

ARTICLE VI. JUDICIAL CONDUCT

Rule 1. Code of Judicial Conduct

PREAMBLE

Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all sections of this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

The Code of Judicial Conduct is intended to establish standards for ethical conduct of judges. It consists of broad statements called Canons, specific rules set forth in Sections under each Canon, a Terminology Section, an Application Section and Commentary. The text of the Canons and the Sections, including the Terminology and Application Sections, is authoritative. The Commentary, by explanation and example, provides guidance with respect to the purpose and meaning of the Canons and Sections. The Commentary is not intended as a statement of additional rules. When the text uses “shall” or “shall not,” it is intended to impose binding obligations the violation of which can result in disciplinary action. When “should” or “should not” is used, the text is intended as hortatory and as a statement of what is or is not appropriate conduct but not as a binding rule under which a judge may be disciplined. When “may” is used, it denotes permissible discretion or, depending on the context, it refers to action that is not covered by specific proscriptions.

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

The Code is designed to provide guidance to judges and candidates for judicial office and to provide a structure for regulating conduct through disciplinary agencies. It is not designed or intended as a basis for civil liability or criminal prosecution. Furthermore, the purpose of the Code would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding.

The text of the Canons and Sections is intended to govern conduct of judges and to be binding upon them. It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system.

The Code of Judicial Conduct is not intended as an exhaustive guide for the conduct of judges. They should also be governed in their judicial and personal conduct by general ethical

standards. The Code is intended, however, to state basic standards which should govern the conduct of all judges and to provide guidance to assist judges in establishing and maintaining high standards of judicial and personal conduct.

TERMINOLOGY

Terms explained below are noted with an asterisk (*) in the Sections where they appear. In addition, the Sections where terms appear are referred to after the explanation of each term below.

“Appropriate authority” denotes the Commission on Judicial Tenure and Discipline or the Presiding Justice or Chief Judge of the court on which the particular judge serves or in which the activity occurred. See Sections 3D(1) and 3D(2).

“Candidate.” A candidate is a person seeking selection for judicial office by election or appointment. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election or appointment authority, or authorizes solicitation of support. The term “candidate” has the same meaning when applied to a judge seeking election or appointment to non-judicial office. See Preamble and Sections 5A, 5B.

“Continuing part-time judge.” A continuing part-time judge is a judge who serves repeatedly on a part-time basis under a continuing appointment, including a retired judge subject to recall. See Application Section C.

“Court personnel” does not include the lawyers in a proceeding before a judge. See Sections 3B(8)(c) and 3B(10).

“De minimis” denotes an insignificant interest that could not raise reasonable question as to a judge's impartiality. See Sections 3E(1)(c) and 3E(1)(d).

“Economic interest” denotes ownership of a more than de minimis legal or equitable interest, or a relationship as officer, director, advisor or other active participant in the affairs of a party, except that:

(i) ownership of an interest in a mutual or common investment fund that holds securities is not an economic interest in such securities unless the judge participates in the management of the fund or a proceeding pending or impending before the judge could substantially affect the value of the interest;

(ii) service by a judge as an officer, director, advisor or other active participant in an educational, religious, charitable, fraternal or civic organization, or service by a judge's spouse, parent or child as an officer, director, advisor or other active participant in any organization does not create an economic interest in securities held by that organization;

(iii) a deposit in a financial institution, the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association or of a member in a credit union, or a similar proprietary interest, is not an economic interest in the organization unless a proceeding pending or impending before the judge could substantially affect the value of the interest;

(iv) ownership of government securities is not an economic interest in the issuer unless a proceeding pending or impending before the judge could substantially affect the value of the securities. See Section 3E(1) and 3E(2).

“Ex Parte” is a term that refers to any communication, action, judicial proceeding, order, temporary restraining order or injunction when it occurs or is taken or granted at the instance of and for the benefit of one party only and without notice to, or contestation or participation by any person, with standing who is adversely affected. The phrase contemplates one side only, by or for one party, done for, in behalf of, or on the application of one party only.

“Fiduciary” includes such relationships as executor, administrator, trustee, and guardian. See Sections 3E(2) and 4E.

“Judge or Judicial Officer”. See Section A of application section.

“Knowingly,” “knowledge,” “known” or “knows” denotes actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances. See Sections 3D, 3E(1), and 5A(3).

“Law” denotes court rules as well as statutes, constitutional provisions and decisional law. See Sections 2A, 3A, 3B(2), 3B(8), 4B, 4C, 4F, 5A(2), 5A(3), 5B(2), and 5C.

“Member of the candidate’s family” denotes a spouse, child, grandchild, parent, grandparent or other relative or person with whom the candidate maintains a close familial relationship. See Section 5A(3)(a).

“Member of the judge’s family” denotes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Sections 4D(2), 4E and 4G.

“Member of the judge’s family residing in the judge’s household” denotes any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge’s family, who resides in the judge’s household. See Sections 3E(1) and 4D(4).

“Nonpublic information” denotes information that, by law, is not available to the public. Nonpublic information may include but is not limited to: information that is sealed by statute or court order, impounded or communicated in camera; and information offered in grand jury proceedings, presentencing reports, dependency cases or psychiatric reports. See Section 3B(12).

“Periodic part-time judge.” A periodic part-time judge is a judge who serves or expects to serve repeatedly on a part-time basis but under a separate appointment for each limited period of service or for each matter. See Application Section D. This does not apply to persons serving as arbitrators.

“Political organization” denotes a political party or other group, the principal purpose of which is to further the election or appointment of candidates to political office. See Sections 5A(1), 5B(2) and 5A(2).

“Pro tempore part-time judge.” A pro tempore part-time judge is a judge who serves or expects to serve once or only sporadically on a part-time basis under a separate appointment

for each period of service or for each case heard. See Application Section E.

“Public election.” This term includes primary and general elections; it includes partisan elections and nonpartisan elections. See Section 5A(2).

“Require.” The rules prescribing that a judge “require” certain conduct of others are, like all of the rules in this Code, rules of reason. The use of the term “require” in that context means a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge’s direction and control. See Sections 3B(3), 3B(4), 3B(7), 3B(10) and 3C(2).

“Third degree of relationship.” The following persons are relatives within the third degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece. See Section 3E(1)(d).

Canon 1. A judge shall uphold the integrity and independence of the judiciary. - A. An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. This Code, designed to further that purpose, is intended to apply to every aspect of judicial behavior except purely legal decisions. Legal decisions made in the course of judicial duty are subject solely to judicial review. The provisions of this Code are to be construed and applied to further that objective.

Canon 2. A judge shall avoid impropriety and the appearance of impropriety in all of the judge’s activities. - A. A judge shall respect and comply with the law* and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge shall not allow family, social, political or other relationships to influence the judge’s judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness in a judicial proceeding. A judge may, however participate in a confirmation hearing by appearing at the request of a candidate, making a statement as to the candidate’s qualifications and responding to questions asked by the panel members or by writing a letter to the appointing or confirmation authority containing the information that would have been given in a personal appearance at the proceeding.

C. A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion, disability or national origin.

Canon 3. A judge shall perform the duties of judicial office impartially and diligently. - A. Judicial Duties in General. The judicial duties of a judge take precedence over all the judge’s other activities. The judge’s judicial duties include all the duties of the judge’s office prescribed by law.* In the performance of these duties, the following standards apply.

B. Adjudicative Responsibilities.

1. A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

2. A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism.

3. A judge shall require order and decorum in proceedings before the judge.

4. A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require* similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control. During trials and hearings, a judge should act so that the judge's attitude, manner or tone toward counsel or witnesses will not prevent the proper presentation of the cause or the ascertainment of the truth. A judge may properly intervene if the judge considers it necessary to clarify a point or expedite the proceedings.

5. (i) A judge may properly intervene in a trial of a case to promote expedition but a judge should bear in mind that his or her undue or unreasonable interference may tend to prevent the proper presentation of a case or the ascertainment of the truth. Any interruption of the case generally should serve to clarify or emphasize the issue or issues involved.

(ii) A judge should be studious to avoid controversies which are apt to obscure the merit of the dispute between litigants.

(iii) A judge should avoid unnecessary displays of learning or a premature judgment.

6. A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.

7. A judge shall require* lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, against parties, witnesses, counsel or others. This Section 3B(7) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.

8. 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.* A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

(a) Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:

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

(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(b) A judge may obtain the advice of a disinterested expert on the law* applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.

(c) A judge may consult with court personnel* whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(d) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.

(e) A judge may initiate or consider any ex parte communications when expressly authorized by law* to do so.

(f) A judge should not permit private interviews, arguments or communications designed to influence his or her judicial action, and ordinarily all communications of counsel to the judge should be made known to opposing counsel.

(g) A judge should discourage ex parte applications for injunctions and receiverships where the order may work detriment to absent parties. A judge should act upon ex parte applications only where the necessity for quick action is clearly shown. A judge should scrupulously cross examine and investigate the facts and the principles of law upon which the application is based, granting relief only when fully satisfied that the law permits it and the emergency demands it. A judge should remember that an injunction is a limitation upon freedom of action of defendants and should not be granted lightly or inadvisedly.

9. A judge shall dispose of all judicial matters promptly, efficiently and fairly.

10. A judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness. The judge shall require* similar abstention on the part of court personnel* subject to the judge's direction and control. This Section does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This Section does not apply to proceedings in which the judge is a litigant in a personal capacity.

11. A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.

12. A judge may discuss a case that has exhausted its appellate remedies provided, however, that a judge shall never disclose or use non-public information* acquired in a judicial capacity for any purpose unrelated to judicial duties.

13. A judge shall cooperate with other judges as members of a common judicial system to promote the satisfactory administration of justice.

C. Administrative Responsibilities.

1. A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

2. A judge shall require* staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

3. A judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to assure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.

4. A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered.

D. Disciplinary Responsibilities.

1. (a) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action.

(b) A judge having knowledge* that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority.*

2. (a) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct should take appropriate action.

(b) A judge having knowledge* that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority,* the office of Disciplinary Counsel.

3. Acts of a judge, in the discharge of disciplinary responsibilities, required or permitted by Sections 3D(1) and 3D(2) are part of a judge's judicial duties and shall be absolutely privileged, and no civil action predicated thereon may be instituted against the judge.

E. Disqualification.

1. A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge* of disputed evidentiary facts concerning the proceeding;

(b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning it;

(c) the judge knows* that he or she, individually or as a fiduciary, or the judge's spouse, parent or child wherever residing, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding or has any other more than de minimis interest that could be substantially affected by the proceeding;

(d) the judge or the judge's spouse, or a person within the third degree of relationship* to either of them, or the spouse of such a person;

(i) is a party to the proceeding, or an officer, director or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

(iii) is known* by the judge to have a more than de minimis* interest that could be substantially affected by the proceeding;

(iv) is to the judge's knowledge* likely to be a material witness in the proceeding.

2. A judge shall keep informed about the judge's personal and fiduciary* economic interests, and make a reasonable effort to keep informed about the personal economic interests* of the judge's spouse and minor children residing in the judge's household.

F. Remittal of Disqualification. A judge disqualified by the terms of Section 3E may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

Canon 4. A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations. - A. Extra-Judicial Activities in General. A judge shall conduct all of the judge's extra-judicial activities so that they do not:

1. cast reasonable doubt on the judge's capacity to act impartially as a judge;

2. demean the judicial office; or

3. interfere with the proper performance of judicial duties.

B. Avocational Activities. A judge may speak, write, lecture, teach and participate in other extra-judicial activities concerning the law,* the legal system, the administration of justice and non-legal subjects, subject to the requirements of this Code.

C. Governmental, Civic or Charitable Activities.

1. A judge shall not appear at a public hearing before, or otherwise consult with, an executive or legislative body or official except on matters concerning the law,* the legal system or the administration of justice or except when acting pro se in a matter involving the judge or the judge's interests.

2. A judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system or the administration of justice. A judge may, however, represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities.

3. A judge may serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law,* the legal system or the administration of justice or of an educational, religious, charitable, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code.

(a) A judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that the organization

(i) will be engaged in proceedings that would ordinarily come before the judge, or

(ii) will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

(b) A judge as an officer, director, trustee or non-legal advisor, or as a member or otherwise:

(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities, except that a judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority;

(ii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law,* the legal system or the administration of justice;

(iii) shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or, except as permitted in Section 4C(3)(b)(i), if the membership solicitation is essentially a fund-raising mechanism;

(iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.

D. Financial Activities.

1. A judge shall not engage in financial and business dealings that:

(a) may reasonably be perceived to exploit the judge's judicial position, or

(b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the judge which would necessitate the judge's recusal.

2. A judge may, subject to the requirements of this Code, hold and manage investments of the judge and members of the judge's family,* including real estate, and engage in other remunerative activity.

3. A judge shall manage the judge's investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.

4. A judge shall not accept, and shall urge members of the judge's family residing in the judge's household,* not to accept, a gift, bequest, favor or loan from anyone except for:

(a) a gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law,* the legal system or the administration of justice;

(b) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member of a judge residing in the judge's household, including gifts, awards and benefits for the use of both the spouse or other family member and the judge (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;

(c) ordinary social hospitality;

(d) a gift from a relative or friend, for a special occasion, such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;

(e) a gift, bequest, favor or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification under Section 3E;

(f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;

(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) any other gift, bequest, favor or loan, only if: the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge; and, if its value exceeds \$150.00, the judge reports it in the same manner as the judge reports compensation in Section 4H.

E. Fiduciary Activities.

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

(2) A judge shall not serve as a fiduciary* if it is likely that the judge as a fiduciary will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust or

ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.

(3) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary* capacity.

F. Service as arbitrator or Mediator. A judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law.*

G. Practice of Law. A judge shall not practice law. Notwithstanding this prohibition, 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.*

A judge having a financial interest in a law practice when appointed to the bench shall within ninety days after appointment or adoption of this canon, make a full written disclosure thereof to the Chief Justice of the Supreme Court and to the Presiding Justice or Chief Judge of the court on which that judge serves.

H. Compensation, Reimbursement and Reporting.

(1) Compensation and Reimbursement. A judge may receive compensation and reimbursement of expenses for the non-judicial activities or services permitted by this Code, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety.

(a) Compensation shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same services.

(b) Expense reimbursement shall be limited to the actual cost of travel, food and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or guest. Any payment in excess of such an amount is compensation.

(2) Public Reports. A judge shall report the source and nature of all compensation received for any non-judicial service and the identity of the payor. The judge's report shall be made annually on or before the last day of April and shall be filed as a public document in the office of the Chief Justice.

I. Disclosure of a judge's income, debts, investments or other assets is required only to the extent provided in this Canon and in Sections 3E and 3F, or as otherwise required by law.*

Canon 5. A judge or judicial candidate shall refrain from inappropriate political activity. –

A. All Judges and Candidates.

(1) Except as authorized in Canons 5B(2) a judge or a candidate* for election or appointment to judicial office shall not:

(a) act as a leader or hold an office in a political organization*;

(b) publicly endorse or publicly oppose another candidate for public office;

(c) make speeches on behalf of a political organization;

(d) attend political gatherings; or

(e) solicit funds for, pay an assessment to or make a contribution to a political organization or candidate, or purchase tickets for political party dinners or other functions.

(2) A judge shall resign from judicial office upon becoming a candidate* for a non-judicial office either in a primary or in a general election, except that the judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention if the judge is otherwise permitted by law* to do so.

(3) A candidate* for a judicial office:

(a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary, and shall encourage members of the candidate's family* to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;

(b) shall prohibit employees and officials who serve at the pleasure of the candidate,* and shall discourage other employees and officials subject to the candidate's direction and control from doing on the candidate's behalf what the candidate is prohibited from doing under the Sections of this Canon;

(c) shall not authorize or knowingly* permit any other person to do for the candidate what the candidate* is prohibited from doing under the Sections of this Canon;

(d) shall not:

(i) make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office;

(ii) make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court; or

(iii) knowingly* misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent;

(e) may respond to personal attacks or attacks on the candidate's record as long as the response does not violate Canon 5A(3)(d).

B. Candidates Seeking Appointment to Judicial or Other Governmental Office.

(1) A candidate* for appointment to judicial office or a judge seeking other governmental office shall not solicit or accept funds, personally or through a committee or otherwise, to support his or her candidacy.

(2) A candidate* for appointment to judicial office or a judge seeking other governmental office shall not engage in any political activity to secure the appointment except that:

(a) such persons may:

(i) communicate with the appointing authority, including any selection or nominating commission or other agency designated to screen candidates;

(ii) seek support or endorsement for the appointment from organizations that regularly make recommendations for reappointment or appointment to the office, and from individuals to the extent requested or required by those specified in Canon 5B(2)(a); and

(iii) provide to those specified in Canons 5B(2)(a)(i) and 5B(2)(a)(ii) information as to his or her qualifications for the office;

(b) a non-judge candidate for appointment to judicial office may, in addition, unless otherwise prohibited by law*:

(i) retain an office in a political organization,*

(ii) attend political gatherings, and

(iii) continue to pay ordinary assessments and ordinary contributions to a political organization or candidate and purchase tickets for political party dinners or other functions.

C. Incumbent Judges.

A judge shall not engage in any political activity except:

(i) as authorized under any Section of this Code,

(ii) on behalf of measures to improve the law, the legal system or the administration of justice or

(iii) as expressly authorized by law.

APPLICATION OF THE CODE OF JUDICIAL CONDUCT.

A. Anyone, whether or not a lawyer, who is an officer of a judicial system and who performs judicial functions, including an officer such as a magistrate, court commissioner, special master or referee, is a judge within the meaning of this Code including but not limited to justices and judges of the Supreme Court, Superior Court, Family Court, District Court and the Workers' Compensation Court, and the Masters who serve in those courts, judges in the Administrative Adjudication Court as well as all judges of Probate, Municipal and Housing Courts of the Cities and Towns.

All judges shall comply with this Code except as provided below.

B. RETIRED JUDGE SUBJECT TO RECALL. A retired judge subject to recall who by law is not permitted to practice law is not required to comply:

(1) with Canon 4F except while serving as a judge;

(2) Canon 4E at any time with Fiduciary activities.

C. CONTINUING PART-TIME JUDGE. A continuing part-time judge*:

(1) is not required to comply;

(a) except while serving as a judge; and

(b) or at any time with Canons 4C(2), 4E(1), 4F, 4G, 4H, 5A(1), 5B(2).

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

D. PERIODIC PART-TIME JUDGE. A periodic part-time judge*:

(1) is not required to comply with Canon 3B(10);

(a) except while serving as a judge,

(b) or at any time, with Canons 4C(2), 4C(3)(a), 4D(1)(b), 4D(3), 4D(4), 4E, 4F, 4G, 4H, 5A(1), 5B(2) and 5C.

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

E. PRO TEMPORE PART-TIME JUDGE. A pro tempore part-time judge*:

(1) (a) is not required to comply with Canons 2A, 2B, 3B(9) and 4C(1) except while serving as a judge.

(b) at any time with Sections 2C, 4C(2), 4C(3)(a), 4C(3)(b), 4D(1)(b), 4D(3), 4D(4), 4E, 4F, 4G, 4H, 5A(1), 5A(2), 5B(2) and 5C.

(2) A person who has been a pro tempore part-time judge* shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto except as otherwise permitted by Rule 1.12(a) of the Rhode Island Rules of Professional Conduct.

F. TIME FOR COMPLIANCE. A person to whom this Code becomes applicable shall comply immediately with all provisions of this Code except Canons 4D(2), 4D(3) and 4E and shall comply with these Canons as soon as reasonably possible and shall do so in any event within the period of one year.