

1 **Canon 5**

2  
3 **A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL REFRAIN FROM**  
4 **POLITICAL ACTIVITY THAT IS INCONSISTENT WITH THE INTEGRITY,**  
5 **INDEPENDENCE, AND IMPARTIALITY OF THE JUDICIARY.**

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8 **Rule 5.01. Restrictions on Political Activities of Judges and Candidates for Judicial**  
9 **Office.**

10  
11 **Except as permitted by Rule 5.02 (partisan public elections), Rule 5.03 (non-partisan**  
12 **public elections), Rule 5.04 (retention elections), and Rule 5.05 (appointment to**  
13 **judicial office), a JUDGE or a CANDIDATE for judicial office shall not, directly or**  
14 **indirectly:**

- 15  
16 (a) **act as a leader or hold an office in a POLITICAL ORGANIZATION;<sup>1</sup>**  
17  
18 (b) **make speeches on behalf of a POLITICAL ORGANIZATION;**  
19  
20 (c) **publicly endorse or oppose a CANDIDATE for any public office;**  
21  
22 (d) **solicit funds for, pay an assessment to, or make a contribution to a**  
23 **POLITICAL ORGANIZATION or a CANDIDATE for public office;**  
24  
25 (e) **purchase tickets for dinners or other events sponsored by a POLITICAL**  
26 **organization or a CANDIDATE for public office, unless the tickets are**  
27 **for the JUDGE or CANDIDATE’S personal use and the cost of the tickets**  
28 **does not appear to exceed significantly the value of the goods and**  
29 **services to be received by the JUDGE or CANDIDATE at the dinner or**  
30 **other event;**  
31  
32 (f) **publicly identify oneself as a candidate of a POLITICAL ORGANIZATION;**  
33  
34 (g) **seek or use endorsements from a POLITICAL ORGANIZATION;**  
35  
36 (h) **personally solicit or personally accept campaign contributions;**  
37  
38 (i) **use or permit the use of campaign contributions for the private**  
39 **benefit of the CANDIDATE or others;**  
40  
41 (j) **KNOWINGLY make any FALSE OR MISLEADING statement regarding any**  
42 **CANDIDATE for judicial office;**

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<sup>1</sup> The term “political organization” will be defined in the Terminology section as follows: “A political party or other group, the principal purpose of which is to further the election or appointment of candidates to public office, except for a candidate for judicial office’s own campaign committee, as authorized by Rule 5.06.”

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- (k) **make any comment that might reasonably be expected to affect the outcome or impair the fairness of a proceeding while it is pending or impending in any court;**
- (l) **manifest bias or prejudice based upon a person’s race, gender religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status;**
- (m) **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.**

**Comments:**

***General Considerations***

[1] The state has a compelling interest in maintaining the integrity, independence, and impartiality of the judiciary, thus enhancing public confidence in the justice system. In furtherance of this interest, judges and candidates for judicial office should be free from political influence, taking into account the various methods of selecting judges, and constitutional provisions governing free speech and expressive association. In order to advance the state’s compelling interest, Rule 5.01 imposes certain restrictions on the political and campaign activities of all sitting judges and all candidates for judicial office. In all events, a candidate for judicial office should maintain the dignity appropriate to judicial office.

[2] A successful candidate for judicial office may be subject to discipline under this Code for violation of any of the Rules set forth in Canon 5, even if the candidate was not a judge during the period of candidacy. For the same violations, an unsuccessful candidate who was a lawyer may be subject to discipline instead under the [name of jurisdiction] Rules of Professional Conduct, Rule [8.2(b)]. When a non-judge becomes a candidate for judicial office, Rule 5.01 attaches immediately.

[3] Many of the restrictions imposed by Rule 5.01 apply only with respect to “political organizations.” Engagement with other organizations might be improper under a different Rule, however. For example, if an organization frequently litigates in the courts, or has matters pending or impending in the court on which the judge sits, one or more of the following Rules might apply: Rule 2.11 (Judicial Statements on Pending and Future Cases), Rule 2.12 (Disqualification), and Rule 4.04 (Civic or Charitable Activities).

1 ***Direct Participation in Political, Fund-Raising, and Campaign Activities of Political***  
2 ***Organizations and Candidates***

3  
4 [4] Public confidence in the independence and impartiality of the judiciary is eroded if  
5 judges or candidates for judicial office are perceived to be subject to political influence.  
6 Accordingly, sitting judges as well as all candidates for judicial office are prohibited by  
7 Rule 5.01(a) from assuming a leadership role in a political organization. Judges or  
8 candidates may register to vote as a member of a political party.

9  
10 [5] Rules 5.01(b) and 5.01(c) prohibit judges and candidates for judicial office from  
11 making speeches on behalf of political organizations or publicly endorsing or opposing  
12 candidates for public office. These provisions do not prohibit candidates from  
13 campaigning on their own behalf, however, or from endorsing or opposing candidates for  
14 a position on the same court for which they are running. See Rules 5.02(d) and 5.02(e),  
15 Rules 5.03(b) and 5.03(d), and Rules 5.04(b) and 5.04(d).

16  
17 [6] Rule 5.01(c) does not prohibit judges or candidates for judicial office from privately  
18 expressing their views on candidates for any public office.

19  
20 [7] Sitting judges and candidates for judicial office retain the right to participate in the  
21 political process as voters, in both primary and general elections. Participation in a  
22 caucus-type election procedure does not constitute public support for or endorsement of a  
23 political organization or candidate, and therefore is not prohibited by Rules 5.01(b) or  
24 5.01(c).

25  
26 [8] Political organizations and candidates running for public office often use ticket sales  
27 for dinners or other public events as methods for fund-raising. Judges and candidates for  
28 judicial office may generally attend dinners and other public events sponsored by  
29 political organizations or candidates running for public office, but are prohibited by Rule  
30 5.01(e) from purchasing tickets to such events to the extent that the purchase includes a  
31 fund-raising aspect.

32  
33 ***Soliciting or Accepting Campaign Contributions and Other Public Support***

34  
35 [9] Candidates for judicial office are prohibited from identifying themselves as  
36 candidates of a particular political organization and from seeking or using political  
37 organization endorsements, except when running in a partisan public election; see Rules  
38 5.02(a) and 5.02(b).

39  
40 [10] Although candidates for judicial office are prohibited from personally soliciting or  
41 personally accepting campaign contributions for their own campaigns, see Rule 5.01(h),  
42 candidates running in partisan, non-partisan or retention elections are permitted to form  
43 campaign committees for the purpose of soliciting and accepting contributions, subject to  
44 the regulations contained in Rule 5.06 and [insert applicable provisions of law].

1 [11] Candidates for judicial office are permitted to solicit public support and to seek or  
2 use endorsements from individuals or organizations (other than political organizations).  
3 See Rule 5.01(g).

4  
5 ***Statements and Comments Made During a Campaign for Judicial Office***  
6

7 [12] Candidates for judicial office are sometimes the subject of unfair or unjust  
8 allegations made by an opposing candidate, a third party, or the media. For example,  
9 false or misleading statements might be made regarding the identity, present position,  
10 experience, qualifications, or judicial rulings of a candidate. In other situations, false or  
11 unjust allegations may be made that bear upon a candidate's integrity or fitness for  
12 judicial office. To mitigate the effects of these attacks, and to avoid escalation of the  
13 situation, a candidate for judicial office is permitted to make a measured and dignified  
14 public response, but only if the response does not itself violate Rule 5.01(j).

15  
16 [13] Although candidates for judicial office are permitted to respond directly to unfair or  
17 unjust allegations made against them during a campaign, it is often preferable for  
18 someone else, such as a bar association or a bar association committee, to utilize  
19 established mechanisms to make the response.

20  
21 ***Pledges, Promises or Commitments Inconsistent with Impartial Performance of the***  
22 ***Adjudicative Duties of Judicial Office***  
23

24 [14] A judge's obligation to avoid prejudgment is well established. Under the First  
25 Amendment and in light of the voters' right to have information about an elective  
26 candidate's views, judicial ethics rules may not prohibit judicial candidates from  
27 announcing their views on disputed legal and political issues. Rule 5.01(m), which  
28 applied the relevant prohibitions of Rule 2.11 to all candidates for judicial office, does  
29 not proscribe a candidate's public expression of personal views on disputed issues. To  
30 ensure that voters understand a judge's duty to uphold the Constitution and laws of [name  
31 of state jurisdiction] where the law differs from the candidate's personal belief, however,  
32 candidates are encouraged to emphasize their duty to uphold the law regardless of their  
33 personal views.

34  
35 [15] Some speech restrictions are indispensable to maintaining the integrity, impartiality  
36 and independence of the judiciary. The state has a compelling interest in enforcing these  
37 limited restrictions. Thus, under this Rule it remains improper for a judicial candidate to  
38 make pledges, promises or commitments regarding pending or impending cases, specific  
39 classes of cases, specific litigants or classes of litigants, or specific propositions of law,  
40 that would reasonably lead to the conclusion that the candidate has prejudged a decision  
41 or ruling in cases within the scope of the pledge, promise or commitment. To fall within  
42 the proscription of this Rule the statement by the candidate must pertain to matters likely  
43 to come before the court on which the candidate would serve, if elected. Statements by a  
44 candidate that would have this effect are inconsistent with the obligation of all judges to  
45 perform impartially the adjudicative duties of office.

1 [16] Candidates for judicial office often receive questionnaires or requests for interviews  
2 from the media and from issue advocacy or other community organizations, seeking to  
3 learn their views on disputed or controversial legal or political issues. Rule 5.01(m) does  
4 not generally prohibit candidates from responding to this kind of inquiry, but candidates  
5 should proceed with caution if they choose to respond. Depending on the wording of the  
6 questions and the format provided for answering, a candidate's responses might  
7 constitute pledges, promises or commitments to perform the adjudicative duties of office  
8 other than in an impartial way. In order to avoid violating Rule 5.01(m), therefore,  
9 candidates who choose to respond should make clear their commitment to keeping an  
10 open mind while on the bench, regardless of their own personal views.

11  
12 [17] Rule 5.01(m) does not prohibit a candidate for judicial official from making public  
13 statements concerning improvements to the legal system or to the administration of  
14 justice.

15  
16 *Indirect Participation in Political and Campaign Activity*

17  
18 [18] A candidate for judicial office should encourage members of the candidate's family  
19 to adhere to the same standards of political conduct in support of the candidate as apply  
20 to the candidate; should discourage employees and other court personnel from doing on  
21 the candidate's behalf what the candidate is prohibited from doing under the Rules of this  
22 Canon; and should not authorize or knowingly permit any other person, other than  
23 members of the candidate's campaign committee, to do for the candidate what the  
24 candidate is prohibited from doing under the Rules of this Canon.

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26  
27 **Rule 5.02. Permitted Political Activities of Candidates for Judicial Office in**  
28 **Partisan Public Elections.**

29  
30 **Notwithstanding any restrictions set forth in Rule 5.01, CANDIDATES for judicial**  
31 **office in a partisan public election may:**

- 32  
33 (a) **publicly identify themselves as candidates of a POLITICAL**  
34 **ORGANIZATION;**  
35  
36 (b) **seek or use endorsements from any individual or organization,**  
37 **including a POLITICAL ORGANIZATION;**  
38  
39 (c) **establish a campaign committee pursuant to the provisions of Rule**  
40 **5.06;**  
41  
42 (d) **communicate with the public by speaking on their own behalf, or**  
43 **through any media, including, but not limited to, advertisements,**  
44 **websites, or campaign literature;**  
45

- 1 (e) publicly endorse or publicly oppose other CANDIDATES for a position  
2 on the same court for which they are running.  
3

4 **Comments:**  
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6 [1] In partisan public elections for a judicial office, candidates may be nominated by,  
7 affiliated with, or otherwise publicly identified or associated with a particular political  
8 organization. Typically, this association is maintained throughout the period of the  
9 public campaign, and includes use of political party or similar designations on campaign  
10 literature and on the ballot.  
11

12 [2] Rule 5.02 permits partisan public election candidates, including sitting judges who  
13 have become candidates, to engage in some political activities that would otherwise be  
14 prohibited by Rule 5.01. Nevertheless, candidates must be mindful of the prohibition of  
15 Rule 5.01(m) relating to the making of promises, pledges and commitments.  
16

17 [3] For purposes of Rule 5.02(e), candidates are considered to be running for a position  
18 on the same court if they are competing for a single judgeship or if several judgeships on  
19 the same court are to be filled as a result of the election.  
20  
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22 **5.03. Permitted Political Activities of Candidates for Judicial Office in Non-**  
23 **Partisan Public Elections.**  
24

25 **Notwithstanding any restrictions set forth in Rule 5.01, CANDIDATES for judicial**  
26 **office in a non-partisan public election may:**  
27

- 28 (a) seek or use endorsements from any individual or organization, other  
29 than a POLITICAL ORGANIZATION;  
30  
31 (b) establish a campaign committee pursuant to the provisions of Rule  
32 5.06;  
33  
34 (c) communicate with the public by speaking on their own behalf, or  
35 through any media, including, but not limited to, advertisements,  
36 websites, or campaign literature;  
37  
38 (d) publicly endorse or publicly oppose other CANDIDATES for a position  
39 on the same court for which they are running.  
40

41 **Comments:**  
42

43 [1] In non-partisan public elections for judicial office, candidates may not accept  
44 nominations by a particular political organization. Most of the restrictions on political  
45 activities set forth in Rule 5.01 continue to apply to candidates for judicial office running  
46 in non-partisan elections.

1  
2 [2] Rule 5.02(a) would operate to prohibit a non-partisan candidate from filling out a  
3 questionnaire if he or she knows or has reason to know that the purpose of the  
4 questionnaire is for a political organization to decide whom to endorse in a non-partisan  
5 judicial election.

6  
7 [3] Although candidates in non-partisan public elections for judicial office are prohibited  
8 from running on a ticket or slate associated with a political organization, individual  
9 candidates may group themselves into slates or other alliances in order to conduct their  
10 campaigns more effectively. For purposes of Rule 5.03(d), candidates who have grouped  
11 themselves together in this fashion are considered to be running for a position on the  
12 same court if they are competing for a single judgeship, or if several judgeships on the  
13 same court are to be filled as a result of the election.

14  
15  
16 **5.04. Permitted Political Activities of Candidates for Judicial Office in Retention**  
17 **Elections.**

18  
19 **Notwithstanding any restrictions set forth in Rule 5.01, CANDIDATES for judicial**  
20 **office in a retention election may:**

- 21  
22 (a) **seek or use endorsements from any individual or organization, other**  
23 **than a POLITICAL ORGANIZATION;**  
24  
25 (b) **establish a campaign committee pursuant to the provisions of Rule**  
26 **5.06;**  
27  
28 (c) **communicate with the public by speaking on their own behalf, or**  
29 **through any media, including, but not limited to, advertisements,**  
30 **websites, or campaign literature [OR Alt. (c)];**  
31  
32 (d) **publicly endorse or publicly oppose other CANDIDATES for a position**  
33 **on the same court for which they are running.**  
34

35 **Comments:**

36  
37 [1] Candidates for judicial office who are subject to retention election are sometimes  
38 publicly supported or opposed by individuals or organizations, including political  
39 organizations. Retention election candidates are not permitted to seek endorsements from  
40 political organizations, however, or to use such endorsements to further their campaigns.

41  
42 [2] Candidates running in retention elections are by definition sitting as judges during the  
43 period of their candidacies. Moreover, opposition to a candidate for retention sometimes  
44 focuses on particular decisions that the candidate has made as a judge, or even on cases  
45 that are pending before the judge during the campaign period. In the course of their  
46 campaigns, therefore, retention election candidates should be especially mindful of their

1 obligations not to make comments that might affect the outcome or impair the fairness of  
2 a proceeding and not to make pledges, promises or commitments that are inconsistent  
3 with the impartial performance of the adjudicative duties of the office. See Rules 5.01(k)  
4 and 5.01(m).

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6  
7 **Rule 5.05. Permitted Activities of Candidates for Appointive Judicial Office.**

8  
9 **Notwithstanding any restrictions set forth in Rule 5.01, CANDIDATES for**  
10 **appointment to judicial office may:**

- 11  
12 (a) **communicate with the appointing or confirming authority, including any**  
13 **selection, screening, or nominating commission or similar agency;**  
14  
15 (b) **seek or use endorsements for the appointment from any individual or**  
16 **organization, other than a political organization.**

17  
18 **Comments:**

19  
20 [1] Candidates for appointive judicial office have no need to raise or spend campaign  
21 funds. Accordingly, they are not only prohibited from personally soliciting or personally  
22 accepting such funds, see Rule 5.01(h), but they are also prohibited from establishing  
23 campaign committees for this purpose.

24  
25 [2] When seeking support or endorsement from others, or when communicating directly  
26 with an appointing or confirming authority, candidates for appointive judicial office must  
27 not make any pledges, promises or commitments that are inconsistent with the impartial  
28 performance of the adjudicative duties of the office. See Rule 5.01, Comments [15] and  
29 [16].

30  
31 **Rule 5.06. Campaign Committees.**

- 32  
33 (a) **CANDIDATES for judicial office subject to public elections may**  
34 **establish campaign committees to conduct campaigns for the**  
35 **CANDIDATE, subject to the regulations contained in this Rule. The**  
36 **CANDIDATE is responsible for ensuring that the committee complies**  
37 **with these regulations, and with other applicable LAW.**  
38  
39 (b) **Campaign committees may solicit and accept reasonable campaign**  
40 **contributions, not to exceed, in the aggregate, [\$ \_\_\_ ] from any**  
41 **individual or [\$ \_\_\_ ] from any entity or organization. Such**  
42 **committees may also manage the campaign, including the expenditure**  
43 **of funds.**  
44  
45 (c) **A campaign committee shall not solicit or accept contributions for a**  
46 **CANDIDATE'S current campaign more than [one year] prior to a**



1 scheduled election, nor more than [90] days after the last election in  
2 which the CANDIDATE participated.

- 3  
4 (d) In addition to complying with all applicable statutory requirements  
5 for disclosure of campaign contributions, a campaign committee  
6 established by a CANDIDATE for judicial office shall file with [name of  
7 appropriate regulatory authority] a report stating the name, address,  
8 occupation and employer of each person who has made campaign  
9 contributions to the committee in an aggregate value exceeding [\$ \_\_ ].  
10 The report must be filed within [ \_\_ ] days following an election, or  
11 within such other period as is required by LAW.  
12

13 **Comments:**

14  
15 [1] Candidates for judicial office are prohibited from personally raising campaign funds.  
16 See Rule 5.01(h). Nonetheless, Rule 5.06 recognizes that in many jurisdictions  
17 candidates for judicial office must raise campaign funds to support their candidacies, and  
18 therefore permits candidates, other than candidates for appointive judicial office, to  
19 establish campaign committees to solicit and accept reasonable financial contributions.  
20

21 [2] Campaign committees established by candidates for judicial office not only solicit  
22 and accept campaign contributions, but manage the expenditure of campaign funds and  
23 generally conduct the campaign. Candidates, however, are ultimately responsible for the  
24 actions of their campaign committees, including compliance with this Code and with the  
25 requirements of election law and other applicable law.  
26

27 [3] At the start of a campaign, candidates must instruct their campaign committees to  
28 solicit or accept only such contributions as are reasonable in amount, appropriate under  
29 the circumstances, and in conformity with governing law. Although lawyers and others  
30 who might appear before a successful candidate for judicial office are permitted to make  
31 campaign contributions, candidates should instruct their campaign committees to be  
32 especially cautious with respect to such contributions, lest they create grounds for  
33 disqualification. Compare Rule 2.12.  
34  
35  
36

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

- 38  
39 (a) Upon becoming a CANDIDATE for a non-judicial elective office, a  
40 JUDGE shall resign from judicial office, except that the JUDGE may  
41 continue to hold judicial office while being a candidate for election to,  
42 or serving as a delegate in, a state constitutional convention if the  
43 JUDGE is otherwise permitted by LAW to do so.  
44  
45 (b) Upon becoming a CANDIDATE for a non-judicial appointive office, a  
46 JUDGE is not required to resign from judicial office and is permitted to

1                   **engage in the activities permitted for candidates for appointive**  
2                   **judicial office by Rule 5.05.**

3  
4   **Comments:**

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6           [1] In most, if not all, campaigns for non-judicial elective public office  
7           candidates make pledges, promises or commitments as to positions they would  
8           take and ways they would act if elected to office. Although appropriate in non-  
9           judicial campaigns, this manner of campaigning is inconsistent with the role of a  
10          judge, who must remain fair and impartial to all who come before him or her. The  
11          combination of the potential for abuse of the judicial office on one hand, and the  
12          political promises that the judge would be compelled to make in the course of  
13          campaigning for non-judicial elective office on the other, dictates that a judge  
14          who wishes to run for such office must resign upon becoming a candidate. A  
15          judge who wishes to become a candidate for a non-judicial appointive, rather than  
16          elective, office, where no election campaign will be conducted, need not resign  
17          from judicial office in order to be considered for appointment.  
18