

1 **STANDING COMMITTEE ON PROFESSIONAL DISCIPLINE—CLEAN**
2 **DRAFT**

3
4 **Canon 5**

5
6 **JUDGES OR CANDIDATES FOR JUDICIAL OFFICE: REFRAINING FROM**
7 **POLITICAL ACTIVITY INCONSISTENT WITH THE IMPARTIALITY,**
8 **INTEGRITY AND INDEPENDENCE OF THE JUDICIARY.**
9

10
11 **Rule 5.01. Restrictions on Political Activity of Judges Who Are Not Current**
12 **Candidates.**
13

14 **JUDGES who are not current CANDIDATES for judicial office shall not, directly or**
15 **indirectly:**

- 16
17 (a) **act as a leader or hold an office in a POLITICAL ORGANIZATION;**
18
19 (b) **publicly speak in support of or against a POLITICAL ORGANIZATION OR**
20 **CANDIDATE;**
21
22 (c) **publicly endorse or oppose a CANDIDATE for public office;**
23
24 (d) **attend meetings or other events that are sponsored by or promote the**
25 **election or defeat of a CANDIDATE for public office;**
26
27 (e) **solicit funds for, pay an assessment to, make a contribution to, or**
28 **purchase tickets for dinners or other events that are sponsored by or**
29 **promote the election or defeat of a CANDIDATE for public office.**
30
31 (f) **KNOWINGLY make any FALSE statements or misrepresentations**
32 **regarding**
33 **any CANDIDATE for judicial or public office.**
34

35 **Comments:**

36
37 [Reserved.]
38
39

40 **Rule 5.02 Restrictions on Political Activity of Current Candidates for Judicial**
41 **Office.**
42

43 **Except as otherwise provided in Rules 5.03-5.06 of this Code, in the course of**
44 **advancing his or her own candidacy, a current CANDIDATE for judicial office,**
45 **including an incumbent JUDGE, shall not, directly or indirectly:**
46

- 1 (a) act as a leader or hold an office in a POLITICAL ORGANIZATION;
- 2
- 3 (b) KNOWINGLY make any FALSE statement or misrepresentation
- 4 regarding any CANDIDATE for judicial or public office;
- 5
- 6 (c) make any comment that might reasonably be expected to affect the
- 7 outcome or impair the fairness of a proceeding while it is pending or
- 8 impending in any court;
- 9
- 10 (d) with respect to cases, controversies, or issues that are currently or
- 11 likely to come before the court, make pledges, promises or
- 12 commitments that are inconsistent with the duties of impartiality,
- 13 independence and integrity in the performance of the adjudicative
- 14 duties of judicial office;
- 15
- 16 (e) manifest bias or prejudice, based upon a person's race, gender,
- 17 religion, national origin, ethnicity, disability, age, sexual orientation,
- 18 or socioeconomic status;
- 19
- 20 (f) publicly endorse or oppose a CANDIDATE for public office;
- 21
- 22 (g) solicit funds for, pay an assessment to, make a contribution to, or
- 23 purchase tickets for dinners or other events sponsored by, a
- 24 POLITICAL ORGANIZATION or a CANDIDATE for public office;
- 25
- 26 (h) solicit or accept campaign contributions;
- 27
- 28 (i) use or permit the use of campaign contributions for the private
- 29 benefit of the CANDIDATE or others.
- 30

31 **Comments:**

32
33 [Reserved.]
34
35

36 **Rule 5.03. Partisan Public Elections: Permitted Political Activity of Candidates for**
37 **Judicial Office.**
38

39 **Notwithstanding the restrictions set forth in Rule 5.02, a CANDIDATE for judicial**
40 **office in a partisan public election, including an incumbent judge, may:**

- 41
- 42 (a) establish a campaign committee pursuant to the provisions of Rule
- 43 5.06;
- 44
- 45 (b) speak to gatherings on his or her own behalf;
- 46

- 1 (c) attend meetings or other events sponsored by a POLITICAL
2 ORGANIZATION;
- 3
- 4 (d) publicly identify himself or herself as a member or candidate of a
5 POLITICAL ORGANIZATION;
- 6
- 7 (e) purchase tickets for events sponsored by a POLITICAL ORGANIZATION;
- 8
- 9 (f) appear in media advertisements and distribute campaign literature
10 supporting his or her own candidacy;
- 11
- 12 (g) publicly endorse or publicly oppose other CANDIDATES for the same
13 judicial office in a public election in which the CANDIDATE is running.
- 14

15 **Comments:**

16 [Reserved.]
17
18
19

20 **5.04. Non-Partisan Public Elections and Retention Elections: Prohibited and**
21 **Permitted Political Activity of Candidates for Judicial Office.**
22

- 23 (a) In addition to the restrictions set forth in Rule 5.02, a CANDIDATE for judicial
24 office in a non-partisan public election or a retention election shall not,
25 directly or indirectly:
 - 26
 - 27 (1) publicly speak in support of or against a POLITICAL ORGANIZATION;
 - 28
 - 29 (2) attend meetings or other events sponsored by a POLITICAL
30 ORGANIZATION or a CANDIDATE for public office.
 - 31
- 32 (b) Notwithstanding the restrictions set forth in Rules 5.02 and 5.04(a), a
33 CANDIDATE for judicial office in non-partisan public elections and retention
34 elections may:
 - 35
 - 36 (1) establish a campaign committee pursuant to the provisions of Rule
37 5.06;
 - 38
 - 39 (2) speak to gatherings on his or her own behalf;
 - 40
 - 41 (3) publicly endorse or publicly oppose other CANDIDATES for the same
42 judicial office in a public election in which the CANDIDATE is running;
 - 43
 - 44 (4) appear in media advertisements and distribute campaign literature
45 supporting his or her candidacy.
 - 46

1 **Comments:**

2
3 [Reserved.]
4
5

6 **Rule 5.05. Permitted Activity of Current Candidates for Appointive Judicial Office.**

7
8 **Notwithstanding the restrictions set forth in Rule 5.02, a CANDIDATE for**
9 **appointment to judicial office may:**

- 10
11 (a) **communicate with the appointing or confirming authority, including any**
12 **selection, screening, or nominating commission or similar agency;**
13
14 (b) **seek support or endorsement for the appointment from any individual or**
15 **organization.**
16

17 **Comments:**

18
19 [Reserved.]
20
21

22 **Rule 5.06. Campaign Committees.**

- 23
24 (a) **CANDIDATES for judicial office subject to public elections may**
25 **establish campaign committees to conduct campaigns for the**
26 **CANDIDATE, subject to this Rule and Code. The CANDIDATE is**
27 **responsible for ensuring that the committee complies with this Rule**
28 **and Code, and with other applicable LAWS.**
29
30 (b) **Campaign committees must obey all other rules and laws respecting**
31 **the solicitation and acceptance of campaign contributions from any**
32 **individual, entity or organization. In the absence of any such other**
33 **rules or laws, campaign committees may solicit and accept reasonable**
34 **campaign contributions, not to exceed, in the aggregate, [\$ ___] from**
35 **any individual, or [\$ ___] from any entity or organization. Such**
36 **committees may also manage such candidate's campaign, including**
37 **the expenditure of funds.**
38
39 (c) **A campaign committee shall not solicit or accept contributions for a**
40 **CANDIDATE'S current campaign more than [one year] prior to a**
41 **scheduled primary or general election, nor more than [90] days after**
42 **the last primary or general election in which the CANDIDATE**
43 **participated.**
44
45 (d) **In addition to complying with all applicable statutory requirements**
46 **for disclosure of campaign contributions, campaign committees**

1 established by or for a CANDIDATE for judicial office shall file with
2 [name of appropriate regulatory authority] a report stating the name,
3 address, occupation and employer of each person who has made
4 campaign contributions to the committee in an aggregate value
5 exceeding [\$ __]. The report must be filed within [____] days
6 following an election, or within such other period as is required by
7 LAW.
8

9 **Comments:**

10
11 [Reserved.]
12
13

14 **Rule 5.07. Activity of Judges Who Become Candidates for Non-Judicial Office.**
15

- 16 (a) Upon becoming a CANDIDATE for a non-judicial elective office, a
17 JUDGE shall resign from judicial office, except that the JUDGE may
18 continue to hold judicial office while being a candidate for election to,
19 or serving as a delegate in, a state constitutional convention, if the
20 JUDGE is otherwise permitted by LAW to do so.
21
- 22 (b) Upon becoming a CANDIDATE for a non-judicial appointive office, a
23 JUDGE is not required to resign from judicial office, and is permitted
24 to engage in the activity permitted by Rule 5.05.
25

26 **Comments:**

27
28 [Reserved.]