


**NEW DISTRICT COURT JUDGES:
JUDICIAL ETHICS ORIENTATION**
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UNC SCHOOL OF GOVERNMENT


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JUDICIAL ETHICS – 3 CORE VALUES

- ❖ Independence
- ❖ Integrity
- ❖ Impartiality




"Ok, heads, it's sustained. Tails, overruled."



CODE OF JUDICIAL CONDUCT: OVERVIEW

- ▶ Preamble
- ▶ Canons 1-7
 - ▶ Canons 1 & 2: Ethical duties of judges both on and off the bench
 - ▶ Canon 3: Ethical duties of judges while undertaking official duties
 - ▶ Canons 4 & 5: Ethical duties of judges in personal and civic activities
 - ▶ Canon 6: Gift and income reporting
 - ▶ Canon 7: Ethical duties of judges when engaged in political conduct
- ▶ Statute of Limitations
- ▶ Scope Note (Judicial Candidates, New Judges)




CANON 1:

A JUDGE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY.

A judge should participate in establishing, maintaining, and enforcing, and should personally observe, appropriate standards of conduct to ensure that the integrity and independence of the judiciary shall be preserved.

Key Points:


- General provisions that apply to a judge's conduct **on AND off the bench**
- Your personal conduct must at all times and in all places, including on social media, be professional, civil and appropriate
- Your actions reflect on the judiciary and can threaten public confidence in the courts



CANON 2:

A JUDGE SHOULD AVOID IMPROPRIETY IN ALL THE JUDGE'S ACTIVITIES.


Canon 2A <ul style="list-style-type: none"> • Ensures conduct of the judge is lawful at all times and promotes public confidence in the integrity and impartiality of the courts 	Canon 2B <ul style="list-style-type: none"> • Limits outside influence on the judge and abuse of the prestige of the office for personal gain or to help others 	Canon 2C <ul style="list-style-type: none"> • Restricts membership in discriminatory organizations
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CANON 2A:

"A JUDGE SHOULD RESPECT AND COMPLY WITH THE LAW AND CONDUCT HIMSELF/HERSELF AT ALL TIMES IN A MANNER THAT PROMOTES PUBLIC CONFIDENCE IN THE INTEGRITY AND IMPARTIALITY OF THE COURTS"

- **Key Points:** Violations of Canon 2A generally involve:
 - Unlawful conduct – examples:
 - criminal activity (e.g., DWI or more serious crimes)
 - violation of civil laws and regulations (e.g., sexual harassment and anti-discrimination laws, other civil regulations and laws)
 - Conduct that shows a lack of integrity or undermines public confidence in the impartiality of the courts – examples:
 - inappropriate commentary on social media
 - any conduct that involves dishonesty or moral turpitude



CANON 2B: IMPROPER INFLUENCE & ABUSE OF THE PRESTIGE OF THE OFFICE

- **Key Points:** Violations of Canon 2B generally involve:
 - Outside influence on the judge's official conduct or judgment – examples:
 - Family or friends asking for favors, either with criminal or civil cases or in order to gain any other benefit (e.g., jobs, access)
 - Making poor decisions in order to please or protect friends and family
 - Abuse of the prestige of the office – examples:
 - Writing recommendations on official letterhead for purposes unrelated to the judge's official duties
 - Improperly invoking the judicial title ("Do you know who I am?")
 - Express prohibition on voluntarily testimony as a character witness



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CANON 3:

A JUDGE SHOULD PERFORM THE DUTIES OF THE JUDGE'S OFFICE IMPARTIALLY AND DILIGENTLY.



"I'm calling a recess until tomorrow morning — that's enough justice for one day."

The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law . . .



"Not guilty," eh? — Color me suspicious!"



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CANON 3:

A JUDGE SHOULD PERFORM THE DUTIES OF THE JUDGE'S OFFICE IMPARTIALLY AND DILIGENTLY. IMPARTIALLY AND DILIGENTLY.

Key Points:

Canon 3 relates to *official action* and is divided into three key areas:

- **Canon 3A** –adjudicative duties
- **Canon 3B** – administrative duties
- **Canon 3C & D** –disqualification



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CANON 3A: ADJUDICATIVE DUTIES

Key Points: Judges must always strive to:

- Be "faithful to the law" and "maintain professional competence in it"
- Accord everyone, even pro se litigants, a "full right to be heard"
- Decide cases "unswayed by partisan interests, public clamor, or fear of criticism"
- Ensure "order and decorum" in the courtroom and ensure that you, everyone who appears before you, and everyone you supervise is "patient, dignified and courteous" at all times, even towards pro se litigants and sovereign citizens
- No *ex parte* communications, unreasonable delays, public comments on pending cases



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CANON 3B: ADMINISTRATIVE DUTIES

Key Points:

- Be professional, courteous and collegial with your judicial colleagues and court staff!
- Pay attention to best practices in judicial administration, including case management
- Make sure court staff are also professional, courteous and collegial to each other and members of the public – they should "observe the standards of fidelity and diligence" that you do
- No favoritism or nepotism in making appointments
- Inherent authority to discipline attorneys



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CANONS 3C & 3D: DISQUALIFICATION & REMITTAL



"I'm going to recuse myself because I could really use a few days off."

Key Points:

- You have a *duty* to hear and decide cases assigned to you – it is what the taxpayers pay you to do
- But, you **MUST** disqualify yourself from hearing cases where you have a conflict of interest, or where your "impartiality may reasonably be questioned"
- You CAN and SHOULD disqualify on your own initiative if you know of potential conflicts
- You can, in limited circumstances, seek REMITTAL (waiver) of the conflict



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CANONS 3C & 3D: DISQUALIFICATION & REMITTAL

Common Disqualification Issues:

- Family members who are parties or witnesses
- Family members who are attorneys in the case
- Your prior involvement in the case (as an attorney)
- Your personal knowledge of facts of the case
- You or your family's financial interest in the outcome
- Your personal attorney is appearing before you
- Statements you made publicly or on social media that suggest a bias



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CANONS 4, 5A, 5B: REGULATING YOUR EXTRA-CURRICULAR AND PROFESSIONAL ACTIVITIES

Key points:

- 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!
- Things to avoid in all of these activities:
 - Belonging to groups that may cast doubt on your impartiality
 - Helping organizations in fundraising activities
 - Being involved with groups that often appear before you
 - Too much time spent on outside activities, neglecting your judicial duties



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CANON 5C-5G: REGULATING FINANCIAL ACTIVITIES, GIFTS AND OUTSIDE INCOME

Things You Can Do:

- Manage your own personal investments and those for immediate family members
- Be a fiduciary for family members
- Earn outside income in certain circumstances, but it may need to be disclosed annually
- Accept most gifts, although some may have to be disclosed annually

Things You Can't Do:

- Have a leadership or management role in a for-profit entity or business
- Practice law or provide legal advice to ANYONE— even on a pro bono basis or for family members
- Accept gifts from parties
- Be a mediator or arbitrator, UNLESS you are a retired emergency judge



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CANON 6: OUTSIDE INCOME & ANNUAL REPORTING

Key Points:

- Each year by **May 15**, you MUST FILE with the appropriate Clerk of Court your Annual Gift and Income (Canon 6) Report
 - Describe sources of income in excess of \$2000 (e.g., compensation for teaching, rental income)
 - Gifts in excess of \$500 (unless from family members or for personal occasions)
 - This is NOT THE SAME as the required SEI form to be filed with the State Ethics Commission each year
- Canon 6 also addresses **expense reimbursement** – if you receive reimbursement for attending an event that is MORE THAN THE ACTUAL COST, it can be considered compensation and is reportable if more than \$2000 in excess of costs



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CANON 7: PERMISSIBLE POLITICAL CONDUCT

• You MAY:

- Identify yourself as a member of a political party
- Contribute to political PARTIES (not candidates)
- Serve as a political party delegate or political party leader or officer
- Attend, preside over and speak at political party meetings & conventions, campaign events including fundraisers for individual candidates



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CANON 7: PROHIBITED POLITICAL CONDUCT

• You may NOT:

- **Endorse** other candidates UNLESS you are also a candidate
- **Contribute** to individual campaigns
- **Solicit Donations or Engage in Fundraising** for other candidates, politicians or political organizations, either directly or indirectly
- **Misrepresent** your own qualifications, and as a general rule consistent with Canons 1 and 2, the qualifications of other candidates

NOTE: Your spouse and other family members are permitted to engage in political activity, but be careful that their conduct is not attributed to you – e.g., beware the joint checking account problem in contributions.



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REVIEW: THE CANONS IN PRACTICE WHAT TROUBLES THE COMMISSION?



- Abuse of the contempt power
- Abusive and demeaning tone and language directed towards litigants
- Legal error resulting from other violations of the Code (such as lack of diligence or competence, denial of opportunity to be heard)
- Blurring the lines between personal and official life (misuse of prestige)
- Use of social media that calls into question the impartiality of the judge
- Delay in issuing orders; tardiness in convening court



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THE JSC AND HOW IT WORKS

- Who we are – Commission Members and Staff
- Review of Complaints
- Confidentiality
- Disciplinary Proceedings & Recommendations
- Formal & Informal Advisory Opinions



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WHAT HAPPENS IF A COMPLAINT IS FILED AGAINST YOU?

- Review of complaints by a designated Panel
 - Most complaints are dismissed, but some result in a “preliminary investigation” to get more details – you are **not notified** of the complaint at this stage
 - Potentially meritorious complaints result in a “formal investigation” – if so, you receive notice by certified mail
- At any stage of the review and/or investigation, the assigned Panel can dismiss the complaint and issue a private letter of caution to the judge
- After a formal investigation, the Panel can dismiss the complaint or authorize a statement of charges



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WHAT ETHICS ASSISTANCE CAN I RECEIVE FROM THE COMMISSION?

- **Formal Advisory Opinions**
 - Issued by the Commission as a whole and posted on our [website](#) and published in the Appellate Reporter
 - Lengthy process of research, review and approval (6-8 months)
 - Recent FAOs include tardiness in convening court, questioning pro se litigants, conflicts of interest
- **Informal Advisory Opinions**
 - Commission staff receives calls and emails from judges around the state seeking confidential advice on how to proceed in a particular matter



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THANK YOU

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