

**AMERICAN BAR ASSOCIATION
CPR POLICY IMPLEMENTATION COMMITTEE**

COMPARISON OF ABA MODEL JUDICIAL CODE AND STATE VARIATIONS

| | |
|------------------------------------|--|
| | <p>RULE 4.4 Campaign Committees</p> <p>(A) A judicial candidate* subject to public election* may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The candidate is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable law.*</p> <p>(B) A judicial candidate subject to public election shall direct his or her campaign committee:</p> <p>(1) to solicit and accept only such campaign contributions* as are reasonable, in any event not to exceed, in the aggregate,* \$[insert amount] from any individual or \$[insert amount] from any entity or organization;</p> <p>(2) not to solicit or accept contributions for a candidate’s current campaign more than [insert amount of time] before the applicable primary election, caucus, or general or retention election, nor more than [insert number] days after the last election in which the candidate participated; and</p> <p>(3) to comply with all applicable statutory requirements for disclosure and divestiture of campaign contributions, and to file with [name of appropriate regulatory authority] a report stating the name, address, occupation, and employer of each person who has made campaign contributions to the committee in an aggregate value exceeding \$[insert amount]. The report must be filed within [insert number] days following an election, or within such other period as is provided by law.</p> <p>COMMENT</p> <p>[1] Judicial candidates are prohibited from personally soliciting campaign contributions or personally accepting campaign contributions. See Rule 4.1(A)(8). This Rule recognizes that in many jurisdictions, judicial candidates must raise campaign funds to support their candidacies, and permits candidates, other than candidates for appointive judicial office, to establish campaign committees to solicit and accept reasonable financial contributions or in-kind contributions.</p> <p>[2] Campaign committees may solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct campaigns. Candidates are responsible for compliance with the requirements of election law and other applicable law, and for the activities of their campaign committees.</p> <p>[3] At the start of a campaign, the candidate must instruct the campaign committee to solicit or accept only such contributions as are reasonable in amount, appropriate under the circumstances, and in conformity with applicable law. Although lawyers and others who might appear before a successful candidate for judicial office are permitted to make campaign contributions, the candidate should instruct his or her campaign committee to be especially cautious in connection with such contributions, so they do not create grounds for disqualification if the candidate is elected to judicial office. See Rule 2.11.</p> <p>Twelve (12) states have similar language (AZ, AR, IN, IA, KS, MN, MT, NE, NV, NY, OK, TN) Four (4) states have different language (CO, MS, OH, WA) Seven (7) states do not have (DE, HI, MD, MO, NH, UT, WY)</p> |
| AL | |
| AK | |
| AZ Effective 9/1/09 | <p>(A): adds “See generally A.R.S. § 16-901 <i>et seq</i>” to end</p> <p>(B): adds “to solicit and accept only such campaign contributions as are permissible by law and to comply with all applicable statutory requirements for disclosure and divestiture of campaign contributions” to end</p> <p>Deletes (B)(1), (2) and (3)</p> <p>[1]: replaces “reasonable” with “lawful”</p> <p>[3]: replaces first two sentences with “During the campaign, the candidate and his or her campaign committee should consider whether a contribution may affect the independence,</p> |

| | |
|---|---|
| | integrity and impartiality of the judge. The judicial candidate and his or her campaign committee should be aware that contributions could create grounds for disqualification if the candidate is elected to judicial office” |
| AR Effective 7/1/09 | (B)(1): replaces language after “are” with “permitted by law” (B)(2): times given are 180 and 45 days and deletes “primary” and language between first usage of “election” and “nor” (B)(3): deletes language after “contributions” Adds (C): <i>Any campaign fund surplus shall be returned to the contributors or turned over to the State Treasurer as provided by law.</i> [3]: deletes language after first sentence Adds [3A]: <i>To reduce potential disqualification and to avoid the appearance of impropriety, judicial candidates should, as much as possible, not be aware of those who have contributed to the campaign.</i> |
| CA | |
| CO Effective 7/1/10 | Did not Adopt |
| CT Effective 1/1/11 | Does not have |
| DE Effective 11/1/08 | Did not adopt |
| DC | Did not adopt |
| FL | |
| HI Effective 1/1/09 | Did not adopt |
| ID | |
| IL | |
| IN Effective 1/1/09 | (A): replaces “public” with “partisan or nonpartisan” and adds “and a candidate for retention who has met active opposition” after “election” (B): deletes “subject to public election” (B)(1): deletes language after “reasonable” (B)(2): times given are 1 year and 90 days (B)(3): deletes language after “contributions” [1]: adds “or candidates for retention who have not met active opposition” after “office” |
| IA Effective 5/3/10 | Replaces “public election” to “retention election” throughout; (B)(1) Replaces language after “contributions as are” with “permissible by law;” (B)(2) is equivalent to MR but changes text to: “to not solicit or accept any campaign contributions from other judicial officers or any judicial branch employee;” Adds: <i>(B)(3) to contribute all surplus contributions held by the committee after the election without public attribution to the Interest on Lawyers’ Trust Account Pogram (IOLTA);</i> (4) is similar to MR (5) but replaces language after “requirements” with “under the Iowa Code and all applicable rules of the Iowa Ethics and Campaign Disclosure Board; and;” |

| | |
|---|--|
| | <p>Adds: <i>(B)(5) to comply with all applicable requirements of this Code;</i></p> <p>[1] Replaces “in many jurisdictions” with “Iowa;” replaces “judicial candidates” with “judges standing for retention;” changes “permits candidates” to “permits judicial candidates;” changes “for appointive judicial office” to “seeking appointment to judicial office;”</p> <p>[2] Adds after first sentence: “However, campaign committees may not solicit or accept campaign contributions from other judicial officers or from any judicial branch employee;”</p> <p>[3] Replaces “reasonable...applicable law” with “in conformity with Iowa election laws;”</p> <p>Adds: <i>[4] Iowa has adopted a system whereby judges periodically must stand for retention during the general election. See iowa Code ch. 46. Iowa Code chapter 68A permits a judicial candidate to establish a candidate’s committee to support that individual’s candidacy, while section 68A.102(4) defines “candidate” so as to include “any judge standing for retention in a judicial election.” The Iowa Code, thus, envisions and creates a system allowing a judge to establish campaign committees when involved in a judicial retention election. The Iowa Code of Judicial Conduct merely implements this system, albeit in a more restrictive fashion than for those seeking political or other office.</i></p> |
| <p>KS Effective 3/1/09</p> | <p>(A): replaces “subject to public” with “for partisan, nonpartisan or retention” and adds “A judicial candidate may also personally solicit or accept campaign contributions” to end</p> <p>(B): replaces “subject to public” with “for partisan, nonpartisan or retention”</p> <p>(B)(1): replaces language after “are” with “permitted by law”</p> <p>(B)(2): times given are one year and 90 days</p> <p>(B)(3): deletes language after “contributions”</p> <p>Deletes Model Code [1]</p> <p>[2]: same as Model Code [3] but in first sentence replaces language after “are” with “permitted by law”</p> |
| <p>KY</p> | |
| <p>MD Effective 7/1/10</p> | <p>Does not adopt.</p> |
| <p>MA</p> | |
| <p>MI</p> | |
| <p>MN Effective 7/1/09</p> | <p>(B)(1): deletes “such” and “as are reasonable, in any event, ” first limit given is \$2,000, deletes language between “individual” and “entity” and adds “in an election year and \$500 in a non-election year” to end</p> <p>Deletes Model Code (B)(2)</p> <p>(B)(2): similar to Model Code (B)(3) but deletes language after “contributions”</p> <p><i>(B)(3): not to disclose to the candidate the identity of campaign contributors nor to disclose to the candidate the identity of those who were solicited for contribution and refused such solicitation. The candidate may be advised of aggregate contribution information in a manner that does not reveal the source(s) of the contributions.</i></p> <p>[1]: adds “except as provided by Rule 4.2(B)(3)” to end of first sentence. In last sentence deletes “reasonable financial” and language after first use of “contributions”</p> <p>[3]: deletes “reasonable in amount” and “under the circumstances”</p> |
| <p>MO</p> | <p>Does not adopt.</p> |

| | |
|---|--|
| <p>Effective 1/1/2012</p> | |
| <p>MS (as pro- posed)</p> | <p>(B)(1) Replaces language after “not to exceed” with “those limitations placed on contributions by individuals, political action committees and corporations by law;” (B)(2) Replaces language after “campaign” with “earlier than 60 days before the qualifying deadline, nor more than 120 days after the last election in which the candidate participated; and;” (B)(3) Replaces language after “disclosure and” with “reporting of contributions, loans and extensions of credit.”</p> <p>[3] Deletes “reasonable in amount, appropriate under the circumstances, and” before “in conformity;” Deletes “although lawyers...elected to judicial office;” Adds [4]: <i>Examples of applicable law include Miss. Code Ann. § 23-15-1021 which provides limits on contributions to judicial campaigns for Supreme Court, Court of Appeals, county, circuit, and chancery judicial campaigns. In addition, candidates for the Supreme Court, Court of Appeals, circuit judge, chancellor, county court judge, and family judge are required to file periodic reports of contributions and disbursements as required by Miss. Code Ann. § 23-15-807(c).</i></p> |
| <p>MT Effective 1/1/09</p> | <p>(B): replaces “subject to public election” with “who establishes a campaign committee” (B)(1): replaces language after “are” with “permitted by law” (B)(2): deletes “current” and replaces languages after “campaign” with “in an amount or in a manner that is prohibited by law” (B)(3): replaces language after “file” with “all reports required by law with the official or agency prescribed by law” [1]: deletes first sentence, deletes “in many jurisdictions,” replaces “must” with “may,” adds “in an amount and in a manner permitted by law” after “funds” and replaces language after “office” with “to solicit financial or in-kind campaign contributions personally or to establish campaign committees to solicit and accept such contributions” <i>[3] If a campaign committee is established, the candidate must instruct the campaign committee to solicit or accept contributions in conformity with applicable law.</i></p> |
| <p>NE Effective 1/1/2011</p> | <p>(A) Replaces “public” with “retention,” deletes asterisk after “election” and adds “whose candidacy has drawn active opposition” between “election*” and “may establish;” (B) Replaces “public” with “retention;” (B)(1) Deletes language after “reasonable;” (B)(2) Amount of time is six months, deletes language between “applicable” and “retention,” number of days is thirty; (B)(3) Deletes language after “campaign contributions;” [1] Deletes “in many jurisdictions” and adds “whose candidacy has drawn active opposition” after “judicial candidates;”</p> |
| <p>NV Effective 1/19/10</p> | <p>(B)(1): replaces language after “reasonable” with “under the circumstances and in an amount permitted by law; and” (B)(2): replaces language after “campaign” with “except in accordance with Rules 4.2(C) and 4.2(D)” Deletes (B)(3) [1]: replaces first two sentences with “A candidate may personally solicit or accept campaign contributions in accordance with the law or personally solicit publicly stated support. A candidate</p> |

| | |
|---|---|
| | <p>may use committees to solicit and accept such lawful contributions and conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law.”</p> <p>[3]: replaces “At the start of a campaign, the” with “A” and adds “A candidate and members of the candidate’s campaign committees must exercise a high degree of ethical behavior in the solicitation and acceptance of campaign contributions, and must especially take great care in avoiding coercion or the appearance of coercion in the solicitation and acceptance of such contributions” after first sentence.</p> |
| <p>NH Effective 4/1/2011</p> | <p>Does not have</p> |
| <p>NJ</p> | |
| <p>NM (as pro- posed)</p> | <p>Replaces Rule with:</p> <p><i>A. Campaign committees. Candidates in both partisan and retention elections shall establish committees of one or more responsible persons to conduct campaigns for the candidate using media advertisements, brochures, mailings, candidate forums and other means not prohibited by law or these rules. Campaign committees may solicit and accept reasonable campaign contributions, and obtain public statements of support in behalf of the candidate, subject to the restrictions of these rules, including but not limited to Rule 21-402(D) NMRA. All campaign contributions shall be paid or turned over to the campaign committee, and shall be managed and disbursed by the committee. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others. The candidate shall take reasonable steps to ensure that his or her campaign committee complies with applicable provisions of this code and other applicable law.</i></p> <p><i>B. Unused campaign funds. A candidate for judicial office in either a partisan or retention election who has unused campaign funds remaining after election, and after all expenses of the campaign and election have been paid, shall refund the remaining funds pro rata to the campaign contributors, or donate the funds to a charitable organization, or to the State of New Mexico, as the candidate may choose, within thirty (30) days after the date the election results are certified.</i></p> <p>[1] Replaces reference with Rule 21-402(C) NMRA and Deletes “in many jurisdictions” before “judicial candidates must”</p> <p>[3] Replaces reference at the end with corresponding Rule 21-211 NMRA</p> <p>Adds:</p> <p><i>[4] Contributions for campaigns are limited to sources and amounts that do not create an appearance of impropriety. Candidates for judicial office may solicit contributions for their own campaigns, within the restrictions of this rule, but not for the campaigns of other candidates or offices. Candidates for election to judicial office are required to create campaign committees to solicit and accept contributions, to solicit public support, and to receive, manage, and disburse all campaign contributions. Each candidate must instruct the campaign committee to solicit or accept only those contributions that are reasonable under the circumstances and that meet the requirements of this rule.</i></p> <p><i>[5] Campaign committees established under this rule should attempt to manage campaign finances responsibly, avoiding deficits that may necessitate post-election fund-raising.</i></p> |

| | |
|------------------------------------|---|
| | <p><i>[6] Judicial candidates for statewide judicial elective office may elect to participate in public financing that imposes restrictions on fund-raising. See Sections 1-19A-1 through 1-19A-17 NMSA 1978. The restrictions governing campaign finances and requirements for campaign committees apply to publicly financed campaigns. A judicial candidate who seeks or has been certified for public financing must comply with Rule 21-404 NMRA. Unused campaign funds for a publicly financed judicial candidate must, by law, be returned to the public election fund.</i></p> |
| <p>NY (as proposed)</p> | <p>(A) Adds “of responsible persons during the permissible Window Period,*” after “campaign committee;” (B) Does not adopt subparagraphs (1) and (2); Adds: <i>(1) to adhere to the applicable provisions of the Election Law, including but not limited to campaign contribution limits, and</i> (2) is similar to Model Code (B)(3) but changes language to: <i>(2) to comply with all applicable requirements of law* for the raising, expenditure, disclosure and divestiture of campaign contributions.</i></p> |
| <p>NC</p> | |
| <p>ND (as proposed)</p> | <p>Corresponds to MC Rules 4.3</p> <p>ND Rule 4.4:</p> <p><i>Activities of Judicial Candidates for Appointive Judicial Office.</i></p> <p><i>Activities of Judicial Candidates for Appointive Judicial Office.</i></p> <p><i>(A) A judicial candidate* for appointment to judicial office shall not solicit or accept funds, personally or through a committee or otherwise, to support his or her candidacy.</i></p> <p><i>(B) A judicial candidate* for appointment to judicial office shall not engage in any political activity to secure the appointment except that such persons may:</i></p> <p><i>(1) communicate with the appointing or confirming authority, including any selection or nominating commission or other agency designated to screen candidates;</i></p> <p><i>(2) seek support or endorsement for the appointment from organizations that regularly make recommendations for reappointment or appointment to the office, and from individuals to the extent requested or required by those specified in paragraph (B)(1);</i></p> <p><i>(3) provide to those specified in paragraphs (B)(1) and (2) information as to the person's qualifications for the office; and</i></p> <p><i>(4) contact lawyers and others for expressions of support to be submitted to the appointing authority identified in paragraph (B)(1) and may distribute personal and professional information in the form of resumes that describe the person's qualifications for office.</i></p> <p>COMMENT</p> <p><i>[1] Paragraph (B)(2) provides a limited exception to the restrictions imposed by Rule 4.2(A). Under paragraph (B)(2), candidates seeking reappointment to the same judicial office or</i></p> |

appointment to another judicial office may apply for the appointment and seek appropriate support.

[2] When seeking support or endorsement, or when communicating directly with an appointing, confirming, or nominating authority, a candidate for appointive judicial office must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. See Rule 4.2(A).

ND Rule 4.6:

Campaign Committees

A judicial candidate shall not directly and personally solicit or accept campaign contributions or directly and personally solicit publicly stated support. A candidate may establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. While a candidate may not directly and personally solicit contributions or public statements of support, the candidate may orally solicit contributions or publicly stated support in front of large groups or organizations consisting, for example, of audiences of 25 or more people. The candidate's actual signature or a reproduction of the signature may appear on letters or other printed or electronic materials distributed by the committee which solicit contributions or publicly stated support from individuals or large groups. Solicitations bearing the candidate's signature must direct contributions to be sent to the address of the candidate's campaign committee and not that of the candidate. The candidate must take reasonable measures to ensure the names and responses, or lack thereof, of the recipients of solicitations for contributions will not be disclosed to the candidate. Campaign committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate's committees may solicit contributions and public support for the candidate's campaign no earlier than one year before an election and no later than 90 days after the last election in which the candidate participates during the election year.*

COMMENT

[1] This rule seeks to insulate candidates for judicial office from personal contacts with contributors or public supporters that may lead to allegations of bias or lack of impartiality if the contributor or supporter should later appear before the judge. As a result, candidates are prohibited from directly and personally soliciting contributions or publicly stated support. This limitation is intended to minimize the occurrence of direct personal contacts with individual contributors or public supporters. However, because the activity is more removed and less likely to result in specific knowledge about any individual contributions or expressions of public support, a candidate is permitted to affix the candidate's signature, or a reproduction of the signature, to printed or electronic material soliciting contributions or support. While this rule

allows a candidate to solicit contributions or publicly stated support from large groups or organizations under certain circumstances, Rule 4.2(A)(1)(d) continues to prohibit a candidate from seeking, accepting, or using an endorsement or letter of support from a political organization. In soliciting contributions or publicly stated support from large groups or organizations, a candidate should limit such activity to audiences of 25 or more people. Solicitation activity involving audiences lesser in number increases the possibility of direct personal contact with individual attendees and risks allegations of bias or lack of impartiality if the attendee should later appear before the judge. This rule permits a candidate, other than a candidate for appointment, to establish campaign committees to solicit and accept public support and reasonable financial contributions. At the start of the campaign, the candidate must instruct his or her campaign committees to solicit or accept only contributions that are reasonable under the circumstances. Though not prohibited, campaign contributions of which a judge has knowledge, made by lawyers or others who appear before the judge, may be relevant to disqualification under Rule 2.11.

[2] Campaign committees established under this rule should manage campaign finances responsibly, avoiding deficits that might necessitate post-election fund-raising, to the extent possible.

[3] This rule does not prohibit a candidate from initiating an evaluation by a judicial selection commission or bar association, or, subject to the requirements of this Code, from responding to a request for information from any organization, or from directly and personally soliciting signatures for the candidate's nominating petition.

| | |
|---|---|
| <p>OH Effective 8/12/10; Rule 4.4(F) Amended 10/5/2011; The Court also adopted a temporary provision to extend the time to Feb. 29, 2012, for candidates to comply with the judicial campaign course requirement after their filing deadline).</p> | <p>Campaign Solicitations and Contributions</p> <p>(A) A <i>judicial candidate</i> shall not personally campaign <i>contributions</i>, except as expressly authorized in this division, and shall not personally receive campaign <i>contributions</i>. A <i>judicial candidate</i> may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The <i>judicial candidate</i> is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable <i>law</i>. A <i>judicial candidate</i> may solicit campaign contributions in the following manner:</p> <p>(1) A judicial candidate may make a general request for campaign <i>contributions</i> when speaking to an audience of twenty or more individuals;</p> <p>(2) A <i>judicial candidate</i> may sign letters soliciting campaign <i>contributions</i> if the letters are for distribution by the <i>judicial candidate's</i> campaign committee and the letters direct <i>contributions</i> to be sent to the campaign committee and not to the <i>judicial candidate</i>.</p> <p>(B) A <i>judicial candidate</i> shall prohibit public employees subject to his or her direction or control from soliciting or receiving campaign <i>contributions</i>.</p> <p>(C) The campaign committee of a <i>judicial candidate</i> shall not <i>knowingly</i> solicit or receive, directly or indirectly, for any political or personal purpose any of the following:</p> <p>(1) A <i>contribution</i> from any employee of the court or person who does business with the court in the form of a contractual or other arrangement in which the person, in the current year or any of the previous six calendar years, received as payment for goods or services <i>aggregate</i> funds or fees regardless of the source in excess of two hundred fifty dollars. The committee may receive campaign <i>contributions</i> from lawyers who are not employees of the court or doing business with the court in the form of a contractual or other arrangement.</p> <p>(2) A <i>contribution</i> from any appointee of the court unless the campaign committee, on its campaign <i>contribution</i> and expenditure statement, reports the name, address, occupation, and employer of the appointee, identifies the person as an appointee of the court, and indicates whether the appointee, in the current year or in any of the previous six calendar years, received <i>aggregate</i> compensation from court appointments in excess of two hundred fifty dollars.</p> <p>(3) A <i>contribution</i> from a <i>political party</i> unless the <i>contribution</i> is made from a separate fund established by the <i>political party</i> solely to receive donations for <i>judicial candidates</i> and the <i>political party</i> reports on the <i>contribution</i> and expenditure statements filed by the party the name, address, occupation, and employer of each person who contributed to the separate fund established by the <i>political party</i>.</p> <p>(D) As used in division (C) of this rule:</p> <p>(1) "Appointee" does not include a person whose appointment is approved, ratified, or made by the court based on an intention expressed in a document such as a will, trust, agreement, or contract.</p> <p>(2) "Court" means the court for which the <i>judicial candidate</i> is seeking election and, if applicable, the court on which he or she currently serves. If the <i>judicial candidate</i> is seeking election to a division of a court of common pleas or a municipal court, "court" means the division of the court for which the <i>judicial candidate</i> is seeking election and, if applicable, the court or division of the court on which he or she currently serves.</p> <p>(3) "Division" means any of the following whether separate or in combination: general division of the court of common pleas; domestic relations division of the court of common pleas; juvenile division of the court of common pleas; probate division of the court of common pleas; housing or environmental division of the municipal court.</p> |
|---|---|

- (4) "Compensation" does not include reasonable reimbursement for travel, meals, and other expenses received by an appointee who serves in a volunteer capacity.
- (E) A *judicial candidate* shall not participate in or receive campaign *contributions* from a judicial fundraising event that categorizes or identifies participants by the amount of the *contribution* made to the event.
- (F) The campaign committee of a *judicial candidate* may begin soliciting and receiving *contributions* no earlier than one hundred twenty days before the first Tuesday after the first Monday in May of the year in which the general election is held. If the general election is held in 2012 or any fourth year thereafter, the campaign committee of a *judicial candidate* may begin soliciting and receiving *contributions* no earlier than one hundred twenty days before the first Tuesday after the first Monday in March of the year in which the general election is held. Except as provided in divisions (G) and (H) of this rule, the solicitation and receipt of *contributions* may continue until one hundred twenty days after the general election.
- (G) If the candidate is defeated prior to the general election, the solicitation and receipt of *contributions* may continue until such time as the *contributions* solicited are sufficient to pay the campaign debts and obligations of the *judicial candidate* incurred on or before the date of the primary election, plus the costs of solicitation incurred after the date of the primary election, but in no event shall the solicitation or receipt of *contributions* continue beyond one hundred twenty days after the date of the election at which the defeat occurred. Notwithstanding division (K) of this rule, the limits on *contributions* in a primary election period shall apply to any *contributions* solicited or received by the campaign committee of the defeated *judicial candidate* after the date of the primary election.
- (H) In the case of the death or withdrawal of a *judicial candidate*, the solicitation and receipt of *contributions* may continue until such time as the *contributions* solicited are sufficient to pay the campaign debts and obligations of the *judicial candidate* incurred on or before the date of death or withdrawal, plus the costs of solicitation incurred after the date of death or withdrawal, but in no event shall the solicitation or receipt of *contributions* continue beyond one hundred twenty days after the date of death or withdrawal.
- (I) Notwithstanding any provision of division (F) of this rule to the contrary, a *judicial candidate* may do either or both of the following:
- (1) Not more than ninety days prior to the commencement of the one hundred twenty-day fundraising period described in division (F) of this rule, contribute personal funds to his or her campaign committee;
 - (2) After the conclusion of the applicable fundraising period described in division (F), (G), or (H) of this rule, contribute personal funds to his or her campaign committee for the express purpose of satisfying any campaign debt that was incurred during the applicable fundraising period and that remains unpaid at the conclusion of the applicable fundraising period. The name of the individual or entity to whom the debt is owed, the amount of the debt, and the date on which the debt was incurred shall be clearly noted on the appropriate campaign contribution and expenditure statement.
- (J) Except as otherwise provided in division (K) of this rule, the campaign committee of a *judicial candidate* shall not directly or indirectly solicit or receive in the fundraising period allowed by division (F), (G), or (H) of this rule a campaign *contribution aggregating* more than the following:
- (1) From an individual other than the *judicial candidate* or a member of his or her *immediate family*, three thousand four hundred fifty dollars in the case of a *judicial candidate* for chief

justice or justice of the Supreme Court, one thousand one hundred fifty dollars in the case of a *judicial candidate* for the court of appeals, or five hundred seventy-five dollars in the case of a *judicial candidate* for the court of common pleas, municipal court, or county court.

(2) From any *organization*, six thousand three hundred twenty-five dollars in the case of a *judicial candidate* for chief justice or justice of the Supreme Court or three thousand four hundred fifty dollars in the case of all other *judicial candidates*.

(3) From a *political party*:

(a) Three hundred sixteen thousand two hundred fifty dollars in the case of a *judicial candidate* for chief justice or justice of the Supreme Court;

(b) Sixty-nine thousand dollars in the case of a *judicial candidate* for the court of appeals;

(c) Sixty-nine thousand dollars in the case of a *judicial candidate* for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of more than seven hundred fifty thousand;

(d) Fifty-seven thousand five hundred dollars in the case of a *judicial candidate* for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of seven hundred fifty thousand or less;

(K) If a *judicial candidate* is opposed in a primary election, the campaign committee of that *judicial candidate* shall not directly or indirectly solicit or receive either of the following:

(1) A campaign *contribution* from an individual or an *organization aggregating* more than the applicable limitation contained in division (J)(1) or (2) of this rule in a primary election period or in a general election period;

(2) A campaign *contribution* from a *political party aggregating* more than the applicable limitation contained in division (J)(3) of this rule in a general election period or aggregating more than the following during a primary election period:

(a) One hundred seventy-two thousand five hundred dollars in the case of a *judicial candidate* for chief justice or justice of the Supreme Court;

(b) Thirty-four thousand five hundred dollars in the case of a *judicial candidate* for the court of appeals;

(c) Thirty-four thousand five hundred dollars in the case of a *judicial candidate* for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of more than seven hundred fifty thousand;

(d) Twenty-eight thousand seven hundred fifty dollars in the case of a *judicial candidate* for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of seven hundred fifty thousand or less.

(L) As used in division (K) of this rule, “primary election period” begins on the first day on which *contributions* may be solicited and received pursuant to division (F) of this rule and ends on the day of the primary election, and “general election period” begins on the day after the primary election and ends on the last day on which *contributions* may be solicited or received pursuant to division (F) of this rule.

(M) For purposes of division (J), (K), and (L) of this rule:

(1) *Contributions* received from *political action committees* that are established, financed, maintained, or controlled by the same corporation, nonprofit corporation, partnership, limited liability company, association, professional association, continuing association, estate, trust, business trust, or other entity, including any parent, subsidiary, local, division, or department of that same corporation, nonprofit corporation, partnership, limited liability company, association, professional association, continuing association, estate, trust, business trust, or other entity, shall

be considered to have been received from a single *political action committee*.

(2) All *contributions* received by a *judicial candidate* from a national, state, or county *political party* shall be combined in applying the limits set forth in division (J)(3) of this rule.

(3) *In-kind contributions* consisting of goods and compensated services shall be assigned a fair market value by the campaign committee and shall be subject to the same limitations and reporting requirements as other *contributions*.

(4) A *loan* made to a campaign committee by a person other than the *judicial candidate* or a member of his or her *immediate family* shall not exceed an amount equal to two times the applicable *contribution* limit, and amounts in excess of the applicable *contribution* limit shall be repaid within the fundraising period allowed by division (F) of this rule. A debt remaining at the end of the fundraising period shall be treated as a *contribution* and subject to the applicable *contribution* limit.

(5) A debt incurred by a judge or *judicial candidate* in a previous campaign for public office and forgiven by the individual, *organization*, or *political party* to whom the debt is owed shall not be considered a campaign *contribution*.

(N) In applying the *contribution* limits contained in division (J) and (K) of this rule, the *contributions* of an individual or *organization* to a *judicial candidate* fund established by a *political party* shall not be *aggregated* with other *contributions* from the same individual or *organization* made directly to the campaign committee of a *judicial candidate* unless the campaign committee of the *judicial candidate* directly or indirectly solicited the *contribution* to the *judicial candidate* fund.

(O) On or before the first day of December beginning in 2008 and every four years thereafter, the secretary of the Board of Commissioners on Grievances and Discipline shall determine the percentage change over the preceding forty-eight months in the Consumer Price Index for All Urban Consumers, or its successive equivalent, as determined by the United States Department of Labor, Bureau of Labor Statistics, or its successor in responsibility, for all items, Series A. The secretary shall apply that percentage change to the *contribution* limitations then in effect and notify the Supreme Court of the results of that calculation. The Supreme Court may adopt revised *contribution* limitations based on the secretary's calculation or other factors that the Court considers appropriate.

Comments:

[1]: replaces MC[1] with: "A judicial candidate is prohibited from personally soliciting campaign contributions and personally receiving campaign contributions. These limitations protect four vital interests: (1) avoiding the appearance of coercion or *quid pro quo*, especially when a judicial candidate engages in a one-on-one solicitation of a lawyer or party who appears before the court; (2) preserving both the appearance and reality of an impartial, independent, and noncorrupt judiciary; (3) ensuring the public's right to due process and fairness; and (4) furthering the public trust and confidence in the impartiality of the judicial decision-maker. Rue 4.4(A) recognizes that some forms of solicitation are less coercive and less intrusive than others and permits a candidate to engage in solicitations that are less personal and directed at a wider audience. Public employees subject to the direction or control of a judicial candidate are prohibited from soliciting or receiving campaign contributions.

[2]: replaces "Campaign committees may" with "A judicial candidate may establish a judicial campaign committee to solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct the campaign." Replaces language after first sentence with "In so doing, the campaign committee shall follow the provisions of the rule regarding the

| | |
|--|---|
| | <p>solicitation and receipt of contributions. A campaign committee shall follow all time guidelines controlling when judicial fundraising shall begin and end in reference to a particular judicial election.”</p> <p>[3]: The campaign committee may accept contributions that do not exceed the limitations established for individuals, organizations, and political parties. The judicial candidate is responsible under Rule 4.2(A)(3) for compliance by his or her campaign committee with the limitations established on campaign solicitations and contributions.</p> |
| <p>OK Effective 4/15/2011</p> | <p>(B)(1) Replaces language after “such campaign contributions” with: “as are permitted by law. Rule 2.11(4).”</p> <p>(B)(2) The time period is “more than 180 days before the beginning of the filing period for the judicial election, nor more that 60 days after the last election in which the candidate participated;”</p> <p>(B)(3) Adds at the beginning: “Candidates for judicial office subject to public elections shall direct their campaign committees;” Deletes “and divestiture;” Specifies the Oklahoma Ethics Commission as the appropriate regulatory authority and adds thereafter “at the time and in the manner specified by the Commission; the amount is “established by the Oklahoma Ethics Commission for reporting campaign contributions;” Deletes the last sentence.</p> <p>Adds (B)(4):</p> <p><i>Candidates for judicial office subject to public election shall comply with the rules of the Oklahoma Ethics Commission concerning the dissolution of the candidate’s campaign committee and the use of surplus funds of the campaign as set out in Title 74 Oklahoma Statutes Chapter 62, Appendix to Article 257, Sections 10-1-19 and 10-1-20, except that a candidate may not transfer funds to be used for a political activity other than his or her own future election campaign as permitted by the Rules of the Ethics Commission and may not transfer any surplus funds to a state or local central committee of a political party.</i></p> <p>[1] Adds at the end: “See Comment 2 under Rule 4.3.”</p> <p>[2] Adds “of Rules of the Ethics Commission” before “election law”</p> <p>[3] Changes language after “only such contributions” to: “as are in conformity with the Rules of the Ethics Commission and other applicable law.” Deletes the rest of the paragraph.</p> |
| <p>OR</p> | |
| <p>PA</p> | |

| | |
|------------------------------------|---|
| SD | |
| TN (as proposed) | <p>(B)(1): Replaces “as are reasonable...any entity or organization” with “allowable by law” to end. (B)(2): sets 180 days before and 9- days after; adds “(see Rule 4.2 Comment [1] as to the calculation of this time period)” (B)(3): Replaces “and to file with...law” with “as required by law” to end. [1]: Deletes “This Rule...or in-kind contributions” to end. [3]: <i>At the start of a campaign, the candidate must instruct the campaign committee to solicit or accept only such contributions as are allowable by law. A judge may receive a contribution from a lawyer not to exceed the amount authorized by law. More specifically, Tennessee Code Annotated sections 2-10-301 et. seq. set the campaign contribution limits applicable to judicial candidates. The candidate should instruct the campaign committee to be cautious in connection with contributions from parties with pending litigation or those in managerial positions with parties with pending litigation, assuming the committee is aware that the contribution is from such a person. Such contributions could create grounds for disqualification if the candidate is elected to judicial office. See Rule 2.11. There is no requirement that the judicial candidate advise the committee of pending litigation.</i></p> |
| TX | |
| UT Effective 4/1/10 | Did not propose |
| VT | |
| VA | |
| WA Effective 1/1/11 | <p>(B)(1) State Code replaces clause “[insert amount]...or organization” with “amount allowed as provided for by law.” (B)(2) State Code deletes “or accept,” inserts “120 days” in “[insert amount of time]” bracket; deletes “the applicable primary election...participated” and adds in its place: “the date when filing for that office is first permitted and may accept contributions after the election only as permitted by law” (B)(3) State Code inserts “the Public Disclosure Commission” into “[name of appropriate authority]” bracket; deletes “a report...as provided by law” and replaces with “all reports as required by law.”</p> |
| WV | |
| WI | |
| WY Effective 7/1/09 | Does not have |

Copyright © 2011 American Bar Association. All rights reserved. Nothing contained in this chart is to be considered the rendering of legal advice. The charts are intended for educational and informational purposes only. We make every attempt to keep these charts as accurate as possible. If you are aware of any inaccuracies in the charts, please send your corrections or additions and the source of that information to John Holtaway, (312) 988-5298, John.Holtaway@americanbar.org