

IN THE SUPREME COURT OF NORTH CAROLINA

Order Adopting Amendments to the North Carolina  
Code of Judicial Conduct

The North Carolina Code of Judicial Conduct is  
hereby amended to read as follows:

**Preamble**

An independent and honorable judiciary is  
indispensable to justice in our society, and to this  
end and in furtherance thereof, this Code of  
Judicial Conduct is hereby established. A violation  
of this Code of Judicial Conduct may be deemed  
conduct prejudicial to the administration of justice  
that brings the judicial office into disrepute, or  
willful misconduct in office, or otherwise as  
grounds for disciplinary proceedings pursuant to  
Article 30 of Chapter 7A of the General Statutes of  
North Carolina. No other code or proposed code of  
judicial conduct shall be relied upon in the  
interpretation and application of this Code of  
Judicial Conduct.

**Canon 1**

**A judge should uphold the integrity and independence  
of the judiciary.**

~~An independent and honorable judiciary is  
indispensable to justice in our society. A judge  
should participate in establishing, maintaining, and  
enforcing, and should himself observe, high  
appropriate standards of conduct so to ensure that  
the integrity and independence of the judiciary may  
be preserved. The provisions of the Code should be  
construed and applied to further that objective.  
shall be preserved.~~

**Canon 2**

**A judge should avoid impropriety and the appearance of impropriety in all his activities.**

**A.** A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

**B.** A judge should not allow his family, social or other relationships to influence his judicial conduct or judgment. He should not lend the prestige of his office to advance the private interest of others; nor should he convey or permit others to convey the impression that they are in a special position to influence him. A judge may, based on personal knowledge, serve as a personal reference or provide a letter of recommendation. He should not testify voluntarily as a character witness.

**C.** A judge should not hold membership in any organization that practices unlawful discrimination on the basis of race, gender, religion or national origin.

### **Canon 3**

**A judge should perform the duties of his office impartially and diligently.**

The judicial duties of a judge take precedence over all his other activities. His judicial duties include all the duties of his office prescribed by law. In the performance of these duties, the following standards apply:

#### **A. Adjudicative responsibilities.**

(1) A judge should be faithful to the law and maintain professional competence in it. He should be unswayed by partisan interests, public clamor, or fear of criticism.

(2) A judge should maintain order and decorum in

proceedings before him.

(3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers and others with whom he deals in his official capacity, and should require similar conduct of lawyers, and of his staff, court officials, and others subject to his direction and control.

(4) A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and, except as authorized by law, neither knowingly initiate nor knowingly consider *ex parte* or other communications concerning a pending ~~or impending~~ proceeding. A judge, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before him.

(5) A judge should dispose promptly of the business of the court.

(6) A judge should abstain from public comment about the merits of a pending or impending proceeding in any state or federal court dealing with a case or controversy arising in North Carolina or addressing North Carolina law and should encourage similar abstention on the part of court personnel subject to his direction and control. This subsection does not prohibit a judge from making public statements in the course of official duties ~~or~~; from explaining for public information the proceedings of the Court; from addressing or discussing previously issued judicial decisions when serving as faculty or otherwise participating in educational courses or programs; or from addressing educational, religious, charitable, fraternal, political, or civic organizations.

(7) A judge should exercise discretion with regard to permitting broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during civil or criminal sessions of court or recesses between sessions, pursuant to the provisions of Rule 15 of

the General Rules of Practice for the Superior and District Courts.

### **B. Administrative responsibilities.**

(1) A judge should diligently discharge his administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

(2) A judge should require his staff and court officials subject to his direction and control to observe the standards of fidelity and diligence that apply to him.

(3) A judge should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware.

(4) A judge should not make unnecessary appointments. He should exercise his power of appointment only on the basis of merit, avoiding nepotism and favoritism. He should not approve compensation of appointees beyond the fair value of services rendered.

### **C. Disqualification.**

(1) A On motion of any party, a judge should disqualify himself in a proceeding in which his impartiality ~~might~~ may reasonably be questioned, including but not limited to instances where:

(a) He has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings;

(b) He served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such

lawyer has been a material witness concerning it;

(c) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(d) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

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

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

(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

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

(2) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

(3) For the purposes of this section:

(a) The degree of relationship is calculated according to the civil law system;

(b) A fiduciary@ includes such relationships as executor, administrator, trustee, and guardian;

(c) A financial interest@ means ownership of a substantial legal or equitable interest, ~~however small~~ (i.e., an interest that would be significantly

affected in value by the outcome of the subject legal proceeding), or a relationship as director, advisor, or other active participant in the affairs of, a party, except that:

(i) ownership in a mutual or common investment fund that holds securities is not a financial interest in such securities unless the judge participates in the management of the fund;

(ii) an office in an educational, cultural, historical, religious, charitable, fraternal, or civic organization is not a financial interest in securities held by the organization;

~~(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;~~

~~(iv) ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.~~

#### **D. Remittal of disqualification.**

~~A judge~~ Nothing in this Canon shall preclude a judge from disqualifying himself from participating in any proceeding upon his own initiative. Also, a judge potentially disqualified by the terms of Canon 3C(1)(c) or Canon 3C(1)(d) may, instead of withdrawing from the proceeding, disclose on the record the basis of his potential disqualification. If, based on such disclosure, the parties and lawyers, on behalf of their clients and independently of the judge's participation, all agree in writing that the judge's relationship basis for potential disqualification is immaterial or that his financial interest is insubstantial, the judge is no longer disqualified, and may participate in the proceeding. The agreement, signed by all parties

~~and~~ lawyers, shall be incorporated in the record of the proceeding. For purposes of this section, pro se parties shall be considered lawyers.

#### Canon 4

A judge may participate in cultural or historical activities or engage in activities to improve the law, concerning the legal, economic, educational, or governmental system, and or the administration of justice.

A judge, subject to the proper performance of his judicial duties, may engage in the following quasi-judicial activities, if in doing so he does not cast substantial doubt on his capacity to decide impartially any issue that may come before him:

**A.** He may speak, write, lecture, teach, and participate in ~~other~~ cultural or historical activities, or otherwise engage in activities concerning the law economic, the educational, legal, or governmental system, and or the administration of justice.

**B.** He may appear at a public hearing before an executive or legislative body or official ~~on matters concerning the law, the legal system, and the administration of justice with respect to activities permitted under Canon 4A or other provision of this Code,~~ and he may otherwise consult with an executive or legislative body or official.

**C.** He may serve as a member, officer, or director of an organization or governmental agency ~~devoted to the improvement of the law, the legal system, or the administration of justice. He may concerning the activities described in Canon 4A, and may participate in its management and investment decisions. He may not actively assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising~~

activities but may be listed as a contributor on a fund-raising invitation. He may make recommendations to public and private fund-granting agencies on regarding activities or projects and programs concerning the law, the legal system, and the administration of justice. undertaken by such an organization.

## Canon 5

**A judge should regulate his extra-judicial activities to minimize the risk of conflict with ensure that they do not prevent him from carrying out his judicial duties.**

**A. Avocational activities.** A judge may write, lecture, teach, and speak on legal or non-legal subjects, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not ~~detract from the dignity of his office or~~ substantially interfere with the performance of his judicial duties.

**B. Civic and charitable activities.** A judge may participate in civic and charitable activities that do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties. A judge may serve as an officer, director, trustee, or non-legal advisor of an educational, religious, charitable, fraternal, or civic organization ~~not conducted for the economic or political advantage of its members,~~ subject to the following limitations:

(1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before him ~~or will be regularly engaged in adversary proceedings in any court.~~

(2) ~~A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of his office for that purpose, but he.~~



(2) A judge may be listed as an officer, director, or trustee or trustee of any cultural, educational, historical, religious, charitable, fraternal or civic organization. He may not actively assist such an organization in raising funds but may be listed as a contributor on a fund-raising invitation.

(3) A judge may serve on the board of directors or board of trustees of such an organization.

~~(3) A judge should not give investment advice to such an organization, but he may serve on its board of directors or trustees even though it the board has the responsibility for approving investment decisions.~~

### **C. Financial activities.**

(1) A judge should refrain from financial and business dealings that ~~tend to~~ reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, exploit his judicial position, or involve him in frequent transactions with lawyers or persons likely to come before the court on which he serves.

(2) Subject to the requirements of subsection (1), a judge may hold and manage his own personal investments or those of his spouse, children, or parents, including real estate investments, and may engage in other remunerative activity, not otherwise inconsistent with the provisions of this Code but should not serve as an officer, director, or manager, ~~adviser, or employee~~ of any business.

(3) A judge should manage his investments and other financial interests to minimize the number of cases in which he is disqualified. ~~As soon as he can do so without serious financial detriment, he should divest himself of investments and other financial interests that might require frequent disqualification.~~

(4) Neither a judge nor a member of his family residing in his household should accept a gift,

~~bequest, favor, or loan~~ from anyone except as follows:

(a) A judge may accept a gift incident to a public testimonial to him; books supplied by publishers on a complimentary basis for official or academic use; or an invitation to the judge and his spouse to attend a bar-related function, a cultural or historical activity devoted, or an event related to the improvement of the law, the legal economic, educational, legal, or governmental system, or the administration of justice;

(b) A judge or a member of his family residing in his household may accept ordinary social hospitality; a gift, ~~bequest, favor,~~ or loan from a friend or relative; a wedding ~~or~~, engagement or other special occasion gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; or a scholarship or fellowship awarded on the same terms applied to other applicants;

(c) ~~A~~ Other than as permitted under subsection C.(4)(b) of this Canon, a judge or a member of his family residing in his household may accept any other gift, ~~bequest, favor, or loan~~ only if the donor is not a party ~~or other person whose interests have come or are likely to come presently~~ before him, and, if its value exceeds ~~\$100~~ \$500, the judge reports it in the same manner as he reports compensation in Canon 6C.

(5) For the purposes of this section A member of his family residing in his household @ means any relative of a judge by blood or marriage, or a person treated by a judge as a member of his family, who resides in his household.

(6) A judge is not required by this Code to disclose his income, debts, or investments, except as provided in this Canon and Canons 3 and 6.

(7) Information acquired by a judge in his judicial capacity should not be used or disclosed by

him in financial dealings or for any other purpose not related to his judicial duties.

**D. Fiduciary activities.** A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of his family, and then only if such service will not interfere with the proper performance of his judicial duties. A Member of his family@ includes a spouse, child, grandchild, parent, grandparent, or any other relative or person with whom of the judge maintains a close familial relationship by blood or marriage. As a family fiduciary a judge is subject to the following restrictions:

(1) He should not serve if it is likely that as a fiduciary he will be engaged in proceedings that would ordinarily come before him, or if the estate, trust, or ward becomes involved in adversary adversarial proceedings in the court on which he serves or one under its appellate jurisdiction.

(2) While acting as a fiduciary a judge is subject to the same restrictions on financial activities that apply to him in his personal capacity.

**E. Arbitration.** A judge should not act as an arbitrator or mediator. However, an emergency justice or judge of the Appellate Division designated as such pursuant to Article 6 of Chapter 7A of the General Statutes of North Carolina, and an Emergency Judge of the District Court or Superior Court commissioned as such pursuant to Article 8 of Chapter 7A of the General Statutes of North Carolina may serve as an arbitrator or mediator when such service does not conflict with or interfere with the justice=s or judge=s judicial service in emergency status. A judge of the Appellate Division may participate in any dispute resolution program conducted at the Court of Appeals and authorized by the Supreme Court.

**F. Practice of law.** A judge should not practice

law.

**G. Extra-judicial appointments.** A judge should not accept appointment to a ~~governmental~~ committee, commission, or other ~~position that is~~ body concerned with issues of fact or policy on matters other than ~~the improvement of the law, the legal~~ those relating to cultural or historical matters, the economic, educational, legal or governmental system, or the administration of justice. A judge, ~~however,~~ may represent his country, state, or locality on ceremonial occasions or in connection with historical, educational, ~~and~~ or cultural activities.

## Canon 6

**A judge should regularly file reports of compensation received for quasi-judicial and extra-judicial activities.**

A judge may receive compensation, honoraria and reimbursement of expenses for the quasi-judicial and extra-judicial activities permitted by this Code, ~~if the source of such payments does not give the appearance of influencing the judge in his judicial duties or otherwise give the appearance of impropriety,~~ subject to the following restrictions:

**A. Compensation and honoraria.** Compensation and honoraria should not exceed a reasonable amount ~~nor should it exceed what a person who is not a judge would receive for the same activity.~~

**B. Expense reimbursement.** Expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by his spouse. Any payment in excess of such an amount is compensation.

**C. Public reports.** A judge shall report the name and nature of any source or activity from which he received more than ~~\$1,000~~ \$2,000 in income during the calendar year for which the report is filed. Any

required report shall be made annually and filed as a public document as follows: The members of the Supreme Court shall file such reports with the Clerk of the Supreme Court; the members of the Court of Appeals shall file such reports with the Clerk of the Court of Appeals; and each Superior Court Judge, regular, special, and emergency, and each District Court Judge, shall file such report with the Clerk of the Superior Court of the county in which he resides. For each calendar year, such report shall be filed, absent good cause shown, not later than May 15th of the following year.

## Canon 7

### ~~A judge should refrain from political activity inappropriate to his judicial office.~~

~~—A. Political conduct in general.~~

~~—(1) A judge or candidate for election to judicial office should not:~~

~~—(a) act as a leader or hold any office in a political party or any subdivision thereof. For example, he may not attend a political convention on any level as a delegate, nor may he preside or serve as an officer. He may attend any political party meeting, provided he does not violate any other Canon, particularly 7A(1)(b) or 8).~~

~~—(b) make speeches in support of a political party or candidate for public office or publicly endorse a candidate for public office.~~

~~—(c) solicit funds for a political organization or candidate other than as permitted under Canon 7B(2).~~

~~—(d) make financial contributions to any candidate for public office, including a candidate for a judgeship, unless the candidate is a member of the judge's or judicial candidate's family.~~

~~—(2) A judge holding an office filled by public~~

~~election between competing candidates, or a candidate for such office, may attend political gatherings, speak to such gatherings, identify himself as a member of a political party, and contribute to a political party or organization.~~

~~—(3) A judge should resign his office when he becomes a candidate either in a party primary or in a general election for a non judicial office, except that he may continue to hold his judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention if he is otherwise permitted by law to do so.~~

~~—(4) The foregoing provisions of Canon 7A do not prohibit a judge's spouse or any other adult member of his family from engaging in political activity provided the spouse or other family member acts in accordance with his or her individual convictions, on his or her own initiative, and not as alter ego of the judge.~~

~~—(5) The foregoing provisions of Canon 7A do not prohibit candidates for judicial office from conducting a joint campaign, soliciting support for, endorsing or financially contributing to other judicial candidates.~~

#### ~~B. Campaign conduct.~~

~~—(1) A candidate, including, an incumbent judge, for a judicial office that is filled by public election between competing candidates:~~

~~—(a) should maintain the dignity appropriate to judicial office, and should encourage members of his family to adhere to the same standards of political conduct that apply to him~~

~~—(b) should prohibit public officials or employees subject to his direction or control from doing for him what he is prohibited from doing under this Canon; and except to the extent authorized under subsection B(2) or B(3), he should not allow any other person to do for him what he is prohibited~~

~~from doing under this Canon:~~

~~—(c) should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; nor misrepresent his identity, qualifications, present position, or other fact.~~

~~—(2) A candidate, including an incumbent judge, for a judicial office that is filled by public election between competing candidates should not solicit campaign funds but may establish committees of responsible persons to secure and manage the expenditure of such funds. Such committees are not prohibited from soliciting campaign contributions from anyone not otherwise prohibited by law from making such contributions or from soliciting public support from anyone. A candidate is not prohibited from soliciting public support from anyone. A candidate should not use or permit the use of campaign contributions for the private benefit of himself or members of his family.~~

~~—(3) An incumbent judge who is a candidate for retention in or re election to office without a competing candidate, and whose candidacy has drawn active opposition, may campaign in response thereto and may obtain publicly stated support and campaign funds in the manner provided in subsection B(2).~~

**A judge may engage in political activity consistent with his status as a public official.**

The provisions of Canon 7 are designed to strike a balance between two important but competing considerations: (1) the need for an impartial and independent judiciary and (2) in light of the continued requirement that judicial candidates run in public elections as mandated by the Constitution and laws of North Carolina, the right of judicial candidates to engage in constitutionally protected political activity. To promote clarity and to avoid potentially unfair application of the provisions of this Code,

subsection B of Canon 7 establishes a safe harbor of permissible political conduct.

**A. Terminology.** For the purposes of this Canon only, the following definitions apply.

(1) A **Acandidate@** is a person actively and publicly seeking election to judicial office. A person becomes a candidate for judicial office as soon as he makes a public declaration of candidacy, declares or files as a candidate with the appropriate election authority, authorizes solicitation or acceptance of contributions or public support, or sends a letter of intent to the chair of the Judicial Standards Commission. The term **Acandidate@** has the same meaning when applied to a judge seeking election to a non-judicial office.

(2) To **Asolicit@** means to directly, knowingly and intentionally make a request, appeal or announcement, public or private, oral or written, whether in person or through the press, radio, television, telephone, Internet, billboard, or distribution and circulation of printed materials, that expressly requests other persons to contribute, give, loan or pledge any money, goods, labor, services or real property interest to a specific individual's efforts to be elected to public office.

(3) To **Aendorse@** means to knowingly and expressly request, appeal or announce publicly, orally or in writing, whether in person or through the press, radio, television, telephone, Internet, billboard or distribution and circulation of printed materials, that other persons should support a specific individual in his efforts to be elected to public office.

**B. Permissible Political Conduct.** A judge or a candidate may:

(1) attend, preside over, and speak at any political party gathering, meeting or other convocation, including a fund-raising function for



himself, another individual or group of individuals seeking election to office and the judge or candidate may be listed or noted within any publicity relating to such an event, so long as he does not expressly endorse a candidate (other than himself) for a specific office or expressly solicit funds from the audience during the event;

(2) if he is a candidate, endorse any individual seeking election to any office or conduct a joint campaign with and endorse other individuals seeking election to judicial office, including the solicitation of funds for a joint judicial campaign;

(3) identify himself as a member of a political party and make financial contributions to a political party or organization; provided, however, that he may not personally make financial contributions or loans to any individual seeking election to office (other than himself) except as part of a joint judicial campaign as permitted in subsection B(2);

(4) personally solicit campaign funds and request public support from anyone for his own campaign or, alternatively, and in addition thereto, authorize or establish committees of responsible persons to secure and manage the solicitation and expenditure of campaign funds;

(5) become a candidate either in a primary or in a general election for a judicial office provided that he should resign his judicial office prior to becoming a candidate either in a party primary or in a general election for a non-judicial office;

(6) engage in any other constitutionally protected political activity.

**C. Prohibited political conduct.** A judge or a candidate should not:

(1) solicit funds on behalf of a political party, organization, or an individual (other than himself) seeking election to office, by specifically asking for such contributions in person, by telephone, by

electronic media, or by signing a letter, except as permitted under subsection B of this Canon or otherwise within this Code;

(2) endorse a candidate for public office except as permitted under subsection B of this Canon or otherwise within this Code;

(3) intentionally and knowingly misrepresent his identity or qualifications.

**D. Political conduct of family members.** The spouse or other family member of a judge or a candidate is permitted to engage in political activity.

### **Limitation of Proceedings**

Disciplinary proceedings to redress alleged violations of Canon 7 of this Code must be commenced within three months of the act or omission allegedly giving rise to the violation. Disciplinary proceedings to redress alleged violations of all other provisions of this Code must be commenced within three years of the act or omission allegedly giving rise to the violation; provided, however, that disciplinary proceedings may be instituted at any time against a judge convicted of a felony during his tenure in judicial office.

### **EFFECTIVE DATE OF COMPLIANCE**

~~A person to whom this Code becomes applicable should arrange his affairs as soon as reasonably possible to comply with it. If, however, the demands on his time and the possibility of conflicts of interest are not substantial, a person who holds judicial office on the date this Code becomes effective may:~~

~~(a) Continue to act as an officer, director, or non-legal advisor of a family business;~~

~~(b) Continue to act as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a member of his family.~~

### Scope and Effective Date of Compliance

The provisions of Canon 7 of this Code shall apply to judges and candidates for judicial office. The other provisions of this Code shall become effective as to a judge upon the administration of the judge's oath to the office of judge; provided, however, that it shall be permissible for a newly installed judge to facilitate or assist in the transfer of his prior duties as legal counsel but he may not be compensated therefor.

Adopted unanimously by the Court in Conference this the 2 day of April 2003. These amendments shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals.