

AMERICAN BAR ASSOCIATION
CPR POLICY IMPLEMENTATION COMMITTEE

COMPARISON OF ABA MODEL JUDICIAL CODE AND STATE VARIATIONS

RULE 4.1 Political and Campaign Activities of Judges and Judicial Candidates in General

(A) Except as permitted by law,* or by Rules 4.2, 4.3, and 4.4, a judge or a judicial candidate* shall not:

- (1) act as a leader in, or hold an office in, a political organization;*
- (2) make speeches on behalf of a political organization;
- (3) publicly endorse or oppose a candidate for any public office;
- (4) solicit funds for, pay an assessment to, or make a contribution* to a political organization or a candidate for public office;
- (5) attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for public office;
- (6) publicly identify himself or herself as a candidate of a political organization;
- (7) seek, accept, or use endorsements from a political organization;
- (8) personally solicit* or accept campaign contributions other than through a campaign committee authorized by Rule 4.4;
- (9) use or permit the use of campaign contributions for the private benefit of the judge, the candidate, or others;
- (10) use court staff, facilities, or other court resources in a campaign for judicial office;
- (11) knowingly,* or with reckless disregard for the truth, make any false or misleading statement;
- (12) 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
- (13) in connection with 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 judicial office.

(B) A judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A).

COMMENT

GENERAL CONSIDERATIONS

[1] Even when subject to public election, a judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based upon the expressed views or preferences of the electorate, a judge makes decisions based upon the law and the facts of every case. Therefore, in furtherance of this interest, judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. This Canon imposes narrowly tailored restrictions upon the political and campaign activities of all judges and judicial candidates, taking into account the various methods of selecting judges.

[2] When a person becomes a judicial candidate, this Canon becomes applicable to his or her conduct.

PARTICIPATION IN POLITICAL ACTIVITIES

[3] Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. Although judges and judicial candidates may register to vote as members of a political party, they are prohibited by paragraph (a)(1) from assuming leadership roles in political organizations.

[4] Paragraphs (A)(2) and (A)(3) prohibit judges and judicial candidates from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office, respectively, to

prevent them from abusing 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 for which they are running. See Rules 4.2(B)(2) and 4.2(B)(3).

[5] Although members of the families of judges and judicial candidates are free to engage in their own political activity, including running for public office, there is no “family exception” to the prohibition in paragraph (A)(3) against a judge or candidate publicly endorsing candidates for public office. A judge or judicial candidate must not become involved in, or publicly associated with, a family member’s political activity or campaign for public office. To avoid public misunderstanding, judges and judicial candidates 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] Judges and judicial candidates retain the right to participate in the political process as voters in both primary and general elections. For purposes of this Canon, participation in a caucus-type election procedure does not constitute public support for or endorsement of a political organization or candidate, and is not prohibited by paragraphs (A)(2) or (A)(3).

STATEMENTS AND COMMENTS MADE DURING A CAMPAIGN FOR JUDICIAL OFFICE

[7] Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign committees. Paragraph (A)(11) obligates candidates and their committees 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.

[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 paragraphs (A)(11), (A)(12), or (A)(13), 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] Subject to paragraph (A)(12), 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.

[10] Paragraph (A)(12) 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.

PLEDGES, PROMISES, OR COMMITMENTS INCONSISTENT WITH IMPARTIAL PERFORMANCE OF THE ADJUDICATIVE DUTIES OF JUDICIAL OFFICE

[11] The role of a judge is different from that of a legislator or executive branch official, even when the judge is subject to public election. Campaigns for judicial office must be conducted differently from campaigns for other offices. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in Canon 4 allow candidates to conduct campaigns that provide voters with sufficient information to permit them to distinguish between candidates and make informed electoral choices.

[12] Paragraph (A)(13) makes applicable to both judges and judicial candidates the prohibition that applies to judges in Rule 2.10(B), relating to pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

[13] The making of a pledge, promise, or commitment is not dependent upon, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result. Pledges, promises, or commitments 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.

[14] A judicial candidate may make campaign promises related to judicial organization, administration, and

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| | <p>court management, such as a promise to dispose of a backlog of cases, start court sessions on time, or avoid favoritism in appointments and hiring. A candidate may also pledge to take action outside the courtroom, such as working toward an improved jury selection system, or advocating for more funds to improve the physical plant and amenities of the courthouse.</p> <p>[15] Judicial candidates may receive questionnaires or requests for interviews from the media and from issue advocacy or other community organizations that seek to learn their views on disputed or controversial legal or political issues. Paragraph (A)(13) does not specifically address judicial responses to such inquiries. Depending upon the wording and format of such questionnaires, candidates' responses might be viewed as pledges, promises, or commitments to perform the adjudicative duties of office other than in an impartial way. To avoid violating paragraph (A)(13), therefore, candidates who respond to media and other inquiries should also give assurances that they will keep an open mind and will carry out their adjudicative duties faithfully and impartially if elected. Candidates who do not respond may state their reasons for not responding, such as the danger that answering might be perceived by a reasonable person as undermining a successful candidate's independence or impartiality, or that it might lead to frequent disqualification. See Rule 2.11.</p> <p>Sixteen (16) states have similar language (AZ, AR, CO, HI, IN, KS, MN, MS, MT, NE, NV, NY, OK, TN, UT, WY) Six (6) states have different language (DE, IA, MO, NH, OH, WA) One (1) state does not adopt (MD)</p> |
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| <p>AL</p> | |
| <p>AK</p> | |
| <p>AZ Effective 9/1/09</p> | <p>(A): deletes "except" clause at beginning and adds "do any of the following" to end (A)(2): adds "or another candidate for public office" to end (A)(3): replaces "a" with "another" (A)(4): deletes "or make a contribution to" and "for public office" and adds "make contributions to any candidate or political organization in excess of the amounts permitted by law, or make total contributions in excess of fifty percent of the cumulative total permitted by law. See, e.g., A.R.S. § 16-905" to end Deletes Model Code (A)(5) – (7) Adds (A)(5): actively take part in any political campaign other than his or her own campaign for re-election or retention in office; (A)(7): same as Model Code (A)(9) but adds "except as provided by law" to end Deletes Model Code (A)(11) Adds (C): <i>Except as prohibited by this code, a judge may:</i> (1) <i>engage in activities, including political activities, to improve the law, the legal system and the administration of justice; and</i> (2) <i>purchase tickets for political dinners or other similar functions but attendance at any such functions shall be restricted so as not to constitute a public endorsement of a candidate or cause otherwise prohibited by these rules.</i> [1]: deletes last sentence [2]: adds "A successful judicial candidate is subject to discipline under the code for violation of any of the rules set forth in Canon 4, even if the candidate was not a judge during the period of candidacy. An unsuccessful judicial candidate who is a lawyer and violates this code may be subject to discipline under applicable court rules governing lawyers" to end [3]: adds "Examples of such leadership roles include precinct committeemen and delegates or alternates to political conventions. Such positions would be inconsistent with</p> |

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| | <p>an independent and impartial judiciary” to end [4]: replaces second sentence with “Paragraph (A)(3) does not prohibit a judge or judicial candidate from making recommendations in complying with Rule 1.3 and the related comments” and deletes “or from endorsing” and last sentence Adds [5]: Paragraph (A)(3) does not prohibit a judge or judicial candidate from privately expressing his or her views on judicial candidates or other candidates for public office. [6]: A candidate does not publicly endorse another candidate for public office by having that candidate’s name on the same ticket. [7]: similar to Model Code [5] but replaces “they endorse” with “the judge or judicial candidate endorses” [8]: similar to Model Code [6] but replaces “both primary and general” with “all” Deletes Model Code [7] and [8] [9]: replaces “preferable” with “permissible” and adds “including another judge” after “else” Adds [11]: <i>Paragraph (A)(9) must be read in context with Rule 2.10 that allows judges to make public statements in the course of their official duties.</i></p> |
| <p>AR Effective 7/1/09</p> | <p>Deletes (A)(5) [5]: deletes last sentence [6]: replaces language after first sentence with “Judges are permitted to request a ballot in a party’s primary without violating this Code.” Adds [6A]: Judges are permitted to attend or purchase tickets for dinners or other events sponsored by a political organization. [13]: deletes language after first sentence Adds [13A]: <i>Before speaking or announcing personal views on social or political topics in a judicial campaign, candidates should consider the impact of their statements. Such statements may suggest that the judge lacks impartiality. See Rule 1.2. They may create the impression that a judge has or manifests bias or prejudice toward individuals with contrary social or political views. See Rule 2.3. Public comments may require the judge to disqualify himself or herself when litigation involving those issues come before the judge. See Rule 2.11. 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.</i></p> |
| <p>CA (as pro- posed)</p> | <p>(A) – CA 5B(1): Because some applications are pending for years before an applicant is appointed, the Committee proposes adding the phrase “an applicant seeking” to the canon.</p> |
| <p>CO Effective 7/1/10</p> | <p>(A): Replaces “or by Rules 4.2, 4.3, and 4.4” with “or by this Canon” (8): Deletes “other than through a campaign committee authorized by Rule 4.4” (9): Deletes “the candidate” between “judge” and “or others” (10): Replaces “or other court resources in a campaign for judicial office” with “as a judicial candidate” (B): Adds “except as permitted by Rule 4.3” after “judicial candidate” Comment: [1]: Deletes “even when subject to public election” [4]: Deletes “These Rules do not prohibit candidates from campaigning on their own behalf, or from endorsing or opposing candidates for the same judicial office for which they are running. See Rules 4.2(B)(2) and 4.2(B)(3).”</p> |

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| | <p>[8]: After “allegations” deletes “made by opposing candidates, third parties, or the media”; Replaces sentence “In addition...desist” with “<i>In making any such response, the judge should maintain the dignity appropriate to judicial office.</i>”</p> <p>[9]: Identical to Model Code [10]</p> <p>[10]: Similar to Model Code [11]; Deletes “even when the judge is subject to public election” after “executive branch official”; Inserts “retention to” between “Campaigns for” and “judicial office”; Replaces “...allow candidates to conduct...electoral choices” to end with “are intended to help preserve the integrity and independence of the judiciary, and to honor Colorado’s merit-based system of selecting and retaining judges.”</p> <p>[11]: Identical to Model Code [12]</p> <p>Deletes Model Code Comments [14] & [15]</p> |
| <p>CT Effective 1/1/11</p> | <p>Title: deletes “and Judicial Candidates;” deletes “and/or judicial candidate” after “judge” throughout;</p> <p>(A) Deletes reference to Rule 4.4;</p> <p>Does not have Model Code (A)(6), (8), (10)</p> <p>(A)(6) is Model Code (A)(7);</p> <p>(A)(7) is Model Code (A)(11);</p> <p>(A)(8) is Model Code (A)(12);</p> <p>(A)(9) is Model Code (A)(13);</p> <p>Does not have Model Code (C);</p> <p>Comment (1) Replaces “public election” with “reappointment or when seeking elevation to a higher office;” changes “preferences of the electorate” to “preferences of the public;” deletes “and campaign” before “activities;” replaces language after “of all judges” with “and sitting judges seeking reappointment or appointment to a higher judicial office;”</p> <p>Does not have Model Code Comment [2];</p> <p>(3) is Model Code [4] but deletes language after “Rule 1.3;”</p> <p>(4) is Model Code [5];</p> <p>(5) is Model Code [6] but deletes language after “general elections;”</p> <p>Title, “Statements and Comments...Office:” replaces language after “Made” with “By a Sitting Judge When Seeking Reappointment for Judicial Office or Elevation to a Higher Judicial Office;”</p> <p>(6) (Model Code [7]) deletes language after “made by them;” references Paragraph (A)(7) instead of (A)(11); changes “obligates candidates and their committees” to “obligates judges;”</p> <p>(7) (Model Code [8]) References Paragraph (A)(7) through (A)(9) instead of (A)(11) through (A)(13); deletes language after “public response” and adds to end, “(See Rule 2.10.);”</p> <p>(8) (Model Code [9]) References Paragraph (A)(8) instead of (A)(12);</p> <p>(9) (Model Code [10]) References Paragraph (A)(8) instead of (A)(12); replaces “arguments...or instructions” with “rulings, statements, or instructions;”</p> <p>(10) (Model Code [11]) Deletes clause, “even when...public election;” replaces second sentence with: “Sitting judges seeking reappointment or elevation must conduct themselves differently from persons seeking other offices;” replaces language is last sentence with: “Narrowly drafted restrictions on the activities of judges provided in Canon 4 allow judges to provide the appointing authority with sufficient information to</p> |

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| | <p>permit it to make an informed decision;” (11) (Model Code [12]) References Paragraph (A)(9) instead of (A)(13); (12) is Model Code [13]; (13) is Model Code [14]; (14) (Model Code [15]) Deletes “if elected” after “impartially.”</p> |
| <p>DE Effective 11/1/08</p> | <p>(A): A judge should not (A)(1): replaces “an office” with “any office” (A)(2): make speeches for a political organization or candidate or publicly endorse or oppose a candidate for public office; (A)(3): similar to 1990 Model Code Canon 5A(1)(e) Has no other provisions of (A) <i>(B) A judge should resign the judicial office when the judge becomes a candidate either in a party primary or in a general election for a nonjudicial office.</i> <i>(C) A judge should not engage in any other political activity except on behalf of measures to improve the law, the legal system or the administration of justice.</i> <i>Comment: Political contributions by the judge's spouse or domestic partner must result from the independent choice of the spouse or domestic partner and checks by which such contributions are made shall not include the name of the judge.</i> <i>A person becomes a candidate as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election authority, or authorizes solicitation or acceptance of contributions or support.</i> Deletes remainder of Comment</p> |
| <p>DC (as pro- posed)</p> | <p>(A) Deletes reference to Rules 4.2 and 4.4 (A)(8): Not Adopted (A)(9): Not Adopted [1] Deletes “Even when subject to public election” in the beginning Adds [2A]: <i>The prohibition of (A)(10) on the use of court staff, facilities and other resources is subject to a rule of reason, see Scope [5], and permits incidental use. See Rule 3.1(E).</i> [4] Replaces text after the first sentence with: “This Rule does not prohibit judges or judicial candidates from participating in the process of judicial selection by cooperating with appointing authorities and screening committees. See Rule 1.3, Comments [2] & [3].” [6] Deletes language after the first sentence Replaces Subheading with: “Statements By Candidates for Judicial Office” [7] Deletes language in the first sentence after “all statements;” Deletes “and their committees” after “candidates” in the second sentence [8] Replaces text with: “If a judicial candidate is the subject of false, misleading, or unfair allegations, the candidate may make a factually accurate response, as long as the candidate does not violate paragraphs (A) (12) or (A) (13). If the allegation was made publicly, the candidate may respond publicly.” [9] Deletes “during a campaign” after “him or her;” Replaces text after “although” with: “the candidate should consider whether it is preferable for someone else to respond if the allegations relate to a pending case” [11] Not Adopted</p> |

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| | <p>[14] Deletes “campaign” before “promises”</p> <p>[15] In the fourth sentence Adds “Rule 2.10 (B) and” after “To avoid violating” and Replaces “if elected” at the end with “if appointed”</p> |
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| HI Effective 1/1/09 | <p>Deletes references to judicial candidates throughout</p> <p>Title: deletes “and campaign”</p> <p>Deletes (A)(6) and (8) – (11)</p> <p>[1]Judges must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. This Canon imposes narrowly tailored restrictions upon the political activities of all judges.</p> <p>Deletes [2]</p> <p>[4]: deletes language after second sentence</p> <p>[6]: adds “provided that a judge shall make reasonable efforts not to disclose his or her vote” to end</p> <p>Deletes remainder of Comment</p> |
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| IN Effective 1/1/09 | <p>(A)(10): adds “or for any political purpose” to end</p> <p>Adds (C): <i>A judge in an office filled by partisan election, a judicial candidate seeking that office, and a judicial officer serving for a judge in office filled by partisan election may at any time:</i></p> <p><i>(1) identify himself or herself as a member of a political party;</i></p> <p><i>(2) voluntarily contribute to and attend meetings of political organizations; and</i></p> <p><i>(3) attend dinners and other events sponsored by political organizations and may purchase a ticket for such an event and a ticket for a guest.</i></p> <p><i>(D): A judge in an office filled by nonpartisan election other than a retention election, a judicial candidate seeking that office, and a judicial officer serving for a judge in an office filled by nonpartisan election may at any time attend dinners and other events sponsored by political organizations and may purchase a ticket for such an event and a ticket for a guest.</i></p> <p>[1]: replaces languages after second sentence with “Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. In furtherance of this interest, judges and judicial candidates must, to the greatest extent possible, be free, and appear to be free, from political influence and partisan interests. Therefore, this Canon permits only narrowly-tailored exceptions to the prohibitions against political activities of judges and judicial candidates, taking into account the different methods of judicial selection and the role of the electorate in selecting and retaining its judiciary”</p> <p>[4]: adds “except as permitted by Rule 4.2” before “or public endorsing” and deletes language after “behalf”</p> <p>[5]: <i>Family members of judges and judicial candidates are not bound by the Code of Judicial Conduct, and are free to engage in their own political activities, including running for public office. Nonetheless, a judge or judicial candidate must not be publicly associated with a family member’s political activity or campaign for public office except that a judge may, as a family member, accompany a member of the judge’s family* at events related directly and solely to that person’s candidacy for public office. To avoid</i></p> |

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| | <p><i>public misunderstanding, judges and judicial candidates should take, and should urge members of their families to take, reasonable steps to avoid any implication that the prestige of judicial office is being used to support any family member’s candidacy or other political activity.</i></p> <p>[6]: deletes language after “general elections”</p> <p>Adds [7]: <i>Full-time and continuing part-time judicial officers who are employed by or appointed to serve on behalf of an elected or appointed judge are bound by Rule 4.1 and, therefore, may not endorse or contribute to candidates for public office. However, as a limited exception to the restrictions in Rule 4.1, a judicial officer who serves for or is employed by a judge who is a candidate for judicial office publicly may endorse that judicial candidate by attending the candidate’s fundraisers and purchasing a ticket for such an event and a ticket for a guest.</i></p> <p>Adds [8]: <i>Generally, taking part in ceremonies and similar public events with other public officials, such as riding in parades or participating in public inaugural activities, does not constitute political conduct.</i></p> |
| <p>IA Effective 5/3/10</p> | <p>(A)(4) Adds “a candidate for judicial retention” after “political organization;”</p> <p>Adds (A)(14) and (A)(15):</p> <p style="padding-left: 40px;"><i>(14) participate in a precinct caucus; or</i></p> <p style="padding-left: 40px;"><i>(15) solicit or accept any campaign contributions from any judicial branch employee;</i></p> <p>[1] Changes “public election” to “a retention election;” deletes “taking into accounts” to end of paragraph;</p> <p>[4] Deletes language after “behalf;”</p> <p>[6] Deletes “not” before “constitute” and before “prohibited;” changes “by paragraphs (A)(2) or (A)(3)” to “this Code;” Adds to end: “In Iowa, a precinct caucus is organized and held by a political party in order to elect delegates to a party’s county convention and, thus, serves a purely political purpose. <i>See Iowa Code §43.4;</i>”</p> <p>[8] Deletes “opposing candidates;” deletes language after “public response;”</p> <p>[11] Changes “public election” to “retention election;” in second sentence changes “judicial office” to “retention;”</p> <p>[15] Adds “judicial” before “candidates” throughout; in sentence beginning with “To avoid” changes “elected” to “retained.”</p> |

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| <p>KS Effective 3/1/09</p> | <p>(A): deletes language before “A judge” (A)(1): same as Model Code (A)(2) (A)(2) – (6): same as Model Code (A)(9) – (13) (B): same as Model Code (A) (B)(1): same as Model Code (A)(1) (B)(2) – (6): same as Model Code (A)(3) – (7) (C): same as Model Code (B) Deletes Model Code (A)(8) [3]: adds “unless allowed under Rule 4.3(B)” to end [4]: replaces “abusing” with “inappropriately using,” adds “in a retention election [See Rule 4.2(B)(2)], campaigning on their own behalf or against any opponent in a nonpartisan election [See Rule 4.2(C)(2)], or from campaigning on their own behalf” after “behalf” in third sentence and “in a partisan public election [See Rule 4.2(D)(3)(a) and (c)]” after “running” [15]: adds “Judicial candidates may respond but” before “depending”</p> |
| <p>KY</p> | |
| <p>MD Effective 7/1/10</p> | <p>Does not adopt. This Rule and Comments [1] through [4] are new. Comment [5] is derived from ABA Comment [1] to Rule 4.1 of the 2007 ABA Code.</p> |
| <p>MA</p> | |
| <p>MI</p> | |
| <p>MN Effective 7/1/09</p> | <p>(A)(1): deletes “or hold an office in” (A)(1): adds “except for the judge or candidate’s opponent” after “or” (A)(4)(a): solicit funds for a political organization or candidate for public office, or (b): make a contribution to a political organization or a candidate for public office in excess of state law for any individual candidate; (A)(5): deletes “political organization or a” Deletes Model Code (A)(6) and (7) (A)(6): similar to Model Code (A)(8) but replaces language after “than” with “as authorized by Rules 4.2 and 4.4” (A)(8): similar to Model Code (A)(10) but adds “in a manner prohibited by state law or Judicial Branch personnel policies” to end [3]: adds “Examples of such leadership roles include precinct or block captains or delegates to political conventions. Such positions would be inconsistent with an independent and impartial judiciary” to end [4]: deletes language after second sentence</p> |
| <p>MO Effective</p> | <p>Changes title to: “Political Conduct of Judges and Judicial Candidates in General” Replaces text with: <i>(A) No judge appointed to or retained in office in the manner prescribed in section 25(a)-(g) of article V of the state constitution shall directly or indirectly make any contribution to or hold any office in a political party or organization or take part in any political campaign.</i> <i>(B) If a judge is nominated and elected as a candidate of a political party, an incumbent judge or candidate for election to judicial office may attend or speak on the judge or candidate's own behalf at political gatherings and may make contributions to the campaign funds of the party of choice. However, neither the</i></p> |

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| <p>1/1/2012</p> | <p><i>judge nor the candidate shall accept or retain a place on any party committee or act as party leader or solicit contributions to party funds.</i></p> <p><i>(C) A judge shall resign judicial office when the judge becomes a candidate either in a party primary or in a general election for a nonjudicial office, except that a judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention, if otherwise permitted by law to do so.</i></p> <p><i>(D) A judge shall not engage in any other political activity except on behalf of measures to improve the law, the legal system, or the administration of justice.</i></p> <p><i>56(E) Persons appointed as a circuit or associate circuit judge selected pursuant to section 25(a)-(g) of article V of the state constitution and their employees shall not directly or indirectly make any contributions to or hold an office in a political party or organization or take part in any political campaign.</i></p> <p>MC Comments Deleted</p> |
| <p>MS (as proposed)</p> | <p>(A)(5) Adds to end, “except as provided in Rule 4.2(B)(4);”</p> <p>(A)(6) Changes “candidate of a political organization” to “candidate for public office,” and adds to end, “except as provided in Rule 4.2(B)(1);”</p> <p>(A)(7) Adds to end, “except as provided in Rule 4.2(B)(1);”</p> <p>(A)(10) Adds to end, “except as allowed by Miss. Code Ann. § 25-15-973;”</p> <p>[4] Deletes reference to Rule 4.2(B)(3);</p> <p>[6] Deletes language after “general elections”</p> |
| <p>MT Effective 1/1/09</p> | <p>(A)(2): adds “or any partisan or independent non-judicial office-holder or candidate for public office” to end</p> <p>(A)(3): adds “partisan or independent” before “candidate” and “non-judicial” before “public”</p> <p>(A)(4): adds “or to or on behalf of any partisan or independent office-holder” after “organization”</p> <p>(A)(5): replaces “political organization or” with “partisan or independent” and adds “non-judicial” before “public”</p> <p>(A)(7): adds “or partisan or independent non-judicial office-holder or candidate” to end</p> <p>Deletes Model Code (A)(8)</p> <p>[2]: adds “If a judicial candidate who is not a judge violates this Canon and is elected, he or she may be referred to the Judicial Standards Commission for discipline on assuming office” to end</p> <p>[3]: deletes “may register to vote as member of a political party, they”</p> <p>[4]: adds “partisan” after “opposing” in first sentence and replaces language after “candidates for” in third sentence with “a judicial office, because judges are in the unique position to know and share with interested persons the qualifications of judicial candidates. See Rule 4.2(B)(2) and (3). However, note that while it is acceptable for candidates for judicial office to seek and accept endorsements from another judge, and have the supportive judge attend the candidate’s dinners, judges are prohibited from soliciting or collecting money on their behalf”</p> <p>[6]: deletes language after first sentence</p> |
| <p>NE Effective</p> | <p>[1] Changes “public election” to “retention election;”</p> <p>[4] Deletes language after “own behalf,” until “running;”</p> |

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| <p>1/1/2011</p> | <p>[6] Adds to end: “However judges and judicial candidates should exercise caution when attending and participating in a caucus in a matter which would conflict with a judge’s obligation to refrain from activities that reflect adversely upon a judge’s independence, integrity, and impartiality;”</p> <p>[11] Changes “public election” to “retention election;” deletes “distinguish between candidates and” towards end of paragraph;</p> <p>Adds [16]:</p> <p><i>Paragraphs (A)(3), (A)(4), and (A)(8) are substantially similar to Code provisions struck down as unconstitutional, at least as to judicial candidates, in Wersal v. Sexton, 613 F.3d 821 (8th Cir. 2010), by a panel on the Eighth Circuit Court of Appeals in a 2 to 1 decisions. A Petition for Rehearing En Banc was filed in that case on August 26, 2010. On October 15, 2010, the Court granted appellees’ petition for rehearing en banc, vacated the opinion and judgment, and schedules oral argument for January 10, 2011. The outcome of this case may ultimately affect the applicability of the prohibitions in paragraphs (A)(3), (A)(4), and (A)(8) as to judicial candidates in Nebraska, thus further inquiry into the status of this case should be made with respect to application of these paragraphs.</i></p> |
| <p>NV Effective 1/19/10</p> | <p>(A)(4): deletes language between “funds for” and “a political”</p> <p>Deletes (A)(5) and (8)</p> <p>(A)(7): adds “or publicly stated support” after “endorsements”</p> <p>Adds (C) <i>Except as prohibited by law, a judge or judicial candidate subject to public election may at any time:</i></p> <p><i>(1) attend political gatherings, or attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for public office;</i></p> <p><i>(2) upon request, identify himself or herself as a member of a political party;</i></p> <p><i>(3) be a member of or pay an assessment to or make a contribution to a political organization, or make a contribution to a candidate for public office;</i></p> <p><i>(4) make a public declaration of candidacy;</i></p> <p><i>(5) make a public speech or appearance or speak to gatherings on his or her own behalf;</i></p> <p><i>and</i></p> <p><i>(6) appear in newspaper, television or other media</i></p> <p>[1]: deletes language after “candidates” in last sentence</p> <p>[2]: <i>Canon 4 applies to all incumbent judges and judicial candidates. A successful candidate, whether or not an incumbent, is subject to judicial discipline for his or her campaign conduct; an unsuccessful candidate who is a lawyer is subject to lawyer discipline for his or her campaign conduct. A lawyer who is a candidate for judicial office is subject to Rule 8.2 of the Nevada Rules of Professional Conduct. A non-lawyer who is an unsuccessful candidate for judicial office is subject to the applicable provisions of the Nevada Revised Statutes, including those referred to in Part VI of the Application section as being inapplicable to the judicial branch of government.</i></p> <p>[3]: adds “A judge or candidate for judicial office retains the right to participate in the political process as a voter, be a member of a political organization, and contribute personal funds to a candidate or political organization” after first sentence</p> <p>[4]: adds “A judge or judicial candidate’s donation to a candidate or political organization that is otherwise permitted by state or federal law is not considered a public endorsement of a candidate for public office. Nothing in this Rule prohibits a judge or</p> |

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| | <p>candidate from speaking to a political organization” to end <i>Adds [6A]: Paragraph (C) permits judges or judicial candidates to be involved in limited political activity at any time and also allows them to make a public declaration of candidacy and to make public speeches and appearances at any time. Even though judges in Nevada are chosen by means of nonpartisan elections, judges and candidates for judicial office are occasionally asked at candidates’ forums to identify their political party affiliations. Rule 4.1(C)(2) permits a judge or candidate to identify his or her political party membership upon request. While judges and candidates may properly respond to questions regarding their party affiliation, it is impermissible in campaign materials for them to align themselves with a political party or to affiliate themselves with a political party. Nonetheless, judges and candidates may place their campaign materials on a table designated for the distribution of literature at any gathering regardless of whether the table is sponsored by a particular political party.</i> <i>[6B]: Paragraph (A)(10) does not prohibit use of court facilities or resources for limited purposes such as filming campaign commercials, so long as the use does not interfere with the performance of judicial duties.</i></p> |
| <p>NH Effective 4/1/2011</p> | <p>Changes title to: “Political Conduct in General” NH Rule 4.1: (A) A judge shall not: (1) act as a leader or hold any office in a political organization; (2) make speeches for a political organization or candidate or publicly endorse a candidate for public office; (3) solicit funds for or pay an assessment or make a contribution to a political organization of candidate, attend political gatherings, or purchase tickets for political party dinners, or other functions. (B) A judge shall resign from judicial office upon becoming a candidate either in a party primary or in a general election, 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 or a moderator of any governmental unit, if the judge is otherwise permitted by law to do so. (C) A judge shall not engage in any other political activity except on behalf of measures to improve the law, the legal system, or the administration of justice. [1]-[15]: Deleted</p> |
| <p>NJ</p> | |
| <p>NM (as pro- posed)</p> | <p>Changes title to: “Political activity and elections for judges who are not currently running in either a partisan, non-partisan, or retention election” (A) Replaces language with: “A judge may engage in political activity on behalf of the legal system, the administration of justice, measures to improve the law and as expressly authorized by the law or by this Code.” (B) Replaces language with: “A judge may, unless prohibited by law, attend non-fund raising political gatherings.” Adds C: <i>A judge shall not:</i> (1) same as MC (A)(1) (2) similar to MC (A)(3), but Adds “publicly” before “oppose; Adds (b): ...</p> |

oppose “a ballot issue unrelated to the administration of justice or the legal system”

(3) same as MC (A)(2)

(4) same as MC (A)(4)

(5) similar to MC (A)(5), but Moves “attend” to before “dinners” and Adds “fund-raising” before “events”

(6) same as MC (A)(6)

(7) same as MC (A)(11)

(8) same as MC (A)(12)

(9) same as MC (A)(13)

Adds D: Same as MC (B), but Adds “or judicial candidate” after “a judge” and Replace “under paragraph (A)” with “under this code.”

[1]: Deleted

[2]: Deleted

NM [1] is similar to MC [3], but Replaces reference with Paragraph (C)(1) and Adds at the end: “such as ward chair or delegate to a party convention. Non candidates may attend political events, but must be conscious that the presence of judges may lend the prestige of judicial office to the event and should consider whether the interests of the judiciary would best be served by not attending. A judge should not attend events organized for the sole purpose of raising money for a political campaign.”

NM [2] is similar to MC [4], but Replaces reference with paragraphs (C)(2) and (C)(3); Replaces “abusing the prestige” with “lending the prestige;” Replaces references with Rules 21-103 NMRA and Rule 21-402(A)(7) NMRA, respectively; Deletes the sentence before the last one: “These Rules do not prohibit candidates from campaigning ... running.”

NM [3] is similar to MC [5], but Replaces reference with paragraph (C)(2)(a) and Replaces “they” at the end with “the judge or judicial candidate”

NM [4] is similar to MC [6], but Replaces language after the first sentence with: “*Statements and Comments Made during a Campaign for Judicial Office (See also Rule 21-402 NMRA); Pledges, Promises, or Commitments Inconsistent with Impartial Performance of the Adjudicative Duties of Judicial Office*”

[7]: Deleted

[8]: Deleted

[9]: Deleted

[10]: Deleted

[11]: Deleted

NM [5] is the same as MC [12], but Replaces references with paragraph (C)(9) (and Rule 21-402(A)(2)(a)) and Rule 21-201(B) NMRA, respectively.

NM [6] is the same as MC [13]

[14]: Deleted

[15]: Deleted

Adds [7]:

With respect to a judge’s activity on behalf of measures to improve the law, the legal system and the administration of justice see Rule 21-312 NMRA. The Code does not prohibit a judge in the exercise of administrative functions from engaging in planning and other official activities with members of the executive and

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| | <p><i>legislative branches of government.</i></p> <p>Adds [8]:</p> <p><i>A judge is prohibited from publicly endorsing a judicial candidate or candidate for public office, e.g., adding the judge’s name to a list of supporters or publicly recommending the judge’s election or appointment. Private endorsements, however, are permitted. A judge or judicial candidate is not prohibited from privately expressing the judge’s or judicial candidate’s views on judicial candidates or other candidates for public office. A candidate for judicial office does not publicly endorse another candidate for public office by having that candidate’s name on the same ticker, or by participating in joint fund-raising with other judicial candidates, or by running for election as part of a slate of judicial candidates.</i></p> |
| <p>NY (as proposed)</p> | <p>Does not adopt (A)(6) or (7); (A)(9) is similar to Model (A)(11) but adds to end: “of material fact, including, but not limited to, statements relating to the identity, qualifications, current position or other fact concerning the candidate or an opponent;” Does not adopt Model (A)(11); Adds instead: <i>(A)(10) make any public comment about a pending* or impending* proceeding in any court within the United States or its territories; or</i></p> <p>[10] References Paragraph (A)(10) instead of (A)(12); [12] References Paragraph (A)(11) instead of (A)(13); [15] References Paragraph (A)(11) instead of (A)(13).</p> |
| <p>NC</p> | |
| <p>ND (as proposed)</p> | <p>ND Rule 4.1:</p> <p><i>Applicability</i></p> <p><i>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 8.2(b) of the North Dakota Rules of Professional Conduct.</i></p> |

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| <p>OH Effective 3/1/09</p> | <p>Title: deletes “in general” (A): A judge or <i>judicial candidate</i> shall not do any of the following: (A)(1): replaces “organization” with “party” (A)(2): replaces “organization” with “<i>party</i> or another candidate for public office” (A)(3): replaces “any” with “another” (A)(4): Solicit funds for or make a <i>contribution</i> or expenditure of campaign funds to a <i>political party</i> or a candidate for public office, except as permitted by division (B)(2) or (3) of this rule; (A)(5): Comment on any substantive matter relating to a specific case pending on the docket of any judge; (A)(6): same as Model Rule (A)(12) (A)(7): same as Model Rule (A)(13) Has no other provisions of (A) <i>(B): A judge or judicial candidate may do any of the following, subject to limitations set forth in this canon:</i> <i>(1) Attend or speak to a political gathering;</i> <i>(2) Make a contribution or expenditure of campaign funds to purchase a ticket to attend a social or fundraising event held by or on behalf of another public official or candidate for public office;</i> <i>(3) Make a contribution or expenditure of campaign funds to a political party or to purchase a ticket to attend a social event sponsored by a political party, provided the contribution or expenditure will be used for any of the purposes set forth in R.C. 3517.18(A) and will not be used for any of the purposes set forth in R.C. 3517.18(B).</i> [1]: deletes language after “candidates” in last sentence [4]: replaces language after “or from” in third sentence with “other permitted conduct” [6]: deletes language after first sentence <i>[7]: Divisions (A)(5) and (A)(6) prohibit 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.</i> Deletes Model Code [8] – [10] [8]: similar to Model Code [11] but adds as second sentence “A judge must at all times strive for the respect and confidence of all persons who come before the judge and decide each case on the law and facts presented” and adds to end of new third sentence “so as to foster and enhance respect and confidence for the judiciary. Judicial candidates have a special obligation to ensure the judicial system is viewed as fair, impartial, and free from partisanship. To that end, judicial candidates are urged to conduct their campaigns in such a way that will allow them, if elected, to maintain an open mind and uncommitted spirit with respect to cases or controversies coming before them” Adds: <i>Permitted Conduct</i> <i>[13]: Subject to the other requirements in this canon, a judge or judicial candidate may attend and speak to a political gathering and may make contributions and expend campaign funds to attend a social or fundraising event on behalf of or sponsored by another office holder or candidate.</i></p> |
| <p>OK</p> | <p>(A)(2) Adds at the end: “or another candidate for public office.”</p> |

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| <p>Effective 4/15/2011</p> | <p>(A)(3) Adds “another” before “candidate” (A)(4) Adds “another” before “candidate” (A)(5) Adds “another” before “candidate” and adds at the end: “provided that the exception granted to a candidate for judicial office pursuant to Title 20 O.S. § 1404.1(1) shall also be granted to a judge who is a candidate for judicial election.” (A)(10) Changes language to: “require or compel court staff to aid or assist in a campaign for judicial office or use court resources in such a campaign;” Adds (A)(14): <i>Knowingly or with reckless disregard for the truth misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent.</i> Adds (B): <i>A judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A).</i> Adds (C): <i>For campaign purposes photographs may be taken in a courtroom by a judge or judicial candidate, but not while the court is in session.</i> [1] Adds the first sentence: “The State of Oklahoma has a compelling interest in maintaining the interdependence, integrity and impartiality of the judiciary, thus enhancing public confidences in the judicial system.” Adds at the end of the last sentence: “and the constitutional provisions governing free speech and expressive association.” [2] Adds at the end: “A successful candidate for judicial office is subject to discipline under the Code for violation of any of the Rules set forth in Canon 4, even if the candidate was not a judge during the period of candidacy. An unsuccessful candidate who is a lawyer is subject to discipline under the Oklahoma Rules of Professional Conduct.” [4] Deletes “respectively” after “or opposing candidates for public office;” Deletes “or from endorsing” after “from campaigning on their own behalf.” [6] Deletes all text after the first sentence. [7] Adds reference to paragraph A(14) after (A)(11) [8] Adds reference to paragraph (A)(14) after (A)(13) [15] Adds at the end of the second sentence: “but candidates should proceed with caution if they choose to respond to such questionnaire or requests.”</p> |
| <p>OR</p> | |
| <p>PA</p> | |

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| SD | |
| TN (as pro- posed) | <p>Deletes (3) (4): Deletes “or make a contribution to” Deletes (5) Deletes (6) Deletes (7) Adds [3A]: <i>Rule 4.1(A)(10) prohibits a judge from using court staff in a campaign for judicial office. The rule does not preclude voluntary involvement of court staff in campaign activities during non-working hours.</i> Deletes [4]-[6]</p> |
| TX | |
| UT Effective 4/1/10 | <p>(A): deletes “by law...4.4” and adds “in this Canon” before “a judge” (A)(6) changes “candidate” to “member,” adds to end of paragraph: “except as necessary to vote in an election;” Deletes Model Code (A)(8) and (9) (A)(8): similar to Model Code (A)(10) but adds “or make excessive use of court” after “court staff” and replaces language after “in” with “seeking judicial office” (A)(9): similar to Model Code (A)(11) but adds “in seeking judicial office” to end (A)(10) is the same as Model Code (A)(12) (A)(12): make pledges, promises, or commitments other than the faithful, impartial and diligent performance of judicial duties Deletes Model Code (A)(13) Adds (A)(11): “other than the faithful, impartial and diligent performance of judicial duties.” (B) Replaces “paragraph (A)” with “this Canon.” [1]: deletes language after “candidates” in last sentence Deletes [2] [3]: similar to Model Code [2] but deletes language after first sentence Deletes [4] [3] is the same as Model Code [5] [4] is similar to Model Code [6] but deletes second sentence [5] is the same as Model Code [7] [6] is similar to Model Code [8] but deletes “opposing candidates” and last sentence [7] is similar to Model Code [9] but changes “paragraph (A)(12)” to “the provisions of this Canon” and changes “during a campaign” with “while seeking judicial office” [8] is similar to Model Code [10] but changes “Paragraph (A)” with “Paragraph (A)(10)” Title: deletes language after “Commitments” [9] is similar to Model Code [11] but deletes language after first sentence [10] is similar to Model Code [10] but changes “Paragraph (A)” to “Paragraph (A)(11)” [11] is similar to Model Code [13] but deletes language after first sentence [12] is similar to Model Code [14] but deletes “campaign” before “promises” Deletes Model Code [15]</p> |
| VT | |
| VA | |
| WA Effective | <ul style="list-style-type: none"> State Code and Model Code are identical, except that State Code adds titles in parentheses when citing Rules; |

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| <p>1/1/11</p> | <ul style="list-style-type: none"> • (A)(2) State Code adds “or nonjudicial candidate” at end; • (A)(3) State Code adds modifier “nonjudicial” before “candidate” and adds after “public office” “,except for participation in a precinct caucus limited to selection of delegates to a nominating convention for the office of President of the United States pursuant to (5) below;” • (A)(4) State Code adds modifier “nonjudicial” before “candidate.” • Model Code (A)(5) is deleted; • Model Code (A)(6) identical to State Code (A)(5), but State Code adds “except” at end and adds: “(a) as required to vote, or (b) for participation in a precinct caucus limited to selection of delegates to a nominating convention for the office of President of the United States”; • State Code (A)(6) states [Reserved]; • Model Code (A)(8) similar to State Code (A)(7), but State Code adds to paragraph: “except for members of the judge’s family or individuals who have agreed to serve on the campaign committee authorized by Rule 4.4 and subject to the requirements for campaign committees in Rule 4.4(B);” • Model Code (A)(9) similar to State Code (A)(8), but adds to end of paragraph: “except as permitted by law;” • Model Code (A)(10) similar to State Code (A)(9), but adds to end of paragraph: “except as permitted by law;” • Model Code (A)(11) identical to State Code (A)(10); • Model Code (A)(12) identical to State Code (A)(11); • Model Code (A)(13) identical to State Code (A)(12). |
| <p>WV</p> | |
| <p>WI</p> | |
| <p>WY Effective 7/1/09</p> | <p>(A)(6): engage in any other political activity except on behalf of measures to improve the law, legal system or the administration of justice or except as permitted under the sections of this Canon. Deletes (A)(7) - (13) Deletes Model Code [1] and [2] and [7] – [15] [2]: same as Model Code [1] but deletes language after second sentence</p> |

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