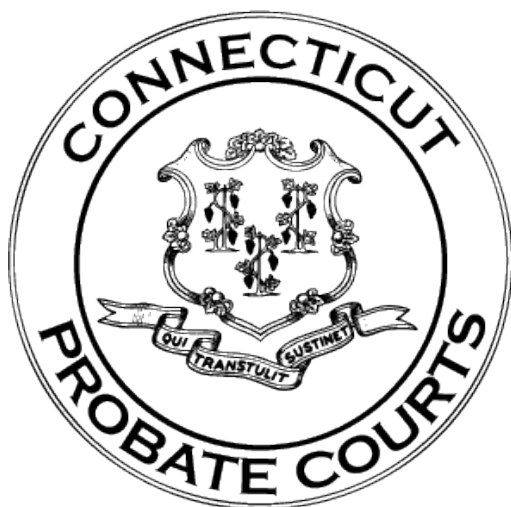


CODE OF PROBATE JUDICIAL CONDUCT



2016

CODE OF PROBATE JUDICIAL CONDUCT

CONTAINING

Explanatory Notes

Table of Contents

Preamble

Scope

Terminology

Application

Advance Opinion

Canons of Judicial Conduct

Published by
**OFFICE OF THE
PROBATE COURT ADMINISTRATOR
STATE OF CONNECTICUT**

EXPLANATORY NOTES

This is a major rewrite of the Code of Probate Judicial Conduct, adopted by the probate judges on January 26, 2016 and approved by the probate court administrator on the same date, to take effect on July 1, 2016. It is based on the Model Code adopted by the American Bar Association in 2007 and the Code of Judicial Conduct for the judges of the Superior and Appellate Courts and the justices of the Supreme Court that became effective on January 1, 2011. This version of the Code of Probate Judicial Conduct replaces the most recent revision of the existing code, which was published in January 2012. This Code is also available online at www.ctprobate.gov.

CODE OF PROBATE JUDICIAL CONDUCT

TABLE OF CONTENTS

Preamble	3
Scope	4
Terminology	6
Application	10
Advance Opinion.....	11
Canon 1 – A judge shall uphold and promote the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety	12
Rule 1.1 Compliance with the law	12
Rule 1.2 Promoting confidence in the judiciary	12
Rule 1.3 Avoiding abuse of the prestige of judicial office.....	13
Canon 2 – A judge shall perform the duties of judicial office impartially, competently and diligently.....	14
Rule 2.1 Giving precedence to the duties of judicial office.....	14
Rule 2.2 Impartiality and fairness	14
Rule 2.3 Bias, prejudice and harassment.....	15
Rule 2.4 External influences on judicial conduct or judgment.....	16
Rule 2.5 Competence, diligence and cooperation.....	17
Rule 2.6 Ensuring the right to be heard.....	18
Rule 2.7 Responsibility to decide	19
Rule 2.8 Decorum, demeanor and communication in the court...	19
Rule 2.9 Ex parte communications.....	20
Rule 2.10 Judicial statements on pending and impending cases	22
Rule 2.11 Disqualification	23
Rule 2.12 Supervisory duties.....	26
Rule 2.13 Employment decisions and administrative appointments	26
Rule 2.14 Disability and impairment.....	27
Rule 2.15 Responding to judicial and lawyer misconduct.....	28
Rule 2.16 Cooperation with disciplinary authorities.....	30

Canon 3 – A judge shall conduct the judge's personal, professional and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.	30
Rule 3.1 Extrajudicial activities in general	30
Rule 3.2 Appearances before governmental bodies and consultation with government officials	32
Rule 3.3 Testifying as a character witness	33
Rule 3.4 Appointments to governmental positions	33
Rule 3.5 Use of information	34
Rule 3.6 Affiliation with discriminatory organizations	34
Rule 3.7 Participation in educational, religious, charitable, social or civic organizations and activities	35
Rule 3.8 Appointments to fiduciary positions	37
Rule 3.9 Reserved for future use	38
Rule 3.10 Practice of law	38
Rule 3.11 Professional, financial and business activities	38
Rule 3.12 Reserved for future use	40
Rule 3.13 Acceptance and reporting of gifts, loans, bequests, benefits or other things of value	40
Rule 3.14 Reimbursement of expenses and waivers of fees or charges	44
Rule 3.15 Reporting requirements	46
Canon 4 – A judge or judicial candidate shall not engage in political or campaign activity that is inconsistent with the independence, integrity or impartiality of the judiciary	47
Rule 4.1 Political and campaign activities of judges and judicial candidates in general	47
Rule 4.2 Campaign activities of judges and judicial candidates while seeking election to judicial office	53
Rule 4.3 Activities of probate judges seeking appointive judicial office	55
Rule 4.4 Campaign committees	56
Rule 4.5 Activities of judges who become candidates for nonjudicial office	57

PREAMBLE

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

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

(3) The Code of Probate Judicial Conduct establishes standards for the ethical conduct of judges in matters affecting the performance of their judicial duties and the fair and efficient operation of the Probate Courts. Although it is not intended as an exhaustive guide for the conduct of judges, who must be guided in their professional and personal lives by general ethical standards as well as by the law, which includes this Code, it is intended to assist judges in maintaining the highest standards of professional and personal conduct, as it affects their judicial work.

SCOPE

(1) The Code of Probate Judicial Conduct consists of four canons, numbered rules under each canon, and comments that generally follow and explain each rule. Scope and terminology sections provide additional guidance in interpreting and applying the Code. An application section establishes when the various rules apply to a judge or judicial candidate.

(2) The canons state overarching principles of judicial ethics that all judges must observe. Although a judge may be disciplined hereunder only for violating a rule, the canons provide important guidance in interpreting the rules. Where a rule contains a permissive term, such as "may" or "should," the conduct being addressed is committed to the sound personal and professional discretion of the judge in question, and no disciplinary action shall be taken for action or inaction within the bounds of such discretion.

(3) The comments that accompany the rules serve two functions. First, they provide guidance regarding the purpose, meaning and proper application of the rules. They contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. Comments neither add to nor subtract from the binding obligations set forth in the rules. Therefore, when a comment contains the term "must," it does not mean that the comment itself is binding or enforceable; it signifies that the rule in question, properly understood, is obligatory as to the conduct at issue. Second, the comments identify aspirational goals for judges. To implement fully the principles of this Code as articulated in the canons, judges should strive to exceed the standards of conduct established by the rules, holding themselves to the highest ethical standards and seeking to achieve those aspirational goals, thereby enhancing the dignity of the judicial office.

(4) The rules of the Code of Probate Judicial Conduct are rules of reason that should be applied consistently with constitutional requirements, statutes, other court rules and decisional law, and with due regard for all relevant circumstances. The rules should not be interpreted in such a way as to impinge on the essential independence of judges in making judicial decisions.

(5) Although these rules are binding and enforceable, it is not contemplated that every transgression will necessarily result in the imposition of discipline. Whether discipline should be imposed should be determined through a reasonable and reasoned application of the rules and should depend on factors such as the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations and the effect of the improper activity on the judicial system or other persons.

(6) The Code is not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

TERMINOLOGY

As used in this Code, the following definitions shall apply:

"Appropriate authority" means the authority having responsibility for taking corrective action in connection with the conduct or violation to be reported under rules 2.14 and 2.15.

"Candidate" means a person seeking election to an office other than that of probate judge. (Compare with "judicial candidate.")

"Confidential" means information that is not available to the public. Confidential information may include, but is not limited to, information that is sealed by statute, rule or court order or communicated in camera.

"Contribution" means both financial and in-kind contributions, such as goods, professional or volunteer services, advertising and other types of assistance, which, if obtained by the recipient otherwise, would require a financial expenditure.

"De minimis" means, in the context of interests pertaining to disqualification of a judge, an insignificant interest that could not raise a reasonable question regarding the judge's impartiality.

"Domestic partner" means a person with whom another person maintains a household and an intimate relationship, other than a spouse.

"Economic interest" means ownership of more than a de minimis legal or equitable interest. Except for situations in which the 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, an officer, an 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.

"Fiduciary" means a person serving as an administrator, executor, conservator of the estate, conservator of the person, guardian of an adult with intellectual disability, guardian of the estate of a minor, guardian of the person of a minor, temporary custodian of the person of a minor, trustee or person serving in any other role that is fiduciary in nature.

"Impartial," "impartiality" and "impartially" mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge.

"Impending matter" is any matter a judge knows is imminent or reasonably expects to be commenced in the near future.

"Impropriety" includes conduct that violates the law or provisions of this Code and conduct that undermines a judge's independence, integrity or impartiality.

"Independence" means a judge's freedom from influence or controls other than those established by law.

"Integrity" means probity, fairness, honesty, uprightness and soundness of character.

"Judge" means a probate judge.

"Judicial candidate" means a person seeking election to judicial office. A person becomes a judicial candidate as soon as he or she makes a public announcement of candidacy, declares or files as a judicial candidate with the election authority or authorizes solicitation or acceptance of contributions or support.

"Knowingly," "knowledge," "known" and "knows" mean actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

"Law" encompasses court rules as well as statutes, constitutional provisions, decisional law and this Code.

"Member of the judge's family" or "member of the judicial candidate's family" means:

- (1) A spouse or domestic partner of the judge or judicial candidate;
- (2) a relative within the third degree of relationship to the judge or judicial candidate;
- (3) a relative within the third degree of relationship to the spouse or domestic partner of the judge or judicial candidate; or
- (4) the spouse or domestic partner of any person named in subsections (2) and (3).

"Member of a judge's family residing in the judge's household" means any member of the judge's family or other person treated by a judge as a member of the judge's family who resides in the judge's household.

"Pending matter" is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition.

"Personally solicit" means a direct request made by a judge for financial support or in-kind services, whether made in person or by letter, telephone or any other means of communication.

"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 or judicial candidates for political office.

"Political party" denotes a national or state political party or an organization affiliated with such a party.

"Public election" includes primary, special and general elections, whether or not there is a contest for the office sought between two or more candidates and/or judicial candidates.

"Relative within the third degree of relationship" means any of the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew and niece.

"Spouse" means a person to whom one is legally married.

APPLICATION

I. APPLICABILITY OF THIS CODE

(a) The provisions of this Code apply to judges of the Connecticut Probate Courts.

(b) Canon 4 applies to judicial candidates.

(c) Although probate magistrates and attorney probate referees are not included in the applicability provisions under this Code, they are bound by specific provisions of this Code that are incorporated into their oaths of office.

II. TIME FOR COMPLIANCE

(a) A person shall comply with the provisions of this Code immediately upon taking office as judge, except that a judge shall comply with rules 3.8 (Appointments to Fiduciary Positions) and 3.11 (Professional, Financial and Business Activities) as soon as reasonably possible, but in no event later than one year after the date on which the judge is elected.

COMMENT: If serving as a fiduciary when elected as judge, a new judge may, notwithstanding the prohibitions in rule 3.8, continue to serve as a fiduciary, but only for that period of time necessary to avoid serious adverse consequences to the beneficiaries of the fiduciary relationship and in no event longer than one year after the date on which the judge is elected. Similarly, if engaged in a business activity that is prohibited under rule 3.11 when elected as judge, a new judge may continue in that activity for a reasonable period, but in no event longer than one year after the date on which the judge is elected. There is no exception to the requirement that a judge comply with rule 3.10 and C.G.S. sections 45a-25 and 45a-26 immediately upon taking office.

(b) A person shall comply with the provisions of canon 4 immediately upon becoming a judicial candidate.

ADVANCE OPINION

A judge or judicial candidate may request an opinion on a proposed specific activity under this Code in advance of performing said activity from a committee made up of the probate court administrator, the president-judge of the Connecticut Probate Assembly and the chair of the Ethics Committee of the Connecticut Probate Assembly. In the event of the disqualification of any of said committee members, a substitute shall be selected by the Executive Committee of the Connecticut Probate Assembly. Such request for an opinion shall be submitted in writing to the probate court administrator. The committee shall issue a written opinion within ten days after receipt of such request. An advance opinion is not binding on the Council on Probate Judicial Conduct.

Canon 1 – A judge shall uphold and promote the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Rule 1.1 Compliance with the law

A judge shall comply with the law.

COMMENT: This rule deals with the judge's personal conduct. A judge's professional conduct in enforcing the law is covered by rule 2.2. 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.

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. 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.

COMMENT: (1) Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety as defined in this rule. 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 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) A judge may initiate or 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) A judge may initiate or participate in community 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.

Rule 1.3 Avoiding abuse of the prestige of judicial office

A judge shall not use or attempt to use the prestige of judicial office to advance the personal or economic interests of the judge or others or allow others to do so.

COMMENT: (1) It is improper for a judge to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to his or her judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use judicial letterhead to gain an advantage in conducting his or her personal business.

(2) A judge may provide a reference or recommendation for an individual based on the judge's personal knowledge. The judge may use official letterhead if the judge indicates that the reference is personal and if the use of the letterhead would not reasonably be perceived as an attempt to exert pressure by reason of the judicial office.

(3) A judge may participate in the process of judicial selection by cooperating with appointing authorities and

screening committees and by responding to inquiries from such entities concerning the professional qualifications of a person being considered for judicial office.

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

Canon 2 – A judge shall perform the duties of judicial office impartially, competently and diligently.

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 in such a way as to minimize the risk of conflicts that would result in disqualification. A judge's personal extrajudicial activities shall not be conducted in such a way as to interfere unduly with the duties of judicial office. See Canon 3.

(2) Although it is not a duty of judicial office, judges are encouraged to initiate or participate in activities that promote public understanding of and confidence in the justice system.

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 fairness and impartiality 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 self-represented litigants the opportunity to have their matters fairly heard.

Rule 2.3 Bias, prejudice and harassment

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

(b) A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice or engage in harassment including, but not limited to, bias, prejudice or harassment based on race, sex, gender, gender identity or expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status or political affiliation and shall not condone such conduct by court staff, court officials or others subject to the judge's direction and control.

(c) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice or engaging in harassment, based on attributes including, but not limited to, race, sex, gender, gender identity or expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status or political affiliation against parties, witnesses, lawyers or others.

(d) The restrictions of subsections (b) and (c) do not preclude judges or lawyers from making legitimate reference to the listed factors or similar factors when they are relevant to an issue in a proceeding.

COMMENT: (1) A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

(2) Examples of manifestations of bias or prejudice include, but are not limited to, epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based on stereotypes; threatening, intimidating or hostile acts; suggestions of connections between race, ethnicity or nationality and criminality; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and lawyers in the proceeding, the media and others an appearance of bias or prejudice. A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.

(3) Harassment, as referred to in subsections (b) and (c), is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as race, sex, gender, gender identity or expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status or political affiliation.

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

Rule 2.4 External influences on judicial conduct or judgment

(a) A judge shall not be swayed in the performance of the judge's judicial duties 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's judicial conduct or judgment.

COMMENT: 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. The integrity of judicial decision making is undermined if it is based in whole or in part on inappropriate outside influences.

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.

(c) A judge shall faithfully comply with established continuing judicial education requirements.

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 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.

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.

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 settlements 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 on appropriate settlement practices for a case are: (a) whether the parties have requested or voluntarily consented to a certain level of participation by the judge in settlement discussions, (b) whether the parties and their counsel are relatively

sophisticated in legal matters, (c) whether the parties participate with their counsel in settlement discussions and (d) whether any parties are unrepresented by counsel.

(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, and, in such instances, the judge should consider whether disqualification may be appropriate. See rule 2.11 (a) (1).

Rule 2.7 Responsibility to decide

A judge shall hear and decide matters that come before the judge, except when disqualification is required by rule 2.11 or other law.

COMMENT: Judges must be available to decide the matters that come before them. 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 on the judge's colleagues require that a judge not use disqualification to avoid cases that present difficult, controversial or unpopular issues.

Rule 2.8 Decorum, demeanor and communication in the court

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

(b) A judge shall be patient, dignified and courteous to litigants, 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.

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) Facial expression and body language, in addition to oral communication, can give the impression of a lack of patience or courtesy. A judge must be alert to avoid behavior that may be perceived as evidencing these attitudes.

Rule 2.9 Ex parte communications

(a) 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 or their lawyers concerning a pending or impending matter, except as follows:

(1) When circumstances require it, ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided the judge reasonably believes that no party will gain a procedural, substantive or tactical advantage as a result of the ex parte communication.

(2) A judge may obtain the legal advice of a disinterested expert on the law applicable to any proceeding before the judge but shall not receive from such expert any information related to a contested matter unless the judge notifies the parties of the name

of the person consulted and the substance of the communication and affords the parties a reasonable opportunity to respond.

(3) A judge may consult with court staff, other judges or with the office of the probate court administrator, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record and does not abrogate the responsibility personally to decide the matter.

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

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

(b) If a judge inadvertently receives an unauthorized ex parte communication bearing on the substance of a matter, the judge shall make provision promptly to notify all parties and attorneys, in writing, of the substance of the communication and provide the parties with an opportunity to respond.

(c) A judge shall not investigate facts in a matter independently and shall consider only the evidence presented and any facts that may properly be judicially noticed.

(d) A judge shall direct court staff to avoid the transmittal of proscribed ex parte communications to the judge.

COMMENT: (1) The proscription against communications concerning a proceeding includes communications with lawyers, law teachers and other persons who are not participants in the proceeding, except to the limited extent permitted by this rule.

(2) A judge may initiate, permit or consider ex parte communications expressly authorized by law.

(3) A judge may consult with other judges on pending matters but must avoid ex parte discussions of a case with judges disqualified from hearing the matter and with judges having appellate jurisdiction over the matter.

(4) The prohibition against a judge investigating the facts in a matter extends to information available in all mediums, including electronic.

(5) A judge may consult ethics advisory committees, outside counsel or legal experts concerning the judge's compliance with this Code.

Rule 2.10 Judicial statements on pending and impending cases

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

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

(c) A judge shall require court staff and others subject to the judge's direction and control to refrain from making statements that the judge would be prohibited from making by subsections (a) and (b).

(d) Notwithstanding the restrictions in subsection (a), a judge may explain court procedures and may comment on any proceeding in which the judge is a party in a personal capacity.

COMMENT: (1) This rule's restrictions on judicial speech are essential to the maintenance of the independence, integrity and impartiality of the judiciary.

(2) This rule does not prohibit a judge from commenting on proceedings in which the judge is a party in a personal capacity. In cases in which the judge is a party in an official capacity, such as a writ of mandamus, the judge must not comment publicly.

Rule 2.11 Disqualification

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

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

(2) The judge knows that the judge or a member of the judge's family is:

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

(B) acting as a lawyer in the proceeding;

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

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

(3) The judge knows that he or she, individually or as a fiduciary, or a member of the judge's family has an economic interest in the subject matter in controversy or is a party to the proceeding.

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

(5) The judge:

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

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

(C) was a material witness concerning the matter.

(6) Disqualification is required under C.G.S. section 45a-22.

(b) 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 or domestic partner and minor children residing in the judge's household.

(c) If a judge is not disqualified from acting under C.G.S. section 45a-22, this rule or the Probate Court Rules of Procedure, but is aware of information that a party or attorney for a party might consider relevant to the question of disqualification, the judge may proceed in accordance with section 15.6 of the Probate Court Rules of Procedure.

(d) A judge is not automatically disqualified from hearing a matter merely because a lawyer or party to the matter has filed a lawsuit against the judge or filed a complaint against the judge with the Council on Probate Judicial Conduct. When the judge becomes aware that such a lawsuit or complaint has been filed against him or her, the judge shall proceed in accordance with section 15.5 (b) of the Probate Court Rules of Procedure.

(e) The fact that the judge was represented or defended by the attorney general in a lawsuit that arises out of the judge's judicial duties shall not be the sole basis for recusal by the judge in matters in which the attorney general appears.

COMMENT: (1) Under this rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of subsections (a) (1) through (5) apply.

(2) A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

(3) The rule of necessity may override the rule of disqualification. In matters that require immediate action, the judge must disclose, in writing, the basis for disqualification and, as soon as practicable, ask the probate court administrator to cite another judge to conduct subsequent proceedings in the matter.

(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 subsection (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 subsection (a) (2) (C), the judge's disqualification is required.

(5) The rule does not prevent a judge from relying on personal knowledge of historical or procedural facts acquired as a result of presiding over the proceeding itself.

Editor's Note: See also C.G.S. section 45a-22 regarding disqualification.

Rule 2.12 Supervisory duties

(a) A judge shall take reasonable measures to ensure that court staff and others subject to the judge's direction and control act in a manner consistent with the judge's obligations under this Code.

(b) A judge shall prohibit court staff from appearing as an attorney in a contested matter or serving as a fiduciary in any Probate Court, except that a staff member may serve as a fiduciary for a spouse, child, parent, grandparent, brother, sister, aunt, uncle, niece or nephew.

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) A judge shall prohibit court employees from engaging in activities that would reasonably appear to exploit the judge's judicial position.

Rule 2.13 Employment decisions and administrative appointments

(a) In making or facilitating employment decisions and appointments, a judge:

(1) shall act impartially and on the basis of merit;

(2) shall avoid favoritism; and

(3) shall avoid unwarranted appointments.

(b) A judge shall not approve compensation of appointees beyond the fair value of services rendered.

(c) A judge shall not appoint or employ a member of the judge's family in a paid position in the judge's own court. A judge shall not advocate or participate in the appointment or employment, promotion or advancement of a member of the judge's family in any other Probate Court.

COMMENT: (1) Appointees of a judge include, but are not limited to, court-appointed counsel, fiduciaries and state marshals. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by subsection (a).

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 notifying appropriate judicial authorities or 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. Depending on 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 notifying judicial administrators or 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 on 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.

(3) A client security fund has been established to promote public confidence in the judicial system and the integrity of the legal profession by, among other things, establishing a lawyers assistance program providing crisis intervention and referral assistance to attorneys admitted to the practice of law in this state who suffer from alcohol or other substance abuse problems or gambling problems or who have behavioral health problems. See Connecticut Practice Book, section 2-68.

Rule 2.15 Responding to judicial and lawyer misconduct

(a) A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question regarding the judge's honesty, trustworthiness or fitness as a judge in other respects shall take appropriate action, including informing the appropriate authority.

(b) A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall take appropriate action, including informing the appropriate authority.

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

(d) A judge who receives information indicating a substantial likelihood that a lawyer has committed a

violation of the Rules of Professional Conduct shall take appropriate action.

(e) A judge is not required to disclose information gained by the judge while serving as a member of a committee that renders assistance to ill or impaired judges or lawyers or while serving as a member of a bar association professional ethics committee or the Connecticut Probate Assembly Ethics Committee.

COMMENT: (1) Taking appropriate action under the circumstances to address known misconduct is a judge's obligation. Except as otherwise provided in subsection (e), subsections (a) and (b) impose an obligation on the judge to report to the appropriate disciplinary authority the known misconduct of another judge or a lawyer that raises a substantial question regarding the honesty, trustworthiness or fitness of that judge or lawyer. Ignoring or denying known misconduct among one's judicial colleagues or members of the legal profession undermines a judge's responsibility to participate in efforts to ensure public respect for the justice system. This rule limits the reporting obligation to those offenses that an independent judiciary must vigorously endeavor to prevent.

(2) A judge who does not have actual knowledge that another judge or a lawyer may have committed misconduct, but receives information indicating a substantial likelihood of such misconduct, is required to take appropriate action under subsections (c) and (d), except as otherwise provided in subsection (e). Appropriate action may include, but is not limited to, communicating directly with the judge who may have violated this Code or reporting the suspected violation to the appropriate authority or other agency or body.

(3) Similarly, actions to be taken in response to information indicating that a lawyer has committed a violation of the Rules of Professional Conduct may include, but are not limited to, communicating directly with

the lawyer who may have committed the violation or reporting the suspected violation to the appropriate authority or other agency or body.

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: Cooperation with investigations and proceedings of judicial and lawyer discipline agencies, as required in subsection (a), instills confidence in judges' commitment to the integrity of the judicial system and the protection of the public.

Canon 3 – A judge shall conduct the judge's personal, professional and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.

Rule 3.1 Extrajudicial activities in general

A judge may engage in extrajudicial activities, except as prohibited by law. However, when engaging in extrajudicial activities, a judge shall not:

(a) participate in activities that will interfere with the proper performance of the judge's judicial duties;

(b) participate in activities that will lead to frequent disqualification of the judge;

(c) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity or impartiality;

(d) engage in conduct that would appear to a reasonable person to be using the judge's position in a coercive manner; or

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

COMMENT: (1) To the extent that time permits, and judicial independence and impartiality are not compromised, judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system and the administration of justice, such as by speaking, writing, teaching or participating in scholarly research projects. In addition, judges are permitted and encouraged to engage in educational, religious, charitable, fraternal or civic extrajudicial activities not conducted for profit, even when the activities do not involve the law. See rule 3.7.

(2) Participation in both law related and other extrajudicial activities helps integrate judges into their communities and furthers public understanding of and respect for courts and the judicial system.

(3) Discriminatory actions and expressions of bias or prejudice by a judge, even outside the judge's official or judicial actions, are likely to appear to a reasonable person to call into question the judge's integrity and impartiality. Examples include jokes or other remarks that demean individuals based on their race, sex, gender, gender identity or expression, religion, national origin, ethnicity, disability, age, sexual orientation or socioeconomic status. For the same reason, a judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices unlawful discrimination. See rule 3.6.

(4) While engaged in permitted extrajudicial activities, a judge must not use his or her position to coerce others or act in a way that would reasonably be perceived to be coercive. For example, depending on the circumstances, a judge's solicitation of contributions or memberships for an organization, even as permitted by rule 3.7 (a), might create the risk that the person solicited would feel obligated to respond favorably or would do so to curry favor with the judge.

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;

(c) when the judge is acting in a matter involving the judge's legal or economic interests or when the judge is acting in a fiduciary capacity; or

(d) when the judge is acting in a representative capacity, provided such judge does not use the prestige of the judge's office.

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.

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.

COMMENT: A judge who, without being duly summoned, 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.

Rule 3.4 Appointments to governmental positions

A judge may accept appointment to a governmental committee, board, commission or other governmental position that concerns the law, the legal system, the administration of justice or any other matter of public policy, provided that the appointment does not involve the judge in partisan political activity or conflict with the duties of the judge's office.

COMMENT: (1) Rule 3.4 implicitly acknowledges the value of judges accepting appointments to entities that concern the law, the legal system, the administration of justice or other matters of public policy. 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.

(3) This rule does not permit a judge to accept an appointment to fill a vacancy in an elective office.

Rule 3.5 Use of information

A judge shall not use information acquired in a judicial capacity for any purpose unrelated to the judge's judicial duties.

COMMENT: In the course of performing judicial duties, a judge may acquire information of commercial or other value. The judge must not use such information for personal gain or for any purpose unrelated to his or her judicial duties.

Rule 3.6 Affiliation with discriminatory organizations

(a) A judge shall not hold membership in any organization that practices unlawful discrimination on the basis of race, sex, gender, gender identity or expression, religion, national origin, ethnicity, disability or sexual orientation. When a judge learns that an organization to

which the judge belongs engages in unlawful discrimination, the judge must resign immediately from the organization.

(b) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices unlawful discrimination on one or more of the bases identified in subsection (a). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

Rule 3.7 Participation in educational, religious, charitable, social or civic organizations and activities

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

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

(2) soliciting contributions for such an organization or entity, but only from members of the judge's family;

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

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

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

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

(A) will be engaged in proceedings that would ordinarily come before the judge; or

(B) will frequently be engaged in adversary proceedings in other Probate Courts.

(b) A judge may encourage lawyers to provide pro bono publico legal services.

COMMENT: (1) The activities permitted by subsection (a) generally include those sponsored by or undertaken on behalf of public or private not-for-profit educational institutions and other not-for-profit organizations, including law related, charitable and other organizations.

(2) Even for law related organizations, a judge should consider whether the membership and purposes of the organization, or the nature of the judge's participation in or association with the organization, would conflict with the judge's obligation to refrain from activities that reflect adversely on a judge's independence, integrity and impartiality.

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

(4) A judge should not knowingly allow use of the judge's title or other identification of the judges' position on letterhead used for fund-raising or membership solicitation.

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

Rule 3.8 Appointments to fiduciary positions

(a) A judge shall not accept appointment to serve in a fiduciary position in any Probate Court, provided, however, that a judge may serve as a fiduciary with respect to the judge's spouse or domestic partner, child, parent, grandparent, brother, sister, aunt, uncle, niece or nephew, stepchild, stepparent, stepgrandparent, stepbrother or stepsister.

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

(c) If a person who is serving in a fiduciary position becomes a judge, he or she must comply with this rule as soon as reasonably practicable, but in no event later than one year after the date on which the judge is elected.

COMMENT: A judge should recognize that other restrictions imposed by this Code may conflict with a judge's obligations as a fiduciary; in such circumstances, a judge should resign as fiduciary.

Rule 3.9 Reserved for future use

Rule 3.10 Practice of law

No judge shall appear as an attorney in the court to which he or she was elected, notwithstanding the fact that another judge has been cited in to hear the matter.

Editor's Comment: See also C.G.S. sections 45a-25 and 45a-26, which address certain extrajudicial activities of the judge and the activities of a judge's partners and associates.

Rule 3.11 Professional, financial and business activities

(a) A judge shall refrain from professional, financial and business activities that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of the judge's judicial duties or exploit the judge's judicial position.

(b) Subject to rules 3.8 and 3.10, a judge is permitted to engage in the practice of law.

(c) 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, including the operation of a business or profession.

(d) A judge shall manage the judge's investments and other financial interests to minimize the number of cases in which the judge is disqualified.

(e) A judge shall not purchase any property, real or personal, from any estate over which the judge's own court is presently exercising jurisdiction, even if another judge has been cited in to hear matters related to the estate. Notwithstanding the foregoing, a judge may, following the judge's disqualification from the matter, purchase property from such an estate under the following circumstances:

(1) the estate is that of the judge's spouse, child, parent, grandparent, brother or sister; or

(2) the judge possessed the right to purchase the property under the terms of a contract or option that was legally enforceable prior to the establishment of the estate.

COMMENT: (1) A judge is generally permitted to engage in, and be compensated for, professional, financial and business activities for themselves or for members of their families. Participation in these activities, like participation in other extrajudicial activities, is subject to the requirements of this Code. For example, it would be improper for a judge to use his or her official title in professional or business advertising, or to conduct his or her professional, business or financial affairs in such a way that disqualification is frequently required. See rules 1.3 and 2.11.

(2) As soon as reasonably possible, but in no event later than one year after the date on which the judge is elected, the judge must divest himself or herself of investments and other financial interests that might require frequent disqualification or otherwise violate this rule.

(3) A judge shall discourage members of the judge's family from engaging in professional, financial and business activities that would reasonably appear to exploit the judge's judicial position.

(4) The narrow exceptions that are permitted under subsection (e) are designed to avoid hardship to a judge when the matter involves the judge's own family or when the judge has entered into a contract to purchase a property before the event triggering the establishment of an estate arose. A judge should not become a party to any such contract if it appears at the time of entering into the contract that any other party to the transaction is likely to be involved in a matter in the judge's court within the near future.

(5) 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.

(6) Judicial duties must take precedence over all other activities. See rule 2.1.

Editor's note: See C.G.S. section 45a-68 regarding the duty to report income and honoraria.

Rule 3.12 Reserved for future use

Rule 3.13 Acceptance and reporting of gifts, loans, bequests, benefits or other things of value

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

(b) Unless otherwise prohibited by law, or by subsection (a), a judge may accept the following without publicly reporting such acceptance:

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

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

(3) ordinary social hospitality;

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

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

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

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

(8) gifts, awards or benefits associated with the business, profession or other separate activity of a spouse, a domestic partner or other family member of a

judge residing in the judge's household but that incidentally benefit the judge.

(c) Unless otherwise prohibited by law or by subsection (a), a judge may accept the following items and must report such acceptance to the extent required by rule 3.15:

(1) gifts incident to a public testimonial; or

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

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

(B) an event associated with any of the judge's educational, religious, charitable, fraternal or civic activities permitted by this Code, if the same invitation is offered to nonjudges who are engaged in similar ways in the activity as is the judge.

COMMENT: (1) Whenever a judge accepts a gift or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as intended to influence the judge's decision in a case. Rule 3.13 imposes restrictions on the acceptance of such benefits, according to the magnitude of the risk. Subsection (b) identifies circumstances in which the risk that the acceptance would appear to undermine the judge's independence, integrity or impartiality is low and explicitly provides that such items need not be publicly reported. As the value of the benefit or the likelihood that the source of the benefit will appear before the judge increases, the judge is either prohibited under subsection (a) from accepting the gift or required under subsection (c) to publicly report it.

(2) Gift giving between friends and relatives is a common occurrence and ordinarily does not create an

appearance of impropriety or cause reasonable persons to believe that the judge's independence, integrity or impartiality has been compromised. In addition, when the appearance of friends or relatives in a case would require the judge's disqualification under rule 2.11, there would be no opportunity for a gift to influence the judge's decision making. Subsection (b) (2) places no restrictions on the ability of a judge to accept gifts or other things of value from friends or relatives under these circumstances and does not require public reporting.

(3) Businesses and financial institutions frequently make available special pricing, discounts and other benefits either in connection with a temporary promotion or for preferred customers, based on longevity of the relationship, volume of business transacted and other factors. A judge may freely accept such benefits if they are available to the general public or if the judge qualifies for the special price or discount according to the same criteria as are applied to persons who are not judges. As an example, loans provided at generally prevailing interest rates are not gifts, but a judge could not accept a loan from a financial institution at below-market interest rates unless the same rate was being made available to the general public for a certain period of time or only to borrowers with specified qualifications that the judge also possesses.

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

(5) Rule 3.13 does not apply to contributions to a judge's campaign for judicial office, a matter governed by canon 4.

Rule 3.14 Reimbursement of expenses and waivers of fees or charges

(a) Unless otherwise prohibited by rules 3.1 and 3.13 (a) or other law, a judge may accept reimbursement of necessary and reasonable expenses for travel, food, lodging or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition and similar items, if the expenses or charges are associated with the judge's participation in activities relating to the law, the legal system or the administration of justice as permitted by this Code.

(b) Reimbursement of expenses for necessary travel, food, lodging or other incidental expenses shall be limited to the actual costs reasonably incurred by the judge or a reasonable allowance therefor.

(c) A judge who accepts reimbursement of expenses or waivers or partial waivers of fees or charges on behalf of the judge shall publicly report such acceptance as required by rule 3.15.

COMMENT: (1) Educational, civic, religious, fraternal and charitable organizations often sponsor meetings, seminars, symposia, dinners, awards ceremonies and similar events. Judges are encouraged to attend educational programs, as both teachers and participants, in law related disciplines, in furtherance of their duty to remain competent in the law. Participation in a variety of other extrajudicial activity is also permitted and encouraged by this Code.

(2) Not infrequently, sponsoring organizations invite certain judges to attend seminars or other events on a fee-waived or partial-fee-waived basis and sometimes include reimbursement for necessary travel, food, lodging or other

incidental expenses. A judge's decision whether to accept reimbursement of expenses or a waiver or partial waiver of fees or charges in connection with these or other extrajudicial activities must be based on an assessment of all the circumstances. Per diem allowances shall be reasonably related to the actual costs incurred. The judge must undertake a reasonable inquiry to obtain the information necessary to make an informed judgment about whether acceptance would be consistent with the requirements of this Code.

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

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

(B) whether the funding comes largely from numerous contributors rather than from a single entity and is earmarked for programs with specific content;

(C) whether the content is related or unrelated to the subject matter of litigation pending or impending before the judge or to matters that are likely to come before the judge;

(D) whether the activity is primarily educational rather than recreational and whether the costs of the event are reasonable and comparable to those associated with similar events sponsored by the judiciary, bar associations or similar groups;

(E) whether information concerning the activity and its funding sources is available upon inquiry; and

(F) whether the sponsor or source of funding is generally associated with particular parties or interests currently appearing or likely to appear in the judge's court, thus possibly requiring disqualification of the judge under rule 2.11.

Rule 3.15 Reporting requirements

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

(1) gifts and other things of value as permitted by rule 3.13 (c), unless the value of such items, alone or in the aggregate with other items received from the same source in the same calendar year, does not exceed \$250; and

(2) reimbursement of expenses and waiver of fees or charges permitted by rule 3.14 (a), unless the amount of reimbursement or waiver, alone or in the aggregate with other reimbursements or waivers received from the same source in the same calendar year, does not exceed \$250.

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

(c) The public report required by subsection (a) shall be made at least annually, except that for reimbursement of expenses and waiver or partial waiver of fees or charges, the report shall be made within thirty days following the conclusion of the event or program.

(d) Reports made in compliance with this rule shall be filed as public documents with the Council on Probate Judicial Conduct.

Canon 4 – A judge or judicial candidate shall not engage in political or campaign activity that is inconsistent with the independence, integrity or impartiality of the judiciary.

Rule 4.1 Political and campaign activities of judges and judicial candidates in general

(a) Unless prohibited by law, a judge or judicial candidate may:

(1) participate in or be a member of a political party, local committee of a political party or other political organization;

(2) identify himself or herself as a member of a political party;

(3) contribute to a political organization or political party or committee for a candidate or judicial candidate;

(4) attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate or judicial candidate;

(5) attend a political convention, rally, fundraising function or other political gathering;

(6) participate in the nonpartisan activities of a civic, community, social, labor or professional organization; and

(7) sign a political petition as an individual.

(b) Except as permitted by law, or by rules 4.2, 4.3 and 4.4, a judge or a judicial candidate shall not:

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

(2) make speeches on behalf of a political organization, except that general comment in keeping with the dignity of the office of the judge regarding party affiliation and principles and reference to candidates of the judge's own political party shall not be considered speeches for a political organization;

(3) publicly endorse or oppose a candidate for any public office (except the judicial office for which a judge may be campaigning on his or her own behalf) or political party office in a speech, public advertisement, political advertisement, broadcast, campaign literature or similar material, except that general comment in keeping with the dignity of the office of judge regarding party affiliation and principles and reference to other members of the same ticket in a judge's or judicial candidate's own election campaign shall not be prohibited;

(4) display a political picture, sticker, badge or button supporting any candidate in an election;

(5) directly solicit, receive, collect, handle, disburse or account for assessments, contributions or other funds for a political purpose;

(6) organize or reorganize a political organization or an organization affiliated with a political organization;

(7) take any part in managing the political campaign of a candidate for public office or office in a political organization, other than the judge's or judicial candidate's own campaign for judicial office;

(8) personally solicit or accept campaign contributions for any candidate;

(9) knowingly, or with reckless disregard for the truth, make any false or misleading statement;

(10) make any public statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court;

(11) in connection with cases, controversies or issues that are likely to come before the court, make pledges, promises or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office;

(12) become a candidate for public office in any other election;

(13) act as election moderator, recorder, watcher, challenger or similar officer at the polls during an election;

(14) work as a driver transporting voters to the polls during an election;

(15) initiate or circulate a nomination petition, except his or her own; or

(16) place a sign or sticker supporting another candidate on his or her real or personal property, except that this prohibition shall not abridge the right of a co-owner of such property to do so.

(c) A judge shall, immediately upon taking office as judge, resign from any other elected public office.

COMMENT:

GENERAL CONSIDERATIONS

(1) Even though subject to public election, a judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based upon the expressed views or preferences of the electorate, a judge makes decisions based upon the law and the facts of every case. Therefore, in furtherance of this interest,

judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence and political pressure.

(2) When a person becomes a judicial candidate, canon 4 becomes applicable to his or her conduct.

PARTICIPATION IN POLITICAL ACTIVITIES

(3) Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. Although judges and judicial candidates may register to vote as members of a political party, they are prohibited by subsection (b) (1) from assuming leadership roles in political organizations.

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

(5) Although a judicial candidate should not be able to control or limit the exercise of free speech by others, whether or not in a political campaign, a judicial candidate should inform co-owners of his or her property of the possible appearance of impropriety if they engage in political activities from which the judicial candidate is prohibited.

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

(7) For the purpose of this rule, running for town committee membership is not considered to be acting as a leader in or holding office in a political organization or becoming a candidate for public office.

(8) This rule prohibits a judge from being active in managing a political campaign of a candidate but would not prevent the judge from assisting the members of a political organization in a political campaign so long as such assistance is consistent with the dignity of the office of judge and the judge's name is not used in any manner that would indicate to the public that the judge is assisting or endorsing such candidate. "Managing a political campaign" means taking an active leadership role in the organization, planning or execution of another's political campaign, but it does not include giving occasional advice or attending occasional organizational meetings. Even if another person should be the effective manager of a political campaign, a judge should never allow the use of his or her name as the nominal or honorary manager of such a campaign.

(9) This rule prohibits direct solicitation but does not prevent a judge from assisting in fundraising activities, although the judge should never use the prestige of the judge's office for such fundraising. The judge may be a member of a finance committee that organizes financial drives so long as the judge's name is not used to solicit funds. Such activities as selling tickets to political dinners and the like are considered direct solicitation and are therefore prohibited.

STATEMENTS AND COMMENTS MADE DURING A CAMPAIGN FOR JUDICIAL OFFICE

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

(11) Judicial candidates are sometimes the subject of false, misleading or unfair allegations made by opposing candidates, third parties or the media. As long as the candidate does not violate subsections (b) (9), (b) (10) or (b) (11), the candidate may make a factually accurate public response.

(12) Subject to subsection (b) (10), a judicial candidate is permitted to respond directly to false, misleading or unfair allegations made against him or her during a campaign, although it is preferable for someone else to respond if the allegations relate to a pending case.

(13) Subsection (b) (10) prohibits judicial candidates from making public comments that might impair the fairness of pending or impending judicial proceedings. This provision does not restrict arguments or statements to a court or jury by a lawyer who is a judicial candidate. This provision also does not preclude rulings or statements by a judge as part of a proceeding before the judge.

PLEDGES, PROMISES OR COMMITMENTS INCONSISTENT WITH IMPARTIAL PERFORMANCE OF THE ADJUDICATIVE DUTIES OF JUDICIAL OFFICE

(14) Campaigns for judicial office must be conducted differently from campaigns for other offices. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in canon 4 allow candidates

to conduct campaigns that provide voters with sufficient information to permit them to distinguish between candidates and make informed electoral choices.

(15) Subsection (b) (11) makes applicable to both judges and judicial candidates the prohibition that applies to judges in rule 2.10 (b), relating to pledges, promises or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

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

(17) A judicial candidate may make campaign promises related to judicial organization, administration and court management, such as a promise to dispose of a backlog of cases, start court sessions on time or avoid favoritism in appointments and hiring. A judicial candidate may also pledge to take action outside the courtroom, such as advocating for more funds to improve the physical plant and amenities of the courthouse.

Rule 4.2 Campaign activities of judges and judicial candidates while seeking election to judicial office

(a) A judge or judicial candidate shall:

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

(2) comply with all applicable election, election campaign and election campaign fundraising laws and regulations; and

(3) take reasonable measures to review the content of all campaign statements and materials produced by the judicial candidate or the judicial candidate's campaign committee, as authorized by rule 4.4, before their dissemination.

(b) Unless prohibited by law, a judge or judicial candidate may, while seeking election to judicial office:

(1) identify himself or herself as a candidate of a political organization;

(2) seek, accept and use endorsements of a political organization;

(3) establish a campaign committee pursuant to the provisions of rule 4.4;

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

(5) appear in photographs or displays with other candidates of his or her own political party; and

(6) display a political picture, sticker, badge or button supporting his or her own candidacy, except while performing any judicial function, and except that no such picture, sticker, badge or button shall be displayed in Probate Court facilities.

(c) A judge or judicial candidate shall not:

(1) personally solicit campaign contributions;

(2) accept campaign contributions other than through a campaign committee authorized by rule 4.4;

(3) use or permit the use of campaign contributions for the private benefit of the judge or others;

(4) use court staff, facilities or other court resources in a campaign for judicial office; or

(5) authorize or knowingly permit any other person to undertake on behalf of the judge or judicial candidate any activities, other than those described in rule 4.4, that the judicial candidate is prohibited from doing by law or these rules.

COMMENT: (1) Subsection (b) permits judicial candidates to engage in some political and campaign activities otherwise prohibited by rule 4.1.

(2) Despite subsection (b), judicial candidates 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 (b), subsections (5), (9), and (11).

(3) A judicial candidate may be nominated by, affiliated with, or otherwise publicly identified or associated with a political organization, including a political party.

Rule 4.3 Activities of probate judges seeking appointive judicial office

A judge seeking 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: When seeking support or endorsement, or when communicating directly with an appointing or confirming authority, a judge who is 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 (b) (11).

Rule 4.4 Campaign committees

A judicial candidate may establish a campaign committee to manage and conduct a campaign for the judicial candidate, subject to the provisions of this Code. The committee may conduct campaigns for the judicial candidate through media advertisements, brochures, mailings, judicial candidate forums and other means not prohibited by law. Such committee may solicit and accept reasonable campaign contributions as permitted by law and manage the expenditure of funds for the judicial candidate's campaign. A judicial candidate shall not use or permit the use of campaign contributions for the private benefit of the judicial candidate or others. A judicial candidate or a committee acting on his or her behalf may solicit public statements of support for the judicial candidate's candidacy. The judicial candidate is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable law.

COMMENT: (1) Judicial candidates are prohibited from personally soliciting campaign contributions or personally accepting campaign contributions. See rule 4.1 (b) (8). This rule recognizes that judicial candidates must raise campaign funds to support their candidacies and permits judicial candidates to establish campaign committees to

solicit and accept reasonable financial contributions or in-kind contributions.

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

(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 judicial candidate 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.

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.

(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 subsection (a) ensures that a judge cannot use the judicial office to promote his or her candidacy and prevents post-campaign retaliation by the judge against others who may have supported an opposing judicial candidate. When a judge is seeking appointive nonjudicial office, however, the dangers are not sufficient to warrant imposing the “resign to run” rule.