**new**
General Provisions, Definitions, and Preamble

| **A. GENERAL PROVISION** and Rules 4.1, 4.2, 4.3, 4.4, 4.5, 4.6. |

**GENERAL PROVISIONS, DEFINITIONS, AND PREAMBLE**

<table>
<thead>
<tr>
<th><strong>A. GENERAL PROVISIONS</strong></th>
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</thead>
<tbody>
<tr>
<td>A-101 - The Maryland Code of Judicial Conduct is divided into five Parts. This introductory Part contains General Provisions, Definitions, and a Preamble. The remaining Parts, titled as Sections 1 through 4, contain both substantive Rules of Judicial Conduct that articulate specific ethical standards and Comments that provide guidance in interpreting those Rules. Those Sections are organized as follows:</td>
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<tr>
<td>• Section 1. Rules Governing Judicial Integrity and the Avoidance of Impropriety (Rules 1.1 through 1.3)</td>
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<td>• Section 2. Rules Governing the Performance of Judicial Duties (Rules 2.1 through 2.16)</td>
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<tr>
<td>• Section 3. Rules Governing Non-Judicial Activities (Rules 3.1 through 3.15)</td>
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<tr>
<td>• Section 4. Rules Governing Political Activity (Rules 4.1 through 4.6)</td>
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</table>

| A-102 - This Code is based in large part on the 2007 Model Code of Judicial Conduct proposed by the American Bar Association (hereafter referred to as “2007 ABA Code”), although this Code differs from the 2007 ABA Code in a number of respects. Some differences are substantive; others are matters of style or organization. Three differences are worthy of general note: |
| **Consolidation of Prefatory Provisions** |
| This Code consolidates and reorganizes the Preamble, Scope, Application, and Terminology provisions of the 2007 ABA Code into this introductory Part on General Provisions, Definitions, and Preamble. Although these provisions are not in the form of Rules, they are part of this Code. |

| **Elimination of Canons** |
| The 2007 ABA Code proposed a new and much different structure and format. The enforceable ethical commands in previous Codes were stated in the form of specific Canons, to which were appended interpretative Comments. The enforceable ethical commands in the 2007 ABA Code are stated in the form of Rules that are supplemented by interpretative Comments and headed by very brief and general statements denominated as Canons. |
| The 2007 ABA Code acknowledges that a judge may be disciplined only for violating a Rule, but it regards the Canons as providing... |
guidance in interpreting the Rules. That, however, is more precisely the function of the Comments under each Rule. The Canons themselves appear to be merely descriptive of the subject matter of the Rules. To avoid any ambiguity over the significance of the Canons and to make clear that attention must be focused on the Rules and the Comments, this Code eliminates the Canons and uses instead a descriptive statement of the Rules in each Section.

**Political Activity**
The 2007 ABA Code contains provisions regarding political activity and financial disclosure by judges. This Code reorganizes those provisions and conforms them to the different manners in which judges are selected and retained in Maryland and to requirements enacted by the Maryland General Assembly or adopted by the Court of Appeals. The intent is to make more clear to each judge and candidate for judicial office what is allowed and what is not allowed.

**A-103** - A judge may be disciplined only for violating a Rule. If a Rule contains a permissive term, such as "may" or "should" the conduct being addressed is committed to the personal and professional discretion of the judge or candidate in question, and no disciplinary action should be taken for action or inaction within the bounds of that discretion.

**Source:** This provision is derived from the Scope section of the 2007 ABA Code.

**A-104** - The Comments that accompany the Rules contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. Comments neither add to nor subtract from the binding obligations set forth in the Rules. Therefore, when a Comment contains the term “must,” it does not mean that the Comment itself is binding or enforceable but merely signifies that the Rule in question, properly understood, is obligatory as to the conduct at issue. The Comments also may identify aspirational goals for judges. To implement fully the principles of this Code, judges should hold themselves to the highest ethical standards and seek to achieve those aspirational goals, thereby enhancing the dignity of the judicial office.

**Source:** These provisions are derived from the Scope section of the 2007 ABA Code.

**A-105** - The Rules in this Code are rules of reason that should be applied in a manner consistent with Constitutional requirements, statutes, other Court Rules, and decisional law and with due regard for all relevant circumstances. The Rules should not be interpreted to impinge upon the essential independence of judges in making judicial decisions.

**Source:** This provision is derived from the Scope section of the 2007 ABA Code.

**A-106** – Although the text of the Rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. Whether discipline should be imposed should be determined through a reasonable and reasoned application of the Rules and should depend upon factors such as the
seriousness of the transgression, the facts and circumstances that existed at
the time of the transgression, the extent of any pattern of improper activity,
whether there have been previous violations, and the effect of the improper
activity upon the judicial system or others.

Source: This provision is derived from the Scope section of the 2007 ABA
Code.

A-107 - This Code is not designed or intended as a basis for civil or criminal
liability. It is also not intended to be the basis for litigants to seek collateral
remedies against each other or to obtain tactical advantages in proceedings
before a court.

Source: This provision is derived from the Scope section of the 2007 ABA
Code.

A-108 - In interpreting this Code, attention should be given to the opinions
of the Judicial Ethics Committee and, if appropriate, that Committee should
be asked for a written letter
of advice or a binding opinion. See Rule 16-812.1 (j)(5), protecting a judge
from a charge of violating an ethics provision in this Code if the judge has
requested and received an opinion or advice letter from the Committee and
is in compliance with that opinion or advice letter.

Source: This provision is derived from the Preamble to the former Maryland
Code of Judicial Conduct.

A-109 - This Code applies to:
(1) Incumbent judges of the Court of Appeals, the Court of Special
Appeals, the Circuit Courts, and the District Court;
(2) Except as otherwise expressly provided in specific Rules,
incumbent judges of the Orphans’ Courts;
(3) Except as otherwise expressly provided in specific Rules, retired
judges who are approved for recall for temporary service pursuant to
Maryland Constitution, Art. IV, §3A.; and
(4) Candidates and applicants for judicial office as defined in Rule
4.1, to the extent that a Rule expressly applies to such candidates or
applicants. See Section 4 and Rule 2.11.

Source: This provision is new.

Preamble

C-101: Adds “composed of men and women of integrity who will interpret
and apply the law that governs our society” after “impartial judiciary;”
Deletes second sentence beginning with “The United States legal system;”
C-103: Replaces “the Model Code” and “the Code” with “this code”
throughout.

(Parts of the Model Code Preamble serve as the basis of Section A-108 of
“A. GENERAL PROVISIONS” of the Maryland Code “GENERAL
PROVISIONS, DEFINITIONS, AND PREAMBLE” section.)

Scope

Does not adopt.

However, Model Code Scope serves as the basis for parts of “A.
GENERAL PROVISIONS” of the Maryland Code “GENERAL
PROVISIONS, DEFINITIONS, AND PREAMBLE” as listed above.
<table>
<thead>
<tr>
<th>Terminology</th>
<th>Found in “B. DEFINITIONS” of Maryland Code of Judicial Conduct “GENERAL PROVISIONS, DEFINITIONS, AND PREAMBLE”</th>
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<tbody>
<tr>
<td></td>
<td>Does not have text in beginning of section;</td>
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<tr>
<td></td>
<td>Does not have “Aggregate;”</td>
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<td></td>
<td>Does not have “Appropriate Authority;”</td>
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<td></td>
<td>Does not have “Contribution;”</td>
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<td></td>
<td>Does not have “De minimis;”</td>
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<td></td>
<td>Does not have “Economic Interest;”</td>
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<td></td>
<td>“Fiduciary;” replaces language after “such as” with “administrator, attorney-in-fact by power of attorney, personal representative, and trustee;” keeps reference to Rules;</td>
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<td></td>
<td>Adds:</td>
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<td><strong>B-103 - Gift</strong></td>
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<td>(a) Except as provided in paragraph (b), “gift” means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration.</td>
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<tr>
<td>(b) “Gift” does not include the solicitation, acceptance, receipt, or regulation of a political contribution that is regulated in accordance with:</td>
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<td>(1) the Election Law Article of the Maryland Code; or</td>
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<td>(2) any other Maryland law regulating the conduct of elections or the receipt of political contributions. See Rule 3.13.</td>
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<tr>
<td><strong>Source:</strong> This definition is derived from Code, State Government Article, §15-102 (p).</td>
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<tr>
<td>“Impartial” et al: Deletes “Canons 1, 2, and 4” and reference to Rules 4.1 and 4.2; adds reference to Rules 4.4 and 4.5;</td>
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<tr>
<td>“Impending matter;” Replaces “is a” before “matter” with “means”; deletes reference to Rule 4.1 and adds reference to Rules 4.4 and 4.5;</td>
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<td>Does not have “Impropriety;”</td>
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<tr>
<td>“Independence;” Deletes “Canons 1 and 4” and reference to Rule 4.2; adds reference to Rules 4.4 and 4.5;</td>
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<tr>
<td>Does not have “Integrity;”</td>
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<td>Does not have “Judicial candidate;”</td>
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<tr>
<td>“Knowingly” et al: Deletes reference to Rule 4.1 and adds reference to Rules 4.4 and 4.5;</td>
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<td>Does not have “Law;”</td>
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<td>Combines “Member of the candidate’s family” and “Member of the judge’s family” into “Member of a [judge’s] [candidate’s] family;”</td>
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<tr>
<td>Replaces “Member of a judge’s family residing in the judge’s household” with:</td>
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<td><strong>B-109 - Member of judge’s or candidate’s household</strong></td>
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<tr>
<td>“Member of [judge’s] [candidate’s] household” means:</td>
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<tr>
<td>(a) if sharing the judge’s or candidate’s legal residence, the judge’s or candidate’s spouse, domestic partner, child, ward,</td>
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</table>
financially dependent parent, or other financially dependent relative; or
(b) the judge’s or candidate’s spouse, child, ward, parent, or other relative, over whose financial affairs the judge or candidate has legal or actual control. See Rule 3.13.

Source: This definition is derived from Maryland Code, State Government Article, § 15-102 (z).

Does not have “Nonpublic information;”
“Pending matter:” Deletes reference to Rule 4.1 and adds reference to Rules 4.4 and 4.5;
Does not have “Personally solicit;”
Does not have “Political organization;”
Does not have “Public election;”
Add:

**B-111 - Significant financial interest**
(a) “Significant financial interest” means ownership of:
   (1) an interest as the result of which the owner has received within the past three years, is currently receiving, or in the future is entitled to receive, more than $1,000 per year;
   (2) more than 3% of a business entity; or
   (3) a security of any kind that represents, or is convertible into, more than 3% of a business entity.
(b) In applying this definition:
   (1) ownership of an interest in a mutual or common investment fund that holds a security is not ownership of the security unless:
      (i) the judge participates in the management of the fund; or
      (ii) there is before the judge a pending matter or an impending matter that could substantially affect the value of the interest;
   (2) ownership of a government security is not a significant financial interest in the issuer unless there is before the judge a pending matter or an impending matter that could substantially affect the value of the security;
   (3) neither a deposit in a financial institution nor a proprietary interest such as or similar to that of a depositor in a mutual savings association, member of a credit union, or policy holder in a mutual insurance company is a significant financial interest in the entity unless there is before the judge a pending matter or an impending matter that could substantially affect the value of the deposit or interest; and
   (4) an ownership interest in a security held by a charitable, civic, educational, fraternal, sororal, or religious organization will not be imputed to a judge merely because
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<table>
<thead>
<tr>
<th>Application I</th>
<th>Does not have</th>
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<tbody>
<tr>
<td>Application II</td>
<td>Does not have</td>
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<tr>
<td>Application III</td>
<td>Does not have</td>
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<tr>
<td>Application IV</td>
<td>Does not have</td>
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<tr>
<td>Application V</td>
<td>Does not have</td>
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<tr>
<td>Application VI</td>
<td>Does not have</td>
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**Canon 1**
Renames Canon “Section 1: RULES GOVERNING JUDICIAL INTEGRITY AND THE AVOIDANCE OF IMPROPRIETY”

**Rule 1.1**
Identical

**Rule 1.2**
Separates Rule 1.2 into two separate clauses.
“A judge shall act…judiciary” is paragraph (a);
Replaces language starting with “and shall avoid” with:
(b) A judge shall avoid conduct that would create in reasonable minds a perception of impropriety.
[2] Replaces “other citizens” with “other persons;”
[5] Replaces “or provisions of this Code;” with “and this Code,” replaces language after “a perception” with “that the judge's ability to carry out judicial responsibilities with competence, **impartiality**, and integrity is impaired.”

**Rule 1.3**
Title: Replaces “Abuse of the” with “Lending the;”
Replaces “abuse” with “lend;”

**Canon 2**
Renames Canon “Section 2: RULES GOVERNING THE PERFORMANCE OF JUDICIAL DUTIES”

**Rule 2.1**
Deletes “all of” before “a judge’s;”
[1] Deletes “See Canon 3;”
Adds: [3] With respect to time devoted to personal and extrajudicial activities, this Rule must be construed in a reasonable manner. Family obligations, illnesses, emergencies, and permissible extrajudicial activities may require a judge's immediate attention. Attending to those obligations and situations, temporary in nature, is not prohibited by this Rule and should be dealt with in accordance with applicable vacation, sick leave, and
| Rule 2.2 | Changes “fairly and impartially” to “impartially and fairly;”  
| Rule 2.3 | Replaces “judge” with “judicial appointee” throughout;  
(B): Inserts “appointee’s” between “judicial” and “duties”; deletes “engage in” between “or” and “harassment”; deletes “including but not limited to;” deletes language after “political affiliation” and adds: “A judge shall require lawyers in proceedings before the court, court staff, court officials, and others subject to the judge's direction and control to refrain from similar conduct.”  
Deletes Model Rule (C):  
MD Rule (C) is similar to Model Rule (D); State Rule deletes reference to paragraph (C)  
[2]: State Rule moves final sentence in Model Rule to first sentence: “A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.”; deletes “but are not limited to” between “include” and “epithets”  
[3]: Deletes paragraph “(C)” from language  
[4]: Deletes “but is not limited to” between “includes” and “sexual advances” |
| Rule 2.4 | Identical |
| Rule 2.5 | (A): Replaces clause “judicial and administrative… diligently” to end with “…duties competently, diligently, promptly, and without favoritism or nepotism.”  
(B): inserts “other” between “with” and “judges”; adds clause “other judicial appointees of the court” between “judges” and “and other court officials”  
Adds: (c): “A judge shall not wilfully fail to comply with administrative rules or reasonable directives of a judge with supervisory authority.” |
| Rule 2.6 | Adds new State Rule Comment [2]: Increasingly, judges have before them self-represented litigants whose lack of knowledge about the law and about judicial procedures and requirements may inhibit their ability to be heard effectively. A judge's obligation under Rule 2.2 to remain fair and impartial does not preclude the judge from making reasonable accommodations to protect a self-represented litigant's right to be heard, so long as those accommodations do not give the self-represented litigant an unfair advantage. This Rule does not require a judge to make any particular accommodation.  
[3] Similar to Model Rule Comment [2]: Adds sentence at beginning, “Settlement conferences and referrals to alternative dispute resolution may play an important role in the administration of justice.” Deletes sentence “The judge should keep in mind… unsuccessful” to end; changes numbering (1)-(6) to (a)-(f); replaces “un-represented by counsel” of (5) with (e): “self-represented”; replaces wording of (6) with (f): “the nature of the proceeding”.  
Adds [4]: “Judges must be mindful of the effect settlement discussions can
have, not only on their objectivity and impartiality, but also on the appearance of their objectivity and impartiality. A judge should keep in mind the effect that the judge's participation in settlement discussions may have on both the judge's own views of the case and the perceptions of the lawyers and the parties if the case remains with the judge after settlement efforts are unsuccessful. Despite a judge's best efforts, there may be instances when information obtained during settlement discussions could influence a judge's decision making during trial, and, in such instances, the judge should consider whether disqualification may be appropriate.”

See Rule 2.11 (a)(1).

| Rule 2.7 | Replaces “except when disqualification… law” with “unless recusal is appropriate” at the end.
[1] Deletes first sentence “Judges must…court”; adds “or appropriate” between “necessary” and “to”; replaces “them” with “the courts” in first sentence; Deletes second sentence, “Unwarranted disqualification… personally”.
| Rule 2.8 | Identical
| Rule 2.9 (a) | (a) replaces “outside the” with “out of the”
Adds (1) “A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law to do so.”
(2) is identical to ABA MR (1)
(3) is similar to ABA MR (2) but deletes “written” before “advice”; deletes “before the judge” to end after “proceeding” and adds “if the judge (A) makes provision promptly to notify all of the parties as to the expert consulted and the substance of the advice, and (B) affords the parties a reasonable opportunity to respond.”
(4) is similar to ABA MR (3) but deletes “makes reasonable” to end after “the judge” and replaces with “does not decide a case based on adjudicative facts that are not made part of the record, and does not abrogate the responsibility personally to decide the matter.”
Cross References. See Comment [1] to Rule 3.9, permitting a judge to engage in settlement conferences.
(5) is similar to ABA MR (4) but replaces clause “confer separately with the parties… judge” to end with “their lawyers as part of a settlement conference conducted pursuant to Rules 17-102 (h) and 17-105 (b).
Adds:
(6) “When serving in a problem-solving court program of a Circuit Court or the District Court pursuant to Rule 16-206, a judge may initiate, permit, and consider ex parte communications in conformance with the established protocols for the operation of the program if the parties have expressly consented to those protocols.”
(c) Deletes “adjudicative” between “investigate” and “facts”; deletes “presented” and adds instead “in the record”
[2]: Replaces “unrepresented” with “self-represented”
Deletes MR Comment [4]
[4] is similar to MR [5]: Inserts clause “including a retired judge approved
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| Rule 2.10 (A) | Replaces “not make any” with “abstain;” replaces “statement” with “comment”; inserts “that relates to a proceeding pending or impending in any court” between “public statement” and “that might reasonably…”; replaces wording after “fairness” with “of that proceeding and shall require similar abstention on the part of court personnel subject to the judges direction and control. This Rule does not prohibit a judge from making public statements in the course of official duties or from explaining for public information the procedures of the court” to end. (B): Deletes “A judge shall not, in connection with cases” at beginning of sentence, replaces with “With respect to a case, controversy, or issue…”; inserts “a judge shall not make a commitment, pledge, or promise” between “court” and “that” and replaces “is” for “are” before “inconsistent…”; “judicial office” now referred to as “the office” Delets MR (C); (C): Similar to MR (D) but adds reference to paragraph (b); replaces “personal” with “non-judicial” Delets MR (E) Delets MR [3], Replaces with new comment: "Court personnel," as used in paragraph (a) of this Rule does not include the lawyers in a proceeding before the judge. The comment of lawyers in this regard is governed by Rule 3.6 of the Maryland Lawyers' Rules of Professional Conduct. |
| Rule 2.11 (a): Deletes “but not limited to” (a)(3): Similar to MR Rule in content but changes language to: The judge knows that he or she, individually or as a fiduciary, or any of the following persons has a significant financial interest in the subject matter in controversy or in a party to the proceeding: (a)(3)(A) the judge’s spouse or domestic partner; (a)(3)(B) a person within the third degree of relationship to the judge; or (a)(3)(C) any other member of the judge’s family residing in the judge’s household. Delets MR (a)(4) (a)(4): Identical to MR (5) (a)(5): Similar to MR (a)(6) but deletes (d) Adds (a)(6): is a retired judge who is subject to recusal under Rule 3.9. [1]: Changes “paragraphs (a)(1) through (6)” to “paragraphs (a)(1) through (5)”; deletes sentence “In many… ‘disqualification’”; inserts sentence “In this Rule, “disqualification” has the same meaning as ‘recusal’.” [3] Inserts “By decisional law” before “The rule of necessity” and substitutes “recusal” for “disqualification”; deletes sentence “In matters that require…as soon as practicable”, adds: “When the rule of necessity does override the
rule of recusal, the judge must disclose on the record the basis for possible disqualification and, if practicable, use reasonable efforts to transfer the matter to another judge.”

Deletes MR [4]

[4]: Identical to MR [5]

Deletes MR [6] (1)-(4)

Adds [5]: This procedure gives the parties an opportunity to waive the recusal if the judge agrees. The judge may comment on possible waiver but must ensure that consideration of the question of waiver is made independently of the judge. A party may act through counsel if counsel represents on the record that the party has been consulted and consents. As a practical matter, a judge may request that all parties and their lawyers sign a waiver agreement.

| Rule 2.12 | [2] Replaces “the” with “this” in reference to “code” |
| Rule 2.13 | (B) is identical to MR (C): A judicial appointee shall not approve compensation of appointees beyond the fair value of services rendered. Deletes (B) (1)- (3) Deletes [3] |
| Rule 2.14 | Title: adds “IN OTHERS” after “IMPAIRMENT” [1] Deletes “but is not limited to” after “may include” |
| Rule 2.15 | Similar to MR Rule 2.15 but changes language to:
(a) A judge shall take or initiate appropriate corrective measures with respect to the unprofessional conduct of another judge or a lawyer.
(b) If other corrective measures are not appropriate or, if attempted, were not successful, a judge shall inform the Commission on Judicial Disabilities of facts known to that judge that raise a substantial question as to another judge's fitness for office.
(c) If other corrective measures are not appropriate or, if attempted, were not successful, a judge shall inform the Attorney Grievance Commission of facts known to the judge that raise a substantial question as to a lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects.
(d) Acts of a judge required or permitted by paragraphs (a), (b), and (c) of this Rule shall be absolutely privileged.

Deletes MR [1] and replaces with the following:
[1] Permitting a judge to take “corrective” measures gives the judge a wide range of options to deal with unprofessional conduct. Appropriate corrective measures may include direct communication with the judge or lawyer who is believed to have committed the violation or other direct action if available. There may be instances of professional misconduct that would warrant a private admonition or referral to a bar association counseling service.

Deletes MR [2].

<p>| Rule 2.16 | [1] Inserts “of this Rule” after “paragraph (a)” |</p>
<table>
<thead>
<tr>
<th>Canon 3</th>
<th>Renames Canon “Section 3: RULES GOVERNING EXTRAJUDICIAL ACTIVITY”</th>
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</thead>
<tbody>
<tr>
<td>Rule 3.1</td>
<td>Deletes “However,” before “when engaging” (e) Changes language to read: make inappropriate use of court premises, staff, stationery, equipment, or other resources. [1] Deletes “appropriate” before “extrajudicial activities”</td>
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<tr>
<td>Rule 3.2</td>
<td>(c) Replaces “acting pro se” with “self-represented” [3] “persons” replaces “citizens”</td>
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<tr>
<td>Rule 3.3</td>
<td>Identical</td>
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<tr>
<td>Rule 3.4</td>
<td>Renames rule: Rule 3.4. APPOINTMENT TO GOVERNMENTAL POSITIONS Adds new [2]:  [2] A judge may not accept a governmental appointment that could interfere with the effectiveness and independence of the judiciary, assume or discharge an executive or legislative power, or hold another “office” under the Constitution or laws of the United States or the State of Maryland. See Maryland Declaration of Rights, Articles 8, 33, and 35. [3] is the same as Model Code [2].</td>
</tr>
<tr>
<td>Rule 3.5</td>
<td>Adds:  Nonpublic information means information that is not available to the public. It may include information that is (a) sealed or shielded pursuant to law or court order, (b) impounded, (c) communicated in camera, or (d) offered in grand jury proceedings, pre-sentencing reports, dependency cases, or psychiatric reports. [2] Deletes last clause, “if consistent with other provisions of this Code.”</td>
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<tr>
<td>Rule 3.6</td>
<td>Identical</td>
</tr>
<tr>
<td>Rule 3.7</td>
<td>(a) Adds reference in first clause to Rule 3.6.; deletes “but not limited to” after “including…following activities” (b) Inserts “but not coerce” after “may encourage”</td>
</tr>
<tr>
<td>Rule 3.8</td>
<td>Adds: (e) Paragraph (a) of this Rule does not apply to retired judges approved for recall under Maryland Constitution, Article IV, §3A.</td>
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<tr>
<td>Rule 3.9</td>
<td>(a) is the same as Model Code body; Adds: (b) A retired judge who is approved for recall for temporary service under Maryland Constitution, Article IV, §3A may conduct alternative dispute resolution (ADR) proceedings in a private capacity only if the judge:  (1) conducts no ADR proceedings in a private capacity relating to a case in which the judge currently is presiding; (2) is not affiliated with a law firm, regardless of whether the law firm also offers ADR services; (3) discloses to the parties in each judicial proceeding over which the judge presides:</td>
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As of July 21, 2010

<table>
<thead>
<tr>
<th>Rule 3.10</th>
<th>Equivalent to Model Code Rule, but changes language to:</th>
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<tbody>
<tr>
<td>(a) In General. Except as expressly allowed by this Rule, a judge shall not practice law.</td>
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<tr>
<td>(b) Exceptions</td>
<td></td>
</tr>
<tr>
<td>(1) A judge may act self-represented in a matter involving the judge or the judge’s interest and, if without compensation, may give legal advice to and draft or review documents for a member of the judge’s family.</td>
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<tr>
<td>(2) To the extent expressly allowed by law and subject to other applicable provisions of this Code, a part-time judge of an orphans’ court who is a lawyer may practice law, provided that:</td>
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<tr>
<td>(A) the judge shall not use the judge’s judicial office to further the judge’s success in the practice of law; and</td>
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<tr>
<td>(B) the judge shall not practice or appear as an individual in a matter involving the judge or the judge’s interest in the court on which the judge serves, even if another judge is presiding.</td>
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</tr>
</tbody>
</table>

Does not adopt [1], adds instead:

[1] A judge may act self-represented in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. A judge must not use the prestige of office to advance the judge's personal or family interests. See Rule 1.3.

[2] Paragraphs (a) and (b) (1) of this Rule limit the practice of law in a representative capacity but not in a self-represented 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. In so doing, however, a judge must not abuse the prestige of office for any reason, including advancement of an interest of the judge or the judge's family. See Rules 2.4 (b) and 3.2 (c).

[3] This Rule allows a judge to give legal advice to, and draft legal documents for, a member of the judge's family. Except for a part-time orphans' court judge allowed to practice law, however, a judge must not receive any compensation from, or act as an advocate or negotiator for, a member of the judge's family in a legal matter.

<table>
<thead>
<tr>
<th>Rule 3.11</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) adds clause to beginning: “Except as permitted by Rule 3.7,”</td>
</tr>
<tr>
<td>Adds:</td>
</tr>
<tr>
<td>(d) This Rule does not apply to retired judges approved for recall under Maryland Constitution, Article IV, §3A.</td>
</tr>
</tbody>
</table>

| Rule 3.12 |

<table>
<thead>
<tr>
<th>Rule 3.13</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title: deletes “and Reporting;”</td>
</tr>
<tr>
<td>(B) Deletes language after “following;”</td>
</tr>
<tr>
<td>(B)(9) and (B)(10), (B)(10)(a) and (b) are the same as Model Code (C)(1), (C)(2), (C)(2)(a) and (b);</td>
</tr>
<tr>
<td>Does not adopt (C);</td>
</tr>
<tr>
<td>Does not adopt (C)(3).</td>
</tr>
<tr>
<td>[1] After “impartiality is low” deletes clause “and explicitly provides…be publicly reported”;</td>
</tr>
<tr>
<td>Deletes reference to (C) “or required under paragraph (C) to publicly report it.”</td>
</tr>
<tr>
<td>[2] Deletes language after “under these circumstances;”</td>
</tr>
</tbody>
</table>

| Rule 3.14 |
| Does not adopt (C). |

| Rule 3.15 |
| Does not have |
| Replaces text with: |
| A judge must accurately complete and timely file an annual Statement of Financial Interests on the form and as otherwise prescribed by the Court of Appeals pursuant to Md. Rule 16-815. Source: This Rule is derived from Md. Rule 16-815. |

| Canon 4 |
| Renames Canon “Section 4: RULES GOVERNING POLITICAL ACTIVITY” |

| Rule 4.1 ** |
| Does not adopt. |
| However adds: |
| **Rule 4.1. DEFINITIONS** |
| (a) Applicant |
| (1) “Applicant” means a person who has applied for appointment by the Governor to a judicial office. |
| (2) The person becomes an applicant when the person files an application with a judicial nominating commission and remains an applicant until the Governor makes an appointment to that judicial
office unless, prior to that time, the person formally withdraws the application.

(3) If the person is not appointed but, pursuant to an Executive Order of the Governor or other law, remains eligible for appointment to another judicial office without a further application to or recommendation from the judicial nominating commission, the person remains an applicant until the Governor makes an appointment to that other judicial office, unless, prior to that time, the person formally withdraws the application.

**Cross reference:** Executive Order 01.01.2008.04

(b) Candidate

“Candidate” means a candidate for election or a District Court candidate for retention.

(c) Candidate for election

(1) “Candidate for election” means a person who:

(A) seeks initial election to a Circuit Court or an Orphans’ Court;

(B) is an incumbent judge of a Circuit Court or Orphans’ Court and seeks to retain that office through an election conducted pursuant to Art. IV, § 3, 5, or 40 of the Maryland Constitution; or

(C) is an incumbent judge of the Court of Appeals or Court of Special Appeals and seeks to retain that office through a retention election conducted pursuant to Art. IV, § 5A of the Maryland Constitution.

(2) A person becomes a candidate for election:

(A) as to a newly appointed judge, from the date the judge takes the oath of office;

(B) as to any other incumbent judge, from the earlier of:

(i) the date two years prior to the general election pertaining to that judge’s re-election or subsequent retention; or

(ii) the date on which a newly appointed judge to that court becomes a candidate in the same general election.

(C) as to a judge who seeks election to another judicial office, the earlier of:

(i) the date on which the judge files a certificate of candidacy in accordance with Maryland election laws, but no earlier than two years prior to the general election for that office; or

(ii) the date on which a newly appointed judge to that court becomes a candidate in the same general election; and

(D) as to a lawyer who seeks a judicial office, the date on which the lawyer files a certificate of candidacy in
(3) A person who becomes a **candidate** under paragraph (c) remains a **candidate** until the general election for the office unless, prior to that time, the person files a formal withdrawal of candidacy in accordance with Maryland election laws.

(d) **District Court Candidate for Retention**

“**District Court candidate for retention**” means an incumbent judge of the District Court who seeks retention for an additional term pursuant to Art. IV, §41D of the Maryland Constitution. A District Court judge becomes a **candidate** for retention from the date one year prior to the expiration of the judge’s current term.

(e) **Political organization**

“**Political organization**” includes a political party, a political committee, and a partisan organization, as those terms are defined in Maryland Code, Election Article, §1-101.

**Source:** These definitions are new.

**COMMENT**

[1] This Rule is new. It is intended to reflect and focus on the different ways in which judges in Maryland are selected and retained. See Maryland Constitution, Art. IV, §5A (appellate judges), §§3 and 5 (Circuit Court judges), §41D (District Court judges), and §40 (Orphans’ Court judges).

(a) In all cases, a vacancy is filled by appointment by the Governor. The appointment of appellate, District Court, and Orphans’ Court judges requires the advice and consent of the Senate; the appointment of Circuit Court judges does not.

(b) Appellate judges then face an uncontested plebiscite election (yes or no for continuance in office) for an additional 10-year term, following which they face another such election for a succeeding term.

(c) Circuit Court judges face a potentially contested primary and general election for a 15-year term, at the end of which, in order to remain in office, they must be appointed by the Governor for a “bridge” term until the next election and then prevail in that election.

(d) District Court judges do not face election but receive a 10-year term, at the end of which, they must be reappointed by the Governor subject to confirmation by the Senate.

(e) Orphans’ Court judges face a potentially contested primary and general election every four years.

[2] The first context, applicable to all appellate, Circuit Court, and District Court judges and many Orphans’ Court judges, is initial appointment by the Governor to fill a vacancy. Except for Orphans' Court judges, that requires an application to and consideration by a judicial nominating commission, which normally interviews the applicants, receives information and recommendations from Bar Associations, other interested groups, and
members of the public, and sends to the Governor a list of recommended **applicants.** The Governors have agreed, expressly or tacitly, to appoint from the list of applicants recommended by the applicable nominating commission. The applicants may be lawyers seeking initial appointment to the Bench, incumbent Circuit Court judges seeking reappointment, upon the expiration of their 15-year term, for a "bridge" period until the next election, or other judges seeking appointment to a different court. Rule 4.1 (a) defines those persons as "applicants."

[3] A person seeking election, either through a potentially contested election (Circuit Court and Orphans' Court) or through a plebiscite-type retention election (appellate judges), is defined in Rule 4.1 (c) as a "**candidate for election.**" A District Court judge, at the end of the 10-year term, faces confirmation by the Senate for an additional term. That judge is not a **candidate for election** but is defined in Rule 4.1 (d) as a "**District Court candidate for retention.**"

[4] The remaining Rules in Section 4 specify the political activity allowed or not allowed to persons falling within those categories, as well as to incumbent judges who are not within any of them.

[5] Even when subject to election, a judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based on the expressed views or preferences of the electorate, a judge makes decisions based on the law and the facts of each case. In furtherance of that interest, judges and **candidates** for judicial office must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. The Rules in Section 4 impose narrowly tailored restrictions on the political and campaign activities of all judges and **candidates** for judicial office.


| Rule 4.2 ** | Does not adopt  
| **However adds:** | 
| **Rule 4.2. POLITICAL CONDUCT OF JUDGE WHO IS NOT A CANDIDATE** | 
| (a) A judge who is not a **candidate** shall not engage in any partisan political activity. | 
| (b) A judge shall resign when the judge becomes a **candidate** for a non-judicial office, except that a judge may continue to hold judicial office while a **candidate for election** as a delegate to a Maryland Constitutional Convention. | 
| **Source:** Rule 4.2 is derived from former Md. Code of Judicial Conduct Canon 5A. | 

| Rule 4.3 ** | Does not adopt  
| **However adds:** | 
| **Rule 4.3. POLITICAL CONDUCT OF APPLICANT** | 
| An **applicant** for judicial office may initiate communications or contact with |
a judicial nominating commission or its members and may seek endorsements for the appointment from any other person or organization, other than a political organization.

**COMMENT**

[1] Rule 4.3 is derived in part from Rule 4.3 of the 2007 ABA Code but departs from it in one important respect. Under Rule 4.3, an applicant may initiate communications or contact with a judicial nominating commission or its members, but neither the Commission nor its members are obliged to respond to such communications or contact. Applicants may appear for interviews before the commission and may respond to questions or inquiries from commission members, and they may solicit endorsements from other persons or organizations (other than a political organization). If they have a question regarding the procedure or their application, they may contact the Administrative Office of the Courts.

**Source:** This Rule is derived from Rule 4.3 of the 2007 ABA Code. The Comment is new.

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### Rule 4.4

**Does not adopt**

However adds:

**Rule 4.4. POLITICAL CONDUCT OF CANDIDATE FOR ELECTION**

A candidate for election:

(a) shall comply with all applicable election laws and regulations;
(b) shall act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary and maintain the dignity appropriate to judicial office;
(c) subject to the other provisions of this Rule, may engage in partisan political activity allowed by law with respect to such candidacy, and, in that regard:

1. may publicly endorse or oppose candidates for the same judicial office;
2. may attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for public office; and
3. may seek, accept, and use endorsements from any person or organization; but
4. shall not act as a leader in or hold office in a political organization, make a speech for a candidate or political organization, or publicly endorse a candidate for non-judicial office.

(d) As to statements and materials made or produced during a campaign:

1. shall review, approve, and be responsible for the content of all campaign statements and materials produced by the candidate or by the candidate’s campaign committee or other authorized agents;
2. shall take reasonable measures to ensure that other
persons do not undertake on behalf of the candidate activities that the candidate is prohibited from doing by this Rule;
(3) with respect to a case, controversy, or issue that is likely to come before the court, shall not make a commitment, pledge, or promise that is inconsistent with the impartial performance of the adjudicative duties of the office;
(4) shall not make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court;
(5) shall not knowingly, or with reckless disregard for the truth, misrepresent the candidate’s identity or qualifications, the identity or qualifications of an opponent, or any other fact, or make any false or misleading statement;
(6) may speak or write on behalf of the candidate’s candidacy through any medium, including advertisements, websites, or other campaign literature; and
(7) subject to paragraph (b) of this Rule, may respond to a personal attack or an attack on the candidate’s record.

COMMENT
[1] This Rule is derived in part from former Md. Code of Judicial Conduct Canon 5B and from the 2007 ABA Code, but it has been substantially reorganized into three basic segments: general requirements (paragraphs (a) and (b)); the extent to which candidates for election may engage in partisan political conduct (paragraph (c)); and the rules governing campaign statements (paragraph (d)).
[2] Rule 4.4 (a) requires candidates for election to comply with all election laws and regulations. The Election Law Article of the Maryland Code contains laws governing candidates, campaign contributions, finance, expenditures, and reporting. Those requirements are supplemented by regulations adopted by the State Board of Elections. Candidates for election must become familiar with applicable laws and regulations and comply with them.
[3] Public confidence in the independence and impartiality of the judiciary is eroded if judges or candidates for judicial office are perceived to be subject to political influence. Although they may register to vote as members of a political party, they are prohibited by Rule 4.4 (c) (4) from assuming leadership roles in political organizations.
[4] Rule 4.4 (c) (4) also prohibits candidates for election from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office, to prevent them from abusing the prestige of judicial office to advance the interests of others. See Rule 1.3. Rule 4.4 does not prohibit candidates for election from (a) campaigning on their own behalf; (b) endorsing or opposing candidates for election to the same judicial office for which they are running, or (c) from having their name on the same sample ballot as a candidate for another public office.
[5] Although members of the families of candidates for election are free to
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engage in their own political activity, including running for public office, there is no "family exception" to the prohibition in Rule 4.4 (c) (4) against publicly endorsing candidates for public office. A candidate for election must not become involved in, or be publicly associated with, a family member's political activity or campaign for public office. To avoid public misunderstanding, candidates for election should take, and should urge members of their families to take, reasonable steps to avoid any implication that they endorse any family member's candidacy or other political activity. [6] Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign committees. Rule 4.4 (d) (5) obligates them to refrain from making statements that are false or misleading, or that omit facts necessary to make the communication considered as a whole not materially misleading. Rule 4.4 (d) (1) requires the candidate to review and approve the content of statements made by the candidate's campaign committee or other authorized agents and makes the candidate responsible for those statements.

[7] Candidates for election are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. As long as the candidate for election does not violate Rule 4.4 (d), he or she may make a factually accurate public response, although it is preferable for someone else to respond if the allegations relate to a pending case. If an independent third party has made unwarranted attacks on a candidate for election's opponent, the candidate for election may disavow the attacks and request the third party to cease and desist.

[8] Rule 4.4 (d) (3) prohibits candidates for election, with regard to cases or issues likely to come before the court, from making a commitment, promise, or pledge that is inconsistent with the impartial performance of the adjudicative duties of the office. The making of a commitment, promise, or pledge is not dependent on, or limited to, the use of any specific words or phrases. The totality of the statement must be examined to determine if a reasonable person would believe that the candidate has specifically undertaken to reach a particular result. Commitments, promises, and pledges must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal views.

Source: This Rule is derived in part from Rule 4.1 of the 2007 ABA Code and in part from Canon 5 of the former Maryland Code of Judicial Conduct. The Comments are derived from the ABA Comments to Rule 4.1 of the 2007 ABA Code.

| Rule 4.5 ** | Does not adopt  
However, adds:  
**Rule 4.5. POLITICAL CONDUCT OF DISTRICT COURT CANDIDATE FOR RETENTION |
A District Court candidate for retention:
(a) may contact and communicate with the Governor and members of the State Senate regarding the candidate’s reconfirmation;
(b) may seek, accept, and use endorsements from any person or organization;
(c) shall act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary and maintain the dignity appropriate to judicial office;
(d) subject to paragraph (c) of this Rule, may respond to a personal attack or an attack on the candidate’s record;
(e) with respect to a case, controversy, or issue that is likely to come before the court, shall not make a commitment, pledge, or promise that is inconsistent with the impartial performance of the adjudicative duties of the office; and
(f) shall not knowingly or with reckless disregard for the truth misrepresent the candidate’s identity or qualifications or any other fact.

COMMENT
[1] Because a District Court candidate for retention does not face an election, the political activity allowed is much more limited. It is reasonable to permit the judge to contact the Governor, who must transmit the judge’s name to the Senate, and members of the Senate, regarding the judge’s reconfirmation, and to seek endorsements that may be helpful to the judge in that regard. The constraints in paragraphs (c) through (f), which are taken from Rule 4.4, are applicable as well to even this political activity.

Source: This Rule and the Comment are new.

**Rule 4.6**

Rule 4.6. APPLICABILITY AND DISCIPLINE
(a) A candidate who is a judge shall comply with the Rules in this Section 4. A candidate who is a lawyer shall comply with Rule 8.2 of the Maryland Lawyers' Rules of Professional Conduct (Maryland Rule 16-812).
(b) A successful candidate and a judge who unsuccessfully sought a different judicial office are subject to judicial discipline for campaign conduct. An unsuccessful candidate who is a lawyer is subject to attorney discipline for campaign conduct.

Source: This Rule is derived from Canon 5D of the former Maryland Code of Judicial Conduct.