| **Preamble** | [3] and [4]: ” Replaces “the highest” with the “high” standards in the last sentence of each Comment |
| **Scope** | [7] Replaces “for civil or criminal liability” in the first sentence with “civil liability or criminal culpability” |
| **Terminology** | - “Aggregate”. Adds Rules 3.15 and 4.6 after “See” and deletes “Rule 4.4”.  
- “Contribution”. Adds Rules 4.2 and 4.6 after “See” and deletes “Rules 4.1 and 4.4”.  
- “Impending matter”. Changes “matter” to “an adjudicative matter” in definition.  
- “Judicial candidate”. Replaces “he or she” in second sentence with “the person circulates a petition of candidacy”.  
- “Law:” Replaces “encompasses” with “includes”  
- “Pending matter”. Changes “matter” to “an adjudicative matter” in definition.  
- “Political organization:” Replaces “means” with “denotes;” Replaces “the principal purpose” with “a principal purpose;” Replaces “political office” at the end of the first sentence with “legislative or executive office” and Replaces the rest of the text thereafter with:  
  or to support or oppose the continuation, amendment, repeal, enactment, initiative, or referendum of any constitutional, statutory, or regulatory provisions. “Political organization” does not include the Commission on Uniform State Laws or the North Dakota Judges Association, the North Dakota Judicial Conference, the State Bar Association of North Dakota, the American Bar Association, or any association or entity composed of active or retired judges or attorneys whose principal purpose is other than to further the election or appointment of candidates for legislative or executive office or to support or oppose the continuation, amendment, repeal, enactment, initiative, or referendum of any constitutional, statutory, or regulatory provision. See Rule 4.2 and 4.3.  
**COMMENT**  
Indicators of whether an organization has, as one of its principal purposes, any of the purposes listed above include whether, and the extent to which, the organization practices any of the following activities (which are listed by way of example and not by way of limitation): 1) lobbying, retaining lobbyists or registering as lobbyists for any legislative body; 2) nominating or endorsing any candidates for legislative or executive office; 3) drafting or circulating any petitions for action to be taken in regard to any constitutional, statutory, or regulatory provisions; 4) publicly advocating,
through the use of print, electronic, or other mass media, in support of or opposition to the election or appointment of candidates for legislative or executive offices, or for or against the continuation, amendment, repeal, enactment, initiative, or referendum of any constitutional, statutory, or regulatory provision; or 5) frequently being a party in, or appearing or requesting to appear as an amicus curiae in, litigation involving the validity or interpretation, or both, of constitutional, statutory, or regulatory provisions of the State of North Dakota or the United States of America.

- **Public election:** Adds “special” after “includes;” Deletes “partisan elections, nonpartisan elections, and retention elections”

<table>
<thead>
<tr>
<th>Application</th>
<th>Does not adopt. See ND Compliance Section at the end.</th>
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</thead>
<tbody>
<tr>
<td><strong>Canon 1</strong></td>
<td>Same</td>
</tr>
<tr>
<td><strong>Rule 1.1</strong></td>
<td>Same</td>
</tr>
<tr>
<td><strong>Rule 1.2</strong></td>
<td>Same</td>
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<tr>
<td><strong>Rule 1.3</strong></td>
<td>Same</td>
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<tr>
<td><strong>Canon 2</strong></td>
<td>Same</td>
</tr>
<tr>
<td><strong>Rule 2.1</strong></td>
<td>Same</td>
</tr>
<tr>
<td><strong>Rule 2.2</strong></td>
<td>Inserts “, including administrative duties,” after “office” in the Rule; [4] Replaces “pro se” with “self-represented”</td>
</tr>
<tr>
<td><strong>Rule 2.3</strong></td>
<td>(B) Replaces “judicial duties” with “all duties of judicial office, including administrative duties;”</td>
</tr>
<tr>
<td><strong>Rule 2.4</strong></td>
<td>(B) Adds “economic” after “financial”.</td>
</tr>
<tr>
<td><strong>Rule 2.5</strong></td>
<td>Replaces “the duties of judicial office” with “judicial and administrative duties”. In Rule 2.5(A).</td>
</tr>
<tr>
<td><strong>Rule 2.6</strong></td>
<td>Same</td>
</tr>
<tr>
<td><strong>Rule 2.7</strong></td>
<td>Same</td>
</tr>
<tr>
<td><strong>Rule 2.8</strong></td>
<td>(C) Adds to the end: “but may express appreciation to jurors for their service to the judicial system and the community.”</td>
</tr>
</tbody>
</table>
| **Rule 2.9**         | Adds (A)(4): With the consent of all parties, the judge and court personnel may have ex parte communication with those involved in a specialized court team. Any party may expressly waive the right to receive that information. North Dakota (A)(5) is the same as Model Code (A)(4). North Dakota (A)(6) is the same as Model Code (A)(5). (B) Replaces “substance” with “subject matter” in second clause. (C) Adds in the beginning: “Except as otherwise provided by law,” [6] Adds to the end: “An exception to the prohibition against the independent investigation of facts by a judge is provided for when such inquiries are otherwise authorized by law (See, e.g. N.D.C.C.§27-08.1-03 governing small claims actions – “The court will conduct the proceeding and may make its own inquiry before, during, or after the hearing.”).” Adds new [7]: “The prohibition does not apply to a judge’s effort to obtain
general information about a specialized area of knowledge that does not include the application of such information in a specific case”; renumbers following Comment as [8].

**Rule 2.10**

Changes “Cases” in rule title to “Matters”
(D) Deletes “make public statements … and may” and replaces “proceeding” with “matter”
(E) Replaces language after “a judge may” with “make public statements in the course of performing the duties of judicial office, may explain court procedures, and may respond directly or through a third party to allegations in the media or elsewhere concerning the judge’s conduct in a matter.”

**Rule 2.11**

Deletes (A)(4).
North Dakota (A)(4) is the same as Model Code (A)(5).
North Dakota (A)(5) is similar to Model Code (A)(6), but North Dakota (A)(5)(b) replaces “proceeding” with “matter” and deletes “particular” before the “matter in controversy”.
[1] Replaces “is disqualified” with “shall disqualify;” Adds to end: Disqualification in district court is handled initially by N.D.C.C. &S&29-15-21. In the Supreme Court, a motion for disqualification is referred to the justice against whom the motion is brought, The justice consults with other members of the court.

ND Comment [4] reads: The fact that a lawyer in a proceeding, or a litigant, contributed to the judge's campaign, or publicly supported the judge in the judge's election does not of itself disqualify the judge. However, the size of contributions, the degree of involvement in the campaign, the timing of the campaign and proceeding, the issues involved in the proceeding, and other factors known to the judge may raise questions as to the judge's impartiality under paragraph (A). See Rule 4.6.

ND Comment [5] is the same as Model Code Comment [4].

**Rule 2.12**

(B) Replaces “judicial responsibilities. . .” with “duties of judicial office, including administrative duties.”

**Rule 2.13**

(B): Deleted
North Dakota (B) is the same as Model Code (C).
[3]: Deleted

**Rule 2.14**

Replaces “lawyer or judicial assistance program” with “lawyer assistance program, judicial assistance program, or another assistance program”.

**Rule 2.15**

(C) and (D) Adds “credible” before “information”

**Rule 2.16**

Same.

**Canon 3**
Replaces “Obligations” with “Duties”.

**Rule 3.1**
(A) Replaces “the judge’s judicial duties” with “duties of judicial office”

**Rule 3.2**
(B) Replaces “the judge’s judicial duties” with “performing the duties of judicial office”

**Rule 3.3**
Moves “except when duly summoned” to the beginning of the Rule.
### Rule 3.4
- Adds to the end: “or is authorized by law”
- Adds [3]:
  
  The prohibition under this rule against appointment to a governmental entity or position would not apply if the appointment is authorized by law. See, e.g. N.D.C.C.&S&44-02-05 (if a vacancy occurs in a board of county commissioners, a district judge selected by the remaining commissioners and the remaining members of the board appoint a suitable person to fill the vacancy).

### Rule 3.5
- Replaces “the judge’s judicial duties” with “the duties of judicial office”

### Rule 3.6
- Same.

### Rule 3.7
- (A)(4) Replaces “his or her title” with “the judge’s title”. Replaces language after “of such an organization or entity” with “provided the participation does not reflect adversely on the judge’s independence, integrity, or impartiality”
- (A)(5) Deletes “such a public or private fund granting;” Replaces “in connection with” with “concerning its fund granting;” Deletes the rest of the text after “programs and activities”.

### Rule 3.8
- (A) Replaces “fiduciary position” with “fiduciary capacity;” Adds “conservator” before “or other personal representative;” Replaces “judicial duties” at the end with “the duties of judicial office”
- (B) Replaces “fiduciary position” with “fiduciary capacity”
- (D) Replaces “fiduciary position” with “fiduciary capacity;” Establishes a 1-year compliance period

### Rule 3.9
- Replaces “the judge’s official duties” with “the duties of judicial office”
- [1] Replaces “assigned judicial duties” with “the duties of judicial office;” In the second sentence replaces “those duties” with “the duties of judicial office”
- Adds [2]: This Rule does not prohibit a district judge from serving as a tribal judge with the approval of the Supreme Court.

### Rule 3.10
- Adds [2]: For purposes of the prohibition under this Rule and N.D. Const. art. VI, &S& 10, against the practice of law, service in a judge advocate position in a military reserve or guard unit may constitute the practice of law, unless the duties are judicial in nature.

### Rule 3.11
- (C)(1) Replaces “judicial duties” with “the duties of judicial office”
- [1] Replaces “judicial duties” with “the duties of judicial office”

### Rule 3.12
- Same.

### Rule 3.13
- Title: Deletes “and Reporting”
- (A) Replaces all language after “other thing of value” with “except as follows;” Deletes all language before Model Code (B)(1)-(8) and continues with Model Code (B)(1)-(8);
- Subsection (7): Replaces “official use” with “use in the duties of judicial office”
- Adds to the end of Subsection (8):
  
  ... provided the gift, award, or benefit does not give the appearance of influencing the judge in the performance of the duties of judicial office or otherwise appear to a reasonable person to undermine the judge’s independence*, integrity*, or impartiality*;
- Adds to the end:
(9) gifts incident to a public testimonial;
(10) invitations to the judge and the judge’s spouse, domestic partner, or
guest to attend without charge:
(a) an event associated with a bar-related function or other activity relating
to the law, the legal system, or the administration of justice; or
(b) an event associated with any of the judge’s educational, religious,
charitable, fraternal or civic activities permitted by this Code, if the same
invitation is offered to nonjudges who are engaged in similar ways in the
activity as is the judge; and
(11) and other thing of value, 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.

(C): Deleted

[1] In the second sentence replaces “imposes restrictions upon” with
“prohibits” and Replaces all language after “the acceptance of such benefits”
with “except in circumstances where the risk of improper influence is low and
the acceptance is subject to applicable reporting requirements. The judge
should be aware of applicable reporting requirements based on the value of
the gifts or other things of value which a judge may accept under this rule. See
Rule 3.15.”

[2] Deletes the last sentence


| Rule 3.14 | (A) Replaces “Rules 3.1 and 3.13(A)” with “Rule 3.1”
| Rule 3.15 | (B) Adds to the end: “Any reimbursement in excess of actual cost is
compensation and must be publicly reported as required by Rule 3.15”
| (C): Deleted | (A)(1) Adds “of $500 or more” after “compensation;” Adds “alone or in
the aggregate from the same source in the same calendar year” after “received”
amount of $250 at the end
| (A)(3): Deleted | (B) Replaces “reimbursement of expenses or waiver or partial waiver of fees
or charges” with “compensation or gifts and other things of value”
| (C) Deletes all language after “shall be made at least annually” | (D) Adds “supreme” before “court” and deletes all language thereafter

| Canon 4 | Same.
| Rule 4.1 | North Dakota Rule 4.1:

Applicability

Canon 4 generally applies to all incumbent judges and judicial candidates*.
A successful candidate, whether or not an incumbent, is subject to judicial
discipline for the candidate’s campaign conduct: an unsuccessful candidate
who is a lawyer is subject to lawyer discipline for the candidate’s campaign
conduct. A lawyer who is a candidate for judicial office is subject to Rule
### Rule 4.2

Corresponds to Model Code Rule 4.1

North Dakota Rule 4.2:

**A. All Judges and Judicial Candidates**  
(1) Except as authorized in Rule 4.3(B) and 4.4(B), a judge or judicial candidate shall not:

(a) act as a leader or hold an office in a political organization* or be a delegate to a political convention;
(b) publicly endorse or publicly oppose another candidate for public office;
(c) make speeches on behalf of a political organization*;
(d) seek, accept, or use an endorsement or letter of support from a political organization*;
(e) solicit funds for, pay an assessment to or make a contribution to a political organization* or candidate;
(f) purchase tickets for or attend gatherings or other events sponsored by a political organization* or a candidate for legislative or executive office;
(g) publicly identify himself or herself as a candidate of a political organization;
(h) 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;
(i) 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; or
(j) use or permit the use of campaign contributions for the private benefit of the judge, the candidate, or others.

[1] The state has a compelling interest in maintaining the independence, integrity, and impartiality of the judiciary, this enhancing public confidence in the judicial system. The independence of the judiciary is necessary to ensure the rule of law. Judicial independence is intended to guarantee much more than impartiality toward litigants. The judiciary acts as a check on the other branches of government and protects the rights enumerated in our Constitution. An independent judiciary is one that is not dominated by or dependent upon the other two branched of government, is not unduly entangled in the political machinery of the other two branches, and is not actuated in its decision-making by the same political policy considerations and interests as the other branches. The compelling state interest of the state in judicial independence and the separation of powers is recognized by several provisions of the North Dakota Constitution, specifically that the legislative power is vested in the Senate and House of Representatives, N.D. Const. art. III, &S1; that the executive power is vested in governor, N.D. Const. art. V, &S1; that the judicial power is vested in the unified court system headed by the supreme court, N.D. Const. art. VI, &S1; that the...
legislative, executive, and judicial branches are co-equal branches of government, N.D. Const. art. XI, §26; that a member of the judiciary may not hold a non-judicial office not shall any duties be imposed upon him or her which are not judicial, N.D. Const. art. VI, §10; and that a judge’s or justice’s compensation may not be diminished by the other branches during that judge’s or justice’s term or office, N.D. Const. art. VI, §§7 and 9.

[2] In order to advance the state’s compelling interest, Rule 4.2 imposes restrictions on the political and campaign activities of all sitting judges and all candidates for judicial office, while taking into account the methods of selecting judges and the constitutional provisions governing fees speech and expressive association. In all events, a candidate for judicial office should maintain the dignity appropriate to judicial office.

[3] In furtherance of the state’s compelling interest, judges and candidates for judicial office must be kept free, and must appear to be free, from undue political influence and inappropriate political pressure. Because 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, they are prohibited by paragraph (A)(1) from assuming a leadership role in a political organization*. However, a judge or candidate for judicial office retains the right to participate in the political process as a voter.

[4] Paragraph (A)(1) does not prohibit a candidate for elective judicial office from retaining during candidacy a public office such as county prosecutor, which is not “an office in a political organization.”

[5] Paragraphs (A)(1)(b) and (A)(1)(c) prohibit judges and candidates for judicial office from publicly endorsing or opposing candidates for public office or making speeches on behalf of political organizations*, in order to prevent them from misusing the prestige of judicial office to advance the interests of others. See Rule 1.3. These rules do not prohibit candidates from campaigning on their own behalf or from endorsing or opposing candidates for the same judicial office. See Rule 4.3(B).

[6] Members of the families of judges or candidates for judicial office are free to engage in political activity of their own, including running for political office. The prohibition in paragraph (A)(1)(b) against publicly endorsing candidates for public office, however, does not include an exception for family members. Accordingly, a judge or candidate for judicial office must not become involved in or publicly associated with a family member's political activity or campaign for public office. To avoid public misunderstanding, moreover, a judge or candidate for judicial office must take, and must require the family member to take, reasonable steps to avoid any implication that the judge or candidate endorses the family member's candidacy or other political activity. For purposes of this Comment, "members of the families of candidates" has the same meaning as "member of the judge's family". See Terminology.

[7] Paragraphs (A)(1)(b) and (A)(1)(c) do not prohibit a judge or judicial
As of April 10, 2012 (Final Revised)

candidate from privately expressing his or her views on judicial candidates or other candidates for public office.

[8] Judicial candidates are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. For example, false or misleading statements might be made regarding the identity, present position, experience, qualifications, or judicial rulings of a candidate. In other situations, false or misleading allegations may be made that bear upon a candidate’s integrity or fitness for judicial office. As long as the candidate does not violate paragraph (A)(1)(h) or (A)(1)(i), the candidate may make a factually accurate public response. In addition, when an independent third party has made unwarranted attacks on a candidate’s opponent, the candidate may disavow the attacks, and request the third party to cease and desist.

[9] Paragraph (A)(1)(h) prohibits a candidate for judicial office from making statements that pledge, promise, or commit the candidate regarding cases, controversies or issues likely to come before the court. The compelling interests of the state supporting the limited restrictions imposed under paragraph (A)(1)(h) are recognized and supported by several provisions of the North Dakota Constitution, specifically with respect to ensuring the citizens of this state due process of law, N.D. Const. art. I, &S& 9 and 12; equal protection of the law, N.D. Const. art. I, &S& 21; open courts, N.D. Const. art. I, &S& 9; and justice without sale, denial, or delay, N.D. Const. art. I, &S& 9. Further, because of circumstances found in this state, it is necessary to protect those interests by placing the least restrictive limits on the free speech of candidates* and judges possible. North Dakota is a geographically large state with a largely rural, sparse population and a small number of appellate judges and general jurisdiction trial judges. North Dakota also has a very liberal statute providing for a change of judge upon demand, N.D. Cent. Code &S& 29-15-21. Within a relative short period of time, each of these judges will have been subject to election. Without paragraph (A)(1)(h), it is reasonably foreseeable that on a particular issue every judge in the state could have pledged, promised, or made a commitment that may be considered inconsistent with the impartial* performance of the judge's adjudicative duties. The limitations imposed under paragraph (A)(1)(h) are necessary as disqualification under Rule 2.11 alone may not sufficiently protect the interests described in this comment. See also the limitations imposed under Rule 2.10(B).

[10] Under paragraph (A)(1)(h) it is improper for a judicial candidate to make pledges, promises, or commitments regarding specific classes of cases, specific litigants or classes of litigants, or specific propositions of law that would reasonably lead to the conclusion that the candidate has prejudged a decision or ruling in cases that would fall within the scope of the pledge, promise, or commitment. To fall within the proscription of this rule the statement by the candidate must pertain to matters likely to come before the court on which the candidate would serve, if elected. Statements by a candidate that would have this effect are inconsistent with the obligation of
all judges to perform impartially the adjudicative duties of the office. Paragraph (A)(1)(h) does not prohibit a candidate from making pledges or promises respecting improvements in court administration. Nor does this rule prohibit an incumbent judge from making private statements to other judges or court personnel in the performance of judicial duties. Paragraph (A)(1)(h), which applies the prohibitions of Rule 2.10(B) to all candidates for judicial office, does not proscribe a candidate's public expression of personal views on disputed issues. To ensure that voters understand a judge's duty to uphold the Constitution and laws of this state where the law differs from the candidate's personal belief, however, candidates are encouraged to emphasize their duty to uphold the law regardless of their personal views. See also Rule 2.10(A), the general rule on public comment by judges.

[11] Candidates for judicial office often receive questionnaires or requests for interviews from the media and from issue advocacy or other community organizations seeking to learn the candidates' views on disputed or controversial legal or political issues. Paragraph (A)(1)(h) does not generally prohibit candidates from responding to this kind of inquiry, but candidates should proceed with caution if they choose to respond. Depending on the wording of the questions and the format provided for answering, a candidate's response might constitute pledges, promises, or commitments to perform the adjudicative duties of the office other than in an impartial way. In order to avoid violating paragraph (A)(1)(h), therefore, candidates who choose to respond should make clear their commitment to keeping an open mind while on the bench, regardless of their own personal views.

[12] Paragraphs A(1)(h) and A(1)(i) apply to any statement made in the process of securing judicial office, such as statements to commissions charged with judicial selection and tenure and legislative bodies confirming appointment. See also Rule 8.3 of the North Dakota Rules of Professional Conduct.

[13] Subject to paragraph (A)(1)(i), a judicial candidate is permitted to respond directly to false, misleading, or unfair allegations made against him or her during a campaign, although it is preferable for someone else to respond if the allegations relate to a pending case.

[14] Paragraph (A)(1)(i) prohibits judicial candidates from making comments that might impair the fairness of pending or impending judicial proceedings. This provision does not restrict arguments or statements to the court or jury by a lawyer who is a judicial candidate, or rulings, statements, or instructions by a judge that may appropriately affect the outcome of a matter.

B. [RESERVED]

Rule 4.3

Corresponds to Model Code Rule 4.2

North Dakota Rule 4.3:
(A) A judicial candidate*:
(1) shall act at all times in a manner consistent with the impartiality*, integrity, and independence of the judiciary;
(2) shall take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities, other than those described in Rule 4.6, that the candidate is prohibited from doing by Rule 4.2; and
(3) shall not knowingly* misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent.

(B) A judicial candidate* may, except as prohibited by law*:
(1) speak on behalf of his or her candidacy through any medium, including advertisements, websites, or other campaign literature, whether or not at a gathering sponsored by a political organization;
(2) speak through any medium, including advertisements, websites, or other campaign literature, on behalf of measures to improve the law, the legal system, or the administration of justice, whether or not at a gathering sponsored by a political organization; or
(3) speak in regard to opponents for the same judicial office.

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**Rule 4.4**

Corresponds to Model Code Rules 4.3

North Dakota Rule 4.4:

*Activities of Judicial Candidates for Appointive Judicial Office.*

(A) A judicial candidate* for appointment to judicial office shall not solicit or accept funds, personally or through a committee or otherwise, to support his or her candidacy.

(B) A judicial candidate* for appointment to judicial office shall not engage in any political activity to secure the appointment except that such persons may:
(1) communicate with the appointing or confirming authority, including any selection or nominating commission or other agency designated to screen candidates;
(2) seek support or endorsement for the appointment from organizations that regularly make recommendations for reappointment or appointment to the office, and from individuals to the extent requested or required by those specified in paragraph (B)(1);
(3) provide to those specified in paragraphs (B)(1) and (2) information as to the person's qualifications for the office; and
(4) contact lawyers and others for expressions of support to be submitted to the appointing authority identified in paragraph (B)(1) and may distribute personal and professional information in the form of resumes that describe the person's qualifications for office.

**COMMENT**

[1] Paragraph (B)(2) provides a limited exception to the restrictions
imposed by Rule 4.2(A). Under paragraph (B)(2), candidates seeking reappointment to the same judicial office or appointment to another judicial office may apply for the appointment and seek appropriate support.

[2] When seeking support or endorsement, or when communicating directly with an appointing, confirming, or nominating authority, a candidate for appointive judicial office must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. See Rule 4.2(A).

North Dakota Rule 4.6:

Campaign Committees

A judicial candidate* shall not directly and personally solicit or accept campaign contributions or directly and personally solicit publicly stated support. A candidate may establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. While a candidate may not directly and personally solicit contributions or public statements of support, the candidate may orally solicit contributions or publicly stated support in front of large groups or organizations consisting, for example, of audiences of 25 or more people. The candidate's actual signature or a reproduction of the signature may appear on letters or other printed or electronic materials distributed by the committee which solicit contributions or publicly stated support from individuals or large groups. Solicitations bearing the candidate's signature must direct contributions to be sent to the address of the candidate's campaign committee and not that of the candidate. The candidate must take reasonable measures to ensure the names and responses, or lack thereof, of the recipients of solicitations for contributions will not be disclosed to the candidate. Campaign committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate's committees may solicit contributions and public support for the candidate's campaign no earlier than one year before an election and no later than 90 days after the last election in which the candidate participates during the election year.

COMMENT

[1] This rule seeks to insulate candidates for judicial office from personal contacts with contributors or public supporters that may lead to allegations of bias or lack of impartiality if the contributor or supporter should later appear before the judge. As a result, candidates are prohibited from directly and personally soliciting contributions or publicly stated support. This
limitation is intended to minimize the occurrence of direct personal contacts with individual contributors or public supporters. However, because the activity is more removed and less likely to result in specific knowledge about any individual contributions or expressions of public support, a candidate is permitted to affix the candidate's signature, or a reproduction of the signature, to printed or electronic material soliciting contributions or support. While this rule allows a candidate to solicit contributions or publicly stated support from large groups or organizations under certain circumstances, Rule 4.2(A)(1)(d) continues to prohibit a candidate from seeking, accepting, or using an endorsement or letter of support from a political organization. In soliciting contributions or publicly stated support from large groups or organizations, a candidate should limit such activity to audiences of 25 or more people. Solicitation activity involving audiences lesser in number increases the possibility of direct personal contact with individual attendees and risks allegations of bias or lack of impartiality if the attendee should later appear before the judge. This rule permits a candidate, other than a candidate for appointment, to establish campaign committees to solicit and accept public support and reasonable financial contributions. At the start of the campaign, the candidate must instruct his or her campaign committees to solicit or accept only contributions that are reasonable under the circumstances. Though not prohibited, campaign contributions of which a judge has knowledge, made by lawyers or others who appear before the judge, may be relevant to disqualification under Rule 2.11.

[2] Campaign committees established under this rule should manage campaign finances responsibly, avoiding deficits that might necessitate post-election fund-raising, to the extent possible.

[3] This rule does not prohibit a candidate from initiating an evaluation by a judicial selection commission or bar association, or, subject to the requirements of this Code, from responding to a request for information from any organization, or from directly and personally soliciting signatures for the candidate's nominating petition.

### Rule 4.5

(A): Replaces with:

(A) A judge shall resign from judicial office upon becoming a candidate for a non-judicial elective office, except that the judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention.

[1]: Adds at the end:

For purposes of this rule, a person becomes a candidate for non-judicial office as soon the person circulates a petition of candidacy, makes a public announcement of candidacy, declares or files as a candidate with the election or appointment authority, authorizes, or where permitted, engages in solicitation or acceptance of contributions or support, or is nominated for
### North Dakota Addition

**COMPLIANCE WITH THE CODE OF JUDICIAL CONDUCT**

[Compliance section amended effective May 21, 2008, is amended effective July 1, 2012.]

Compliance with a written advisory letter or formal opinion issued by the Judicial Ethics Advisory Committee is evidence of good faith for consideration in any sanction decision pursuant to a disciplinary proceeding.

Anyone, whether or not a lawyer, who is an officer of a judicial system and who performs the duties of judicial office, including an officer such as a magistrate, special master or referee, or surrogate judge is a judge within the meaning of this Code. All judges shall comply with this code except as provided below.

**A. Part-time Judge.** A part-time judge is a judge who serves on a continuing or periodic basis, but is permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. A part-time judge:

1. Except when using the judge's office or title, or when a candidate for judicial office, is not required to comply with Rules 3.4; 3.8; 3.9; 3.10; 3.11; 3.15; 4.2(A)(1)(a) - (h); 4.3(B); and 4.5(A).

2. May not practice law in the court on which the part-time judge serves or in any court subject to the appellate jurisdiction of the court on which the part-time judge serves, or act as a lawyer in a proceeding in which the part-time judge has served as a judge or in any other proceeding related thereto.

**COMMENT**

The "court on which the part-time judge serves" refers only to the particular municipal court in the jurisdiction in which the part-time judge presides and exercises judicial authority. A part-time judge is not barred from practicing law in all courts of similar character in other jurisdictions. Thus, a part-time municipal judge may practice law in any municipal court in the state in which the part-time judge does not have the authority and jurisdiction of a municipal judge.

**B. Judge Pro Tempore.** A judge pro tempore is a person who is appointed to act temporarily as a judge.
(1) While acting as such, a judge pro tempore is not required to comply with Rules 3.4; 3.8; 3.9; 3.10; 3.11; 3.15; 4.2(A)(1)(a) - (h); 4.3(B); and 4.5(A).

(2) A person who has been a judge pro tempore shall not act as a lawyer in a proceeding in which the person has served as a judge or in any other proceeding related thereto.

C. Retired Judge. A retired judge who is eligible for recall to judicial service under a statute or rule shall comply with the provisions of these canons governing part-time judges.

**EFFECTIVE DATE OF COMPLIANCE**

A judge to whom these canons become applicable shall arrange personal affairs as soon as reasonably possible to comply with them. If, however, the demands on a judge's time are substantial and the possibility of conflicts of interest are not substantial, a judge who holds judicial office on the date these canons become effective may:

(a) continue to act as an officer, director, or non-legal advisor of a family business;

(b) continue to act as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a member of the judge's family.*

**EFFECTIVE DATE**

This Code becomes effective July 1, 2012.

**TITLE AND CITATION**

These canons are titled, "North Dakota Code of Judicial Conduct," and may be cited as "N.D. Code Jud. Conduct."