

JUDICIAL STANDARDS UPDATE: FALL 2026

JUDGE JEFF CARPENTER, CHAIR
PATRICIA FLOOD, EXECUTIVE DIRECTOR
BETHANIE MAXWELL, COMMISSION COUNSEL
NORTH CAROLINA JUDICIAL STANDARDS COMMISSION



DISQUALIFICATION: GENERALLY

- N.C.G.S. 15A-1223(b)
- Canon 3C: “A judge should disqualify himself/herself in a proceeding in which the judge’s impartiality may reasonably be questioned...”
- Objective **AND** Subjective Analysis
 - Objective: see Canon 3C(1) for examples
 - Reasonably educated person standard
 - Subjective: ask yourself, “can I be fair/impartial?”
- **Must balance with what you have been elected/appointed to do – hear cases!**



DISQUALIFICATION: WHAT IS THE STANDARD?

- To disqualify a judge, “the burden is upon the party moving for disqualification to [produce] substantial evidence that there exists such a personal bias, prejudice or interest on the part of the judge that he would be unable to rule impartially.” *Lange v. Lange*, 357 N.C. 645, 649 (2003)
- Judges need not recuse themselves “because of ‘unsupported, irrational, or highly tenuous speculation[.]’ . . . To disqualify oneself in such circumstances . . . would allow litigants ‘to exercise a negative veto over the assignment of judges.’” *U.S. v. DeTemple*, 162 F.3d 279, 286-87 (4th Cir. 1998)
- The fact that a judge has not ruled in a party’s favor is not evidence of personal bias, prejudice or interest. “[T]he bias or prejudice which can be urged against a judge must be based upon something other than rulings in the case.” *Berger v. United States*, 255 U.S. 22, 31 (1921)
- “Parties cannot be allowed to create the basis for recusal by their own deliberate actions. To hold otherwise would encourage inappropriate ‘judge shopping.’ It would invite litigants to test the waters with a particular judge and then to take steps to create recusal grounds if the waters proved uncomfortably hot.” *United States v. Owens*, 902 F.2d 1154, 1156 (4th Cir. 1990)



DISQUALIFICATION: TAKEAWAYS

- It is NOT appropriate for judges to recuse to please a party (e.g. get bullied off of a case) or “because it is easier”
- See [FAO 2014-02](#)
- Think of the impact that this may have on others
- Canons 1, 2A, 3A(1) – duty to respect and comply with the law and maintain your professional competence in it; duty to uphold the integrity, impartiality, and public’s confidence in the judiciary
- Canon 3A(5) – duty to promptly dispose of the business of the court
- Canon 3B – administrative duties



DISQUALIFICATION: WHEN DO I NEED ANOTHER JUDGE?

- Rarely. But before deciding, call Judicial Standards.
- [UNC SOG Judges' Benchbook](#)
 - If the allegations made about the judge's bias or other potential disqualification are made with sufficient support to require findings of fact [about the judge], the motion to recuse should be referred to another judge.
 - If a party's motion to recuse is not supported by sufficient evidence to require findings of fact, or if the allegations would not require recusal even if true, a judge need not refer the recusal motion to another judge.
- Considerations:
 - Is the motion sufficient?
 - If yes, would you be required to disqualify under Canon 3C?
 - If yes, do you need to testify or present outside evidence regarding the grounds for your recusal?



SOCIAL MEDIA: PERSONAL VS. POLITICAL

- Personal Social Media Page → remember, you are a judge on and off the bench (Canons 1 and 2A).
 - You should not post on your personal page during business hours.
 - Be cognizant of your “friends” on your page if they appear before you.
 - Your posts should not indicate bias (Canon 3C) or be unprofessional.
 - Beware that your social media conduct can create disqualification issues for you (Canon 3C).
 - Posts “live forever” online.
- Political Social Media Page
 - As a sitting judge, your campaign-specific website or social media page can utilize judicial titles and images within the limitations of Canon 7 and of the [Political Conduct Memo](#).
 - You should not post on your political page during business hours, nor utilize state resources to create or maintain your political page.
 - You should not post false or misleading statements about your opponent or other political actors.

[Tips on the Use of Social Media](#) → on our website.



RALLIES

- Canons 4, 5A, 5B: Regulating Your Extra-Curricular and Professional Activities → The Code distinguishes between activities as a judge (Canon 4) and those undertaken in your personal capacity (Canon 5). Most judges are active in their communities and in non-profit organizations, and this is a good thing!
- Canons 1 and 2: judges must always uphold the integrity and impartiality of the judiciary.
- Canon 3C: disqualification is appropriate where the judge's impartiality could reasonably be questioned.
- *All these Canons must be considered when deciding whether the participate in a rally.*
- **We advise judges to proceed with caution when deciding whether to attend a rally, march, or vigil as it can cast doubt on their impartiality or create disqualification issues depending on the issue or group putting on the event.**



OTHER CURRENT ISSUES

- [FAO 2017-02](#): Tardiness (real or perceived) to court
- Canon 3A(5): Delays
- Canons 2B, 3A(1), (2), and (5): Know your role as a judge
- Canon 3A(3): Demeanor and inappropriate comments
- Canon 3B: See/hear something, say something
- Canon 3C(1)(b): do not preside over a case you were previously the attorney of record on





Please don't hesitate to contact us!

Patricia Flood, paf@coa.nccourts.org

(919) 831-3631

www.ncjsc.gov