

**“A judge should (1) hear courteously (2)
answer wisely (3) consider soberly (4)
decide impartially. “**

American Judicature Society, HANDBOOK FOR JUDGES (1961).

Magistrates and the Code of Judicial Conduct

G.S. 7A-173(a): magistrate may be suspended or removed based on grounds that are the same as for any judge of the General Court of Justice.

G.S. 7A-173(c): if grounds for removal are found to exist, the superior court judge shall enter an order permanently removing the magistrate.

Grounds for Removal (*G.S. 7A-376*):

1. Willful misconduct in office
2. willful and persistent failure to perform his duties
3. habitual intemperance
4. conviction of a crime involving moral turpitude
5. conduct prejudicial to the administration of justice that brings the judicial office into disrepute
6. mental or physical incapacity likely to become permanent and interfering with the performance of duties

The Code of Judicial Conduct provides a guide to the meaning of these grounds for removal. Some provisions do not apply to magistrates, since some of its provisions make no sense in that context (e.g., requirement that judge make annual report of name and source of income in excess of \$2,000.) But much of Code DOES apply to determining whether a magistrate's actions require removal, and it is important that every magistrate be thoroughly familiar with it.

Many grounds are clear: consistently failing to show up for work (or showing up drunk), embezzling money, extorting sexual favors, or being arrested for molesting a child.

Our focus: less clear-cut behavior, tending "to be prejudicial to the administration of justice or to bring the judicial office into disrepute." Much more dependent on the perception of others. "Appearance of impropriety" standard.

The Big Three:

1. How to avoid the appearance of BIAS:
 - a. Be careful about ex parte communications.
 - b. Avoid mixing work with family, social, or other relationships
 - c. Do not participate in any matter involving (in any way) a person within the third degree of relationship to you or your spouse.
 - d. Eschew membership in organization that practices unlawful discrimination
 - e. Be unswayed by partisan interests, public clamor, or fear of criticism.
 - f. Be very careful about public comment on matters likely to come before you.
 - g. Disqualify yourself if your impartiality may reasonably be questioned.
 - h. Disqualify yourself if you (or anyone close to you) have a financial interest in the outcome of a matter.

2. How to avoid the appearance of INCOMPETENCE/LACK OF PROFESSIONALISM:
 - a. Be faithful to the law and maintain professional competence in it.
 - b. Maintain order and decorum in proceedings before you.
 - c. Address parties by their appropriate title and last name and require them to address you in the same way.

3. How to avoid the appearance of ABUSE OF POWER:
 - a. Do not lend the prestige of office to advance private interest of others.
 - b. Treat everyone who appears before you with patience, dignity, and courtesy.
 - c. Do not engage in fundraising activity.

- d. Do not endorse anyone for public office (although you may attend political gatherings, be active in a political party, and make contributions to the party).
- e. Do not accept a gift from a party, and avoid accepting gifts from parties who appear frequently before you or who are otherwise in a position affected by your work.