

Civil Basic School for New Magistrates
Tom Thornburg
School of Government, UNC Chapel Hill
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Ethics: A New Code of Conduct

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You are a judicial official

holding constitutional office.
NC Constitution, Article IV, Sec. 10
(District Courts)

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Appointment Process

- Nominated by clerk of superior court (CSC).
- Appointed by resident superior court judge (RSCJ).
- Supervised by chief district court judge (CDCJ).
- Voila! You're a magistrate.

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Removal Process (GS 7A-173)

- "Sworn written charges" filed with clerk of superior court.
- Charges assessed by chief district court judge to determine, if true, charges are grounds for removal.
- Public hearing by resident superior court judge to determine if grounds for removal exist.
- See Ethics section, p 6-7 for details.

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Grounds for suspension or removal are the same as for a judge (see GS 7A-376). Those are:

Willful misconduct in office



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Grounds for removal

Not doing the job



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Grounds for removal

Habitual
intemperance



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Grounds for removal

Conviction of crime
involving moral
turpitude



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Grounds for removal

Conduct prejudicial to
the administration of
justice that brings the
office into disrepute



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What is conduct prejudicial to the administration of justice?

LOOK TO NEW RULES OF CONDUCT FOR MAGISTRATES

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Magistrate Rules of Conduct

§ 7A-171.3. **Magistrate rules of conduct.** [AOC] shall prescribe rules of conduct for all magistrates . . . [including]:

- (1) Standards of professional conduct and timeliness.
- (2) Required duties and responsibilities.
- (3) Methods for ethical decision making.
- (4) Any other topic deemed relevant by the Administrative Office of the Courts.

Promulgated 10/1/2021. Ethics section of notebook, p. 9 11

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Preamble

- Provides that violation of these Rules “may be deemed conduct prejudicial to the administration of justice that brings the Office of Magistrate into disrepute, or willful misconduct in office, or otherwise grounds for removal proceedings.”

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Rule 1: Uphold Integrity of Magistrate's Office

- Failing to be impartial and have integrity undermines public confidence
- Support professionalism
- Treat all persons with respect

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Rule 2: Avoid Impropriety

- Duty to report non-traffic misdemeanor or felony and DWI charges to Chief District Court Judge within 3 days. (See subsection B.)
- General prohibition against using prestige of magistrate's office to advance private interests of others.
- Ban on membership in organizations that practice unlawful discrimination.

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Rule 3: Be Impartial and Diligent

- *Adjudicative responsibilities*: faithful to law; unswayed by partisan interests; fair; courteous; prompt; avoid ex parte communications in pending proceedings; abstain from public comment about pending proceedings
- Allowed to obtain advice of a disinterested expert (SOG for one).

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Rule 3 Continued

- *Administrative responsibilities:* diligent; competent; present on the job; prompt
- *Educational duties:* complete required instruction

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Rule 3 Continued

- Duty to disqualify or recuse (3.E.) where impartiality may be reasonably questioned, including:
 - Personal bias
 - Personal knowledge of facts
 - Relations within the third degree are in play as parties, attorneys, or witnesses

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Degrees of Relationship

- See Degrees of Consanguinity chart in course notebook.
- Covers up to great-grandparents, down to great grandchildren, siblings, aunt and uncles, and nieces and nephews.

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Rule 5: Extrajudicial Activities

- May participate in recreational and civic and charitable activities that do not adversely reflect on impartiality.
- May fundraise if they don't give impression they're acting in official capacity

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Rule 5: Financial Activities

- Refrain from financial dealings that reflect adversely on impartiality
- Receipt of gifts is limited and may not be from a "party presently before the magistrate" [C.(4)]
- Shall not serve in listed fiduciary roles except for family, and then only if won't interfere with duties
- No private practice of law. May represent self.

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Rule 6: Political Activity

- Should not lead or hold office in political organization.
- Should not use office to endorse, support, oppose, or solicit funds for candidate for non-judicial office.
- May endorse candidate for judicial office.
- Must resign to run for non-judicial office.
- 6.D. prohibits discipline of magistrate for supporting/not supporting particular judicial candidates.

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Rule 7: Respect the Chief District Court Judge

- Magistrates may be subject to discipline for failing to follow direction from chief district court judge and failure to follow these Rules
- Forms of discipline provided, including directive for training and reprimand
- Requires acknowledgement of discipline

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Pay particular attention to:

- New rule about reporting criminal charges
- Ex parte contact/communication (can disclose/recuse)
- Relationships with others who may have issue before you
- Changes in fundraising and political activity
- Secondary employment
- Inappropriate use of prestige of office
- Inappropriate statements on social media

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Discussion Questions, p. 8

1. No. Rule 3E(1)(a) and (e) most specifically. Rule 2C too.
2. Yes. Report to Chief DJ. Rule 2B(2)
3. Yes. Rule 3B(5) potential ex parte communication concerning matter before court.
4. Yes. Rule 5B. See cautions in (1) and (2). Don't act in official capacity.
5. No. Rule 6B(4). Also not solicit funds (3).
6. Yes. Rule 6B(4). But should you?
7. Seems like no. Rule 5.C.(4). But (4)(c) is confusing.

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Other Useful Materials in Ethics Tab

- Practical tips for new judges making the transition to the bench (p. 39)
- Issues raised by social networking (p. 43)
- Copy of NC Code of Judicial Conduct (p. 25)

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