

AMERICAN BAR ASSOCIATION
CPR POLICY IMPLEMENTATION COMMITTEE

COMPARISON OF ABA MODEL JUDICIAL CODE AND STATE VARIATIONS

RULE 4.2 Political and Campaign Activities of Judicial Candidates in Public Elections

- (A) A judicial candidate* in a partisan, nonpartisan, or retention public election* shall:
- (1) act at all times in a manner consistent with the independence,* integrity,* and impartiality* of the judiciary;
 - (2) comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations of this jurisdiction;
 - (3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by Rule 4.4, before their dissemination; and
 - (4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities, other than those described in Rule 4.4, that the candidate is prohibited from doing by Rule 4.1.
- (B) A candidate for elective judicial office may, unless prohibited by law,* and not earlier than [insert amount of time] before the first applicable primary election, caucus, or general or retention election:
- (1) establish a campaign committee pursuant to the provisions of Rule 4.4;
 - (2) speak on behalf of his or her candidacy through any medium, including but not limited to advertisements, websites, or other campaign literature;
 - (3) publicly endorse or oppose candidates for the same judicial office for which he or she is running;
 - (4) attend or purchase tickets for dinners or other events sponsored by a political organization* or a candidate for public office;
 - (5) seek, accept, or use endorsements from any person or organization other than a partisan political organization; and
 - (6) contribute to a political organization or candidate for public office, but not more than \$[insert amount] to any one organization or candidate.
- (C) A judicial candidate in a partisan public election may, unless prohibited by law, and not earlier than [insert amount of time] before the first applicable primary election, caucus, or general election:
- (1) identify himself or herself as a candidate of a political organization; and
 - (2) seek, accept, and use endorsements of a political organization.

COMMENT

[1] Paragraphs (B) and (C) permit judicial candidates in public elections to engage in some political and campaign activities otherwise prohibited by Rule 4.1. Candidates may not engage in these activities earlier than [insert amount of time] before the first applicable electoral event, such as a caucus or a primary election.

[2] Despite paragraphs (B) and (C), judicial candidates for public election remain subject to many of the provisions of Rule 4.1. For example, a candidate continues to be prohibited from soliciting funds for a political organization, knowingly making false or misleading statements during a campaign, or making certain promises, pledges, or commitments related to future adjudicative duties. See Rule 4.1(A), paragraphs (4), (11), and (13).

[3] In partisan public elections for judicial office, a candidate may be nominated by, affiliated with, or otherwise publicly identified or associated with a political organization, including a political party. This relationship may be maintained throughout the period of the public campaign, and may include use of political party or similar designations on campaign literature and on the ballot.

[4] In nonpartisan public elections or retention elections, paragraph (B)(5) prohibits a candidate from seeking, accepting, or using nominations or endorsements from a partisan political organization.

[5] Judicial candidates are permitted to attend or purchase tickets for dinners and other events sponsored by political organizations.

[6] For purposes of paragraph (B)(3), candidates are considered to be running for the same judicial office if they are competing for a single judgeship or if several judgeships on the same court are to be filled as a result of the election.

	<p>In endorsing or opposing another candidate for a position on the same court, a judicial candidate must abide by the same rules governing campaign conduct and speech as apply to the candidate's own campaign. [7] Although judicial candidates in nonpartisan public elections are prohibited from running on a ticket or slate associated with a political organization, they may group themselves into slates or other alliances to conduct their campaigns more effectively. Candidates who have grouped themselves together are considered to be running for the same judicial office if they satisfy the conditions described in Comment [6].</p> <p>Nine (9) states have similar language (AR, CO, IN, KS, MN, MS, MT, NV, OK) Eleven (11) states have different language (AZ, IA, MO, NE, NH, NY, OH, TN, UT, WA, WY) Three (3) states do not have (DE, HI, MD)</p>
AK	
AL	
AZ Effective 9/1/09	<p>Title: deletes "in partisan elections" (A): deletes "in a partisan, nonpartisan, or retention public election" (A)(2): deletes "of this jurisdiction" Deletes (B), (C) and Comment</p>
AR Effective 7/1/09	<p>(A): replaces language after "in" with "a public election shall" (B): replaces language before "may" with "A judicial candidate * in a public election" and language after "than" with "365 days before the first applicable election" Deletes (B)(3) (B)(4): deletes language after "organization" Deletes (B)(6) and (C) [1]: time given is 365 days. Replaces language after "applicable" with "election" Deletes [3] [4]: replaces languages between "nonpartisan" and "paragraph" with "elections" [5]: adds "Subject to the 365 day limitation" to beginning and "(Cf. Rule 4.1, Comment 6A, Judges are permitted to attend or purchase tickets for dinners or other events sponsored by a political organization.)" to end Deletes [6] and [7]</p>
CA (as pro- posed)	<p>(A)(2) – CA Canon 5, 2nd paragraph: Identical (A)(3) – CA Canon 5B(2): Similar to the Model Rule provision. Also, incorporates the CIC recommendation #24 that notes that a candidate cannot be expected to control the actions of third parties.</p>
CO Effective 7/1/10	<p>Title: "Political and Campaign Activities of a Judge Who is a Candidate for Retention" (A) Deletes "partisan, nonpartisan, or" (2) Adds "federal and state" between "applicable" and "election"; Deletes "of this jurisdiction" after "laws and regulations" (3) Replaces "as authorized by Rule 4.4" with "as authorized by Rule 4.3" (4) Replaces "Rule 4.4" with "Rule 4.3" Deletes Sections (B)&(C) of Model Code Deletes Comment</p>
CT Effective 1/1/11	Does not have
DE Effective	Does not have

11/1/08	
DC (as proposed)	Not Adopted
FL	
HI Effective 1/1/09	Does not have
ID	
IL	
IN Effective 1/1/09	<p>(A)(2): deletes language after “regulations” <i>Adds (A)(5): notify the Indiana Commission on Judicial Qualifications in writing, within one week after becoming a candidate, of the office sought and of the candidate’s address and telephone number.</i></p> <p>(B): adds “partisan” before “elective” and “in addition to those activities permitted at any time under Rule 4.1(C) and” after “may,” replaces language after “before the” with “primary or general election in which the candidate is running” and gives time as 1 year</p> <p>(B)(1): adds “and accept campaign contributions” after “committee”</p> <p>(B)(3): replaces language after “endorse” with “and contribute to candidates for election to public office running in the same election cycle”</p> <p>(B)(4): attend dinners, fundraisers, or other events for candidates for public office running in the same election cycle and purchase a ticket for such an event and a ticket for a guest;</p> <p>(B)(5): replaces language after “or organization” with “including a political organization; and”</p> <p>(B)(6): same as Model Code (C)(1)</p> <p>(C): similar to Model Code (B) but adds “nonpartisan” before “elective” and “in addition to those activities permitted at any time under Rule 4.1(B) and” after “may,” replaces language after “before the” with “primary or general election in which the candidate is running” and gives time as 1 year</p> <p>(C)(1): similar to Model Code (B)(1) but adds “and accept campaign contributions” after “committee”</p> <p>(C)(2): same as Model Code (B)(2)</p> <p>(C)(3): similar to Model Code (B)(3) but replaces language between “endorse” and “for the same” with “contribute to, and attend functions for other candidates running”</p> <p>(C)(4): similar to Model Code (B)(5) but adds “appropriate” before “person” and deletes “partisan”</p> <p><i>Adds (D): A candidate for retention to judicial office whose candidacy has drawn active opposition may campaign in response and may:</i></p> <p><i>(D)(1): similar to Model Code (B)(1) but adds “and accept campaign contributions” after “committee”</i></p> <p><i>(D)(2): same as Model Code (B)(2)</i></p> <p><i>(D)(3): similar to Model Code (B)(5) but adds “appropriate” before “person” and deletes “partisan”</i></p> <p>[1]: in second sentence, adds “in partisan and nonpartisan elections” after “Candidates,” gives time as 1 year and ends sentence after “event.” Adds “Candidates for retention to judicial office may engage in certain campaign activities only if their retention actively is opposed” to end</p> <p>[3]: in first sentence, replaces “or associated with” with “as a candidate of” and deletes language</p>

	<p>after “organization.” Deletes second sentence <i>[5]: Judicial candidates in partisan and nonpartisan elections are permitted to 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> [6]: in first sentence, adds “nonpartisan” before “candidates” and deletes “if they are competing for a single judgeship or.” Deletes “or opposing” in second sentence</p>
<p>IA Effective 5/3/10</p>	<p>(A) Replaces language after “candidate” with “in a retention election shall;” (A)(2) Jurisdiction is Iowa; adds to end “and this Code;” (B) Replaces text with “A judicial candidate in a retention election may, unless prohibited by law*.” Does not have (B)(3), (4), or (5); Does not have MR (C); Comments: Deletes reference to Paragraph (C) throughout and changes “public elections” to “retention elections” throughout; [1] Deletes language after “Rule 51:4.1;” Does not have MR [3] through [7]; Adds: [3] In retention elections, paragraph (B)(3) prohibits a candidate from seeking, accepting, or using nominations or endorsements from a partisan political organization.”</p>

<p>KS Effective 3/1/09</p>	<p>(B): replaces “elective” with “retention to,” time given is one year, deletes language between “before the” and “retention” and adds “in which the candidate is running” to end Deletes Model Code (B)(3), (4) and (6) (B)(3): similar to Model Code (B)(5) but replaces “seek, accept, or” with “obtain and” and “endorsements” with “publicly stated support” (C): similar to Model Code (B) but replaces “elective” with “nonpartisan election to,” time given is one year, deletes “or retention” and adds “in which the candidate is running” to end (C)(1): same as Model Code (B)(1) (C)(2): similar to Model Code (B)(2) but adds “or against any opponents’ candidacies” after “candidacy” (C)(3): similar to (B)(5) but replaces “seek, accept, or” with “obtain and” and “endorsements” with “publicly stated support” (D): similar to Model Code (C) but adds “A judge or” to beginning, replaces “in a” with “subject to” and deletes language after “law” (D)(1): same as 1990 Model Code Canon 5C(1)(a) (D)(1)(a): same as Model Code (B)(4) (D)(1)(b): same as 1990 Model Code Canon 5C(1)(a)(ii) (D)(1)(c): similar to Model Code (B)(6) but deletes language after “organization” (D)(2): same as Model Code (B)(1) (D)(3): same as 1990 Model Code Canon 5C(1)(b) (D)(3)(a): similar to Model Code (B)(2) but adds “or against any opponents’ candidacies” after “candidacy” (D)(3)(b): same as 1990 Model Code Canon 5C(1)(b)(iii) (D)(3)(c): same as 1990 Model Code Canon 5C(1)(b)(iv) (D)(3)(d): similar to Model Code (C)(1) but adds “including permitting the candidate’s name to be listed on election materials along with the names of other candidates for elective public office and appearing in promotions of the ticket” to end (D)(3)(e): similar to Model Code (C)(2) but replaces “seek, accept, and” with “obtain and” and “endorsements of” with “publicly stated support from any person or organization including” [1]: deletes second sentence [2]: deletes “soliciting funds for a political organization” and “certain promises” and replaces “commitments related to future adjudicative duties” with “promises to rule a particular way in particular cases or classes of cases” [4]: replaces “seeking, accepting, or” with “obtaining and” and “nominations or endorsements” with “publicly stated support” [5]: adds “A judge or” to beginning and “subject to partisan public election” after “candidate” Deletes [7]</p>
<p>KY</p>	
<p>MD Effective 7/1/10</p>	<p>Does not adopt.</p>
<p>MA</p>	

<p>MI</p>	
<p>MN Effective 7/1/09</p>	<p>(A): deletes “partisan, nonpartisan, or retention” Adds (A)(5): take reasonable measures to ensure the candidate will not obtain any information identifying those who contribute or refuse to contribute to the candidate’s campaign. (B): deletes language after “law” <i>(B)(3)(a): make a general request for campaign contributions when speaking to an audience of 20 or more people;</i> <i>(b) sign letters, for distribution by the candidate’s campaign committee, soliciting campaign contributions, if the letters direct contributions to be sent to the address of the candidate’s campaign committee and not that of the candidate; and</i> <i>(c) personally solicit campaign contributions from members of the judge’s family, from a person with whom the judge has an intimate relationship, or from judges over whom the judge does not exercise supervisory or appellate authority.</i> Deletes (B)(4) – (6) and (C) [1]: deletes language after first sentence Deletes Model Code [3], [4], [6] and [7] [3]: same as Model Code [5]</p>
<p>MO Effective 1/1/2012</p>	<p>Replaces title with: “Campaign Conduct of Judges and Judicial Candidates” Replaces text with: <i>(A) A candidate, including an incumbent judge, for a judicial office that is filled either by public election between competing candidates or on the basis of the non-partisan court plan:</i> <i>(1) shall maintain the dignity appropriate to judicial office and shall encourage members of the candidate's family to adhere to the same standards of political conduct that apply to the candidate;</i> <i>(2) shall comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations;</i> <i>(3) shall not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office;</i> <i>(4) shall review and approve the content of all campaign statements and materials produced by the candidate before their dissemination;</i> <i>(5) shall not knowingly or with reckless disregard for the truth make any false or misleading statement or misrepresent the candidate's identity, qualifications, present position, or other fact; and</i> <i>57(6) shall prohibit public officials or employees subject to the candidate's direction or control from doing for the candidate what the candidate is prohibited from doing under this Canon 4; and except to the extent authorized under Rule 2-4.2(B) or Rule 2-4.2(C), such candidate shall not allow any other person to do for the candidate what the candidate is prohibited from doing under this Canon 4.</i> <i>(B) A candidate, including an incumbent judge, for a judicial office that is filled by public election between competing candidates shall not solicit or accept campaign funds in a courthouse or on courthouse grounds. Such candidate shall not solicit in person campaign funds from persons likely to appear before the judge. A candidate may make a written campaign solicitation for campaign funds of any person or group, including any person or group likely to appear before the judge.</i></p>

The candidate may establish committees of responsible persons to secure and manage the expenditure of funds for the campaign. Such committees are not prohibited from soliciting campaign contributions in person and may distribute the candidate's written requests for campaign funds.

A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or members of the candidate's family.

(C) An incumbent judge who is a candidate for retention in or reelection to office without a competing candidate, and whose candidacy has drawn active opposition, may campaign in response thereto and may obtain publicly stated support and campaign funds in the manner provided in Rule 2-4.2(B).

COMMENT

[1] Under Rule 4-8.2(b) a lawyer who is a candidate for judicial office must comply with the applicable provisions of the Code of Judicial Conduct.

*A candidate for judicial office should consider whether his or her conduct may create grounds for recusal for actual bias or a probability of bias pursuant to *Caperton v. A.T. Massey Coal Co.*, 556 U.S. ____ (2009), or whether the conduct otherwise may create grounds for recusal under this Rule 2 if the candidate is elected to or retained in judicial office.*

<p>MS (as pro- posed)</p>	<p>(A) Deletes “partisan, nonpartisan, or retention;” (A)(2) Deletes “of this jurisdiction;” (B) Amount of time is “January 1 of the calendar year” and deletes “before...general election;” Does not have (B)(3) or (B)(6); (C) Amount of time is “January 1”</p> <p>[1] Amount of time is “January 1 of the calendar year of the election” and deletes “before...primary election;” Does not have [6] or [7]</p>
<p>MT Effective 1/1/09</p>	<p>(A): deletes “in a partisan, nonpartisan, or retention election” (A)(4): adds “objectively” before “reasonable” (B): deletes language after “law” (B)(3): deletes “the same” and deletes language after “office” (B)(4): replaces “public” with “judicial” (B)(5): adds “or partisan* or independent* office-holder or candidate for non-judicial public office” to end (B)(6): replaces language between “contribute to” and “but” with “candidate for judicial office” and language after “more than” with “the amount prescribed by law” Deletes (C) [1]: deletes second sentence [2]: adds “or any partisan or independent office-holder or candidate for public office” after “organization” Deletes Model Code [3] [3]: similar to Model Code [4] but replaces “nonpartisan public elections or retention” with “judicial” and adds “or a partisan or independent non-judicial office-holder or candidate for public office” to end [4]: similar to Model Code [5] but adds “or judicial candidates, but not by partisan or other independent office-holders or candidates for public office” to end [5]: similar to second sentence of Model Code [6] but adds “judicial” after “another,” deletes “for a position on the same court” and adds “the judge or” before “judicial candidate” Deletes [7]</p>
<p>NE Effective 1/1/2011</p>	<p>(A) Deletes “partisan, nonpartisan, or” and “public” and adds asterisk after “election;” (A)(2) Deletes “of this jurisdiction;” (B) Replaces “elective judicial office” with “retention election,” deletes language after “prohibited by law” and adds instead: “when the judge’s candidacy has drawn active opposition;” (B)(3) Reserved; (B)(5) Deletes “partisan;” (B)(6) Reserved; (C) Reserved; [1] Deletes reference to Paragraph (C), changes “public” to “retention,” deletes language between “these activities” and “before,” deletes language after “before the” and adds instead: “judge’s candidacy has drawn active opposition;” [2] Deletes reference to Paragraph (C), changes “public” to “retention;” [3] Reserved; [4] Deletes “nonpartisan public elections,” deletes “partisan” before “political organization;” [6] Reserved;</p>

	<p>[7] Reserved.</p>
<p>NV Effective 1/19/10</p>	<p>(A): deletes “partisan, nonpartisan, or retention” (A)(4): deletes “other than those described in Rule 4.4” Adds (A)(5): <i>report contributions received and campaign expenses in accordance with NRS Chapter 294A.</i> (6): <i>if elected to judicial office, a candidate who received contributions that were not spent or committed for expenditure as a result of the campaign may dispose of the money in any combination as provided in subsections (a)–(d). Any other disposition of the money is prohibited.</i> (a) <i>return the unspent money to contributors;</i> (b) <i>donate the money to the general fund of the state, county or city relating to the judge’s office;</i> (c) <i>use the money in the judge’s next election or for the payment of other expenses related to the judge’s public office or the judge’s previous campaigns for judicial office;</i> (d) <i>donate the money to any tax-exempt nonprofit entity, including a nonprofit state or local bar association, the Administrative Office of the Courts or any foundation entrusted with the distribution of Interest on Lawyer’s Trust Accounts (IOLTA) funds.</i> (7): <i>unless a candidate for other judicial office, a judge who does not run for reelection shall, not later than the 15th day of the second month after the expiration of the judge’s term of office, dispose of those contributions in the manner provided in Rule 4.2(A)(6).</i> (B): deletes language after “law” (B)(3): deletes “endorse or” (B)(4): in accordance with Rules 4.2(C), 4.2(D) and other applicable law, solicit and accept campaign contributions, either personally or through a campaign committee. Deletes (B)(6) Adds (C): <i>A candidate who is not opposed in an election must not solicit or accept contributions for the candidate’s campaign, either personally or through a candidate’s committee, at any time.</i> (1) <i>A candidate becomes opposed in an election when, at the close of filing, another candidate has filed a declaration of candidacy or acceptance of candidacy for the same judicial office.</i> (2) <i>If a candidate’s opponent files a withdrawal of candidacy, the candidate is deemed unopposed as of the effective date of the withdrawal of candidacy and must not solicit or accept campaign contributions after that date.</i> (3) <i>A candidate who is opposed and/or the candidate’s committees may solicit or accept contributions for the candidate’s campaign no earlier than 5:00 p.m. on the last day for filing a declaration of candidacy for judicial office and no later than 90 days after the last election in which the candidate participates during the election year.</i> (D): <i>Candidates running exclusively for municipal court, however, may solicit or accept contributions for the candidate’s campaign no earlier than 120 days before the primary election and no later than 90 days after the last election in which the candidate participates during the election year. If, at the close of filing for judicial office in a municipal court election a candidate is unopposed, the candidate must not solicit or accept campaign contributions after the close of filing.</i> [1]: replaces second sentence with “Solicitation and acceptance of campaign contributions by unopposed candidates or their committees are prohibited at any time, except as provided in paragraph (D) for candidates running exclusively for municipal court.” [3]: <i>Based upon the statutory changes enacted by the Nevada Legislature in 2007, and approved by the Governor, the filing date for a candidate for supreme court, district court, and justice of the peace has been advanced from May to January. Therefore, candidates involved in a contested</i></p>

	<p><i>election should have sufficient time to raise campaign contributions before the August primary date. Due to the divergent filing deadlines and election dates in municipal elections, special time limitations on fundraising are required for those elections.</i></p> <p><i>In the event the candidate is not opposed in an election, under paragraphs (C) and (D) the candidate may not solicit contributions. One of the reasons for this restriction is that unopposed candidates for all judicial offices only need one vote to win their election. The only judicial candidates who have a “none of the above” category on the ballot are statewide candidates for the Nevada Supreme Court.</i></p> <p><i>However, the Nevada Legislature approved Senate Joint Resolution 2 in 2007, which would amend the Nevada Constitution and change judicial selection for supreme court justices and district court judges from an election to an appointment process with a retention election. In the event this resolution is approved by the Nevada Legislature in 2009 and approved by the voters in the subsequent general election, this Rule may be amended to change the procedures regarding the solicitation of campaign contributions.</i></p> <p><i>[4]: This Rule permits a candidate to seek, accept or use endorsements or publicly stated support from any source except partisan political organizations.</i></p> <p><i>[5]: Paragraph (A)(6) provides a variety of methods for handling excess campaign funds. Although it is entirely ethical to use or dispose of such funds in accordance with the provisions of Rule 4.2(A)(6), candidates are encouraged to be responsive to the desires of the contributors concerning the disposition of such funds within the available options, to the extent such desires are known to the candidate or the candidate’s campaign committees.</i></p> <p><i>The 2007 amendments to former Section 5C(4) conform the Code more closely to NRS 294A.160(2). However, this Canon is more restrictive than the provisions of NRS 294A.160(2). Candidates for judicial office are subject to the reporting requirements of NRS 294A.200 relating to campaign contributions, together with all other applicable state campaign reporting and contribution laws. Candidates who are not elected to or holding judicial office are subject to the requirements of NRS 294A.160(3) governing the disposition of unspent campaign funds.</i></p> <p><i>[6]: deletes “endorsing or”</i></p>
<p>NH Effective 4/1/2011</p>	<p>Changes title to: “Judicial Candidates”</p> <p>NH Rule 4.2:</p> <p>(A) A candidate for judicial office:</p> <p>(1) shall maintain the dignity appropriate for judicial office and act in a manner consistent with the impartiality, integrity and independence of the judiciary, and shall encourage members of the candidate’s family to adhere to the same standards of political conduct in support of the candidate as apply to candidate; and</p> <p>(2) shall not:</p> <p>(a) with respect to cases, controversies, or issues that are likely to come before the court, make pledges, promises or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office; or</p> <p>(b) knowingly misrepresent the identity, qualifications, present position or other fact concerning the candidate or any other candidate or potential candidate.</p> <p style="text-align: center;"><u>Comment</u></p> <p>[1] Section 4.2(A) prohibits a candidate for judicial office from making statements that commit the candidate regarding cases, controversies or issues likely to come before the court. As a</p>

	<p><i>corollary, a candidate should emphasize in any public statement the candidate's duty to uphold the law regardless of his or her personal views. See also Section 2.10, the general rule on public comment by judges. Section 4.2(A)(2) does not prohibit a candidate from making pledges or promises respecting improvements in court administration. Nor does this Section prohibit an incumbent judge from making private statements to other judges or court personnel in the performance of judicial duties. This Section applies to any statement made in the process of securing judicial office, such as statements to commissions charged with recommending judicial selection and executive officials and bodies charged with nominating or confirming appointment. See also Rule 8.2 of the NH Rules of Professional Conduct.</i></p> <p><i>[2] This section is not intended to prohibit a judge from attending a candidates' night to which all candidates for a particular office have been invited.</i></p>
<p>NJ</p>	
<p>NM (as pro- posed)</p>	<p>(A) Adds subtitle: "Candidates for election to judicial office." Replaces (1)-(4) with: <i>(1) shall</i> NM A(1)(a) is the same as MC (A)(1) NM A(1)(b) is similar to MC (A)(2), but Deletes "of this jurisdiction" at the end NM A(1)(c) is similar to MC (A)(3), but Adds "non-financial" before "campaign" and Replace reference with corresponding Rule 21-404 NMRA NM A(1)(d) is similar to MC (A)(4), but Replaces reference with corresponding Rule 21-404 NMRA and Replaces "by Rule 4.1" with "under these rules"</p> <p>Adds A(1)(e): <i>shall, if intending to raise or expend funds in excess of \$1,000, establish a campaign committee pursuant to the provisions of Rule 21-404 NMRA.</i></p> <p>Adds A(2): <i>shall not</i></p> <p><i>(a) with respect to cases, controversies or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office; or</i> <i>(b) misrepresent the candidate's or the candidate's opponent's identity, qualification, present position of other material fact;</i></p> <p>Adds A(3): <i>may:</i></p> <p><i>(a) same as MC (B)(2)</i> <i>(b) same as MC (B)(4)</i> <i>(c) same as MC B(5), but Deletes all text after "or organization"</i> <i>(d) same as MC B(6), but Deletes all text after "political organization"</i> <i>(e) use advertising that does not contain any misleading contents, provided that the advertising is within the bounds of proper judicial decorum and does not, in nonpartisan elections, contain any reference to the candidate's affiliation with a political party; and</i> <i>(f) respond to personal attacks or attacks on the candidate's record as long as the response does not violate Paragraph C(8) or Rule 21-401 NMRA.</i></p> <p>(B) Replaces with: <i>B. Contributions creating appearance of impropriety. Candidates for judicial office in both partisan and retention elections shall refrain from campaign fund-raising activity which has the appearance of impropriety, and shall not accept any contribution that creates an</i></p>

appearance of impropriety.

(C) Replaces with:

Solicitation for other campaigns and candidates. *Subject to the restrictions of Rule 21-404 NMRA and Rule 21-402(A) NMRA, candidates in both partisan and retention elections for judicial office may solicit contributions for their own campaigns, but shall not solicit funds for any other political campaign, or for any candidate for any other office. Judicial candidates may run for election as part of a slate of judicial candidates and may participate in joint fund-raising events with other judicial candidates.*

Adds:

D. Unopposed candidates in partisan elections. *Candidates in partisan elections for judicial office who have a campaign fund, but who are unopposed or become unopposed in the campaign, shall return all unused and uncommitted campaign funds pro rata to the contributors of the funds, or donate the funds to a charitable organization, or to the State of New Mexico, as the candidate may choose, with disbursement of such funds to occur within thirty (30) days after the absence of opposition becomes known.*

E. Contributions by attorneys and litigants. *If a case is pending before any candidate for the judicial office being contested, restrictions of this subparagraph apply to all candidates for that office. Candidates for judicial office, in both partisan and retention elections, shall not personally solicit or personally accept campaign contributions from any attorney, or from any litigant in a case pending before the candidate. Contributions from attorneys and litigants shall be made only to a campaign committee, and are subject to all the requirements of this rule. Campaign committees may solicit contributions from attorneys. Campaign committees shall not knowingly solicit a contribution from a litigant whose case is then pending before the candidate. Campaign committees shall not disclose to the judge or candidate the identity or source of any funds raised by the committee.*

F. A judicial candidate in a partisan public election. *A judicial candidate in a partisan election may, upon appointment, declaration, or filing a declaration of candidacy, whichever occurs first,*

- (1) identify himself or herself as a candidate of a political organization; and*
- (2) seek, accept, and use endorsements of a political organization.*

G. A judicial candidate in a retention election. *A judicial candidate in a retention election may, not earlier than twelve months before the [first applicable primary election, caucus, or] general election,*

- (1) identify himself or herself as a candidate [of a political organization];*
and
- (2) seek, accept, or use endorsements from any person or organization, other than a partisan political organization.*

Adds:

[1] This rule restricts contributions for campaigns for judicial office to sources and amounts that do not create an appearance of impropriety. Candidates for judicial office may solicit contributions for their own campaigns, within the restrictions of this rule, but not for the

campaigns for other candidates or offices. Candidates for election to judicial office are required to create campaign committees to solicit and accept contributions, to solicit public support, and to receive, manage, and disburse all campaign contributions. Each candidate must instruct the campaign committee to solicit or accept only those contributions that are reasonable under the circumstances, and that meet the requirements of this rule.

[2] Attorneys and litigants have the right as citizens to participate in the electoral process of public officers, including judges, and have the right to support and make contributions to candidates for judicial office. Therefore, campaign contributions by attorneys and litigants are permitted, within the restrictions of this rule. However, campaign contributions from litigants with cases pending before any candidate for the judicial office being contested may not be knowingly solicited or accepted by any candidate for that office or that candidate's campaign committee. Once a campaign committee determines it has received a contribution from a litigant with a case pending before the judicial candidate, the contribution must be returned.

[3] Although Paragraph E does not forbid a judicial candidate's campaign from accepting a contribution from a lawyer in a firm that has a pending case, a judicial candidate's campaign committee should not accept the contribution if accepting such a contribution creates an appearance of impropriety. For example. A large contribution from a law firm with many lawyers may create the appearance of impropriety as might a smaller contribution from a firm with only two or three lawyers. These examples serve only to illustrate the point that campaign committees should exercise particular vigilance when accepting contributions from lawyers whose firm has a pending case.

[4] Campaign committees established under this rule should attempt to manage campaign finances responsibly, avoiding deficits that may necessitate post-election fund-raising.

NM [5] is similar to MC [1], but Replaces reference with paragraph A(3)(a) through (e) in the first sentence; Replaces second sentence with: "A candidate may begin to engage in activities permitted under Rule 21-401 NMRA twelve (12) months before the next applicable electoral event, such as a caucus or a primary election, or as soon as the candidate makes a public announcement of candidacy, declares or files as a candidate with the election or appointment authority, authorizes, or, where permitted, engages in solicitation or acceptance of contributions or support, or is nominated for election or appointment to office."

NM [6] is similar to MC [2], but Replaces references with paragraph A(3)(a) through (e) and Rule 21-401 NMRA, respectively. Deleted last sentence.

NM [7] is the same as MC [3]

NM [8] is similar to MC [4], but Replaces reference with paragraph (G)(2)

NM [9] is the same as MC [5]

NM [10] is similar to MC [7], but Deletes the last sentence

Adds:

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

[12] 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 (E)(6)(a) 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 (E)(6)(a), 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 21-211 NMRA.

[13] Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign committees. Rule 21-401 (C)(7) NMRA obligates judges and judicial 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.

[14] 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 (C)(3) (prohibiting speeches on behalf of a political organization), (A)(8) (prohibiting any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter impending or pending in any court), or (C)(9) (prohibiting the making of pledges or promises in connection with matters likely to come before the court that are inconsistent with the impartial performance of judicial duties) of Rule 21-401 NMRA, the candidate may respond directly and make a factually accurate public response. In addition, a judicial candidate has recourse to the complaint procedures of the Fair Judicial Elections Committee of the State Bar. In extreme cases, when there may have been a violation of the Code of Judicial Conduct, a judicial candidate may proceed under Rule 21-406 NMRA of this code.

[15] In addition, if a judge knows that an independent third party has made unwarranted attacks on a candidate's opponent, the candidate should disavow the attacks and request the third party to cease and desist. When false information concerning a judicial candidate is made public, a judge or another judicial candidate having knowledge of the facts is not prohibited from making the facts public. Subject to Paragraph (C)(8) of Rule 21-401 (prohibiting any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter impending or pending in any court), a judicial candidate is permitted to respond directly to false, misleading, or unfair allegations made against him or her during a campaign. It is, however, preferable for someone else to respond if the allegations relate to a pending case.

	<p><i>[16] A candidate for elective judicial office is not prohibited from retaining during candidacy a public office such as district attorney, which is not an office in a "political organization."</i></p> <p><i>[17] Candidates for judicial office should consider setting a limit on any individual contribution for purposes of determining whether contribution above that limit creates an appearance of impropriety or would otherwise undermine the public's confidence in the integrity and independence of the judiciary. Judicial candidates may be informed about the total amounts contributed to the campaign in order to make informed budgeting decisions relating to the campaign. Under most circumstances, however, judicial candidates should not be informed about the specific details of individual contributions.</i></p> <p><i>[18] Candidates for judicial offices may, through a campaign committee, solicit endorsements of support, including endorsements from attorneys. The judicial candidate may not solicit endorsements and should not be informed about the identity of individual attorney supporters.</i></p>
<p>NY (as proposed)</p>	<p>(A) Deletes "a partisan, nonpartisan, or retention;"</p> <p>(B) Adds "During the permissible Window Period,*" before "a candidate;" deletes language after "prohibited by law;"</p> <p>Deletes Model (B)(3) and adds instead:</p> <p><i>(3) appear at gatherings, and in newspaper, television and other media advertisements with the candidates who make up the slate of which the judge or candidate is a part and permit the candidate's name to be listed on election materials along with the names of other candidates for elective public office;</i></p> <p>(B)(4) Changes language to:</p> <p><i>(4) purchase two tickets to, and attend, politically sponsored dinners and other functions, provided that the cost of the ticket to such dinner or other function shall not exceed the proportionate cost of the dinner or function. The cost of the ticket shall be deemed to constitute the proportionate cost of the dinner or function if the cost of the ticket is \$250 or less. A candidate may not pay more than \$250 for a ticket unless he or she obtains a statement from the sponsor of the dinner or function that the amount paid represents the proportionate cost of the dinner or function; and;</i></p> <p>(B)(5) Replaces language after "or organization" with "as long as it does not violate any other provision of these Rules;"</p> <p>Does not adopt Model (B)(6);</p> <p>Does not adopt Model (C).</p> <p>[1] Deletes reference to Paragraph (C); replaces language after "these activities" with: "before the Window Period. <i>See Terminology, BB;</i>"</p> <p>[2] Deletes reference to Paragraph (C).</p>
<p>NC</p>	
<p>ND (as proposed)</p>	<p>Corresponds to MC Rule 4.1</p> <p>ND Rule 4.2:</p> <p><i>A. All Judges and Judicial Candidates</i></p> <p><i>(1) Except as authorized in Rule 4.3(B) and 4.4(B), a judge or judicial candidate shall not:</i></p> <p><i>(a) act as a leader or hold an office in a political organization* or be a delegate to a political convention;</i></p>

- (b) publicly endorse or publicly oppose another candidate for public office;*
- (c) make speeches on behalf of a political organization*;*
- (d) seek, accept, or use an endorsement or letter of support from a political organization*;*
- (e) solicit funds for, pay an assessment to or make a contribution to a political organization* or candidate;*
- (f) purchase tickets for or attend gatherings or other events sponsored by a political organization* or a candidate for legislative or executive office;*
- (g) publicly identify himself or herself as a member of a political organization;*
- (h) with respect to cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial* performance of the adjudicative duties of the office;*
- (i) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending” in any court; or*
- (j) use or permit the use of campaign contributions for the private benefit of the judge, the candidate, or others.*

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

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

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

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

[5] Paragraphs (A)(1)(b) and (A)(1)(c) prohibit judges and candidates for judicial office from publicly endorsing or opposing candidates for public office or making speeches on behalf of political organizations*, in order to prevent them from misusing the prestige of judicial office to advance the interests of others. See Rule 1.3. These rules do not prohibit candidates from campaigning on their own behalf or from endorsing or opposing candidates for the same judicial office. See Rule 4.3(B). Members of the families of judges or candidates for judicial office are free to engage in political activity of their own, including running for political office. The prohibition in paragraph (A)(1)(b) against publicly endorsing candidates for public office, however, does not include an exception for family members. Accordingly, a judge or candidate for judicial office must not become involved in or publicly associated with a family member’s political activity or campaign for public office. To avoid public misunderstanding, moreover, a judge or candidate for judicial office must take, and must require the family member to take, reasonable steps to avoid any implication that the judge or candidate endorses the family member’s candidacy or other political activity.

[7] Paragraphs (A)(1)(b) and (A)(1)(c) do not prohibit a judge or judicial candidate from privately expressing his or her views on judicial candidates or other candidates for public office.

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

[9] Paragraph (A)(1)(h) prohibits a candidate for judicial office from making statements that pledge, promise, or commit the candidate regarding cases, controversies or issues likely to come before the court. The compelling interests of the state supporting the limited restrictions imposed under paragraph (A)(1)(h) are recognized and supported by several provisions of the North Dakota Constitution, specifically with respect to ensuring the citizens of this state due process of law, N.D. Const. art. I, &S&S& 9 and 12; equal protection of the law, N.D. Const. art. I, &S& 21; open courts, N.D. Const. art. I, &S& 9; and justice without sale, denial, or delay, N.D. Const. art. I, &S& 9. Further, because of circumstances found in this state, it is necessary to protect those interests by placing the least restrictive limits on the free speech of candidates* and judges possible. North Dakota is a geographically large state with a largely rural, sparse population and a small number of appellate judges and general jurisdiction trial judges. North Dakota also has a very liberal statute providing for a change of judge upon demand, N.D. Cent. Code &S& 29-15-21. Within a relative short period of time, each of these judges will have been subject to election. Without paragraph (A)(1)(h), it is reasonably foreseeable that on a particular issue every judge in the state could have pledged, promised, or made a commitment that may be considered inconsistent with the impartial* performance of the judge’s adjudicative duties. The limitations imposed under paragraph (A)(1)(h) are necessary

as disqualification under Rule 2.11 alone may not sufficiently protect the interests described in this comment. See also the limitations imposed under Rule 2.10(B).

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

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

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

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

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

B. [RESERVED]

<p>OH Effective 8/12/10</p>	<p>Title: deletes language after “Candidates” (A): deletes language between “candidate” and “shall” and adds “be responsible for all of the following” to end (A)(2): similar to Model Code (A)(3) but deletes crossreference to Rule 4.4 (A)(3): The content of any statement communicated in any medium by his or her campaign committee and for compliance by his or her campaign committee with the limitations on campaign solicitations and <i>contributions</i> contained in Rule 4.4, if the candidate knew of the statement, solicitation, or <i>contribution</i>; (A)(4): No earlier than one year prior to or no later than thirty days after certification of his or her candidacy by the election authority, completing a two-hour course in campaign practices, finance, and ethics accredited by the Commission on Continuing Legal Education and certifying such completion within five days of the date of the course to the Board of Commissioners on Grievances and Discipline. (B): A <i>judicial candidate</i> shall not do any of the following: (1): Jointly raise funds with a candidate for nonjudicial office, except as permitted by division (C) of this rule; (2): Appear in a joint campaign advertisement with a candidate for nonjudicial office, except as permitted by division (C) of this rule; (3): Expend funds in a judicial campaign that have been contributed to the <i>judicial candidate</i> to promote his or her candidacy for a nonjudicial office; (C): A <i>judicial candidate</i> may do any of the following: (1): Conduct joint fundraising activities with other <i>judicial candidates</i>; (2): Appear in joint campaign advertisements with other <i>judicial candidates</i>; (3): Participate with <i>judicial</i> and nonjudicial <i>candidates</i> in fundraising activities organized or sponsored by a <i>political party</i>; (4): Appear with other candidates for public office on slate cards, sample ballots, and other publications of a <i>political party</i> that identify all of the candidates endorsed by the party in an election; (5): Seek, accept, or use endorsements from any person or <i>organization</i>; (6): State in person or in advertising that he or she is a member of, affiliated with, nominee of, or endorsed by a <i>political party</i>; [1]: similar to Model Code [2] but replaces “organization” with “party” [2]: similar to Model Code [3] but in first sentence deletes “partisan public” and “affiliated with,” replaces “political organization” with “political party” and deletes rest of sentence. In second sentence, deletes “public” before “campaign” and replaces language after “include” with “political party affiliation or similar designations in his or her campaign communications. Although these affiliations and others may be communicated to the electorate, a judicial candidate should consider the effect that partisanship has on the principles of judicial independence, integrity and impartiality.”</p>
<p>OK Effective 4/15/2011</p>	<p>(A) Deletes “partisan, nonpartisan, or retention” (A)(2) Replaces “this jurisdiction” with “the State of Oklahoma;” (B) Length of the time is “not earlier than 180 days;” Replaces language thereafter with “before the beginning of the filling period for the judicial office:” OK (B)(3) is identical to MC (B)(3-4) and (6): Deleted (C): Deleted</p>

	<p>[1] Deletes reference to paragraph (C); Length of the time is “not earlier than 180 days;” Replaces language thereafter with “before the beginning of the filling period for the judicial office.”</p> <p>[2] Deletes reference to paragraph (C) in the beginning; Adds reference to Rule 4.1(A), paragraph (14) at the end.</p> <p>[3]: Deleted</p> <p>OK [3] is identical to MC [4], but refers to paragraph (B)(4) instead of (5).</p> <p>Adds [4]:</p> <p><i>Justices or judges who are subject to a retention election are sometimes publicly supported or opposed by individuals or organizations, including political organizations. If such a justice or judge is opposed by individuals or organizations the justice or judge has all of the rights and responsibilities as any other candidate for judicial office. However, justices or judges who are standing for retention and who have not drawn active opposition, are not permitted to seek endorsements from any individual or organization, or to use such endorsements to further their campaign.</i></p> <p>[5-7]: Deleted</p>
OR	
PA	
SD	
TN (as pro- posed)	<p>(B) time given is 180 days; takes language of Model Code (B)(1) and adds to sentence after “retention election”</p> <p>Deletes (B)(2)-(6)</p> <p>Deletes (C)</p> <p>Deletes [1]</p> <p>Adds: [1A]: <i>It is possible for some judicial offices to be subject to a primary and general election. It is possible for some countries to have a partisan primary for a particular office whereas another country might only have a non-partisan general election for the same office. It is also conceivable that the decision as to whether or not to hold a primary might not be made until within the 180-day period before the primary. Therefore, for the sake of uniformity, the 180-day period for all judicial offices that can possibly be subject to a primary election, whether or not there actually is a primary, shall begin to run from the date the primary would be held.</i></p> <p>Deletes [2]</p> <p>Deletes [4]</p> <p>Deletes [6]</p> <p>Adds: [6A]: <i>While judges and judicial candidates are not prohibited from endorsing or opposing other candidates for public office, such activity may be imprudent, and they should be mindful that such conduct could result in disqualification of the judge in subsequent matters.</i></p> <p>Deletes [7]</p> <p>Adds [8]: <i>Compliance with all applicable election, election campaign, and election campaign fund-raising laws and regulations of this jurisdiction includes, but is not limited to, the provisions of Tennessee Code Annotated 2-10-101 et. seq., the Campaign Financial Disclosure Act, and Tennessee Code Annotated sections 2-10-301 et. seq., the Campaign Contributions Limits Act.</i></p>
TX	
UT Effective 4/1/10	<p>Title: replaces “Judicial Candidates” with “Judges” and “Public” with “Retention”</p> <p>(A): combines Model Code (A) and (A)(1). Replaces “judicial candidate in a partisan, nonpartisan, or” with “judge standing for,” deletes “public election” and adds to end: “and encourage members of the judge’s family to adhere to the same standards of conduct in support of</p>

	<p>the judge that apply to the judge”</p> <p><i>(B): If a judge standing for retention has drawn public opposition, the judge may operate a campaign for office subject to the following limitations:</i></p> <p><i>(B)(1): similar to Model Code (A)(2) but adds “The judge shall” to beginning and deletes “of this jurisdiction”</i></p> <p><i>(B)(2): The judge shall not directly solicit* or accept campaign funds or solicit public statements of support, but may establish committees of responsible persons to secure and manage the expenditure of funds for the campaign and to obtain public statements of support. Committees may solicit campaign contributions and public statements of support from lawyers and non-lawyers. Surplus contributions held by the committee after the election shall be contributed without public attribution to the Utah Bar Foundation. Committees must not permit the use of campaign contributions for the private benefit of the judge or member of the judge’s family;</i></p> <p><i>(B)(3): similar to Model Code (A)(3) but adds “The judge shall” to beginning and deletes “the candidate” after “by” and crossreference to Rule 4.4</i></p> <p><i>(4): The judge may speak to public gatherings on the judge’s own behalf;</i></p> <p><i>(5): A judge may respond to personal attacks or attacks on the judge’s record, provided the response is consistent with other provisions of this rule; and</i></p> <p><i>(6): When a party or lawyer who made a contribution of \$50 or more to a judge’s campaign committee appears in a case, the judge shall disclose the contribution to the parties. The requirement to disclose shall continue from the time the judge forms a campaign committee until 180 days after the judge’s retention election.</i></p> <p>[1]: same Rule 4.4 [2] but replaces “Candidates” with “Judges”</p> <p>[2]: similar to Rule 4.4 [3] but replaces “candidate” with “judge” throughout, “successful candidate for judicial office” with “retained judge” and “candidate is elected to judicial office” with ”judge is retained”</p>
VT	
VA	
WA Effective 1/1/11	<p>(A) State Code deletes “partisan” and “retention;”</p> <p>(B) State Code deletes everything after “elective judicial office may,” eliminating time constraints for activities permitted in this Paragraph;</p> <p>Model Code (B)(3) and (B)(4) are deleted;</p> <p>Model Code (B)(5) is similar to State Code (B)(3), but State Code deletes “other than a partisan political organization, and;”</p> <p>Model Code (B)(6) is deleted.</p>
WV	
WI	
WY Effective 7/1/09	<p>Title: adds “Retention” before “Elections;”</p> <p>(A): A judge who is a candidate for retention in office shall:</p> <p>(A)(2): adds “retention” before each use of “election;”</p> <p>(A)(3): maintain the dignity appropriate to judicial office, and shall encourage members of his or her family to adhere to the same standards of political conduct that apply to the judge;</p> <p>(A)(4): prohibit public officials or employees subject to the judge’s direction or control from doing for the judge what he or she is prohibited from doing under this Canon; and except to the extent authorized under subsection B, the judge shall not allow any other person to do for the judge what he or she is prohibited from doing under this Canon;</p> <p>(A)(5): not make pledges or promises of conduct in office other than the faithful and impartial*</p>

performance of the duties of the office; announce how the judge would rule on any case or issue that might come before he judge; or misrepresent his or her identity, qualifications, present position, or other fact;

(B) A judge who is a candidate for retention in office shall abstain from any campaign activity in connection with the judge's own candidacy unless there is active opposition to his or her retention in office. If there is active opposition to the retention of a candidate judge:

(B)(1): the judge may speak at public meetings;

(B)(2): the judge may use advertising media, provided that the advertising media is within the bounds of proper judicial decorum;

(B)(3): a nonpartisan citizens' committee or committees advocating the judge's retention in office may be organized by others, either on their own initiative or at the request of the judge;

(B)(4): any committee organized pursuant to subsection B(3) may raise funds for the judge's retention election campaign, but the judge shall not solicity funds personally or accept any funds except those paid to the judge by a committee for reimbursement of the judge's retention election campaign expenses; and,

(B)(5): the judge shall not be advised of the source of funds raised by the committees.

(B)(6): same as Model Code (A)(11);

(B)(7) same as Model Code (A)(12);

(B)(8): same as Model Code (A)(13);

Deletes (C) and Model Code Comment;

Comment: ACTIVE OPPOSITION

Section 4.2 (B) allows judges seeking retention in office to engage in certain activities if there is active opposition to their retention. Active opposition is difficult to define, but is intended to include any form of public opposition. The term is meant to be broadly construed."

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