

AMERICAN BAR ASSOCIATION
CPR POLICY IMPLEMENTATION COMMITTEE

COMPARISON OF ABA MODEL JUDICIAL CODE AND STATE VARIATIONS

RULE 3.7 Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

(A) Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

- (1) assisting such an organization or entity in planning related to fund-raising, and participating in the management and investment of the organization's or entity's funds;
- (2) soliciting* contributions* for such an organization or entity, but only from members of the judge's family,* or from judges over whom the judge does not exercise supervisory or appellate authority;
- (3) soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice;
- (4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, or the administration of justice;
- (5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice; and
- (6) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:
 - (a) will be engaged in proceedings that would ordinarily come before the judge; or
 - (b) will frequently be engaged in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

(B) A judge may encourage lawyers to provide pro bono publico legal services.

COMMENT

[1] The activities permitted by paragraph (A) generally include those sponsored by or undertaken on behalf of public or private not-for-profit educational institutions, and other not-for-profit organizations, including law-related, charitable, and other organizations.

[2] Even for law-related organizations, a judge should consider whether the membership and purposes of the organization, or the nature of the judge's participation in or association with the organization, would conflict with the judge's obligation to refrain from activities that reflect adversely upon a judge's independence, integrity, and impartiality.

[3] Mere attendance at an event, whether or not the event serves a fund-raising purpose, does not constitute a violation of paragraph (A)(4). It is also generally permissible for a judge to serve as an usher or a food server or preparer, or to perform similar functions, at fund-raising events sponsored by educational, religious, charitable, fraternal, or civic organizations. Such activities are not solicitation and do not present an element of coercion or abuse of the prestige of judicial office.

[4] Identification of a judge's position in educational, religious, charitable, fraternal, or civic organizations on letterhead used for fund-raising or membership solicitation does not violate this Rule. The letterhead may list the judge's title or judicial office if comparable designations are used for other persons.

[5] In addition to appointing lawyers to serve as counsel for indigent parties in individual cases, a judge may promote

	<p>broader access to justice by encouraging lawyers to participate in pro bono publico legal services, if in doing so the judge does not employ coercion, or abuse the prestige of judicial office. Such encouragement may take many forms, including providing lists of available programs, training lawyers to do pro bono publico legal work, and participating in events recognizing lawyers who have done pro bono publico work..</p> <p>Four (4) states have identical language (CO, NH, UT, WY) Fifteen (15) states have similar language (AZ, AR, HI, IN, IA, KS, MD, MN, MS, MT, NE, NV, OH, OK, TN) Four (4) state have different language (DE, MO, NY, WA)</p>
AL	
AK	
AZ Effective 9/1/09	<p>(A): adds “A judge may not directly solicit funds for an organization” to beginning (A)(1): adds “volunteering services or goods at fund-raising events” after “fund-raising” (A)(5): adds “or soliciting” after “making” and “fund-granting” before “programs” Adds (C): <i>Subject to the preceding requirements, a judge may:</i> (1) <i>Provide leadership in identifying and addressing issues involving equal access to the justice system; developing public education programs; engaging in activities to promote the fair administration of justice; and convening, participating or assisting in advisory committees and community collaborations devoted to the improvement of the law, the legal system, the provision of services, or the administration of justice.</i> (2) <i>Endorse projects and programs directly related to the law, the legal system, the administration of justice, and the provision of services to those coming before the courts, and may actively support the need for funding of such projects and programs.</i> (3) <i>Participate in programs concerning the law or which promote the administration of justice.</i> [1]: adds “An organization concerned with the law, the legal system, and the administration of justice may include an accredited institution of legal education, whether for-profit or not-for-profit” to end [3]: replaces “constitute a” with “constitute participation in” Adds [6]: A judge may be an announced speaker at a fund-raising event benefitting indigent representation, scholarships for law students, or accredited institutions of legal education.</p>
AR Effective 7/1/09	<p>(A)(3): replaces language beginning with “but only” with “as long as the solicitation cannot reasonably be perceived as coercive”</p>
CA (as pro- posed)	<p>CA Canon 3E(5)(d): The Committee proposes changing the term used throughout the Code from “fraternal” to “service” to avoid the perception of being “sexist.” (A)(2) – CA Canon 4C(3)(d)(i): Same, but the Committee also proposes adding language specifically allowing a judge to solicit funds from family members. (A)(5) – CA Canon 4C(3)(d)(ii): The proposed changes are not intended to alter the meaning of the canon, but solely to make the canon clearer by making a slight change in the wording. (B) – CA Canon 4C(3)(e) and Commentary: Same. In addition, new paragraph in the commentary is based on comment [5] to Model Rule.</p>
CO Effective 7/1/10	Identical
CT Effective	Identical

1/1/11	
<p>DE Effective 11/1/08</p>	<p><i>A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's independence, integrity, impartiality or interfere with the performance of judicial duties. A judge may serve as an officer, director, trustee, or non-legal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:</i></p> <p><i>(A) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.</i></p> <p><i>Comment: similar to 1990 Model Code Canon 4C(3)(a) Commentary</i></p> <p><i>(B) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of the judicial office for that purpose, but the judge may be listed as an officer, director, or trustee of such an organization. A judge should not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or is essentially a fund-raising mechanism.</i></p> <p><i>(C) A judge should not give investment advice to such an organization, but may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.</i></p> <p><i>Comment: A judge's participation in an organization devoted to quasi-judicial activities is governed by Rule 3.1. A judge may attend fund-raising activities of the organization although the judge may not be a speaker, a guest of honor, or featured on the program of such an event. Use of an organization's letterhead for fund-raising or membership solicitation does not violate these Rules, provided the letterhead lists only the judge's name and position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation.</i></p>
<p>DC (as pro- posed)</p>	<p>[2] Adds at the end: "A judge should not accept an award or other recognition from any organization whose members frequently represent or are on the same side in litigation."</p>
<p>FL</p>	
<p>HI Effective 1/1/09</p>	<p>(A)(1): replaces language up to "and" with "assisting in planning of fund-raising for the organization or entity"</p> <p>(A)(4): deletes "appearing or"</p> <p>Adds (A)(7): donating, without attribution of judicial title, services or goods at fundraising events</p> <p>[2]: adds "materially" before "reflect" and "temperament, or fitness to fulfill the duties of judicial office" to end</p> <p>[3]: adds "as long as the judge does so without using the judge's title" to end of second sentence</p>
<p>ID</p>	
<p>IL</p>	
<p>IN Effective 1/1/09</p>	<p>(A): adds "Except as provided by Rule 3.7(A)(2), a judge may not directly solicit funds for an organization" to beginning</p> <p>(A)(1): adds "volunteering services or goods at fund-raising events, and" before "participating"</p> <p>(A)(4): replaces language after "purpose" with "the judge may not be a featured speaker or guest of honor"</p> <p>[3]: Attendance at fund-raising events and volunteering services or goods at or in support of fundraising events do not present an element of coercion or abuse the prestige of judicial office and are not prohibited by this Rule.</p> <p>Adds [6]: Judges, as parents, may assist their children in their fund-raising activities if the</p>

	procedures employed are not coercive and the sums nominal.
IA Effective 5/3/10	<p>(A) Adds “the provision of legal services” after “the legal system;” (A)(1) Adds “volunteering goods or services at fundraising events;” Does not have MR (A)(3); Adds: (C) <i>Subject to the requirements of rule 51:3.1, a judge may:</i> (1) <i>provide leadership in identifying and addressing issues involving equal access to the justice system; developing public education programs; engaging in activities to promote the fair administration of justice and convening, participating or assisting in advisory committees and community collaborations devoted to the improvement of the law, the legal system, the provision of legal services, or the administration of justice.</i> (2) <i>endorse projects and programs directly related to the law, the legal system, the provision of legal services, and the administration of justice to those coming before the courts.</i> (3) <i>participate in programs concerning the law or which promote the administration of justice.</i></p> <p>Does not have MR Comments [3] or [4], adds instead; [3] <i>Attendance at fundraising events and volunteering services or goods at or in support of fundraising events do not present an element of coercion or abuse the prestige of the judicial office and are not prohibited by this rule.</i></p> <p>Adds to end: [5] <i>Judges, as parents, may assist the children in their fundraising activities if the procedures employed are not coercive and the sums nominal.</i></p>
KS Effective 3/1/09	<p>[3]: adds “so long as” before “such” and replaces “abuse” with “inappropriately use” [4]: moves last sentence to beginning and replaces language after “letterhead” in second sentence with “is appropriate so long as the letterhead is not used for fund-raising or membership solitication” [5]: replaces “abuse” with “inappropriately use”</p>
KY	
MD Effective 7/1/10	<p>(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”</p>
MA	

<p>MI</p>	
<p>MN Effective 7/1/09</p>	<p>(A)(2): replaces “contributions” with “funds and services” and adds “from a person with whom the judge has an intimate relationship” after “family” (A)(3): replaces language after first use of “entity” with “if there are no dues or fees required for membership” (A)(4): replaces language after “entity” with “unless the event serves a fund-raising purpose” (A)(5): making recommendations to an organization or entity of which the judge is a member or director concerning its fund-granting programs and activities; and Deletes [4]</p>
<p>MO Effective 1/1/2012</p>	<p>(A) Replaces text with: <i>A judge may serve as an office, director, trustee, or nonlegal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice or of an educational, religious, charitable, fraternal, or civic organization, not conducted for profit, subject to the following limitations and the other requirements of this Rule 2.</i></p> <ol style="list-style-type: none"> (1) <i>A judge may assist such an organization in planning fund-raising and may participate in the management and investment of the organization’s funds but shall not personally participate in the solicitation of funds or other fund raising activities, except that a judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority;</i> (2) <i>A judge shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or, except as permitted in Rule 2-2.7(A)(1), if the membership solicitation is essentially a fund-raising mechanism.</i> (3) <i>A judge may make recommendations to the public and private fund-granting organizations on projects and program concerning the law, the legal system or the administration of justice.</i> (4) <i>A judge shall not serve as an officer, director, trustee or nonlegal advisor if it is likely that the organization:</i> <ol style="list-style-type: none"> (a) <i>will be engaged in proceedings that would ordinarily come before the judge, or</i> (b) <i>will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.</i> (5) <i>A judge as an officer, director, trustee, or nonlegal advisor or as a member or otherwise shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.</i> <p>(A) Same as MC [1] Replaces with: <i>The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine if it is proper for the judge to continue the affiliation. For example, charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.</i></p>

	<p>[2] Deleted MO [2] is the same as MC [3] MO [3] is the same as MC [4], but Adds “Rule 2-3.7” to “this Rule” MO [4] is the same as MC [5]</p>
<p>MS (as proposed)</p>	<p>(A)(2) Deletes language after “judge’s family;” Does not have (B).</p>
<p>MT Effective 1/1/09</p>	<p>(A)(3): similar to Model Code (A)(4) but replaces language after “connection with” with “a non-fund-raising event of such an organization or entity” Deletes (A)(5) (A)(4): same as Model Code (A)(6) (A)(5): same as Model Code (A)(3) (A)(6): same as Model Code (A)(5) Adds (A)(7): appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting her or his title to be used in connection with a fund-raising event of an organization which concerns the law, the legal system, or the administration of justice. [1]: adds “The activities permitted by paragraph (A) do not include those sponsored by or on behalf of organizations which have as a primary purpose advocating in political processes for or against change in the laws related to limited subject areas. Activities relating to such political advocacy organizations are subject to the requirements of Rule 3.1, as well as Canon 4 and the Rules thereunder” to end [4]: replaces language after “Rule” with “if comparable designations are used for other persons” [5]: deletes second sentence Adds [6]: <i>Subject to the requirements of Rule 3.1 and paragraph (A), a judge may provide leadership in improving equal access to the justice system; developing public education programs; engaging in outreach activities to promote the fair administration of justice; and convening and participating in advisory committees and community collaborations devoted to the improvement of the law, the legal system, the provision of legal services, and/or the administration of justice.</i></p>
<p>NE Effective 1/1/2011</p>	<p>(A) Adds asterisk after “the law;” (A)(4): Adds “the fund raising is incidental” between “if” and “the event;” adds clause to end: “provided participation does not reflect adversely on the judge’s independence*, integrity* or impartiality;*” (B) Deletes “publico;” Adds (C): (C) <i>Subject to the preceding requirements, a judge may:</i> (1) <i>Provide leadership in identifying and addressing issues involving equal access to the justice system; develop public education programs; engage in activities to promote the fair administration of justice; and convene or participate or assist in advisory committees and community collaborations devoted to the improvement of the law, the legal system, the provision of services, or the administration of justice.</i> (2) <i>Endorse projects and programs directly related to the law, the legal system, the administration of justice, and the provision of services to those coming before the courts, and may actively support the need for funding of such projects and programs.</i> (3) <i>Participate in programs concerning the law or which promote the</i></p>

	<p style="text-align: center;"><i>administration of justice.</i></p> <p>[1] Adds to end: “An organization concerned with the law, the legal system, and the administration of justice may include an accredited institution of legal education, whether for profit or not for profit. A charitable organization may include a private family foundation which exists for charitable purposes;”</p> <p>[5] Deletes “publico” in all three instances;</p> <p>Adds [6] and [7]:</p> <p style="padding-left: 40px;"><i>[6] A judge may be an announced speaker at a fund-raising event benefiting indigent representation, scholarships for law students, or accredited institutions of legal education.</i></p> <p style="padding-left: 40px;"><i>[7] A judge may speak, write, lecture, teach and participate in other extra-judicial activities concerning the law, the legal system, the administration of justice and non-legal subjects, subject to the requirements of this Code.</i></p>
<p style="text-align: center;">NV Effective 1/19/10</p>	<p>(A)(4): replaces language after “only if” with “his or her activities would not appear to a reasonable person to be coercive or an abuse of the prestige of judicial office. If the event does not concern the law, the legal system, or the administration of justice, the judge must also be a member of the organization or have had a close association with the organization or the event being celebrated”</p> <p>[3]: replaces language after first sentence with “But before participating in other activities, a judge should analyze the overall event and evaluate whether the judge’s activities may be viewed as coercive or an abuse of the prestige of judicial office.”</p> <p>Adds [3A]: <i>For law-related organizations only, a judge may be listed as a host or member of an honorary dinner committee for an organization or entity’s fund-raising or member solicitation event, and also may be a speaker or guest of honor at such an event. Otherwise, a judge may not be a speaker or guest of honor at an event that is primarily for fund-raising or serve on an honorary dinner committee for an organization’s fund-raising event, unless the judge is a member of the organization or has had a close association with the organization or the event being celebrated, or is a close friend of the person being honored. The judge, however, should not use his or her title when serving on any such committee, unless comparable designations are listed for other persons. Paragraph (A)(3) precludes a judge from soliciting membership for any organization or entity except those concerned with the law, the legal system, or the administration of justice.</i></p> <p>[4]: adds “In addition, a judge must also make reasonable efforts to ensure that the judge’s staff, court officials and others subject to the judge’s direction and control do not solicit funds on the judge’s behalf for any purpose, law-related or otherwise.” to end</p> <p>Adds [6] Recruitment of lawyers or law firms to provide pro bono legal services pursuant to Supreme Court Rule 191 is not membership solicitation. A judge may assist an organization in recruiting attorneys so long as the recruitment effort cannot reasonably be perceived as coercive. A judge may provide an organization with general endorsement or solicitation material for use in the organization’s recruitment materials. Similarly, this Rule does not preclude a judge from requesting an attorney to accept pro bono representation of a party in a proceeding pending before the judge.</p>
<p style="text-align: center;">NH Effective 4/1/2011</p>	<p>Identical</p>
<p style="text-align: center;">NJ</p>	
<p style="text-align: center;">NM</p>	<p>(A) Replaces reference with corresponding reference to Rule 21-301 NMRA</p>

<p>(as proposed)</p>	<p>(A)(3): Deleted MC (A)(4) is the same as NM (A)(3), but replaces text after “used to support the objectives of the organization or entity” with: “but not if the purpose of the judge’s attendance at the event is primarily to serve a fund-raising purpose” (A)(4): Deleted MC (5) is the same as NM (A)(4), but deleted “law” before “the legal system, or the administration of justice” MC (6) is the same as NM (A)(5) [2] Deletes “Even for law-related organizations” in the beginning [3] Cites paragraph A(3) instead of A(4) at the end of the first sentence; adds after first sentence: “Too strict a rule forbidding a judge’s attendance at or participation in community events would discourage judges from participating in their communities and interacting with citizens and neighbors, a result that would isolate judges from the public they serve and would be detrimental to encouraging public support for the judiciary. At the same time, there is a potential for a judge’s presence as a major participant at a fund-raising event to exert undue influence on persons to contribute to the event. Paragraph A(3) strikes a balance by recognizing a de minimus level of participation that is permitted and encouraged.” Replaces language after “to serve as an usher or a food server or preparer” with: “to be part of a theatrical or musical performance with others, to introduce speakers or present awards and to perform similar functions, at fund-raising events.” Adds at the end: “if requested to be a speaker or guest of honor at an organization or fund-raising event, the judge should seriously consider whether the acceptance of such a role would constitute the use of the prestige of judicial office for fund-raising purposes.” [4] Adds at the end: “However, a judge may not sign a letter that has the purpose of fund-raising or membership solicitation. <i>See</i> Canon 4.”</p>
<p>NY (as proposed)</p>	<p>(A)(1) Adds after “entity’s funds:” <i>but shall not personally participate in the solicitation of funds or other fund-raising activities. A judge shall not, however, use or permit the use of the prestige of judicial office for fund-raising or membership solicitation, but may be listed as an officer, director or trustee of such an organization. Use of an organization’s regular letterhead for fund-raising or membership solicitation does not violate this provision, provided the letterhead lists only the judge’s name and office or other position in the organization, and, if comparable designations are listed for other persons, the judge’s judicial designation.</i> Does not adopt Model Code (A)(2), (A)(3), or (A)(4); Adds, as (A)(2): <i>(2) attending an organization’s fund-raising events, but the judge may not be a speaker or the guest of honor at such events. Nothing in this subparagraph shall prohibit a judge from being a speaker or guest of honor at a court employee organization, bar association or law school function or from accepting at another organization’s fund-raising event an unadvertised award ancillary to such event;</i> [5] Adds “See Rule of Attorney Conduct, 6.1” before “Such encouragement.”</p>
<p>NC</p>	
<p>ND (as proposed)</p>	<p>(A)(4) 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”</p>

	[3] Replaces “abuse” with “lend” [5] Replaces “abuse” with “lend”
OH Effective 3/1/09	Adds (A)(3): Participating in but not soliciting funds for <i>de minimis</i> fundraising activities that are directed at a broad range of the community and that may be performed by other volunteers who do not hold judicial office; (A)(5): same as Model Code (A)(4) but replaces language after “entity” with “provided the participation does not reflect adversely on the judge’s <i>independence, integrity, or impartiality.</i> ”
OK Effective 4/15/2011	(A) (2) Adds: “members of the judge’s household” after “members of the judge’s family” Adds (C): <i>Subject to the requirements of Rule 3.1 and Rule 3.7(A) and (B), a judge may:</i> <i>(1) Provide leadership in:</i> <i>(a) Identifying and addressing issues involving providing equal access to the judicial system;</i> <i>(b) Developing public education programs;</i> <i>(c) Engaging in community outreach activities to promote the fair administration of justice; and</i> <i>(d) Converting, participating or assisting in advisory committees and community collaborations devoted to the improvement of the law, the legal system, the provision of services and/or the administration of justice.</i> <i>(2) A judge may endorse projects and programs directly related to the law, the legal system, the provision of services and/or the administration of justice.</i> <i>(3) A judge may participate in programs concerning the law or which promote the administration of justice.</i> [5] Deletes “publico” after “pro bono” throughout the comment
OR	
PA	
SD	
TN (as pro- posed)	[1]: Adds: <i>The activities permitted by paragraph (A) do not include those sponsored by or on behalf of organizations that have as a primary purpose advocating in political processes for or against change in the laws related to limited subject areas. Activities relating to such political advocacy organizations are subject to the requirements of Rule 3.1, as well as Canon 4 and the Rules thereunder. Furthermore, the activities permitted by paragraph (A) do not include those sponsored for or on behalf of organizations whose members compromise or frequently represent the same side in litigation.</i> Adds [6]: <i>With regard to a judge’s obligations to supervise staff as to matters addressed in this Rule, see Rule 2.12.</i>
TX	
UT Effective 4/1/10	Identical
VT	
VA	
WA Effective 1/1/11	<ul style="list-style-type: none"> • Body of Rule 3.7 identical to Paragraph (A) of Model Code; • State Code (A) similar to Model Code (1), but State Code adds to end of paragraph, “or volunteering services or goods at fundraising events as long as the situation could not reasonably be deemed coercive;”

As of September 6, 2011

	<ul style="list-style-type: none">• State Code (B) is identical to Model Code (2);• Model Code (3) is deleted;• State Code (C) similar to Model Code (4), but State Code replaces at the end of the paragraph “the judge may participate only if” to “the judge may do so only if”;• Model Code (5) is deleted;• State Code (D)(1)(2) is identical to Model Code (6)(a)(b); Model Code (B) is deleted.
WV	
WI	
WY Effective 7/1/09	Identical

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