

Canons 1 and 2
Conduct in General
Official Conduct
Community Rights Counsel
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The Community Rights Counsel (CRC) expresses “profound disappointment” with the Commission’s revision of Canons 1 and 2. In view of unprecedented public attention and concern over judicial ethics and extrajudicial conduct, the Code should be made stronger and less ambiguous. The objective of the Code should be to improve judicial conduct and public confidence in the judiciary, not to produce an exclusive list of “do’s and don’ts.”

Not only do the proposed revisions make judicial ethical obligations more difficult to enforce, they fail to address the following significant and pressing ethical issues:

- *The proposed revisions inappropriately weaken judicial ethical obligations.* CRC objects that the revised Canons no longer:
 - ▶ Obligate judges to act at all times “in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” (Compare existing Canon 2A with new Rule 1.02.)
 - ▶ Obligate judges to “participate in establishing, maintaining, and enforcing high standards of conduct.” act at all times “in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” (Compare existing Canon 1A with new Rule 1.01.)
 - ▶ Require that the provisions of the code are to be construed and applied to further the independence and impartiality of the judiciary.
 - ▶ Retain the words “and honorable” from the phrase describing a judiciary that is indispensable to justice in our society.
 - ▶ Retain a standard under which the appearance of impropriety is a stand-alone violation of the Code. (See new Rule 1.01, Comment 2.)
- *The revised Model Code should unambiguously prohibit judges’ involvement in cases where they have a financial interest in one of the parties – no matter how small the interest.*
 - ▶ Despite the subjective standard in the current Code or in proposed Rules 2.12 and Comment to Rule 2.02, this area demands a bright line rule that defines “economic interest” to track the definition of “financial” interest in 28 U.S.C. §455 as applicable to federal judges. (Federal judges must recuse themselves whenever they own a “legal or equitable interest, however small” in a party.)

- *The draft Canons fail to prohibit judicial membership in organizations that discriminate on the basis of race, sex, religion, or national origin. (Compare current Canon 2C.)*