

American Bar Association
Model Code of Judicial Conduct

JANUARY 2005 DRAFT

CANON 5

**A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL REFRAIN FROM
POLITICAL ACTIVITY THAT IS INCONSISTENT WITH THE
IMPARTIALITY, INTEGRITY AND INDEPENDENCE OF THE JUDICIARY.**

Rule 5.01. Restrictions on Political Activity of Judges who are Not Candidates.

JUDGES who are not currently CANDIDATES for judicial office shall not, directly or indirectly:

- (a) **act as a leader or hold an office in a POLITICAL ORGANIZATION;**
- (b) **publicly speak in support of or against a POLITICAL ORGANIZATION;**
- (c) **publicly endorse or oppose a CANDIDATE for public office;**
- (d) **attend meetings or other events sponsored by a POLITICAL ORGANIZATION or a CANDIDATE for public office;**
- (e) **solicit funds for, pay an assessment to, make a contribution to, or purchase tickets for dinners or other events sponsored by, a POLITICAL ORGANIZATION or a CANDIDATE for public office.**

Comments:

[Reserved.]

Rule 5.02 Restrictions on Political Activity of Candidates for Judicial Office.

Except as otherwise provided in Rules 5.03-5.06, a CANDIDATE for judicial office, including an incumbent JUDGE, shall not, directly or indirectly:

- (a) **act as a leader or hold an office in a POLITICAL ORGANIZATION;**

- 1 (b) KNOWINGLY make any FALSE OR MISLEADING statement regarding any
2 CANDIDATE for judicial office;
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- 4 (c) in the course of advancing his or her candidacy, make any comment
5 that might reasonably be expected to affect the outcome or impair the
6 fairness of a proceeding while it is pending or impending in any court;
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- 8 (d) with respect to cases, controversies, or issues that are likely to come
9 before the court, make pledges, promises or commitments that are
10 inconsistent with the IMPARTIAL performance of the adjudicative
11 duties of the office;
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- 13 (e) in the course of advancing his or her candidacy, manifest bias or
14 prejudice, based upon a person's race, gender religion, national
15 origin, ethnicity, disability, age, sexual orientation, or socioeconomic
16 status;
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- 18 (f) publicly endorse or oppose a CANDIDATE for public office;
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- 20 (g) solicit funds for, pay an assessment to, make a contribution to, or
21 purchase tickets for dinners or other events sponsored by, a
22 POLITICAL ORGANIZATION or a CANDIDATE for public office;
- 23
- 24 (h) personally solicit or accept campaign contributions;
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- 26 (i) use or permit the use of campaign contributions for the private
27 benefit of the CANDIDATE or others.
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29 **Comments:**

30 [Reserved.]
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34 **Rule 5.03. Permitted Political Activity of Candidates for Judicial Office in Partisan**
35 **Public Elections.**

36
37 **Notwithstanding the restrictions set forth in Rule 5.02, a CANDIDATE for judicial**
38 **office in a partisan public election may:**

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- 40 (a) establish a campaign committee pursuant to the provisions of Rule
41 5.06;
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- 43 (b) speak to gatherings on his or her own behalf;
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- 45 (c) attend meetings or other events sponsored by a POLITICAL
46 ORGANIZATION;

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- (d) publicly identify himself or herself as a member or candidate of a POLITICAL ORGANIZATION;
- (e) purchase tickets for events sponsored by a POLITICAL ORGANIZATION;
- (f) appear in media advertisements and distribute campaign literature supporting his or her candidacy;
- (g) publicly endorse or publicly oppose other CANDIDATES for the same judicial office in a public election in which the CANDIDATE is running.

Comments:

[Reserved.]

5.04. Prohibited and Permitted Political Activity of Candidates for Judicial Office in Non-Partisan Public Elections and Retention Elections.

- (a) In addition to the restrictions set forth in Rule 5.02, a CANDIDATE for judicial office in a non-partisan public election or a retention election shall not, directly or indirectly:
 - (1) publicly speak in support of or against a POLITICAL ORGANIZATION;
 - (2) attend meetings or other events sponsored by a POLITICAL ORGANIZATION or a CANDIDATE for public office.
- (b) Notwithstanding the restrictions set forth in Rules 5.02 and 5.04(a), a CANDIDATE for judicial office in non-partisan public elections and retention elections may:
 - (1) establish a campaign committee pursuant to the provisions of Rule 5.06;
 - (2) speak to gatherings on his or her own behalf;
 - (3) publicly endorse or publicly oppose other CANDIDATES for the same judicial office in a public election in which the CANDIDATE is running;
 - (4) appear in media advertisements and distribute campaign literature supporting his or her candidacy.

Comments:

1 [Reserved.]
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4 **Rule 5.05. Activity of Candidates for Appointive Judicial Office.**
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6 Notwithstanding the restrictions set forth in Rule 5.02, a CANDIDATE for
7 appointment to judicial office may:

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9 (a) communicate with the appointing or confirming authority, including any
10 selection, screening, or nominating commission or similar agency;
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12 (b) seek support or endorsement for the appointment from any individual or
13 organization.
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15 **Comments:**

16 [Reserved.]
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20 **Rule 5.06. Campaign Committees.**
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- 22 (a) CANDIDATES for judicial office subject to public elections may
23 establish campaign committees to conduct campaigns for the
24 CANDIDATE, subject to the regulations contained in this Rule. The
25 CANDIDATE is responsible for insuring that the committee complies
26 with these regulations, and with other applicable LAW.
27
28 (b) Campaign committees may solicit and accept reasonable campaign
29 contributions, not to exceed, in the aggregate, [\$ ___] from any
30 individual, or [\$ ___] from any entity or organization. Such
31 committees may also manage the campaign, including the expenditure
32 of funds.
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34 (c) A campaign committee shall not solicit or accept contributions for a
35 CANDIDATE'S current campaign more than [one year] prior to a
36 scheduled election, nor more than [90] days after the last election in
37 which the CANDIDATE participated.
38
39 (d) In addition to complying with all applicable statutory requirements
40 for disclosure of campaign contributions, campaign committees
41 established by a CANDIDATE for judicial office shall file with [name of
42 appropriate regulatory authority] a report stating the name, address,
43 occupation and employer of each person who has made campaign
44 contributions to the committee in an aggregate value exceeding [\$ ___].
45 The report must be filed within [___] days following an election, or
46 within such other period as is required by LAW.

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2 **Comments:**

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4 [Reserved.]

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7 **Rule 5.07. Activity of Judges Who Become Candidates for Non-Judicial Office.**

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9 (a) Upon becoming a CANDIDATE for a non-judicial elective office, a
10 JUDGE shall resign from judicial office, except that the JUDGE may
11 continue to hold judicial office while being a candidate for election to,
12 or serving as a delegate in, a state constitutional convention, if the
13 JUDGE is otherwise permitted by LAW to do so.

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15 (b) Upon becoming a CANDIDATE for a non-judicial appointive office, a
16 JUDGE is not required to resign from judicial office, and is permitted
17 to engage in the activity permitted by Rule 5.05.

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19 **Comments:**

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21 [Reserved.]