

1 DISCIPLINE COMMITTEE DRAFT

2 American Bar Association

3 Model Code of Judicial Conduct

4 MAY 2004 DRAFT

5 CANON 1

6 ~~CONDUCT IN GENERAL: OBSERVING STANDARDS OF~~
7 ~~JUDICIAL CONDUCT: A JUDGE SHALL OBSERVE THE HIGH~~
8 ~~STANDARDS OF CONDUCT EMBODIED IN THESE CANONS~~
9 ~~AND THESE RULES SO THAT THE INTEGRITY,~~
10 ~~INDEPENDENCE AND IMPARTIALITY OF THE JUDICIARY,~~
11 ~~AND THE PUBLIC'S CONFIDENCE THEREIN, ARE PROMOTED~~
12 ~~AND PRESERVED.²~~

13
14 RULE 1.01 A Judge shall avoid impropriety and the
15 appearance of impropriety in all the judge's activities, and
16 shall SO AS TO uphold the integrity, independence and
17 impartiality of the judiciary.¹

18 **Commentary:**

19 [1] An independent judiciary is indispensable to justice in our society. High
20 standards of judicial conduct promote the integrity and impartiality of the
21 judiciary and foster public confidence in the administration of justice.
22 Avoiding impropriety and its appearance is an overarching the
23 fundamental principle of judicial conduct embodied in this Rule. itself.—The
24 prohibition against acting with impropriety or the appearance of
25 impropriety applies to both the professional and personal conduct of a
26 judge. Because it is not practicable to list all prohibited acts, the
27 proscription against avoiding impropriety and the appearance of
28 impropriety set forth in this Canon and this Rule is necessarily cast in
29 general terms that extend to conduct by judges that is harmful although
30 not specifically mentioned in this Code. Impropriety occurs when the a
31 judge's conduct compromises the ability of the judge to carry out judicial
32 responsibilities with integrity, impartiality and competence. Actual
33 improprieties under this standard include violations of law, court rules, or
34 other specific provisions of this Code. An appearance of impropriety
35 occurs when the conduct could create in reasonable minds a perception
36 that the judge's ability to carry out judicial responsibilities with integrity,
37 impartiality and competence is impaired. See also Commentary under
38 Rule 3.04.⁵

1 ~~[2] Ordinarily, when a judge is disciplined for engaging in conduct~~
2 ~~that creates an appearance of impropriety, it will be in conjunction~~
3 ~~with charges that the judge violated some other specific rule under~~
4 ~~this or another canon.~~

5 [23] ~~In addition to complying with the high standards of judicial~~
6 ~~conduct,~~ a A judge is encouraged to participate in activities that
7 promote ethical conduct generally among judges and lawyers,
8 including efforts to study, develop, maintain, implement and enforce
9 codes of conduct, encourage pro bono representation, and support
10 professionalism within the judiciary and the legal profession.

11 [34] Deference to the judgments and rulings of courts depends
12 upon public confidence in the integrity, independence, and
13 impartiality*of

14 ¹Canon 2

15 ²Canon 1.A & Canon 2A.

16 judges. A judiciary of integrity and impartiality is one in which
17 judges are known for their [probity, fairness, honesty, uprightness,
18 and soundness of character]. An independent judiciary is one free
19 of inappropriate outside influences. Public confidence in the
20 impartiality, integrity and independence of the judiciary is
21 maintained by judges acting in a manner free from fear, favoritism,
22 self-interest or bias. ~~Conversely,~~ ~~violation of this Code diminishes~~
23 ~~public confidence in the judiciary and thereby does injury~~ injures to
24 ~~the~~ our system of government under law.³

25 [45] The duty to act in a manner that promotes public confidence in
26 the integrity of the judiciary does not imply that judges have an
27 obligation to refrain from appropriate criticism that does not violate
28 these Canons and Rules or other applicable law. ~~To the contrary,~~
29 ~~Judges are in a unique position to identify and address problems~~
30 ~~affecting the courts and the justice system, and should be~~
31 ~~encouraged to bring those matters to light, as a means to promote~~
32 ~~the effective administration of justice.~~

33 [56] Public confidence in the judiciary is eroded by the irresponsible or
34 improper conduct of judges. A judge must expect to be the subject of
35 constant public scrutiny. A judge must therefore accept restrictions on the
36 judge's conduct that might be viewed as burdensome by the ordinary
37 citizen and should do so freely and willingly.⁴

38
39 [7]

40 **Rule 1.02 Complying with the Law. A judge shall respect and**
41 **comply with the law.***

42 **Commentary:**

1 [1] A judge's obligation to ~~respect and~~ comply with the law includes
2 compliance with the law, court rules and the provisions of this
3 Code.⁷

4 ³ Canon 1.A. Commentary

5 ⁴ Canon 2A Commentary

6 ⁵ Canon 2A Commentary

7 ⁶ Canon 2A

8 ⁷ Canon 2.A. Commentary

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