

AJS Comments on Final Draft Report

Submitted to the ABA Joint Commission to
Evaluate the Model Code of Judicial Conduct
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A JUDGE SHALL UPHOLD THE INDEPENDENCE AND INTEGRITY 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: 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* of the judiciary. A judge shall not at any time engage in conduct involving dishonesty, fraud, deceit, or misrepresentation or reflecting adversely on the judge's impartiality or fitness to serve as a judge.

COMMENT

[1] Adherence to the judgments and rulings of courts depends upon public confidence in the independence, integrity, and impartiality of judges, which in turn depends upon judges acting without fear or favoritism in a manner free from self-interest or bias.

[2] An independent judiciary is indispensable to justice in our society. A judge should comply with high standards of judicial conduct to promote the independence of the judiciary and to foster public confidence in the administration of justice.

[3] Judges should participate in activities that promote ethical conduct among judges and lawyers. Judges should also implement and enforce codes of conduct, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

[4] Because it is not practicable to list all prohibited acts, this proscription is necessarily cast in general terms that extend to all conduct by judges that undermines public confidence even if it is not specifically mentioned in the Code.

RULE 1.02: IMPROPRIETY* AND ITS APPEARANCE

A judge shall avoid impropriety and the appearance of impropriety.

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.

[2] The test for impropriety is whether the conduct compromises the ability of the judge to carry out judicial responsibilities with independence, integrity, impartiality, 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 be perceived by a reasonable person with knowledge of the circumstances to impair the judge's ability to carry out judicial responsibilities with independence, integrity, impartiality, and competence.

RULE 1.03: COMPLIANCE WITH THE LAW*

A judge shall respect and comply with the law.

COMMENT

[1] A judge has an obligation to respect and comply with all law, including the provisions of this Code.