

<p>Color Key</p>	<p>Red – Indicates what specific language has changed between the current and proposed Code</p> <p>Green – Indicates that language has been moved from Commentary to Canon or from Canon to Commentary</p> <p>Blue – Indicates language from the Current Code that is not found in the proposed Code</p> <p>Black – Indicates that there has been no change in language between the current Code and the proposed Code</p> <p>Purple – Text in written in purple indicates Judge Yoder’s revisions and comments.</p> <p>Note: Any text highlighted in yellow indicates a grammatical correction.</p>	<ul style="list-style-type: none"> In general, any changes in the Code should be justified as better than the previous text or arrangement.
<p>Canon Number</p>	<p>Current Code</p>	<p>Proposed Code</p>
<p>Canon 1</p>	<p>Canon 1 Title: A Judge Shall Uphold the Integrity and Independence of the Judiciary</p>	<p>Canon 1 Title: Conduct in General: A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All the Judge’s Activities, So As To Uphold The Integrity, Independence and Impartiality of the Judiciary</p> <ul style="list-style-type: none"> The language in the current code is preferable. The obligation to uphold the integrity and independence of the judiciary does not depend on and is not limited by the need to avoid impropriety and the appearance of any impropriety. The two concepts, although related, are independent not interdependent. The

	<p>Canon 1A – An independent and honorable judiciary is indispensable to justice in our society.</p> <p>A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved.</p> <hr/> <p>The provisions of this Code are to be construed and applied to further that objective.</p> <hr/> <p>Commentary Canon 1 - Deference to the judgments and rulings of courts depends upon public confidence in the</p>	<p>proposed language suggests that the reason to avoid impropriety and the appearance of impropriety is to uphold the integrity, independence and impartiality of the judiciary, and that the only obligation to uphold the integrity, independence and impartiality is a derivative of avoiding impropriety and its appearance.</p> <p>Commentary 1.01 - [1] - An independent and honorable judiciary is indispensable to justice in our society.</p> <ul style="list-style-type: none"> There is no reason to change this Commentary. <p>Canon 1.01 – Observing Standards of Judicial Conduct – A judge shall observe the high standards of conduct embodied in these rules so that the integrity, independence and impartiality of the judiciary, and the public’s confidence therein, are promoted and preserved.</p> <ul style="list-style-type: none"> The language in the current code is preferable. It encourages high standards generally and requires compliance with the Code. There is no point in calling the Code standards “high.” <hr/> <ul style="list-style-type: none"> This language should be retained. <hr/> <p>Commentary 1.01 - [4] Deference to the judgments and rulings of courts depends upon public confidence</p>
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	<p>integrity and independence of judges. The integrity and independence 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.</p> <hr/> <p>Although judges should be independent, they must comply with the law, including the provisions of this Code.</p> <hr/> <p>Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.</p>	<p>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.</p> <hr/> <ul style="list-style-type: none"> • This language should be retained. <hr/> <p>Public confidence in the impartiality, integrity and independence of the judiciary is maintained by judges' compliance with the Code. 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.</p> <ul style="list-style-type: none"> • The language in the current Code is preferable, except as indicated. • "Conversely" should be eliminated, because it is unnecessary and in the new draft, and it is no longer parallel to the preceding sentence. There is no mention of a duty to comply with the provisions of the Code in the proposed draft prior to the last sentence.
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<p>Canon 2A</p>	<p>Canon 2 Title: A Judge Should Avoid Impropriety and the Appearance of Impropriety In All His Activities</p> <p>Canon 2A - A judge shall respect and comply with the law*</p> <p>and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.</p> <p>Commentary Canon 2A - Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges.</p> <hr/> <p>A judge must avoid all impropriety and appearance of impropriety.</p> <hr/> <p>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</p>	<p>Canon 1 Title: Conduct in General: A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All the Judge’s Activities, So As To Uphold The Integrity, Independence and Impartiality of the Judiciary</p> <p>Canon 1.02 - Complying with the Law – A judge shall respect and comply with the law*.</p> <p>Commentary Canon 1.02 - [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</p> <p>Canon 1.01 – Observing Standards of Judicial Conduct – A judge shall observe the high standards of conduct embodied in these rules so that the integrity, independence and impartiality of the judiciary, and the public’s confidence therein, are promoted and preserved.</p> <p>Commentary 1.01 - [6] Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges.</p> <hr/> <ul style="list-style-type: none"> This language should be retained. <hr/> <p>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</p>
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	<p>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.</p> <p>The prohibition against behaving 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 the Code.</p> <p>Actual improprieties under this standard include violations of law, court rules or other specific provisions of this Code. The test for appearance of impropriety is whether the conduct 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.</p>	<p><u>speech imposed by Sections 3(B)(9) and (10) that are indispensable to the maintenance of the integrity, impartiality, and independence of the judiciary.</u></p> <p>The prohibition against acting with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge.</p> <p>Commentary 1.01 - [7] Impropriety occurs when the conduct compromises the ability of the judge to carry out judicial responsibilities with integrity, impartiality and competence. An appearance of impropriety 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 3.04.</p> <ul style="list-style-type: none"> • The current language is preferable. The word “occurs” in the proposed Code finds a violation whenever there is “conduct compromising the ability of the judge.” The present Code appropriately provides a standard for determining whether a violation occurs. • Changing the word “would” to “could” improperly expands violations from those which “would” to those which “could” create a
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		<p>perception.</p> <p>Commentary 1.01 - [1] High standards of judicial conduct promote the integrity and impartiality of the judiciary and foster public confidence in the administration of justice.</p> <p>[2] Avoiding impropriety and its appearance 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 <u>occur only</u> be in conjunction with charges that the judge violated some other specific rule under this or another canon.</p> <ul style="list-style-type: none">• The rule should not express an assumption that a judge is being disciplined (“when a judge is disciplined for engaging in conduct”) and apparently is intended to incorporate the meaning shown in the edit. If not, it should. <p>[3] In addition to complying with the high standards of judicial conduct, a <u>A</u> judge is encouraged to participate in activities that promote ethical conduct generally among <u>by</u> 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.</p>
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<p>Canon 2B</p>	<p>Canon 2B - A judge shall not allow family, social, political or other relationships to influence the judge’s judicial conduct or judgment.</p> <hr/> <p>A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others;</p> <hr/> <p>nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge.</p>	<p>Canon 2.10(b) – External Influences on Judicial Conduct - A judge shall not allow family, social, political or other relationships to influence the judge’s judicial conduct or judgment.</p> <hr/> <ul style="list-style-type: none"> • This language should be retained somewhere in the Code. <hr/> <p>Canon 2.10(c) - A judge shall not convey or permit other persons to convey the impression that such persons are in a special position to influence the judge.</p>

	<p>A judge shall not testify voluntarily as a character witness.</p> <p>Commentary Canon 2B - Maintaining the prestige of judicial office is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. Respect for the judicial office facilitates the orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of the prestige of office in all of their activities. For example, it would be improper for a judge to allude to his or her judgeship to gain a personal advantage such as deferential treatment when stopped by a police officer for a traffic offense. Similarly, judicial letterhead must not be used for conducting a judge's personal business.</p> <p>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. In contracts for publication of a judge's writings, a judge should retain control over the advertising to avoid exploitation of the judge's office. As to the acceptance of awards, see Section 4D(5)(a) and Commentary.</p> <p>Although a judge should be sensitive to possible abuse of the prestige of office, a judge may, based on the judge's</p>	<ul style="list-style-type: none"> • This language should be retained somewhere in the Code. • This language should be retained somewhere in the Code. • This language should be retained somewhere in the Code. • This language should be retained somewhere in the Code.
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	<p>personal knowledge, serve as a reference or provide a letter of recommendation. However, a judge must not initiate the communication of information to a sentencing judge or a probation or corrections officer but may provide to such persons information for the record in response to a formal request.</p> <p>Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees seeking names for consideration, and by responding to official inquiries concerning a person being considered for a judgeship. See also Canon 5 regarding use of a judge’s name in political activities.</p> <p>A judge must not testify voluntarily as a character witness because to do so may lend the prestige of the judicial office in support of the party for whom the judge testifies. Moreover, when a judge testifies as a witness, a lawyer who regularly appears before the judge may be placed in the awkward position of cross-examining the judge. A judge may, however, testify when properly summoned. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.</p>	<p>the Code.</p> <ul style="list-style-type: none"> • This language should be retained somewhere in the Code. • This language should be retained somewhere in the Code. <hr/> <p>Commentary Canon 2.10 – [1] An independent judiciary requires that judges decide cases according to law without regard to whether the law or the litigants are popular or unpopular with the media, the public,</p>
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		<p>government officials, or the judge’s own friends or family. [2] Confidence in the judiciary is eroded if judicial decision-making is perceived to be subject to inappropriate outside influences, thus giving rise to an appearance of impropriety (see Rule 1.02/03). It is therefore essential to judicial independence and impartiality* that judges create no perception that their decision-making could be colored by such influences.</p>
<p>Canon 2C</p>	<p>Canon 2C - A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or national origin.</p> <p>Commentary Canon 2C - Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge’s impartiality is impaired. Section 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization’s current membership rolls but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of</p>	<ul style="list-style-type: none"> • This language should be retained somewhere in the Code. • This language should be retained somewhere in the Code.

	<p>race, religion, sex or national origin persons who would otherwise be admitted to membership. <i>See New York State Club Ass'n. Inc. v. City of New York</i>, 108 S. Ct. 2225, 101 L. Ed. 2d 1 (1988); <i>Board of Directors of Rotary International v. Rotary Club of Duarte</i>, 481 U.S. 537, 107 S. Ct. 1940 (1987), 95 L. Ed. 2d 474; <i>Roberts v. United States Jaycees</i>, 468 U.S. 609, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984).</p> <p>Although Section 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, religion or national origin, a judge's membership in an organization that engages in any discriminatory membership practices prohibited by the law of the jurisdiction also violates Canon 2 and Section 2A and gives the appearance of impropriety. In addition, it would be a violation of Canon 2 and Section 2A for a judge to arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, sex, religion or national origin in its membership or other policies, or for the judge to regularly use such a club. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Section 2A.</p> <p>When a person who is a judge on the date this Code becomes effective [in the jurisdiction in which the person is a judge] learns that an organization to which the judge belongs engages in invidious discrimination that would</p>	<ul style="list-style-type: none"> • This language should be retained somewhere in the Code. • This language should be retained somewhere in the Code.
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	<p>preclude membership under Section 2C or under Canon 2 and Section 2A, the judge is permitted, in lieu of resigning, to make immediate efforts to have the organization discontinue its invidiously discriminatory practices, but is required to suspend participation in any other activities of the organization. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within a year of the judge’s first learning of the practices), the judge is required to resign immediately from the organization.</p>	
<p>Canon 3 Title</p>	<p>Canon 3 – A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently</p>	<p>Canon 2 Title – Judicial Conduct: A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently</p>
<p>Canon 3A</p>	<p>A. Judicial Duties in General. The judicial duties of a judge take precedence over all the judge’s other activities. The judge’s judicial duties include all the duties of the judge’s office prescribed by law*. In the performance of these duties, the following standards apply.</p>	<p>Canon 2.01 – Giving Precedence to the Duties of Judicial Office – The duties of judicial office shall take precedence over all the other activities of the judge. The duties of judicial office include all the responsibilities of the judge’s office prescribed by law*.</p> <p>Commentary Canon 2.01 - [1] While judges engage in a variety of activities, the defining feature of their judicial role is the <u>independent</u> interpretation and application of the law. For that reason, those official duties that further the judicial function directly, through adjudication, or indirectly, through administration or discipline, are of primary importance relative to the judge’s other activities.</p> <ul style="list-style-type: none"> The commentary does not support the Canon. The Canon speaks of the primacy of <u>all</u> judicial duties over other activities. The Commentary

		<p>actually suggests that adjudication and administration take precedence over other judicial activities. Thus the last sentence of the Commentary may suggest that training, writing, speaking, etc. are not appropriate while cases are pending.</p>
<p>Canon 3B – Adjudicative Responsibilities</p>	<p>(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.</p> <p>(2) A judge shall be faithful to the law* and maintain professional competence in it.</p>	<p>Canon 2.02 – The Duty to Decide – A judge shall hear and decide matters assigned to the judge except those in which disqualification is required or recusal is appropriate under Canon 2.</p> <p>Commentary Canon 2.02 - [1] To protect the rights of litigants and preserve public confidence in the integrity, independence and impartiality of the judiciary, there will be times when disqualification or recusal <u>may be</u> is required or appropriate. A judge must be mindful, however, that a fundamental obligation of the judicial office is to be available to decide the matters that come before the court or tribunal. <u>However,</u> a judge must not use recusal or disqualification to avoid difficult or controversial issues.</p> <ul style="list-style-type: none"> • The deleted language is unnecessary. <p>Canon 2.03 – Competence in the Law – A judge shall <u>be faithful to the law*</u> and maintain professional competence in the law.</p> <p>Commentary Canon 2.03 - [1] In order to uphold the law, a judge must possess the legal knowledge, skills, and preparation necessary. for the effective administration of</p>

	<p>A judge shall not be swayed by partisan interests, public clamor or fear of criticism.</p> <p>(3) A judge shall require* order and decorum in proceedings before the judge.</p> <p>(4) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require* similar conduct of lawyers, and of staff, court officials and others subject to the judge’s direction and control.</p>	<p>justice.</p> <p>[2] When applying and upholding the law in the course of judicial decision-making, <u>Although</u> a judge may on occasion make a mistake of fact or law <u>without violating the Code</u>, An error of this kind does not violate this rule. <u>willful disregard of the law, however, is another matter and in appropriate circumstances may constitute misconduct. by the judge</u></p> <p>[3] <u>Judicial competence may be diminished and compromised when a judge is impaired by drugs, alcohol or other mental or physical impairments.</u> <u>Drugs, alcohol or other mental impairments may compromise judicial competence.</u></p> <ul style="list-style-type: none"> • <u>The deleted language is unnecessary.</u> <p>Canon 2.10(a) - A judge shall not be swayed by partisan interests, public clamor or fear of criticism.</p> <p>Canon 2.07 – Demeanor and Decorum - A judge shall require* order and decorum in proceedings before the judge</p> <p>Canon 2.07 – Demeanor and Decorum - A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require* similar conduct of lawyers, and of staff, court officials and others subject to the judge’s direction and control</p>
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	<p>Commentary Canon 3B(4) - The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.</p> <p>(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to the judge’s direction and control to do so.</p> <p>Commentary Canon 3B(5) - A judge must refrain from speech, gestures or other conduct that could reasonably be perceived as sexual harassment and must require the same standard of conduct of others subject to the judge’s direction and control.</p> <p>A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expression and</p>	<p>Commentary Canon 2.07 - [1] The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.</p> <p>Canon 2.05(a) – Bias and Discrimination – A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to the judge’s direction and control to do so.</p> <p>Commentary Canon 2.05 - [1] A judge must refrain from speech, gestures or other conduct that could reasonably be perceived as <u>sexual</u> harassment and must require the same standard of conduct of others subject to the judge’s direction and control.</p> <ul style="list-style-type: none"> • The word “sexual” should not be deleted. Eliminating sexual leaves the term “harassment” unacceptably vague. <p>[2] A judge must perform judicial duties impartially and fairly. A judge who manifests bias in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Even Facial expression and body</p>
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	<p>body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as prejudicial.</p> <p>Canon 3B(6) - A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, against parties, witnesses, counsel or others. This Section 3B(6) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.</p>	<p>language, <u>in addition to oral communication</u>, can convey to parties or lawyers in the proceeding, jurors, the media and others an appearance of bias. A judge must be alert to avoid conduct that may be perceived as prejudicial or biased.</p> <ul style="list-style-type: none"> • The Code should not require a judge to “avoid conduct that <u>may</u> be perceived as prejudicial or biased.” By eliminating the words “must be alert to” the comment requires a judge to refrain from behavior that he or she may not think is prejudicial or could be perceived as prejudicial. Being alert to avoiding behavior is a realistic requirement that the judge make a conscious effort to behave appropriately. <p>Canon 2.05(b) - A judge shall require lawyers in proceedings before the judge to refrain from manifesting, <u>by words or conduct</u>, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, against parties, witnesses, counsel or others. This Section does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding</p> <ul style="list-style-type: none"> • “By words or conduct” should be retained. <p>Commentary Canon 2.05 - [3] Examples of</p>
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	<p>Canon 3B (7) A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law*.</p>	<p>manifestations of bias <u>may</u> include but are not limited to epithets, slurs, demeaning nicknames, negative stereotyping, attempted humor based on stereotypes, threatening, intimidating or hostile acts, suggesting a connection between race or nationality and crime, and irrelevant references to personal characteristics. This rule does not preclude legitimate references to <u>any such</u> those factors when relevant to an issue in a proceeding.</p> <ul style="list-style-type: none"> • The “<u>may include but are not limited to</u>” construction is contradictory and unnecessary. <p>Canon 2.08 – Ensuring the Right to be Heard – A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law*.</p> <p>Commentary Canon 2.08 - [1] Ensuring <u>The right to be heard</u> is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are <u>is</u> respected.</p> <ul style="list-style-type: none"> • “Ensuring” is not an essential component of the right to be heard. The right itself should be respected, not the “procedures.” <p>[2] The judge has an important role to play in overseeing <u>encouraging and fostering</u> the settlement of disputes, but should be careful that a judge’s efforts to further settlement <u>should</u> not undermine a party’s right to be</p>
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	<p>A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:</p> <p>Canon 3B (7)(a) Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:</p> <p>(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and</p> <p>(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.</p>	<p>heard according to law. A judge may therefore encourage parties to a proceeding and their lawyers to settle matters in dispute but should not act in a manner that coerces a party into settlement.</p> <ul style="list-style-type: none"> • A judge should encourage and foster settlement but does not oversee it. • The deleted language is unnecessary. <p>Canon 2.09 (a) – Ex Parte Communications - A judge shall not initiate, permit or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:</p> <p>Canon 2.09(a)(1) - Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters are authorized; provided:</p> <p>Canon 2.09(a)(1)(i) - the judge reasonably believes that no party will gain a procedural, substantive or tactical advantage as a result of the ex parte communication, and</p> <p>Canon 2.09(a)(1)(ii) - the judge promptly gives notice to all other parties of the substance of the ex parte communication and allows an opportunity to respond</p> <ul style="list-style-type: none"> • This phrasing implies that the judge must personally give notice to all other parties. The
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	<p>Canon 3B (7)(b) - A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.</p>	<p>language from the current code is preferable.</p> <p>Canon 2.09(a)(2) - A judge may obtain <u>the advice of information and opinions from</u> a disinterested expert in a proceeding before the judge <u>or take official notice of publicly available information</u> if, before the record is closed, the judge gives notice to the parties of the person consulted and the substance of the advice obtained, and affords the parties reasonable opportunity to respond <u>on the information noticed</u>.</p> <ul style="list-style-type: none"> • “Advice” is preferable to “information and opinions.” Information implies receipt of off-the-record facts. • “Before the record is closed” implies that a lag is permissible between the time the expert is consulted and notice is given. The current Code is preferable, because it suggests that the consultation and notice occur contemporaneously. • The Code should include provisions for judicial or official notice. <p>Commentary Canon 2.09 - [8] The prohibition against a judge investigating the facts of a case independently or through a member of the judge’s staff, extends to information available in all mediums including electronic access <u>media but is not intended to bar access to dictionaries, treatises or other definitional sources including electronic media.</u></p>
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	<p>before the judge.</p> <p>Canon 3B(7)(e) - A judge may initiate or consider any ex parte communications when expressly authorized by law* to do so.</p> <p>Commentary Canon 3B(7) - Commentary Canon 3B(7) - The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted.</p> <p>To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.</p> <p>Whenever presence of a party or notice to a party is required by Section 3B(7), it is the party’s lawyer, or if the party is unrepresented the party, who is to be present or to whom notice is to be given.</p> <p>An appropriate and often desirable procedure for a court to obtain the advice of a disinterested expert on legal issues is to invite the expert to file a brief amicus curiae.</p>	<p>before the judge.</p> <ul style="list-style-type: none"> • “To mediate” should not be deleted from this provision. Even though a judge cannot work as a mediator in disputes outside of his or her court, there is no reason a judge cannot mediate in the context of his or her judicial duties with the parties consent. <p>Canon 2.09(a)(5) - A judge may initiate or consider any ex parte communications when expressly authorized by law* to do so.</p> <p>Commentary Canon 2.09 - [3] The proscription against communications concerning a proceeding includes communications with lawyers, law professors, and other persons who are not participants in the proceeding, except to the limited extent permitted by this rule.</p> <p>[1] To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.</p> <p>[2] Whenever the presence of a party or notice to a party is required by Section 2.09, it is the party’s lawyer, or if the party is unrepresented the party, who is to be present or to whom notice is to be given</p> <p>[5] An appropriate and often desirable method of obtaining the advice of a disinterested expert on legal issues is to invite the expert to file a brief amicus curiae.</p>
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	<p>Certain ex parte communication is approved by Section 3B(7) to facilitate scheduling and other administrative purposes and to accommodate emergencies. In general, however, a judge must discourage ex parte communication and allow it only if all the criteria stated in Section 3B(7) are clearly met. A judge must disclose to all parties all ex parte communications described in Sections 3B(7)(a) and 3B(7)(b) regarding a proceeding pending or impending before the judge.</p> <p>A judge must not independently investigate facts in a case and must consider only the evidence presented.</p> <p>A judge may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the request and are given an</p>	<p>[4] Certain ex parte communication is approved by Section 2.09 to facilitate scheduling and other administrative purposes and to accommodate emergencies. In general, however, a judge must discourage ex parte communication and allow it only if all the criteria stated in Section 2.09 are clearly met. A judge must disclose to all parties, in a manner that ensures notice, all ex parte communications described in Sections 2.09(a) and 2.09(b) regarding a proceeding pending or impending before the judge.</p> <ul style="list-style-type: none"> • “In a manner that ensures notice” is redundant and vague. If a judge has disclosed ex parte communications to all parties, there has been notice. <p>Canon 2.09(b) - A judge shall not independently investigate facts in a case <u>and must consider only the evidence presented.</u></p> <ul style="list-style-type: none"> • This Canon needs to precede, or be incorporated in, Canon 2.09(a)(2) as Commentary. <p><u>Commentary – The Canon is not intended to bar access to dictionaries, treatises or other definitional sources.</u></p> <p>Commentary Canon 2.09 [6] A judge may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the</p>
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	<p>opportunity to respond to the proposed findings and conclusions.</p> <p>A judge must make reasonable efforts, including the provision of appropriate supervision, to ensure that Section 3B(7) is not violated through law clerks or other personnel on the judge’s staff.</p> <p>If communication between the trial judge and the appellate court with respect to a proceeding is permitted, a copy of any written communication or the substance of any oral communication should be provided to all parties.</p> <p>Canon 3B(8) - A judge shall dispose of all judicial matters promptly, efficiently and fairly.</p> <p>Commentary Canon 3B(8) - In disposing of matters promptly, efficiently and fairly, a judge must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. Containing costs while preserving fundamental rights of parties also protects the interests of witnesses and the general public. A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays and unnecessary costs. A judge should encourage and seek to facilitate settlement, but parties should not feel coerced into surrendering the right to have their controversy resolved by the courts.</p>	<p>request and are given an opportunity to respond to the proposed findings and conclusions.</p> <p>Canon 2.09(c) - A judge shall make reasonable efforts, including the provision of appropriate supervision, to ensure that Section 2.09 is not violated through law clerks or other personnel on the judge’s staff.</p> <p>Commentary Canon 2.09 [7] If communication between the trial judge and the appellate court with respect to a proceeding is permitted, a copy of any written communication or the substance of any oral communication should be provided to all parties.</p> <p>Canon 2.06 - A judge shall dispose of all judicial matters promptly, efficiently and fairly.</p> <p>Commentary Canon 2.06 – [2] In disposing of matters promptly, efficiently and fairly, a judge must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. Containing costs while preserving fundamental rights of parties also protects the interests of witnesses and the general public. A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays and unnecessary costs. A judge should encourage and seek to facilitate settlement, but should not coerce parties into surrendering the right to have their controversy resolved by the courts.</p>
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	<p>This Section does not apply to proceedings in which the judge is a litigant in a personal capacity.</p> <p>Canon 3B(10) A judge shall not, with respect to cases, controversies or issues that are likely to come before the court, make pledges, promises or commitments that are inconsistent with the impartial* performance of the adjudicative duties of the office.</p> <p>Commentary Canon 3B(9) and (10) - Sections 3B(9) and (10) restrictions on judicial speech are essential to the maintenance of the integrity, impartiality, and independence of the judiciary.</p> <p>A pending proceeding is one that has begun but not yet reached final disposition. An impending proceeding is one that is anticipated but not yet begun.</p>	<p>response meets the requirements of 2.11(a) and (b).</p> <ul style="list-style-type: none"> • Judicial comment on media “allegations” should not be encouraged. <p>Commentary 2.11 - [3] This Section does not prohibit apply to proceedings <u>a judge from commenting on proceedings</u> in which the judge is a litigant in a personal capacity</p> <ul style="list-style-type: none"> • The current provision is preferable. The proposed language apparently limits the exception to cases where the judge is currently a litigant in a personal capacity, not future litigation. <p>Canon 2.11 (b) – Judicial Statements on Pending and Future Cases - A judge shall not, with respect to cases, controversies or issues that are likely to come before the court, make pledges, promises or commitments that are inconsistent with the impartial* performance of the adjudicative duties of the office</p> <p>Commentary Canon 2.11 - [1] Section 2.11 restrictions on judicial speech are essential to the maintenance of the integrity, independence, and impartiality of the judiciary.</p> <p>[2] A pending proceeding is one that has commenced but has not reached final disposition, including any appellate process and continues during any appellate process and</p>
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	<p>The requirement that judges abstain from public comment regarding a pending or impending proceeding continues during any appellate process and until final disposition. Sections 3B(9) and (10) do not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity, but in cases such as a writ of mandamus where the judge is a litigant in an official capacity, the judge must not comment publicly. The conduct of lawyers relating to trial publicity is governed by [Rule 3.6 of the ABA Model Rules of Professional Conduct]. (Each jurisdiction should substitute an appropriate reference to its rule.)</p> <p>Canon 3B(11) A judge shall not commend or criticize jurors for their verdict other than in a court order or</p>	<p>until final disposition. An impending proceeding is one that is anticipated but not yet commenced. A proceeding is “impending” where there is reason to believe a case may be filed., for example, if a crime is being investigated but no charges have been brought, or if someone has been arrested but not yet charged.</p> <ul style="list-style-type: none"> • The proposed language says that a pending proceeding is one that “continues during an appellate process” which is syntactically incorrect. The criminal example of an impending proceeding is obvious and obscures the provision’s applicability to non-criminal cases. <p>[3] This Section does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity, but in cases such as a writ of mandamus where the judge is a litigant in an official capacity, the judge must not comment publicly. The conduct of lawyers relating to trial publicity is governed by [Rule 3.6 of the ABA Model Rules of Professional Conduct]. (Each jurisdiction should substitute an appropriate reference to its rule.)</p> <ul style="list-style-type: none"> • Proposed Commentary 2.11 [4] would permit such comment. <p>Canon 2.07(c) – Demeanor and Decorum - A judge shall not commend or criticize jurors for their verdict other</p>
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	<p>opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.</p> <p>Commentary Canon 3B(11) - Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror’s ability to be fair and impartial in a subsequent case.</p> <hr/> <p>Canon 3B(12) A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information* acquired in a judicial capacity.</p> <hr/>	<p>than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.</p> <p>Commentary Canon 2.07 - [2] Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror’s ability to be fair and impartial in a subsequent case.</p> <p>Commentary Canon 2.07 - [3] Where not otherwise prohibited by law, judges may take the opportunity to debrief jurors on their jury experience, after their jury service is concluded.</p> <ul style="list-style-type: none"> • The stricken language is unnecessary. <hr/> <ul style="list-style-type: none"> • This language should be retained somewhere in the Code. <hr/> <p>Canon 2.04 – Impartiality and Fairness – A judge shall apply the law without regard to the judge’s personal views and shall decide all cases with impartiality and fairness.</p> <ul style="list-style-type: none"> • A judge necessarily applies the law with regard to his personal views of the law. <p>Commentary Canon 2.04 - [1] A judge must be objective and free of favoritism to ensure impartiality and fairness</p>
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		<p>to all parties. While a judge’s background and philosophy may influence the way in which the judge analyzes, interprets and applies the law, the judge’s personal views, by themselves, should not be controlling. Thus, a judge must uphold the law without regard to whether the judge personally approves or disapproves of the law in question.</p>
<p>Canon 3C – Administrative Responsibilities</p>	<p>Canon 3C(1) - A judge shall diligently discharge the judge’s administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.</p> <p>Canon 3C(2) - A judge shall require staff, court officials and others subject to the judge’s direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.</p>	<p>Canon 2.13 - Administrative Competence and Diligence – A judge shall discharge the judge’s administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration and should cooperate with other judges and court officials in the administration of court business.</p> <p>Commentary 2.13 - [1] The judge’s obligation to perform adjudicative responsibilities diligently, competently and without bias or prejudice, applies equally to the judge’s administrative responsibilities. The judge’s obligation to perform his or her responsibilities diligently, competently and without bias or prejudice applies to both judicial and administrative responsibilities.</p> <ul style="list-style-type: none"> • The proposed language is syntactically incorrect and should be revised as indicated. <p>Canon 2.14 – Supervision of Staff – A judge shall require staff, court officials and others subject to the judge’s direction and control to act in a manner consistent with the high standards of conduct expressed in this code.</p>

	<p>Canon 3C(3) - A judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to assure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.</p>	<ul style="list-style-type: none"> • The wording of the current code is preferable. A judge can require that those subject to his control observe the standards but cannot ensure that they follow them. <p>Commentary 2.14 - [1] The first contact that members of the public have with the judicial system is often with court staff. It is therefore especially important that judges take responsibility for ensuring <u>seek to ensure</u> that the conduct of personnel subject to their direction and control is consistent with the high standards of conduct embodied in this code.</p> <ul style="list-style-type: none"> • The deleted words are redundant/unnecessary. <p>Canon 2.15 – Supervision of Other Judges – A judge with supervisory authority for other judges shall take reasonable measures to assure the prompt disposition of matters before them and the proper performance of their other administrative responsibilities.</p> <ul style="list-style-type: none"> • “Judicial” is more inclusive and is preferable to “administrative.” The first sentence relates to judicial responsibilities, so the second sentence should not refer to “other” administrative responsibilities. <p>Commentary 2.15 - [1] Public confidence in the courts depends on justice not being unduly delayed. To promote the efficient administration of justice, judges with supervisory authority must take the steps needed <u>should</u></p>
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	<p>Canon 3C(4) - A judge shall not make unnecessary appointments.</p> <hr/> <p>A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered.</p> <p>Commentary Canon 3C(4) - Appointees of a judge include assigned counsel, officials such as referees, commissioners, special masters, receivers and guardians and personnel such as clerks, secretaries and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by Section 3C(4).</p> <p>Canon 3C(5) A judge shall not appoint a lawyer to a position if the judge either knows that the lawyer has contributed more than [\$] within the prior [] years to the judge's election campaign,³ or learns of such a contribution by means of a timely motion by a party or other person properly interested in the matter, unless</p>	<p>seek to ensure that judges under their supervision administer handle the workload of their courts expeditiously.</p> <ul style="list-style-type: none"> • The deleted words are unnecessary/inapt. <hr/> <ul style="list-style-type: none"> • This language should be retained somewhere in the Code. <hr/> <p>Canon 2.16(a) – Administrative Appointments - A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism, favoritism and unnecessary appointments. A judge shall not approve compensation of appointees beyond the fair value of services rendered.</p> <p>Commentary Canon 2.16 - [1] Appointees of a judge include assigned counsel, officials such as referees, commissioners, special masters, receivers and guardians and personnel such as clerks, secretaries and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by Section 2.16 (a).</p> <p>Canon 2.16(b) A judge shall not appoint a lawyer to a position if the judge either knows that the lawyer has contributed more than [\$] within the prior [] years to the judge's election campaign, or learns of such a contribution by means of a timely motion by a party or other person properly interested in the matter, unless</p>
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	<p>(a) the position is substantially uncompensated;</p> <p>(b) the lawyer has been selected in rotation from a list of qualified and available lawyers compiled without regard to their having made political contributions; or</p> <p>(c) the judge or another presiding or administrative judge affirmatively finds that no other lawyer is willing, competent and able to accept the position.</p>	<p>(1) the position is substantially uncompensated;</p> <p>(2) the lawyer has been selected in rotation from a list of qualified and available lawyers compiled without regard to their having made political contributions; or</p> <p>(3) the judge or another presiding or administrative judge affirmatively finds that no other lawyer is willing, competent and able to accept the position</p>
<p>Canon 3D – Disciplinary Responsibilities</p>	<p>Canon 3D(1) - A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action. A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question as to the other judge’s fitness for office shall inform the appropriate authority.</p> <p>Canon 3D(2) – A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct [substitute correct title if the applicable rules of lawyer conduct have a different title] should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct [substitute correct title if the applicable rules of lawyer conduct have a different title] that raises a substantial question as to the lawyer’s honesty, trustworthiness or fitness as a lawyer in other</p>	<p>Canon 2.17 – Judicial Misconduct – A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question as to the other judge’s fitness for office shall inform the appropriate authority. A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action.</p> <p>Canon 2.18 – Lawyer Misconduct – A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct [substitute correct title if the applicable rules of lawyer conduct have a different title] that raises a substantial question as to the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority. A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Profession Conduct [substitute correct title if the applicable rules of lawyer conduct have a different title]</p>

	<p>respects shall inform the appropriate authority.</p> <p>Commentary Canon 3D - Appropriate action may include direct communication with the judge or lawyer who has committed the violation, other direct action if available, and reporting the violation to the appropriate authority or other agency or body.</p> <p>Canon 3D(3) - Acts of a judge, in the discharge of disciplinary responsibilities, required or permitted by Sections 3D(1) and 3D(2) are part of a judge’s judicial duties and shall be absolutely privileged, and no civil action predicated thereon may be instituted against the judge.</p>	<p>should take appropriate action.</p> <p>Commentary Canon 2.17 - [1] Appropriate action may include direct communication with the judge who has committed the violation, other direct action if available, and reporting the violation to the appropriate authority or other agency or body</p> <p>Commentary 2.18 - [1] Appropriate action may include direct communication with the lawyer who has committed the violation, and or reporting the violation to the appropriate authority or other agency or body.</p> <p>Canon 2.20 – Immunity for Discharge of Duties – Acts of a judge required or permitted under Rules 2.17, 2.18 and 2.19, in responding to judicial misconduct, lawyer misconduct, or disability and impairment, under Rules 2.17, 2.18 and 2.19 are part of a judge’s judicial duties and shall be absolutely privileged, and no civil action predicated thereon may be instituted against the judge.</p> <ul style="list-style-type: none"> The reference to the rules should be repositioned to clarify that the Canon refers to acts under the rules. <p>Commentary 2.20 - [1] To encourage judges to report or otherwise act on evidence of respond to lawyer and judicial misconduct as required by these Rules, it is important that judges be insulated from threats of civil action when they attempt to for complying with their obligations under such rules.</p>
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<p>Canon 3E – Disqualification</p>	<p>Canon 3E(1) - A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to instances where:</p>	<p>Canon 2.12A - Disqualification – General Rule - In addition to disqualifying himself or herself in any of the circumstances in paragraphs (B) through (F) below, a judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned.</p>

	<p>Commentary Canon 3E(1) - Under this rule, a judge is disqualified whenever the judge’s impartiality might reasonably be questioned, regardless whether any of the specific rules in Section 3E(1) apply. For example, if a judge were in the process of negotiating for employment with a law firm, the judge would be disqualified from any matters in which that law firm appeared, unless the disqualification was waived by the parties after disclosure by the judge.</p> <p>A judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification.</p> <p>By decisional law, the rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In the latter case, the judge must disclose on the record the basis for possible disqualification and use reasonable efforts to transfer the matter to another judge as soon as practicable.</p>	<ul style="list-style-type: none"> • In general the current Code formulation is simpler and better. <p>Commentary Canon 2.12 - [1] Under this rule, a judge is disqualified whenever the judge’s impartiality might reasonably be questioned, regardless of whether any of the specific provisions of Section 2.12(a) apply. For example, if a judge were in the process of negotiating for employment with a law firm, the judge would be disqualified from any matters in which that law firm appeared, unless the disqualification was waived by the parties after disclosure by the judge.</p> <p>[2] A judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification.</p> <p>[3] By decisional law, the rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In such cases matters such as these latter two, that require immediate action, the judge must disclose on the record the basis for possible disqualification and use reasonable efforts to transfer the matter to another judge as soon as practicable.</p>
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	<p>Canon 3E(1)(a) the judge has a personal bias or prejudice concerning a party or a party’s lawyer, or personal knowledge* of disputed evidentiary facts concerning the proceeding;</p> <p>Canon 3E(1)(b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter,</p> <p>or the judge has been a material witness concerning it;</p> <p>Commentary Canon 3E(1)(b) - A lawyer in a government</p>	<ul style="list-style-type: none"> • The comment states “in matters such as these latter two” but there are only two scenarios given. • How can a judge make reasonable efforts to transfer a matter to another judge as soon as practicable, if it requires “immediate judicial action” and he or she is the only judge available? <p>Canon 2.12B - Personal Bias or Knowledge - A judge shall disqualify himself or herself when the judge has a personal bias or prejudice concerning a party or a party’s lawyer, or personal knowledge* of disputed evidentiary facts concerning the proceeding</p> <p>Canon 2.12G - Prior Affiliations - A judge shall disqualify himself or herself where the judge</p> <ol style="list-style-type: none"> (1) Served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter; (2) Served as a material witness concerning the matter; or (3) Served in governmental employment and in such capacity participated as lawyer, advisor, or material witness concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy. <p>Commentary Canon 2.12 - [4] A lawyer in a government</p>
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	<p>agency does not ordinarily have an association with other lawyers employed by that agency within the meaning of Section 3E(1)(b); a judge formerly employed by a government agency, however, should disqualify himself or herself in a proceeding if the judge’s impartiality might reasonably be questioned because of such association.</p> <p>Canon 3E(1)(c) - the judge knows that he or she, individually or as a fiduciary, or the judge’s spouse, parent or child wherever residing, or any other member of the judge’s family residing in the judge’s household, has an economic interest in the subject matter in controversy or in a party to the proceeding or has any other more than de minimis* interest that could be substantially affected by the proceeding;</p> <p>Canon 3E(1)(d) the judge or the judge’s spouse, or a person within the third degree of relationship* to either</p>	<p>agency does not ordinarily have an association with other lawyers employed by that agency within the meaning of Section 2.12(a)(2); a judge formerly employed by a government agency, however, shall disqualify himself or herself in a proceeding if the judge’s impartiality might reasonably be questioned because of such association.</p> <p>Canon 2.12D - Economic and Other Personal Interests - A judge shall disqualify himself or herself when the judge knows that</p> <p>(1) He or she, individually or as a fiduciary, or the judge’s spouse, domestic partner, parent or child wherever residing, or any other member of the judge’s family residing in the judge’s household, has an economic interest in the subject matter in controversy or in a party to the proceeding or has any other more than de minimis* interest that could be substantially affected by the proceeding; or</p> <ul style="list-style-type: none"> • “Wherever residing” should be retained, particularly since the Canon’s mandate assumes knowledge. • “Domestic partner” is a new and ambiguous term and must be defined if used. <p>Canon 2.12C - Roles in a Proceeding - A judge shall disqualify himself or herself when the judge, the judge’s spouse or domestic partner, a person within the third</p>
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	<p>of them, or the spouse of such a person:</p> <p>(i) is a party to the proceeding, or an officer, director or trustee of a party;</p> <p>(ii) is acting as a lawyer in the proceeding;</p> <p>(iii) is known* by the judge to have a more than de minimis* interest that could be substantially affected by the proceeding;</p> <p>(iv) is to the judge’s knowledge* likely to be a material witness in the proceeding;</p> <p>Canon 3E(1)(e) the judge knows or learns by means of a timely motion that a party or a party's lawyer has within the previous [] year[s] made aggregate* contributions to the judge's campaign in an amount that is greater than [[[\$] for an individual or [\$] for an entity]] [[is reasonable and appropriate for an individual or an entity]].</p>	<p>degree of relationship* to either of them, or the spouse or domestic partner of such a person</p> <ul style="list-style-type: none"> • “Domestic partner” is a new and ambiguous term and must be defined if used. <p>(1) is a party to the proceeding, or an officer, director, or trustee of a party;</p> <p>(2) is acting as a lawyer in the proceeding; or</p> <p>Canon 2.12(D)(2) - A person within the third degree of relationship to the judge or the judge’s spouse or domestic partner, or the spouse or domestic partner of such a person, has a more than de minimis interest* that could be substantially affected by the proceeding.</p> <ul style="list-style-type: none"> • “Domestic partner” is a new and ambiguous term and must be defined if used. <p>Canon 2.12C(3) is to the judge’s knowledge* likely to be a material witness in the proceeding</p> <p>Canon 2.12E - Campaign Contributions - A judge shall disqualify himself or herself when the judge knows or learns by means of a timely motion that a party or a party’s lawyer has within the previous [] year[s] made aggregate* contributions to the judge’s campaign in an amount that is greater than [[[\$] for an individual or [\$] for an entity]] [[is reasonable and appropriate for an individual or an entity]]</p>
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	<p>Canon 3E(1)(f) the judge, while a judge or a candidate* for judicial office, has made a public statement that commits, or appears to commit, the judge with respect to</p> <p>(i) an issue in the proceeding; or</p> <p>(ii) the controversy in the proceeding.</p> <p>Commentary Canon 3E(1)(f) - The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "the judge's impartiality might reasonably be questioned" under Section 3E(1), or that the relative is known by the judge to have an interest in the law firm that could be "substantially affected by the outcome of the proceeding" under Section 3E(1)(d)(iii) may require the judge's disqualification.</p> <p>Canon 3E(2) A judge shall keep informed about the judge's personal and fiduciary* economic interests*, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and minor children residing in the judge's household.</p>	<p>Canon 2.12F - Public Statements - A judge shall disqualify himself or herself if the judge, while a judge or a candidate* for judicial office, has made a public statement that commits, or appears to commit, the judge with respect to an issue in the proceeding or the controversy in the proceeding.</p> <p>Commentary Canon 2.12 - [5] The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not of itself disqualify the judge. If, however, "the judge's impartiality might reasonably be questioned" under Section 2.12(a) or the relative is known by the judge to have an interest in the law firm that could be "substantially affected by the proceeding" under Section 2.12(a)(4)(iii) the judge's disqualification may be required.</p> <p>Canon 2.12H - Monitoring Economic Interests - A judge shall keep informed about the judge's personal and fiduciary* economic interests*, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or domestic partner, and minor children residing in the judge's household.</p> <ul style="list-style-type: none"> • "Domestic partner" is a new and ambiguous term and must be defined if used.
<p>Canon 3F – Remittal of Disqualification</p>	<p>Canon 3F - Remittal of Disqualification. A judge disqualified by the terms of Section 3E may disclose on</p>	<p>Canon 2.12I - Remittal of Disqualification - A judge subject to disqualification by the terms of this Section,</p>

	<p>the record the basis of the judge’s disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification.</p> <p>If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding.</p> <p>The agreement shall be incorporated in the record of the proceeding.</p> <p>Commentary Canon 3F - A remittal procedure provides the parties an opportunity to proceed without delay if they wish to waive the disqualification. To assure that consideration of the question of remittal is made independently of the judge, a judge must not solicit, seek or hear comment on possible remittal or waiver of the disqualification unless the lawyers jointly propose remittal after consultation as provided in the rule. A party may act through counsel if counsel represents on the record that the party has been consulted and consents. As a practical matter, a judge may wish to have all parties and their lawyers sign the remittal agreement.</p>	<p>other than paragraph B, may disclose on the record the basis of the judge’s disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification.</p> <p>If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, agree that the judge should not be disqualified, the judge may participate in the proceeding.</p> <ul style="list-style-type: none"> • The deleted words should be retained for clarity. <p>Such a remittal agreement shall be written and shall be incorporated in the record of the proceeding.</p> <p>Commentary Canon 2.12 - [6] A remittal procedure provides the parties an opportunity to proceed without delay if they wish to waive the disqualification. To assure that consideration of the question of remittal is made independently of the judge, a judge must not solicit, seek or hear comment on possible remittal or waiver of the disqualification unless the lawyers jointly propose remittal after consultation as provided in the rule. A party may act through counsel if counsel represents on the record that the party has been consulted and consents. As a practical matter, a judge may wish to have all parties and their lawyers sign the remittal agreement.</p>
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