The judiciary is the cornerstone of the American legal system and a highly visible symbol of our commitment to justice and to government under the rule of law. The rule of law depends on is based on the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity who perform their duties competently and impartially, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in defining and establishing the American concepts of justice and the rule of law. Inherent in all of the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in our legal system. In order to sustain the rule of law judges must possess the qualities of integrity, impartiality, independence and competence. They must also promote public confidence in the judiciary. That confidence is eroded if judges engage in improper or unethical conduct. Accordingly, judges, individually and collectively, must respect and honor the judicial office as a public trust, and maintain the dignity of the office at all times. They must respect as well all other persons who serve and participate in the judicial system, including other judges, court employees, public officials, jurors, litigants, and lawyers.

Because of their roles as public symbols of justice and government under the rule of law, judges must not only avoid impropriety in their professional and personal lives, but avoid the appearance of impropriety as well. They should expect to be the subject of public scrutiny, and should freely and willingly accept certain restrictions on their conduct that might be viewed as burdensome by ordinary citizens. In particular, judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives.

The black letter Rules of the ABA Model Code of Judicial Conduct provide a body of clear, succinct, and enforceable rules to regulate the conduct of individual judges. They establish minimum standards of conduct with which all judges and—where applicable—judicial candidates must comply. The Model Code also articulates aspirational goals and ideals, encouraging judges and candidates to establish and maintain standards of judicial and personal conduct that exceed the minimum standards set forth in the Rules. Taken together, the Code accomplishes the two objectives of any code of conduct. In providing judges with guidance in the face of potential ethical problems, it serves a prophylactic purpose. In establishing rules that can be effectively enforced by those who regulate the judiciary, it serves a purpose of protecting the public.

The Model Code consists of five Canons, which collectively state the five overarching core principles of judicial conduct that are indispensable to sustaining the rule of law and to enhancing public confidence in the judiciary and the justice system. As further
described in the Scope section, the Rules organized under each Canon implement these core principles.

Canon 1 provides that “A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All the Judge’s Activities, So as to Uphold the Integrity, Impartiality, and Independence of the Judiciary.” Judges apply the law, and, like lawyers, are often referred to as “servants of the law.” In the public mind, however, judges embody the law itself, and through their daily work demonstrate the majesty of the law as it is employed to resolve conflicts and maintain a just society. The public must be able to trust every judge and the judicial system itself. It is imperative that judges obey the law and other rules applicable to them, while exhibiting sound character and moral rectitude in their professional work and in their personal lives.

Canon 2 provides that “A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently.” This concept is fundamental to the discharge of a judge’s duty to act at all times as a just adjudicator. Judges are public servants obligated to decide matters both mundane and controversial without fear or favor. In instances where a judge’s impartiality might reasonably be questioned, however, the Canon works to protect the public interest by requiring disqualification of the judge.

Judges are obligated to work diligently on matters presented to them, maintain decorum and respect in the courtroom and in ancillary proceedings, provide every litigant with the right to be heard according to established procedures, and avoid ex parte communications. When these goals are achieved, the public’s regard for the judicial system is deservedly high.

Canon 3 instructs that “A Judge Shall Conduct the Judge’s Personal Affairs to Preserve the Integrity, Impartiality, and Independence of the Judiciary.” Although this Canon regulates the conduct of judges when they are not engaged in the core adjudicative activities of their office, it nonetheless operates to ensure that judges will be held in proper regard when they are on the bench or otherwise acting in their official roles. If judges allow personal entanglements to affect their adjudicative activity, or if they lend the prestige of judicial office to others for private gain, they diminish respect for the judiciary. Similarly, a judge’s membership in discriminatory clubs or organizations undermines public confidence in the fairness of the judicial process.

Canon 4 states that “A Judge Shall Conduct the Judge’s Extra-Judicial Activities to Minimize the Risk of Conflict with Judicial Obligations.” In its concern for activity by judges that lies outside of their core adjudicative function, this Canon is similar in some respects to Canon 3. Canon 4, however, focuses on outside involvements that could taint a judge’s integrity, impartiality, or independence. Although judicial participation in charitable and educational activities is desirable and meritorious, as is pro bono public service on a governmental board or agency, too close an identification with non-judicial interests may give rise to concerns that a judge is lending the prestige of judicial office to others, or that the judge may bring a bias related to such service into judicial proceedings. These and similar extra-judicial activities are therefore closely regulated.
The Rules under Canon 4 impose significant restrictions on the acceptance of gifts by judges and require judges to file meaningful and timely reports regarding those gifts. Canon 5 admonishes that “A Judge or Candidate for Judicial Office Shall Refrain From Political Activity that is Inconsistent with the Integrity, Impartiality, and Independence of the Judiciary.” This necessarily complex Canon addresses the tension created by two long-standing features of our system. The first of these is the traditional constitutional principle of separation of powers, which operates to allow judges to maintain a healthy distance from the politics of legislative and executive branch activities. In those arenas decision-making may be based, for example, on appeals to expediency, which would be inappropriate in the judicial arena.

The second feature is the practical reality that judges in a majority of American jurisdictions are subject to public election. Although judicial elections differ greatly from elections for other types of office, it is impossible for candidates in a judicial election to avoid all political activity. Canon 5 attempts to remove as much political influence as possible from the judicial election process and from the judiciary itself by imposing certain narrowly tailored restrictions on the political activity—including campaign activity—of sitting judges and all candidates for judicial office. Its Rules operate to guarantee to judges and candidates the constitutional rights of free speech and expressive association, but in so doing, draw a bright line between statements of personal views on disputed legal and political issues on the one hand, and specific pledges or promises to reach a particular result in pending or impending cases on the other.

When read together, these Rules and aspirational goals codify the traditional and respected ethics precepts that guide and govern our nation’s judges, giving effect to the rule of law. The precepts of the Code will be put to the test in ordinary and extraordinary circumstances; in all instances, they constitute the framework by which not only judges, but other participants in the judicial system and the public at large can evaluate judicial conduct.

The Model Code of Judicial Conduct is intended to establish standards for the ethical conduct of judges and judicial candidates. It consists of broad statements called Canons, specific Rules set forth under each Canon, and Comments to the Rules. The Scope, Terminology, and Application sections provide additional interpretive guidance.

This Code is not intended as an exhaustive guide for the conduct of judges and judicial candidates, who are also governed in their judicial and personal conduct by general ethical standards. The Code is intended, however, to provide guidance to assist them in maintaining the highest standards of judicial and personal conduct.

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3 Preamble
4 Preamble
SCOPE

Redline to June 2005 Preliminary Draft

[1] The ABA Model Code of Judicial Conduct consists of five Canons, numbered Rules under each Canon, and Comments that accompany and explicate each Rule. This Scope section and a Terminology section provide additional guidance in interpreting and applying the Code. At the end of the Code, an Application section identifies those persons who must comply with the Rules, including full-time judges and others who hold judicial office on other than a full-time basis.

[2] As noted in the Preamble, the Canons state overarching principles of judicial ethics. Compliance with the Rules inevitably results in adherence to these principles, ensuring the respect for our judiciary that sustains our system of democratic government under the rule of law. Although the Canons are cast in mandatory terms, it is the Rules that establish independently binding or enforceable standards of conduct. Where the Rules use the terms “shall” or “shall not,” they establish mandatory obligations and constitute minimum standards to which judges and candidates for judicial office will be held. Enforcement of these standards is effected through appropriate disciplinary procedures is effected by the development and application of rules and procedures external to the ethical standards themselves. Where a Rule uses permissive terms, such as “may,” the matter being addressed is committed to the personal and professional discretion of the judge or candidate in question; judges and candidates whose action or inaction falls within the boundaries of such discretion are not subject to disciplinary action.¹

[3] The Comments accompanying the Rules serve two functions. First, they provide guidance with respect to the purpose, meaning, and proper application of the Rule. They contain explanatory material and, in some places, instances provide examples of permitted or prohibited conduct; they. Comments neither add to nor subtract from the binding obligations set forth in the Rules. In no instance does a Comment supersede a Rule. When a Comment uses the term “must,” it does not mean that the Comment itself is binding or enforceable; it signifies instead that the Rule in question, properly applied, is obligatory as to the point in issue.

[4] The Comments also identify aspirational goals for judges. To implement fully the principles of this Code as articulated in the Canons, judges should strive to exceed the minimum standards of conduct established by the Rules, holding themselves to the highest ethical standards, seeking to achieve those aspirational goals, and thereby enhancing the dignity of the judicial office.

[5] The Canons and Rules set forth under each Canon are rules of reason. They should be interpreted in light of the overarching purposes of the Model Code, with due regard for all relevant circumstances. They are to should be applied consistently with constitutional requirements, statutes, other court rules of court, and decisional law and with due regard for all relevant circumstances. They must also The

¹ Preamble
Code is to be construed interpreted so as not to impinge on the essential independence of judges in making judicial decisions, or on their right to freedom of speech and association.

Although the text of each Rule is binding and enforceable, it is not contemplated that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and if so the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text, and should depend on such factors as the gravity seriousness of the transgression, whether there is a pattern of improper activity, and the effect of the misconduct improper activity on the judiciary and the public judicial system or others.

The Code is not designed or intended as a basis for establishing civil liability or instituting criminal prosecution. Neither is it intended to serve as the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court. Each of these uses subverts the true purposes of this Code.
TERMINOLOGY

Redline to June 2005 Preliminary Draft

Terms: The first time any term listed below are noted with an asterisk (*) is used in a Rule in its defined sense, it is followed by an asterisk (*) in the Rules where they appear. In addition, Sections where terms appear are referenced after the explanation of each term.

“Aggregate” in relation to contributions for a candidate denotes not only contributions in cash or in kind made directly to a candidate’s committee or treasurer, but also, except in retention elections, all contributions made indirectly with the understanding that they will be used to support the election of a candidate or to oppose the election of the candidate’s opponent. See Rules 2.12(E), 2.12(A)(4) and 5.06(B) and (D).

“Appropriate authority” denotes the authority having responsibility for initiation of disciplinary process with respect to the violation to be reported. See Rules 2.17 and 2.18.

“Candidate for judicial office” describes a person seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as he or she 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. A person does not become a candidate earlier than one year prior to the date of the election or appointment whereby the person seeks to obtain judicial office. See Preamble, Scope, and Rules 5.01 through 5.07.

“Contribution” denotes both financial and in-kind contributions, such as goods, professional services, advertising, campaign committee work, or other types of assistance, which, if obtained by the recipient otherwise, would require a financial expenditure. See Rules 2.12, 2.16, 4.04, 5.01, and 5.06.

“De minimis,” in the context of a judge’s interests, denotes an insignificant interest that could not raise a reasonable question as to the judge’s impartiality. See Rules 2.12(D)(1) and (2) Rule 2.12(A)(2)(c).

“Domestic partner” denotes a person with whom another person maintains a household and conjugal relations, other than a person to whom he or she is legally married. See Rules 2.12, 2.16 Comment [2], 4.10, and 4.11.

“Economic interest” denotes ownership of more than a de minimis legal or equitable interest, but does not extend to a judge’s holdings or interests in mutual or common

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1 Terminology  
2 Terminology  
3 Terminology  
4 Terminology  
5 Terminology
investment funds, deposits a judge maintains in financial institutions, mutual savings
associations, or credit unions, or government securities owned by a judge, unless a
proceeding pending or impending before the judge could substantially affect the value of
such holdings or interests, or the judge is involved in the management of such entities’
holdings. The fact that securities might be held by an educational, charitable, fraternal, or
civic organization in whose service the judge or the judge’s spouse, domestic partner,
parent, or child may serve as a director, officer, advisor, or other participant does not
thereby give the judge an economic interest in such an organization for the purposes of
this Code. See Rules 2.12(A)(2), and (3) and (6)(B). 6

“Fiduciary” includes such relationships as executor, administrator, trustee, or guardian.
See Rules 2.12(D)(1) and (H), 2.12(A)(3) and (B). 7

“Gift” denotes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance,
bequest, or anything of monetary value, but does not include:

(A) ordinary social hospitality common among people in the judge’s
community, extended for a non-business purpose by an individual, not a corporation,
and limited to the provision of modest items, such as food and refreshments.

(B) items having little intrinsic value that are intended solely for presentation,
such as plaques, certificates, trophies, and greeting cards;

(C) bank and other financial institution loans that are made available on the
same terms and based on the same criteria applied to applicants who are not judges;

(D) opportunities and benefits, including favorable rates and commercial
discounts, made available on the same terms and based on the same criteria applied to
applicants who are not judges;

(E) rewards and prizes that are given to competitors in random drawings,
contests, or other events that are open to the public, awarded on the same terms and
based on the same criteria applied to other competitors;

(F) scholarships and fellowships awarded on the same terms and based on the
same criteria applied to applicants who are not judges;

(G) reimbursement or waiver of charges for travel-related expenses governed
by Rule 4.14 4.11; or

(H) compensation for extra-judicial activities that is governed by Rule 4.14

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6 Terminology
7 Terminology
“Impartiality” or “impartial” denotes the condition of being without bias or prejudice in favor of, or against, particular parties or classes of parties, or their representatives, and of maintaining an open mind in considering issues that may come before the judge. See Canon 1 and Rule 1.02, Canon 2 and Rules 2.04, 2.11, Rule 2.12, and Rules 4.01, 4.04 Comment [8], 4.14, 4.11, 4.12, and 4.15, 4.13 Comment [1], and Canon 5.8

“Impending matter” is a matter that is anticipated but not yet commenced. A matter is impending when there is reason to believe a case may be filed, for example, when a crime is being investigated but no charges have been brought, or when someone has been arrested but not charged, or when legislation has been passed that will probably be challenged in the courts. See Rules 2.10 and 2.11.

“Impropriety” denotes conduct that compromises the ability of a judge to carry out judicial responsibilities with independence, integrity, and impartiality, and independence, or otherwise demeans the judicial office. See Canon 1 and Rule 1.03, 1.02.

“Independence” denotes a judge’s freedom from influence, guidance, or controls other than those established by law. See Canon 1 and Rule 1.02, 1.01 and Rule 2.07 Comments.

“Integrity” denotes probity, fairness, honesty, uprightness, and soundness of character. See Canon 1 and Rule 1.02, 1.01.

“Knowing,” “knowledge,” “known,” and “knows” denote actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances. See Rule 5.01 and Comment [18] 5.01(A)(11).9

“Law” encompasses court rules as well as statutes, constitutional provisions, and decisional law. See Rules 1.03, 2.01, 2.04, 2.05, 2.06, 2.09, 2.10(A)(2) and (7), 2.10(A)(4), 4.02(A), 4.03, 4.04(A) and (B), 4.06, 5.06(B) and (A), (D), and (E), and 5.07(A).10

“Member of the candidate’s family” denotes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the candidate maintains a close familial relationship. See Rule 5.01, Comment [18] Comments [6] and [19].11

“Member of the judge’s family” denotes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Rules 4.05(A) and 4.08 and 4.13(B).12

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8 Terminology
9 Terminology
10 Terminology
11 Terminology
12 Terminology
“Member of a judge’s family residing in the judge’s household” denotes any relative of a judge by blood or marriage or a person treated by a judge as a member of the judge’s family who resides in the judge’s household. See Rule 4.13 Rules 2.12(A)(3) and 4.10(A)(4) and (B) and Comments [3], [4], and [6].

“Nonpublic information” denotes information that is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute or court order or impounded or communicated in camera, and information offered in grand jury proceedings, pre-sentencing reports, dependency cases, or psychiatric reports. See Rule 3.02 and 3.03.

“Pending matter” is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition. See Rules 2.10 and 2.11.

“Political organization” denotes a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office. For purposes of this Code, the term does not include a judicial candidate’s campaign committee created as authorized by Rule 5.06. See Rules 5.01 through 5.04.

“Public election” includes primary and general elections, partisan elections, nonpartisan elections, and retention elections. See Rules 5.01, 5.02, 5.03, and 5.06.

“Spouse” denotes an individual to whom a judge is married or a domestic partner. See Rules Rule 2.12, 4.13, and 4.14 Comment [7] and Rule 4.10(A)(3) and (4).

“Third degree of relationship” includes the following individuals: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece. See Rule 2.12.

“Widely attended event” denotes a convention, conference, symposium, forum, panel discussion, dinner, reception or similar event that more than [25] persons are expected to attend. See Rule 4.13.
A judge shall uphold the independence and integrity, impartiality, and independence of the judiciary, shall perform the duties of the office impartially, and shall avoid impropriety and the appearance of impropriety in all of the judge’s activities.

**Rule 1.01: Compliance with this Code**

A judge shall observe the standards of conduct embodied in these Rules.

**Rule 1.02 1.01: Promoting Confidence in the Judiciary**

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality, and independence of the judiciary.

**Comment**

[1] Adherence to the judgments and rulings of courts depends upon public confidence in the independence, integrity, and impartiality, and independence of judges. The integrity, impartiality, and independence of judges depends, which in turn depends upon their judges acting without fear or favor, which in turn depends upon their judges not being unduly influenced by self-interest, or bias. Violations of this Code diminish public confidence in the judiciary and thereby do injury to the system of government under law.

[2] An independent judiciary is indispensable to justice in our society.
Judges should also participate in activities that promote ethical conduct generally among judges and lawyers. Judges are encouraged to study, develop, maintain, should also implement and enforce codes of conduct, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

**RULE 1.03: IMpropriety* AND ITS APPEARANCE**

A judge shall avoid impropriety and the appearance of impropriety.\(^7\)

**COMMENT**

[1] Public confidence in the judiciary is eroded by improper conduct by judges. The prohibition against acting with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. A judge must expect to be the subject of public scrutiny. A judge must therefore accept restrictions on the judge’s conduct that might be viewed as burdensome by the ordinary citizen, and should do so freely and willingly.\(^8\)

[2] The test for impropriety is whether the conduct compromises the ability of the judge to carry out judicial responsibilities with independence, integrity, impartiality, independence and competence. Examples of actual improprieties under this Rule include violations of law, court rules, or other specific provisions of this Code. The test for an appearance of impropriety is whether the conduct of the judge would create, in the minds of persons with knowledge of the circumstances to impair the judge’s ability to carry out judicial responsibilities with independence, integrity, impartiality, independence and competence is impaired.\(^9\)

**RULE 1.04: COMPLIANCE WITH THE LAW**

A judge shall respect and comply with the law.\(^10\)

**COMMENT**

[1] This provisions of this Code focus primarily on judicial compliance with an established set of ethical norms, which, when officially adopted by an entity having regulatory power over the judiciary, are only one of the many types of laws that judges must

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\(^7\) Canon 2  
\(^8\) Canon 2A Commentary (sentences appear in different order)  
\(^9\) Canon 2A Commentary  
\(^10\) Canon 2A (partial)
obey. Judges are no less obligated to observe all valid forms of law
than are those who come before them. Thus, a judge’s A judge has
an obligation to respect and comply with all law extends as well to
require compliance with statutes and court rules, including the
provisions of this Code.
A judge shall perform the duties of judicial office impartially, competently, and diligently.\textsuperscript{2}

\textbf{IN GENERAL}

\textbf{RULE 2.01: GIVING PREDOMINANCE TO THE DUTIES OF JUDICIAL OFFICE}

A judge shall not allow other activities to The duties of judicial office shall take precedence over the duties of judicial office extrajudicial activities of the judge. The duties of judicial office include all the responsibilities of the judge’s office prescribed by law.\textsuperscript{3}

\textbf{COMMENT}

\textsuperscript{[1]} Although judges engage in a variety of activities, the most fundamental feature of their judicial role is the interpretation and application of the law. For that reason, those official duties that further the judicial function directly, through adjudication, or indirectly, through the performance of administrative or reporting responsibilities, are of paramount significance.

\textbf{RULE 2.05 2.02: BIAS, PREJUDICE, AND DISCRIMINATION HARASSMENT}

(A) A judge shall perform judicial duties without bias or prejudice, and shall not engage in harassment.\textsuperscript{5}

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or harassment, including but not limited to bias or prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, or socioeconomic status, and shall not permit staff, court officials, and others subject to the judge’s direction and control to do so. This does not preclude legitimate references to those factors when relevant to an issue in the proceeding.\textsuperscript{6}

\textsuperscript{2} Canon 3
\textsuperscript{3} Canon 3A
\textsuperscript{5} Canon 3B(5) (partial)
\textsuperscript{6} Canon 3B(5) (partial)
A judge shall require lawyers in proceedings before the judge to refrain from manifesting bias or prejudice or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, or socioeconomic status, against parties, witnesses, counsel, or others. This Rule does not preclude legitimate advocacy when these or other similar factors are issues in the proceeding.\footnote{Canon 3B(6)}

**COMMENT**

[1] A judge who manifests bias in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Even facial expression and body language can convey to parties or lawyers in the proceeding, jurors, the media, and others an appearance of bias. A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.\footnote{Canon 3B(5) Commentary}

[2] Examples of manifestations of bias include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggesting a connection between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. This rule does not preclude legitimate references to those factors when relevant to an issue in a proceeding.

[3] A judge must refrain from speech, gestures or other conduct that could reasonably be perceived as harassment and must require the same standard of conduct of others subject to the judge’s direction and control. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, or socioeconomic status.

[4] Sexual harassment includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome, regardless of gender.

**RULE 2.06 2.03: DILIGENCE**

\footnote{Canon 3B(8)}
A judge shall act diligently in the performance of perform all of his or her judicial duties, disposing of all judicial matters promptly, and efficiently and fairly.9

COMMENT

[1] Prompt disposition of the court’s business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants, and their lawyers cooperate with the judge to that end.10

[2] In disposing of matters promptly, and efficiently, and fairly, a judge must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. Containing costs while preserving fundamental rights of parties also protects the interests of witnesses and the general public. A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.11

RULE 2.03 2.04: COMPETENCE

A judge shall perform the duties of judicial office competently.12

COMMENT

[1] Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform the judge’s responsibilities of office.


[3] [2] Judicial competence may be diminished and compromised when a judge is impaired by drugs, alcohol, or other mental, emotional or physical impairments condition. See Rule 2.19.

ADJUDICATION

RULE 2.02 2.05: RESPONSIBILITY TO DECIDE

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10 Canon 3B(8) Commentary
11 Canon 3B(8) Commentary
12 Canon 3B(2) (partial)
A judge shall hear and decide matters assigned to the judge except those in which disqualification is required by Rule 2.12 or other applicable law.\(^\text{13}\)

**COMMENT**

[1] Judges must be available to decide the matters that come before the court. To protect the rights of litigants and preserve public confidence in the integrity, impartiality, and independence of the judiciary, however, there will be times when disqualification is necessary. On the other hand, unwarranted disqualification may bring public disfavor to the bench and to the judge personally. The dignity of the bench, the judge’s respect for fulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge’s colleagues require that a judge not use disqualification simply to avoid cases that present difficult, controversial, or distasteful issues.

[2] A judge’s obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify has been filed.

[2] [2] To ensure that judges remain available to fulfill their judicial duties, a judge must conduct his or her extrajudicial activities so as to minimize the risk of conflicts that would result in frequent disqualification. See Canon 4.

**RULE 2.04 2.06: IMPARTIALITY* AND FAIRNESS**

A judge shall uphold and apply the law,* and decide all cases with impartiality and fairness.

**COMMENT**

[1] When applying and interpreting the law, a judge may on occasion make a good faith mistake of fact or law. An error of this kind does not violate this Rule. Willful disregard of the law, however, may in some circumstances constitute a violation of this Rule. (Formerly Rule 2.03, Comment [2].)

[2] Although a judge’s background and personal philosophy may influence the way in which the judge analyzes and interprets a legal issue, a judge must interpret and apply the law without regard to whether the judge personally approves or disapproves of the law in question.

\(^{13}\) Canon 3B(1)
\(^{14}\) Canon 3B(2) (partial)
To ensure impartiality and fairness to all parties, a judge must be objective and open-minded, and must not demonstrate favoritism toward anyone. It is not a violation of this Rule, however, for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.

RULE 2.07: EXTERNAL INFLUENCES ON JUDICIAL CONDUCT

(A) A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.14

(B) A judge shall not allow family, social, political, financial, or other relationships to influence the judge’s judicial conduct or judgment.15

(C) A judge shall not convey or permit other persons to convey the impression that such any persons are in a position to influence the judge.16

COMMENT

[1] An independent judiciary requires that judges decide cases according to law and facts without regard to whether the a particular law or the litigants are popular or unpopular with the public, the media, government officials, or the judge’s own friends or family.

[2] Confidence in the judiciary is eroded if judicial decision-making is perceived to be subject to inappropriate outside influences. It is essential to judicial independence, impartiality, and maintaining the public’s confidence in the justice system that judges do not create a perception that their decisions could be colored by such influences.

RULE 2.08: DE.SaveChanges and COMMUNICATION WITH JURORS

(A) A judge shall require order and decorum in proceedings before the judge.17

15 Canon 2B (partial)
16 Canon 2B (partial)
17 Canon 3B(3)
18 Canon 3B(4)
(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials, and others subject to the judge’s direction and control.  

(C) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.

COMMENT

[1] The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

[2] Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror’s ability to be fair and impartial in a subsequent case.

[3] If a judge exercises caution and is not otherwise prohibited by law, a judge should express appreciation to jurors for their service to the judicial system and the community. A judge who is not otherwise prohibited by law from doing so may meet with jurors who choose to remain after trial to answer questions about and discuss ways to improve the jury process, but should not engage in any substantive discussion of the case. At such a meeting, a judge should not, for example, suggest or imply to a jury that he or she agrees or disagrees with the verdict, reveal matters that were not received into evidence that had been suppressed or the subject of a motion in limine, discuss the rulings on objections made at trial, or review any proceedings that took place outside the presence of the jury.

RULE 2.09: ENSURING THE RIGHT TO BE HEARD

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law.
B) A judge may therefore encourage parties to a proceeding and their lawyers to settle matters in dispute, but should not act in a manner that coerces any party into settlement.

(Formerly second sentence of Comment [2].)

COMMENT

[1] The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are respected.

[2] The judge has an important role to play in overseeing the settlement of disputes, but should be careful that efforts to further settlement do not undermine any party’s right to be heard according to law. The judge should keep in mind the effect that the judge’s participation in settlement discussions may have, not only on the judge’s own views of the case, but also on the perceptions of the lawyers and the parties if the case remains with the judge after settlement efforts fail. Among the factors that a judge should consider when deciding on an appropriate settlement practice for a particular case are (1) whether the parties have requested or voluntarily consented to a certain level of participation by the judge in settlement discussions; (2) the relative sophistication of the parties and their counsel; (3) whether the case will be tried by judge or jury; and (4) whether the parties themselves or only their counsel will be involved in settlement discussions.

[3] Judges must be mindful of the effect settlement discussions can have, not only on their objectivity and impartiality, but also on the appearance of their objectivity and impartiality. Despite a judge's best efforts, there may be instances where information obtained during settlement discussions could influence a judge's decision-making during trial.

RULE 2.10: EX PARTE COMMUNICATIONS

(A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding or matter, except as expressly provided in sections (1) through (5), below as follows:

(1) Where circumstances require, ex parte communications for scheduling, administrative purposes, or emergencies that do
not deal with substantive matters are authorized permitted, provided:

(a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication, and

(b) the judge makes provision by delegation or otherwise promptly to notify all other parties of the substance of the ex parte communication, and allows them an opportunity to respond.

(2) A judge may solicit information and opinions from a disinterested expert on the law in a proceeding before the judge if the judge first gives notice to the parties of the person to be consulted and the substance of the information or opinions sought, and affords the parties reasonable opportunity to respond.

(3) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge’s adjudicative responsibilities, or with other judges, provided that the judge does not abrogate the responsibility to personally decide the case and takes all reasonable steps to avoid receiving factual information that is not part of the record.

(4) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to settle matters pending before the judge.

(5) A judge may initiate, permit or consider any ex parte communications when expressly authorized by law* to do so.
(B) A judge shall not independently investigate facts in a case, and shall consider only the evidence presented.  

(C) If a judge inadvertently receives an unauthorized ex parte communication bearing on the substance of a matter, the judge shall make provision by delegation or otherwise promptly to notify all other parties of the substance of the communication and give the parties an opportunity to respond.  

(D) A judge shall make reasonable efforts, including the provision of appropriate supervision, to ensure that this Rule is not violated through law clerks or other personnel on the judge’s staff.  

COMMENT  

[1] To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.  

[2] Whenever the presence of a party or notice to a party is required by this Rule, it is the party’s lawyer, or if the party is unrepresented, the party, who is to be present or to whom notice is to be given.  

[3] The proscription against communications concerning a proceeding includes communications with lawyers, law professors, teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted by this Rule.  

[4] Certain ex parte communications are permitted by this Rule to facilitate scheduling and other administrative purposes and to accommodate emergencies. In general, however, a judge must discourage ex parte communication and allow it only if all the criteria stated in Rule 2.10 are clearly met. A judge must disclose to all parties, in a manner that ensures notice, all ex parte communications described in paragraph (A)(1) and 2.10A(2) regarding a proceeding pending or impending before the judge.  

[5] A judge may initiate, permit, or consider any ex parte communications when expressly authorized by law to do so, such as in therapeutic or problem-solving courts, for example mental health courts or

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34 Canon 3B(7) Commentary  
35 Canon 3B(7) Commentary  
36 Canon 3B(7) Commentary  
37 Canon 3B(7) Commentary  
38 Canon 3B(7) Commentary
certain drug courts, where judges may assume a more active role than they
assume in a traditional court setting, involving greater interaction with
parties, treatment providers, probation officer, social workers, and others.

[6] A judge may consult with other judges on pending matters, but must
avoid ex parte discussions of a case with other judges who have previously
been disqualified from hearing the matter.

[7] If communication between the trial judge and the appellate court
with respect to a proceeding is permitted, a copy of any written
communication or the substance of any oral communication should be
provided to all parties.

[8] The prohibition against a judge investigating the facts in a case
independently or through a member of the judge’s staff extends to
information available in all mediums, including electronic ones.

An appropriate and often desirable method of obtaining the advice of
a disinterested expert on legal issues is to invite the expert to file a brief
amicus curiae.

RULE 2.11: JUDICIAL STATEMENTS ON PENDING* AND FUTURE CASES

(A) A judge shall not make any statement that might reasonably be
expected to affect the outcome or impair the fairness of a matter
pending or impending* in any court.

(B) The judge shall require similar abstention on the part of staff,
court officers, and others subject to the judge’s direction and control.

(C) A judge shall not, 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 judicial office.

(D) This Rule does not prohibit public statements made in the course
of a judge’s official duties or an explanation of court procedures, nor
does it preclude a judge from commenting on proceedings in which the
judge is a litigant in a personal capacity.

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39 Canon 3B(7) Commentary
40 Canon 3B(7) Commentary
41 Canon 3B(9) (partial)
42 Canon 3B(9) (partial)
43 Canon 3B(10)
44 Canon 3B(9) (partial)
COMMENT

[1] This Rule’s restrictions on judicial speech are essential to the maintenance of the independence, integrity, and impartiality, and independence of the judiciary.45

[2] A pending matter is any one that has commenced; a matter remains pending and continues through any appellate process until final disposition. An impending proceeding is one that is anticipated but not yet commenced. A matter is impending when there is reason to believe a case may be filed, for example, when a crime is being investigated but no charges have been brought, or when someone has been arrested but not yet charged.46

[3] [2] This Rule does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity. However, in cases in which the judge is a litigant in an official capacity, such as a writ of mandamus, however, in which the judge is a litigant in an official capacity, the judge must not comment publicly.47

[4] [3] Provided that the judge complies with the requirements of paragraphs (B) and (C), this Rule does not prohibit judges from making public statements in the course of their official duties, from explaining the procedures of the court to the public, or from responding directly or through a third party to allegations in the media or elsewhere concerning the judge’s conduct in a matter.

[5] [4] Subject to the provisions of this Rule As long as it will not affect the outcome or impair the fairness of a proceeding, candidates for judicial office may respond to unjust criticism. See Rule 5.01, Comment [12].

RULE 2.12: DISQUALIFICATION

(A) A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality* might reasonably be questioned by a reasonable person, including but not limited to circumstances where:48

(1) the judge has a personal bias or prejudice concerning a party or a party’s lawyer, or personal knowledge* of disputed

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45 Canon 3B(10) Commentary  
46 Canon 3B(10) Commentary  
47 Canon 3B(10) Commentary  
48 Canon 3E(1)  
49 Canon 3E(1)(a)
evidentiary facts concerning that are in dispute in the proceeding;\(^{49}\)

(2) the judge knows that the judge, the judge’s spouse* or domestic partner,* a person within the third degree of relationship* to either of them, or the spouse or domestic partner of such a person is:\(^{50}\)

(a) a party to the proceeding, or an officer, director, or trustee of a party;\(^{51}\)

(b) acting as a lawyer in the proceeding;\(^{52}\)

(c) known by the judge to be a person who has more than a de minimis* interest that could be substantially affected by the proceeding; or\(^{53}\)

(d) to the judge’s knowledge likely to be a material witness in the proceeding;\(^{54}\)

(3) the judge knows that he or she, individually or as a fiduciary,* or the judge’s spouse, domestic partner, parent or child, or any other member of the judge’s family residing in the judge’s household,* has an economic interest* in the subject matter in controversy or in a party to the proceeding or has any other more than de minimis interest that could be substantially affected by the proceeding;\(^{55}\)

(4) the judge knows or learns by means of a timely motion that a party or, a party’s lawyer, or the law firm of a party’s lawyer has within the previous [1 year] made aggregate* contributions* to the judge’s campaign in an amount that is greater than [[$ for an individual or $] for an entity] [is reasonable and appropriate for an individual or an entity];\(^{56}\)

(5) the judge, while a judge or a candidate for judicial office,* has made a public statement, other than in a prior

\(^{50}\) Canon 3E(1)(d)
\(^{51}\) Canon 3E(1)(d)(i)
\(^{52}\) Canon 3E(1)(d)(ii)
\(^{53}\) Canon 3E(1)(d)(iii)
\(^{54}\) Canon 3E(1)(d)(iv)
\(^{55}\) Canon 3E(1)(c)
\(^{56}\) Canon 3E(1)(e)
\(^{57}\) Canon 3E(1)(f)
judicial decision or opinion, that commits, or appears to commit, the judge to reach a particular result with respect to an issue in the proceeding or the a controversy in the proceeding; or

(6) the judge:

(a) served as a lawyer in the matter in controversy, or was associated with a lawyer with whom the judge previously practiced law served who participated substantially in the matter during such association as a lawyer concerning the matter;

(b) within the preceding [three] years, was associated in the private practice of law with any law firm or lawyer currently representing any party in the controversy.

(e) (b) served in governmental employment, and in such capacity participated as lawyer, or advisor, or material witness concerning the proceeding, or has expressed an opinion concerning the merits of the particular case in controversy; or

(d) (c) served as was a material witness concerning the matter; or

(e) (d) previously presided as a judge over the proceeding in the same or another court.

(B) A judge shall keep informed about the judge’s personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge’s spouse or domestic partner and minor children residing in the judge’s household.

(C) A judge subject to disqualification by the terms of under this Rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the judge’s disqualification and may ask the parties and their lawyers to consider, out of outside the presence of the judge and court personnel, whether to waive disqualification if such waiver is permitted by law. If, following the

58 Canon 3E(1)(b) (partial)
59 Canon 3E(1)(b) (partial)
60 Canon 3E(1)(b) (partial)
61 Canon 3E(2)
62 Canon 3F
disclosure, the parties and lawyers, without participation by the judge or court personnel, subsequently all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. Such a remittal The agreement shall be written and shall be incorporated into the record of the proceeding.62

COMMENT

[1] Under this Rule, a judge is disqualified whenever the judge’s impartiality might reasonably be questioned, regardless of whether any of the specific provisions of Rule 2.12(A)(1) – (6) apply. For example, if a judge were in the process of negotiating for employment with a law firm, the judge would be disqualified from any matters in which that law firm was appearing, unless the disqualification was waived by the parties after disclosure by the judge.63

[2] A judge’s obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify has been filed.

[2] [3] By decisional law, the rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In matters that require immediate action, the judge must disclose on the record the basis for possible disqualification and make reasonable efforts to transfer the matter to another judge as soon as practicable.64

[3] A lawyer in a government agency does not ordinarily have an association with other lawyers employed by that agency within the meaning of Rule 2.12A(6)(a); a judge formerly employed by a government agency, however, shall disqualify himself or herself in a proceeding if the judge’s impartiality might reasonably be questioned because of such association.65

[4] The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not of itself disqualify the judge. If, however, “the judge’s impartiality might reasonably be questioned” under paragraph (A), or the relative is known by the judge to have an interest in the law firm that could be “substantially affected by the

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63 Canon 3E(1) Commentary
64 Canon 3E(1) Commentary
65 Canon 3E(1)(b) Commentary
66 Canon 3E(1)(f) Commentary
proceeding under paragraph 2.12A(3) (A)(2)(c), the judge’s disqualification may be required.

[5] A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to the question of a possible motion for disqualification, even if the judge believes there is no basis for disqualification. The procedure described in Rule 2.12C provides the parties an opportunity to proceed without delay if they wish to waive the disqualification. A party may act through counsel if counsel represents on the record that the party has been consulted and consents. As a practical matter, a judge may wish to have all parties and their lawyers sign any remittal agreement.

[6] “Fiduciary” includes such relationships as executor, administrator, trustee, and guardian.

[7] An “Economic interest” denotes ownership of more than a de minimis legal or equitable interest, but does not extend to such holdings or interests as a judge might have, for example, in mutual or common investment funds, non-convertible debt instruments such as municipal or corporate bonds, deposits a judge might maintain in financial institutions, mutual savings associations or credit unions, or government securities owned by a judge, unless a proceeding pending or impending before the judge could substantially affect the value of such holdings or interests, or the judge is involved in the management of such entities’ holdings. The fact that securities might be held by an educational, charitable, fraternal, or civic organization in whose service a judge or the judge’s spouse or domestic partner, parent, or child may serve as a director, officer, advisor, or other participant does not thereby give a judge an economic interest in such an organization for the purposes of this Rule.

ADMINISTRATION

RULE 2.13: ADMINISTRATIVE COMPETENCE AND DILIGENCE

A judge shall discharge the judge’s administrative responsibilities promptly, competently, fairly, and without bias or prejudice, maintain competence in judicial administration, and shall cooperate with other judges and court officials in the administration of court business.

COMMENT

67 Canon 3E(1)(b) Commentary
68 Canon 3F Commentary
69 Canon 3C(1)
The judge’s obligation to perform responsibilities diligently, competently, and without bias or prejudice, applies equally to the judge’s administrative responsibilities.

**RULE 2.14: SUPERVISION OF STAFF**

A judge shall require staff, court officials, and others subject to the judge’s direction and control to act in a manner consistent compatible with the judge’s obligations under this Code.\(^{70}\)

**COMMENT**

[1]  The first contact that members of the public have with the judicial system is often with court staff. Staff and court officials deal regularly with lawyers, parties, and the public on behalf of the judge. Although the Code applies only to judges, it is therefore especially important that judges ensure that the conduct of personnel subject to their direction and control is consistent with the standards of conduct embodied in this Code. See, e.g., Rule 2.02(B).

[2]  Judges are responsible for their own conduct and for the conduct of others, such as staff, when those individuals are acting at the judge's direction or control. A judge may not direct staff to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate the Code if undertaken by the judge himself or herself.

[3]  Staff separately should be subject to similar and compatible rules of conduct.

**RULE 2.15: SUPERVISION OF OTHER JUDGES**

A judge with supervisory authority for the performance of other judges shall take reasonable measures to assure that those judges properly discharge their judicial responsibilities, including the prompt, and efficient and fair disposition of matters before them and the proper discharge of their other judicial responsibilities.\(^{71}\)

**COMMENT**

[1]  Public confidence in the courts depends on timely justice. To promote the efficient administration of justice, judges with supervisory...
authority must take the steps needed to ensure that judges under their supervision administer their workload expeditiously.

**RULE 2.16: ADMINISTRATIVE APPOINTMENTS**

*(A)* A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism, favoritism, and unnecessary appointments. A judge shall not approve compensation of appointees beyond the fair value of services rendered.\(^2\)

*(B)* A judge shall not appoint a lawyer to a position if the judge either knows* that the lawyer has contributed more than [S] within the prior [ ] years to the judge's election campaign, or learns of such a contribution* by means of a timely motion by a party or other person properly interested in the matter, unless:

1. the position is substantially uncompensated;\(^4\)
2. the lawyer has been selected in rotation from a list of qualified and available lawyers compiled without regard to their having made political contributions; or\(^5\)
3. the judge or another presiding or administrative judge affirmatively finds that no other lawyer is willing, competent, and able to accept the position.\(^6\)

**COMMENT**

[1] Appointees of a judge include assigned counsel, officials such as referees, commissioners, special masters, receivers, and guardians, and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by paragraph (A).\(^7\)

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\(^2\) Canon 3C(4)
\(^3\) Canon 3C(5)
\(^4\) Canon 3C(5)(a)
\(^5\) Canon 3C(5)(b)
\(^6\) Canon 3C(5)(c)
\(^7\) Canon 3C Commentary
\(^8\) Canon 3D(1) (partial)
Unless otherwise defined by law, nepotism is the appointment or hiring of any relative within the third degree of relationship of either the judge or the judge’s spouse or domestic partner, or the spouse or domestic partner of such a person.

The rule against making administrative appointments to lawyers who have contributed in excess of a specified dollar amount to a judge’s election campaign includes an exception for positions that are substantially uncompensated, which permits appointments where the lawyer’s compensation is limited to reimbursement for out-of-pocket expenses.

RULE 2.17: REPORTING RESPONDING TO JUDICIAL MISCONDUCT

(A) A judge having knowledge* that another judge has committed a violation of this Code that raises a substantial question as to the judge’s honesty, trustworthiness, or fitness as a judge in other respects shall inform the appropriate authority.*78

(B) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should shall take appropriate action.79

COMMENT

[1] As an officer of the judicial system, each judge has a responsibility to participate in efforts to ensure public respect for the system’s operation. Ignoring or denying known misconduct among one’s fellow judges judicial colleagues undermines that the responsibility each judge has to participate in efforts to ensure public respect for the justice system. Taking affirmative action to address known misconduct is therefore a judge’s obligation. Appropriate action may include direct communication with the judge who may have committed the violation, other direct action if available communication with a supervising judge, and reporting the violation to the appropriate authority or other agency or body.80

RULE 2.18: REPORTING RESPONDING TO LAWYER MISCONDUCT

(A) A judge having knowledge* that a lawyer has committed a violation of the [Rules of Professional Conduct] [other title for the jurisdiction’s rules for lawyer conduct] that raises a substantial

78 Canon 3D(1) (partial)
79 Canon 3D Commentary
80 Canon 3D(2) (partial)
question as to the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.\footnote{81}

(B) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct should \textit{shall} take appropriate action.\footnote{82}

\textbf{COMMENT}

[1] Appropriate action may include direct communication with the lawyer who \textit{has} may have committed the violation, and reporting the violation to the appropriate authority or other agency or body.\footnote{83}

\textbf{RULE 2.19: DISABILITY AND IMPAIRMENT}

A judge having knowledge \textit{a reasonable belief} that the performance of a lawyer or another judge is impaired by drugs, alcohol, or other mental, emotional, or physical condition shall take appropriate corrective action, which may include a confidential referral to a lawyer assistance program or a judicial assistance program.

\textbf{COMMENT}

[2] \textit{[1]} “Appropriate action” means action intended and reasonably likely to help the judge or lawyer in question to correct the problem. Depending on the circumstances, appropriate action may include, but is not limited to, speaking directly to the impaired person, notifying the individual with supervisory responsibility over the impaired person, or making a referral to an assistance program.

[4] \textit{[2]} Taking or initiating corrective action by way of referral to an assistance program can fulfill several laudable purposes. For example, an intervention can be the first step toward a successful recovery program. That action alone may satisfy the mandates expressed in this Rule. Depending on the gravity of the conduct, however, (i.e., the conduct in response to which action is necessary), a that has come to the judge’s attention, the judge having knowledge of such conduct may be required to take action in addition to or in lieu of a referral to a relevant assistance program.

\textbf{RULE 2.20: IMMUNITY FOR DISCHARGE OF DUTIES}

\footnote{82}{Canon 3D(2) (partial)}
\footnote{83}{Canon 3D Commentary}
\footnote{84}{Canon 3D(3)}
Acts of a judge in responding to judicial misconduct, lawyer misconduct, or disability and impairment under Rules 2.17, 2.18, and 2.19 are part of a judge’s judicial duties and shall be absolutely privileged, and no civil action predicated thereon may be instituted against the judge.84

COMMENT

[1] To encourage judges to report or otherwise act on evidence of lawyer and judicial misconduct as required by these Rules, it is important that judges be insulated from threats of civil action when they act in compliance with their obligations under such rules.

RULE 2.20: COOPERATION WITH DISCIPLINARY AUTHORITIES

(A) During disciplinary proceedings, a judge shall cooperate and be candid and honest with the judicial conduct commission or lawyer discipline agency.

(B) A judge shall not retaliate, directly or indirectly, against anyone known* or suspected to have assisted or cooperated with an investigation of a judge.
PERSONAL CONDUCT: A JUDGE SHALL CONDUCT THE JUDGE’S PERSONAL AFFAIRS TO PRESERVE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY, AND INDEPENDENCE OF THE JUDICIARY.

RULE 3.01: INFLUENCE OF PERSONAL INTERESTS ON JUDICIAL CONDUCT

A judge shall not allow his or her financial, political or other personal interests or relationships to influence his or her judicial conduct or judgment.¹

RULE 3.02 3.01: MISUSING THE PRESTIGE OF JUDICIAL OFFICE

A judge shall not lend misuse the prestige of judicial office, or allow others to do so, to advance the personal interests of the judge or others, or allow others to do so.²

COMMENT

¹ Maintaining the prestige of judicial office is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. Respect for the judicial office facilitates the orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of the prestige of office in all of their activities.⁴

² It is improper for a judge to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to his or her judgeship to gain favorable treatment when stopped by a police officer for a traffic offense. Similarly, a judge must not use judicial letterhead to gain an advantage in conducting his or her personal business.⁵

⁴ A judge may provide a reference or a recommendation for an individual based upon the judge's personal knowledge. When a judge is personally aware of facts or circumstances that would contribute to an accurate assessment of the individual under consideration, a judge may properly communicate that knowledge, and his or her opinions based thereon, to those responsible for making decisions concerning the applicant. The judge's awareness may be based, for

¹ Canon 2B (partial)
² Canon 2B (partial)
⁴ Canon 2B Commentary
⁵ Canon 2B Commentary
⁸ Canon 2B Commentary
example, on personal knowledge of the individual or special knowledge derived
from some relationship, such as that with a law clerk or long-time family friend.
In any case, in considering whether it is appropriate to write the recommendation
on official or personal letterhead, the judge should carefully consider whether the
recommendation or endorsement use of official letterhead might reasonably be
perceived as exerting an attempt to exert pressure by reason of his or her judicial
office, and. The judge should avoid any action that could be so understood use of
the office letterhead if the judge concludes that there is a likelihood of such a
perception. 8

[6] [3] A judge must not initiate the communication of information to a
sentencing judge or a probation or corrections officer, but may provide to such
persons information for the record in response to a formal request. 9

[4] This rule does not apply to a judge’s use of his or her name in connection
with campaign activity as permitted in Canon 5. Judges may participate in the
process of judicial selection by cooperating with appointing authorities and
screening committees, and by responding to inquiries from such entities
concerning the professional merit of a person being considered for a judgeship. 11

[3] [5] Special considerations arise when judges write or contribute to
publications of for-profit entities, whether related or unrelated to the law. A judge
should not permit anyone associated with the publication of such materials to
exploit the judge’s office in a manner that violates this Rule or other applicable
law. In contracts for publication of a judge’s writings, the judge should retain
sufficient control over the advertising to avoid exploitation of the judge’s office.
Prohibited conduct includes, but is not limited to, allowing the publisher to praise
the judge’s judicial accomplishments or, when the work is unrelated to the law, to
emphasize the judge’s position. 14

RULE 3.05 3.02: TESTIFYING AS A CHARACTER WITNESS

A judge shall not testify as a character witness, except when properly
summoned. 15

COMMENT

[1] When a judge testifies as a witness, a lawyer who regularly appears before
the judge may be placed in the awkward position of cross-examining the judge. In

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9 Canon 2B Commentary
11 Canon 2B Commentary
14 Canon 2B Commentary
15 Canon 2B (partial)
17 Canon 2B Commentary
addition, a judge who, without being subpoenaed, testifies voluntarily as a character witness lends misuses the prestige of judicial office to advance the interests of another. See Rule 3.01. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.17

RULE 3.03: USE OF NONPUBLIC INFORMATION*

A judge shall not intentionally disclose or use nonpublic information acquired in a judicial capacity for any purpose unrelated to the judge’s judicial duties.20

COMMENT

[1] In the course of performing their judicial duties, judges may acquire information of commercial or other value that is unavailable to the public. Judges must not reveal or use such information for personal gain or for any purpose unrelated to their judicial duties.

RULE 3.04: AFFILIATION WITH DISCRIMINATORY ORGANIZATIONS

(A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation, and shall not use the benefits or facilities of such an organization to any significant extent. A judge’s membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule.22

(B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge’s attendance at an event in a facility of a group that he or she should not join as a member under this Rule is not a violation of this Rule when the judge’s attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization.

COMMENT

[2] [1] Public manifestation by a judge of the judge’s approval of invidious discrimination on any basis gives rise to the appearance of impropriety in

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20 Canon 3B(12)
22 Canon 2C
24 Canon 2C Commentary
violation of Rule 1.01 and diminishes public confidence in the integrity and impartiality of the judiciary. Rule 3.04 relates only to organizations invidiously discriminating on the basis of race, gender, religion, national origin, ethnicity, or sexual orientation. However, a judge’s membership in or significant use of the benefits and facilities of organizations practicing invidious discrimination on any other basis prohibited by applicable law creates the appearance of impropriety in violation of Rule 1.01.⁴ A judge’s membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired.⁵

[2] Whether an organization’s organization practices are invidiously discriminatory invidious discrimination is often a complex question to which judges should be sensitive. In general, the answer cannot be determined from a mere examination of an organization’s current membership rolls but rather depends on how the organization selects members, and other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, gender, sex, or national origin, ethnicity, or sexual orientation those individuals persons who would otherwise be admitted, and the exclusion is not reasonably related to a legitimate purpose. Rule 3.04 does not prohibit a judge’s membership in any organization dedicated to the preservation of religious, ethnic or legitimate cultural values of common interest to its members to membership.⁶

[3] Whether a judge’s use of the benefits and facilities of a discriminatory organization is significant depends on whether the frequency or nature of that use is sufficient to create the impression that the judge approves of the organization and its practices. Accordingly, a judge must not arrange a meeting or regularly attend events at, or regularly use other benefits and facilities of, an organization that the judge knows practices invidious discrimination on the basis of race, gender, religion, national origin, ethnicity or sexual orientation in its membership or other policies.⁷

[4] [3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization.⁸

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²⁵ Canon 2C Commentary  
²⁶ Canon 2C Commentary  
²⁷ Canon 2C Commentary
**Extra-Judicial Conduct: A Judge Shall Conduct the Judge’s Extra-Judicial Activities So as to Minimize the Risk of Conflict with Judicial Obligations of Judicial Office.**¹

**Rule 4.01: Extra-Judicial Activities in General**

A judge shall conduct all of the judge’s may engage in extra-judicial activities so to the extent that they the activities do not:²

(A) do not lead to frequent disqualification of the judge or otherwise interfere with the proper performance of judicial duties;³

(B) demean the judicial office or detract from the dignity of the court;⁴

(B C) do not cast reasonable doubt on the judge’s capacity ability to act perform judicial duties with independence, * integrity, * and impartiality, and independence;⁵

(D) involve the use of court premises, staff, stationery, equipment, or other resources, unless such use is permitted by law; * and

(E) comply with the requirements of violate this Code.

**Comment**

[1] Judges To the extent that time permits, and independence and impartiality are not compromised, judges are encouraged to engage in appropriate extra-judicial activities so as not to become. Such participation will help prevent judges from becoming isolated from their communities, and to will further the public’s understanding of how and respect for courts and the judicial system affect their lives.⁶

[2] Expressions Discriminatory actions and expressions of bias or prejudice by a judge, at any time, are no more acceptable off the bench than on, because they may equally cast reasonable doubt on the judge’s

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¹ Canon 4
² Canon 4A
³ Canon 4A(3)
⁴ Canon 4A(2)
⁵ Canon 4A(1)
⁶ Canon 4A Commentary
ability to act impartially as a judge. Such expressions include jokes and other remarks demeaning individuals on the basis of race, gender, religion, ethnicity, national—origin, disability, age, sexual—orientation or socioeconomic status. See Thus, for example, a judge’s extra-judicial activities must not be conducted in connection with or affiliation with an organization that practices invidious discrimination; see Rule 3.04 and accompanying Comments.\(^7\)

[3] As a judicial officer specially learned in the law, a judge is in a unique position to contribute to the improvement of engage in extra-judicial activities that concern the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of the justice system. Such contributions may take the form of such as by speaking, writing, teaching, or participating in other extrajudicial activities scholarly research projects. To the extent that time permits, a judge is encouraged to undertake such activities, either independently or through a bar association, judicial conference or other organization. Judges may participate in efforts to promote the fair administration of justice, the independence of the judiciary and the integrity of the legal profession, both within and outside their jurisdictions. For example, judges may have occasion to express opposition to the persecution of lawyers and judges in other countries because of their professional activities. In addition, judges are permitted and encouraged to engage in civic or charitable extra-judicial activities, whether or not the activities involve legal subject matters, so long as the judge complies with this Rule and other provisions of this Code; see Rule 4.04.

[4] A judge may also wish to engage in writing, speaking, teaching, or being otherwise active in regard to non-legal subjects. To the extent that such activity is not in conflict with any of the judges’ duties under this Code, it is permitted by this Rule.

**RULE 4.02: APPEARANCES BEFORE GOVERNMENTAL BODIES**

A judge shall not appear voluntarily at a public hearing before, or otherwise consult with, an executive or legislative body or official, except.\(^8\)

(A) on with respect to matters concerning the law, the legal system, or the administration of justice;\(^9\)

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\(^7\) Canon 4A Commentary
\(^8\) Canon 4C(1) (partial)
\(^9\) Canon 4C(1) (partial)
(B) on other matters that might reasonably merit the attention and comment of the judge because of knowledge or expertise acquired in the course of the judge’s judicial duties; or

(C) when acting pro se in a matter involving the judge or the judge’s interests.¹⁰

COMMENT

[1] Judges possess special expertise on matters of law, the legal system, and the administration of justice, and may properly share that expertise with governmental bodies. In addition, judges may acquire information on issues before them that are not law-related but that will have an effect on the justice system, and upon which they may be well qualified to comment from their unique vantage point as jurists. For example, a juvenile court judge may be uniquely situated to comment to a public body on the potential benefits of proposed community improvements that could lead to a decrease in delinquency among juveniles. Judges must be mindful, however, that their appearance before governmental bodies remains subject to other provisions of this Code, such as Rule 2.11, governing public comment on pending and impending matters; Rule 3.02 3.01, prohibiting judges from lending misusing the prestige of office to advance the their own or others’ interests of themselves or others; and Rule 4.01B(C), prohibiting judges from engaging in extra-judicial activities that cast reasonable doubt on the judge’s independence, integrity, and impartiality, and independence.

[2] In general, it would be an unnecessary and unfair burden to prohibit judges from appearing before governmental bodies on matters that are likely to have special an effect upon them as private citizens, for example, such as zoning proposals that will affect their real property or proposals having to do with the availability of local health services. The judge must exercise care not refer to his or her judicial position, however, not to lend and must exercise caution to avoid misusing the prestige of judicial office to advance general causes with respect to which the judge possesses no special judicial competence.

[3] See Rules 2.07 and 3.01 and Comments regarding the obligation to avoid improper influence.¹¹

RULE 4.03: APPOINTMENTS TO GOVERNMENTAL BODIES

A Except as required or permitted by law,* a judge shall not accept appointment to a governmental committee or board, commission, or

¹⁰ Canon 4C(1) (partial)
¹¹ Canon 4C(1) Commentary
other governmental position, unless it is one that is concerned with issues of fact or policy on matters other than the improvement of concerns the law, the legal system, or the administration of justice.12

COMMENT

[1] A judge must assess the appropriateness of accepting extra-judicial assignments both in terms of judicial availability and in terms of allocation of resources, and with due regard for the requirements of independence and impartiality of the judiciary. Thus, a judge should not serve on a governmental commission that requires an excessive time commitment or is embroiled in controversial subject matter, or whose members are limited to advocating for only one side in a policy debate.13 A judge may, however, represent his or her country, state, or locality on ceremonial occasions in connection with historical, educational, or cultural activities.14

RULE 4.04: PARTICIPATION IN CIVIC OR CHARITABLE ACTIVITIES15

(A) A Subject to the requirements of Rule 4.01, a judge may participate in civic or charitable activities that do not reflect adversely upon a judge’s integrity, impartiality and independence, or interfere with the performance of judicial duties, subject to the following limitations and the other requirements of this Code, on behalf of civic or charitable organizations, except that a judge:

B. With respect to any activities in which a judge participates on behalf of a civic or charitable organization:16

(1) A judge shall not (a) use misuse or permit the use of others to misuse the prestige of judicial office for fundraising or membership solicitation;17

(b) (2) shall not personally solicit funds contributions* for the organization on an other than de minimis basis; and18

(3) shall not personally participate in membership solicitation, if the solicitation is primarily a fundraising mechanism or if it might reasonably be perceived as coercive.19

12 Canon 4C(2) (partial)
13 Canon 4C(2) Commentary
14 Canon 4C(2) (partial)
15 Canon 4C
16 Canon 4C(3)(b)
17 Canon 4C(3)(b)(iv)
18 Canon 4C(3)(b)(i) (partial)
19 Canon 4C(3)(b)(iii)
(2) (B) Notwithstanding the provisions of paragraph (4) (A) above, a judge may:

(a) (1) may personally solicit funds contributions from members of the judge’s family, or from judges over whom the judge does not exercise supervisory or appellate authority;\(^{20}\)

(b) (2) may assist the a civic or charitable organization in planning related to fundraising, and participate in the management and investment of the organization’s funds;\(^{21}\)

(c) (3) may appear at, participate in speak at, receive an award or other recognition at, be featured on the program of, and permit the judge’s his or her title to be used in connection with an event of an a civic or charitable organization devoted to the improvement of concerned with the law, the legal system, or the administration of justice, even though the event may serve a fundraising purpose, unless the organization’s membership includes predominantly lawyers who chiefly advocate a particular position or represent a particular client or type of client:

(4) may recruit members for an organization concerned with the law, the legal system, or the administration of justice, even though the membership dues or fees generated may be used to support the objectives of the organization;

(5) may make recommendations to public and private fund-granting organizations on with respect to programs and activities concerning the law, the legal system, or the administration of justice;\(^{22}\)

(6) may encourage lawyers to participate in programs providing pro bono publico legal services, including by making reference to a list of available programs; and

C. (7) A judge may serve as an officer, director, trustee, or non-legal advisor of an a civic or charitable organization or a governmental entity devoted to the improvement of concerned with the law, the legal system, or the administration of justice or of an educational, religious, charitable, fraternal or civic

\(^{20}\) Canon 4C(3)(b)(i) (partial)
\(^{21}\) Canon 4C(3)(b)(i) (partial)
\(^{22}\) Canon 4C(3)(b)(ii)
organization not conducted for profit, unless it is likely that the
organization or governmental entity.

(4) (a) will be engaged in proceedings that would
ordinarily come before the judge; or

(2) (b) will be—engaged frequently be engaged in
adversary proceedings in the court of which the judge is a
member, or in any court subject to the appellate jurisdiction of
the court of which the judge is a member.

COMMENT

[1] A judge should be permitted to participate in civic, fraternal or
charitable activities for the benefit of the community of which the judge is
a part, provided that such participation does not take inappropriate
advantage of the judge’s judicial position, or otherwise interfere with the
performance of the judge’s judicial duties. See Rule 5.01A.

[2] Judges In addition to appointing lawyers to serve as counsel for
impecunious parties in individual cases, judges may solicit promote
broader access for people unable to afford legal services by encouraging
lawyers to participate in pro bono publico legal services programs so long
as, if in doing so the judge does not misuse the prestige of the judicial
office and does not solicit lawyer to accept particular cases that could
come before the judge or the court on which the judge sits. It is also
permissible and generally commendable for judges to assist in training
lawyers to do pro bono publico work, and to participate in events
recognizing lawyers who have done pro bono publico work.

[3] Solicitation A judge’s solicitation of funds contributions for an
organization involves creates the danger that the person solicited will feel
obligated to respond favorably to the solicitor if the solicitor is in a
position of influence or control. For that reason, a judge is not permitted to
solicit funds in person, in writing or by telephone, on an other than de
minimis basis, unless the person being solicited is another judge over
whom the judge exercises no appellate or supervisory control. Similarly, a
judge is not permitted personally to solicit memberships in an organization
if the solicitation is primarily a fundraising mechanism. A judge may,
however, participate in fundraising activities by performing tasks other
than soliciting or accepting donations at fundraising events, without the
attendant risk of coercion that makes personal solicitation of funds
problematic, or will donate funds or services in order to curry favor with

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23 Canon 4C(3)(a)
24 Canon 4C(3)(a)(i)
25 Canon 4C(3)(a)(ii)
the judge. Accordingly, a judge’s participation in fundraising for civic and charitable organizations is subject to the restrictions set forth in this Rule.

[4] De minimis solicitation includes insignificant, incidental, or behind-the-scenes activities that do not use the judge's name or title and situations where the judge's role is no more active or visible than that of other participants.

[5] Solicitation of membership poses potential problems similar to those associated with the solicitation of funds. For that reason, a judge must not personally solicit membership or endorse or encourage membership efforts for civic or charitable organizations if the solicitation could reasonably be perceived as coercive. For example, a judge must not solicit memberships from other judges over whom the judge exercises supervisory or appellate authority, or from persons or those affiliated with persons who are likely to appear before the court on which the judge serves.

[6] Notwithstanding the foregoing limitations, no comparable risk of coercion arises when a judge who is an officer of such an organization sends a general membership solicitation over the judge’s signature. In addition, lawyer and judicial organizations, whose membership is balanced in representing all parties in litigation often include judges in their leadership. Judges may be involved in member recruitment for such organizations even though the dues or fees associated with membership may be used, in part, as fundraising to support the objectives of those organizations.26

[7] Judges are an integral part of the legal community and may participate as judges in the activities of organizations within the legal community without inappropriately lending the prestige of office to those activities, even when they serve a fundraising purpose. Therefore, a judge may, for example, accept an invitation to speak at or be recognized or honored at an event hosted by a legal organization, law school, or other entity devoted to improving the law, the legal system or the administration of justice, even if such an event raises funds for the benefit of the sponsoring organization.

[4] So long as the judge does not engage in direct personal solicitation, and the judge’s title is not used, it is permissible for a judge to engage in insignificant, incidental, or behind-the-scenes fundraising activities on behalf of a civic or charitable organization.

[8] [5] Use of an organization’s Identification of a judge’s position in a civic or charitable organization on letterhead used for fundraising or

26 Canon 4C(3)(b) Commentary
membership solicitation does not violate this Rule 4.04, provided that the
letterhead lists only the judge’s name and office or other position in the
organization, and, if comparable designations are listed for other persons,
the judge’s judicial designation. In addition, a judge must make reasonable
efforts to ensure that the judge’s staff, court officials, and others subject to
the judge’s direction and control do not solicit any funds or contributions on the
judge’s behalf for any purpose, charitable or otherwise.27

[9] This Rule does not prohibit a judge from serving in a governmental
position associated with the improvement of the law, the legal system or
the administration of justice; see Rule 4.03.28

[10] In this and other Rules in Canon 4, the phrase "subject to the
requirements of this Code" is used to remind judges that the use of
permissive language in various Rules of the Code does not relieve a judge
from the other requirements of the Code that apply to the specific conduct.
For example, a judge permitted by this Rule to serve on the board of a
fraternal institution may nevertheless be prohibited from such service by
Rules 3.03 or 4.01 if the institution practices invidious discrimination or if
service on the board otherwise casts reasonable doubt on the judge’s
capacity to act impartially as a judge.29

[11] Service by a judge on behalf of a civic, fraternal or charitable
organization may be governed by other provisions of Canon 4 in addition
to Rules 4.02, 4.03, and 4.04. For example, a judge is prohibited by Rule
4.07 from serving as a legal advisor to a civic, fraternal or charitable
organization.30

[12] The changing nature of some organizations makes it
necessary for a judge to changes over time, judges should regularly to
reexamine the activities of each organization with which the judge is they
are associated to determine if it is proper for the judge them to continue
such association.31

[13] This Rule, not Rule 4.03 governs a judge’s service in a
governmental position. This Rule permits service by a judge with
organizations devoted to the improvement of the law, the legal system or
the administration of justice and with educational, religious, charitable,
fraternal or civic organizations not conducted for profit. Service on the
board of a public educational institution, other than a law school, would be

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27 Canon 4C(3)(b) Commentary
28 Canon 4C(3)(b) Commentary
29 Canon 4C(3)(b) Commentary
30 Canon 4C(3)(b) Commentary
31 Canon 4C(3)(a) Commentary
prohibited under Rule 4.03, whereas service on the board of a public law school or any private legal institution would generally be permitted.\footnote{32}

[7] To prevent the prestige of the judge’s office from being misused in fund-raising, a judge must inform all civic and charitable organizations with which the judge is associated of the limitations on the judge’s participation.

[8] Even with respect to law-related civic and charitable organizations, a judge should consider whether the membership and purposes of the organization, or the nature of the judge’s participation in or association with the organization, would conflict with the judge’s obligation to refrain from activities that reflect adversely upon a judge’s independence, integrity, and impartiality. For example, it would be inappropriate for a judge to speak at a fund-raising event for a specialty bar association whose members are closely identified with certain clients or particular positions on certain legal issues.

RULE 4.05: APPOINTMENTS TO FIDUCIARY* POSITIONS\footnote{33}

(A) A judge shall not serve as executor, administrator, or other personal representative, trustee, guardian, attorney in fact, or other fiduciary, except for the estate, trust, or person of a member of the judge’s family,* and then only if such service will not interfere with the proper performance of judicial duties.\footnote{34}

(B) A judge shall not serve as a fiduciary if it is likely that the judge as a fiduciary will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.\footnote{35}

(C) The same restrictions on financial activities that apply to a judge personally apply to the judge while acting in a fiduciary capacity.\footnote{36}

COMMENT

[1] The Time for Compliance provision of this Code (Application, Section II) postpones the time for compliance with certain provisions of this Rule in some cases.\footnote{37}
If a person who is already serving as a fiduciary becomes a judge, he or she must comply with this Rule as soon as reasonably practicable, but in no event later than one year after becoming a judge. See Application Part II.

Other restrictions imposed by this Canon may conflict with the judge’s obligation as a fiduciary. For example, a judge should resign as trustee if Rule 4.08, which governs financial, business, remunerative, and investment activities, might require a judge serving as trustee to divest certain holdings, which could result in detriment to the trust or result from divestiture of holdings the retention of which would place in the judge in violation of Rule 4.11, or. Serving as a fiduciary might also require frequent disqualification. In such situations, the judge should resign as fiduciary.

RULE 4.06: SERVICE AS ARBITRATOR OR MEDIATOR IN A PRIVATE CAPACITY

A judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law* to do so.

COMMENT

Judges regularly participate in arbitration, mediation, or settlement conferences, either performed as part of their regular duties or as specially authorized by court rule or other law. See Rule 2.09, Comment [2] and Rule 2.10A(4). Rendering private dispute resolution services, however, whether or not for pecuniary gain, is prohibited unless it is expressly authorized by law, including a rule of court.

The integrity of the judiciary is undermined, however, when judges take financial advantage of their offices by rendering private dispute resolution services for pecuniary gain as an extra judicial activity. In such circumstances, the prestige of the judicial office would be used to advance the personal financial gain of the judge. Even when performed without charge, dispute resolution services provided by a judge in an extrajudicial capacity may interfere with the proper performance of the judicial office, and are therefore permitted only when authorized by law.

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37 Canon 4E Commentary
38 Canon 4E Commentary
39 Canon 4F (partial)
40 Canon 4F (partial)
41 Canon 4F Commentary
RULE 4.07: PRACTICE OF LAW*

A judge shall not practice law. Notwithstanding this prohibition, except that a judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge’s family.*

COMMENT

[1] This prohibition refers to the practice of law in a representative capacity and not in a pro se capacity. A judge may act for himself or herself in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. However, in so doing, a judge must not abuse or misuse the prestige of office to advance the interests of the judge or the judge’s family. See Rule 3.01.

[2] The Code allows Although a judge is permitted to give uncompensated legal advice and counseling to and draft legal documents for a member of the judge’s family, so long as the judge receives no compensation. A judge must not, however, act as an advocate or negotiator for a member of the judge’s family in a legal matter in any forum.

RULE 4.08: FINANCIAL, BUSINESS, REMUNERATIVE, AND INVESTMENT ACTIVITIES

A judge shall not engage in financial and, business dealings that, or other remunerative activities, including managing the investments of the judge and members of the judge’s family, unless:

(A) the activities will lead to frequent disqualification of the judge or otherwise interfere with the proper performance of judicial duties;

(B) the activities may reasonably be perceived as exploiting the judge’s judicial position or otherwise demeaning the judicial office or detracting from the dignity of the court; or

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42 Canon 4G (partial)
43 Canon 4G (partial)
44 Canon 4G Commentary
45 Canon 4G Commentary
46 Canon 4D
47 Canon 4D(2)
48 Canon 4D(1)(a)
B. (C) the activities involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves; or

(D) the activities will result in violation of other provisions of this Code.

COMMENT

[1] When in a judicial capacity a judge acquires information that is not yet generally known, such as material contained in filings with the court, the judge must not use the information for private gain. See Rules 3.01 and 3.02.

[2] A judge must avoid financial and business dealings that involve the judge in frequent transactions or continuing business relationships with persons likely to come before the judge personally or before other judges on the judge’s court. In addition, a judge should discourage members of the judge’s family from engaging in dealings financial or other transactions that would reasonably appear to a reasonable person to exploit the judge’s judicial position. This rule is necessary to avoid creating an the appearance of exploitation of office or favoritism and to minimize the potential for that the judge is doing indirectly what the judge is prohibited from doing directly, and thus increasing the chances that the judge will later be subject to disqualification. With respect to affiliation of relatives of a judge with law firms appearing before the judge, see Comments to Rule 2.12 relating to disqualification.

[3] Participation by a judge in financial and business dealings is subject to the general prohibitions in Rule 4.01 against activities that tend to reflect adversely on impartiality, demean the judicial office, or interfere

49 Canon 4D(1)(b)
50 Canon 4D(1) Commentary
51 Canon 4D(1) Commentary
with the proper performance of judicial duties. Such participation is also subject to the general prohibition in Canon 1 against activities involving impropriety or the appearance of impropriety, and the prohibition in Rule 3.01 against the misuse of the prestige of judicial office. In addition, a judge must maintain high standards of conduct in all of the judge’s activities, as set forth in Canon 1.52

[3] As soon as a judge can do so without serious financial detriment, the judge must divest himself or herself of investments and other financial interests, including the interests of others whom the judge serves as a fiduciary under Rule 4.05, that might require frequent disqualification or otherwise violate the provisions of this Rule.53

RULE 4.09: REMUNERATIVE ACTIVITIES

A judge may, subject to the requirements of this Code, hold and manage investments of the judge and members of the judge’s family, and engage in other remunerative activity.54

COMMENT

[1] This Rule provides that, subject to the requirements of this Code, a judge may hold and manage investments owned solely by the judge, investments owned solely by a member or members of the judge’s family, and investments owned jointly by the judge and members of the judge’s family. The term “investments” includes real estate. See Comments to Rule 4.04 regarding use of the phrase "subject to the requirements of this Code."55

RULE 4.10: MANAGEMENT AND DIVESTITURE OF INVESTMENTS

A judge shall manage the judge’s investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.56

COMMENT

[1] Judges must not allow their financial activities to interfere with their duty to preside over cases that come before them. Although some

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52 Canon 4D(1) Commentary
53 Canon 4D(4)
54 Canon 4D(2)
55 Canon 4D(2) Commentary
56 Canon 4D(4)
disqualifications will be unavoidable, judges must reduce unnecessary conflicts of interest that arise when they retain financial interests in organizations and other entities that appear regularly in their courts, by divesting themselves of such interests.

[2] Financial interests, within the meaning of this Rule, include the interests of others whom the judge serves as a fiduciary under Rule 4.05.

RULE 4.11 4.09: FOR-PROFIT ACTIVITIES

A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any for-profit entity, except that a judge may, subject to the requirements of this Code Rule 4.08, manage and participate in A. a for-profit entity that is either closely held by the judge or members of the judge’s family,* or B. a for-profit entity primarily engaged in investment of the financial resources of the judge or members of the judge’s family.59

COMMENT

[1] Although participation by a judge in a closely held family for-profit business might otherwise be generally permitted by this Rule 4.11, a judge may be prohibited from participation by other provisions of this Code. Examples of such situations include when the business entity regularly appears before the judge’s court or the participation requires significant time away from the considerations set out in Rule 4.08, such as whether it would interfere with the performance of judicial duties. Similarly, a judge must avoid participating in a closely held for-profit family business if the judge’s position would involve is likely to cause frequent disqualification, or creates the perception of misuse of the prestige of judicial office.60

RULE 4.12 4.10: SOLICITATION AND ACCEPTANCE, AND REPORTING OF GIFTS*

(A) A judge shall not solicit or accept and shall urge members of the judge’s family residing in the judge’s household not to solicit or accept gifts from anyone other than members of the judge’s family, except that, unless otherwise prohibited by law, a judge may accept:61

57 Canon 4D(3)
58 Canon 4D(3)(a)
59 Canon 4D(3)(b)
60 Canon 4D(3) Commentary
61 Canon 4D(5)
1. a gift incident to a public testimonial;\(^62\)

2. books, magazines, journals, audio-visual materials, and other resource materials supplied by publishers or organizations on a complimentary basis for official use;\(^63\)

3. an invitation to the judge and the judge’s spouse,* domestic partner,* or guest to attend without charge (a) a widely attended event; (b) a bar-related function or (c) any other activity devoted relating to the improvement of the law, the legal system, or the administration of justice, provided that the invitation could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;\(^64\)

4. a gift, award, or benefit incident to associated with the business, profession, or other separate activity of a spouse, domestic partner, or other family member of a judge residing in the judge’s household,* including gifts, awards and benefits for the use of both the spouse, domestic partner or other family member and that incidentally benefits the judge (as spouse, domestic partner or family member), provided that the gift, award, or benefit could not reasonably be perceived as intended to influence the judge in the performance of his or her judicial duties;\(^65\)

5. a gift from a relative or friend for a special occasion, such as a wedding, anniversary, or birthday, if the gift is commensurate with the occasion and the relationship;\(^66\)

6. a gift from a relative or personal friend whose appearance or interest in a case would in any event require disqualification under Rule 2.12; or\(^67\)

7. any other individual gift, from any other source, valued at $\{50\} or less, or series of gifts from the same source whose value in the aggregate does not exceed $\{150\}, if unless the donor is not: \(^68\)

(a) a lawyer, party, or third any other person who has come before the judge, or a person or entity whose

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\(^{62}\) Canon 4D(5)(a) (partial)
\(^{63}\) Canon 4D(5)(a) (partial)
\(^{64}\) Canon 4D(5)(a) (partial)
\(^{65}\) Canon 4D(5)(b)
\(^{66}\) Canon 4D(5)(d)
\(^{67}\) Canon 4D(5)(c)
\(^{68}\) Canon 4D(5)(h) (partial)
interests have come before the judge, within the
preceding three years; or\(^69\)

(b) a lawyer, party, or third any other person who is
likely to come before the judge, or a person or entity
whose interests are likely to come before the judge, in
the foreseeable future.

(B) A judge shall urge members of the judge’s family residing in
the judge’s household not to solicit or accept gifts that the judge
himself or herself is prohibited from soliciting or accepting.

B. (C) For any gift, other than a gift from a member of the judge’s
family, that alone or in the aggregate with other gifts received from
the same source in the same calendar year exceeds $[250.00] in value,
the judge must publicly report receipt of the gift in the same manner
as the judge reports compensation, reimbursement, or waiver of
charges pursuant to Rule 4.16 4.13.

COMMENT

[1] This Rule imposes restrictions on the solicitation and acceptance of
gifts. The Terminology Section defines states that a “gift” as denotes any
gratuity, favor, discount, entertainment, hospitality, loan, forbearance,
bequest, or anything of monetary value, but does not include:

(a) ordinary social hospitality that is common among people in
the judge’s community, extended for a non-business purpose by an
individual, not a corporation, and limited to the provision of
modest items, such as food and refreshments;\(^70\)
(b) items with little intrinsic value intended solely for
presentation, such as plaques, certificates, trophies, and greeting
cards;
(c) loans from banks and other financial institutions on the
same terms that are are available based on factors other than judicial
status to persons who are not judges;\(^71\)
(d) opportunities and benefits, including favorable rates and
commercial discounts, that are made available based on factors
other than judicial status to persons who are not judges;
(e) rewards and prizes given to competitors in random
drawings, contests, or other events that are open to the public,
awarded based on factors other than judicial status;

\(^69\) Canon 4D(5)(h) (partial)
\(^70\) Canon 4D(5)(c)
\(^71\) Canon 4D(5)(f)
(f) scholarships and fellowships awarded on the same terms and based on the same criteria applied to non-judge applicants;\textsuperscript{72}

(g) reimbursement or waiver of charges for travel-related expenses governed by Rule 4.14 4.11; or

(h) compensation for extra-judicial activities that is governed by Rule 4.14 4.12.

[2] A judge may accept a public testimonial or a gift incident thereto only if the donor organization is not an organization whose members comprise or frequently represent the same side in litigation, and the testimonial and gift are otherwise in compliance with other provisions of this Code. See Rules 4.01 and 2.09.\textsuperscript{73}

[2] In determining whether a gift qualifies as ordinary social hospitality, relevant considerations include the following:

(a) the value of the gift;

(b) whether the benefits conferred are greater in value than those traditionally furnished at similar events sponsored by bar associations or similar groups;

(c) whether the benefits conferred are greater in value than those that the judge typically provides to his or her own guests;

(d) whether the benefits conferred are typically exchanged only between friends or relatives;

(e) whether there is a history or expectation of reciprocal social hospitality between the judge and the donor;

(f) whether the event is a traditional one for social hospitality; and

(g) whether the benefits received must be reported to any governmental entity.

[3] Because a gift to a member of the judge’s family residing in the judge’s household might be viewed as intended to influence the judge, a judge must inform those family members of the relevant ethical constraints upon the judge in this regard and discourage those family members from violating them. A judge cannot, however, reasonably be expected to know or control all of the financial or business activities of all family members residing in the judge’s household.\textsuperscript{74}

[4] A gift to a judge, or to a member of the judge’s family living in the judge’s household, that is excessive in value raises questions about the

\textsuperscript{72} Canon 4D(5)(g)
\textsuperscript{73} Canon 4D(5)(a) Commentary
\textsuperscript{74} Canon 4D(5) Commentary
judge’s impartiality and the integrity of the judicial office, and might require disqualification of the judge.75

[5] Rule 4.12 prohibits judges from accepting gifts from lawyers or their firms if they have come or are likely to come before the judge; it also prohibits gifts from clients of lawyers or their firms when the clients’ interests have come or are likely to come before the judge. Rule 4.12A(5) prohibits a judge from accepting gifts, even of a nominal value, from people or entities who are likely to appear before the judge. The rule requires a judge to consider whether a donor, or the donor’s interest, might come before the judge in the foreseeable future.76

[6] [5] This Rule 4.12 does not apply to contributions to a judge’s campaign for judicial office. Such contributions are governed by Canon 5 and other Rules of this Code, including Rule 5.06. Similarly, this Rule 4.12 likewise does not apply to the reimbursement or waiver of charges for travel-related expenses, which is; these are governed by Rule 4.13 4.11.77

[7] Acceptance of an invitation to a law-related function is governed by Rule 4.12(a)(1) and includes acceptance of an invitation paid for by an individual lawyer or group of lawyers. The judge’s acceptance of such an invitation is subject to the provisions of Rule 4.12A(7)(a) and (b).

[8] [6] Regardless of whether this Rule 4.12 would permit receipt of a particular gift by a judge or a member of the judge’s family residing in the judge’s household, other Rules may prohibit the gift. For example, Rule 4.01B(C) would apply if acceptance of the gift would cast reasonable doubt on the judge’s capacity ability to act with independence, integrity, and impartiality, and independence.

RULE 4.13 4.11: REIMBURSEMENT OR WAIVER OF CHARGES FOR TRAVEL-RELATED EXPENSES OF THE JUDGE OR THE JUDGE’S SPOUSE,* DOMESTIC PARTNER,* OR GUEST78

(A) A Unless otherwise prohibited by law,* a judge may accept reimbursement of, or a waiver of, charges from sources other than the judge’s employing entity for necessary travel, food, and lodging expenses associated with the judge’s participation in extra-judicial activities permitted by this Code, but only if such acceptance does not cast reasonable doubt on the judge’s capacity ability to act with

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75 Canon 4D(5)(d) Commentary
76 Canon 4D(5)(h) Commentary
77 Canon 4D(5) Commentary
78 Canon 4H
Independence,* integrity,* or impartiality,* integrity,* or independence.

(B) Expense reimbursement and waiver of charges shall be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge’s spouse, domestic partner, or guest. Any reimbursement or waiver of charges that alone or in the aggregate with other expenses reimbursed from the same source in the preceding [twelve months] exceeds $250 shall be reported and. The report shall be made accessible to the public in the same manner as required by Rule 4.15.  

COMMENT  

[1] Participation in judicial education in law-related and academic disciplines is in keeping with a judge’s duty to remain competent in the law and is Judges are encouraged under the provisions of Canon 4 to participate in educational programs in law-related and academic disciplines, in furtherance of their duty to remain competent in the law. Attendance at educational activities where the expenses are paid for by persons or entities other than the judge, or a government entity however, must nevertheless be evaluated by the judge to determine whether attendance is consistent with the requirements of this Code. For example, Rule 4.01B requires that a judge’s extra-judicial activities be conducted so that they do not cast reasonable doubt on the judge’s capacity to act with impartiality, integrity, and independence.  

[2] A judge’s decision whether to attend such accept the gift of expenses or a waiver of fees in attending an expense-paid educational activity should be based on an assessment of all of the circumstances, and the judge must undertake a reasonable inquiry to obtain the information necessary to make an informed judgment. The judge should, for example, consider whether the sponsor or the funding source of the educational activity is currently appearing or likely to appear before the judge in a matter, thus possibly requiring disqualification of the judge in the matter. See Rule 2.12.  

[3] A judge also should not attend educational activities sponsored by organizations with which the judge may not properly be associated, such as organizations referred to in Rule 3.03 that practice invidious discrimination; to do so would violate Rule 1.01 if the judge’s attendance manifests might be perceived as manifesting approval of the organization’s policies. See Rule 3.03 3.04, Comment [2].

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79 Canon 4H(1)  
80 Canon 4H(1)(b)
Other factors that may affect whether a judge should or should not consider when deciding whether to attend an educational activity on an expenses-paid basis include:

(a) whether the sponsor is an accredited educational institution or bar association rather than a for-profit entity or trade association;

(b) whether the source of the funding comes largely from numerous contributors rather than from a single entity and is earmarked for programs with specific content;

(c) whether the content is unrelated to the subject matter of litigation before the judge or is related to matters that are, or are likely to come before the judge;

(d) whether the activity is primarily educational rather than recreational, and whether expenses of attending the costs of the event are a reasonable amount and comparable to those associated with similar events sponsored by the judiciary, bar associations, or similar groups;

(e) whether information concerning the activity and its funding sources are available upon inquiry;

(f) whether the sponsor or the source of funding are generally associated with particular parties or interests likely to appear in the judge’s court;

(g) whether differing viewpoints are presented; and

(h) the number of participants, whether a broad range of judicial and non-judicial participants are invited, and whether the program is designed specifically for judges.

In addition, the judge should determine whether attendance may create a conflict of interest, may result in disqualification or recusal in matters coming before the judge, may give rise to a judge’s independence being questioned, or may interfere with the judge’s performance of his or her judicial duties.

Consistent with Rules 4.12B and 4.15 In addition to disclosure required by paragraph (B) and Rule 4.13, a judge must take reasonable steps to ensure that information concerning the judge’s participation in educational activities and other events, as well as reasonable information regarding the nature and circumstances of such events, are made available to the public. A judge should therefore promptly and publicly disclose participation in extra-judicial events at which the expenses are paid by persons or entities other than the judge or a government entity.
RULE 4.12: COMPENSATION FOR EXTRA-JUDICIAL ACTIVITIES

(A) A judge may accept compensation for extra-judicial activities permitted by this Code, unless such acceptance does not cast reasonable doubt on the judge’s capacity to act with independence,* integrity,* or impartiality*, integrity, or independence.

(B) Compensation shall not exceed a reasonable amount, nor shall it exceed what a person who is not a judge would receive for the same activity.81

COMMENT

[1] The Code does not prohibit a judge from accepting honoraria or speaking fees provided that the compensation is reasonable and commensurate with the task performed. A judge should ensure, however, that no conflicts are created by the arrangement. A judge must not exploit or appear to exploit the judicial position for personal advantage. Nor should a judge spend significant time away from court duties to meet speaking or writing commitments for compensation. The source of the payment of any such compensation must not raise any question of undue influence or the judge’s ability or willingness to be impartial. See Rule 4.01.82

RULE 4.13: REPORTING OF COMPENSATION, REIMBURSEMENT OF EXPENSES, AND WAIVER OF CHARGES

A judge shall report the date, place, and nature of any activity for which the judge received compensation, reimbursement of expenses, or waiver of charges, the name of the payor or waivor, and the amount of compensation, reimbursement of expenses, or waiver of charges so received. The judge’s report shall be made at least annually, except with respect to reimbursements and waivers, which shall be reported at least quarterly, and shall be filed as a public document in the office of the clerk of the court on which the judge serves or other office designated by law,* and when technically feasible, posted on the website of that court or office.83

COMMENT

[1] By reporting and publicly disclosing their compensation, reimbursement of expenses, or waiver of charges for extrajudicial activities, judges promote transparency and public confidence in the

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81 Canon 4H(1)(a)
82 Canon 4H Commentary
83 Canon 4H(2)
independence, integrity, and impartiality, and independence of the judiciary.
A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL REFER TO NOT
ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH
THE INDEPENDENCE, INTEGRITY, INDEPENDENCE, AND IMPARTIALITY OF THE
JUDICIARY.¹

RULE 5.01: RESTRICTIONS ON POLITICAL AND CAMPAIGN ACTIVITIES OF
JUDGES AND CANDIDATES FOR JUDICIAL OFFICE*²

(A) Except as permitted by Rule 5.02 (Permitted Political and Campaign
Activities of Candidates for Judicial Office in Partisan Public Elections*),
Rule 5.03 (Permitted Political and Campaign Activities of Candidates for
Judicial Office in Non-Partisan Public Elections), Rule 5.04 (Permitted
Political and Campaign Activities of Candidates for Judicial Office in
Retention Elections), and Rule 5.05 (Appointment to Permitted Activities of
Candidates for Appointive Judicial Office), a judge or a candidate for
judicial office shall not directly or indirectly:

(a) (1) shall not act as a leader in, or hold an office in, a political
organization;*³

(b) (2) shall not make speeches on behalf of a political organization;⁵

(e) (3) shall not publicly endorse or oppose a candidate for any public
office;⁶

(d) (4) shall not solicit funds for, pay an assessment to, or make a
contribution* to a political organization or a candidate for public
office;⁷

(e) (5) shall not attend or purchase tickets for dinners or other events
sponsored by a political organization or a candidate for public office,
unless the tickets are for the judge or candidate's personal use and the
cost of the tickets does not appear to exceed significantly the value of
the goods and services to be received by the judge or candidate at the
dinner or other event;⁸

¹ Canon 5
² Canon 5A
³ Canon 5A(1)
⁴ Canon 5A(1)(a)
⁵ Canon 5A(1)(c)
⁶ Canon 5A(1)(b)
⁷ Canon 5A(1)(e) (partial)
⁸ Canon 5A(1)(e) (partial)
(f) (6) shall not publicly identify oneself himself or herself as a candidate of a political organization;

(g) (7) shall not seek or use endorsements from a political organization;

(h) (8) shall not personally solicit or personally accept campaign contributions;⁹

(i) (9) shall not use or permit the use of campaign contributions for the private benefit of the candidate or others;¹⁰

(10) shall not use court staff, facilities, or other court resources in a campaign for judicial office;

(j) (11) shall not knowingly, or with reckless disregard for the truth, make any false or misleading statement regarding any candidate for judicial office;

(k) (12) shall not make any comment statement that might reasonably be expected to affect the outcome or impair the fairness of a proceeding while it is matter pending* or impending* in any court; and

(l) manifest bias or prejudice based upon a person’s race, gender, religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status; or

(m) (13) shall not,¹¹ 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 impartial⁶ performance of the adjudicative duties of the office.¹²

(B) A candidate for judicial office:¹³

(1) shall take reasonable measures to ensure that other persons do not do on behalf of the candidate what the candidate is prohibited from doing by this Code, whether or not the other person is under the direction and control of the candidate;¹⁴

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⁹ Canon 5C(2) (partial)
¹⁰ Canon 5C(2) (partial)
¹¹ Canon 5A(3)(d)
¹² Canon 5A(3)(d)(i)
¹³ Canon 5A(3)
¹⁴ Canon 5A(3)(b)
(2) shall maintain the dignity appropriate to judicial office, and act at all times in a manner consistent with the independence,* integrity,* and impartiality of the judiciary;¹⁵

(3) shall comply with all applicable election, election campaign, and election campaign fundraising laws* and regulations of [jurisdiction name]; and

(4) shall review and approve the content of all campaign statements made and materials produced by the candidate or his or her campaign committee prior to their dissemination.

(C) A judge or candidate for judicial office:

(1) may publicly state or announce his or her views on legal, political, or other issues; and

(2) may engage in political activity in support of measures that concern the law, the legal system, or the administration of justice.¹⁶

COMMENT

GENERAL CONSIDERATIONS

[1] The state has a compelling interest in maintaining the independence, 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 kept free, and must appear to be free, from undue political influence, taking into account the various methods of selecting judges and constitutional provisions governing free speech and expressive association and inappropriate political pressure. In order to advance the state’s compelling interest, Rule 5.01 imposes Paragraphs (A) and (B) impose certain narrowly tailored restrictions on the political and campaign activities of all sitting judges and all candidates for judicial office, taking into account both the various methods of selecting judges and constitutional provisions governing free speech and expressive association. 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. An unsuccessful candidate who was a lawyer may be subject to discipline instead under the [name of jurisdiction] Rule [ ] of the [ ] Rules of Professional Conduct, Rule [8.2B].

¹⁵ Canon 5A(3)(a)
¹⁶ Canon 5D
When a non-judge becomes a candidate for judicial office Rule 5.01 is immediately becomes applicable to his or her conduct.  

[3] Many of the restrictions imposed by Rule 5.01 paragraphs (A) and (B) apply only with respect to political organizations, as defined in the Terminology Section. 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, or in the court that a candidate is seeking to join, other Rules may be applicable. See, for example, Rule 2.11 (Judicial Statements on Pending and Future Cases), Rule 2.12 (Disqualification), and Rule 4.04 (Participation in Civic or Charitable Activities).

**PARTICIPATION IN POLITICAL, FUNDRAISING, AND CAMPAIGN ACTIVITIES OF POLITICAL ORGANIZATIONS AND CANDIDATES**

[4] 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. Accordingly, although sitting judges as well as all and candidates for judicial office may register to vote as members of a political party, they are prohibited by Rule 5.01A paragraph (A)(1) from assuming a leadership role in a political organization. A judge or a candidate may register to vote as a member of a political party.

[5] Rules 5.01B and 5.01C Paragraphs (A)(2) and (A)(3) prohibit judges and candidates for judicial office from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office, in order to prevent them from misusing the prestige of judicial office to advance the interests of others; see Rule 3.01. These provisions do not prohibit candidates from campaigning on their own behalf, however, or from endorsing or opposing candidates for a position on the same court for which they are running. See Rules 5.02D and E (E) and (F), Rules 5.03B and D (C) and (D), and Rules 5.04B and D (C) and (D).

[6] Members of the families of judges or candidates for judicial office are free to engage in political activity of their own, including running for public office. The prohibition in paragraph (A)(3) 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 endorses the family member's candidacy or other political activity.

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17 Canon 5E  
18 Canon 5A(3) Commentary
Rule 5.01C Paragraph (A)(3) does not prohibit judges or candidates for judicial office from privately expressing their views on candidates for any public office.  

Sitting judges and candidates for judicial office retain the right to participate in the political process as voters in both primary and general elections. Participation For purposes of this Code, participation in a caucus-type election procedure does not constitute public support for or endorsement of a political organization or candidate, and therefore is not prohibited by Rules 5.01B or 5.01C paragraphs (A)(2) or (A)(3).  

Political organizations and candidates running for public office often use ticketed events as a method of fundraising. Judges in general, judges and candidates for judicial office may generally neither attend dinners and other public events sponsored by political organizations nor candidates running for public office, but are prohibited by Rule 5.01E from purchasing or purchase tickets to such events to the extent that the purchase includes; see paragraph (A)(5). Candidates for judicial office who are running in partisan public elections, however, may attend and may purchase tickets for their personal use or that of a spouse, domestic partner, or other guest, so long as the cost of the tickets does not include a significant fundraising aspect; see Rule 5.02(C).  

Soliciting or Accepting Campaign Contributions and Other Public Support  

Candidates for judicial office are prohibited from identifying themselves as candidates of a particular political organization and from seeking or using political organization endorsements, except when running in a partisan public election; see Rules 5.02A and 5.02B.  

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

Candidates for judicial office are permitted to solicit public support and to seek or use endorsements from individuals or organizations other than political organizations. See Rule 5.01G.  

STATEMENTS AND COMMENTS MADE DURING A CAMPAIGN FOR JUDICIAL OFFICE  

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19 Canon 5A(1) Commentary  
20 Canon 5A(1) Commentary
In order to enhance public confidence in the integrity of the judiciary, candidates for judicial office must be scrupulously fair and accurate in all statements made by the candidate and his or her campaign committee. A candidate, or a campaign committee on behalf of a candidate, must not make statements that are false or misleading, or that omit a fact necessary to make the communication considered as a whole not materially misleading.

Candidates for judicial office are sometimes the subject of false, misleading, or unfair or unjust allegations made by an opposing candidate, a third party, 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. To mitigate the effects of these attacks, and to avoid escalation of the situation, a candidate for judicial office is permitted to make a measured and dignified public response, but only if the response itself does not violate Rule 5.01J.

Although candidates for judicial office are permitted to respond directly to false, misleading, or unfair or unjust allegations made against them during a campaign, it is often preferable for someone else, such as a bar association or a bar association committee, to utilize established mechanisms to make the response if the allegations relate to a pending case.

All candidates for judicial office, including candidates who are currently sitting judges, are prohibited from making comments that might affect the outcome or impair the fairness of pending or impending proceedings. This prohibition does not extend, however, to situations in which comments are appropriately designed to affect the outcome of a proceeding, such as argument to the court or summation to the jury by a lawyer representing a client, or instructions or rulings from the bench by a judge.

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

Some speech restrictions are indispensable to maintaining the integrity, impartiality, and independence of the judiciary. The state has a compelling interest in enforcing these restrictions assuring the impartiality of its judges. Thus, under this Rule it remains improper for a judicial candidate to make pledges, promises, or commitments regarding pending or impending cases, to rule so as to reach a predetermined result in a specific case or class of cases. Similarly, it would be unacceptable for a judge to make a pledge, promise, or commitment to treat 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 office more or less favorably than the facts or law applicable to their cases require. See Rule 2.11(B).

[15] The judicial role is different from the role of legislators and executive branch officials, even where the judges are subject to public election. Accordingly, campaigns for judicial office must be conducted differently from campaigns for other offices. Citizens have a due process right to judges who will make decisions based on the evidence, the law, and the arguments of the parties, regardless of the personal views of the judge. Thus, because it would be no less destructive of the judicial system for a candidate to gain judicial office on the basis of improper pledges, promises, or commitments than it would be for a sitting judge to engage in the same impropriety, paragraph (A)(13) extends the prohibition of Rule 2.11(C) to all candidates for judicial office.

[16] The necessary restrictions on the political and campaign activities of candidates for judicial office set forth in paragraphs (A) and (B), including restrictions on campaign speech, do not preclude candidates from conducting meaningful campaigns that provide voters with sufficient information to permit them to distinguish between candidates and to make informed electoral choices. Indeed, because paragraph (A)(13) restricts candidates for judicial office only with respect to pledges, promises, and commitments regarding the adjudicative duties of the office, it would not be inappropriate for a candidate to make specific campaign promises with respect to judicial organization, administration, and court management, such as disposing of a backlog of cases, starting court sessions on time, or avoiding favoritism in appointments and hiring. Candidates may also pledge to take action outside the courtroom, such as working toward an improved jury selection system, or lobbying for more funds to improve the physical plant and amenities of the courthouse.

[14] [17] A judge’s obligation to avoid prejudgment is well established. Under the First Amendment and in light of the voters’ right to have information about an elective candidate’s views, judicial ethics rules may not prohibit judicial Although some restrictions on the campaign speech of candidates for judicial office are indispensable to advancing the state’s compelling interest in the independence, integrity, and impartiality of the judiciary, the prohibition against making improper pledges, promises, or commitments set out in paragraph (A)(13) does not extend to the announcement or statement by candidates from announcing of their personal views on disputed legal and, political, or other issues. Rule 5.01M, which applies the relevant prohibitions of Rule 2.11 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 [name of state jurisdiction] where the law differs from the candidate’s personal belief, however, candidates are encouraged to emphasize their duty. See paragraph (C)(1). Such statements should always make clear, however, a judicial officer’s obligation to apply and uphold the law regardless of their, without regard to his or her personal views.

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 their views on disputed or controversial legal or political issues. Rule 5.01M Paragraph (A)(13) 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 responses might constitute be viewed as pledges, promises, or commitments to perform the adjudicative duties of office other than in an impartial way. To avoid violating Rule 5.01M paragraph (A)(13), 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 and carrying out adjudicative duties faithfully and impartially.

Rule 5.01M does not prohibit a candidate for judicial office from making public statements concerning improvements to the legal system or to the administration of justice.

**INDIRECT PARTICIPATION IN POLITICAL AND CAMPAIGN ACTIVITY**

A candidate for judicial office should encourage, including a sitting judge, must take reasonable steps to ensure, to the extent practicable, that members of the candidate’s family to adhere to the same standards of political and campaign conduct in support of the candidate as apply to the candidate; should discourage. Candidates must also require court personnel and other employees and other court personnel under their direction and control to refrain from doing on the candidate’s behalf what the candidate is prohibited by this Code from doing under the Rules of this Canon; and should not authorize or knowingly permit any other person to do for the candidate what the candidate is prohibited from doing under the Rules of this Canon. However, members of a candidate’s duly-created campaign committee are permitted to engage in solicitation and other fund-raising activities that would not be permitted to the candidate himself or herself.

This Code applies only to judges and candidates for judicial office. Accordingly, nothing in this Code should be construed to limit the political or campaign activities of anyone else, so long as those activities are conducted

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21 Canon 5A(3)(d)
22 Canon 5A Commentary
separately, and without explicit or implied encouragement by the judge or
candidate for judicial office.

RULE 5.02: PERMITTED POLITICAL AND CAMPAIGN ACTIVITIES OF
CANDIDATES FOR JUDICIAL OFFICE* IN PARTISAN PUBLIC ELECTIONS*23

Notwithstanding any restrictions set forth in Rule 5.01, candidates for
judicial office in a partisan public election may:24

(A) publicly may identify themselves as candidates of a political
organization;25

(B) may seek or use endorsements from any individual or
organization, including a political organization;

(C) may attend or purchase tickets for dinners or other events
sponsored by a political organization or a candidate for public office,
so long as the tickets are for their personal use or a spouse,* domestic
partner,* or other guest, and the cost of the tickets does not appear to
exceed significantly the value of the goods and services to be
received;26

(e) (D) may establish a campaign committee pursuant to the
provisions of Rule 5.06;

(d) (E) may communicate with the public by speaking on their own
behalf,27 or through any media medium, including, but not limited to,
advertisements,28 websites, or other campaign literature; and29

(e) (F) may publicly endorse or publicly oppose other candidates for a
position on the same court for which they are running.30

COMMENT

[1] In partisan public elections for judicial office, candidates may be
nominated by, affiliated with, or otherwise publicly identified or associated with a
particular political organization, including a political party. Typically, this
association is maintained throughout the period of the public campaign, and

23 Canon 5C
24 Canon 5C(1)
25 Canon 5C(1)(a)(ii)
26 Canon 5C(1)(a)(i)
27 Canon 5C(1)(b)(i)
28 Canon 5C(1)(b)(ii)
29 Canon 5C(1)(b)(iii)
30 Canon 5C(1)(b)(iv)
includes use of political party or similar designations on campaign literature and
on the ballot.

[2] Rule 5.02 permits partisan public election candidates, including sitting
judges who have become candidates, to engage in some political and campaign
activities that would otherwise be prohibited by Rule 5.01. Nevertheless,
candidates must be mindful of the prohibition of Rule 5.01M relating to the, such
as seeking or using political party endorsements. At the same time, candidates
remain subject to many other provisions of Rule 5.01. For example, candidates in
partisan public elections are still prohibited from knowingly making false or
misleading statements during a campaign, or making of improper promises,
pledges, and or commitments with respect to their adjudicative duties, but may
still state or announce their personal views on public issues. Compare Rules
5.01(A)(11) and (13) with Rule 5.01(C)(1). 31

office are permitted to attend dinners and other events sponsored by political
organizations, and are also permitted to purchase tickets for their personal use and
that of a spouse, domestic partner, or other guest. In order to avoid assisting in the
organization’s fundraising effort, however, judges and candidates for judicial
office must not purchase more tickets than they will personally use, and must
ascertain that the price they pay for tickets does not include an amount that is
significantly higher than is needed to defray the costs of the event.

[3] 4 For purposes of Rule 5.02E, paragraph (F), candidates are considered to be
running for a position on the same court 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. In endorsing or opposing another candidate for a position on the
same court, a judge or candidate must abide by the same rules governing
campaign conduct and speech as apply to his or her own campaign.

RULE 5.03: PERMITTED POLITICAL AND CAMPAIGN ACTIVITIES OF
CANDIDATES FOR JUDICIAL OFFICE* IN NON-PARTISAN PUBLIC ELECTIONS*

Notwithstanding any restrictions set forth in Rule 5.01, candidates for
judicial office in a non-partisan public election may:

(A) may seek or use endorsements from any individual or
organization, other than a political organization;*

(B) may establish a campaign committee pursuant to the
provisions of Rule 5.06;

31 Canon 5C(1) Commentary
(C) may communicate with the public by speaking on their own behalf, or through any media medium, including, but not limited to, advertisements, websites, or other campaign literature; and

(D) may publicly endorse or publicly oppose other candidates for a position on the same court for which they are running.

COMMENT

[1] In non-partisan public elections for judicial office, candidates may not seek or accept nominations or endorsements by a particular political organization. Most of the restrictions on political and campaign activities set forth in Rule 5.01 Rules 5.01(A) and (B) continue to apply to candidates for judicial office running in non-partisan elections. Regarding the distinction between making improper promises, pledges, or commitments with respect to adjudicative duties, however, and properly announcing personal views on public issues, see Rule 5.02, Comment [2].

[2] Rule 5.03A would operate to prohibit Paragraph (A) prohibits a non-partisan candidate for judicial office from filling out a questionnaire if he or she knows, or has reason to know, that the purpose of the questionnaire is for a political organization to decide whom to endorse in a non-partisan judicial election.

[3] Although candidates in non-partisan public elections for judicial office are prohibited from running on a ticket or slate associated with a political organization, individual candidates may group themselves into slates or other alliances in order to conduct their campaigns more effectively. For purposes of Rule 5.03D paragraph (D), candidates who have grouped themselves together in this fashion are considered to be running for a position on the same court 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.

RULE 5.04: PERMITTED POLITICAL AND CAMPAIGN ACTIVITIES OF CANDIDATES FOR JUDICIAL OFFICE* IN RETENTION ELECTIONS

Notwithstanding any restrictions set forth in Rule 5.01, candidates for judicial office in a retention election may:

(A) may seek or use endorsements from any individual or organization, other than a political organization;*

(B) may establish a campaign committee pursuant to the provisions of Rule 5.06;
(C) **may** communicate with the public by speaking on their own behalf, or through any media medium, including, but not limited to, advertisements, websites, or other campaign literature; and

(D) **may** publicly endorse or oppose other candidates for a position on the same court for which they are running.

**COMMENT**

[1] Candidates for judicial office who are subject to retention election are sometimes publicly supported or opposed by individuals or organizations, including political organizations. Retention election candidates are not permitted to seek endorsements from political organizations, however, or to use such endorsements to further their campaigns. The Rules governing retention elections are therefore essentially the same as those governing non-partisan public elections. Compare Rule 5.03 and accompanying Comments.

[2] Candidates running in retention elections are by definition sitting as judges during the period of their candidacies. Moreover, opposition to a candidate for retention sometimes focuses on particular decisions that the candidate has made as a judge, or even on cases that are pending before the judge during the campaign period. In the course of their campaigns, therefore, retention election candidates **should** must be especially mindful of their obligations not to make comments that might affect the outcome or impair the fairness of a proceeding and not to make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. See Rules 5.01K and 5.01M 5.01(A)(12) and (13).

**RULE 5.05: PERMITTED ACTIVITIES OF CANDIDATES FOR APPOINTIVE JUDICIAL OFFICE**

Notwithstanding any restrictions set forth in Rule 5.01, candidates for appointment to judicial office **may**:

(A) **may** communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar agency; and

(B) **may** seek or use endorsements for the appointment from any individual or organization other than a political organization.
COMMENT

[1] 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 such funds—campaign contributions, (see Rule 5.01H 5.01(A)(8)), but they are also prohibited from establishing campaign committees for this purpose.

[2] When seeking support or endorsement from others, or when communicating directly with an appointing or confirming authority, candidates 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 5.01(A)(13); and Comments [15] and [16] [14] through [18].

RULE 5.06: CAMPAIGN COMMITTEES

(A) Candidates for judicial office* subject to public elections* may establish campaign committees to manage and conduct campaigns for the candidate, subject to the regulations contained in provisions of this Rule Code. The candidate is responsible for ensuring that the his or her campaign committee complies with these regulations provisions and with other applicable law.*37

(B) Campaign Candidates for judicial office subject to public elections shall direct their campaign committees to solicit and accept only such campaign contributions* as are reasonable campaign contributions,38 in any event not to exceed, in the aggregate,* $[ ] from any individual or $[ ] from any entity or organization. Such committees may also manage the campaign, including the expenditure of funds.39

(C) A Candidates for judicial office subject to public elections shall direct their campaign committees not to solicit or accept contributions for a candidate’s current campaign more than [one year] prior to a scheduled election, nor more than [90] 180 days after the last election in which the candidate participated.40

(D) In addition Candidates for judicial office subject to public elections shall direct their campaign committees to comply with all applicable statutory requirements for disclosure of campaign contributions, a campaign committee established by a candidate for judicial office shall and to file with [name of appropriate regulatory authority] a report stating the

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37 Canon 5C(2) (partial)
38 Canon 5C(2) (partial)
39 Canon 5C(3)
40 Canon 5C(2) (partial)
name, address, occupation, and employer of each person who has made campaign contributions to the committee in an aggregate value exceeding $. The report must be filed within [ ] days following an election, or within such other period as is required provided by law.\[41\]

(E) Candidates for judicial office subject to public election shall divest themselves of, and shall direct their campaign committees to divest themselves of, unused campaign funds no later than 180 days after any election in which the candidate participated, in a manner that is not inconsistent with applicable law.

COMMENT

[1] Candidates for judicial office are prohibited from personally raising soliciting or personally accepting campaign funds. See contributions; see Rule 5.01H 5.01(A)(8). Nonetheless, this Rule 5.06 recognizes accommodates the fact that in many jurisdictions candidates for judicial office must raise campaign funds to support their candidacies, and therefore permits candidates, other than candidates for appointive judicial office, to establish campaign committees to solicit and accept reasonable financial contributions.\[42\]

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

[3] At the start of a campaign, candidates must instruct their campaign committees to solicit or accept only such contributions as are reasonable in amount, appropriate under the circumstances, and in conformity with governing applicable law. Although lawyers and others who might appear before a successful candidate for judicial office are permitted to make campaign contributions, candidates should instruct their campaign committees to be especially cautious with respect to such contributions, lest they create grounds for disqualification. Compare See also Rule 2.12.\[43\]

RULE 5.07: ACTIVITIES OF JUDGES WHO BECOME CANDIDATES FOR NON-JUDICIAL OFFICE

(A) Upon becoming a candidate for a non-judicial elective office, a judge shall resign from judicial office, except that the judge may continue to hold judicial office while being a candidate for election to, or serving as a delegate

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41 Canon 5C(4)  
42 Canon 5C(2) Commentary  
43 Canon 5C(2) Commentary
in a state constitutional convention if the judge is otherwise unless permitted by law to so continue to hold judicial office.\footnote{Canon 5A(2)}

(B) Upon becoming a candidate for a non-judicial appointive office, a judge is not required to resign from judicial office and is permitted to engage in the activities permitted for candidates for appointive judicial office by Rule 5.05, provided that the judge complies with the other provisions of this Code.

COMMENT

[1] In most, if not all, campaigns for non-judicial elective public office, candidates make pledges, promises, or commitments as to positions they would take and ways they would act if elected to office. Although appropriate in non-judicial campaigns, this manner of campaigning is inconsistent with the role of a judge, who must remain fair and impartial to all who come before him or her. The combination of the potential for abuse misuse of the judicial office on one hand, and the political promises that the judge would be compelled to make in the course of campaigning for non-judicial elective office on the other, dictates that a judge who wishes to run for such an office must resign step down from the bench upon becoming a candidate. This “resign to run” rule ensures that a judge cannot use or appear to use the judicial office to promote his or her candidacy for non-judicial office, and prevents post-campaign retaliation in the event that the judge is defeated in the election.

[2] A judge who wishes to become a candidate for a non-judicial appointive, rather than as opposed to elective, office, where is not required to resign from judicial office in order to be considered for the appointment. Where no public election campaign will be conducted, need not resign from judicial office in order to be considered for appointment the dangers necessitating the “resign to run” rule are not present.