

**AMERICAN BAR ASSOCIATION
CPR POLICY IMPLEMENTATION COMMITTEE**

**COMPARISON OF MODEL JUDICIAL CODE PROVISIONS:
ABA TO STATE PROPOSALS, BY RULE**

RULE 3.4 Appointments to Governmental Positions	
<p>A judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice.</p> <p>COMMENT</p> <p>[1] Rule 3.4 implicitly acknowledges the value of judges accepting appointments to entities that concern the law, the legal system, or the administration of justice. Even in such instances, however, a judge should assess the appropriateness of accepting an appointment, paying particular attention to the subject matter of the appointment and the availability and allocation of judicial resources, including the judge's time commitments, and giving due regard to the requirements of the independence and impartiality of the judiciary.</p> <p>[2] A judge may represent his or her country, state, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. Such representation does not constitute acceptance of a government position.</p> <p>Thirteen (13) states have identical language (AZ, AR, KS, MN, MS, MO, MT, NE, NV, OH, TN, UT, WY) Eight (8) states have similar language (CO, HI, IN, IA, MD, NH, NY, OK) Two (2) states have different language (DE, WA)</p>	
AL	
AK	
AZ Effective 9/1/09	Identical
AR Effective 7/1/09	Identical
CA	
CO Effective 7/1/10	<p>Adds Comment [3]: <i>Complete separation of a judge from extrajudicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives. Every governmental board, committee and commission is different and must be evaluated independently to determine whether judicial participation is appropriate. In considering the appropriateness of accepting extrajudicial assignments, a judge should ensure that the mission and work of the board or commission relates to the law, the legal system, or the administration of justice. To effectuate the Code's goal of encouraging judges to participate in their communities, the relationship between the board's mission and the law, legal system, or the administration of justice should be construed broadly. Any judicial ethics advisory opinions issued before adoption of this Code requiring a narrow link or stringent nexus are no longer valid. A judge should avoid</i></p>

	<i>participating in governmental boards or commissions that might lead to the judge's frequent disqualification or that might call into questions the judge's impartiality. The changing nature of some organizations and of their relationship to the law makes it necessary for a judge to regularly reexamine the activities of each organization with which the judge is affiliated to determine if it is proper to continue the affiliation.</i>
CT Effective 1/1/11	Adds Comment (3): <i>(3) This rule is intended to prohibit a judge from participation in governmental committees, boards, commissions or other governmental positions that make or implement public policy unless they concern the law, the legal system or the administration of justice.</i>
DE Effective 11/1/08	(A): similar to 1990 Model Code Canon 4C(2) but replaces "shall" with "should" Comment: similar to 1990 Model Code Canon 4C(2) Commentary first paragraph (B) <i>A judge may serve as a member, officer, or director of an organization or governmental agency committee, board, commission or other governmental position devoted to the improvement of the law, the legal system, or the administration of justice. A judge may assist such an organization in planning fundraising activities and may participate in the management and investment of funds, but, except as provided herein, should not personally participate in fund-raising activities.</i> Comment first paragraph: same as first two sentences of 1990 Model Code Canon 4B Commentary first paragraph Adds Comment second and third paragraphs: Service on the board of a public, as well as private, law school is permissible. A judge may attend fund-raising activities of a law-related organization although the judge may not be a speaker, guest of honor, or featured on the program of such an event. (C): combines 1990 Model Code Canons 4C(3)(b)(i) (portion after "except"), (ii) and (iii)
DC (as pro- posed)	Identical
FL	
HI Effective 1/1/09	Rule: replaces "it is one" with "the subject matter of the appointment or commission is one"
ID	
IL	
IN Effective 1/1/09	Rule: adds "except with prior approval of the Indiana Supreme Court" after "position"
IA Effective 5/3/10	Adds "the provision of legal services" after "the legal system" in the text of the Rule and in Comment [1].
KS Effective 3/1/09	Identical
KY	
MD Effective	Renames rule: Rule 3.4. APPOINTMENT TO GOVERNMENTAL POSITIONS Adds new [2]:

7/1/10	<i>[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.</i> [3] is the same as Model Code [2].
MA	
MI	
MN Effective 7/1/09	Identical
MO Effective 1/1/2012	[2] Replaces “his or hers country” with “a country”
MS (as pro- posed)	Identical
MT Effective 1/1/09	Identical
NE Effective 1/1/2011	Adds asterisk after “the law”
NV Effective 1/19/10	Identical
NH Effective 4/1/2011	Adds at the end: “A judge may, however, represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities.”
NJ	
NM (as pro- posed)	Adds as B: <i>A judge may represent his or her country, state, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. Such representation does not constitute acceptance of a government position.</i> [1] Replaces reference to corresponding Rule 21-304 NMRA [2]: Deleted
NY (as pro- posed)	(A) is similar to the Model Code, but adds “A full time” before “judge;” Adds: <i>B) A judge shall not accept appointment or employment as a peace officer or police officer as those terms are defined in section 1.20 of the Criminal Procedure Law.</i>
NC	
ND (as pro- posed)	Adds to the end: “or is authorized by law” Adds [3]: <i>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</i>

As of September 6, 2011

	<i>commissioners and the remaining members of the board appoint a suitable person to fill the vacancy).</i>
OH Effective 3/1/09	Identical
OK Effective 4/15/2011	Adds at the end: “or the judge has the specific approval of the Supreme Court.”
OR	
PA	
SD	
TN (as pro- posed)	Identical
TX	
UT Effective 4/1/10	Identical
VT	
VA	
WA Effective 1/1/11	Adds to end of paragraph: “A judge may represent his or her country, state, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities.”
WV	
WI	
WY Effective 7/1/09	Identical

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