

**AMERICAN BAR ASSOCIATION**  
**A MODEL CODE OF JUDICIAL CONDUCT**  
**FOR STATE ADMINISTRATIVE LAW JUDGES**

**(August 2018)**

Most of the text herein is based on the 2007 American Bar Association Model Code of Judicial Conduct which was approved by the House of Delegates of the American Bar Association and represents the policy of the American Bar Association. Please bear in mind that modifications to address the functions of administrative law judges have not been approved by the House and, thus, are not yet the policy of the American Bar Association.

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## AMERICAN BAR ASSOCIATION

### MODEL CODE OF JUDICIAL CONDUCT FOR STATE ADMINISTRATIVE LAW JUDGES

#### PREAMBLE

The Model Code of Judicial Conduct for State Administrative Law Judges (hereinafter "Model Code") is intended to establish basic ethical standards for administrative law judges or any other hearing officials, whatever their title, in any state. The Code is intended to govern the conduct of these administrative law judges (hereinafter "ALJs") and to provide guidance to assist administrative law judges in establishing and maintaining high standards of judicial and personal conduct. This Code is based upon the Model Code of Judicial Conduct as adopted by the ABA in 2007.

The text of the rules under the canons is intended to be authoritative and enforceable. The commentary, by explanation and example, provides guidance with respect to the purpose and meaning of the rules. The commentary is not intended as a statement of additional rules. When the text uses shall or shall not, it is intended to impose binding obligations, the violation of which can result in disciplinary action. When should or should not is used, the text is a statement of what is or is not appropriate conduct, but not as a binding rule under which a judge may be disciplined. When "may" is used, it denotes permissible discretion or, depending on the context, it refers to action that is not covered by specific proscriptions.

The terms administrative law judge or judge are intended to include all hearing officers, referees, trial examiners or any other person holding office to whom the authority to conduct an administrative adjudication has been delegated by the agency or by the governmental entity, or by statute and who exercises independent and impartial judgment in conducting hearings and in issuing initial or final decisions containing findings of fact and conclusions of law in accordance with the applicable statutes or agency rules and without *ex parte* communication or instruction as proscribed in Canon Rule 2.9. Such decisions should be binding on all parties to the action, including the agency, unless modified—or reversed by the agency as authorized by law. An administrative law judge should be removable for good cause.

The canons and rules thereunder are rules of reason. They should be applied consistently with constitutional requirements, statutes, administrative rules, and decisional law and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The code is designed to provide guidance to an ALJ and to provide a structure for regulating conduct. However, it is not intended, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text and should depend on such factors as the seriousness of the transgression,

whether there is a pattern of improper activity, and the effect of the improper activity on others or on the administrative law system. The Code is not designed or intended as a basis for civil liability or criminal prosecution. Furthermore, the purpose of the code would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding.

## **CANON I**

*AN ADMINISTRATIVE LAW JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE ADMINISTRATIVE LAW JUDICIARY AND AVOID THE APPEARANCE OF IMPROPRIETY.*

### **Rule 1.1: Compliance with the Law**

An ALJ shall comply with the law, including the Code of Conduct for Administrative Law Judges.

#### **Comment**

None.

### **Rule 1.2: Promoting Confidence in the Administrative Law Judiciary**

An ALJ shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the administrative law judiciary, and shall avoid impropriety and the appearance of impropriety.

#### **Comment**

*[1] An independent and honorable administrative law judiciary is indispensable to justice in our society. An ALJ should participate in establishing, maintaining, and enforcing high standards of conduct and shall personally observe those standards so that the integrity and independence of the administrative law judiciary is preserved. The provisions of this code shall be construed and applied to further that objective.*

*[2] Deference to the judgments and rulings in administrative proceedings depends upon public confidence in the integrity and independence of ALJs. The integrity and independence of ALJs depends in turn upon their acting without fear or favor. Although ALJs should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the administrative law judiciary is maintained by the adherence of each ALJ to this responsibility. Conversely, violation of this code diminishes public confidence in the administrative law judiciary and thereby does injury to our system of government.*

### **Rule 1.3: Avoiding Abuse of Prestige of Judicial Office**

An administrative law judge shall not abuse the prestige of office to advance the personal or economic interests of the judge or others, or allow others to do so.

#### **Comment**

*[1] It is improper for an ALJ to use or attempt to use their position to gain personal advantage or deferential treatment of any kind. For example, an ALJ must not use judicial letterhead to gain an advantage in conducting their personal business.*

*[2] A judge may provide a reference or recommendation for an individual based upon the ALJ's personal knowledge, using official letterhead if there is no likelihood that the use of the letterhead would reasonably be perceived as an attempt to exert pressure by reason of the judicial office.*

*[3] Special considerations arise when ALJs write or contribute to publications of for-profit entities, whether related or unrelated to the law. An ALJ should not permit anyone associated with the publication of such materials to exploit the ALJ's office in a manner that violates this Rule or other applicable law. The ALJ should retain sufficient control over the advertising to avoid such exploitation.*

## **CANON 2**

*AN ADMINISTRATIVE LAW JUDGE SHALL PERFORM THE DUTIES OF OFFICE  
IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.*

### **Rule 2.1: Giving Precedence to the Duties of Office**

The duties of office, as prescribed by law, shall take precedence over all of an ALJ's personal and extrajudicial activities.

#### **Comment**

*[1] To ensure that ALJ's are available to fulfill their judicial duties, ALJ's must conduct their personal and extrajudicial activities to minimize the risk of conflicts that would result in frequent disqualification. See Canon 3.*

*[2] Although it is not a duty of office unless prescribed by law, ALJs are encouraged to participate in activities that promote public understanding of and confidence in the administrative justice system.*

## **Rule 2.2: Impartiality and Fairness**

An ALJ shall uphold and apply the law and shall perform all duties of office fairly and impartially.

### **Comment**

*[1] To ensure impartiality and fairness to all parties, an ALJ must be objective and open-minded.*

*[2] Although each ALJ comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the ALJ approves or disapproves of the law in question.*

*[3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.*

*[4] It is not a violation of this Rule for an ALJ to make reasonable accommodations to ensure self-represented litigants are afforded the opportunity to have their matters fairly heard.*

## **Rule 2.3: Bias, Prejudice and Harassment**

(A) An ALJ shall perform the duties of office, including administrative duties, without bias or prejudice.

(B) An ALJ shall not, in the performance of official duties, by words or conduct manifest bias or prejudice, or engage in harassment based upon race, sex, gender identity, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit support staff, or others subject to the ALJ's direction and control to do so.

(C) An ALJ shall require lawyers in proceedings before the ALJ to refrain from manifesting bias or prejudice, or engaging in harassment, based on attributes or factors enumerated in (B) above, against parties, witnesses, lawyers, or others.

### **Comment**

*[1] An ALJ who manifests bias or prejudice impairs the fairness of proceedings and brings the administrative judiciary into disrepute.*

*[2] Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based on stereotypes; threatening; intimidating; or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal*

*characteristics. Even facial expressions and body language can convey to parties and lawyers, the media, and others an appearance of bias or prejudice. An ALJ must avoid conduct that may reasonably be perceived as prejudiced or biased.*

*[3] Harassment, as referred to in paragraphs (B) and (C) is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as the factors enumerated in (2) above.*

*[4] Sexual harassment includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome.*

#### **Rule 2.4: External Influences on Judicial Conduct**

(A) An ALJ shall not be swayed by public clamor or fear of criticism.

(B) An ALJ shall not permit family, social, political, financial, or other interests or relationships to influence the ALJ's judicial conduct or judgment.

(C) An ALJ shall not convey or permit others to convey the impression that any person or organization is in a position to influence the ALJ.

#### **Comment**

*An independent administrative law judiciary requires that judges decide cases according to the law and facts, without regard to whether particular laws or litigants are popular or unpopular. Confidence in the administrative law judiciary is eroded if decision making is perceived to be subject to inappropriate outside influences.*

#### **Rule 2.5 Competence, Diligence, and Cooperation**

(A) An ALJ shall perform judicial and administrative duties competently and diligently.

(B) An ALJ shall cooperate with other ALJs, legal professionals and other officials in the administration of official business.

#### **Comment**

*[1] Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform judicial responsibilities.*

*[2] An ALJ should seek the necessary docket time and resources to discharge all adjudicative and administrative responsibilities.*

*[3] Prompt disposition of the ALJ's business requires the ALJ to devote adequate time to judicial duties, to be punctual in attending hearings and expeditious in determining matters, and to take reasonable measures to ensure that staff, litigants, and their lawyers or lay representatives cooperate with the ALJ to that end.*

*[4] In disposing of matters promptly, an ALJ must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. An ALJ should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs. Attention to prompt resolution of the ALJ's docket, and issuing decisions without undue delay, is critical to the effectiveness and efficiency of administrative justice organizations. To quote William Penn, "To delay Justice is Injustice."*

### **Rule 2.6: Ensuring the Right to Be Heard**

(A) An ALJ shall accord to every person who has a legal interest in a proceeding, or that person's lawyer or lay representative, the right to be heard according to law.

(B) An ALJ may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

#### **Comment**

None.

### **Rule 2.7 Responsibility to Decide**

An ALJ shall hear and decide matters assigned to the ALJ, except where disqualification is required by Rule 2.11 or other law.

#### **Comment**

None.

### **Rule 2.8: Decorum and Demeanor**

(A) An ALJ shall require order and decorum in proceedings before the ALJ.

(B) An ALJ shall be patient, dignified, and courteous to litigants, witnesses, lawyers, staff and others with whom the ALJ deals in an official capacity, and shall require similar conduct of lawyers, staff, officials, and others subject to the ALJ's direction and control.

#### **Comment**

None.

## **Rule 2.9: Ex Parte Communications**

(A) An ALJ shall not initiate, permit, or consider ex parte communications, or consider other communications made to the ALJ outside the presence of the parties or their lawyers, concerning a pending or impending matter, including communications from an agency/litigant, except as follows:

(1) When circumstances require it, ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided:

(a) the ALJ reasonably believes that no party will gain a procedural, substantive or tactical advantage as a result of the ex parte communication; and,

(b) the ALJ makes provision to promptly notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond.

(2) An ALJ may obtain the written advice of a disinterested expert on the law applicable to a proceeding before the ALJ, if the ALJ gives advance notice to the parties of the person to be consulted and the subject matter of the advice to be solicited, and affords the parties a reasonable opportunity to object and respond to the notice and to the advice received.

(3) An ALJ may consult with staff and officials whose functions are to aid the ALJ in carrying out the ALJ's adjudicative responsibilities (this excludes agency personnel with regard to a pending or impending matter before the ALJ), or with other ALJs or Law Clerks under the direction and control of the ALJ, provided the ALJ makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility to personally decide the matter.

(4) An ALJ may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to settle some issues pending before the ALJ.

(5) An ALJ may initiate, permit, or consider any ex parte communications when expressly authorized by law to do so.

(B) If an ALJ inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the ALJ shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.



(C) An ALJ shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be subject to administrative notice. This prohibition includes independent internet research.

(D) An ALJ shall make reasonable efforts, including providing appropriate supervision, to ensure that this Rule is not violated by staff, law clerks, and others subject to the ALJ's direction and control.

### **Comment**

None.

### **Rule 2.10: Statements on Pending and Impending Cases**

(A) An ALJ shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any tribunal, or make any non-public statement that might substantially interfere with a fair hearing.

(B) An ALJ shall not, in connection with cases, controversies, or issues that are likely to come before the ALJ, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of office.

(C) An ALJ shall require staff and others subject to the ALJ's direction and control to refrain from making statements that the ALJ would be prohibited from making by paragraph (A) and (B).

(D) Notwithstanding the restrictions in paragraph (A), an ALJ may make public statements in the course of performing their official duties, may explain tribunal procedures, and may comment on any proceeding in which the ALJ is a litigant in a personal capacity.

(E) Subject to the requirements of paragraph (A), an ALJ may respond directly or through a third party to allegations in the media or elsewhere concerning the ALJ's conduct in a matter.

### **Comment**

None.

### **Rule 2.11: Disqualification**

(A) An ALJ shall disqualify himself or herself in any proceeding in which the ALJ's impartiality might reasonably be questioned, including but not limited to the following circumstances:

(1) The ALJ has a personal bias or prejudice concerning a party or party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

(2) The ALJ knows that the ALJ, the ALJ's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such person is:

(a) a party to the proceeding, or an officer, director, general partner, major shareholder, managing member, or trustee of a party;

(b) acting as a lawyer in the proceeding;

(c) a person who has more than a de minimis interest that could be substantially affected by the proceeding; or,

(d) likely to be a material witness in the proceeding.

(3) The ALJ knows that they, individually or as a fiduciary, or the ALJ's spouse, domestic partner, parent or child, or any other member of the ALJ's family residing in the ALJ's household, has an economic interest in the subject matter in controversy or in a party to the proceeding.

(4) The ALJ has made a public statement, other than in a tribunal proceeding, adjudicative decision, or adjudicative opinion, that commits or appears to commit the ALJ to reach a particular result or rule in a particular way in the proceeding or controversy.

(5) The ALJ:

(a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(b) served in government employment, and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed an opinion concerning the merits of the particular matter in controversy;

(c) was a material witness concerning the matter; or

(d) previously presided as an ALJ or judge over the matter in another tribunal or court.

(B) An ALJ shall keep informed about the ALJ's personal and fiduciary economic interests, and make reasonable effort to keep informed about the personal economic interests of the ALJ's spouse or domestic partner and minor children residing in the ALJ's household.

(C) An ALJ subject to disqualification under this Rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the ALJ's disqualification and may ask the parties and their lawyers to consider, outside the presence of the ALJ and staff, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the ALJ or staff, that the ALJ should not be disqualified, the ALJ may participate in the proceeding. The agreement should be incorporated into the record of the proceeding.

**Comment**

None.

**Rule 2.12: Supervisory Duties**

(A) An ALJ shall require staff and others subject to the ALJ's direction and control to act in a manner consistent with the ALJ's obligations under this Code.

(B) An ALJ with supervisory authority for the performance of other ALJs shall take reasonable measures to ensure that those ALJs properly discharge their adjudicative responsibilities, including the prompt disposition of matters before them.

**Comment**

*[1] A judge is responsible for their own conduct and for the conduct of others, such as staff, when those persons are acting at the judge's direction or control. A judge may not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate the Code if undertaken by the judge.*

*[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judge with supervisory authority must take the steps needed to ensure that judges under their supervision administer their workloads promptly.*

*[3] A supervisory ALJ should not interfere with the decisional independence of other ALJs. Reasonable docket control, case assignments, logistical matters and other administrative concerns are appropriate; provided, that these are done in an impartial manner and in no way operate to favor any particular outcome in any case.*

**Rule 2.13: Administrative Appointments**

[Reserved]

### **Rule 2.14: Disability and Impairment**

An ALJ having a reasonable belief that the performance of a lawyer or another ALJ is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall take appropriate action, which may include a confidential referral to a lawyer or judicial assistance program.

#### **Comment**

None.

### **Rule 2.15: Responding to Judicial and Lawyer Misconduct**

(A) An ALJ having knowledge that another ALJ has committed a violation of this Code that raises a substantial question regarding the ALJ's honesty, trustworthiness, or fitness as an ALJ in other respects shall inform the appropriate authority.

(B) An ALJ having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.

(C) An ALJ who receives information indicating a substantial likelihood that another ALJ has committed a violation of this Code shall take appropriate action.

(D) An ALJ who receives information indicating that a lawyer has committed a violation of the Rules of Professional Conduct shall take appropriate action.

#### **Comment**

None.

### **Rule 2.16: Cooperation with Disciplinary Authorities**

(A) An ALJ shall cooperate and be candid and honest with judicial and lawyer disciplinary and other official investigatory agencies, in a manner consistent with judicial confidentiality provisions provided by law.

(B) An ALJ shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of the ALJ or a lawyer.

#### **Comment**

*Cooperation with investigations and proceedings of judicial and lawyer disciplinary*

*agencies, as required in paragraph (A), instills confidence in ALJs' commitment to the integrity of the administrative law adjudication system and the protection of the public.*

### **CANON 3**

***AN ADMINISTRATIVE LAW JUDGE SHALL CONDUCT PERSONAL AND EXTRA-JUDICIAL ACTIVITIES IN A MANNER THAT WILL MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF THE ALJ'S OFFICE***

#### **Rule 3.1: Extrajudicial Activities in General**

An ALJ may engage in extrajudicial activities, except as prohibited by law or this Code; however, when engaging in extrajudicial activities, an ALJ shall not:

(A) Participate in activities that will interfere with the proper performance of the ALJ's judicial duties;

(B) Participate in activities that will lead to frequent disqualification of the ALJ;

(C) Participate in activities that would appear to a reasonable person to undermine the ALJ'S independence, integrity, or impartiality;

(D) Engage in conduct that would appear to a reasonable person to be coercive; or

(E) make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

#### **Comment**

*The actions, participation or engagements that are prohibited under this Rule include any such activity within the realm and use of social media.*

#### **Rule 3.2: Appearance before Governmental Agencies and Consultation with Government Officials**

An ALJ shall not appear voluntarily at a public hearing before, or otherwise consult with, a legislative body or official, except:

(A) In connection with matters concerning the law, the legal system, or the administration of justice;

(B) In connection with matters about which the ALJ acquired knowledge or expertise in

the course of the ALJ's official duties; or

(C) When the ALJ is acting in a self-represented capacity involving the ALJ's legal or economic interests, or when the ALJ is acting in a fiduciary capacity.

**Comment**

None.

**Rule 3.3: Testifying as a Character Witness**

An ALJ shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly summoned.

**Comment**

*An ALJ who, without being subpoenaed, testifies as a character witness abuses the prestige of the ALJ's office to advance the interests of another. See Rule 1.3. Except in unusual circumstances where the demands of justice require, an ALJ should discourage a party from requiring the ALJ to testify as a character witness.*

**Rule 3.4: Appointment to Governmental Positions**

An ALJ shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless such appointment does not conflict with the ALJ's official duties and there is no appearance of conflict, bias or prejudice concerning the ALJ's official position.

**Comment**

None.

**Rule 3.5: Use of Nonpublic Information**

An ALJ shall not intentionally disclose or use nonpublic information acquired in an official capacity for any purpose unrelated to the ALJ's adjudicative duties.

**Comment**

None.

### **Rule 3.6: Affiliation with Discriminatory Organizations**

(A) An ALJ shall not hold membership in any organization that practices discrimination on the basis of race, sex, gender identity, religion, national origin, ethnicity, or sexual orientation.

(B) An ALJ shall not use the benefits or facilities of an organization if the ALJ knows or should know that the organization practices invidious discrimination or one or more of the bases identified in paragraph (A). An ALJ's attendance at an event or facility of an organization that the ALJ is not permitted to join is not a violation of this Rule when the ALJ's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

#### **Comment**

None.

### **Rule 3.7: Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities**

(A) Subject to the requirements of Rule 3.1, an ALJ may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

- (1) assisting such an organization or entity in planning related to fund-raising, and participating in the management and investment of the organization's or entity's funds;
- (2) soliciting contributions for such an organization or entity, but only from members of the ALJ's family, or from ALJs over whom the ALJ does not exercise supervisory or appellate authority;
- (3) soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice;
- (4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting their title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the ALJ may participate only if the event concerns the law, the legal system, or the administration of justice.

- (5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization entity is concerned with the law, the legal system, or the administration of justice; and
- (6) serving as an officer, director, trustee, or non-legal advisor of such an organization or entity, unless it is likely that the organization or entity:
  - (a) will be engaged in proceedings that would ordinarily come before the ALJ; or
  - (b) will frequently be engaged in adversary proceedings in the tribunal of which the ALJ is a member, or in any tribunal subject to the appellate jurisdiction of the tribunal of which the ALJ is a member.

(B) An ALJ may encourage lawyers to provide pro bono public legal services.

**Comment**

None.

**Rule 3.8: Appointments to Fiduciary Positions**

An ALJ acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to an ALJ personally.

**Comment**

None.

**Rule 3.9: Service as Arbitrator or Mediator**

- (A) A full-time ALJ should not act as an arbitrator or a mediator or perform other judicial functions apart from the ALJ's official duties unless expressly authorized by law.
- (B) A part time ALJ shall not act as an arbitrator or a mediator or perform other judicial functions apart from their official duties as a part-time ALJ if their impartiality might reasonably be questioned because of such work.

**Comment**

None.



### **Rule 3.10: Practice of Law**

If the law of the jurisdiction permits, an ALJ may have a non-conflicting practice of law (e.g., drafting wills) so long as the duties of the ALJ's office take precedence.

#### **Comment**

*[1] In some jurisdictions, the compensation for ALJs is so low that well qualified individuals would not serve unless the ALJ could maintain a non-conflicting practice of law.*

*[2] Certain local governments hire ALJs on a contract basis with the expectation and understanding that the ALJ shall maintain a separate source of income such that the attorney performing ALJ duties is expected to earn income to support themselves through legal work outside their duties as an ALJ, as long as that work does not conflict or appear to conflict with their work as an ALJ.*

*[3] Rule 3.10 is optional and may be unacceptable in some jurisdictions.*

### **Rule 3.11 Financial, Business, or Remunerative Activities**

(A) An ALJ may hold and manage investments of the ALJ and members of the ALJ's family.

(B) An ALJ shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that an ALJ may manage or participate in:

- (1) a business closely held by the ALJ or members of the ALJ's family; or
- (2) a business entity primarily engaged in investment of the financial resources of the ALJ or members of the ALJ's family.

(C) An ALJ shall not engage in financial activities permitted under paragraphs (A) and (B) if they will:

- (1) interfere with the proper performance of judicial duties;
- (2) lead to frequent disqualification of the ALJ;
- (3) involve the ALJ in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the tribunal on which the ALJ serves; or
- (4) result in violation of other provisions of this Code.

### **Comment**

None.

### **Rule 3.12: Compensation for Extrajudicial Activities**

An ALJ may accept reasonable compensation for extrajudicial activities permitted by this Code or other law unless such acceptance would appear to a reasonable person to undermine the ALJ's independence, integrity, or impartiality.

### **Comment**

None.

### **Rule 3.13: Acceptance of Gifts, Loans, Bequests, Benefits, or Other Things of Value**

(A) An ALJ shall not accept any gifts, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the ALJ's independence, integrity, or impartiality.

(B) Unless otherwise prohibited by law or by paragraph (A), an ALJ may accept the following:

- (1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;
- (2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending or impending before the ALJ would in any event require disqualification of the ALJ under Rule 2.11;
- (3) ordinary social hospitality;
- (4) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not ALJs or judges;
- (5) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not ALJs or judges;
- (6) scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated persons who are not ALJs or judges, based upon the same terms and criteria;

(7) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use; or

(8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner, or other family member of an ALJ residing in the ALJ's household, but that incidentally benefit the ALJ.

(C) Unless otherwise prohibited by law or by paragraph (A), an ALJ may accept the following items:

(1) gifts incidental to a public testimonial;

(2) invitations to the ALJ and the ALJ's spouse, domestic partner, or guest to attend without charge;

(a) an event associated with a bar-related function or other activity relating to the law, the legal system, or the administration of justice; or

b) an event associated with the ALJ's educational, religious, charitable, fraternal or civic activities permitted by this Code, if the same invitation is offered to non-ALJs and non-judges who are engaged in similar ways in the activity as is the ALJ.

#### **Comment**

None

### **Rule 3.14: Reimbursement of Expenses and Waivers of Fees or Charges**

(A) Unless otherwise prohibited by Rules 3.1 and 3.13 (A) or other law, an ALJ may accept reimbursement, if necessary, and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the ALJ's employing entity, if the expenses or charges are associated with the ALJ's participation in extrajudicial activities permitted by this Code.

(B) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the ALJ and, when appropriate to the occasion, by the ALJ's spouse, domestic partner, or guest.

#### **Comment**

None

### **Rule 3.15: Reporting Requirements**

[Reserved]

## **CANON 4**

*AN ADMINISTRATIVE LAW JUDGE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE ADMINISTRATIVE LAW JUDICIARY*

### **Rule 4.1 Political and Campaign Activities of ALJs in General**

(A) Except as permitted by law or by Rules 4.2 and 4.4, an ALJ shall not:

- (1) act as a leader in, or hold office in, a political organization;
- (2) make speeches on behalf of a political organization;
- (4) publicly endorse or oppose a candidate for any partisan public office;
- (4) publicly identify himself or herself as a candidate of a political organization;
- (5) seek, accept, or use endorsements from a political organization;
- (6) knowingly, or with reckless disregard of the truth, make any false or misleading statement;
- (7) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any tribunal; or
- (8) in connection with cases, controversies, or issues that are likely to come before the tribunal, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of office.

(B) An ALJ shall take reasonable measures to ensure that other persons do not undertake, on behalf of the ALJ, any activities prohibited under paragraph (A).

### **Comment**

*[1] Certain portions of this Rule may be too stringent in local jurisdictions where an ALJ is hired through contract; therefore, some provisions may be considered optional.*

### **Rule 4.2: Political and Campaign Activities of ALJs in Public Elections**

[Reserved]

### **Rule 4.3: Candidates for Appointive ALJ Positions**

A candidate for appointment to an ALJ position may:

- (A) Communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar organization and
- (B) Seek endorsements for the appointment from any person or organization other than a partisan political organization.

#### **Comment**

None.

### **Rule 4.4: Campaign Committees**

[Reserved]

### **Rule 4.5: Activities of ALJs Who Become Candidates for Nonjudicial Office**

- (A) Upon becoming a candidate for a non-judicial elective office, an ALJ shall resign from the ALJ office, unless permitted by law to continue to hold the ALJ office.
- (B) Upon becoming a candidate for a non-judicial appointive office, an ALJ is not required to resign as an ALJ, provided that the ALJ complies with the other provisions of this Code.

#### **Comment**

None

### **EFFECTIVE DATE OF COMPLIANCE**

A person to whom this Code becomes applicable should arrange their affairs as soon as reasonably possible to comply with it.