

**SUMMARY**

American Judicature Society

March 2005

AJS finds that the commentary, not then available for review, will be an essential element of the final Code and recommends that the commentary will include the comments from the current model that “a candidate should emphasize in any public statement the candidate’s duty to uphold the law regardless of his or her personal views” and a candidate may make “pledges or promises respecting improvements in court administration.” AJS is also concerned that the commentary will be expected to do too much because some basic rules are being left out of the black letter text.

Further, the current proposed organization only contains “shall not” and “may” provisions, which does not allow for any explication of the affirmative action required of judges and candidates. AJS makes specific suggestions toward the text of the canon. It finds that leaving principles to be explained in commentary or defined in terminology undermines their importance and risks candidates overlooking them.

AJS believes that it would be helpful if the Joint Commission drafted distinct versions of the Canon 5 for partisan states, non-partisan states, appointive/retention states, and appointive states.

**Canon 5**

AJS offers a number of specific language, phrasing and drafting changes to Rules 5.01-5.07 which can be seen in the full-text comment.