

**AMERICAN BAR ASSOCIATION  
CPR POLICY IMPLEMENTATION COMMITTEE**

**COMPARISON OF ABA MODEL JUDICIAL CODE AND STATE VARIATIONS**

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| <b>Rule 1.3 Avoiding Abuse of the Prestige of Judicial Office</b>  |  |
| <p><b>A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.</b></p> <p><b>COMMENT</b></p> <p>[1] It is improper for a judge to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to his or her judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use judicial letterhead to gain an advantage in conducting his or her personal business.</p> <p>[2] A judge may provide a reference or recommendation for an individual based upon the judge’s personal knowledge. The judge may use official letterhead if the judge indicates that the reference is personal and if there is no likelihood that the use of the letterhead would reasonably be perceived as an attempt to exert pressure by reason of the judicial office.</p> <p>[3] Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees, and by responding to inquiries from such entities concerning the professional qualifications of a person being considered for judicial office.</p> <p>[4] Special considerations arise when judges write or contribute to publications of for-profit entities, whether related or unrelated to the law. A judge should not permit anyone associated with the publication of such materials to exploit the judge’s office in a manner that violates this Rule or other applicable law. In contracts for publication of a judge’s writing, the judge should retain sufficient control over the advertising to avoid such exploitation.</p> |  |
| <p>Eight (8) states have identical language (AR, MN, MO, MS, MT, NY, OH, and WA)<br/>Fifteen (15) states have similar language (AZ, CT, CO, HI, IN, IA, KS, MD, NE, NV, NH, OK, TN, UT, WY)<br/>One (1) state has different language (DE)</p>  |  |
| <b>AL</b>  |  |
| <b>AK</b>  |  |
| <b>AZ</b><br><b>Effective</b><br><b>9/1/09</b>   | <p>[2] in second sentence replaces “official” with “judicial” and deletes requirement that judge indicate reference is personal<br/>[3] adds “by recommending qualified candidates for judicial office” after “screening committees” and “and volunteering information” after “inquiries from”<br/>[4] deletes “whether related or unrelated to the law”</p> |
| <b>AR</b>  | Identical  |

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| <b>Effective<br/>7/1/09</b>          |   |
| <b>CA</b>                            |   |
| <b>CO<br/>Effective<br/>7/1/10</b>   | Identical   |
| <b>CT<br/>Effective<br/>1/1/2011</b> | Changes “shall not abuse” to “shall not use or attempt to use”<br>[2]: Deletes “if there is no likelihood that”; inserts “not” between “would” and “reasonably”;<br>[4]: Changes “rule” to “code”   |
| <b>DE<br/>Effective<br/>11/1/08</b>  | (A): similar to 2007 Model Code but replaces “shall” with “should” and “allow others to do so” with “discourage others from doing so”<br>Adds: (B) <i>A judge should not convey or permit others to convey and should discourage others from conveying the impression that they are in a special position to influence the judge.</i><br>Comment: similar to portions of 1990 Model Code Canon 2B Commentary second paragraph   |
| <b>DC<br/>(as pro-<br/>posed)</b>    | Identical   |
| <b>FL</b>                            |   |
| <b>HI<br/>Effective<br/>1/1/09</b>   | Title: replaces “abuse” with “misuse”<br>Rule: replaces “abuse” with “lend”<br>Adds Comment [1b]: same as first two sentences of 1990 Model Code Canon 2B Commentary second paragraph   |
| <b>ID</b>                            |   |
| <b>IL</b>                            |   |
| <b>IN<br/>Effective<br/>1/1/09</b>   | [2]: replaces language after “personal knowledge” with “and may use official letterhead, but may not provide a reference or recommendation if there is a likelihood that it would reasonably be perceived as an attempt to exert pressure by reason of the judicial office”<br>[3]: adds “initiating communication, writing letters of recommendation” before “cooperating”   |
| <b>IA<br/>Effective<br/>5/3/10</b>   | [2] Replaces language after “official letterhead” with : “for such reference or recommendation. Except as provided in comment 3 or as a member of a nominating commission under Iowa Code chapter 46, a judge should not provide a reference or recommendation for a person seeking appointment to judicial office. This rule does not prohibit an applicant from listing a judge as a reference when seeking appointment to judicial office;”<br>[3] Adds “specific” before “inquiries.” |
| <b>KS<br/>Effective<br/>3/1/09</b>   | Title: Replaces “abuse” with “inappropriate use”<br>Rule: replaces “abuse” with “lend”<br>[2]: replaces second sentence with “ <i>However, the use of judicial letterhead for anything other than official court business should be exercised with the utmost caution. A judge should only use judicial letterhead when its use could not be reasonably perceived as an attempt to inappropriately use the prestige of judicial office to influence others.</i> ”                         |
| <b>KY</b>                            |   |
| <b>MD<br/>Effective<br/>7/1/10</b>   | Title: Replaces “Abuse of the” with “Lending the;”<br>Replaces “abuse” with “lend;”<br>[2] inserts “an” before “official letterhead”; replaces “office” with “position” at end.   |
| <b>MA</b>                            |   |

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| <b>MI</b>                            |   |
| <b>MN<br/>Effective<br/>7/1/09</b>   | Identical   |
| <b>MO<br/>Effective<br/>1/1/2012</b> | Replaces [2] with:<br><i>In addition, the need for every recommendation on official stationery to recite that it is the “personal” act of the judge is questionable. Recommendation letters of the type authorized by judicial codes are reviewed by sophisticated individuals with a sufficient knowledge that referenced are private, not official acts. References sent to educational institutions, governmental agencies, scholarship committees, and businesses are not likely to be misinterpreted as court acts.</i><br>[4] Replaces “this Rule” with “this Rule 2-1.3”   |
| <b>MS<br/>(as pro-<br/>posed)</b>    | Identical   |
| <b>MT<br/>Effective<br/>1/1/09</b>   | Identical   |
| <b>NE<br/>Effective<br/>1/1/2011</b> | [2] Adds clause to beginning of paragraph: “Although a judge should be sensitive to possible abuse of prestige of office”   |
| <b>NV<br/>Effective<br/>1/19/10</b>  | [3]: adds “or by submitting on official letterhead letters to such entities endorsing or opposing the person” to end  |
| <b>NH<br/>Effective<br/>4/1/2011</b> | [3] Adds at the end: “Testifying as to the qualifications of a judicial nominee at a confirmation hearing is not to be construed as a violation of this rule.”  |
| <b>NJ</b>                            |   |
| <b>NM<br/>(as pro-<br/>posed)</b>    | Replaces “abuse” with “lend”<br>[1] Adds at the end: “A judge must avoid lending the prestige of judicial office for the advancement of the private interests of others. For example, a judge must not use the judge’s judicial position to gain advantage in a civil suit involving a member of the judge’s family. (As to the acceptance of awards, <i>See</i> Rule 21-301 NMRA.)”<br>[2] Replaces “upon the judge’s” with “ <i>on the</i> judge’s” in the first sentence. Adds at the end: “A judge does not lend the prestige of judicial office if the conduct is otherwise permitted by the Code.”<br>[3] Adds at the end: “A judge shall not write letters of recommendation for any candidate for judicial appointment.”<br>[4] Adds at the end: “A judge who publishes may include the judge’s title and include a biographical statement in the publication.” |
| <b>NY<br/>(as pro-<br/>posed)</b>    | Identical   |
| <b>NC</b>                            |   |
| <b>ND</b>                            | Replaces “abuse” in the title and in the text with “lending” and “shall not lend,” respectively.  |

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| <b>(as proposed)</b>          |   |
| <b>OH Effective 3/1/09</b>    | Identical<br>Comments:<br>[2]: replaces language after “letterhead” with “for such reference”<br>[3]: adds that judges should not serve on screening committees<br>[4]: deletes “whether related or unrelated to the law” and replaces last sentence with “ <i>A judge who writes or contributes to a publication does not violate this rule by allowing his or her title and judicial experience to be used as a means of identification or to demonstrate an expertise in the subject-matter of the publication.</i> ”  |
| <b>OK Effective 4/15/2011</b> | Adds [5]: “A judge should not testify unless duly summoned as a character witness. See also Rule 3.3.”  |
| <b>OR</b>                     |   |
| <b>PA</b>                     |   |
| <b>SD</b>                     |   |
| <b>TN (as proposed)</b>       | [2]: Adds Sentence: “ <i>A judge may use official letterhead if the judge’s professional knowledge is germane to the purpose of the letter, such as writing a letter of recommendation for a former law clerk or a letter of recommendation for admission to law school.</i> ”  |
| <b>TX</b>                     |   |
| <b>UT Effective 4/1/10</b>    | [1]: replaces “use” with “abuse”<br>[2]: in second sentence, deletes language through “personal” and replaces “use of the letterhead” with “reference or recommendation.” Adds “In making such references or recommendations, the judge may refer to his or her judicial office and use official letterhead only for employment or educational opportunities” to end<br>[3]: replaces “cooperating” with “encouraging individuals to apply for judicial office and communicating” and deletes language after “committees” |
| <b>VT</b>                     |   |
| <b>VA</b>                     |   |
| <b>WA Effective 1/1/11</b>    | Identical   |
| <b>WV</b>                     |   |
| <b>WI</b>                     |   |
| <b>WY Effective 7/1/09</b>    | Adds “knowingly” before “allow”   |

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