

Summary
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CANON 5

Rule 5.01(d).

Mr. Morrison expresses concern about this provision, finding it overbroad and lacking an explanation of why it is needed. He sees it as it is almost certainly unconstitutional as a violation of the First Amendment.

Rule 5.01(e).

Mr. Morrison observes that the provision forbidding a judge or candidate for judicial office from buying tickets to a political event if the price exceeds the likely cost of the goods or services received, permits conduct that is far worse than the conduct forbidden by Rule 5.01(d). He notes that attending a political dinner clearly and publicly identifies the judge (candidate) with the political organization, but writing a check is not a public act.

Rule 5.01(i).

Mr. Morrison finds the rule which prohibits use of contributions for private purposes, to be desirable.

Rules 5.01(k) & (l).

He supports these rules generally, but has concerns about their placement and thus applicability. As to placement, if they are generally applicable to judges, they should not be placed in a section on elections, where they may be overlooked. If they are already elsewhere, then they don't need to be here again: a cross-reference in the comments will suffice.

Mr. Morrison finds that the bias Rule may be overbroad even as applied to judges depending on what the word "manifest" means, but notes that once a person assumes a judicial office, there is more of a reason to confine his or her speech.

Comments to Rule 5.01.

Mr. Morrison adds specific recommendations to the language of the Comments to this rule and gives a rationale for the changes.

Rule 5.02(e).

Mr. Morrison observes that this Rule would allow a candidate for judicial office in a partisan election to endorse other candidates running for positions on the same court, but there is no explanation as to why that is desirable or even necessary. He recommends that this Rule should be deleted.

Rule 5.06.

He recommends that subsections (b), (c), and (d), which involve contributions limits and other rules, should all be deleted because they have no place in a code of judicial conduct approved by judges. He finds that they are proper subjects for legislative action since they involve significant balancing of interests, and they are directly related to other statutes dealing with non-judicial elections

Finally, Mr. Morrison observes that once those subsections are deleted, nothing of substance remains in Rule 5.06. In his view, the one matter relating to contributions that might be included here relates to recusals based on large, but lawful contributions, by a lawyer or party in a case before the judge. He suggests that if the issue is not dealt with elsewhere, it should be in Canon 5.