

**AMERICAN BAR ASSOCIATION  
CPR POLICY IMPLEMENTATION COMMITTEE**

**COMPARISON OF ABA MODEL JUDICIAL CODE AND STATE VARIATIONS**

<b>RULE 2.2 Impartiality and Fairness</b>	
<p><b>A judge shall uphold and apply the law,* and shall perform all duties of judicial office fairly and impartially.*</b></p> <p><b>COMMENT</b>                      [1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.                      [2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.                      [3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.                      [4] It is not a violation of this Rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.</p> <p>Eleven (11) states have identical language (AR, CT, CO, IN, MN, NV, NY, OK, TN, WA, WY)                      Twelve (12) states have similar language (AZ, HI, IA, KS, MD, MO, MS, MT, NE, NH, OH, UT)                      One (1) state has different language (DE)</p>	
<b>AL</b>	
<b>AK</b>	
<b>AZ Effective 9/1/09</b>	[3]: deletes first sentence. Replaces “Errors of this kind do” with “A good faith error of fact or law does.” Adds “However, a pattern of legal error or an intentional disregard of the law may constitute misconduct” to end [4]: replaces “pro se” with “self-represented”
<b>AR Effective 7/1/09</b>	Identical
<b>CA</b>	
<b>CO Effective 7/1/10</b>	Identical
<b>CT Effective 1/1/2011</b>	Identical
<b>DE Effective 11/1/08</b>	Same as first sentence of 1990 Model Code Canon 3B(2) but replaces “shall” with “should.” Comments omitted
<b>DC</b>	
<b>FL</b>	
<b>HI</b>	Adds Comment [5]:

<b>Effective 7/1/10</b>	<i>[5] It is not a violation of this Rule for a judge to sanction a lawyer by permitting the lawyer to provide pro bono legal services to persons or organizations of the lawyer's choosing that are described in Rule 6.1(a) of the Hawai'i Rules of Professional Conduct, or to make a monetary contribution to such organizations.</i>
<b>ID</b>	
<b>IL</b>	
<b>IN Effective 1/1/09</b>	Identical
<b>IA Effective 5/3/10</b>	[4] Replaced language after “to ensure” with: “self-represented litigants the opportunity to have their matters fairly heard. By way of illustration, a judge may: (1) provide brief information about the proceeding; (2) provide information about evidentiary and foundational requirements; (3) modify the traditional order of taking evidence; (4) refrain from using legal jargon; (5) explain the basis for a ruling; and (6) make referrals to any resources available to assist the litigant to the preparation of the case.
<b>KS Effective 3/1/09</b>	Deletes [4]
<b>KY</b>	
<b>MD Effective 7/1/10</b>	Changes “fairly and impartially” to “impartially and fairly;” [3] Replaces “pro se” with “self-represented.”
<b>MA</b>	
<b>MI</b>	
<b>MN Effective 7/1/09</b>	Identical
<b>MO Effective 1/1/2012</b>	Adds “promptly, efficiently” before “fairly and impartially” [1] Adds to the beginning: “In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary costs or delay.” [3] Replaces “this Rule” with “this Rule 2-2.2” [4] Replaces text with: “A judge may make reasonable accommodations to afford litigants the opportunity to have their matters fairly heard.”
<b>MS (as pro- posed)</b>	[2] Adds to end: “In applying the law, a judge’s rulings must be warranted by existing law, or by a nonfrivolous extension, modification, or reversal of existing law or the establishment of new law.”
<b>MT Effective 1/1/09</b>	Adds [4]: A judge should manage the courtroom in a manner that provides all litigants the opportunity to have their matters fairly adjudicated in accordance with the law. [5]: similar to Model Code [4] but replaces “It is not a violation of this Rule for a judge to” with “A judge may” and “pro se” with “self-represented”
<b>NE Effective 1/1/2011</b>	[4] Adds to end: “On the other hand, judges should resist unreasonable demands for assistance that might give an unrepresented party an unfair advantage”
<b>NV Effective</b>	Identical

<b>1/19/10</b>	
<b>NH Effective 4/1/2011</b>	<p>Adds (B):  <i>A judge may make reasonable efforts, consistent with the law and court rules, to facilitate the ability of all litigants, including self-represented litigants, to be fairly heard.</i></p> <p>[4] Replaces with:  <i>The growth in litigation involving self-represented litigants and the responsibility of courts to promote access to justice warrant reasonable flexibility by judges, consistent with the law and court rules, to ensure that all litigants are fairly hears.</i></p>
<b>NJ</b>	
<b>NM (as pro- posed)</b>	<p>[4] Adds “however” before “it is not a violation of this rule; Adds to the beginning: “When pro-se litigants appear in court, they should comply with the rules and orders of the court and will not be treated differently from litigants with counsel. And although courts “regard pleadings from pro se litigants with a tolerant eye, ... a pro se litigant is not entitled to special privileges because of his pro se status.” <i>Bruce v. Lester</i>, 1999-NMCA-051, 4, 127 N.M. 301, 980 P.2d 84 (citing <i>Newsome v. Farer</i>, 103 N.M. 415, 419, 708 P.2<sup>nd</sup> 327, 331 (1985), and <i>Birido v. Rodriguez</i>, 84 N.M. 207, 209, 501 P. 2<sup>nd</sup> 195, 197 (1972)).</p>
<b>NY (as pro- posed)</b>	Identical
<b>NC</b>	
<b>ND (as pro- posed)</b>	[4] Replaces “pro se” with “self-represented”
<b>OH Effective 3/1/09</b>	<p>Identical          Comment [4]: deletes language through “accommodations,” replaces “pro se” with “self-represented,” adds “a judge may make reasonable accommodations to a self-represented litigant consistent with the law. See also Rule 2.6, Comment [1A]” to end</p>
<b>OK Effective 4/15/2011</b>	Identical
<b>OR</b>	
<b>PA</b>	
<b>SD</b>	
<b>TN (as pro- posed)</b>	Identical
<b>TX</b>	
<b>UT Effective 4/1/10</b>	Deletes [1]
<b>VT</b>	
<b>VA</b>	
<b>WA Effective 1/1/11</b>	Identical

As of July 27, 2011

<b>WV</b>	
<b>WI</b>	
<b>WY</b> <b>Effective</b> <b>7/1/09</b>	Identical

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