

**AMERICAN BAR ASSOCIATION  
CPR POLICY IMPLEMENTATION COMMITTEE**

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

	<p style="text-align: center;"><b>RULE 4.3 Activities of Candidates for Appointive Judicial Office</b></p> <p><b>A candidate for appointment to judicial office may:</b>  <b>(A) communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar agency; and</b>  <b>(B) seek endorsements for the appointment from any person or organization other than a partisan political organization[*].</b></p> <p><b>COMMENT</b>          [1] When seeking support or endorsement, or when communicating directly with an appointing or confirming authority, a candidate for appointive judicial office must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. See Rule 4.1(A)(13).</p> <p>Three (3) states have identical language (AR, IA, MS)          Eleven (11) states have similar language (HI, IN, KS, MN, MT, NV, NY, OK, TN, WA, WY)          Three (3) states have different language (AZ, NE, OH)          Six (6) states do not have (CO, DE, MD, MO, NH, UT)</p>
<b>AL</b>	
<b>AK</b>	
<b>AZ</b> <b>Effective</b> <b>9/1/09</b>	<p><i>Campaign Standards and Communications</i>  <i>During the course of any campaign for nomination or election to judicial office, a judicial candidate, by means of campaign materials, including sample ballots, advertisements in the media, electronic communications, or a speech, press release, or any other public communication, shall not knowingly or with reckless disregard do any of the following:</i>  <i>(A) Post, publish, broadcast, transmit, circulate, or distribute information concerning the judicial candidate or an opponent that would be deceiving or misleading to a reasonable person;</i>  <i>(B) Manifest bias or prejudice toward an opponent that would be prohibited in the performance of judicial duties under Rule 2.3(B), which prohibition does not preclude a judicial candidate from making legitimate reference to the listed factors when they are relevant to the qualifications for judicial office;</i>  <i>(C) Use the title of an office not currently held by a judicial candidate in a manner that implies that the judicial candidate currently holds that office;</i>  <i>(D) Use the term “judge” when the judicial candidate is not a judge unless that term appears after or below the name of the judicial candidate and is accompanied by the words “elect” or “vote,” in prominent lettering, before the judicial candidate’s name or the word “for,” in prominent lettering, between the name of the judicial candidate and the term “judge;”</i>  <i>(E) Use the term “re-elect” when the judicial candidate has never been elected at a general or special election to the office for which he or she is a judicial candidate;</i>  <i>(F) Misrepresent the identity, qualifications, present position, or any other fact about the judicial candidate or an opponent;</i></p>

	<p><i>(G) Make a false or misleading statement concerning the formal education or training completed or attempted by a judicial candidate; a degree, diploma, certificate, scholarship, grant, award, prize or honor received, earned, or held by a judicial candidate; or the period of time during which a judicial candidate attended any school, technical program, college or other educational institution;</i></p> <p><i>(H) Make a false or misleading statement concerning the professional, occupational, or vocational licenses held by a judicial candidate, or the candidate’s employment history and descriptions of work-related titles or positions;</i></p> <p><i>(I) Make a false or misleading statement about an opponent’s personal background or history;</i></p> <p><i>(J) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a judicial candidate by a person, organization, political party, or publication.</i></p> <p><i>Comment</i></p> <p><i>1 A judicial candidate must be scrupulously accurate, fair and honest in all statements made by the candidate and his or her campaign committee. This rule obligates the candidate and the committee to refrain from making statements that are false or misleading or that omit facts necessary to avoid misleading voters.</i></p> <p><i>2 A sitting judge, who is a judicial candidate for an office other than the court on which he or she currently serves, violates Rule 4.3(C) if he or she used the title “judge” without identifying the court on which the judge currently serves.</i></p> <p><i>3 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 this rule, 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.</i></p>
<p><b>AR</b> <b>Effective</b> <b>7/1/09</b></p>	<p>Identical</p>
<p><b>CA</b></p>	
<p><b>CO</b> <b>Effective</b> <b>7/1/10</b></p>	<p>Title: “Retention Campaign Committees”</p> <p><i>(A) A judge who is a candidate for retention in office should 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:</i></p> <p><i>(1) The judge may speak at public meetings;</i></p> <p><i>(2) the judge may use advertising media, provided that the advertising is within the bounds of proper judicial decorum;</i></p> <p><i>(3) a nonpartisan citizens’ committee or committees advocating a judge’s retention in office may be organized by others, either on their own initiative or at the request of the judge;</i></p> <p><i>(4) any committee organized pursuant to subsection (A)(3) may raise funds for the judge’s campaign, but the judge should not solicit funds personally or accept any funds except those paid to the judge by a committee for reimbursement of the judge’s campaign expenses;</i></p> <p><i>(5) the judge should not be advised of the source of funds raised by the committee or committees;</i></p>

	<p>(6) <i>the judge should review and approve the content of all statements and materials produced by the committee or committees before their dissemination.</i></p> <p>Adds Comments:</p> <p>[1] Judicial Candidates are prohibited from personally soliciting funds in support of their retention or personally accepting retention campaign contributions. See Rule 4.1(A)(8).</p> <p>[2] Retention campaign committees may solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct campaigns. Judicial candidates are responsible for compliance with the requirements of election law and other applicable law, and for the activities of their retention campaign committees.</p> <p>[3] At the start of a retention campaign, the candidate must instruct the retention campaign committee to solicit or accept only such contributions as are reasonable in amount, appropriate under the circumstances, and in conformity with applicable law. Although lawyers and others who might appear before a judge who is retained are permitted to make campaign contributions, the judge should not be informed of the source of any funds.</p>
<p><b>CT</b> Effective 1/1/11</p>	<p>Connecticut Rule 4.2 is equivalent to Model Code 4.3;</p> <p>Changes title to: “<i>Activities of Judges as Candidates for Reappointment or Elevation to Higher Judicial Office;</i>”</p> <p>Changes text of rule to: “A judge who is a candidate for reappointment or elevation to higher judicial office may;”</p> <p>(B) Adds to end, “provided that such endorsement or the request therefore would not appear to a reasonable person to undermine the judge’s independence, integrity or impartiality;”</p> <p>Comment (1) Deletes “or endorsement;” changes “candidate for appointive judicial office” to “judge;” references Rule 4.1(A)(9);</p> <p>Adds:</p> <p style="padding-left: 40px;"><i>(2) It is never acceptable to seek an endorsement of an advocacy group or a group whose interests have or are likely to come before the judge.</i></p>
<p><b>DE</b> Effective 11/1/08</p>	<p>Does not have</p>
<p><b>DC</b> (as pro- posed)</p>	<p>Identical</p>
<p><b>FL</b></p>	
<p><b>HI</b> Effective 1/1/09</p>	<p>Title: replaces language after “Activities of” with “Judges Seeking Retention in or Appointment to Judicial Office”</p> <p>First paragraph: replaces language before “may” with “A judge seeking retention in or appointment to judicial office”</p> <p>(A): adds “selecting” before “appointing”</p> <p>[1]: replaces “candidate for appointive” with “judge seeking retention in or appointment to”</p>
<p><b>ID</b></p>	
<p><b>IL</b></p>	
<p><b>IN</b> Effective 1/1/09</p>	<p>Adds (C): <i>otherwise engage only in those political activities permissible at any time under Rule 4.1 for judges holding the type of judicial office sought.</i></p> <p>Adds [2]: <i>Candidates for appointive judicial office may arrange for letters of recommendation to nominating commissions or the Governor in support of their candidacies from friends, relatives, colleagues, and other members of the candidate’s community, including lawyers. However, a</i></p>

As of September 6, 2011

	<i>judicial candidate, particularly a judge seeking another judicial appointment, must be cautious about from whom and how these letters are obtained, and must not misuse the court's power. [3]: This Rule does not apply to a candidate for appointment to a judicial office subject to partisan or nonpartisan election.</i>
<b>IA Effective 5/3/10</b>	Identical
<b>KS Effective 3/1/09</b>	(A)(1): same as Model Code (A) but deletes "or confirming" (B): similar to 1990 Model Code Canon 5B(2)(b) (B)(1): same as 1990 Model Code Canon 5B(2)(b)(i) (B)(2): <i>attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for public office; and</i> (B)(3): <i>solicit funds for, pay an assessment to, or make a contribution to a political organization or a candidate for public office.</i> [1]: deletes "or confirming" and replaces language between "promises" and "See" with "rule a particular way in particular cases or classes of cases"
<b>KY</b>	
<b>MD Effective 7/1/10</b>	Does not adopt.
<b>MA</b>	
<b>MI</b>	
<b>MN Effective 7/1/09</b>	(B): replaces language after "seek" with "support for the appointment from organizations and from individuals to the extent requested, required, or permitted by the appointing authority or the nominating commission"
<b>MO Effective 1/1/2012</b>	Does not adopt.
<b>MS (as pro- posed)</b>	Identical
<b>MT Effective 1/1/09</b>	(B): deletes "partisan"
<b>NE Effective 1/1/2011</b>	(A) Replaces with: "except as prohibited by law,* communicate with the appointing authority, including any nominating commission; and;" (B) Deletes "partisan;" [1] Deletes "or confirming" before "authority."
<b>NV Effective 1/19/10</b>	Replaces "candidate" with "applicant" and deletes "or confirming" throughout Adds [2]: <i>An applicant for appointment to judicial office must not solicit or accept funds, personally or through a committee or otherwise, to support his or her application. And such applicants may not establish campaign committees under Rule 4.4. A nonjudge applicant for appointment to judicial office may also retain an office in a political organization.</i>
<b>NH Effective 4/1/2011</b>	Does not have

NJ	
<p>NM (as proposed)</p>	<p>Replaces the beginning of the Rule with:</p> <p><i>A. A candidate for appointment to judicial office shall not solicit or accept funds, personally or through a committee or otherwise, to support the candidacy.</i></p> <p><i>B. A candidate for appointment to judicial office shall not engage in political activity to secure the appointment except that such candidate may:</i></p> <p><i>(1) is similar to MC (A), but Replaces language after “including any” with: “nominating commission designated to screen candidates”</i></p> <p><i>(2) is similar to MC (B), but Replace language after “the appointment from” with: “organization and from individuals to the extent requested, required or permitted by the appointing authority and the nominating commission;”</i></p> <p><i>(3) provide to the appointing authority and the nominating commission information as to the candidate’s qualifications for office.</i></p> <p>[1] is the same as MC, but Replaces reference at the end with: “See Rules 21-401(A)(3)(c)(i) and 21-402(E)(6)(a) NMRA.”</p> <p>Adds [2]:</p> <p><i>Candidates from appointive judicial office should submit to the same requirements as a judicial candidate. See Rule 21-402 NMRA.</i></p>
<p>NY (as proposed)</p>	<p>(B) Changes “endorsements” to “support;” replaces language after “or organization” with “as long as it does not violate any other provision of these Rules or other law.”</p>
NC	
<p>ND (as proposed)</p>	<p>Corresponds to MC Rule 4.2</p> <p>ND Rule 4.3:</p> <p><i>(A) A judicial candidate*:</i></p> <p><i>(1) shall act at all times in a manner consistent with the impartiality*, integrity, and independence of the judiciary;</i></p> <p><i>(2) shall take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities, other than those described in Rule 4.6, that the candidate is prohibited from doing by Rule 4.2; and</i></p> <p><i>(3) shall not knowingly* misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent.</i></p> <p><i>(B) A judicial candidate* may, except as prohibited by law*:</i></p> <p><i>(1) speak on behalf of his or her candidacy through any medium, including advertisements, websites, or other campaign literature, whether or not at a gathering sponsored by a political organization;</i></p> <p><i>(2) speak through any medium, including advertisements, websites, or other campaign literature, on behalf of measures to improve the law, the legal system, or the administration of justice, whether or not at a gathering sponsored by a political organization; or</i></p> <p><i>(3) speak in regard to opponents for the same judicial office.</i></p>

**OH  
Effective  
3/1/09**

*RULE 4.3 Campaign Standards and Communications*

*During the course of any campaign for nomination or election to judicial office, a judicial candidate, by means of campaign materials, including sample ballots, advertisements on radio or television or in a newspaper or periodical, electronic communications, a public speech, press release, or otherwise, shall not knowingly or with reckless disregard do any of the following:*

*(A) Post, publish, broadcast, transmit, circulate, or distribute information concerning the judicial candidate or an opponent, either knowing the information to be false or with a reckless disregard of whether or not it was false or, if true, that would be deceiving or misleading to a reasonable person;*

*(B) Manifest bias or prejudice toward an opponent based on race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status;*

*(C) Use the title of an office not currently held by a judicial candidate in a manner that implies that the judicial candidate does currently hold that office;*

*(D) Use the term "judge" when the judicial candidate is not a judge unless that term appears after or below the name of the judicial candidate and is accompanied by either or both of the following:*

*(1) The words "elect" or "vote," in prominent lettering, before the judicial candidate's name;*

*(2) The word "for," in prominent lettering, between the name of the judicial candidate and the term "judge;"*

*(E) Use the term "re-elect" in either of the following circumstances:*

*(1) When the judicial candidate has never been elected at a general or special election to the office for which he or she is a judicial candidate;*

*(2) When the judicial candidate is not the current occupant of the office for which he or she is a judicial candidate;*

*(F) Misrepresent his or her identity, qualifications, present position, or other fact or the identity, qualifications, present position, or other fact of an opponent;*

*(G) Make a false statement concerning the formal schooling or training completed or attempted by a judicial candidate; a degree, diploma, certificate, scholarship, grant, award, prize of honor received, earned, or held by a judicial candidate; or the period of time during which a judicial candidate attended any school, college, community technical school, or institution;*

*(H) Make a false statement concerning the professional, occupational, or vocational licenses held by a judicial candidate, or concerning any position a judicial candidate held for which he or she received a salary or wages;*

*(I) Make a false statement that a judicial candidate has been arrested, indicted, or convicted of a crime;*

*(J) Make a statement that a judicial candidate has been arrested, indicted, or convicted of any crime without disclosing the outcome of all pending or concluded legal proceedings resulting from the arrest, indictment, or conviction;*

*(K) Make a false statement that a judicial candidate has a record of treatment or confinement for mental disorder;*

*(L) Make a false statement that a judicial candidate has been subjected to military discipline for criminal misconduct or dishonorably discharged from the armed services;*

*(M) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a judicial candidate by a person, organization, political party, or publication.*

Comments:

	<p><i>[1] A judicial candidate must be scrupulously fair and accurate in all statements made by the candidate and his or her campaign committee. This rule obligates the candidate and the committee 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. Also see Rule 4.2.</i></p> <p><i>[2] A sitting judge, who is a judicial candidate for a judicial office other than the court on which he or she currently serves, violates Rule 4.3(C) if he or she uses the title "judge" without identifying the court on which the judge currently serves.</i></p>
<b>OK Effective 4/15/2011</b>	Adds [2]: <i>Candidates for appointive judicial office have no need to raise or spend campaign funds. Accordingly, they are not only prohibited from personally soliciting or personally accepting campaign contributions, but are also prohibited from establishing campaign committees for this purpose.</i>
<b>OR</b>	
<b>PA</b>	
<b>SD</b>	
<b>TN (as proposed)</b>	(B): Deletes "other than a partisan political organization."
<b>TX</b>	
<b>UT Effective 4/1/10</b>	Does not have
<b>VT</b>	
<b>VA</b>	
<b>WA Effective 1/1/11</b>	(B) State Code deletes "other than a partisan political organization."
<b>WV</b>	
<b>WI</b>	
<b>WY Effective 7/1/09</b>	(B) Replaces "from any person...political organization" with "from any individual."

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