

American Bar Association  
Model Code of Judicial Conduct

**JUNE 2004 DRAFT**

**CANON 1**

**CONDUCT IN GENERAL: A JUDGE SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL THE JUDGE'S ACTIVITIES<sup>1</sup>, SO AS TO A JUDGE SHALL UPHOLD THE INTEGRITY, AND INDEPENDENCE AND IMPARTIALITY OF THE JUDICIARY<sup>2</sup>**

**1.01 Observing Standards of Judicial Conduct. An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe the high those standards of conduct embodied in these Rules so that the integrity, and independence and impartiality of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective,<sup>3</sup> and the public's confidence therein, are promoted and preserved.<sup>4</sup>**

**Commentary:**

[1] An independent judiciary is indispensable to justice in our society.<sup>5</sup> High standards of judicial conduct promote the integrity and impartiality of the judiciary and foster public confidence in the administration of justice.

[2] Avoiding impropriety and the appearance of impropriety is an overarching principle of judicial conduct embodied in this Canon itself. Ordinarily, when a judge is disciplined for engaging in conduct that creates an appearance of impropriety, it will be in conjunction with charges that the judge violated some other specific rule under this or another canon.

[3] In addition to complying with the high standards of judicial conduct, a judge is encouraged to participate in activities that

---

<sup>1</sup> Canon 2

<sup>2</sup> Canon 1

<sup>3</sup> Canon 1.A.

<sup>4</sup> Canon 2A. (embodies idea of canon – see rule 1.02 for full text of Canon 2A)

<sup>5</sup> Canon 1.A.

promote ethical conduct generally among judges and lawyers, including efforts to study, develop, maintain, implement and enforce codes of conduct, encourage pro bono representation, and support professionalism within the judiciary and the legal profession.

[4] Deference to the judgments and rulings of courts depends upon public confidence in the integrity, independence, and impartiality\*of judges. The integrity, independence and impartiality of judges depends in turn upon their acting without fear or favor. A judiciary of integrity is one in which judges are known for their [probity, fairness, honesty, uprightness, and soundness of character]. An independent judiciary is one free of inappropriate outside influences. ~~Although judges should be independent, they must comply with the law, including the provisions of this Code.~~ Public confidence in the impartiality, integrity and independence of the judiciary is maintained by ~~the adherence of each judge to this responsibility~~ judges acting in a manner free from favoritism, self-interest or bias. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.<sup>6</sup>

[5] The duty to act in a manner that promotes public confidence in the integrity of the judiciary does not imply that judges have an obligation to refrain from appropriate criticism. To the contrary, judges are in a unique position to identify and address problems affecting the courts, and should be encouraged to bring those matters to light, as a means to promote the effective administration of justice.

[6] Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. ~~A judge must avoid all impropriety and appearance of impropriety. The prohibition against behaving acting with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in this Code. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. Examples are the restrictions on judicial speech imposed by sections 3(B)(9) and (10) that are indispensable to the maintenance of the integrity, impartiality and independence of the judiciary. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to~~

---

<sup>6</sup> Canon 1.A. Commentary

conduct by judges that is harmful although not specifically mentioned in the Code.<sup>7</sup>

~~[7] Impropriety occurs when the conduct compromises the ability of the judge to carry out judicial responsibilities with integrity, impartiality and competence. Actual improprieties under this standard include violations of law, court rules, or other specific provisions of this Code. An The test for appearance of impropriety is ~~whether~~ occurs when the conduct could ~~would~~ create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired. See also Commentary under Section 2C 3.04.<sup>8</sup>~~

**1.02 Complying with the Law. A judge shall respect and comply with the law.\* ~~and shall act at all times in a manner that promotes public confidence in the integrity and impartiality\* of the judiciary.~~<sup>9</sup>**

**Commentary:**

[1] A judge's obligation to respect and comply with the law includes compliance with the law, court rules and the provisions of this Code.

I:\users\libcpr\ethics\jud-comm\code revision 2003 – 2004\drafts\canon 1 & 2\redline\_canon1\_051104

---

<sup>7</sup> Canon 2A Commentary (note some sentences appear in a different order.)

<sup>8</sup> Canon 2A Commentary

<sup>9</sup> Canon 2A