

Color Key	<p><b>Red</b> – Indicates what specific language has changed between the current and proposed Code</p> <p><b>Green</b> – Indicates that language has been moved from Commentary to Canon or from Canon to Commentary</p> <p><b>Blue</b> – 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><b>Purple</b> – Text in written in purple indicates Judge Yoder’s revisions and comments.</p> <p><b>Note:</b> Any text highlighted in yellow indicates a grammatical correction.</p>	<ul style="list-style-type: none"> <li>In general, any changes in the Code should be justified as better than the previous text or arrangement.</li> </ul>
Canon Number	Current Code	Proposed Code
Canon 1	Canon 1 Title: A Judge Shall Uphold the Integrity and Independence of the Judiciary	<p>Canon 1 Title: <b>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</b> of the Judiciary</p> <ul style="list-style-type: none"> <li>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</li> </ul>

	<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"><li>• There is no reason to change this Commentary.</li></ul> <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"><li>• 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.”</li></ul> <hr/> <ul style="list-style-type: none"><li>• This language should be retained.</li></ul> <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"><li>• This language should be retained.</li></ul> <hr/> <p>Public confidence in the impartiality, integrity and independence of the judiciary is maintained by judges' compliance with the Code. <del>acting in a manner free from favoritism, self-interest or bias.</del> Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.</p> <hr/> <ul style="list-style-type: none"><li>• The language in the current Code is preferable, except as indicated.</li><li>• "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.</li></ul>
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<p>Canon 2A</p>	<p>Canon 2 Title: A Judge <b>Should</b> Avoid Impropriety and the Appearance of Impropriety In All <b>His</b> 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 willingly.</p>	<p>Canon 1 Title: <b>Conduct in General:</b> A Judge <b>Shall</b> Avoid Impropriety and the Appearance of Impropriety in All <b>the Judge's</b> Activities, <b>So As To Uphold The Integrity, Independence and Impartiality of the Judiciary</b></p> <p>Canon 1.02 - Complying with the Law – A judge shall respect and comply with the law*.</p> <p><b>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</b></p> <p>Canon 1.01 – Observing Standards of Judicial Conduct – <b>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.</b></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"><li><b>This language should be retained.</b></li></ul> <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. <b>Examples are the restrictions on judicial</b></p>
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	<p>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 <b>behaving</b> 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 <b>would</b> 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 <b>acting</b> 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 <del>could</del> <u>would</u> 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"><li>• 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.</li><li>• Changing the word “would” to “could” improperly expands violations from those which “would” to those which “could” create a</li></ul>
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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 <del>embodied in this Canon itself</del>. Ordinarily, <del>when a judge is disciplined for engaging in conduct that creates an appearance of impropriety, it will</del> <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"><li>• 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.</li></ul> <p>[3] <del>In addition to complying with the high standards of judicial conduct, a</del> <u>A</u> judge is encouraged to participate in activities that promote ethical conduct <del>generally among</del> <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> <p>A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others;</p>	<p><b>Canon 3 – PERSONAL CONDUCT: A JUDGE SHALL CONDUCT THE JUDGE’S PERSONAL AFFAIRS TO PRESERVE THE INTEGRITY, IMPARTIALITY AND INDEPENDENCE OF THE JUDICIARY</b></p> <p>Canon 2.10(b) – A judge shall not allow family, social, political or other relationships to influence the judge’s judicial conduct or judgment.</p> <p>3.01 <b>Using the Judicial Office for Private Purposes.</b> A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others.</p>

<sup>1</sup> NOTE: The sentences above in this Commentary may appear out of order for organizational purposes.

	<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>A judge shall not testify <b>voluntarily</b> 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.</p> <p><b>For example</b>, 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.</p> <p><b>For example, a judge must not</b> use the judge's judicial position to gain advantage in a civil suit involving a member of the judge's family.</p> <p>Similarly, judicial letterhead must not be used for conducting a judge's personal business.<sup>1</sup></p> <hr/> <p>A judge must avoid lending the prestige of judicial office for the advancement of the private interests of others.</p>	<p>Canon 4.07 – Testifying as a Character Witness. A judge shall not testify as a character witness, <b>except when properly summoned</b>.</p> <p>Commentary Canon 3.01 - [1] 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.</p> <p>Commentary Canon 3.01 - [2] It would be improper, <b>for example</b>, 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, <b>or to</b> use his or her judicial position to gain advantage in a civil suit involving a member of the judge's family.</p> <p>Similarly, a judge must not use judicial letterhead to gain an advantage in conducting his or her personal business.</p> <hr/> <ul style="list-style-type: none"><li>• <b>This language should be retained</b></li></ul>
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	<p>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 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>Commentary Canon 3.01 - [3] Special considerations arise when judges write or contribute to publications, whether related or unrelated to the law. A judge should not permit the publisher of such materials to exploit the judge's office by, for example, praising the judge's judicial accomplishments or, when the work is unrelated to the law, emphasizing the judge's position.</p> <ul style="list-style-type: none"><li>• Why shouldn't a judge permit a publisher to praise the judge's judicial accomplishments?</li></ul> <p>Commentary Canon 3.01 - [5] A judge may provide a reference or recommendation for an individual based upon the judge's personal knowledge. However, unless the recommendation is based upon information obtained through the judge's expertise or experience <u>with the individual</u> as a judge, the reference or recommendation should not be communicated on the judge's judicial letterhead.</p> <ul style="list-style-type: none"><li>• This comment seems to suggest that a judge may use judicial letterhead to recommend someone, whether or not the judge knows the person, if the recommendation is based on the judge's expertise or experience as a judge. Is this the intended rule? If so the desirability of the rule is questionable. Traditionally the comment has been directed at the judge's knowledge of the person seeking a reference rather than the use of</li></ul>
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	<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.</p> <p>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.</p> <p>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>judicial letterhead.</p> <p>Commentary Canon 3.01 - [4] 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.</p> <p>Commentary Canon 3.01 - [6] This rule does not apply to a judge's use of his or her name in endorsements of himself or herself, or of others as judicial candidates as permitted in Canon 5.</p> <ul style="list-style-type: none"><li>• The language in the Current Code is preferable.</li></ul> <p>Commentary Canon 3.01 - [7] 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. See rule 4.07.</p> <p>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. In addition, a judge who testifies voluntarily as a character witness, lends the prestige of judicial office to advance the interests of another. See Rule 3.01. 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>
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		<p>(NOTE: Proposed Canon 3.02 has been omitted from this chart because it corresponds with the Current Canon 3B(12). The Proposed Canon will be incorporated into a larger chart that compiles all the charts I have made this summer).</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 <b>organization practices invidious discrimination</b> is often a complex question <b>to which judges should be sensitive.</b></p> <p>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</p>	<p>3.03 <b>Affiliation with Discriminatory Organizations.</b> A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion, national origin, <b>ethnicity, or sexual orientation, and shall not use the facilities of such an organization to any significant extent.</b></p> <p>Commentary Canon 3.03 - [1] Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge’s impartiality is impaired. Whether an <b>organization’s practices are invidiously discriminatory</b> is often a complex question <b>to which judges should be sensitive.</b></p> <ul style="list-style-type: none"> <li>• The language “to which judge should be sensitive” should be retained. Without it this rule only indicates that it is a complex question but does not describe how judges should treat the question.</li> </ul>

	<p>its members, or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited.</p> <p>Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex or national origin persons who would otherwise be admitted to membership. See <i>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.</p>	<p>An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex, national origin, ethnicity or sexual orientation individuals who would otherwise be admitted.</p> <p>Rule 3.03 does not prohibit a judge's membership in any United States military organization, an organization dedicated to the preservation of religious, ethnic or legitimate cultural values of common interest to its members, or one that is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited.</p> <p>Although Rule 3.03 relates only to organizations invidiously discriminating on the basis of race, sex, religion, national origin, ethnicity, or sexual orientation, a judge's membership in or significant use of relationship to, including the use of facilities of, organizations practicing invidious discrimination on any other basis prohibited by applicable law creates the appearance of impropriety.</p>
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	<p>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.</p> <p>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 preclude membership under Section 2C or under Canon 2</p>	<ul style="list-style-type: none"><li>• It is unclear what the phrase “use of” refers to. In the comment below there are references to arranging meetings at a club, regularly attending events or using the facilities. If the comment intended “use of” to refer to these activities, there should be a cross reference indicating as such.</li></ul> <p>Commentary Canon 3.03 - [3] Whether a judge's use of the facilities of a discriminatory organization is significant depends on whether the frequency or nature of that use is sufficient to create the impression that the judge approves of the organization and its practices. Accordingly, a judge must not arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, sex, religion, national origin, ethnicity or sexual orientation in its membership or other policies, or regularly attend events at or regularly use other facilities of such a club.</p> <p>Commentary Canon 3.03 - [2] Public manifestation by a judge of the judge's approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 1 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Rule 1.01.</p> <p>Commentary Canon 3.03 - [4] When a judge learns that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Rule 3.03 or under Canon 1 and 1.01,</p>
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	and <b>Section 2A</b> , 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.	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.
Canon 3 Title	Canon 3 – A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently	Canon 2 Title – Judicial Conduct: A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently
Canon 3A	A. <b>Judicial Duties in General.</b> The <b>judicial duties of a judge</b> take precedence over all the judge’s other activities. The <b>judge’s judicial duties</b> include all the duties of the judge’s office prescribed by law*. <b>In the performance of these duties, the following standards apply.</b>	<p>Canon 2.01 – <b>Giving Precedence to the Duties of Judicial Office</b> – The <b>duties of judicial office shall take precedence</b> over all the other activities of the judge. The <b>duties of judicial office</b> include all the responsibilities of the judge’s office prescribed by law*.</p> <p><b>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.</b></p> <ul style="list-style-type: none"> <li>• The commentary does not support the Canon. The Canon speaks of the primacy of <u>all</u> judicial duties over other activities. The Commentary actually suggests that adjudication and administration take precedence over other judicial</li> </ul>

		<p>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 <b>be faithful to the law*</b> 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 <b>or recusal is appropriate under Canon 2.</b></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, <del>there will be times when</del> disqualification or recusal <b>may be</b> is required or appropriate. <del>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.</del> <b>However,</b> a judge must not use recusal or disqualification to avoid difficult or controversial issues.</p> <ul style="list-style-type: none"> <li>• The deleted language is unnecessary.</li> </ul> <p>Canon 2.03 – Competence in the Law – A judge shall <b>be faithful to the law* and</b> 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. <del>for the effective administration of justice.</del></p> <p>[2] <del>When applying and upholding the law in the course</del></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>Commentary Canon 3B(4) - The duty to hear all</p>	<p><del>of judicial decision-making, <u>Although</u> a judge may <del>on occasion</del> 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</u> may constitute misconduct. by the judge</del></p> <p><del>[3] Judicial competence may be diminished and compromised when a judge is impaired by drugs, alcohol or other mental or physical impairments. <u>Drugs, alcohol or other mental impairments may compromise judicial competence.</u></del></p> <ul style="list-style-type: none"> <li>• <u>The deleted language is unnecessary.</u></li> </ul> <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> <p>Commentary Canon 2.07 - [1] The duty to hear all</p>
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	<p>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 <b>sexual</b> 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 body language, <b>in addition to oral communication</b>, can give to parties or lawyers in the proceeding, jurors, the</p>	<p>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"><li>• The word “sexual” should not be deleted. Eliminating sexual leaves the term “harassment” unacceptably vague.</li></ul> <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. <del>Even</del> Facial expression and body language, <u>in addition to oral communication</u>, can convey to parties or lawyers in the proceeding, jurors, the media</p>
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	<p>media and others an appearance of <b>judicial</b> bias. A judge <b>must be alert to avoid behavior</b> 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, <b>by words or conduct</b>, 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>and others an appearance of bias. A judge <b>must be alert to avoid conduct</b> that may be perceived as prejudicial or <b>biased</b>.</p> <ul style="list-style-type: none"><li>• 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.</li></ul> <p>Canon 2.05(b) - A judge shall require lawyers in proceedings before the judge to refrain from manifesting, <b>by words or conduct</b>, 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"><li>• “By words or conduct” should be retained.</li></ul> <p>Commentary Canon 2.05 - [3] Examples of manifestations of bias <u>may</u> include <del>but are not limited to</del> epithets, slurs, demeaning nicknames, negative</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>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> <del>those</del> factors <del>when</del> relevant to an issue in a proceeding.</p> <ul style="list-style-type: none"><li>• The “<u>may include but are not limited to</u>” construction is contradictory and unnecessary.</li></ul> <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] <del>Ensuring</del> <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 <del>procedures protecting</del> the right to be heard <del>are</del> <u>is</u> respected.</p> <ul style="list-style-type: none"><li>• “Ensuring” is not an essential component of the right to be heard. The right itself should be respected, not the “procedures.”</li></ul> <p>[2] The judge has an important role to play in <del>overseeing</del> <u>encouraging and fostering</u> the settlement of disputes, but <del>should be careful that</del> <u>a judge's</u> efforts to further settlement <u>should</u> not undermine a party's right to be heard according to law. A judge may <del>therefore</del> encourage parties <del>to a proceeding</del> and their lawyers to settle matters</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 <b>makes provision promptly to notify</b> all other parties of the substance of the ex parte communication and allows an opportunity to respond.</p>	<p><b>in dispute but should not act in a manner that coerces a party into settlement.</b></p> <ul style="list-style-type: none"><li>• <b>A judge should encourage and foster settlement but does not oversee it.</b></li><li>• <b>The deleted language is unnecessary.</b></li></ul> <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, <b>substantive</b> or tactical advantage as a result of the ex parte communication, and</p> <p>Canon 2.09(a)(1)(ii) - the judge <b>promptly gives notice to</b> all other parties of the substance of the ex parte communication and allows an opportunity to respond</p> <ul style="list-style-type: none"><li>• <b>This phrasing implies that the judge must personally give notice to all other parties. The language from the current code is preferable.</b></li></ul>
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	<p>Canon 3B (7)(b) - A judge may obtain the <b>advice</b> 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>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, <b>before the record is closed</b>, the judge gives notice to the parties of the person consulted and the substance of the advice <b>obtained</b>, and affords the parties reasonable opportunity to respond <u>on the information noticed</u>.</p> <ul style="list-style-type: none"><li>• “Advice” is preferable to “information and opinions.” Information implies receipt of off-the-record facts.</li><li>• “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.</li><li>• The Code should include provisions for judicial or official notice.</li></ul> <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 <del>access</del> <u>media but is not intended to bar access to dictionaries, treatises or other definitional sources including electronic media</u>.</p> <ul style="list-style-type: none"><li>• This comment raises concerns regarding a judge’s ability to take official notice of information. It</li></ul>
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	<p>Canon 3B (7)(c) - A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.</p> <p>Canon 3B(7)(d) – A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort <b>to mediate</b> or settle matters pending before the judge.</p>	<p>ability to take official notice of information. It also apparently would bar a judge from accessing definitional information from treatises, dictionaries or other recognized definitional sources. An exception for these types of sources should be included in the Code.</p> <p>Canon 2.09 (a)(3) - A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges <del>and the judge does not abrogate the responsibility to personally decide the case</del> and takes <del>all</del> reasonable steps to avoid receiving factual information that is not part of the record.</p> <p><u>Commentary – The Canon is not intended to bar access to dictionaries, treatises or other definitional sources.</u></p> <ul style="list-style-type: none"><li>• Requiring a judge to take reasonable steps to avoid receiving factual information that is not part of the record implies that a judge would not have access to a dictionary, treatise or other sources for definitional information. The provision further implies that a judge cannot take official notice of other public information, e.g., the sun usually rises in the East.</li></ul> <p>Canon 2.09(a)(4) - A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to <u>mediate or</u> settle matters pending before the judge.</p>
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	<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 <b>from</b> lawyers, law <b>teachers</b>, 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 <b>procedure for</b> 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>	<ul style="list-style-type: none"><li>• “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.</li></ul> <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 <b>with</b> lawyers, law <b>professors</b>, and other persons who are not participants in the proceeding, except to the limited extent permitted <b>by this rule</b>.</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 <b>method of</b> 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 opportunity to respond to the proposed findings and conclusions.</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, <del>in a manner that ensures notice</del>, 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"><li>• “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.</li></ul> <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"><li>• This Canon needs to precede, or be incorporated in, Canon 2.09(a)(2) as Commentary.</li></ul> <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 request and are given an opportunity to respond to the proposed findings and conclusions.</p>
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	<p>A judge <b>must</b> 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 <b>parties should not feel coerced</b> into surrendering the right to have their controversy resolved by the courts.</p>	<p>Canon 2.09(c) - A judge <b>shall</b> 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 <b>should not coerce parties</b> into surrendering the right to have their controversy resolved by the courts.</p> <ul style="list-style-type: none"><li>• A judge cannot ensure parties' feelings.</li></ul> <p>[1] Prompt disposition of the court's business requires a</p>
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	<p>Prompt disposition of the court’s business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with the judge to that end.</p> <p>Canon 3B(9) A judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require* similar abstention on the part of <b>court personnel*</b> subject to the judge’s direction and control.</p> <p>This Section does not prohibit judges from making public statements in the course of their official duties or from <b>explaining for public information the procedures of the court.</b></p>	<p>judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with the judge to that end.</p> <p>Canon 2.11(a) – Judicial Statements on Pending and Future Cases - A judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require* similar abstention <b>from public comment</b> on the part of <b>staff; or court officers*, and others</b> subject to the judge’s direction and control.</p> <ul style="list-style-type: none"><li>• The term “others” is ambiguous and could imply an obligation beyond court staff, to other employees of the judge outside the court.</li></ul> <p>Commentary 2.11 - [4] This Section does not prohibit judges from making public statements in the course of their official duties or from explaining <b>the procedures of the court. to the public. Nor does it prohibit judges from responding directly, or through a third party, to allegations in the media or elsewhere concerning the judge’s conduct in a matter, provided that any such response meets the requirements of 2.11(a) and (b).</b></p> <ul style="list-style-type: none"><li>• Judicial comment on media “allegations” should</li></ul>
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	<p>This Section does not <b>apply</b> 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, <b>and</b> independence of the judiciary.</p> <p>A pending proceeding is one that has <b>begun but not yet reached final disposition</b>. An impending proceeding is one that is anticipated but not yet <b>begun</b>.</p>	<p><b>not be encouraged.</b></p> <p>Commentary 2.11 - [3] This Section does not <del>prohibit</del> <b>apply to proceedings</b> <del>a judge from commenting on proceedings</del> in which the judge is a litigant in a personal capacity</p> <ul style="list-style-type: none"><li>• <b>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.</b></li></ul> <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, <b>and</b> impartiality of the judiciary.</p> <p>[2] A pending proceeding is one that has <b>commenced but has not reached final disposition, including any appellate process</b> <del>and continues during any appellate process and until final disposition</del>. An impending proceeding is one that is anticipated but not yet <b>commenced</b>. A proceeding is “impending” where there is reason to believe a case</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 opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the</p>	<p>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"><li>• 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.</li></ul> <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"><li>• Proposed Commentary 2.11 [4] would permit such comment.</li></ul> <p>Canon 2.07(c) – Demeanor and Decorum - A judge shall not commend or criticize jurors for their verdict other 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>
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	<p>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> <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>	<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 <del>take the opportunity to</del> debrief jurors on their jury experience, after their jury service is concluded.</p> <ul style="list-style-type: none"><li>• The stricken language is unnecessary.</li></ul> <p>Canon 3.02 Use of Non-Public Information. A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information* acquired in a judicial capacity.</p> <p>Commentary Canon 3.02 - [1] In the course of performing their judicial duties, judges may acquire information of commercial or other value that is otherwise unavailable to the public. Judges must not reveal or exploit such information for personal gain or for any purpose unrelated to their judicial duties</p> <p>Canon 2.04 – Impartiality and Fairness – A judge shall <del>apply the law without regard to the judge's personal views and</del> shall decide all cases with impartiality and fairness.</p>
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		<ul style="list-style-type: none"> <li>• A judge necessarily applies the law with regard to his personal views of the law.</li> </ul> <p>Commentary Canon 2.04 - [1] A judge must be objective and free of favoritism to ensure impartiality and fairness to all parties. While a judge's background and philosophy may influence the way in which the judge analyzes, interprets and applies the law, <del>the judge's personal views, by themselves, should not be controlling.</del> 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</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] <del>The judge's obligation to perform adjudicative responsibilities diligently, competently and without bias or prejudice, applies equally to the judge's administrative responsibilities.</del> <u>The judge's obligation to perform his or her responsibilities diligently, competently and without bias or prejudice applies to both judicial and administrative responsibilities.</u></p> <ul style="list-style-type: none"> <li>• The proposed language is syntactically incorrect and should be revised as indicated.</li> </ul> <p>Canon 2.14 – Supervision of Staff – A judge shall require</p>

	<p>and others subject to the judge’s direction and control to <del>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.</del></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 <b>judicial</b> responsibilities.</p>	<p>staff, court officials and others subject to the judge’s direction and control to act in a manner consistent with the <b>high</b> standards of conduct expressed in this code.</p> <ul style="list-style-type: none"><li>• 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.</li></ul> <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 <del>especially</del> important that judges <del>take responsibility for ensuring</del> <u>seek to ensure</u> that the conduct of personnel subject to their direction and control is consistent with the <b>high</b> standards of conduct <del>embodied</del> in this code.</p> <ul style="list-style-type: none"><li>• The deleted words are redundant/unnecessary.</li></ul> <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 <b>administrative</b> responsibilities.</p> <ul style="list-style-type: none"><li>• “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.</li></ul>
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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</p>	<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 <del>must take the steps needed</del> <u>should seek</u> to ensure that judges under their supervision <del>administer</del> <u>handle</u> the workload of their courts expeditiously.</p> <ul style="list-style-type: none"> <li>• The deleted words are unnecessary/inapt.</li> </ul> <hr/> <ul style="list-style-type: none"> <li>• This language should be retained somewhere in the Code.</li> </ul> <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</p>
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	<p>position if the judge either knows that the lawyer has contributed more than [\$ ] within the prior [ ] years to the judge's election campaign,<sup>3</sup> 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>(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>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> <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</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</p>

	<p>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.</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, <b>in the discharge of disciplinary responsibilities, required or permitted by Sections 3D(1) and 3D(2)</b> 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>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] 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><b>Commentary 2.18 - [1] Appropriate action may include direct communication with the lawyer who has committed the violation, <del>and</del> or reporting the violation to the appropriate authority or other agency or body.</b></p> <p>Canon 2.20 – Immunity for Discharge of Duties – Acts of a judge <b>required or permitted under Rules 2.17, 2.18 and 2.19, in responding to judicial misconduct, lawyer misconduct, or disability and impairment, <del>under Rules 2.17, 2.18 and 2.19</del></b> 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"><li><b>The reference to the rules should be repositioned to clarify that the Canon refers to acts under the rules.</b></li></ul> <p><b>Commentary 2.20 - [1] To encourage judges to report or</b></p>
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		<p>otherwise <del>act on evidence of</del> <u>respond to</u> lawyer and judicial misconduct as required by these Rules, it <b>is</b> important that judges be insulated from threats of civil action <del>when they attempt to</del> <u>for</u> complying with their obligations under such rules.</p> <ul style="list-style-type: none"> <li>• The deleted words are redundant/inapt.</li> </ul> <p>Canon 2.19 – Disability and Impairment – A judge having knowledge that the performance of a lawyer or another judge is impaired by drugs, alcohol, or other mental, emotional or physical condition shall take appropriate action, which may include a confidential referral to a lawyer or judicial assistance program.</p> <p>Commentary 2.19 - [1] Taking or initiating corrective action <u>may include doing nothing, talking to the lawyer or judge, or</u> <del>by way of</del> referral to an assistance program. <del>can fulfill several laudable purposes. For example, a resulting intervention can be the first step toward a successful recovery program. That action alone may satisfy the mandates expressed in this section. Depending on the gravity of the conduct, however (i.e., the conduct in response to which action is necessary), a judge having knowledge of such conduct may be required to take action in addition to or in lieu of a referral to the relevant assistance program.</del></p> <ul style="list-style-type: none"> <li>• The deleted words are redundant/inapt.</li> </ul>
Canon 3E – Disqualification	Canon 3E(1) - A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might	Canon 2.12A - Disqualification – General Rule - <b>In addition to disqualifying himself or herself in any of the</b>

	<p>reasonably be questioned, <b>including but not limited to instances where:</b></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. <b>In the latter case,</b> the judge must disclose on the</p>	<p><b>circumstances in paragraphs (B) through (F) below,</b> a judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned.</p> <ul style="list-style-type: none"><li><b>In general the current Code formulation is simpler and better.</b></li></ul> <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. <b>In such cases <del>matters such as these latter two, that</del></b></p>
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	<p>record the basis for possible disqualification and use reasonable efforts to transfer the matter to another judge as soon as practicable.</p> <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><b>or the judge has been</b> a material witness concerning <b>it</b>;</p>	<p><del>require immediate action</del>; 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"> <li>• The comment states “in matters such as these latter two” but there are only two scenarios given.</li> <li>• 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?</li> </ul> <p>Canon 2.12B - Personal Bias or Knowledge - <b>A judge shall disqualify himself or herself when</b> 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 - <b>A judge shall disqualify himself or herself where</b> the judge</p> <ol style="list-style-type: none"> <li>(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;</li> <li>(2) <b>Served as</b> a material witness concerning <b>the matter</b>; or</li> <li>(3) <b>Served in governmental employment and in such capacity participated as lawyer, advisor, or</b></li> </ol>
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	<p>Commentary Canon 3E(1)(b) - A lawyer in a government 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, <b>parent</b> or child <b>wherever residing</b>, 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><b>material witness concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy.</b></p> <p>Commentary Canon 2.12 - [4] A lawyer in a government 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 - <b>A judge shall disqualify himself or herself when</b> the judge knows that</p> <p>(1) He or she, individually or as a fiduciary, or the judge's spouse, <b>domestic partner</b>, <b>parent</b> or child <b>wherever residing</b>, 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"><li>• "Wherever residing" should be retained, particularly since the Canon's mandate assumes knowledge.</li><li>• "Domestic partner" is a new and ambiguous term</li></ul>
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	<p>Canon 3E(1)(d) the judge or the judge’s spouse, or a person within the third degree of relationship* to either 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) <b>is known* by the judge to</b> 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</p>	<p><b>and must be defined if used.</b></p> <p>Canon 2.12C - Roles in a Proceeding - <b>A judge shall disqualify himself or herself when</b> the judge, the judge’s spouse <b>or domestic partner</b>, a person within the third degree of relationship* to either of them, or the spouse or <b>domestic partner</b> of such a person</p> <ul style="list-style-type: none"> <li>• <b>“Domestic partner” is a new and ambiguous term and must be defined if used.</b></li> </ul> <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) - <b>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</b>, has a more than de minimis interest* that could be substantially affected by the proceeding.</p> <ul style="list-style-type: none"> <li>• <b>“Domestic partner” is a new and ambiguous term and must be defined if used.</b></li> </ul> <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 - <b>A judge shall disqualify himself or herself when</b> the judge knows or learns by means of a timely motion that a party or a</p>
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	<p>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>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. <b>Under appropriate circumstances, the fact that</b> "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 <b>the outcome of the proceeding</b>" under Section 3E(1)(d)(iii) <b>may require the judge's disqualification.</b></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>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>Canon 2.12F - Public Statements - <b>A judge shall disqualify himself or herself if</b> 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. <b>If, however,</b> "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) <b>the judge's disqualification may be required.</b></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 <b>domestic partner</b>, and</p>
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		<p>minor children residing in the judge’s household.</p> <ul style="list-style-type: none"> <li>• “Domestic partner” is a new and ambiguous term and must be defined if used.</li> </ul>
<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 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</p>	<p>Canon 2.12I - Remittal of Disqualification - A judge subject to disqualification by the terms of this Section, 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"> <li>• The deleted words should be retained for clarity.</li> </ul> <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</p>

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	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.	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.
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<p>Canon 4A</p>	<p>A JUDGE SHALL <b>SO</b> CONDUCT THE JUDGE'S EXTRA-JUDICIAL ACTIVITIES <b>AS</b> TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL OBLIGATIONS</p> <p>A. Extra-judicial Activities in General. A judge shall conduct all of the judge's extra-judicial activities so that they <b>do not</b>:</p> <p>(1) cast reasonable doubt on the judge's capacity to act impartially <b>as a judge</b>;</p> <p>(2) demean the judicial office; <b>or</b></p> <p>(3) interfere with the proper performance of judicial duties.</p>	<p>CANON 4: EXTRA-JUDICIAL CONDUCT: A JUDGE SHALL <b>SO</b> CONDUCT THE JUDGE'S EXTRA-JUDICIAL ACTIVITIES <b>AS</b> TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL OBLIGATIONS</p> <ul style="list-style-type: none"><li>• The language in the current code is preferable. The revision seems to require avoidance of any activities which risk conflict.</li></ul> <p>4.01 Extra-judicial Activities in General. A judge shall conduct <del>all of</del> the judge's extra-judicial activities so that they <b>do not</b>:</p> <p>(b) <del>do not</del> cast reasonable doubt on the judge's capacity to act with impartiality, <b>integrity and independence</b>;</p> <p>(c) <del>do not</del> demean the judicial office; <b>and</b></p> <p>(a) <del>do not</del> interfere with the proper performance of judicial duties;</p> <ul style="list-style-type: none"><li>• The language in the current code is preferable. The conjunctive structure appears to impose greater pre-decision limits than the disjunctive.</li></ul> <p>(d) <del>comply with the requirements of this code.</del></p> <ul style="list-style-type: none"><li>• Paragraph (d) does not relate to conflict with judicial obligations and does not add anything to</li></ul>
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	<p>Commentary Canon 4A - Complete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives.</p> <p>Expressions of bias or prejudice by a judge, even outside the judge’s judicial activities, may cast reasonable doubt on the judge’s capacity to act impartially as a judge. Expressions which may do so include jokes or other remarks demeaning individuals on the basis of their race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status. See <b>Section 2C</b> and accompanying Commentary.</p>	<p><b>this rule. The Code indicates throughout that judges must comply with the code.</b></p> <p>Commentary Canon 4.01 - [1] Complete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives.</p> <p>Commentary Canon 4.01 - [2] Expressions of bias or prejudice by a judge, even outside the judge’s judicial activities, may cast reasonable doubt on the judge’s capacity to act impartially as a judge. Expressions which may do so include jokes or other remarks demeaning individuals on the basis of their race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status. See <b>Rule 3.03</b> and accompanying Commentary.</p>
<p>Canon 4B</p>	<p><b>B. Avocational Activities. A judge may speak, write, lecture, teach and participate in other extra-judicial activities concerning the law*, the legal system, the administration of justice and non-legal subjects, subject to the requirements of this Code.</b></p> <p>Commentary Canon 4B - As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of <b>criminal and juvenile</b> justice.</p>	<p>Commentary Canon 4.01 - [4] As a judicial officer and person specially learned in the law, a judge is in <b>the</b> unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of <b>the</b> justice <b>system</b>. <u>Judges may participate in efforts to promote the fair administration of justice, the independence of the judiciary and the integrity of the legal profession and may express opposition to the persecution</u></p>

	<p>To the extent that time permits, a judge is encouraged to do so, either independently or through a bar association, judicial conference or other organization <b>dedicated to the improvement of the law</b>. Judges may participate in efforts to promote the fair administration of justice, the independence of the judiciary and the integrity of the legal profession and may express opposition to the persecution of lawyers and judges in other countries because of their professional activities.</p> <p>In this and other <b>Sections</b> of Canon 4, the phrase "subject</p>	<p><u>of lawyers and judges in other countries because of their professional activities</u>. Such <del>contributions</del> <u>activities</u> may take the form of speaking, writing, teaching or participating in other extrajudicial activities. <del>In many instances, these activities may contribute significantly to the promotion of the fair administration of justice and to ensuring the integrity, independence and impartiality of the judiciary.</del> To the extent that time permits, a judge is encouraged to <b>undertake such activities</b>, either independently or through a bar association, judicial conference or other organization. <u>In many instances, these activities may contribute significantly to the promotion of the fair administration of justice and to ensuring the integrity, independence and impartiality of the judiciary.</u></p> <ul style="list-style-type: none"><li>• The language in the current code is preferable. This modification is less affirmative than the present code.</li></ul> <p>Commentary Canon 4.01 - [5] <del>As a private individual, a judge may also wish to engage in writing, speaking, teaching, or being otherwise active in regard to non-legal subjects. To</del> <u>to</u> the extent that such activity is not in conflict with any of the judges' duties under this Code, <del>it is permitted by this Rule.</del></p> <ul style="list-style-type: none"><li>• The deleted language is unnecessary.</li></ul> <p>Partial Commentary Canon 4.04(b) - [8] In this and other</p>
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	<p>to the requirements of this Code" is used, notably in connection with a judge's governmental, civic or charitable activities. This phrase is included to remind judges that the use of permissive language in various Sections of the Code does not relieve a judge from the other requirements of the Code that apply to the specific conduct.</p>	<p>Rules in Canon 4, the phrase "subject to the requirements of this Code" is used, to remind judges that the use of permissive language in various Rules of the Code does not relieve a judge from the other requirements of the Code that apply to the specific conduct.</p>
<p>Canon 4C</p>	<p><b>C. Governmental, Civic or Charitable Activities.</b></p> <p>(1) A judge shall not appear at a public hearing before, or otherwise consult with, an executive or legislative body or official except</p> <p>on matters concerning the law*, the legal system or the administration of justice or except</p> <p>when acting pro se in a matter involving the judge or the judge's interests.</p> <p>Commentary Canon 4C - See Section 2B regarding the obligation to avoid improper influence.</p>	<p><b>4.02 Appearances Before Governmental Bodies.</b> A judge shall not appear at a public hearing before, or otherwise consult with, an executive or legislative body or official except:</p> <p>(a) on matters concerning the law*, the legal system or the administration of justice</p> <p>(b) on other matters that might reasonably merit the attention and comment of the judge because of the judge's knowledge or expertise acquired in the course of the judge's judicial duties; or</p> <p>(c) when acting pro se in a matter involving the judge or the judge's interests.</p> <p>Commentary Canon 4.02 - [3] See Rules 2.10 and 3.01 and Commentary regarding the obligation to avoid improper influence.</p> <p>Commentary Canon 4.02 - [1] Judges possess special expertise on matters of law, the legal system and the</p>

	obligation to avoid improper influence.	<p>administration of justice, and may properly share that expertise with governmental bodies. In addition, judges may acquire information on issues before them that are not law-related but upon which they may be well-qualified to comment from their unique vantage point as jurists who have presided over such matters in court. For example, a juvenile court judge may be uniquely situated to comment to a public body on the potential benefits of proposed <u>community</u> improvements <del>in the community</del>, such as the creation of new athletic or <del>other</del> recreational opportunities that could lead to a decrease in delinquency among juveniles. Judges must be mindful, however, that their appearance before governmental bodies remains subject to other provisions of this Code, such as Rule 2.11, governing public comment on pending and impending matters, and Rule 4.01(b), prohibiting judges from engaging in extra-judicial activities that cast reasonable doubt on the judge's impartiality, integrity and independence.</p> <p>Commentary Canon 4.02 - [2] <del>In general, it would be an unnecessary and unfair burden to prohibit judges</del> <u>Judges are not barred</u> from appearing before governmental bodies on matters that are likely to have special effect upon them as private citizens, for example, zoning proposals that will affect their real property or proposals having to do with the availability of local health services. The judge must exercise care, however, not to lend the prestige of judicial office to advance general causes with respect to which the judge possesses no special judicial competence.</p>
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<p>Canon 4C(2) A judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law,* the legal system or the administration of justice. A judge may, however, represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities.</p> <p>Commentary Canon 4C(2) - <b>Section 4C(2) prohibits a judge from accepting any governmental position except one relating to the law, legal system or administration of justice as authorized by Section 4C(3).</b> The appropriateness of accepting extra-judicial assignments <b>must be assessed</b> in light of the demands on judicial resources created by crowded dockets <b>and the need to protect the courts from involvement in extra-judicial matters that may prove to be controversial.</b> Judges should not accept governmental appointments that are likely to interfere with the <b>effectiveness and independence of the judiciary.</b></p> <p><b>Section 4C(2) does not govern a judge's service in a nongovernmental position. See Section 4C(3) permitting service by a judge with organizations devoted to the improvement of the law, the legal system or the administration of justice and with educational, religious, charitable, fraternal or civic organizations not conducted for profit. For example,</b> service on the board of a public educational institution, unless it were a law school,</p>	<p><b>4.03 Appointments to Governmental Bodies.</b> A judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law,* the legal system or the administration of justice. A judge may, however, represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities.</p> <p>Commentary Canon 4.03 - [1] <b>A judge must assess</b> the appropriateness of accepting extra-judicial assignments in light of the demands on judicial resources created by crowded dockets <b>and</b> should not accept governmental appointments that are likely to interfere with the <b>effective operation of the courts.</b> Judges must also avoid <b>appointments that are likely to embroil the court in controversial issues or impair the impartiality, integrity and independence of the judiciary.</b></p> <p>Commentary Canon 4.04(b) - [11] <b>This Rule, not Rule 4.03 governs a judge's service in a nongovernmental position. This Rule permits</b> service by a judge with organizations devoted to the improvement of the law, the legal system or the administration of justice and with educational, religious, charitable, fraternal or civic organizations not conducted for profit. Service on the board of a public educational institution, unless it were a law school, would</p>
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<p>would be prohibited under <b>Section 4C(2)</b>, but service on the board of a public law school or any private <b>educational</b> institution would generally be permitted under <b>Section 4C(3)</b>.</p> <p>Canon 4C(3) A judge may serve as an officer, director, trustee or non-legal advisor of an organization or governmental <b>agency</b> devoted to the improvement of the law,* the legal system or the administration of justice or of an educational, religious, charitable, fraternal or civic organization not conducted for profit,</p> <p>subject to the following limitations and the other requirements of this Code.</p> <p>Commentary Canon 4C(3) - <b>Section 4C(3)</b> does not <b>apply</b> to a judge's service in a governmental position <b>unconnected</b> with the improvement of the law, the legal system or the administration of justice; see <b>Section 4C(2)</b>.</p> <p>See Commentary to Section 4B regarding use of the phrase "subject to the following limitations and the other requirements of this Code." As an example of the meaning of the phrase, a judge permitted by Section 4C(3) to serve on the board of a fraternal institution may</p>	<p>be prohibited under <b>Rule 4.03</b>, but service on the board of a public law school or any private <b>legal</b> institution would generally be permitted under <b>this Rule</b>.</p> <p>4.04(b) A judge may serve as an officer, director, trustee, or non-legal advisor of an organization or governmental <b>entity</b> devoted to the improvement of the law,* the legal system or the administration of justice or of an educational, religious, charitable, fraternal or civic organization not conducted for profit, <b>unless it is likely that the organization or governmental entity</b>:</p> <p>4.04 Civic of Charitable Activities: A judge may <b>participate in civic or charitable activities that do not reflect adversely upon a judge's impartiality, integrity and independence, or interfere with the performance of judicial duties</b>, subject to the following limitations and the other requirements of this Code.</p> <p>Commentary Canon 4.04(b) - [7] <b>This rule</b> does not <b>prohibit</b> a judge's service in a governmental position <b>associated</b> with the improvement of the law, the legal system or the administration of justice; see <b>Rule 4.03</b>.</p> <p>Partial Commentary Canon 4.04(b) - [8] As an example of the meaning of the phrase, a judge permitted by <b>this Rule</b> to serve on the board of a fraternal institution may be prohibited from such service by <b>Rules 3.03 or 4.01</b> if the institution practices invidious discrimination or if service</p>
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	<p>be prohibited from such service by Sections 2C or 4A if the institution practices invidious discrimination or if service on the board otherwise casts reasonable doubt on the judge's capacity to act impartially as a judge.</p> <p>Service by a judge on behalf of a civic or charitable organization may be governed by other provisions of Canon 4 in addition to <b>Section 4C</b>. For example, a judge is prohibited by <b>Section 4G</b> from serving as a legal advisor to a civic or charitable organization.</p> <p>Canon 4C(3)(a) <b>A judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that the organization</b></p> <p>(i) will be engaged in proceedings that would ordinarily come before the judge, or</p> <p>(ii) will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.</p> <p>Commentary Canon 4C(3)(a) - The changing nature of</p>	<p>on the board otherwise casts reasonable doubt on the judge's capacity to act impartially as a judge.</p> <p>Commentary Canon 4.04(b) - [9] Service by a judge on behalf of a civic, <b>fraternal</b> or charitable organization may be governed by other provisions of Canon 4 in addition to <b>Rules 4.02, 4.03 and 4.04</b>. For example, a judge is prohibited by <b>Rule 4.07</b> from serving as a legal advisor to a civic, <b>fraternal</b> or charitable organization.</p> <p><b>4.04(b) A judge may serve as an officer, director, trustee, or non-legal advisor of an organization or governmental entity devoted to the improvement of the law,* the legal system or the administration of justice or of an educational, religious, charitable, fraternal or civic organization not conducted for profit, unless it is likely that the organization or governmental entity:<sup>2</sup></b></p> <p>4.04(b)(1) Will be engaged in proceedings that would ordinarily come before the judge, or</p> <p>4.04(b)(2) will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.</p> <p>Commentary Canon 4.04(b) - [10] The changing nature of</p>
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<sup>2</sup> NOTE: This language is drawn from the Current Code in Canon 4(C)(3) but is intended to substitute the language in Canon 4(C)(3)(a) as well.

	<p>some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is <b>affiliated</b> to determine if it is proper for the judge to continue the affiliation. <b>For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.</b></p>	<p>some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is <b>associated</b> to determine if it is proper for the judge to continue the affiliation.</p> <p><b>Commentary Canon 4.04(b) - [1] A judge should be permitted to participate in civic, fraternal or charitable activities for the benefit of the community of which the judge is a part, provided that such participation does not take inappropriate advantage of the judge's judicial position, or otherwise interfere with the performance of the judge's judicial duties.</b></p> <p><b>Commentary Canon 4.04(b) - [5] Judges are an integral part of the legal community and may participate as judges in the activities of organizations within the legal community without inappropriately lending the prestige of office to those activities, even when they serve a</b></p>
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<sup>3</sup> NOTE: THIS FOOTNOTE DOES NOT APPEAR IN THE TEXT OF THE RULE. This Rule refers to Rule 4.04(a)(1) which states that:

A judge shall not

- (i) use or permit the use of the prestige of judicial office for fundraising or membership solicitation.
- (ii) personally solicit funds for the organization
- (iii) personally participate in membership solicitation if the solicitations is primarily a fundraising mechanism, or if it might reasonably be perceived as coercive.

<sup>4</sup> NOTE: The Commentary from Canon 4.04(b) [3] is listed twice in the chart because the revised text draws from two different paragraphs in the current code.

	<p>Canon 4C(3)(b) A judge as an officer, director, trustee or non-legal advisor, or as a member or otherwise:</p> <p>(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities, except that a judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority;</p> <p>(ii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, * the legal system or the administration of justice;</p>	<p>fundraising purpose. Therefore, a judge may, for example, accept an invitation to speak at or be recognized or honored at an event hosted by a legal organization, law school, or other entity devoted to improving the law, the legal system or the administration of justice, even if such an event raises funds for the benefit of the sponsoring organization.</p> <p>4.04(a) With respect to any activities in which a judge participates on behalf of a civic or charitable organization:</p> <p>4.04(a)(2) Notwithstanding paragraph (1) above, a judge may:<sup>3</sup></p> <p>4.04(a)(2)(ii) assist the organization in fundraising and participate in the management and investment of the organization's funds;</p> <p>4.04(a)(2)(i) – personally solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority;</p> <p>4.04(a)(2)(iv) – make recommendations to public and private fund-granting organizations on programs and activities concerning the law, the legal system or the administration of justice.</p> <p>4.04(a)(2)(iii) – appear at, participate in, and permit the judge's title to be used in connection with an event of an organization devoted to the improvement of law, the legal system, or the administration of</p>
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	<p>(iii) shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or, except as permitted in Section 4C(3)(b)(i), if the membership solicitation is essentially a fund-raising mechanism;</p> <p>(iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.</p> <p>Commentary Canon 4C(3)(b) - A judge may solicit membership or endorse or encourage membership efforts for an organization devoted to the improvement of the law, the legal system or the administration of justice or a nonprofit educational, religious, charitable, fraternal or civic organization as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fund-raising mechanism.</p> <p>Solicitation of funds for an organization and solicitation</p>	<p>justice, even though the event may serve a fundraising purpose;</p> <p>4.04(a)(1) A judge shall not</p> <p>4.04(a)(1)(iii) – personally participate in membership solicitation if the solicitation is primarily a fundraising mechanism, or if it might reasonably be perceived as coercive</p> <p>4.04(a)(1)(i) – use or permit the use of the prestige of judicial office for fundraising or membership solicitation</p> <p>4.04(a)(1)(ii) – personally solicit funds for the organization</p> <p>Commentary Canon 4.04(b) - [3] Solicitation of membership poses potential problems similar to those associated with the solicitation of funds. For that reason, a judge must not personally solicit membership or endorse or encourage membership efforts for civic or charitable organizations if the solicitation could reasonably be perceived as coercive. For example, a judge must not solicit memberships from other judges over whom the judge exercises supervisory or appellate authority, or from persons or those affiliated with persons who are likely ever to appear before the court on which the judge serves.</p> <p>Commentary Canon 4.04(b) - [2] Solicitation of funds for</p>
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	<p>of memberships similarly involve the danger that the person solicited will feel obligated to respond favorably to the solicitor if the solicitor is in a position of influence or control.</p> <p>A judge must not engage in direct, individual solicitation of funds or memberships in person, in writing or by telephone except in the following cases: 1) a judge may solicit for funds or memberships other judges over whom the judge does not exercise supervisory or appellate authority, 2) a judge may solicit other persons for membership in the organizations described above if neither those persons nor persons with whom they are affiliated are likely ever to appear before the court on which the judge serves and 3) a judge who is an officer of such an organization may send a general membership solicitation mailing over the judge's signature.</p>	<p>an organization involves the danger that the person solicited will feel obligated to respond favorably to the solicitor if the solicitor is in a position of influence or control. For that reason, a judge is not permitted to solicit funds in person, in writing or by telephone, unless the person being solicited is another judge over whom the judge exercises no appellate or supervisory control. Similarly, a judge is not permitted to personally solicit memberships in an organization if the solicitation is primarily a fundraising mechanism. A judge may, however, participate in fundraising activities by performing tasks other than soliciting or accepting donations at fundraising events, without the attendant risk of coercion that makes personal solicitation of funds problematic.</p> <p>Commentary Canon 4.04(b) - [3] Solicitation of membership poses potential problems similar to those associated with the solicitation of funds. For that reason, a judge must not personally solicit membership or endorse or encourage membership efforts for civic or charitable organizations if the solicitation could reasonably be perceived as coercive. For example, a judge must not solicit memberships from other judges over whom the judge exercises supervisory or appellate authority, or from persons or those affiliated with persons who are likely ever to appear before the court on which the judge serves.<sup>4</sup></p> <p>Commentary Canon 4.04(b) - [4] Notwithstanding the foregoing limitations, no comparable risk of coercion is</p>
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	<p>Use of an organization letterhead for fund-raising or membership solicitation does not violate <b>Section 4C(3)(b)</b> provided the letterhead lists only the judge's name and office or other position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation. In addition, a judge must also make reasonable efforts to ensure that the judge's staff, court officials and others subject to the judge's direction and control do not solicit funds on the judge's behalf for any purpose, charitable or otherwise.</p> <p>A judge must not be a speaker or guest of honor at an organization's fund-raising event, but mere attendance at such an event is permissible if otherwise consistent with this Code.</p>	<p><u>deemed to</u> arises-when a judge who is an officer of such an organization sends a general membership solicitation mailing over the judge's signature. <del>In addition,</del> <u>Lawyer</u> and judicial organizations with diverse memberships, whose members are balanced in representing all parties in litigation often include judges in their leadership;- <u>and Judges</u> <u>in addition, judges</u> may be involved in member recruitment for such organizations even though the dues or fees associated with membership may be used, in part, as fundraising to support the objectives of those organizations.</p> <ul style="list-style-type: none"><li>• "In addition" relates the first sentence and last sentences, not the second sentence and should be deleted.</li></ul> <p>Commentary Canon 4.04(b) - [6] Use of an organization letterhead for fund-raising or membership solicitation does not violate <b>Rule 4.04</b> provided the letterhead lists only the judge's name and office or other position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation. In addition, a judge must also make reasonable efforts to ensure that the judge's staff, court officials and others subject to the judge's direction and control do not solicit funds on the judge's behalf for any purpose, charitable or otherwise.</p>
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<p>Canon 4D</p>	<p>D. Financial Activities.</p> <p>(1) A judge shall not engage in financial and business dealings that:</p> <p>(a) may reasonably be perceived to exploit the judge’s judicial position, or</p> <p>(b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.</p> <p>Commentary Canon 4D(1) - <a href="#">The Time for Compliance provision of this Code (Application, Section F) postpones the time for compliance with certain provisions of this Section in some cases.</a></p> <p>When a judge acquires in a judicial capacity information, such as material contained in filings with the court, that is not yet generally known, the judge must not use the information for private gain. See <a href="#">Section 2B</a>; see also <a href="#">Section 3B(11)</a>.</p> <p>A judge must avoid financial and business dealings that involve the judge in frequent transactions or continuing business relationships with persons likely to come either before the judge personally or before other judges on the judge’s court. In addition, a judge should discourage members of the judge’s family from engaging in dealings that would reasonably appear to exploit the judge’s</p>	<p>4.09 Financial Activities. A judge shall not engage in financial and business dealings that :</p> <p>(a) may reasonably be perceived to exploit the judge’s judicial position, or</p> <p>(b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.</p> <p>Commentary Canon 4.09 - [1] When a judge acquires in a judicial capacity information, such as material contained in filings with the court, that is not yet generally known, the judge must not use the information for private gain. See <a href="#">Rule 3.01</a>; see also <a href="#">Rule 3.02</a>.</p> <p>Commentary Canon 4.09 - [2] A judge must avoid financial and business dealings that involve the judge in frequent transactions or continuing business relationships with persons likely to come either before the judge personally or before other judges on the judge’s court. In addition, a judge should discourage members of the judge’s family from engaging in dealings that would</p>
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<p>judicial position. This rule is necessary to avoid creating an appearance of exploitation of office or favoritism and to minimize the potential for disqualification. With respect to affiliation of relatives of judge with law firms appearing before the judge, see Commentary to <b>Section 3E(1)</b> relating to disqualification.</p> <p>Participation by a judge in financial and business dealings is subject to the general prohibitions in <b>Section 4A</b> against activities that tend to reflect adversely on impartiality, demean the judicial office, or interfere with the proper performance of judicial duties. Such participation is also subject to the general prohibition in <b>Canon 2</b> against activities involving impropriety or the appearance of impropriety and the prohibition in <b>Section 2B</b> against the misuse of the prestige of judicial office. In addition, a judge must maintain high standards of conduct in all of the judge's activities, as set forth in <b>Canon 1</b>. See <b>Commentary for Section 4B regarding use of the phrase "subject to the requirements of this Code."</b></p> <p><b>Canon 4D(2)</b>A judge may, subject to the requirements of this Code, hold and manage investments of the judge and members of the judge's family,* including real estate, and engage in other remunerative activity.</p> <p><b>Commentary Canon 4D(2)</b> - This <b>Section</b> provides that, subject to the requirements of this Code, a judge may hold and manage investments owned solely by the judge,</p>	<p>reasonably appear to exploit the judge's judicial position. This rule is necessary to avoid creating an appearance of exploitation of office or favoritism and to minimize the potential for disqualification. With respect to affiliation of relatives of judge with law firms appearing before the judge, see Commentary to <b>Rule 2.12</b> relating to disqualification.</p> <p><b>Commentary Canon 4.09</b> - [3] Participation by a judge in financial and business dealings is subject to the general prohibitions in <b>Rule 4.01</b> against activities that tend to reflect adversely on impartiality, demean the judicial office, or interfere with the proper performance of judicial duties. Such participation is also subject to the general prohibition in <b>Canon 1</b> against activities involving impropriety or the appearance of impropriety and the prohibition in <b>Rule 3.01</b> against the misuse of the prestige of judicial office. In addition, a judge must maintain high standards of conduct in all of the judge's activities, as set forth in <b>Canon 1</b>.</p> <p><b>Canon 4.10 Remunerative Activities.</b> A judge may, subject to the requirements of this Code, hold and manage investments of the judge and members of the judge's family,* including real estate, and engage in other remunerative activity.</p> <p><b>Commentary Canon 4.10</b> - [1] This <b>Rule</b> provides that, subject to the requirements of this Code, a judge may hold and manage investments owned solely by the judge,</p>
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	<p>investments owned solely by a member or members of the judge’s family, and investments owned jointly by the judge and members of the judge’s family.</p> <p>Canon 4D(3) A judge shall not serve as an officer, director, manager, general partner, advisor or employee of any business entity except that a judge may, subject to the requirements of this Code, manage and participate in:</p> <p>(a) a business closely held by the judge or members of the judge’s family,* or</p> <p>(b) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge’s family.*</p> <p>Commentary Canon 4D(3) - <b>Subject to the requirements of this Code, a judge may participate in a business that is closely held either by the judge alone, by members of the judge’s family, or by the judge and members of the judge’s family.</b></p> <p>Although participation by a judge in a closely-held family business might otherwise be permitted by <b>Section 4D(3)</b>, a judge may be prohibited from participation by other provisions of this Code when, for example, the business entity frequently appears before the judge’s court or the participation requires significant time away</p>	<p>investments owned solely by a member or members of the judge’s family, and investments owned jointly by the judge and members of the judge’s family. <b>See Commentary for Rule 4.04 regarding use of the phrase “subject to the requirements of this Code.”</b></p> <p>4.12 <b>Business Activities.</b> A judge shall not serve as an officer, director, manager, general partner, advisor or employee of any business entity except that a judge may, subject to the requirements of this Code, manage and participate in:</p> <p>(a) a business closely held by the judge or members of the judge’s family,* or</p> <p>(b) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge’s family.*</p> <p>Commentary Canon 4.12 – [1] Although participation by a judge in a closely-held family business might otherwise be permitted by <b>Rule 4.12</b>, a judge may be prohibited from participation by other provisions of this Code when, for example, the business entity frequently appears before the judge’s court or the participation requires significant time</p>
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	<p>from judicial duties. Similarly, a judge must avoid participating in a closely-held family business if the judge's participation would involve misuse of the prestige of judicial office.</p> <p>Canon 4D(4) A judge shall manage the judge's investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.</p> <p>Canon 4D(5) A judge shall not accept, and shall urge members of the judge's family residing in the judge's household* not to accept, a gift, bequest, favor or loan from anyone except for:</p>	<p>away from judicial duties. Similarly, a judge must avoid participating in a closely-held family business if the judge's participation would involve misuse of the prestige of judicial office.</p> <p>4.11 <b>Management and Divestiture of Investments.</b> A judge shall manage the judge's investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.</p> <p>Commentary Canon 4.11 - [1] Judges should not allow their financial activities to interfere with their duty to preside over cases that come before them. Although some disqualifications will be unavoidable, judges <del>must</del> <u>should</u> reduce unnecessary conflicts of interest that arise <del>when they retain</del> <u>from</u> financial interests in <del>organizations and other</del> entities that appear regularly in their courts; by divesting themselves of such interests.</p> <p>Commentary Canon 4.11 - [2] Financial interests, within the meaning of this rule, include the interests of others whom the judge serves as a fiduciary under Rule 4.05.</p> <p>NOTE: The Committee will soon release Rules 4.13, 4.14 and 4.15, pertaining to gifts, compensation and reimbursement.</p>
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	<p>Commentary Canon 4D(5) - Section 4D(5) does not apply to contributions to a judge's campaign for judicial office, a matter governed by Canon 5.</p> <p>Because a gift, bequest, favor or loan to a member of the judge's family residing in the judge's household might be viewed as intended to influence the judge, a judge must inform those family members of the relevant ethical constraints upon the judge in this regard and discourage those family members from violating them. A judge cannot, however, reasonably be expected to know or control all of the financial or business activities of all family members residing in the judge's household.</p> <p>Canon 4D(5)(a) a gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law,* the legal system or the administration of justice;</p> <p>Commentary Canon 4D(5)(a) - Acceptance of an invitation to a law-related function is governed by Section 4D(5)(a); acceptance of an invitation paid for by an individual lawyer or group of lawyers is governed by Section 4D(5)(h).</p> <p>A judge may accept a public testimonial or a gift incident thereto only if the donor organization is not an organization whose members comprise or frequently</p>	<p>NOTE: The Committee will soon release Rules 4.13, 4.14 and 4.15, pertaining to gifts, compensation and reimbursement.</p>
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	<p>interest in a case would in any event require disqualification under Section 3E;</p> <p>Canon 4D(5)(f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;</p> <p>Canon 4D(5)(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or</p> <p>Canon 4D(5)(h) any other gift, bequest, favor or loan, only if: the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge; and, if its value exceeds \$150.00, the judge reports it in the same manner as the judge reports compensation in Section 4H.</p> <p>Commentary Canon 4D(5)(h) - Section 4D(5)(h) prohibits judges from accepting gifts, favors, bequests or loans from lawyers or their firms if they have come or are likely to come before the judge; it also prohibits gifts, favors, bequests or loans from clients of lawyers or their firms when the clients' interests have come or are likely to come before the judge.</p>	<p>reimbursement.</p>
<p>Canon 4E</p>	<p>E. <b>Fiduciary Activities.</b></p> <p>(1) A judge shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney in fact or other fiduciary,* except for the estate, trust or person of a member of the judge's family,* and then only</p>	<p>4.05 <b>Appointments to Fiduciary Positions</b></p> <p>(a) A judge shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney in fact or other fiduciary,* except for the estate, trust or person of a member of the judge's family,* and then only</p>

	<p>if such service will not interfere with the proper performance of judicial duties.</p> <p>(2) A judge shall not serve as a fiduciary* if it is likely that the judge as a fiduciary will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.</p> <p>(3) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary* capacity.</p> <p>Commentary Canon 4E - The Time for Compliance provision of this Code (Application, Section F) postpones the time for compliance with certain provisions of this <b>Section</b> in some cases.</p> <p>The restrictions imposed by this Canon may conflict with the judge's obligation as a fiduciary. For example, a judge should resign as trustee if detriment to the trust would result from divestiture of holdings the retention of which would place the judge in violation of <b>Section 4D(4)</b>.</p>	<p>if such service will not interfere with the proper performance of judicial duties.</p> <p>(b) A judge shall not serve as a fiduciary* if it is likely that the judge as a fiduciary will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.</p> <p>(c) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary* capacity.</p> <p>Commentary Canon 4.05 - [1] The Time for Compliance provision of this Code (Application, Section F) postpones the time for compliance with certain provisions of this <b>Rule</b> in some cases.</p> <p>Commentary Canon 4.05 - [2] The restrictions imposed by this Canon may conflict with the judge's obligation as a fiduciary. For example, a judge should resign as trustee if detriment to the trust would result from divestiture of holdings the retention of which would place the judge in violation of <b>Rule 4.11, or require frequent disqualification.</b></p>
<p>Canon 4F</p>	<p>F. Service as Arbitrator or Mediator. A judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law.*</p> <p>Commentary Canon 4F - <b>Section 4F</b> does not prohibit a</p>	<p>4.06 Service as Arbitrator or Mediator. A judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law*.</p> <p>Commentary Canon 4.06 - [2] <b>Rule 4.06</b> does not prohibit</p>

	<p>judge from participating in arbitration, mediation or settlement conferences performed as part of judicial duties.</p>	<p>a judge from participating in arbitration, mediation or settlement conferences performed as part of judicial duties.</p> <p>Commentary Canon 4.06 - [1] Judges regularly participate in arbitration, mediation or settlement conferences, either as part of their regular duties or as specially authorized by court rule or other law. The integrity of the judiciary is undermined, however, when judges take financial advantage of their offices by rendering private dispute resolution services for pecuniary gain as an extra-judicial activity. In such circumstances, the prestige of the judicial office would be used to advance the personal financial gain of the judge.</p>
<p>Canon 4G</p>	<p>G. Practice of Law. A judge shall not practice law. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge’s family.*</p> <p>Commentary Canon 4G - This prohibition refers to the practice of law in a representative capacity and not in a pro se capacity. A judge may act for himself or herself in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. However, in so doing, a judge must not abuse the prestige of office to advance the interests of the judge or the judge’s family. See <b>Section 2(B)</b>.</p> <p>The Code allows a judge to give legal advice to and draft legal documents for members of the judge’s family, so</p>	<p>4.08 Practice of Law. A judge shall not practice law. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge’s family.*</p> <p>Commentary Canon 4.08 - [1] This prohibition refers to the practice of law in a representative capacity and not in a pro se capacity. A judge may act for himself or herself in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. However, in so doing, a judge must not abuse the prestige of office to advance the interests of the judge or the judge’s family. See <b>Rule 3.01</b>.</p> <p>Commentary Canon 4.08 - [2] The Code allows a judge to give legal advice to and draft legal documents for members</p>

	<p>long as the judge receives no compensation. A judge must not, however, act as an advocate or negotiator for a member of the judge's family in a legal matter.</p> <p>*****</p> <p>Canon 6, new in the 1972 Code, reflected concerns about conflicts of interest and appearances of impropriety arising from compensation for off-the-bench activities. Since 1972, however, reporting requirements that are much more comprehensive with respect to what must be reported and with whom reports must be filed have been adopted by many jurisdictions. The Committee believes that although reports of compensation for extra-judicial activities should be required, reporting requirements preferably should be developed to suit the respective jurisdictions, not simply adopted as set forth in a national model code of judicial conduct. Because of the Committee's concern that deletion of this Canon might lead to the misconception that reporting compensation for extra-judicial activities is no longer important, the substance of Canon 6 is carried forward as Section 4H in this Code for adoption in those jurisdictions that do not have other reporting requirements. In jurisdictions that have separately established reporting requirements, Section 4H(2) (Public Reporting) may be deleted and the caption for Section 4H modified appropriately.</p> <p>*****</p>	<p>of the judge's family, so long as the judge receives no compensation. A judge must not, however, act as an advocate or negotiator for a member of the judge's family in a legal matter.</p>
Canon 4H	H. Compensation, Reimbursement and Reporting.	NOTE: The Committee will soon release Rules 4.13, 4.14 and 4.15, pertaining to gifts, compensation and

	<p>(1) Compensation and Reimbursement. A judge may receive compensation and reimbursement of expenses for the extra-judicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety.</p> <p>(a) Compensation shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same activity.</p> <p>(b) Expense reimbursement shall be limited to the actual cost of travel, food and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or guest. Any payment in excess of such an amount is compensation.</p> <p>(2) Public Reports. A judge shall report the date, place and nature of any activity for which the judge received compensation, and the name of the payor and the amount of compensation so received. Compensation or income of a spouse attributed to the judge by operation of a community property law is not extra-judicial compensation to the judge. The judge's report shall be made at least annually and shall be filed as a public document in the office of the clerk of the court on which the judge serves or other office designated by law.*</p> <p>Commentary Canon 4H - See Section 4D(5) regarding reporting of gifts, bequests and loans.</p>	reimbursement.
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	<p>The Code does not prohibit a judge from accepting honoraria or speaking fees provided that the compensation is reasonable and commensurate with the task performed. A judge should ensure, however, that no conflicts are created by the arrangement. A judge must not appear to trade on the judicial position for personal advantage. Nor should a judge spend significant time away from court duties to meet speaking or writing commitments for compensation. In addition, the source of the payment must not raise any question of undue influence or the judge's ability or willingness to be impartial.</p>	
Canon 4I	<p>I. Disclosure of a judge's income, debts, investments or other assets is required only to the extent provided in this Canon and in Sections 3E and 3F, or as otherwise required by law.*</p> <p>Commentary Canon 4I - Section 3E requires a judge to disqualify himself or herself in any proceeding in which the judge has an economic interest. See "economic interest" as explained in the Terminology Section. Section 4D requires a judge to refrain from engaging in business and from financial activities that might interfere with the impartial performance of judicial duties; Section 4H requires a judge to report all compensation the judge received for activities outside judicial office. A judge has the rights of any other citizen, including the right to privacy of the judge's financial affairs, except to the extent that limitations established by law are required to safeguard the proper performance of the judge's duties.</p>	NOTE: The Committee will soon release Rules 4.13, 4.14 and 4.15, pertaining to gifts, compensation and reimbursement.

8/4/04  
Yoder