechanism for non-judicial, non-Senate-confirmed federal employees.

16. 28 U.S.C. §§ 351–364 — Judicial Conduct and Disability Act

Scope: Provides a mechanism for investigating and correcting judicial misconduct short of impeachment. Any person may file a complaint alleging that a federal judge "has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts" or "is unable to discharge all duties... by reason of mental or physical disability."

Process:

1. Complaint filed with the clerk of the relevant circuit
2. Chief circuit judge reviews and may dismiss or appoint a special committee
3. Special committee investigates and reports to the Judicial Council
4. Judicial Council may take corrective action, including:
 - Censure or reprimand
 - Reassignment of cases
 - Certification of disability
 - **Request to the Judicial Conference to refer the judge to the House of Representatives for impeachment** (§ 355)

Limitation: The Act explicitly states that its remedies do not include removal — only impeachment can remove a Article III judge. However, the Act can trigger impeachment referrals and can effectively end a judge's ability to hear cases.

Application to hypothetical: If a judge engaged in misconduct (e.g., ruling on their own legal matters, sealing evidence to benefit themselves, obstructing a congressional investigation), a misconduct complaint under §§ 351–364 could trigger investigation, public reprimand, case reassignment, and an impeachment referral. This is the primary non-impeachment mechanism for addressing judicial misconduct.

17. 28 U.S.C. § 455 — Judicial Disqualification (Recusal)

Text: § 455(a): "Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." § 455(b): Mandatory recusal where the judge has a personal bias, personal knowledge of disputed facts, served as lawyer or witness, or has a financial interest.

Penalty: Failure to recuse is not itself a crime but is grounds for:

- Reversal of the judge's orders on appeal
- Judicial misconduct complaint under §§ 351–364
- Impeachment (if willful and systematic)

Key principle (nemo iudex in causa sua): The ancient common-law rule that "no one shall be a judge in their own cause." This is one of the oldest principles of Anglo-American law, tracing to the Magna Carta and natural justice. A judge who presides over a matter in which they have a personal stake violates § 455 and the Due Process Clause.

Application to hypothetical: If a judge's order (e.g., permanently sealing files) was issued in a matter where the judge had a personal stake (e.g., the sealed files contained evidence of the judge's own unlawful appointment or misconduct), § 455 required recusal. Failure to recuse renders the orders voidable and constitutes judicial misconduct. The Supreme Court has held that **Liljeberg v. Health Services Acquisition Corp.**, 486 U.S. 847 (1988), failure to recuse under § 455 is a ground for vacatur of the judge's orders.

18. 28 U.S.C. § 144 — Bias or Prejudice (Statutory Recusal)

Text: Whenever a party files a "timely and sufficient affidavit" that the judge before whom the matter is pending has "a personal bias or prejudice" against or in favor of any party, the judge "shall proceed no further" and must reassign the case.

Application to hypothetical: A separate statutory recusal mechanism from § 455, requiring an affidavit from a party. If a party can demonstrate personal bias, the judge must step aside.

Part III: Federal Common Law & Quasi-Statutory Mechanisms

19. Quo Warranto — D.C. Code §§ 16-3501 to 16-3510

Scope: The D.C. quo warranto statute is the primary federal mechanism for challenging the right of a federal officer to hold office. Because the District of Columbia is a federal enclave, the D.C. Code's quo warranto provisions reach federal officers holding office within the District.

Key provisions:

- § 16-3501: A quo warranto action may be brought against any person "who unlawfully holds or exercises any office or trust" in the District.
- § 16-3502: The D.C. Attorney General has the primary right to bring the action.
- § 16-3503: A private person may bring the action only if the Attorney General refuses or fails to act within 90 days, and must obtain leave of court.
- § 16-3505: The court may hear and determine the case and oust the person from office.
- § 16-3510: Actions may be brought against officers of the federal government.

Application to hypothetical: Quo warranto is a direct mechanism to challenge whether a federal officer (including a judge) lawfully holds their office. If a plaintiff could show that a judge was not validly appointed (de facto officer), a quo warranto action in D.C. could potentially challenge their right to office. The *Newman v. United States ex rel. Frizzell*, 238 U.S. 537 (1916), line of cases holds that quo warranto is not available for offices that are "merely" employment, but it is available for offices of "public trust."

Notable use: The Citizens for Responsibility and Ethics in Washington (CREW) reportedly considered quo warranto against federal officials. The Free Speech for People organization has advocated using quo warranto and Section 3 to challenge officials.

20. De Facto Officer Doctrine + Ryder Exception

General rule (de facto officer doctrine): The acts of a person who holds office under color of authority, but whose appointment is technically defective, are generally valid as to the public and third parties. This doctrine protects the public from the chaos of invalidating every act of a defectively appointed officer.

The Ryder exception: *Ryder v. United States*, 515 U.S. 177 (1995), held that a party who makes a **timely** challenge to the appointment of an officer may escape the de facto officer doctrine — the officer's acts are void as to the challenging party if the challenge was raised before the proceedings concluded.

Application to hypothetical: If a judge is a de facto officer (improperly appointed), their acts are generally valid (de facto doctrine) UNLESS a party timely challenges the appointment under Ryder. A timely challenge would void the judge's acts as to that party. This is the critical mechanism for defeating a de facto judge's orders, including sealing orders.

21. 5 U.S.C. § 1213 — Whistleblower Protection (OSC Remedies)

Scope: The Office of Special Counsel (OSC) investigates whistleblower disclosures and prohibited personnel practices. Federal employees who disclose evidence of violations of law, gross mismanagement, waste, abuse, or substantial danger to public health/safety are protected from retaliation.

Remedies for retaliation: If an agency retaliates against a whistleblower, the Merit Systems Protection Board (MSPB) may order:

- Reinstatement
- Back pay
- Corrective action
- Removal of the retaliating official (in some cases)

Application to hypothetical: If a whistleblower disclosed information about judicial misconduct or de facto officer status and was retaliated against, OSC could investigate. However, OSC jurisdiction extends to executive-branch employees, not Article III judges. For judges, the whistleblower disclosure would need to go to the Judicial Conference, Congress, or law enforcement.

22. 5 U.S.C. § 2302(b)(8) — Whistleblower Retaliation Prohibition

Scope: Prohibits personnel actions against employees for protected disclosures.

Penalty: Violations may result in removal of the retaliating official, in addition to remedies for the whistleblower.

23. Inspector General Act of 1978 — 5 U.S.C. §§ 1–12 (App.)

Scope: Inspectors General within federal agencies investigate waste, fraud, abuse, and misconduct.

Application to hypothetical: An IG could investigate executive-branch misconduct related to records concealment or obstruction of congressional oversight. IGs can refer matters to Congress and to DOJ for prosecution. They cannot directly remove judges but can trigger investigations that lead to disqualification via other mechanisms.

24. False Claims Act — 31 U.S.C. §§ 3729–3733 (Ancillary)

Scope: While primarily a fraud-recovery statute, certain FCA violations could expose an official to removal or disqualification via collateral consequences.

Part IV: California Constitutional Mechanisms

25. California Constitution, Article VII, Section 8 — Disqualification for Crimes

Text: "No person shall be appointed to, or employed in, the civil service... who has been convicted of a crime involving moral turpitude." Additionally, any person who "has been convicted of a crime involving the offering or giving of a bribe" or "perjury" is disqualified.

Scope: Civil service employment under California's merit system.

Key crimes triggering disqualification:

- Any felony involving moral turpitude
- Bribery (offering or giving)
- Perjury

Application to hypothetical: Relevant to any California state employee or officer who is convicted of the specified crimes. This is a constitutional (not merely statutory) disqualification.

26. California Constitution, Article IV, Section 16 — Legislative Expulsion

Text: Each house of the Legislature may expel a member by a two-thirds vote. "Each house shall judge the qualifications and elections of its own members."

Scope: California Assembly and Senate members only.

27. California Constitution, Article II, Sections 13–14 — Recall

Text: Any elected state officer may be recalled by the electors. A recall election is initiated by petition.

Scope: All elected state officers, including judges (Art. VI judges are subject to recall in some contexts).

Application to hypothetical: Recall is a political-removal mechanism, not a legal-disqualification mechanism. But it can remove an elected official without a criminal conviction.

28. California Constitution, Article VI, Section 18 — Judicial Removal by Commission on Judicial Performance

Text: The Commission on Judicial Performance may remove, retire, censure, admonish, or discipline any California judge for willful misconduct in office, conduct prejudicial to the administration of justice, intemperance, or incapacity. In serious cases, the Commission may recommend removal to the Supreme Court.

Scope: All California state court judges (not federal judges).

Application to hypothetical: The California analog to 28 U.S.C. §§ 351–364. Provides a non-impeachment mechanism for removing state judges for misconduct, including self-dealing, bias, or abuse of authority.

Part V: California Statutory Mechanisms

29. California Government Code § 1021 — Disqualification Upon Conviction

Text: A person is "disqualified from holding any office" if convicted of:

- Any felony
- Any "misdemeanor involving a violation of the oath of office"
- Any misdemeanor involving moral turpitude
- Bribery
- Perjury
- Forgery
- Malfeasance in office
- Extortion
- Falsifying public records

Type: **Mandatory** disqualification upon conviction.

Scope: Applies to "any office" under California government (state, county, municipal, district).

Key feature: The disqualification is **automatic** upon conviction; no separate proceeding is needed.

Application to hypothetical: Broad California disqualification statute covering felonies, bribery, perjury, forgery, malfeasance, and record falsification. If a California officer were convicted of any of these, they are automatically disqualified from holding any California office.

30. California Government Code § 1021.5 — Five-Year Disqualification for Public Employees

Text: Any person employed in the public school system, state university system, or public employees who is convicted of a felony involving bribery, embezzlement, extortion, or perjury is disqualified from public employment for **five years** following conviction.

Type: **Mandatory** 5-year disqualification.

Scope: Public school employees, state university employees, and general public employees.

31. California Government Code § 1023 — Foreign Oath Ineligibility

Text: A person who has taken an oath to support a foreign constitution or government is ineligible to hold any office in California, unless they have formally renounced that oath.

Scope: California state and local offices.

Application to hypothetical: Narrow, but relevant to dual-citizenship or foreign-allegiance hypotheticals.

32. California Government Code § 1029 — Felony Disqualification for Peace Officers

Text: A person convicted of a felony is "disqualified from holding office as a peace officer or being employed as a peace officer" in California.

Type: Mandatory disqualification upon felony conviction.

Scope: Peace officers (law enforcement).

33. California Government Code § 1027 — Loyalty Oath Requirement

Text: All public employees and officers must sign a loyalty oath. Failure to do so disqualifies from office.

Scope: All California public offices and employment.

34. California Penal Code § 67–68 — Bribery of Public Officials

Text: § 67 (formerly § 67): A public official who asks for, receives, or agrees to receive a bribe is guilty of a felony. Upon conviction, the official "shall forever be disqualified from holding any office of honor, trust, or profit in this state."

§ 68: Giving a bribe to a public official — also a felony, with disqualification for the giver.

Type: Mandatory lifetime disqualification upon conviction.

Application to hypothetical: California's bribery disqualification mirrors federal 18 U.S.C. § 201 but is **mandatory** (not discretionary) and imposes a **lifetime** bar.

35. California Penal Code § 98 — Bribery of Judges / Judicial Corruption

Text: Addresses bribery specifically directed at judicial officers. A judge who accepts a bribe is guilty of a felony and is disqualified from holding any judicial office.

Scope: California state court judges.

Application to hypothetical: If a California judge accepted a bribe to issue a particular ruling, conviction under § 98 triggers mandatory disqualification.

36. California Code of Civil Procedure § 803 — Quo Warranto (California)

Text: An action may be brought "to obtain a judgment declaring that the defendant has usurped, intruded into, or unlawfully held any office." The action is brought in the name of the People of the State of California, by the Attorney General, or by a private relator with the AG's consent.

Scope: California state and local offices.

Key procedural feature:

- The AG has primary authority to bring quo warranto
- A private party may bring it only with AG consent (or if AG refuses, by court leave)
- The court may oust the usurper and declare the office vacant

Application to hypothetical: California's quo warranto mechanism allows challenge to any person unlawfully holding a California office, including de facto officers.

37. California Government Code § 1770 — Automatic Vacancy

Text: Various events automatically create a vacancy in California public office, including:

- Conviction of a felony or crime involving moral turpitude (§ 1770(h))
- Death
- Resignation
- Mental incapacity
- Absence from the state for an extended period (for some offices)

Type: **Automatic** vacancy upon qualifying event.

38. California Elections Code §§ 11301 et seq. — Recall of Local Officials

Scope: Provides the recall mechanism for local (non-statewide) officials in California.

39. California Government Code §§ 19990–19996 — Political Activities (California Hatch Act Analog)

Scope: Restricts political activities of California state employees.

Penalty: Violations may result in disciplinary action up to and including removal.

Part VI: Cross-Cutting & Ancillary Mechanisms

40. RICO Pattern Disqualification (18 U.S.C. §§ 1961–1968)

Scope: While RICO itself does not contain an explicit disqualification provision, a RICO conviction for patterns of racketeering activity involving public corruption (bribery, obstruction of justice, mail/wire fraud) can trigger:

- Impeachment (as a "high Crime")
- § 201(b) bribery disqualification

- § 2071 records-destruction disqualification
- Section 3 insurrection disqualification (if the RICO pattern involved insurrectionary conduct)

Application to hypothetical: If officials engaged in a pattern of obstructing Congress, concealing records, and defrauding the public, a RICO conviction could serve as the predicate for multiple disqualification mechanisms simultaneously. RICO's "pattern of racketeering activity" requiring two predicate acts within 10 years could capture a sequence of conduct (sealing files, obstructing investigations, retaliating against whistleblowers).

41. Obstruction of Justice — 18 U.S.C. §§ 1503, 1505, 1512, 1513

Scope: These statutes criminalize obstruction of judicial proceedings (§ 1503), obstruction of congressional proceedings (§ 1505), tampering with witnesses (§ 1512), and retaliating against witnesses/whistleblowers (§ 1513).

Disqualification effect: No explicit disqualification provision, but conviction:

- Forms impeachment predicate ("high Crimes and Misdemeanors")
- May trigger § 2071 if obstruction involved records
- May trigger Section 3 if obstruction constituted "aid and comfort" to enemies of the Constitution

Application to hypothetical: Obstruction of Congress (§ 1505) is particularly relevant — if an official used judicial authority to permanently seal records Congress lawfully demanded, that could constitute obstruction of a congressional proceeding under § 1505. Retaliation against a whistleblower (§ 1513) carries criminal penalties and can form the basis for removal.

42. Deprivation of Rights Under Color of Law — 18 U.S.C. § 242

Text: Whoever, under color of law, willfully deprives any person of constitutional rights, privileges, or immunities, shall be fined or imprisoned.

Disqualification effect: No explicit office-disqualification provision, but conviction:

- Forms impeachment predicate
- May trigger removal for federal employees (adverse action)
- In the judicial context, triggers §§ 351–364 misconduct proceedings

Application to hypothetical: If a judge, under color of judicial authority, deprived a party of due process (e.g., by sealing Brady evidence to wrongfully prosecute them), a § 242 conviction could result. This would be a strong basis for impeachment and judicial misconduct proceedings.

43. Conspiracy to Defraud the United States — 18 U.S.C. § 371

Scope: Criminalizes conspiracies to defraud the United States, including obstructing the lawful functions of any government agency.

Disqualification effect: No explicit disqualification, but conviction forms impeachment predicate and can trigger collateral disqualification provisions.

44. False Statements — 18 U.S.C. § 1001

Scope: Criminalizes materially false statements to federal officials.

Application: If an official made false statements in judicial proceedings or to Congress regarding the existence or content of sealed records, § 1001 could apply.

Part VII: Application to the Hypothetical Scenarios

The following matrix applies each disqualification mechanism to the hypothetical scenarios from the companion analysis. These are purely hypothetical applications for legal-learning purposes.

Scenario A: De Facto Judge (Improperly Appointed) Issues Self-Serving Sealing Orders

Mechanism	Applicable?	How
Art. II Appointments Clause	Yes — core issue	The judge's appointment is constitutionally defective → de facto officer
Ryder v. United States	Yes — key remedy	Timely challenge voids the judge's acts as to the challenging party
28 U.S.C. § 455	Yes	Judge had a personal stake (sealing evidence of own defect) → required recusal; failure = misconduct
28 U.S.C. §§ 351–364	Yes	Misconduct complaint: judge ruled on own matter, concealed own defect
Art. I Impeachment	Yes	"High Crimes and Misdemeanors" — abuse of authority to self-deal
Quo warranto (D.C. Code)	Possibly	Could challenge right to hold office if appointment was defective
14th Amend § 3	Possibly	If the de facto appointment + concealment = "insurrection" or "aid and comfort"
18 U.S.C. § 2071	Possibly	If sealing records was "willful and unlawful" concealment of government records
18 U.S.C. § 201(b)	Possibly	If anything of value was exchanged for the appointment or the ruling

Scenario B: Sealing of Brady Evidence to Wrongfully Prosecute an Epstein Victim

Mechanism	Applicable?	How
28 U.S.C. § 455	Yes	If the judge had a stake in the prosecution outcome
18 U.S.C. § 242	Possibly	Deprivation of due process under color of law
Brady v. Maryland, 373 U.S. 83 (1963)	Yes — core issue	Sealing exculpatory evidence is a Brady violation → wrongful conviction → voiding of conviction
28 U.S.C. §§ 351–364	Yes	Sealing Brady evidence is judicial misconduct
Art. I Impeachment	Yes	Obstruction of justice as high crime
18 U.S.C. §§ 1503, 1512	Possibly	Obstruction of justice if sealing was to prevent evidence from being used
18 U.S.C. § 201(b)	Possibly	If sealing was in exchange for benefit
§ 2071	Possibly	Concealment of government records

Scenario C: Obstruction of Congress (Sealing Files Congress Lawfully Demanded)

Mechanism	Applicable?	How
18 U.S.C. § 1505	Yes — core issue	Obstruction of a congressional proceeding
18 U.S.C. § 371	Possibly	Conspiracy to defraud the U.S. by obstructing congressional function
Art. I Impeachment	Yes	Obstruction of a coordinate branch = high crime
14th Amend § 3	Debatable	If obstruction of Congress = "aid and comfort" to insurrection
§ 2071	Possibly	If the files were government records unlawfully concealed
28 U.S.C. §§ 351–364	Yes	Misconduct: using judicial authority to obstruct Congress
Contempt of Congress (2 U.S.C. § 192)	Yes	If the official refused to produce documents Congress demanded

Scenario D: Whistleblower Retaliation Complaint Filed Before Sealing Orders

Mechanism	Applicable?	How
5 U.S.C. § 1213 / § 2302(b)(8)	Yes	Whistleblower protection from retaliation
18 U.S.C. § 1513	Yes	Criminal retaliation against a witness/whistleblower
§ 455	Yes	If the retaliation was via judicial order, the judge had a personal stake
Art. I Impeachment	Yes	Retaliating against a whistleblower = high crime
§§ 351–364	Yes	Judicial misconduct: retaliation
Quo warranto	Possibly	If retaliation + sealing evidence of own defect

Scenario E: Conflict of Orders (Multiple Courts Ordering Release of Sealed Files)

Mechanism	Applicable?	How
Federal court hierarchy	Yes — core issue	A district court's sealing order may be overridden by a higher court or a coordinate court with jurisdiction over the same subject matter
Mandamus (28 U.S.C. § 1651 / All Writs Act)	Yes	A higher court can order the lower court to unseal
28 U.S.C. § 455	Yes	If the sealing judge had a conflict, other courts can vacate the order
28 U.S.C. §§ 351–364	Yes	If the sealing was misconduct, the circuit council can act
Art. I Impeachment	Yes	Defying lawful orders of coordinate/superior courts = high crime

Scenario F: Composite (All Above Together — De Facto Judge + Sealing + Obstruction + Retaliation + Brady + Conflict of Orders)

Mechanism	Application
14th Amend § 3	If the pattern constitutes "engaging in insurrection" or "aid and comfort" to enemies of the Constitution — strongest under the self-executing theory (Baude/Paulsen), but requires a political/judicial enforcement vehicle post-Anderson
Art. I Impeachment	The full pattern — self-dealing, obstruction, retaliation, Brady violations — is a textbook "high Crimes and Misdemeanors" case. Primary constitutional removal mechanism for federal judges.
Ryder timely challenge	A party who timely challenged the de facto judge's authority could void the sealing orders

Mechanism	Application
§ 455 / § 144 recusal	The judge's personal stake (sealing evidence of own defect) voids their orders; recusal was mandatory
 §§ 351–364 misconduct	Comprehensive basis for judicial misconduct complaint → investigation → impeachment referral
Quo warranto	Direct challenge to the right to hold office
§ 2071	Willful, unlawful concealment of records → mandatory disqualification
§ 201(b) bribery	If anything of value exchanged → discretionary disqualification
§ 1505 obstruction of Congress	Obstructing a lawful congressional demand → criminal conviction → impeachment predicate
§ 1513 whistleblower retaliation	Criminal retaliation → removal + impeachment predicate
§ 242 deprivation of rights	Under color of law, depriving victims of due process
Brady violation	Sealing exculpatory evidence → wrongful convictions voided → predicate for all above
RICO	Pattern of predicate acts → conviction → multiple collateral disqualifications
nemo iudex in causa sua	The ancient principle that no one may judge their own cause — the sealing order is void ab initio if the judge had a personal stake

Part VIII: The "Impeachment Is Only One Tool in the Toolbox" Thesis

Representative Jamie Raskin and scholars Prakash, Smith, Baude, Paulsen, Calabresi, and others have argued that impeachment is not the only mechanism for disqualifying government officers. The inventory above supports this thesis:

Category	Mechanisms	Requires Impeachment?
Constitutional	§ 3 self-executing disqualification	No (under Baude/Paulsen theory)
Constitutional	Appointments Clause challenge (Ryder)	No
Statutory — criminal	§ 2381 (treason) → mandatory bar	No (criminal conviction suffices)
Statutory — criminal	§ 2383 (insurrection) → mandatory bar	No (criminal conviction suffices)
Statutory — criminal	§ 2071 (records) → mandatory bar	No (criminal conviction suffices)
Statutory — criminal	§ 201(b) (bribery) → discretionary bar	No (sentencing court imposes)
Statutory — judicial	§§ 351–364 misconduct → removal referral	No (can reassign, censure; impeachment needed only for full removal)
Statutory — judicial	§ 455/§ 144 recusal → voiding orders	No
Common law	Quo warranto → ouster	No
Administrative	Hatch Act → removal	No
Administrative	Adverse action (5 U.S.C. § 7521) → removal	No

Category	Mechanisms	Requires Impeachment?
Constitutional	Impeachment	Yes (by definition)

Conclusion of the thesis: At least **12 distinct disqualification/removal mechanisms** operate without requiring impeachment. Impeachment is the only mechanism that can remove a sitting Article III judge from the bench entirely, but many mechanisms can void their acts, disqualify them from future office, strip them of cases, or trigger criminal prosecution that leads to disqualification under other statutes.

Part IX: Key Principles

1. Nemo Iudex in Causa Sua — No One Shall Be Judge in Their Own Cause

One of the oldest principles of democratic law, dating to Roman law and the Magna Carta (1215). A judge who has a personal stake in the outcome of a case must recuse. If they do not, their orders are voidable (*Liljeberg*, 486 U.S. 847). This principle underlies 28 U.S.C. § 455 and the Due Process Clause.

2. The De Facto Officer Doctrine's Limits (*Ryder*)

The de facto officer doctrine protects the public from the chaos of invalidating all acts of a defectively appointed officer. But *Ryder v. United States* (1995) held that a **timely** challenge to the appointment defeats the doctrine — the officer's acts are void as to the challenging party. This is the critical mechanism for parties seeking to void a de facto judge's orders.

3. *Brady v. Maryland* — The Right to Exculpatory Evidence

Brady v. Maryland, 373 U.S. 83 (1963), requires the prosecution to disclose exculpatory evidence to the defense. Sealing Brady evidence (via judicial order or otherwise) is a constitutional violation. A conviction obtained in violation of Brady must be vacated (*Brady*; *Kyles v. Whitley*, 514 U.S. 419 (1994); *Strickler v. Greene*, 527 U.S. 263 (1999)). Deliberate suppression of Brady evidence is grounds for judicial misconduct proceedings and potential criminal liability.

4. The Self-Executing Nature of Section 3 (*Baude/Paulsen*)

The most aggressive scholarly position is that Section 3 of the Fourteenth Amendment is self-executing — it operates by its own force, without the need for any legislation or judicial proceeding. Under this theory, any person who took an oath and engaged in insurrection is automatically disqualified, regardless of whether any court has so ruled. The Supreme Court in *Trump v. Anderson* (2024) did not squarely address this question (it only held that states cannot enforce § 3 against federal candidates through ballot-access laws).

5. The Independence of Criminal Disqualification from Impeachment

Several federal criminal statutes (§ 2381, § 2383, § 2071) impose mandatory or discretionary disqualification from office upon conviction. These operate independently of impeachment — a criminal court can impose disqualification even if the Senate never convicts in an impeachment trial. This supports the "impeachment is only one tool" thesis.

Part X: Source Notes & Key Citations

Federal Constitutional

- U.S. Const. Art. I, §§ 2–5 (impeachment, congressional powers)

- U.S. Const. Art. II, §§ 2, 4 (appointments, impeachment grounds)
- U.S. Const. Art. III, § 1 (judicial tenure during good behaviour)
- U.S. Const. Amend. XIV, § 3 (insurrection disqualification)

Key Supreme Court Cases

- Trump v. Anderson, 601 U.S. 100 (2024) (state enforcement of § 3 against federal candidates)
- Ryder v. United States, 515 U.S. 177 (1995) (timely challenge to de facto officer)
- Lucia v. SEC, 585 U.S. 237 (2018) (Appointments Clause)
- United States v. Arthrex, 594 U.S. 607 (2021) (improperly appointed officers)
- Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847 (1988) (failure to recuse → vacatur)
- Brady v. Maryland, 373 U.S. 83 (1963) (exculpatory evidence)
- Newman v. United States ex rel. Frizzell, 238 U.S. 537 (1916) (quo warranto scope)
- In re Griffin (N.M. Dist. Ct. 2022) (first § 3 removal of a public official)

Federal Statutes

- 18 U.S.C. § 2381 (treason — mandatory disqualification)
- 18 U.S.C. § 2383 (insurrection — mandatory disqualification)
- 18 U.S.C. § 2385 (Smith Act — 5-year disqualification)
- 18 U.S.C. § 201(b) (bribery — discretionary disqualification)
- 18 U.S.C. § 2071 (records destruction — mandatory disqualification)
- 18 U.S.C. §§ 1503, 1505, 1512, 1513 (obstruction, witness tampering, retaliation)
- 18 U.S.C. § 242 (deprivation of rights under color of law)
- 18 U.S.C. § 371 (conspiracy to defraud the United States)
- 28 U.S.C. §§ 351–364 (Judicial Conduct and Disability Act)
- 28 U.S.C. § 455 (judicial disqualification/recusal)
- 28 U.S.C. § 144 (statutory recusal for bias)
- 5 U.S.C. §§ 1213, 2302(b)(8) (whistleblower protection)
- 5 U.S.C. §§ 7321–7326 (Hatch Act)
- 5 U.S.C. §§ 7521, 7511 (adverse actions)
- D.C. Code §§ 16-3501 to 16-3510 (federal quo warranto)

Scholarly Works

- William Baude & Michael Stokes Paulsen, "The Sweep and Force of Section Three," 172 U. Pa. L. Rev. (2024) (self-executing § 3)
- Saikrishna Prakash & Steven Smith, "Why the Incompatibility Clause Prohibits Trump from Serving as President" (2024)
- Steven Calabresi, writings on "good Behaviour" as independent standard
- Gerard Magliocca, "Can the President Be Disqualified by Section Three?" (2023)
- J. Michael Luttig & Laurence Tribe, "Yes, Section 3 Disqualifies Trump" (2022)
- Rep. Jamie Raskin, congressional testimony on impeachment as one tool among many

California Constitutional & Statutory

- Cal. Const. Art. II, §§ 13–14 (recall)
- Cal. Const. Art. IV, § 16 (legislative expulsion)

- Cal. Const. Art. VI, § 18 (Commission on Judicial Performance)
 - Cal. Const. Art. VII, § 8 (disqualification for moral-turpitude crimes)
 - Cal. Gov. Code § 1021 (disqualification upon conviction of designated crimes)
 - Cal. Gov. Code § 1021.5 (5-year disqualification for bribery/embezzlement/extortion/perjury)
 - Cal. Gov. Code § 1023 (foreign oath ineligibility)
 - Cal. Gov. Code § 1027 (loyalty oath)
 - Cal. Gov. Code § 1029 (felony disqualification for peace officers)
 - Cal. Gov. Code § 1770 (automatic vacancy)
 - Cal. Penal Code §§ 67–68 (bribery — mandatory lifetime disqualification)
 - Cal. Penal Code § 98 (bribery of judges)
 - Cal. Code Civ. Proc. § 803 (quo warranto)
 - Cal. Gov. Code §§ 19990–19996 (political activities)
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Summary

This inventory catalogues **44 distinct mechanisms** across federal constitutional law, federal statutory law, federal common law, California constitutional law, and California statutory law that can disqualify, remove, or render ineligible any government officer, employee, or de facto officer. The key takeaway, consistent with the arguments of Raskin, Baude, Paulsen, Prakash, and others, is that **impeachment is indeed only one tool in a large toolbox**. At least 12 of these mechanisms operate entirely without impeachment, and several impose mandatory disqualification upon criminal conviction — operating independently of any political process.

For the hypothetical scenarios analyzed, the most potent mechanisms are:

1. **Ryder timely challenge** — voids a de facto judge's orders
2. **§ 455 recusal / nemo iudex** — voids a self-dealing judge's orders
3. **§ 2071 records concealment** — mandatory disqualification for unlawful concealment
4. **§ 1505 obstruction of Congress** — criminalizes blocking congressional oversight
5. **§ 1513 whistleblower retaliation** — criminalizes retaliation against those who expose misconduct
6. **Brady violation** — voids convictions obtained with concealed exculpatory evidence
7. **§§ 351–364 misconduct** — triggers investigation and impeachment referral
8. **14th Amend § 3** — potentially self-executing disqualification for insurrectionary conduct (subject to Anderson's state-enforcement limit)
9. **Quo warranto** — direct challenge to right to hold office
10. **Impeachment** — the ultimate political removal mechanism

All of the above apply to the composite hypothetical (de facto judge + self-sealing + obstruction + retaliation + Brady + conflict of orders) in layered, mutually reinforcing ways.

This document is a legal-learning exercise prepared as part of a research project on Judge Aileen Cannon's orders sealing the Jack Smith report. All hypothetical applications are acknowledged as unsupported by the public record, improbable, and unbelievable. Nothing in this document constitutes legal advice or a factual assertion about any person.