

**American Bar Association  
CPR Policy Implementation Committee**

**Comparison of ABA Model Judicial Code and State Variations**

	<b>Application</b>
	<p><b>IV. PERIODIC PART-TIME JUDGE</b></p> <p><b>A periodic part-time judge who serves or expects to serve repeatedly on a part-time basis, but under a separate appointment for each limited period of service or for each matter,</b></p> <p style="padding-left: 40px;"><b>(A) is not required to comply:</b></p> <p style="padding-left: 80px;"><b>(1) with Rule 2.10 (Judicial Statements on Pending and Impending Cases), except while serving as a judge; or</b></p> <p style="padding-left: 80px;"><b>(2) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.13 (Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value), 3.15 (Reporting Requirements), 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General), and 4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office); and</b></p> <p style="padding-left: 40px;"><b>(B) shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.</b></p> <p>One (1) state has identical language (AR)            Four (4) states have similar language (AZ, IN, MN, OK)            Four (4) states have different language (CO, NE, NH, WA)            Fifteen (15) states do not have (CT, DE, HI, IA, KS, MD, MS, MO, MT, NV, NY, OH, TN, UT, WY)</p>
<b>AL</b>	
<b>AK</b>	
<b>AZ effective 9/1/09</b>	<p>D: compare to Model Code IV</p> <p>Replaces “periodic” with “pro tempore” throughout</p> <p>First paragraph: adds “is a person appointed pursuant to Article 6, § 31 of the Arizona Constitution, or municipal charter or ordinance” after “judge,” replaces “part-time” with “less than full-time” and adds “by a presiding judge” after “appointment”</p> <p>Replaces (B) with (2): <i>A person who has been a pro tempore part-time judge shall not act as a</i></p>

	<p><i>lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto except as otherwise permitted by Rule 1.12(a) of the Arizona Rules of Professional Conduct.</i></p> <p><i>Adds (3): A pro tempore part-time judge who serves once or only sporadically in a specialized division of a court or in a court without specialized divisions may appear as a lawyer in such specialized division or court during such service.</i></p> <p><i>Adds (4): A pro tempore part-time judge who serves repeatedly on a continuing scheduled basis in a specialized division of a court or in a court without specialized divisions shall not appear as a lawyer in such specialized division or court during such service.</i></p> <p><i>Adds (5): A part-time pro tempore judge who is appointed to perform judicial functions of a non-appealable nature on a continuing scheduled basis shall not appear as a lawyer in other proceedings involving the function of the court in which the service was performed, but may appear as a lawyer in all other areas of practice before the court.</i></p> <p><i>Adds Comment:</i></p> <p><i>[1] The restrictions of Part D apply to the members of a pro tempore part-time judge's law firm.</i></p> <p><i>[2] The purpose of Part D is to allow the greatest possible use of part-time pro tempore judges to augment judicial resources in order to reduce case backlogs and the time necessary to process cases to disposition while minimizing any potential for the appearance of impropriety.</i></p> <p><i>[3] The language of Part D is intended to allow, at a minimum, the following current practices:</i></p> <p><i>(a) A lawyer sits as a part-time pro tempore judge for one domestic relations trial and during this time appears in the domestic relations divisions as a lawyer in other matters.</i></p> <p><i>(b) A lawyer sits as a part-time pro tempore juvenile judge two or more half days a week on a continuing scheduled basis and during this time appears in court as a lawyer in all types of proceedings except for juvenile matters.</i></p> <p><i>(c) A lawyer sits as a part-time pro tempore criminal judge in the after-hours and weekend initial appearance program and thereafter appears as a lawyer in the criminal divisions except that the lawyer does not appear in the initial appearance program on behalf of clients.</i></p> <p><i>(d) A lawyer sits on a continuing scheduled basis as a part-time pro tempore judge in a satellite court in one community and otherwise appears in the main court located in a different community on all variety of matters, but does not appear in any proceeding in the satellite court.</i></p> <p><i>(e) A lawyer sits on a continuing scheduled basis as a pro tempore part-time justice of the peace in one precinct and appears as a lawyer in a justice court in another precinct.</i></p> <p><i>(f) A lawyer sits once or only sporadically as a pro tempore part-time magistrate in a municipal court and otherwise appears as a lawyer in the same court on all variety of matters.</i></p> <p><i>(g) These comments replace Advisory Opinion 92-16 (issued December 8, 1992, and reissued March 8, 1993) dealing with ethical constraints on lawyers serving as pro tempore judges.</i></p>
<p><b>AR</b> <b>Effective</b> <b>7/1/09</b></p>	<p>Identical</p>
<p><b>CA</b></p>	
<p><b>CO</b> <b>(as pro-</b> <b>posed)</b></p>	<p>IV. Appointed Judges</p> <p>An Appointed Judge who serves pursuant to C.R.C.P. 122 and section 13-3-111, C.R.S., for the period of the appointment, and in his or her capacity as Appointed Judge,</p> <p>(A) is not required to comply with the following canons:</p> <p>(1) 2.10 (A) (Judicial Statements on Pending and Impending Cases), except as to the case where he or she is appointed, and should require similar abstention from comment on the part of those</p>

	<p>personnel who are subject to the Appointed Judge’s direction and control;                  (2) 3.2 (Appearances Before Governmental Bodies and Consultation with Governmental Officials); 3.3 (Testifying as a Character Witness); 3.4 (Appointments to Governmental Positions); 3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities); 3.8 (Appointments to Fiduciary Positions); 3.9 (Service as Arbitrator of Mediator); 3.10 (Practice of Law); 3.11 (Financial, Business, or Remunerative Activities); 3.12 (Compensation for Extrajudicial Activities); 3.13 (C) (Reporting of Certain Gifts, Loans, Bequests, Benefits, or Other things of Value); 3.14 (Reimbursement of Expenses and Waivers of Fees or Charges); and 3.15 (Reporting Requirements);                  (3) 4.1 (A)(5, 12, 13) (Political and Campaign Activities of Judges in General); 4.2 (Political and Campaign Activities of a Judge Standing for Retention); and 4.4 (Campaign Committees).                  (B) should refrain as follows:                  (1) from financial and business dealings that relate directly to any issues in the case to which the Appointed Judge is appointed;                  (2) from accepting any gift, bequest, favor or loan from any party to or the lawyer appearing in the case to which the appointed judge is appointed, and should require a spouse, domestic partner or family member residing in the judge’s household to refrain from accepting gifts, bequests, favors, or loans in the same manner as the judge.</p>
<b>CT Effective 1/1/2011</b>	Does not have
<b>DE Effective 11/1/08</b>	Does not have
<b>DC (as proposed)</b>	Not Adopted
<b>FL</b>	
<b>HI Effective 1/1/09</b>	Does not have
<b>ID</b>	
<b>IL</b>	
<b>IN Effective 1/1/09</b>	First paragraph: replaces language before “who” with “A judge, including a senior judge” (B): adds “except as permitted by the Indiana Rules of Professional Conduct” before second use of “should”
<b>IA Effective 5/3/10</b>	Does not have
<b>KS Effective 3/1/09</b>	Does not have
<b>KY</b>	
<b>MD Effective</b>	Does not adopt.

<b>7/1/10</b>	
<b>MA</b>	
<b>MI</b>	
<b>MN Effective 7/1/09</b>	(B): adds “district” before and “of the county” after first use of “court” and “or, if the court is divided into divisions, in the division of the court on which the judge serves” after first use of “serves”
<b>MS (as proposed)</b>	Does not have
<b>MO Effective 1/1/2012</b>	Deleted
<b>MT Effective 1/1/09</b>	Does not have
<b>NE Effective 1/1/2011</b>	Does not adopt Model Code. <i>IV. TIME FOR COMPLIANCE</i> A person to whom this Code becomes applicable shall comply immediately with all provisions of this Code except Rules 3.8, 3.11(A), and 3.11(B) and shall comply with these sections as soon as reasonably possible and shall do so in any event within the period of 1 year after assuming office.
<b>NV Effective 1/19/10</b>	Does not have
<b>NH Effective 4/1/2011</b>	Does not adopt MC Application I-VI.  <i>A. Anyone, whether or not a lawyer, who is an officer of a judicial system and who performs judicial functions, including an officer such as a magistrate, court commissioner, marital master, special master or referee, is treated as a judge within the meaning of this Code. All judges shall comply with this Code except as provided below.</i> <i>B. All retired judges who have elected to take senior active status or who wish to serve as judicial referees or temporary justices of the supreme court shall comply with the provisions of this Code governing part time judges, except that they shall also comply with the provisions of Rule 3.9 if they wish to serve as a private mediator or arbitrator for compensation. A retired judge who does not take senior active status and who does not desire to serve as a judicial referee or a temporary justice of the supreme court is not subject to Rule 3.9 of this Code.</i> <i>C. Part time Judge. A part time judge:</i> <i>(1) is not required to comply</i> <i>(a) except while serving as a judge, with Rule 2.10(A);</i> <i>(b) at any time, with Rules 3.1(B), 3.4, 3.7(A)(6), 3.8, 3.9, 3.10, 3.11(B), 3.11(C), 3.13(A), 3.14 and 3.15;</i> <i>(c) at any time, with Rule 3.2 but only to the extent that it prohibits appearances before administrative bodies in adjudicatory proceedings; otherwise, a part time judge shall comply with Rule 3.2.</i> <i>(2) shall not practice law in the court on which the judge serves, in any other court of the same level (e.g., a part time district court judge shall not practice law in any other district court), any court subject to the appellate jurisdiction of the court on which the judge serves, and shall</i>

	<p><i>not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.</i></p> <p><i>(3) may serve as counsel to the town wherein the judge's court is located or a town within the judicial district of the judge's court, provided that:</i></p> <p><i>(a) the judge may give no advice to the police of such town and may give no advice to any other officer or employee of the town that could reasonably be expected to influence the exercise of discretion by the police in the performance of their duties;</i></p> <p><i>(b) the judge may give no advice to any officer or employee of the town on a matter that could reasonably be expected to be the subject of any action or suit before the judge's court; and</i></p> <p><i>(c) the judge shall recuse him or herself from sitting as judge on any case in which the judge's advice to the town is directly called into question or in which a ruling could directly affect the interests of the town.</i></p> <p><i>(4) Notwithstanding anything above to the contrary, a part time marital master shall be governed by all of the canons of the Code of Judicial Conduct as provided in Superior Court Administrative Rule 12-7.</i></p> <p><b>D.</b> <i>Clerks, Deputy Clerks, Registers of Probate, Deputy Registers of Probate, any persons performing the duties of a Clerk or Register, and Court Stenographers, Monitors and Reporters shall comply with Rules 2.1, 2.2, 2.3, 2.5, 2.8, 2.10, 2.12, 2.15, and 2.16.</i></p> <p><b>E.</b> <i>Time for Compliance. A person to whom this Code becomes applicable shall comply immediately with all provisions of this Code except Sections 4D(2), 4D(3), and 4E, and shall comply with these sections as soon as reasonably possible and shall do so in any event within the period of one year.</i></p> <p>NH Comment [1] is similar to MR Comment [1] to Application III, but replaces “including a retired judge no longer subject to recall” with “(no longer accepts appointments); Replaces “informed consent” with “express consent;” Replaces language after “pursuant” with “to Rules 1.12(a) of the N.H. Rules of Professional Conduct.”</p> <p>NH Comment [2] is similar to MR Comment [1] to Application VI, but replaces references to Rules 3.8 and 3.11 with Sections 4E and 4D(3).</p> <p>NH Comment [3] is the same as MR Comment [3] to Application I.</p>
<b>NJ</b>	
<b>NM (as proposed)</b>	<p>Similar to NM Application III, but:</p> <p>(A)(1) Changes reference to “Rule 21-401(C)(1) through (6) NMRA (political activity and elections for judges who are not currently running in wither a partisan or retention election)”</p> <p>(A)(2) Changes citations to corresponding Rules 21-304, 21-308(A), 21-309, 21-310, and 21-311(B).</p>
<b>NY (as proposed)</b>	Does not adopt. Adds Canon 5 instead (see “Extra Rules” chart)
<b>NC</b>	
<b>ND (as proposed)</b>	Does not adopt.
<b>OH Effective</b>	Does not have

As of September 6, 2011

<b>3/1/09</b>	
<b>OK Effective 4/15/2011</b>	(A)(1) Replaces reference with “Rule 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General) (A)(1) through (7), except while serving as a judge.” (A)(2) Deletes reference to Rule 4.1.
<b>OR</b>	
<b>PA</b>	
<b>SD</b>	
<b>TN</b>	Does not have
<b>TX</b>	
<b>UT Effective 4/1/10</b>	Does not have
<b>VT</b>	
<b>VA</b>	
<b>WA Effective 1/1/11</b>	Deletes “Periodic” before “Part-Time Judge” in title; <b>Combined with Application III, similar to State Code Application II*</b> , but State Code moves body of Application III and IV to Terminology section: “Part-Time Judge.” (A)(1) Model Code identical to State Code Application II(A)(2) (A)(2) State Code does <b>not</b> include Rules 3.7, 3.13, 3.15, 4.1, 4.5 but <b>adds</b> Rule 3.14. (B) Second sentence of Model Code identical to State Code Application II(B). Adds: (C) <i>“When a person who has been a part-time judge is no longer a part-time judge, that person may act as a lawyer in a proceeding in which he or she served as a judge or in any other proceeding related thereto only with the express consent of all parties pursuant to the Rules of Professional Conduct.”</i>
<b>WV</b>	
<b>WI</b>	
<b>WY Effective 7/1/09</b>	Does not have

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