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24

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**ABA MODEL CODE OF
JUDICIAL CONDUCT
FEBRUARY 2007**

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PREAMBLE

8 [1] An independent, fair and impartial judiciary is indispensable to our system of
9 justice. The United States legal system is based upon the principle that an independent,
10 impartial, and competent judiciary, composed of men and women of integrity, will
11 interpret and apply the law that governs our society. Thus, the judiciary plays a central
12 role in preserving the principles of justice and the rule of law. Inherent in all the Rules
13 contained in this Code are the precepts that judges, individually and collectively, must
14 respect and honor the judicial office as a public trust and strive to maintain and enhance
15 confidence in the legal system.

16
17 [2] Judges should maintain the dignity of judicial office at all times, and avoid both
18 impropriety and the appearance of impropriety in their professional and personal lives.
19 They should aspire at all times to conduct that ensures the greatest possible public
20 confidence in their independence, impartiality, integrity, and competence.

21
22 [3] The Model Code of Judicial Conduct establishes standards for the ethical conduct
23 of judges and judicial candidates. It is not intended as an exhaustive guide for the conduct
24 of judges and judicial candidates, who are governed in their judicial and personal conduct
25 by general ethical standards as well as by the Code. The Code is intended, however, to
26 provide guidance and assist judges in maintaining the highest standards of judicial and
27 personal conduct, and to provide a basis for regulating their conduct through disciplinary
28 agencies.

SCOPE

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2
3 [1] The Model Code of Judicial Conduct consists of four Canons, numbered Rules
4 under each Canon, and Comments that generally follow and explain each Rule. Scope
5 and Terminology sections provide additional guidance in interpreting and applying the
6 Code. An Application section establishes when the various Rules apply to a judge or
7 judicial candidate.

8
9 [2] The Canons state overarching principles of judicial ethics that all judges must
10 observe. Although a judge may be disciplined only for violating a Rule, the Canons
11 provide important guidance in interpreting the Rules. Where a Rule contains a permissive
12 term, such as “may” or “should,” the conduct being addressed is committed to the
13 personal and professional discretion of the judge or candidate in question, and no
14 disciplinary action should be taken for action or inaction within the bounds of such
15 discretion.

16
17 [3] The Comments that accompany the Rules serve two functions. First, they provide
18 guidance regarding the purpose, meaning, and proper application of the Rules. They
19 contain explanatory material and, in some instances, provide examples of permitted or
20 prohibited conduct. Comments neither add to nor subtract from the binding obligations
21 set forth in the Rules. Therefore, when a Comment contains the term “must,” it does not
22 mean that the Comment itself is binding or enforceable; it signifies that the Rule in
23 question, properly understood, is obligatory as to the conduct at issue.

24
25 [4] Second, the Comments identify aspirational goals for judges. To implement fully
26 the principles of this Code as articulated in the Canons, judges should strive to exceed the
27 standards of conduct established by the Rules, holding themselves to the highest ethical
28 standards and seeking to achieve those aspirational goals, thereby enhancing the dignity
29 of the judicial office.

30
31 [5] The Rules of the Model Code of Judicial Conduct are rules of reason that should
32 be applied consistent with constitutional requirements, statutes, other court rules, and
33 decisional law, and with due regard for all relevant circumstances. The Rules should not
34 be interpreted to impinge upon the essential independence of judges in making judicial
35 decisions.

36
37 [6] Although the black letter of the Rules is binding and enforceable, it is not
38 contemplated that every transgression will result in the imposition of discipline. Whether
39 discipline should be imposed should be determined through a reasonable and reasoned
40 application of the Rules, and should depend upon factors such as the seriousness of the
41 transgression, the facts and circumstances that existed at the time of the transgression, the
42 extent of any pattern of improper activity, whether there have been previous violations,
43 and the effect of the improper activity upon the judicial system or others.

44
45 [7] The Code is not designed or intended as a basis for civil or criminal liability.
46 Neither is it intended to be the basis for litigants to seek collateral remedies against each
47 other or to obtain tactical advantages in proceedings before a court.

1
2 **TERMINOLOGY**

3
4 **The first time any term listed below is used in a Rule in its defined sense, it is**
5 **followed by an asterisk (*).**

6
7 **“Aggregate,”** in relation to contributions for a candidate, means not only contributions in
8 cash or in kind made directly to a candidate’s campaign committee, but also all
9 contributions made indirectly with the understanding that they will be used to support the
10 election of a candidate or to oppose the election of the candidate’s opponent. See Rules
11 2.11 and 4.4.

12
13 **“Appropriate authority”** means the authority having responsibility for initiation of
14 disciplinary process in connection with the violation to be reported. See Rules 2.14 and
15 2.15.

16
17 **“Contribution”** means both financial and in-kind contributions, such as goods,
18 professional or volunteer services, advertising, and other types of assistance, which, if
19 obtained by the recipient otherwise, would require a financial expenditure. See Rules
20 2.11, 2.13, 3.7, 4.1, and 4.4.

21
22 **“De minimis,”** in the context of interests pertaining to disqualification of a judge, means
23 an insignificant interest that could not raise a reasonable question regarding the judge’s
24 impartiality. See Rule 2.11.

25
26 **“Domestic partner”** means a person with whom another person maintains a household
27 and an intimate relationship, other than a person to whom he or she is legally married.
28 See Rules 2.11, 2.13, 3.13, and 3.14.

29
30 **“Economic interest”** means ownership of more than a de minimis legal or equitable
31 interest. Except for situations in which the judge participates in the management of such a
32 legal or equitable interest, or the interest could be substantially affected by the outcome
33 of a proceeding before a judge, it does not include:

- 34
35 (1) an interest in the individual holdings within a mutual or common investment
36 fund;
37 (2) an interest in securities held by an educational, religious, charitable, fraternal,
38 or civic organization in which the judge or the judge’s spouse, domestic
39 partner, parent, or child serves as a director, an officer, an advisor, or other
40 participant;
41 (3) a deposit in a financial institution or deposits or proprietary interests the judge
42 may maintain as a member of a mutual savings association or credit union, or
43 similar proprietary interests; or
44 (4) an interest in the issuer of government securities held by the judge.

45
46 See Rules 1.3 and 2.11.

1 **“Fiduciary”** includes relationships such as executor, administrator, trustee, or guardian.
2 See Rules 2.11, 3.2, and 3.8.

3
4 **“Impartial,” “impartiality,”** and **“impartially”** mean absence of bias or prejudice in
5 favor of, or against, particular parties or classes of parties, as well as maintenance of an
6 open mind in considering issues that may come before a judge. See Canons 1, 2, and 4,
7 and Rules 1.2, 2.2, 2.10, 2.11, 2.13, 3.1, 3.12, 3.13, 4.1, and 4.2.

8
9 **“Impending matter”** is a matter that is imminent or expected to occur in the near future.
10 See Rules 2.9, 2.10, 3.13, and 4.1.

11
12 **“Impropriety”** includes conduct that violates the law, court rules, or provisions of this
13 Code, and conduct that undermines a judge’s independence, integrity, or impartiality. See
14 Canon 1 and Rule 1.2.

15
16 **“Independence”** means a judge’s freedom from influence or controls other than those
17 established by law. See Canons 1 and 4, and Rules 1.2, 3.1, 3.12, 3.13, and 4.2.

18
19 **“Integrity”** means probity, fairness, honesty, uprightness, and soundness of character.
20 See Canon 1 and Rule 1.2.

21
22 **“Judicial candidate”** means any person, including a sitting judge, who is seeking
23 selection for or retention in judicial office by election or appointment. A person becomes
24 a candidate for judicial office as soon as he or she makes a public announcement of
25 candidacy, declares or files as a candidate with the election or appointment authority,
26 authorizes or, where permitted, engages in solicitation or acceptance of contributions or
27 support, or is nominated for election or appointment to office. See Rules 2.11, 4.1, 4.2,
28 and 4.4.

29
30 **“Knowingly,” “knowledge,” “known,”** and **“knows”** mean actual knowledge of the
31 fact in question. A person’s knowledge may be inferred from circumstances. See Rules
32 2.11, 2.13, 2.15, 2.16, 3.6, and 4.1.

33
34 **“Law”** encompasses court rules as well as statutes, constitutional provisions, and
35 decisional law. See Rules 1.1, 2.1, 2.2, 2.6, 2.7, 2.9, 3.1, 3.4, 3.9, 3.12, 3.13, 3.14, 3.15,
36 4.1, 4.2, 4.4, and 4.5.

37
38 **“Member of the candidate’s family”** means a spouse, domestic partner, child,
39 grandchild, parent, grandparent, or other relative or person with whom the candidate
40 maintains a close familial relationship.

41
42 **“Member of the judge’s family”** means a spouse, domestic partner, child, grandchild,
43 parent, grandparent, or other relative or person with whom the judge maintains a close
44 familial relationship. See Rules 3.7, 3.8, 3.10, and 3.11.

45
46 **“Member of a judge’s family residing in the judge’s household”** means any relative of
47 a judge by blood or marriage, or a person treated by a judge as a member of the judge’s
48 family, who resides in the judge’s household. See Rules 2.11 and 3.13.

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“Nonpublic information” means information that is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute or court order or impounded or communicated in camera, and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports. See Rule 3.5.

“Pending matter” is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition. See Rules 2.9, 2.10, 3.13, and 4.1.

“Personally solicit” means a direct request made by a judge or a judicial candidate for financial support or in-kind services, whether made by letter, telephone, or any other means of communication. See Rules 3.7 and 4.1.

“Political organization” means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office. For purposes of this Code, the term does not include a judicial candidate’s campaign committee created as authorized by Rule 4.4. See Rules 4.1 and 4.2.

“Public election” includes primary and general elections, partisan elections, nonpartisan elections, and retention elections. See Rules 4.2 and 4.4.

“Third degree of relationship” includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece. See Rule 2.11.

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APPLICATION

The Application section establishes when the various Rules apply to a judge or judicial candidate.

I. APPLICABILITY OF THIS CODE

(A) The provisions of the Code apply to all full-time judges. Parts II through V of this section identify those provisions that apply to four distinct categories of part-time judges. The four categories of judicial service in other than a full-time capacity are necessarily defined in general terms because of the widely varying forms of judicial service. Canon 4 applies to judicial candidates.

(B) A judge, within the meaning of this Code, is anyone who is authorized to perform judicial functions, including an officer such as a justice of the peace, magistrate, court commissioner, special master, referee, or member of the administrative law judiciary.¹

COMMENT

[1] The Rules in this Code have been formulated to address the ethical obligations of any person who serves a judicial function, and are premised upon the supposition that a uniform system of ethical principles should apply to all those authorized to perform judicial functions.

[2] The determination of which category and, accordingly, which specific Rules apply to an individual judicial officer, depends upon the facts of the particular judicial service.

[3] In recent years many jurisdictions have created what are often called “problem solving” courts, in which judges are authorized by court rules to act in nontraditional ways. For example, judges presiding in drug courts and monitoring the progress of participants in those courts’ programs may be authorized and even encouraged to communicate directly with social workers, probation officers, and others outside the context of their usual judicial role as independent decision makers on issues of fact and law. When local rules specifically authorize conduct not otherwise permitted under these Rules, they take precedence over the provisions set forth in the Code. Nevertheless, judges serving on “problem solving” courts shall comply with this Code except to the extent local rules provide and permit otherwise.

¹Each jurisdiction should consider the characteristics of particular positions within the administrative law judiciary in adopting, adapting, applying, and enforcing the Code for the administrative law judiciary. *See, e.g.,* Model Code of Judicial Conduct for Federal Administrative Law Judges (1989) and Model Code of Judicial Conduct for State Administrative Law Judges (1995). Both Model Codes are endorsed by the ABA National Conference of Administrative Law Judiciary.

1
2 **II. RETIRED JUDGE SUBJECT TO RECALL**
3

4 **A retired judge subject to recall for service, who by law is not permitted to practice**
5 **law, is not required to comply:**
6

7 **(A) with Rule 3.9 (Service as Arbitrator or Mediator), except while**
8 **servicing as a judge; or**
9

10 **(B) at any time with Rule 3.8 (Appointments to Fiduciary Positions).**
11

12 **COMMENT**
13

14 [1] For the purposes of this section, as long as a retired judge is subject to being
15 recalled for service, the judge is considered to “perform judicial functions.”
16

17 **III. CONTINUING PART-TIME JUDGE**
18

19 **A judge who serves repeatedly on a part-time basis by election or under a**
20 **continuing appointment, including a retired judge subject to recall who is permitted**
21 **to practice law (“continuing part-time judge”),**
22

23 **(A) is not required to comply:**
24

25 **(1) with Rules 2.10(A) and 2.10(B) (Judicial Statements on**
26 **Pending and Impending Cases), except while serving as a judge; or**
27

28 **(2) at any time with Rules 3.4 (Appointments to Governmental**
29 **Positions), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as**
30 **Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial,**
31 **Business, or Remunerative Activities), 3.14 (Reimbursement of**
32 **Expenses and Waivers of Fees or Charges), 3.15 (Reporting**
33 **Requirements), 4.1 (Political and Campaign Activities of Judges and**
34 **Judicial Candidates in General), 4.2 (Political and Campaign**
35 **Activities of Judicial Candidates in Public Elections), 4.3 (Activities of**
36 **Candidates for Appointive Judicial Office), 4.4 (Campaign**
37 **Committees), and 4.5 (Activities of Judges Who Become Candidates**
38 **for Nonjudicial Office); and**
39

40 **(B) shall not practice law in the court on which the judge serves or in any**
41 **court subject to the appellate jurisdiction of the court on which the judge**
42 **serves, and shall not act as a lawyer in a proceeding in which the judge has**
43 **served as a judge or in any other proceeding related thereto.**
44
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46

1
2 **COMMENT**
3

4 [1] When a person who has been a continuing part-time judge is no longer a
5 continuing part-time judge, including a retired judge no longer subject to recall, that
6 person may act as a lawyer in a proceeding in which he or she has served as a judge or in
7 any other proceeding related thereto only with the informed consent of all parties, and
8 pursuant to any applicable Model Rules of Professional Conduct. An adopting
9 jurisdiction should substitute a reference to its applicable rule.
10

11 **IV. PERIODIC PART-TIME JUDGE**
12

13 **A periodic part-time judge who serves or expects to serve repeatedly on a part-time**
14 **basis, but under a separate appointment for each limited period of service or for**
15 **each matter,**

16 (A) is not required to comply:

17
18 (1) with Rule 2.10 (Judicial Statements on Pending and Impending
19 Cases), except while serving as a judge; or
20

21 (2) at any time with Rules 3.4 (Appointments to Governmental
22 Positions), 3.7 (Participation in Educational, Religious, Charitable,
23 Fraternal, or Civic Organizations and Activities), 3.8 (Appointments
24 to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10
25 (Practice of Law), 3.11 (Financial, Business, or Remunerative
26 Activities), 3.13 (Acceptance and Reporting of Gifts, Loans, Bequests,
27 Benefits, or Other Things of Value), 3.15 (Reporting Requirements),
28 4.1 (Political and Campaign Activities of Judges and Judicial
29 Candidates in General), and 4.5 (Activities of Judges Who Become
30 Candidates for Nonjudicial Office); and
31

32 (B) shall not practice law in the court on which the judge serves or in any
33 court subject to the appellate jurisdiction of the court on which the judge
34 serves, and shall not act as a lawyer in a proceeding in which the judge has
35 served as a judge or in any other proceeding related thereto.
36

37 **V. PRO TEMPORE PART-TIME JUDGE**
38

39 **A pro tempore part-time judge who serves or expects to serve once or only**
40 **sporadically on a part-time basis under a separate appointment for each period of**
41 **service or for each case heard is not required to comply:**
42

43 (A) except while serving as a judge, with Rules 1.2 (Promoting Confidence
44 in the Judiciary), 2.4 (External Influences on Judicial Conduct), 2.10
45 (Judicial Statements on Pending and Impending Cases), or 3.2 (Appearances

1 before Governmental Bodies and Consultation with Government Officials);
2 or

3
4 (B) at any time with Rules 3.4 (Appointments to Governmental Positions),
5 3.6 (Affiliation with Discriminatory Organizations), 3.7 (Participation in
6 Educational, Religious, Charitable, Fraternal, or Civic Organizations and
7 Activities), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as
8 Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or
9 Remunerative Activities), 3.13 (Acceptance and Reporting of Gifts, Loans,
10 Bequests, Benefits, or Other Things of Value), 3.15 (Reporting
11 Requirements), 4.1 (Political and Campaign Activities of Judges and Judicial
12 Candidates in General), and 4.5 (Activities of Judges Who Become
13 Candidates for Nonjudicial Office).

14 15 VI. TIME FOR COMPLIANCE

16
17 A person to whom this Code becomes applicable shall comply immediately with its
18 provisions, except that those judges to whom Rules 3.8 (Appointments to Fiduciary
19 Positions) and 3.11 (Financial, Business, or Remunerative Activities) apply shall
20 comply with those Rules as soon as reasonably possible, but in no event later than
21 one year after the Code becomes applicable to the judge.

22 23 COMMENT

24
25 [1] If serving as a fiduciary when selected as judge, a new judge may,
26 notwithstanding the prohibitions in Rule 3.8, continue to serve as fiduciary, but only for
27 that period of time necessary to avoid serious adverse consequences to the beneficiaries
28 of the fiduciary relationship and in no event longer than one year. Similarly, if engaged at
29 the time of judicial selection in a business activity, a new judge may, notwithstanding the
30 prohibitions in Rule 3.11, continue in that activity for a reasonable period but in no event
31 longer than one year.

1 **CANON 1**

2

3 **A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND**
4 **IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE**
5 **APPEARANCE OF IMPROPRIETY.**

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2 **RULE 1.1**

3 ***Compliance with the Law***

4

5 **A judge shall comply with the law,* including the Code of Judicial Conduct.**

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RULE 1.2
Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence,* integrity,* and impartiality* of the judiciary, and shall avoid impropriety and the appearance of impropriety.

COMMENT

[1] Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.

[2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the Code.

[3] Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the Rule is necessarily cast in general terms.

[4] Judges should participate in activities that promote ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

[5] Actual improprieties include violations of law, court rules or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge’s honesty, impartiality, temperament, or fitness to serve as a judge.

[6] A judge should initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judge must act in a manner consistent with this Code.

1 **RULE 1.3**

2 *Avoiding Abuse of the Prestige of Judicial Office*

3
4 **A judge shall not abuse the prestige of judicial office to advance the personal or**
5 **economic interests* of the judge or others, or allow others to do so.**

6
7 **COMMENT**

8
9 [1] It is improper for a judge to use or attempt to use his or her position to gain
10 personal advantage or deferential treatment of any kind. For example, it would be
11 improper for a judge to allude to his or her judicial status to gain favorable treatment in
12 encounters with traffic officials. Similarly, a judge must not use judicial letterhead to gain
13 an advantage in conducting his or her personal business.

14
15 [2] A judge may provide a reference or recommendation for an individual based upon
16 the judge's personal knowledge. The judge may use official letterhead if the judge
17 indicates that the reference is personal and if there is no likelihood that the use of the
18 letterhead would reasonably be perceived as an attempt to exert pressure by reason of the
19 judicial office.

20
21 [3] Judges may participate in the process of judicial selection by cooperating with
22 appointing authorities and screening committees, and by responding to inquiries from
23 such entities concerning the professional qualifications of a person being considered for
24 judicial office.

25
26 [4] Special considerations arise when judges write or contribute to publications of for-
27 profit entities, whether related or unrelated to the law. A judge should not permit anyone
28 associated with the publication of such materials to exploit the judge's office in a manner
29 that violates this Rule or other applicable law. In contracts for publication of a judge's
30 writing, the judge should retain sufficient control over the advertising to avoid such
31 exploitation.

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CANON 2

**A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY,
COMPETENTLY, AND DILIGENTLY.**

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RULE 2.1
Giving Precedence to the Duties of Judicial Office

The duties of judicial office, as prescribed by law,* shall take precedence over all of a judge’s personal and extrajudicial activities.

COMMENT

[1] To ensure that judges are available to fulfill their judicial duties, judges 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 judicial office unless prescribed by law, judges are encouraged to participate in activities that promote public understanding of and confidence in the justice system.

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RULE 2.2
Impartiality and Fairness

A judge shall uphold and apply the law,* and shall perform all duties of judicial office fairly and impartially.*

COMMENT

[1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge 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 a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.

1
2 **RULE 2.3**

3 ***Bias, Prejudice, and Harassment***
4

5 (A) A judge shall perform the duties of judicial office, including
6 administrative duties, without bias or prejudice.
7

8 (B) A judge shall not, in the performance of judicial duties, by words or
9 conduct manifest bias or prejudice, or engage in harassment, including but
10 not limited to bias, prejudice, or harassment based upon race, sex, gender,
11 religion, national origin, ethnicity, disability, age, sexual orientation, marital
12 status, socioeconomic status, or political affiliation, and shall not permit
13 court staff, court officials, or others subject to the judge's direction and
14 control to do so.
15

16 (C) A judge shall require lawyers in proceedings before the court to
17 refrain from manifesting bias or prejudice, or engaging in harassment, based
18 upon attributes including but not limited to race, sex, gender, religion,
19 national origin, ethnicity, disability, age, sexual orientation, marital status,
20 socioeconomic status, or political affiliation, against parties, witnesses,
21 lawyers, or others.
22

23 (D) The restrictions of paragraphs (B) and (C) do not preclude judges or
24 lawyers from making legitimate reference to the listed factors, or similar
25 factors, when they are relevant to an issue in a proceeding.
26

27 **COMMENT**
28

29 [1] A judge who manifests bias or prejudice in a proceeding impairs the fairness of
30 the proceeding and brings the judiciary into disrepute.
31

32 [2] Examples of manifestations of bias or prejudice include but are not limited to
33 epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based
34 upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections
35 between race, ethnicity, or nationality and crime; and irrelevant references to personal
36 characteristics. Even facial expressions and body language can convey to parties and
37 lawyers in the proceeding, jurors, the media, and others an appearance of bias or
38 prejudice. A judge must avoid conduct that may reasonably be perceived as prejudiced or
39 biased.
40

41 [3] Harassment, as referred to in paragraphs (B) and (C), is verbal or physical
42 conduct that denigrates or shows hostility or aversion toward a person on bases such as
43 race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation,
44 marital status, socioeconomic status, or political affiliation.
45

- 1 [4] Sexual harassment includes but is not limited to sexual advances, requests for
- 2 sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome.

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RULE 2.4

External Influences on Judicial Conduct

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

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge’s judicial conduct or judgment.

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

COMMENT

[1] An independent judiciary requires that judges decide cases according to the law and facts, without regard to whether particular laws or litigants are popular or unpopular with the public, the media, government officials, or the judge’s friends or family. Confidence in the judiciary is eroded if judicial decision making is perceived to be subject to inappropriate outside influences.

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RULE 2.5
Competence, Diligence, and Cooperation

- (A) A judge shall perform judicial and administrative duties, competently and diligently.**
- (B) A judge shall cooperate with other judges and court officials in the administration of court business.**

COMMENT

- [1] Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge’s responsibilities of judicial office.
- [2] A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.
- [3] Prompt disposition of the court’s business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to take reasonable measures to ensure that court officials, litigants, and their lawyers cooperate with the judge to that end.
- [4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

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RULE 2.6

Ensuring the Right to Be Heard

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law.*

(B) A judge 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

[1] The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.

[2] The judge plays an important role in overseeing the settlement of disputes, but should be careful that efforts to further settlement do not undermine any party’s right to be heard according to law. The judge should keep in mind the effect that the judge’s participation in settlement discussions may have, not only on the judge’s own views of the case, but also on the perceptions of the lawyers and the parties if the case remains with the judge after settlement efforts are unsuccessful. Among the factors that a judge should consider when deciding upon an appropriate settlement practice for a case are (1) whether the parties have requested or voluntarily consented to a certain level of participation by the judge in settlement discussions, (2) whether the parties and their counsel are relatively sophisticated in legal matters, (3) whether the case will be tried by the judge or a jury, (4) whether the parties participate with their counsel in settlement discussions, (5) whether any parties are unrepresented by counsel, and (6) whether the matter is civil or criminal.

[3] Judges must be mindful of the effect settlement discussions can have, not only on their objectivity and impartiality, but also on the appearance of their objectivity and impartiality. Despite a judge’s best efforts, there may be instances when information obtained during settlement discussions could influence a judge’s decision making during trial, and, in such instances, the judge should consider whether disqualification may be appropriate. See Rule 2.11(A)(1).

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RULE 2.7

Responsibility to Decide

A judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law.*

COMMENT

[1] Judges must be available to decide the matters that come before the court. Although there are times when disqualification is necessary to protect the rights of litigants and preserve public confidence in the independence, integrity, and impartiality of the judiciary, judges must be available to decide matters that come before the courts. Unwarranted disqualification may bring public disfavor to the court and to the judge personally. The dignity of the court, the judge’s respect for fulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge’s colleagues require that a judge not use disqualification to avoid cases that present difficult, controversial, or unpopular issues.

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RULE 2.8

Decorum, Demeanor, and Communication with Jurors

(A) A judge shall require order and decorum in proceedings before the court.

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

(C) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding.

COMMENT

[1] The duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 2.5 to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

[2] Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror’s ability to be fair and impartial in a subsequent case.

[3] A judge who is not otherwise prohibited by law from doing so may meet with jurors who choose to remain after trial but should be careful not to discuss the merits of the case.

1
2 **RULE 2.9**

3 *Ex Parte Communications*
4

5 (A) A judge shall not initiate, permit, or consider ex parte
6 communications, or consider other communications made to the judge
7 outside the presence of the parties or their lawyers, concerning a pending* or
8 impending matter,* except as follows:
9

10 (1) When circumstances require it, ex parte communication for
11 scheduling, administrative, or emergency purposes, which does not
12 address substantive matters, is permitted, provided:
13

14 (a) the judge reasonably believes that no party will gain a
15 procedural, substantive, or tactical advantage as a result of the
16 ex parte communication; and
17

18 (b) the judge makes provision promptly to notify all other
19 parties of the substance of the ex parte communication, and
20 gives the parties an opportunity to respond.
21

22 (2) A judge may obtain the written advice of a disinterested expert
23 on the law applicable to a proceeding before the judge, if the judge
24 gives advance notice to the parties of the person to be consulted and
25 the subject matter of the advice to be solicited, and affords the parties
26 a reasonable opportunity to object and respond to the notice and to
27 the advice received.
28

29 (3) A judge may consult with court staff and court officials whose
30 functions are to aid the judge in carrying out the judge's adjudicative
31 responsibilities, or with other judges, provided the judge makes
32 reasonable efforts to avoid receiving factual information that is not
33 part of the record, and does not abrogate the responsibility personally
34 to decide the matter.
35

36 (4) A judge may, with the consent of the parties, confer separately
37 with the parties and their lawyers in an effort to settle matters
38 pending before the judge.
39

40 (5) A judge may initiate, permit, or consider any ex parte
41 communication when expressly authorized by law* to do so.
42

43 (B) If a judge inadvertently receives an unauthorized ex parte
44 communication bearing upon the substance of a matter, the judge shall make
45 provision promptly to notify the parties of the substance of the
46 communication and provide the parties with an opportunity to respond.
47

1 **(C) A judge shall not investigate facts in a matter independently, and shall**
2 **consider only the evidence presented and any facts that may properly be**
3 **judicially noticed.**

4
5 **(D) A judge shall make reasonable efforts, including providing**
6 **appropriate supervision, to ensure that this Rule is not violated by court**
7 **staff, court officials, and others subject to the judge’s direction and control.**

8
9 **COMMENT**

10
11 [1] To the extent reasonably possible, all parties or their lawyers shall be included in
12 communications with a judge.

13
14 [2] Whenever the presence of a party or notice to a party is required by this Rule, it is
15 the party’s lawyer, or if the party is unrepresented, the party, who is to be present or to
16 whom notice is to be given.

17
18 [3] The proscription against communications concerning a proceeding includes
19 communications with lawyers, law teachers, and other persons who are not participants in
20 the proceeding, except to the limited extent permitted by this Rule.

21
22 [4] A judge may initiate, permit, or consider ex parte communications expressly
23 authorized by law, such as when serving on therapeutic or problem-solving courts, mental
24 health courts, or drug courts. In this capacity, judges may assume a more interactive role
25 with parties, treatment providers, probation officers, social workers, and others.

26
27 [5] A judge may consult with other judges on pending matters, but must avoid ex
28 parte discussions of a case with judges who have previously been disqualified from
29 hearing the matter, and with judges who have appellate jurisdiction over the matter.

30
31 [6] The prohibition against a judge investigating the facts in a matter extends to
32 information available in all mediums, including electronic.

33
34 [7] A judge may consult ethics advisory committees, outside counsel, or legal experts
35 concerning the judge’s compliance with this Code. Such consultations are not subject to
36 the restrictions of paragraph (A)(2).

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1
2 **RULE 2.10**

3 *Judicial Statements on Pending and Impending Cases*
4

5 (A) A judge shall not make any public statement that might reasonably be
6 expected to affect the outcome or impair the fairness of a matter pending* or
7 impending* in any court, or make any nonpublic statement that might
8 substantially interfere with a fair trial or hearing.
9

10 (B) A judge shall not, in connection with cases, controversies, or issues
11 that are likely to come before the court, make pledges, promises, or
12 commitments that are inconsistent with the impartial* performance of the
13 adjudicative duties of judicial office.
14

15 (C) A judge shall require court staff, court officials, and others subject to
16 the judge's direction and control to refrain from making statements that the
17 judge would be prohibited from making by paragraphs (A) and (B).
18

19 (D) Notwithstanding the restrictions in paragraph (A), a judge may make
20 public statements in the course of official duties, may explain court
21 procedures, and may comment on any proceeding in which the judge is a
22 litigant in a personal capacity.
23

24 (E) Subject to the requirements of paragraph (A), a judge may respond
25 directly or through a third party to allegations in the media or elsewhere
26 concerning the judge's conduct in a matter.
27

28 **COMMENT**
29

30 [1] This Rule's restrictions on judicial speech are essential to the maintenance of the
31 independence, integrity, and impartiality of the judiciary.
32

33 [2] This Rule does not prohibit a judge from commenting on proceedings in which
34 the judge is a litigant in a personal capacity. In cases in which the judge is a litigant in an
35 official capacity, such as a writ of mandamus, the judge must not comment publicly.
36

37 [3] Depending upon the circumstances, the judge should consider whether it may be
38 preferable for a third party, rather than the judge, to respond or issue statements in
39 connection with allegations concerning the judge's conduct in a matter.
40

1
2 **RULE 2.11**

3 ***Disqualification***
4

5 (A) A judge shall disqualify himself or herself in any proceeding in which
6 the judge's impartiality* might reasonably be questioned, including but not
7 limited to the following circumstances:
8

9 (1) The judge has a personal bias or prejudice concerning a party
10 or a party's lawyer, or personal knowledge* of facts that are in
11 dispute in the proceeding.
12

13 (2) The judge knows* that the judge, the judge's spouse or
14 domestic partner,* or a person within the third degree of
15 relationship* to either of them, or the spouse or domestic partner of
16 such a person is:

17 (a) a party to the proceeding, or an officer, director,
18 general partner, managing member, or trustee of a party;
19

20 (b) acting as a lawyer in the proceeding;
21

22 (c) a person who has more than a de minimis* interest that
23 could be substantially affected by the proceeding; or
24

25 (d) likely to be a material witness in the proceeding.
26

27 (3) The judge knows that he or she, individually or as a fiduciary,*
28 or the judge's spouse, domestic partner, parent, or child, or any other
29 member of the judge's family residing in the judge's household,* has
30 an economic interest* in the subject matter in controversy or in a
31 party to the proceeding.
32

33 (4) The judge knows or learns by means of a timely motion that a
34 party, a party's lawyer, or the law firm of a party's lawyer has within
35 the previous [insert number] year[s] made aggregate* contributions*
36 to the judge's campaign in an amount that is greater than [\$(insert
37 amount)] for an individual or \$(insert amount) for an entity] [is
38 reasonable and appropriate for an individual or an entity].
39

40 (5) The judge, while a judge or a judicial candidate,* has made a
41 public statement, other than in a court proceeding, judicial decision,
42 or opinion, that commits or appears to commit the judge to reach a
43 particular result or rule in a particular way in the proceeding or
44 controversy.
45

46 (6) The judge:
47

1
2 (a) served as a lawyer in the matter in controversy, or was
3 associated with a lawyer who participated substantially as a
4 lawyer in the matter during such association;

5
6 (b) served in governmental employment, and in such
7 capacity participated personally and substantially as a lawyer
8 or public official concerning the proceeding, or has publicly
9 expressed in such capacity an opinion concerning the merits of
10 the particular matter in controversy;

11
12 (c) was a material witness concerning the matter; or

13
14 (d) previously presided as a judge over the matter in
15 another court.

16
17 (B) A judge shall keep informed about the judge’s personal and fiduciary
18 economic interests, and make a reasonable effort to keep informed about the
19 personal economic interests of the judge’s spouse or domestic partner and
20 minor children residing in the judge’s household.

21
22 (C) A judge subject to disqualification under this Rule, other than for bias
23 or prejudice under paragraph (A)(1), may disclose on the record the basis of
24 the judge’s disqualification and may ask the parties and their lawyers to
25 consider, outside the presence of the judge and court personnel, whether to
26 waive disqualification. If, following the disclosure, the parties and lawyers
27 agree, without participation by the judge or court personnel, that the judge
28 should not be disqualified, the judge may participate in the proceeding. The
29 agreement shall be incorporated into the record of the proceeding.

30
31 **COMMENT**

32
33 [1] Under this Rule, a judge is disqualified whenever the judge’s impartiality might
34 reasonably be questioned, regardless of whether any of the specific provisions of
35 paragraphs (A)(1) through (6) apply. In many jurisdictions, the term “recusal” is used
36 interchangeably with the term “disqualification.”

37
38 [2] A judge’s obligation not to hear or decide matters in which disqualification is
39 required applies regardless of whether a motion to disqualify is filed.

40
41 [3] The rule of necessity may override the rule of disqualification. For example, a
42 judge might be required to participate in judicial review of a judicial salary statute, or
43 might be the only judge available in a matter requiring immediate judicial action, such as
44 a hearing on probable cause or a temporary restraining order. In matters that require
45 immediate action, the judge must disclose on the record the basis for possible
46 disqualification and make reasonable efforts to transfer the matter to another judge as
47 soon as practicable.

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[4] The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not itself disqualify the judge. If, however, the judge’s impartiality might reasonably be questioned under paragraph (A), or the relative is known by the judge to have an interest in the law firm that could be substantially affected by the proceeding under paragraph (A)(2)(c), the judge’s disqualification is required.

[5] A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.

[6] “Economic interest,” as set forth in the Terminology section, means ownership of more than a de minimis legal or equitable interest. Except for situations in which a judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

- (1) an interest in the individual holdings within a mutual or common investment fund;
- (2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge’s spouse, domestic partner, parent, or child serves as a director, officer, advisor, or other participant;
- (3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or
- (4) an interest in the issuer of government securities held by the judge.

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RULE 2.12

Supervisory Duties

(A) A judge shall require court staff, court officials, and others subject to the judge’s direction and control to act in a manner consistent with the judge’s obligations under this Code.

(B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.

COMMENT

[1] A judge is responsible for his or her 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 his or her supervision administer their workloads promptly.

1
2 **RULE 2.13**

3 *Administrative Appointments*

4
5 (A) In making administrative appointments, a judge:

6
7 (1) shall exercise the power of appointment impartially* and on
8 the basis of merit; and

9
10 (2) shall avoid nepotism, favoritism, and unnecessary
11 appointments.

12
13 (B) A judge shall not appoint a lawyer to a position if the judge either
14 knows* that the lawyer, or the lawyer's spouse or domestic partner,* has
15 contributed more than \$[insert amount] within the prior [insert number]
16 year[s] to the judge's election campaign, or learns of such a contribution* by
17 means of a timely motion by a party or other person properly interested in
18 the matter, unless:

19
20 (1) the position is substantially uncompensated;

21
22 (2) the lawyer has been selected in rotation from a list of qualified
23 and available lawyers compiled without regard to their having made
24 political contributions; or

25
26 (3) the judge or another presiding or administrative judge
27 affirmatively finds that no other lawyer is willing, competent, and able
28 to accept the position.

29
30 (C) A judge shall not approve compensation of appointees beyond the fair
31 value of services rendered.

32
33 **COMMENT**

34
35 [1] Appointees of a judge include assigned counsel, officials such as referees,
36 commissioners, special masters, receivers, and guardians, and personnel such as clerks,
37 secretaries, and bailiffs. Consent by the parties to an appointment or an award of
38 compensation does not relieve the judge of the obligation prescribed by paragraph (A).

39
40 [2] Unless otherwise defined by law, nepotism is the appointment or hiring of any
41 relative within the third degree of relationship of either the judge or the judge's spouse or
42 domestic partner, or the spouse or domestic partner of such relative.

43
44 [3] The rule against making administrative appointments of lawyers who have
45 contributed in excess of a specified dollar amount to a judge's election campaign includes

1 an exception for positions that are substantially uncompensated, such as those for which
2 the lawyer's compensation is limited to reimbursement for out-of-pocket expenses.
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RULE 2.14

Disability and Impairment

A judge having a reasonable belief that the performance of a lawyer or another judge 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

[1] “Appropriate action” means action intended and reasonably likely to help the judge or lawyer in question address the problem and prevent harm to the justice system. Depending upon the circumstances, appropriate action may include but is not limited to speaking directly to the impaired person, notifying an individual with supervisory responsibility over the impaired person, or making a referral to an assistance program.

[2] Taking or initiating corrective action by way of referral to an assistance program may satisfy a judge’s responsibility under this Rule. Assistance programs have many approaches for offering help to impaired judges and lawyers, such as intervention, counseling, or referral to appropriate health care professionals. Depending upon the gravity of the conduct that has come to the judge’s attention, however, the judge may be required to take other action, such as reporting the impaired judge or lawyer to the appropriate authority, agency, or body. See Rule 2.15.

1
2 **RULE 2.15**

3 ***Responding to Judicial and Lawyer Misconduct***

4
5 **(A) A judge having knowledge* that another judge has committed a**
6 **violation of this Code that raises a substantial question regarding the judge’s**
7 **honesty, trustworthiness, or fitness as a judge in other respects shall inform**
8 **the appropriate authority.***

9
10 **(B) A judge having knowledge that a lawyer has committed a violation of**
11 **the Rules of Professional Conduct that raises a substantial question**
12 **regarding the lawyer’s honesty, trustworthiness, or fitness as a lawyer in**
13 **other respects shall inform the appropriate authority.**

14
15 **(C) A judge who receives information indicating a substantial likelihood**
16 **that another judge has committed a violation of this Code shall take**
17 **appropriate action.**

18
19 **(D) A judge who receives information indicating a substantial likelihood**
20 **that a lawyer has committed a violation of the Rules of Professional Conduct**
21 **shall take appropriate action.**

22
23 **COMMENT**

24
25 [1] Taking action to address known misconduct is a judge’s obligation. Paragraphs
26 (A) and (B) impose an obligation on the judge to report to the appropriate disciplinary
27 authority the known misconduct of another judge or a lawyer that raises a substantial
28 question regarding the honesty, trustworthiness, or fitness of that judge or lawyer.
29 Ignoring or denying known misconduct among one’s judicial colleagues or members of
30 the legal profession undermines a judge’s responsibility to participate in efforts to ensure
31 public respect for the justice system. This Rule limits the reporting obligation to those
32 offenses that an independent judiciary must vigorously endeavor to prevent.

33
34 [2] A judge who does not have actual knowledge that another judge or a lawyer may
35 have committed misconduct, but receives information indicating a substantial likelihood
36 of such misconduct, is required to take appropriate action under paragraphs (C) and (D).
37 Appropriate action may include, but is not limited to, communicating directly with the
38 judge who may have violated this Code, communicating with a supervising judge, or
39 reporting the suspected violation to the appropriate authority or other agency or body.
40 Similarly, actions to be taken in response to information indicating that a lawyer has
41 committed a violation of the Rules of Professional Conduct may include but are not
42 limited to communicating directly with the lawyer who may have committed the
43 violation, or reporting the suspected violation to the appropriate authority or other agency
44 or body.

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RULE 2.16

Cooperation with Disciplinary Authorities

(A) A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.

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

COMMENT

[1] Cooperation with investigations and proceedings of judicial and lawyer discipline agencies, as required in paragraph (A), instills confidence in judges' commitment to the integrity of the judicial system and the protection of the public.

1

2 **CANON 3**

3

4 **A JUDGE SHALL CONDUCT THE JUDGE'S PERSONAL AND EXTRAJUDICIAL ACTIVITIES TO**
5 **MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF JUDICIAL OFFICE.**

1
2 **RULE 3.1**
3 *Extrajudicial Activities in General*
4

5 **A judge may engage in extrajudicial activities, except as prohibited by law* or this**
6 **Code. However, when engaging in extrajudicial activities, a judge shall not:**

7
8 (A) **participate in activities that will interfere with the proper**
9 **performance of the judge’s judicial duties;**

10
11 (B) **participate in activities that will lead to frequent disqualification of**
12 **the judge;**

13
14 (C) **participate in activities that would appear to a reasonable person to**
15 **undermine the judge’s independence,* integrity,* or impartiality;***

16
17 (D) **engage in conduct that would appear to a reasonable person to be**
18 **coercive; or**

19
20 (E) **make use of court premises, staff, stationery, equipment, or other**
21 **resources, except for incidental use for activities that concern the law, the**
22 **legal system, or the administration of justice, or unless such additional use is**
23 **permitted by law.**
24

25 **COMMENT**
26

27 [1] To the extent that time permits, and judicial independence and impartiality are not
28 compromised, judges are encouraged to engage in appropriate extrajudicial activities.
29 Judges are uniquely qualified to engage in extrajudicial activities that concern the law,
30 the legal system, and the administration of justice, such as by speaking, writing, teaching,
31 or participating in scholarly research projects. In addition, judges are permitted and
32 encouraged to engage in educational, religious, charitable, fraternal or civic extrajudicial
33 activities not conducted for profit, even when the activities do not involve the law. See
34 Rule 3.7.
35

36 [2] Participation in both law-related and other extrajudicial activities helps integrate
37 judges into their communities, and furthers public understanding of and respect for courts
38 and the judicial system.
39

40 [3] Discriminatory actions and expressions of bias or prejudice by a judge, even
41 outside the judge’s official or judicial actions, are likely to appear to a reasonable person
42 to call into question the judge’s integrity and impartiality. Examples include jokes or
43 other remarks that demean individuals based upon their race, sex, gender, religion,
44 national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status. For
45 the same reason, a judge’s extrajudicial activities must not be conducted in connection or
46 affiliation with an organization that practices invidious discrimination. See Rule 3.6.

1

2 [4] While engaged in permitted extrajudicial activities, judges must not coerce others
3 or take action that would reasonably be perceived as coercive. For example, depending
4 upon the circumstances, a judge's solicitation of contributions or memberships for an
5 organization, even as permitted by Rule 3.7(A), might create the risk that the person
6 solicited would feel obligated to respond favorably, or would do so to curry favor with
7 the judge.

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RULE 3.2
Appearances before Governmental Bodies and Consultation with Government Officials

A judge shall not appear voluntarily at a public hearing before, or otherwise consult with, an executive or 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 judge acquired knowledge or expertise in the course of the judge’s judicial duties; or**
- (C) when the judge is acting pro se in a matter involving the judge’s legal or economic interests, or when the judge is acting in a fiduciary* capacity.**

COMMENT

[1] Judges possess special expertise in matters of law, the legal system, and the administration of justice, and may properly share that expertise with governmental bodies and executive or legislative branch officials.

[2] In appearing before governmental bodies or consulting with government officials, judges must be mindful that they remain subject to other provisions of this Code, such as Rule 1.3, prohibiting judges from using the prestige of office to advance their own or others’ interests, Rule 2.10, governing public comment on pending and impending matters, and Rule 3.1(C), prohibiting judges from engaging in extrajudicial activities that would appear to a reasonable person to undermine the judge’s independence, integrity, or impartiality.

[3] In general, it would be an unnecessary and unfair burden to prohibit judges from appearing before governmental bodies or consulting with government officials on matters that are likely to affect them as private citizens, such as zoning proposals affecting their real property. In engaging in such activities, however, judges must not refer to their judicial positions, and must otherwise exercise caution to avoid using the prestige of judicial office.

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RULE 3.3

Testifying as a Character Witness

A judge 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.

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COMMENT

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[1] A judge who, without being subpoenaed, testifies as a character witness abuses the prestige of judicial office to advance the interests of another. See Rule 1.3. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.

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RULE 3.4

Appointments to Governmental Positions

A judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice.

COMMENT

[1] Rule 3.4 implicitly acknowledges the value of judges accepting appointments to entities that concern the law, the legal system, or the administration of justice. Even in such instances, however, a judge should assess the appropriateness of accepting an appointment, paying particular attention to the subject matter of the appointment and the availability and allocation of judicial resources, including the judge's time commitments, and giving due regard to the requirements of the independence and impartiality of the judiciary.

[2] A judge may represent his or her country, state, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. Such representation does not constitute acceptance of a government position.

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RULE 3.5
Use of Nonpublic Information

A judge shall not intentionally disclose or use nonpublic information* acquired in a judicial capacity for any purpose unrelated to the judge’s judicial duties.

COMMENT

[1] In the course of performing judicial duties, a judge may acquire information of commercial or other value that is unavailable to the public. The judge must not reveal or use such information for personal gain or for any purpose unrelated to his or her judicial duties.

[2] This rule is not intended, however, to affect a judge’s ability to act on information as necessary to protect the health or safety of the judge or a member of a judge’s family, court personnel, or other judicial officers if consistent with other provisions of this Code.

1
2 **RULE 3.6**

3 *Affiliation with Discriminatory Organizations*
4

5 (A) A judge shall not hold membership in any organization that practices
6 invidious discrimination on the basis of race, sex, gender, religion, national
7 origin, ethnicity, or sexual orientation.
8

9 (B) A judge shall not use the benefits or facilities of an organization if the
10 judge knows* or should know that the organization practices invidious
11 discrimination on one or more of the bases identified in paragraph (A). A
12 judge's attendance at an event in a facility of an organization that the judge
13 is not permitted to join is not a violation of this Rule when the judge's
14 attendance is an isolated event that could not reasonably be perceived as an
15 endorsement of the organization's practices.
16

17 **COMMENT**
18

19 [1] A judge's public manifestation of approval of invidious discrimination on any
20 basis gives rise to the appearance of impropriety and diminishes public confidence in the
21 integrity and impartiality of the judiciary. A judge's membership in an organization that
22 practices invidious discrimination creates the perception that the judge's impartiality is
23 impaired.
24

25 [2] An organization is generally said to discriminate invidiously if it arbitrarily
26 excludes from membership on the basis of race, sex, gender, religion, national origin,
27 ethnicity, or sexual orientation persons who would otherwise be eligible for admission.
28 Whether an organization practices invidious discrimination is a complex question to
29 which judges should be attentive. The answer cannot be determined from a mere
30 examination of an organization's current membership rolls, but rather, depends upon how
31 the organization selects members, as well as other relevant factors, such as whether the
32 organization is dedicated to the preservation of religious, ethnic, or cultural values of
33 legitimate common interest to its members, or whether it is an intimate, purely private
34 organization whose membership limitations could not constitutionally be prohibited.
35

36 [3] When a judge learns that an organization to which the judge belongs engages in
37 invidious discrimination, the judge must resign immediately from the organization.
38

39 [4] A judge's membership in a religious organization as a lawful exercise of the
40 freedom of religion is not a violation of this Rule.
41

42 [5] This Rule does not apply to national or state military service.

1
2 **RULE 3.7**

3 *Participation in Educational, Religious, Charitable, Fraternal, or Civic*
4 *Organizations and Activities*
5

6 (A) Subject to the requirements of Rule 3.1, a judge may participate in
7 activities sponsored by organizations or governmental entities concerned
8 with the law, the legal system, or the administration of justice, and those
9 sponsored by or on behalf of educational, religious, charitable, fraternal, or
10 civic organizations not conducted for profit, including but not limited to the
11 following activities:
12

13 (1) assisting such an organization or entity in planning related to
14 fund-raising, and participating in the management and investment of
15 the organization's or entity's funds;
16

17 (2) soliciting* contributions* for such an organization or entity,
18 but only from members of the judge's family,* or from judges over
19 whom the judge does not exercise supervisory or appellate authority;
20

21 (3) soliciting membership for such an organization or entity, even
22 though the membership dues or fees generated may be used to
23 support the objectives of the organization or entity, but only if the
24 organization or entity is concerned with the law, the legal system, or
25 the administration of justice;
26

27 (4) appearing or speaking at, receiving an award or other
28 recognition at, being featured on the program of, and permitting his
29 or her title to be used in connection with an event of such an
30 organization or entity, but if the event serves a fund-raising purpose,
31 the judge may participate only if the event concerns the law, the legal
32 system, or the administration of justice;
33

34 (5) making recommendations to such a public or private fund-
35 granting organization or entity in connection with its programs and
36 activities, but only if the organization or entity is concerned with the
37 law, the legal system, or the administration of justice; and
38

39 (6) serving as an officer, director, trustee, or nonlegal advisor of
40 such an organization or entity, unless it is likely that the organization
41 or entity:
42

43 (a) will be engaged in proceedings that would ordinarily
44 come before the judge; or
45

46 (b) will frequently be engaged in adversary proceedings in
47 the court of which the judge is a member, or in any court

1 **subject to the appellate jurisdiction of the court of which the**
2 **judge is a member.**

3
4 **(B) A judge may encourage lawyers to provide pro bono publico legal**
5 **services.**

6
7 **COMMENT**

8
9 [1] The activities permitted by paragraph (A) generally include those sponsored by or
10 undertaken on behalf of public or private not-for-profit educational institutions, and other
11 not-for-profit organizations, including law-related, charitable, and other organizations.
12

13 [2] Even for law-related organizations, a judge should consider whether the
14 membership and purposes of the organization, or the nature of the judge’s participation in
15 or association with the organization, would conflict with the judge’s obligation to refrain
16 from activities that reflect adversely upon a judge’s independence, integrity, and
17 impartiality.
18

19 [3] Mere attendance at an event, whether or not the event serves a fund-raising
20 purpose, does not constitute a violation of paragraph (A)(4). It is also generally
21 permissible for a judge to serve as an usher or a food server or preparer, or to perform
22 similar functions, at fund-raising events sponsored by educational, religious, charitable,
23 fraternal, or civic organizations. Such activities are not solicitation and do not present an
24 element of coercion or abuse the prestige of judicial office.
25

26 [4] Identification of a judge’s position in educational, religious, charitable, fraternal,
27 or civic organizations on letterhead used for fund-raising or membership solicitation does
28 not violate this Rule. The letterhead may list the judge’s title or judicial office if
29 comparable designations are used for other persons.
30

31 [5] In addition to appointing lawyers to serve as counsel for indigent parties in
32 individual cases, a judge may promote broader access to justice by encouraging lawyers
33 to participate in pro bono publico legal services, if in doing so the judge does not employ
34 coercion, or abuse the prestige of judicial office. Such encouragement may take many
35 forms, including providing lists of available programs, training lawyers to do pro bono
36 publico legal work, and participating in events recognizing lawyers who have done pro
37 bono publico work.

1
2 **RULE 3.8**

3 *Appointments to Fiduciary Positions*
4

5 (A) A judge shall not accept appointment to serve in a fiduciary* position,
6 such as executor, administrator, trustee, guardian, attorney in fact, or other
7 personal representative, except for the estate, trust, or person of a member of
8 the judge's family,* and then only if such service will not interfere with the
9 proper performance of judicial duties.

10
11 (B) A judge shall not serve in a fiduciary position if the judge as fiduciary
12 will likely be engaged in proceedings that would ordinarily come before the
13 judge, or if the estate, trust, or ward becomes involved in adversary
14 proceedings in the court on which the judge serves, or one under its appellate
15 jurisdiction.

16
17 (C) A judge acting in a fiduciary capacity shall be subject to the same
18 restrictions on engaging in financial activities that apply to a judge
19 personally.

20
21 (D) If a person who is serving in a fiduciary position becomes a judge, he
22 or she must comply with this Rule as soon as reasonably practicable, but in
23 no event later than [one year] after becoming a judge.
24

25 **COMMENT**
26

27 [1] A judge should recognize that other restrictions imposed by this Code may
28 conflict with a judge's obligations as a fiduciary; in such circumstances, a judge should
29 resign as fiduciary. For example, serving as a fiduciary might require frequent
30 disqualification of a judge under Rule 2.11 because a judge is deemed to have an
31 economic interest in shares of stock held by a trust if the amount of stock held is more
32 than de minimis.

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RULE 3.9
Service as Arbitrator or Mediator

A judge shall not act as an arbitrator or a mediator or perform other judicial functions apart from the judge’s official duties unless expressly authorized by law.*

COMMENT

[1] This Rule does not prohibit a judge from participating in arbitration, mediation, or settlement conferences performed as part of assigned judicial duties. Rendering dispute resolution services apart from those duties, whether or not for economic gain, is prohibited unless it is expressly authorized by law.

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RULE 3.10
Practice of Law

A judge shall not practice law. A judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge’s family,* but is prohibited from serving as the family member’s lawyer in any forum.

COMMENT

[1] A judge may act pro se in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. A judge must not use the prestige of office to advance the judge’s personal or family interests. See Rule 1.3.

1
2 **RULE 3.11**

3 ***Financial, Business, or Remunerative Activities***
4

5 (A) A judge may hold and manage investments of the judge and members
6 of the judge's family.*
7

8 (B) A judge shall not serve as an officer, director, manager, general
9 partner, advisor, or employee of any business entity except that a judge may
10 manage or participate in:

11
12 (1) a business closely held by the judge or members of the judge's
13 family; or

14
15 (2) a business entity primarily engaged in investment of the
16 financial resources of the judge or members of the judge's family.
17

18 (C) A judge shall not engage in financial activities permitted under
19 paragraphs (A) and (B) if they will:

20
21 (1) interfere with the proper performance of judicial duties;

22
23 (2) lead to frequent disqualification of the judge;

24
25 (3) involve the judge in frequent transactions or continuing
26 business relationships with lawyers or other persons likely to come
27 before the court on which the judge serves; or

28
29 (4) result in violation of other provisions of this Code.
30

31 **COMMENT**
32

33 [1] Judges are generally permitted to engage in financial activities, including
34 managing real estate and other investments for themselves or for members of their
35 families. Participation in these activities, like participation in other extrajudicial
36 activities, is subject to the requirements of this Code. For example, it would be improper
37 for a judge to spend so much time on business activities that it interferes with the
38 performance of judicial duties. See Rule 2.1. Similarly, it would be improper for a judge
39 to use his or her official title or appear in judicial robes in business advertising, or to
40 conduct his or her business or financial affairs in such a way that disqualification is
41 frequently required. See Rules 1.3 and 2.11.
42

43 [2] As soon as practicable without serious financial detriment, the judge must divest
44 himself or herself of investments and other financial interests that might require frequent
45 disqualification or otherwise violate this Rule.

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RULE 3.12
Compensation for Extrajudicial Activities

A judge 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 judge’s independence,* integrity,* or impartiality.*

COMMENT

[1] A judge is permitted to accept honoraria, stipends, fees, wages, salaries, royalties, or other compensation for speaking, teaching, writing, and other extrajudicial activities, provided the compensation is reasonable and commensurate with the task performed. The judge should be mindful, however, that judicial duties must take precedence over other activities. See Rule 2.1.

[2] Compensation derived from extrajudicial activities may be subject to public reporting. See Rule 3.15.

1
2 **RULE 3.13**

3 ***Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other***
4 ***Things of Value***
5

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

10
11 (B) Unless otherwise prohibited by law, or by paragraph (A), a judge may
12 accept the following without publicly reporting such acceptance:

13
14 (1) items with little intrinsic value, such as plaques, certificates,
15 trophies, and greeting cards;

16
17 (2) gifts, loans, bequests, benefits, or other things of value from
18 friends, relatives, or other persons, including lawyers, whose
19 appearance or interest in a proceeding pending* or impending*
20 before the judge would in any event require disqualification of the
21 judge under Rule 2.11;

22
23 (3) ordinary social hospitality;

24
25 (4) commercial or financial opportunities and benefits, including
26 special pricing and discounts, and loans from lending institutions in
27 their regular course of business, if the same opportunities and benefits
28 or loans are made available on the same terms to similarly situated
29 persons who are not judges;

30
31 (5) rewards and prizes given to competitors or participants in
32 random drawings, contests, or other events that are open to persons
33 who are not judges;

34
35 (6) scholarships, fellowships, and similar benefits or awards, if
36 they are available to similarly situated persons who are not judges,
37 based upon the same terms and criteria;

38
39 (7) books, magazines, journals, audiovisual materials, and other
40 resource materials supplied by publishers on a complimentary basis
41 for official use; or

42
43 (8) gifts, awards, or benefits associated with the business,
44 profession, or other separate activity of a spouse, a domestic partner,*
45 or other family member of a judge residing in the judge's household,*
46 but that incidentally benefit the judge.
47

1 (C) Unless otherwise prohibited by law or by paragraph (A), a judge may
2 accept the following items, and must report such acceptance to the extent
3 required by Rule 3.15:
4

5 (1) gifts incident to a public testimonial;
6

7 (2) invitations to the judge and the judge's spouse, domestic
8 partner, or guest to attend without charge:
9

10 (a) an event associated with a bar-related function or other
11 activity relating to the law, the legal system, or the
12 administration of justice; or
13

14 (b) an event associated with any of the judge's educational,
15 religious, charitable, fraternal or civic activities permitted by
16 this Code, if the same invitation is offered to nonjudges who
17 are engaged in similar ways in the activity as is the judge; and
18

19 (3) gifts, loans, bequests, benefits, or other things of value, if the
20 source is a party or other person, including a lawyer, who has come or
21 is likely to come before the judge, or whose interests have come or are
22 likely to come before the judge.
23

24 COMMENT

25

26 [1] Whenever a judge accepts a gift or other thing of value without paying fair market
27 value, there is a risk that the benefit might be viewed as intended to influence the judge's
28 decision in a case. Rule 3.13 imposes restrictions upon the acceptance of such benefits,
29 according to the magnitude of the risk. Paragraph (B) identifies circumstances in which
30 the risk that the acceptance would appear to undermine the judge's independence,
31 integrity, or impartiality is low, and explicitly provides that such items need not be
32 publicly reported. As the value of the benefit or the likelihood that the source of the
33 benefit will appear before the judge increases, the judge is either prohibited under
34 paragraph (A) from accepting the gift, or required under paragraph (C) to publicly report
35 it.
36

37 [2] Gift-giving between friends and relatives is a common occurrence, and ordinarily
38 does not create an appearance of impropriety or cause reasonable persons to believe that
39 the judge's independence, integrity, or impartiality has been compromised. In addition,
40 when the appearance of friends or relatives in a case would require the judge's
41 disqualification under Rule 2.11, there would be no opportunity for a gift to influence the
42 judge's decision making. Paragraph (B)(2) places no restrictions upon the ability of a
43 judge to accept gifts or other things of value from friends or relatives under these
44 circumstances, and does not require public reporting.
45

46 [3] Businesses and financial institutions frequently make available special pricing,
47 discounts, and other benefits, either in connection with a temporary promotion or for

1 preferred customers, based upon longevity of the relationship, volume of business
2 transacted, and other factors. A judge may freely accept such benefits if they are available
3 to the general public, or if the judge qualifies for the special price or discount according
4 to the same criteria as are applied to persons who are not judges. As an example, loans
5 provided at generally prevailing interest rates are not gifts, but a judge could not accept a
6 loan from a financial institution at below-market interest rates unless the same rate was
7 being made available to the general public for a certain period of time or only to
8 borrowers with specified qualifications that the judge also possesses.

9
10 [4] Rule 3.13 applies only to acceptance of gifts or other things of value by a judge.
11 Nonetheless, if a gift or other benefit is given to the judge's spouse, domestic partner, or
12 member of the judge's family residing in the judge's household, it may be viewed as an
13 attempt to evade Rule 3.13 and influence the judge indirectly. Where the gift or benefit is
14 being made primarily to such other persons, and the judge is merely an incidental
15 beneficiary, this concern is reduced. A judge should, however, remind family and
16 household members of the restrictions imposed upon judges, and urge them to take these
17 restrictions into account when making decisions about accepting such gifts or benefits.

18
19 [5] Rule 3.13 does not apply to contributions to a judge's campaign for judicial
20 office. Such contributions are governed by other Rules of this Code, including Rules 4.3
21 and 4.4.

1
2 **RULE 3.14**

3 *Reimbursement of Expenses and Waivers of Fees or Charges*
4

5 (A) Unless otherwise prohibited by Rules 3.1 and 3.13(A) or other law,* a
6 judge may accept reimbursement of necessary and reasonable expenses for
7 travel, food, lodging, or other incidental expenses, or a waiver or partial
8 waiver of fees or charges for registration, tuition, and similar items, from
9 sources other than the judge's employing entity, if the expenses or charges
10 are associated with the judge's participation in extrajudicial activities
11 permitted by this Code.
12

13 (B) Reimbursement of expenses for necessary travel, food, lodging, or
14 other incidental expenses shall be limited to the actual costs reasonably
15 incurred by the judge and, when appropriate to the occasion, by the judge's
16 spouse, domestic partner,* or guest.
17

18 (C) A judge who accepts reimbursement of expenses or waivers or partial
19 waivers of fees or charges on behalf of the judge or the judge's spouse,
20 domestic partner, or guest shall publicly report such acceptance as required
21 by Rule 3.15.
22

23 **COMMENT**
24

25 [1] Educational, civic, religious, fraternal, and charitable organizations often sponsor
26 meetings, seminars, symposia, dinners, awards ceremonies, and similar events. Judges are
27 encouraged to attend educational programs, as both teachers and participants, in law-
28 related and academic disciplines, in furtherance of their duty to remain competent in the
29 law. Participation in a variety of other extrajudicial activity is also permitted and
30 encouraged by this Code.
31

32 [2] Not infrequently, sponsoring organizations invite certain judges to attend
33 seminars or other events on a fee-waived or partial-fee-waived basis, and sometimes
34 include reimbursement for necessary travel, food, lodging, or other incidental expenses.
35 A judge's decision whether to accept reimbursement of expenses or a waiver or partial
36 waiver of fees or charges in connection with these or other extrajudicial activities must be
37 based upon an assessment of all the circumstances. The judge must undertake a
38 reasonable inquiry to obtain the information necessary to make an informed judgment
39 about whether acceptance would be consistent with the requirements of this Code.
40

41 [3] A judge must assure himself or herself that acceptance of reimbursement or fee
42 waivers would not appear to a reasonable person to undermine the judge's independence,
43 integrity, or impartiality. The factors that a judge should consider when deciding whether
44 to accept reimbursement or a fee waiver for attendance at a particular activity include:
45

46 (a) whether the sponsor is an accredited educational institution or bar
47 association rather than a trade association or a for-profit entity;

- 1 (b) whether the funding comes largely from numerous contributors rather than
2 from a single entity and is earmarked for programs with specific content;
- 3 (c) whether the content is related or unrelated to the subject matter of
4 litigation pending or impending before the judge, or to matters that are likely to
5 come before the judge;
- 6 (d) whether the activity is primarily educational rather than recreational, and
7 whether the costs of the event are reasonable and comparable to those associated
8 with similar events sponsored by the judiciary, bar associations, or similar groups;
- 9 (e) whether information concerning the activity and its funding sources is
10 available upon inquiry;
- 11 (f) whether the sponsor or source of funding is generally associated with
12 particular parties or interests currently appearing or likely to appear in the judge's
13 court, thus possibly requiring disqualification of the judge under Rule 2.11;
- 14 (g) whether differing viewpoints are presented; and
- 15 (h) whether a broad range of judicial and nonjudicial participants are invited,
16 whether a large number of participants are invited, and whether the program is
17 designed specifically for judges.

1
2 **RULE 3.15**
3 ***Reporting Requirements***
4

5 (A) A judge shall publicly report the amount or value of:

6
7 (1) compensation received for extrajudicial activities as permitted
8 by Rule 3.12;

9
10 (2) gifts and other things of value as permitted by Rule 3.13(C),
11 unless the value of such items, alone or in the aggregate with other
12 items received from the same source in the same calendar year, does
13 not exceed \$[insert amount]; and

14
15 (3) reimbursement of expenses and waiver of fees or charges
16 permitted by Rule 3.14(A), unless the amount of reimbursement or
17 waiver, alone or in the aggregate with other reimbursements or
18 waivers received from the same source in the same calendar year,
19 does not exceed \$[insert amount].
20

21 (B) When public reporting is required by paragraph (A), a judge shall
22 report the date, place, and nature of the activity for which the judge received
23 any compensation; the description of any gift, loan, bequest, benefit, or other
24 thing of value accepted; and the source of reimbursement of expenses or
25 waiver or partial waiver of fees or charges.
26

27 (C) The public report required by paragraph (A) shall be made at least
28 annually, except that for reimbursement of expenses and waiver or partial
29 waiver of fees or charges, the report shall be made within thirty days
30 following the conclusion of the event or program.
31

32 (D) Reports made in compliance with this Rule shall be filed as public
33 documents in the office of the clerk of the court on which the judge serves or
34 other office designated by law,* and, when technically feasible, posted by the
35 court or office personnel on the court's website.

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CANON 4

**A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR
CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR
IMPARTIALITY OF THE JUDICIARY.**

1
2 **RULE 4.1**
3 *Political and Campaign Activities of Judges and Judicial Candidates in*
4 *General*

5
6 (A) Except as permitted by law,* or by Rules 4.2, 4.3, and 4.4, a judge or a
7 judicial candidate* shall not:

- 8
9 (1) act as a leader in, or hold an office in, a political organization;*
- 10
11 (2) make speeches on behalf of a political organization;
- 12
13 (3) publicly endorse or oppose a candidate for any public office;
- 14
15 (4) solicit funds for, pay an assessment to, or make a contribution*
16 to a political organization or a candidate for public office;
- 17
18 (5) attend or purchase tickets for dinners or other events
19 sponsored by a political organization or a candidate for public office;
- 20
21 (6) publicly identify himself or herself as a candidate of a political
22 organization;
- 23
24 (7) seek, accept, or use endorsements from a political
25 organization;
- 26
27 (8) personally solicit* or accept campaign contributions other than
28 through a campaign committee authorized by Rule 4.4;
- 29
30 (9) use or permit the use of campaign contributions for the private
31 benefit of the judge, the candidate, or others;
- 32
33 (10) use court staff, facilities, or other court resources in a
34 campaign for judicial office;
- 35
36 (11) knowingly,* or with reckless disregard for the truth, make any
37 false or misleading statement;
- 38
39 (12) make any statement that would reasonably be expected to
40 affect the outcome or impair the fairness of a matter pending* or
41 impending* in any court; or
- 42
43 (13) in connection with cases, controversies, or issues that are likely
44 to come before the court, make pledges, promises, or commitments
45 that are inconsistent with the impartial* performance of the
46 adjudicative duties of judicial office.
47

1 **(B) A judge or judicial candidate shall take reasonable measures to**
2 **ensure that other persons do not undertake, on behalf of the judge or judicial**
3 **candidate, any activities prohibited under paragraph (A).**
4

5 **COMMENT**

6
7 GENERAL CONSIDERATIONS

8
9 [1] Even when subject to public election, a judge plays a role different from that of a
10 legislator or executive branch official. Rather than making decisions based upon the
11 expressed views or preferences of the electorate, a judge makes decisions based upon the
12 law and the facts of every case. Therefore, in furtherance of this interest, judges and
13 judicial candidates must, to the greatest extent possible, be free and appear to be free
14 from political influence and political pressure. This Canon imposes narrowly tailored
15 restrictions upon the political and campaign activities of all judges and judicial
16 candidates, taking into account the various methods of selecting judges.

17
18 [2] When a person becomes a judicial candidate, this Canon becomes applicable to
19 his or her conduct.

20
21 PARTICIPATION IN POLITICAL ACTIVITIES

22
23 [3] Public confidence in the independence and impartiality of the judiciary is eroded
24 if judges or judicial candidates are perceived to be subject to political influence. Although
25 judges and judicial candidates may register to vote as members of a political party, they
26 are prohibited by paragraph (A)(1) from assuming leadership roles in political
27 organizations.

28
29 [4] Paragraphs (A)(2) and (A)(3) prohibit judges and judicial candidates from making
30 speeches on behalf of political organizations or publicly endorsing or opposing
31 candidates for public office, respectively, to prevent them from abusing the prestige of
32 judicial office to advance the interests of others. See Rule 1.3. These Rules do not
33 prohibit candidates from campaigning on their own behalf, or from endorsing or
34 opposing candidates for the same judicial office for which they are running. See Rules
35 4.2(B)(2) and 4.2(B)(3).

36
37 [5] Although members of the families of judges and judicial candidates are free to
38 engage in their own political activity, including running for public office, there is no
39 “family exception” to the prohibition in paragraph (A)(3) against a judge or candidate
40 publicly endorsing candidates for public office. A judge or judicial candidate must not
41 become involved in, or publicly associated with, a family member’s political activity or
42 campaign for public office. To avoid public misunderstanding, judges and judicial
43 candidates should take, and should urge members of their families to take, reasonable
44 steps to avoid any implication that they endorse any family member’s candidacy or other
45 political activity.

1 [6] Judges and judicial candidates retain the right to participate in the political
2 process as voters in both primary and general elections. For purposes of this Canon,
3 participation in a caucus-type election procedure does not constitute public support for or
4 endorsement of a political organization or candidate, and is not prohibited by paragraphs
5 (A)(2) or (A)(3).

6
7 STATEMENTS AND COMMENTS MADE DURING A CAMPAIGN FOR JUDICIAL OFFICE
8

9 [7] Judicial candidates must be scrupulously fair and accurate in all statements made
10 by them and by their campaign committees. Paragraph (A)(11) obligates candidates and
11 their committees to refrain from making statements that are false or misleading, or that
12 omit facts necessary to make the communication considered as a whole not materially
13 misleading.

14
15 [8] Judicial candidates are sometimes the subject of false, misleading, or unfair
16 allegations made by opposing candidates, third parties, or the media. For example, false
17 or misleading statements might be made regarding the identity, present position,
18 experience, qualifications, or judicial rulings of a candidate. In other situations, false or
19 misleading allegations may be made that bear upon a candidate's integrity or fitness for
20 judicial office. As long as the candidate does not violate paragraphs (A)(11), (A)(12), or
21 (A)(13), the candidate may make a factually accurate public response. In addition, when
22 an independent third party has made unwarranted attacks on a candidate's opponent, the
23 candidate may disavow the attacks, and request the third party to cease and desist.

24
25 [9] Subject to paragraph (A)(12), a judicial candidate is permitted to respond directly
26 to false, misleading, or unfair allegations made against him or her during a campaign,
27 although it is preferable for someone else to respond if the allegations relate to a pending
28 case.

29
30 [10] Paragraph (A)(12) prohibits judicial candidates from making comments that
31 might impair the fairness of pending or impending judicial proceedings. This provision
32 does not restrict arguments or statements to the court or jury by a lawyer who is a judicial
33 candidate, or rulings, statements, or instructions by a judge that may appropriately affect
34 the outcome of a matter.

35
36 PLEDGES, PROMISES, OR COMMITMENTS INCONSISTENT WITH IMPARTIAL PERFORMANCE
37 OF THE ADJUDICATIVE DUTIES OF JUDICIAL OFFICE
38

39 [11] The role of a judge is different from that of a legislator or executive branch
40 official, even when the judge is subject to public election. Campaigns for judicial office
41 must be conducted differently from campaigns for other offices. The narrowly drafted
42 restrictions upon political and campaign activities of judicial candidates provided in
43 Canon 4 allow candidates to conduct campaigns that provide voters with sufficient
44 information to permit them to distinguish between candidates and make informed
45 electoral choices.

46
47 [12] Paragraph (A)(13) makes applicable to both judges and judicial candidates the
48 prohibition that applies to judges in Rule 2.10(B), relating to pledges, promises, or

1 commitments that are inconsistent with the impartial performance of the adjudicative
2 duties of judicial office.

3
4 [13] The making of a pledge, promise, or commitment is not dependent upon, or
5 limited to, the use of any specific words or phrases; instead, the totality of the statement
6 must be examined to determine if a reasonable person would believe that the candidate
7 for judicial office has specifically undertaken to reach a particular result. Pledges,
8 promises, or commitments must be contrasted with statements or announcements of
9 personal views on legal, political, or other issues, which are not prohibited. When making
10 such statements, a judge should acknowledge the overarching judicial obligation to apply
11 and uphold the law, without regard to his or her personal views.

12
13 [14] A judicial candidate may make campaign promises related to judicial
14 organization, administration, and court management, such as a promise to dispose of a
15 backlog of cases, start court sessions on time, or avoid favoritism in appointments and
16 hiring. A candidate may also pledge to take action outside the courtroom, such as
17 working toward an improved jury selection system, or advocating for more funds to
18 improve the physical plant and amenities of the courthouse.

19
20 [15] Judicial candidates may receive questionnaires or requests for interviews from the
21 media and from issue advocacy or other community organizations that seek to learn their
22 views on disputed or controversial legal or political issues. Paragraph (A)(13) does not
23 specifically address judicial responses to such inquiries. Depending upon the wording and
24 format of such questionnaires, candidates' responses might be viewed as pledges,
25 promises, or commitments to perform the adjudicative duties of office other than in an
26 impartial way. To avoid violating paragraph (A)(13), therefore, candidates who respond
27 to media and other inquiries should also give assurances that they will keep an open mind
28 and will carry out their adjudicative duties faithfully and impartially if elected.
29 Candidates who do not respond may state their reasons for not responding, such as the
30 danger that answering might be perceived by a reasonable person as undermining a
31 successful candidate's independence or impartiality, or that it might lead to frequent
32 disqualification. See Rule 2.11.

1
2 **RULE 4.2**
3 *Political and Campaign Activities of Judicial Candidates in Public*
4 *Elections*

5
6 (A) A judicial candidate* in a partisan, nonpartisan, or retention public
7 election* shall:

8
9 (1) act at all times in a manner consistent with the independence,*
10 integrity,* and impartiality* of the judiciary;

11
12 (2) comply with all applicable election, election campaign, and
13 election campaign fund-raising laws and regulations of this
14 jurisdiction;

15
16 (3) review and approve the content of all campaign statements and
17 materials produced by the candidate or his or her campaign
18 committee, as authorized by Rule 4.4, before their dissemination; and

19
20 (4) take reasonable measures to ensure that other persons do not
21 undertake on behalf of the candidate activities, other than those
22 described in Rule 4.4, that the candidate is prohibited from doing by
23 Rule 4.1.

24
25 (B) A candidate for elective judicial office may, unless prohibited by law,*
26 and not earlier than [insert amount of time] before the first applicable
27 primary election, caucus, or general or retention election:

28
29 (1) establish a campaign committee pursuant to the provisions of
30 Rule 4.4;

31
32 (2) speak on behalf of his or her candidacy through any medium,
33 including but not limited to advertisements, websites, or other
34 campaign literature;

35
36 (3) publicly endorse or oppose candidates for the same judicial
37 office for which he or she is running;

38
39 (4) attend or purchase tickets for dinners or other events
40 sponsored by a political organization* or a candidate for public office;

41
42 (5) seek, accept, or use endorsements from any person or
43 organization other than a partisan political organization; and

44
45 (6) contribute to a political organization or candidate for public
46 office, but not more than \$[insert amount] to any one organization or
47 candidate.

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(C) A judicial candidate in a partisan public election may, unless prohibited by law, and not earlier than [insert amount of time] before the first applicable primary election, caucus, or general election:

- (1) identify himself or herself as a candidate of a political organization; and**
- (2) seek, accept, and use endorsements of a political organization.**

COMMENT

[1] Paragraphs (B) and (C) permit judicial candidates in public elections to engage in some political and campaign activities otherwise prohibited by Rule 4.1. Candidates may not engage in these activities earlier than [insert amount of time] before the first applicable electoral event, such as a caucus or a primary election.

[2] Despite paragraphs (B) and (C), judicial candidates for public election remain subject to many of the provisions of Rule 4.1. For example, a candidate continues to be prohibited from soliciting funds for a political organization, knowingly making false or misleading statements during a campaign, or making certain promises, pledges, or commitments related to future adjudicative duties. See Rule 4.1(A), paragraphs (4), (11), and (13).

[3] In partisan public elections for judicial office, a candidate may be nominated by, affiliated with, or otherwise publicly identified or associated with a political organization, including a political party. This relationship may be maintained throughout the period of the public campaign, and may include use of political party or similar designations on campaign literature and on the ballot.

[4] In nonpartisan public elections or retention elections, paragraph (B)(5) prohibits a candidate from seeking, accepting, or using nominations or endorsements from a partisan political organization.

[5] Judicial candidates are permitted to attend or purchase tickets for dinners and other events sponsored by political organizations.

[6] For purposes of paragraph (B)(3), candidates are considered to be running for the same judicial office if they are competing for a single judgeship or if several judgeships on the same court are to be filled as a result of the election. In endorsing or opposing another candidate for a position on the same court, a judicial candidate must abide by the same rules governing campaign conduct and speech as apply to the candidate's own campaign.

[7] Although judicial candidates in nonpartisan public elections are prohibited from running on a ticket or slate associated with a political organization, they may group themselves into slates or other alliances to conduct their campaigns more effectively.

- 1 Candidates who have grouped themselves together are considered to be running for the
- 2 same judicial office if they satisfy the conditions described in Comment [6].

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RULE 4.3
Activities of Candidates for Appointive Judicial Office

A candidate for appointment to judicial office may:

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

COMMENT

[1] When seeking support or endorsement, or when communicating directly with an appointing or confirming authority, a candidate for appointive judicial office must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. See Rule 4.1(A)(13).

1
2 **RULE 4.4**
3 *Campaign Committees*

4
5 (A) A judicial candidate* subject to public election* may establish a
6 campaign committee to manage and conduct a campaign for the candidate,
7 subject to the provisions of this Code. The candidate is responsible for
8 ensuring that his or her campaign committee complies with applicable
9 provisions of this Code and other applicable law.*

10
11 (B) A judicial candidate subject to public election shall direct his or her
12 campaign committee:

13
14 (1) to solicit and accept only such campaign contributions* as are
15 reasonable, in any event not to exceed, in the aggregate,* \$[insert
16 amount] from any individual or \$[insert amount] from any entity or
17 organization;

18
19 (2) not to solicit or accept contributions for a candidate's current
20 campaign more than [insert amount of time] before the applicable
21 primary election, caucus, or general or retention election, nor more
22 than [insert number] days after the last election in which the
23 candidate participated; and

24
25 (3) to comply with all applicable statutory requirements for
26 disclosure and divestiture of campaign contributions, and to file with
27 [name of appropriate regulatory authority] a report stating the name,
28 address, occupation, and employer of each person who has made
29 campaign contributions to the committee in an aggregate value
30 exceeding \$[insert amount]. The report must be filed within [insert
31 number] days following an election, or within such other period as is
32 provided by law.
33

34
35 **COMMENT**

36
37 [1] Judicial candidates are prohibited from personally soliciting campaign
38 contributions or personally accepting campaign contributions. See Rule 4.1(A)(8). This
39 Rule recognizes that in many jurisdictions, judicial candidates must raise campaign funds
40 to support their candidacies, and permits candidates, other than candidates for appointive
41 judicial office, to establish campaign committees to solicit and accept reasonable
42 financial contributions or in-kind contributions.
43

44 [2] Campaign committees may solicit and accept campaign contributions, manage the
45 expenditure of campaign funds, and generally conduct campaigns. Candidates are
46 responsible for compliance with the requirements of election law and other applicable
47 law, and for the activities of their campaign committees.

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[3] At the start of a campaign, the candidate must instruct the campaign committee to solicit or accept only such contributions as are reasonable in amount, appropriate under the circumstances, and in conformity with applicable law. Although lawyers and others who might appear before a successful candidate for judicial office are permitted to make campaign contributions, the candidate should instruct his or her campaign committee to be especially cautious in connection with such contributions, so they do not create grounds for disqualification if the candidate is elected to judicial office. See Rule 2.11.

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RULE 4.5

Activities of Judges Who Become Candidates for Nonjudicial Office

(A) Upon becoming a candidate for a nonjudicial elective office, a judge shall resign from judicial office, unless permitted by law* to continue to hold judicial office.

(B) Upon becoming a candidate for a nonjudicial appointive office, a judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code.

COMMENT

[1] In campaigns for nonjudicial elective public office, candidates may make pledges, promises, or commitments related to positions they would take and ways they would act if elected to office. Although appropriate in nonjudicial campaigns, this manner of campaigning is inconsistent with the role of a judge, who must remain fair and impartial to all who come before him or her. The potential for misuse of the judicial office, and the political promises that the judge would be compelled to make in the course of campaigning for nonjudicial elective office, together dictate that a judge who wishes to run for such an office must resign upon becoming a candidate.

[2] The “resign to run” rule set forth in paragraph (A) ensures that a judge cannot use the judicial office to promote his or her candidacy, and prevents post-campaign retaliation from the judge in the event the judge is defeated in the election. When a judge is seeking appointive nonjudicial office, however, the dangers are not sufficient to warrant imposing the “resign to run” rule.