

CODE OF JUDICIAL CONDUCT

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PREAMBLE TO CODE OF JUDICIAL CONDUCT

The Ohio Code of Judicial Conduct is intended to establish standards for ethical conduct of judges. It consists of broad statements called Canons, specific rules set forth in divisions under each Canon, a Terminology Section, a Compliance Section, and Commentary. The text of the Canons and the divisions, including the Terminology and Compliance Sections, is authoritative. The Commentary, by explanation and example, provides guidance with respect to the purpose and meaning of the Canons and divisions. The Commentary is not intended as a statement of additional rules. When the text uses "shall" or "shall not," it is intended to impose binding obligations the violation of which can result in disciplinary action. When "should" or "should not" is used, the text is intended as hortatory and as a statement of what is or is not appropriate conduct but not as a binding rule under which a judge may be disciplined. When "may" is used, it denotes permissible discretion or, depending on the context, it refers to action that is not covered by specific proscriptions.

The Canons and divisions are rules of reason. They should be applied consistent with constitutional requirements, statutes, other court rules and decisional law and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The Code is designed to provide guidance to judges and candidates for judicial office and to provide a structure for regulating conduct through disciplinary agencies. It is not designed or intended as a basis for civil liability or criminal prosecution. Furthermore, the purpose of the Code would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding.

The text of the Canons and divisions is intended to govern conduct of judges and to be binding upon them. It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system and for the protection of the public.

[Effective: December 20, 1973; amended effective May 1, 1997.]

TERMINOLOGY

As used in Canons 1-4:

"Court personnel" excludes the lawyers in a proceeding before a judge.

"*De minimis*" denotes an insignificant interest that could not raise reasonable question as to a judge's impartiality.

"Economic interest" denotes ownership of a more than *de minimis* legal or equitable interest, or a relationship as officer, director, advisor, or other active participant in the affairs of a party, except that:

- (1) Ownership of an interest in a mutual or common investment fund that holds securities is not an economic interest in those securities unless the judge participates in the management of the fund or a proceeding pending or impending before the judge could substantially affect the value of the interest;
- (2) Service by a judge as an officer, director, advisor, or other active participant in an educational, religious, charitable, fraternal, or civic organization, or service by a judge's spouse, parent or child as an officer, director, advisor or other active participant in any organization does not create an economic interest in securities held by that organization;
- (3) A deposit in a financial institution, the proprietary interest of a policy holder in a mutual insurance company, or the proprietary interest of a depositor in a mutual proprietary interest is not an economic interest in the organization unless a proceeding pending or impending before the judge could substantially affect the value of the interest;
- (4) Ownership of government securities is not an economic interest in the issuer unless a proceeding pending or impending before the judge could substantially affect the value of the securities.

"Fiduciary" includes relationships such as executor, administrator, trustee, and guardian.

"Judicial candidate" has the same meaning as in Canon 7(A)(1).

"Knowingly." A person acts knowingly, regardless of his or her purpose, when he or she is aware that his or her conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he or she is aware that those circumstances probably exist.

"Law" denotes court rules as well as statutes, constitutional provisions, and decisional law.

"Member of the candidate's family" denotes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the candidate maintains a close familial relationship.

"Member of the judge's family" denotes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship.

"Member of the judge's family residing in the judge's household" denotes any relative of a judge by blood or marriage, or a person treated by the judge as a member of the judge's family, who resides in the judge's household.

"Nepotism" is the bestowal of patronage by a judge in appointing any of the following to positions by reason of blood or marital relationship to the judge: spouse, parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, or great-grandparent.

"Nonpublic information" denotes information that, by law, is not available to the public. Nonpublic information includes but is not limited to: information that is sealed by statute or court order, impounded, or communicated *in camera*; and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports.

"Require" means a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge's direction and control. The rules prescribing that a judge "require" certain conduct of others are, like all of the rules in this Code, rules of reason.

"Third degree of relationship." The following persons are relatives within the third degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, or niece.

CANON 1

A Judge Shall 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 high standards of conduct, and personally shall observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

Commentary:

Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depends in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of the government under law.

[Effective: December 20, 1973; amended effective May 1, 1997.]

CANON 2

A Judge Shall Respect and Comply with the Law and Shall Act at all Times in a Manner that Promotes Public Confidence in the Integrity and Impartiality of the Judiciary.

(A) Activities to Improve the Law. A judge may engage in activities to improve the law, the legal system, and the administration of justice, provided those activities do not cast doubt on the judge's capacity to act impartially as a judge, demean the judicial office, or interfere with the proper performance of judicial duties.

(1) A judge may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.

(2) Subject to the restrictions of Canon 4(C)(1), a judge 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, and otherwise may consult with an executive or legislative body or official, but only on matters concerning the administration of justice.

(B) Membership in Organizations. A judge may serve as an officer, director, trustee, or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice or of an educational, religious, charitable, fraternal, or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code.

(1) A judge shall not serve as an officer, director, trustee, or non-legal advisor if it is likely that the organization will be engaged in either of the following:

(a) Proceedings that ordinarily would come before the judge;

(b) Adversary proceedings with frequency in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

(2) A judge, as an officer, director, trustee, or non-legal advisor, or as a member or otherwise shall comply with all of the following:

(a) The judge may assist an organization in planning fundraising and may participate in the management and investment of the organization's funds, but, except as expressly authorized by this canon, shall not personally participate in the solicitation of funds or other fund-raising activities. A judge may do either of the following:

(i) Solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority;

(ii) Participate in but not solicit funds for *de minimis* fundraising activities that are directed at a broad range of the community and that may be performed by other volunteers who do not hold judicial office.

(b) The judge may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system, or the administration of justice.

(c) The judge shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or, except as permitted in division (B)(2)(a) of this canon, if the membership solicitation is essentially a fundraising mechanism.

(d) The judge shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.

(C) Financial Activities.

(1) A judge shall not engage in either of the following financial and business dealings:

(a) Dealings that reasonably may be perceived to exploit the judge's judicial position;

(b) Dealings that involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves.

(2) Subject to the requirements of this Code, a judge may hold and manage investments of the judge and members of the judge's family, including real estate, and engage in other remunerative activity.

(3) A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge, subject to the requirements of this Code, may manage and participate in either of the following:

(a) A business closely held by the judge or member of the judge's family;

(b) A business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

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

(5) A judge shall not accept and shall urge members of the judge's family residing in the judge's household not to accept a gift, bequest, favor, or loan from anyone except for:

(a) A gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system, or the administration of justice;

(b) A gift, award, or benefit incident to the business, profession, or other separate activity of a spouse or other family member of a judge residing in the judge's household, including gifts, awards, and benefits for the use of both the spouse or other family member and the judge (as spouse or family member), provided the gift, award, or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;

(c) Ordinary social hospitality;

(d) A gift from a relative or friend for a special occasion such as a wedding, anniversary, or birthday if the gift is commensurate with the occasion and the relationship;

(e) A gift, bequest, favor, or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification under Canon 3(E).

(f) A loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;

(g) A scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) Any other gift, bequest, favor, or loan, only if the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge and, if its value exceeds one hundred fifty dollars, the judge reports it in the same manner as the judge reports compensation in division (D) of this canon.

(D) Compensation, Reimbursement and Reporting.

Except as otherwise provided in this division, a judge may receive compensation and reimbursement of expenses for the activities permitted by this Code, if the source of the compensation or reimbursement does not give the appearance of influencing the judge in his or her judicial duties or otherwise give the appearance of impropriety.

(1) Compensation. Compensation shall not exceed a reasonable amount or what a person who is not a judge would receive for the same activity.

(2) Expense reimbursement. Expense reimbursement shall be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by his or her spouse. Any payment in excess of actual cost is compensation.

(3)(a) Public Reports. A judge shall file annually the disclosure statement required by section 102.02 of the Revised Code with the secretary of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio.

(b) A judge shall also file annually a report of any quasi-judicial or extra-judicial activity for which the judge received compensation. This report shall include the date, place, and nature of any quasi-judicial or extra-judicial activity for which the judge received compensation, the name of the payer, and the amount of compensation received. The report shall be filed with the Board by the fifteenth day of April of each year on forms provided by the Board.

Commentary:

Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The admonition of Canon 2 applies to both the professional and personal conduct of a judge. It is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. Actual improprieties under this standard include violations of law, court rules or other specific provisions of this Code. The test for compliance with Canon 2 appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.

Complying with the law imposes on a judge the duty to respect the precedential process of the judicial system. This aspect of our system does not limit a judge's independent judgment to vary from precedent in those circumstances where a different legal result is justified.

A. As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent the time permits, a judge is encouraged to do so, either independently or through a bar association, judicial conference or other organization dedicated to the improvement of the law. Judges may participate in efforts to promote the fair administration of justice, the independence of the judiciary and the integrity of the legal profession and may express opposition to the persecution of lawyers and judges in other countries because of their professional activities.

B. This division does not apply to a judge's service in a governmental position unconnected with the improvement of the law, the legal system or the administration of justice; see Canon 4(C)(2).

As an example of the meaning of the phrase, "subject to the requirements of this Code," a judge permitted by Canon 2(B) to serve on the board of a fraternal institution may be prohibited from such service by Canon 4(B) or Canon 2(A) if the institution practices invidious discrimination or if service on the board otherwise casts reasonable doubt on the judge's capacity to act impartially as a judge.

Service by a judge on behalf of a civic or charitable organization may be governed by provisions of Canon 4 in addition to Canon 2(B). For example, a judge is prohibited by Canon 4(F) from serving as a legal advisor to a civic or charitable organization.

B(1). The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to re-examine the activities of each organization with which the judge is affiliated to determine if it is proper for the judge to continue the affiliation. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

B(2)(a). A judge may solicit membership or endorse or encourage membership efforts for an organization devoted to the improvement of the law, the legal system or the administration of justice or a non-profit educational, religious, charitable, fraternal, or civic organization as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fundraising mechanism. Solicitation of funds for an organization and solicitation of memberships similarly involve the danger that the person solicited will feel obligated to respond favorably to the solicitor if the solicitor is in a position of influence or control. A judge must not engage in direct, individual solicitation of funds or memberships in person, in writing or by telephone except in the following cases: 1) a judge may solicit for funds or memberships from other judges over whom the judge does not exercise supervisory or appellate authority; 2) a judge may solicit other persons for membership in the organizations described above if neither those persons nor persons with whom they are affiliated are likely ever to appear before the court on which the judge serves; and 3) a judge, who is an officer of such an organization, may send a general membership solicitation mailing over the judge's signature.

B(2)(d). Use of an organization letterhead for fund-raising or membership solicitation does not violate division (B)(2) of this canon provided the letterhead lists only the judge's name and office or other position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation. In addition, a judge must also make reasonable efforts to ensure that the judge's staff, court officials and others subject to the judge's direction and control do not solicit funds on the judge's behalf for any purpose, charitable or otherwise.

A judge must not be a speaker or guest of honor at an organization's fund-raising event, but mere attendance at such an event is permissible if otherwise consistent with this Code.

Commentary (October 1, 2004 Amendment):

B(2)(a). A judge may solicit membership or endorse or encourage membership efforts for an organization devoted to the improvement of the law, the legal system or the administration of justice or a non-profit educational, religious, charitable, fraternal, or civic organization as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fundraising mechanism. Solicitation of funds for an organization and solicitation of memberships similarly involve the danger that the person solicited will feel obligated to respond favorably to the solicitor if the solicitor is in a position of influence or control. A judge must not engage in direct, individual solicitation of funds or memberships in person, in writing or by telephone except in the following cases: 1) a judge may solicit for funds or memberships from other judges over whom the judge does not exercise supervisory or appellate authority; 2) a judge may solicit other persons for membership in the organizations described above if neither those persons nor persons with whom they are affiliated are likely ever to appear before the court on which the judge serves; 3) a judge, who is an officer of such an organization, may send a general membership solicitation mailing over the judge's signature; and (4) a judge may participate in *de minimis* fundraising activities that are directed at a broad range of the community and may be performed by other volunteers who do not hold judicial office. *De minimis* fundraising activities include those activities in which a judge would participate as a parent or community member, that do not involve a direct or personal appeal for money, and that do not involve the use of the judge's title or prestige of judicial office. Examples would include selling food or other items at a school event, waiting tables on behalf of a community or charitable organization, or passing a collection plate at a religious service.

[Effective: December 20, 1973; amended effective May 1, 1997; January 26, 1999; October 1, 2004.]

CANON 3

A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently

(A) **Judicial Duties in General.** The judicial duties of a judge take precedence over all of the judge's other activities. The judge's judicial duties include all the duties of office prescribed by law. In the performance of these duties, the following standards apply.

(B) **Adjudicative Responsibilities.**

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

(2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.

(3) A judge shall require order and decorum in proceedings before the judge.

(4) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials, and others subject to the judge's direction and control.

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, gender, religion, national origin, disability, age, sexual orientation, or socioeconomic status, and shall not permit staff, court officials, and others subject to the judge's direction and control to do so.

(6) A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, gender, religion, national origin, disability, age, sexual orientation, or socioeconomic status, against parties, witnesses, counsel or others. Division (B)(6) of this canon does not preclude legitimate advocacy when race, gender, religion, national origin, disability, age, sexual orientation, or socioeconomic status, or other similar factors, are issues in the proceeding.

(7) A judge shall not initiate, receive, permit, or consider communications made to the judge outside the presence of the parties or their representatives concerning a pending or impending proceeding except:

(a) Where circumstances require, *ex parte* communications for scheduling, administrative purposes, or emergencies that do not address substantive matters or issues on the merits are permitted if the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the *ex parte* communication.

(b) A judge may obtain the advice of a disinterested expert on the law applicable to the proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice and affords the parties reasonable opportunity to respond.

(c) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(d) As authorized by law.

(8) A judge shall dispose of all judicial matters promptly, efficiently, and fairly and comply with guidelines set forth in the Rules of Superintendence for the Courts of Ohio.

(9) While a proceeding is pending or impending in any court, a judge shall not make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require similar abstention on the part of court personnel subject to the judge's direction and control. Division (B)(9) of this canon does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. Division (B)(9) of this canon does not apply to proceedings in which the judge is a litigant in a personal capacity.

(10) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding.

(11)(a) A judge shall not knowingly disclose or cause to be disclosed, without appropriate authorization, information regarding the probable or actual decision in a case or legal proceeding pending before a court, including the vote of a justice, judge, or court in a case pending before the Supreme Court, a court of appeals, or a panel of judges of a trial court, prior to the announcement of the decision by the court or journalization of an opinion, entry, or other document reflecting that decision under either of the following circumstances:

(i) The probable or actual decision is confidential because of statutory or rule provisions;

(ii) The probable or actual decision clearly has been designated to the judge as confidential when confidentiality is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving confidentiality is necessary to the proper conduct of court business.

(b) Nothing in division (B)(11)(a) of this canon shall prohibit the disclosure of any of the following:

(i) A decision that has been announced on the record or in open court, but that has not been journalized in a written opinion, entry, or other document;

(ii) Information regarding the probable or actual decision in a pending case or legal proceeding to a judge or employee of the court in which the matter is pending;

(iii) Other information that is a matter of public record or that may be disclosed pursuant to law.

(c) The imposition of discipline upon a judge for violation of division (B)(11)(a) of this canon shall not preclude prosecution for a violation of any applicable provision of the Revised Code, including, but not limited to, division (B) of section 102.03 of the Revised Code.

(C) Administrative Responsibilities.

(1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

(2) A judge shall require staff, court officials, and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

(3) A judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to assure the prompt disposition of matters before all judges and the proper performance of their other judicial responsibilities.

(4) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered.

(D) Disciplinary Responsibilities.

(1) A judge who has knowledge that another judge has committed a violation of this Code shall report the violation to a tribunal or other authority empowered to investigate or act upon the violation.

(2) A judge who has knowledge that a lawyer has committed a violation of the Ohio Rules of Professional Conduct shall report the violation to a tribunal or other authority empowered to investigate or act upon the violation.

(3) A judge having knowledge of a violation by another judge or a lawyer shall, upon request, fully reveal the violation to a tribunal or other authority empowered to investigate or act upon the violation.

(4) Any knowledge obtained by a member or agent of a committee or subcommittee of a bar or judicial association or by a member, employee, or agent of a nonprofit corporation established by a bar association, designed to assist lawyers and judges with substance abuse or mental health problems shall be privileged for all purposes under Canon 3(D), provided the knowledge was obtained while the member or agent was performing duties as a member, employee, or agent of the committee, subcommittee, or nonprofit corporation.

(E) Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) The judge served as a lawyer in the matter in controversy, a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning the matter;

(c) The judge knows that he or she, individually or as a fiduciary, or the judge's spouse, parent or child wherever residing, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding or has any other more than *de minimis* interest that could be substantially affected by the proceeding;

(d) The judge or the judge's 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) Has acted as a judge in the proceeding;

(iv) Is known by the judge to have an economic interest that could be substantially affected by the proceeding;

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

(2) A judge shall keep informed about the judge's personal fiduciary and economic interests and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and minor children residing in the judge's household.

(F) Remittal of Disqualification. If, following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers,

without participation by the judge, jointly request that the judge should remit his or her disqualification, the judge may approve and participate in the proceeding. The request and approval shall be incorporated in the record of the proceeding.

(G) Disqualification - Justices of the Supreme Court.

(1) A justice shall disqualify himself or herself in a proceeding in which the justice's impartiality might reasonably be questioned, including but not limited to instances where:

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

(b) the justice served as a lawyer in the matter in controversy, or a lawyer with whom the justice previously practiced law served during such association as a lawyer concerning the matter, or the justice or such lawyer has been a material witness concerning it;

(c)(i) For merit cases, the justice knows that, individually or as a fiduciary, the justice or the justice's spouse or minor child residing in the justice's household, has an economic 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.

(ii) For miscellaneous motions, motions to certify, or similar matters, the justice knows that, individually or as a fiduciary, the justice or the justice's spouse or minor child residing in the justice's household, has a substantial economic interest in the subject matter in controversy or in a party to the proceeding that could be substantially affected by the outcome of the proceeding.

(d) The justice or the justice's 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 justice to have an interest that could be substantially affected by the outcome of the proceeding;

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

(2) A justice should keep informed about the justice's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the justice's spouse and minor children residing in the justice's household.

(H) Remittal of Disqualification - Justices of the Supreme Court.

A justice disqualified by the terms of Canon 3(G)(1)(c) or Canon 3(G)(1)(d) may, instead of withdrawing from the proceeding, disclose on the record the basis of disqualification. If, based on such disclosure, the parties and lawyers, independently of the justice's participation, all agree in writing that the justice's relationship is immaterial or that the justice's disqualification should be waived, the justice 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.

Commentary:

B(4). The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

B(5). A judge must refrain from speech, gestures or other conduct that could reasonably be perceived as bias or prejudice (including sexual harassment) and must require the same standard of conduct of others subject to the judge's direction and control.

B(8). A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays and unnecessary costs. See, e.g., R.C. 2701.02. A judge should encourage and seek to facilitate settlement, but parties should not feel coerced into surrendering the right to have their controversy resolved by the courts.

Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to require that court officials, litigants and their lawyers cooperate with the judge to that end.

B(9). The requirement that judges abstain from public comment regarding a pending or impending proceeding continues during any appellate process and until final disposition. This division does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity, but in cases such as a writ of mandamus where the judge is a litigant in an official capacity, the judge must not comment publicly. "Court personnel" does not include the lawyers in a proceeding before a judge. The conduct of lawyers relating to trial publicity is governed by Rule 3.6 of the Ohio Rules of Professional Conduct.

B(10). Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case. The foregoing provision shall not preclude the judge from expressing appreciation to the jurors for their service to the judicial system and the community, or from communicating with the jurors, personally, in writing, or through court personnel to obtain information for the purpose of improving the administration of justice.

B(11). The premature disclosure of confidential information regarding the outcome of pending cases gives the appearance of partiality and fosters obvious public distrust of the

judiciary and legal profession. Among other things, premature disclosure creates the potential for the release of inaccurate information and allows attorneys, litigants, and others with access to the information to use it for personal gain before it becomes public knowledge.

Canon 3(B)(11)(a) prohibits a judge from prematurely disclosing clearly confidential information about the actual or probable decision in a pending case or proceeding under circumstances in which confidentiality is required or warranted. The provision is patterned, in part, after division (B) of section 102.03 of the Revised Code. Canon 3(B)(11)(a) does not prevent the disclosure of information that is intended to be public or communicated to another person. Examples of disclosures that are not prohibited by Canon 3(B)(11)(a) are potential rulings communicated by a judge for purposes of facilitating plea bargain or settlement discussions or communications regarding scheduling or other routine procedural matters. Canon 3(B)(11)(a) also does not bar communications that are permissible under law, including other provisions of the Code of Judicial Conduct.

C(4). Appointees of a judge include assigned counsel, officials such as referees, commissioners, special masters, receivers and guardians and personnel such as clerks, secretaries and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by division (C)(4) of this canon.

D(3). This division parallels Rule 8.3 of the Ohio Rules of Professional Conduct.

E(1). Under this rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless whether any of the specific rules in division (E)(1) of Canon 3 apply. For example, if a judge were in the process of negotiating for employment with a law firm, the judge would be disqualified from any matters in which that law firm appeared, unless the disqualification was waived by the parties after disclosure by the judge.

A judge should timely disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification.

By decisional law, the rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In the latter case, the judge must disclose on the record the basis for possible disqualification and use reasonable efforts to transfer the matter to another judge as soon as practicable.

E(1)(b). A lawyer in a government agency does not ordinarily have an association with other lawyers employed by that agency within the meaning of division (E)(1)(b); a judge formerly employed by a government agency, however, should disqualify himself or herself in a proceeding if the judge's impartiality might reasonably be questioned because of such association.

E(1)(d). The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not of itself disqualify the judge. Division

(E)(1)(d)(iii) applies to appellate judges reviewing decisions rendered by them or a relative as defined in division (E)(1)(d) of this canon. It is not intended to prevent trial judges from hearing cases on remand, or that have been refiled after dismissal. Under appropriate circumstances, the fact that "the judge's impartiality might reasonably be questioned" under division (E)(1), or that the relative is known by the judge to have an interest in the law firm that could be "substantially affected by the outcome of the proceeding" under division (E)(1)(d)(iv) may require the judge's disqualification.

F. A remittal procedure provides the parties an opportunity to proceed without delay if they wish to waive the disqualification. To assure that consideration of the question of remittal is made independently of the judge, a judge must not solicit, seek or hear comment on possible remittal or waiver of the disqualification unless the lawyers jointly propose remittal after consultation as provided in the rule. A party may act through counsel if counsel represents on the record that the party has been consulted and consents. As a practical matter, a judge may wish to have all parties and their lawyers sign the remittal agreement.

G. and H. These provisions supersede Divisions (E) and (F) of Canon 3 of the Code of Judicial Conduct as applied to members of the Supreme Court of Ohio.

[Effective: December 20, 1973; amended effective June 1, 1979; January 1, 1982; December 8, 1982; October 24, 1994; May 1, 1997; October 1, 2006; February 1, 2007.]

CANON 4

A Judge Shall Avoid Impropriety and the Appearance of Impropriety in all of the Judge's Activities

(A) **Positions of Influence.** A judge shall not allow family, social, political, or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others and shall not convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

(B) **Memberships in Organizations that Practice Invidious Discrimination.** A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, gender, religion, or national origin.

(C) **Appearances and Appointments.**

(1) A judge shall not appear at a public hearing before or otherwise consult with an executive or legislative body or official except on matters concerning the law, the legal system, or the administration of justice or except when acting *pro se* in a matter involving the judge or the judge's interests.

(2) A judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system or the administration of justice. A judge may represent a country, state, or locality on ceremonial occasions or in connection with historical, educational or cultural activities.

(D) **Fiduciary Positions.**

(1) A judge shall not serve as executor, administrator, or other personal representative, trustee, guardian, attorney in fact, or other fiduciary, except for the estate, trust, or person of a member of the judge's family, and then only if the service does not interfere with the proper performance of judicial duties.

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

(3) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary capacity.

(E) Judicial Functions in a Private Capacity. A judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law.

(F) Practice of Law. A judge shall not practice law. Notwithstanding this prohibition, a judge may act *pro se* and, without compensation, may give legal advice to and draft or revise documents for a member of the judge's family.

Commentary:

A. Maintaining the prestige of judicial office is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. Respect for the judicial office facilitates the orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of the prestige of office in all of their activities. For example, it would be improper for a judge to allude to his or her judgeship to gain a personal advantage such as deferential treatment when stopped by a police officer for a traffic offense. Similarly, judicial letterhead must not be used for conducting a judge's personal business.

A judge must avoid lending the prestige of judicial office for the advancement of the private interests of others. For example, a judge must not use the judge's judicial position to gain advantage in a civil suit involving a member of the judge's family. In contracts for publication of a judge's writings, a judge should retain control over the advertising to avoid exploitation of the judge's office. As to the acceptance of awards, see Canon 2(C)(5)(a) and Commentary.

Although a judge should be sensitive to possible abuse of the prestige of office, a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation. However, a judge must not initiate the communication of information to a sentencing judge or a probation or corrections officer but may provide to such persons information for the record in response to a formal request.

Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees seeking names for consideration, and by responding to official inquiries concerning a person being considered for a judgeship. See also Canon 7 regarding use of a judge's name in political activities.

A judge must not testify voluntarily as a character witness because to do so may lend the prestige of the judicial office in support of the party for whom the judge testifies. Moreover, when a judge testifies as a witness, a lawyer who regularly appears before the judge may be placed in the awkward position of cross-examining the judge. A judge may, however, testify when properly summoned. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.

B. Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge's impartiality is impaired. Canon 4(B) refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, gender or national origin persons who would otherwise be admitted to membership. See *New York State Ass'n. Inc. v. City of New York*, 487 U.S. 1, 108 S.Ct. 2225, 101 L.Ed. 2d 1 (1988); *Board of Directors of Rotary International v. Rotary Club of Duarte*, 481 U.S. 537, 107 S.Ct. 1940, 95 L.Ed. 2d 474 (1987); *Roberts v. United States Jaycees*, 468 U.S. 609, 104 S.Ct. 3244, 82 L.Ed. 2d 462 (1984).

When a person who is a judge on the date this Code becomes effective learns that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Canon 4(B) or under Canon 4 and Canon 2(A), the judge is permitted, in lieu of resigning, to make immediate efforts to have the organization discontinue its invidiously discriminatory practices, but is required to suspend participation in any other activities of the organization. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within a year of the judge's first learning of the practices), the judge is required to resign immediately from the organization.

C(1). See Commentary for division A of this Canon.

C(2). Division (C)(2) of this canon prohibits a judge from accepting any governmental position except one relating to the law, legal system or administration of justice as authorized by Canon 2(B). The appropriateness of accepting extra-judicial assignments must be assessed in light of the demands on judicial resources created by crowded dockets and the need to protect the courts from involvement in extra-judicial matters that may prove to be controversial. Judges should not accept governmental appointments that are likely to interfere with the effectiveness and independence of the judiciary.

Canon 4(C)(2) does not govern a judge's service in a nongovernmental position. See Canon 2(B) permitting service by a judge with organizations devoted to the improvement of the law, the legal system or the administration of justice and with educational, religious, charitable, fraternal or civic organizations not conducted for profit. For example, service on the board of a public educational institution, unless it were a law school, would be prohibited under Canon 4(C)(2), but service on the board of a public law school or any private educational institution would generally be permitted under Canon 2(B).

D. The Effective Date of Compliance provision of this Code may postpone the time for compliance with certain provisions of this division in some cases.

The restrictions imposed by this Canon may conflict with the judge's obligation as a fiduciary. For example, a judge should resign as trustee if detriment to the trust would result from divestiture of holdings the retention of which would place the judge in violation of Canon 2(C)(4).

E. Division (E) of this canon does not prohibit a judge from participating in arbitration, mediation or settlement conferences performed as part of judicial duties.

F. This prohibition refers to the practice of law in a representative capacity and not in a *pro se* capacity. A judge may act for himself or herself in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. However, in so doing, a judge must not abuse the prestige of office to advance the interests of the judge or the judge's family. See Canon 4(A).

The Code allows a judge to give legal advice to and draft legal documents for members of the judge's family, so long as the judge receives no compensation. A judge must not, however, act as an advocate or negotiator for a member of the judge's family in a legal matter.

[Effective: December 20, 1973; amended effective May 1, 1997.]

CANON 5 - Reserved.

CANON 6 - Reserved.

CANON 7
Judges and Judicial Candidates Should
Refrain From Political Activity
Inappropriate to Judicial Office

(A) Definitions. As used in this canon:

(1) “Judicial candidate” means a person who has made a public announcement of candidacy for judicial office, declared or filed as a candidate for judicial office with the election authority, or authorized the solicitation or receipt of contributions or support for judicial office, whichever occurred first.

(2) “Judge” means a holder of judicial office who is not a judicial candidate.

(3) “Contribution” has the same meaning as in section 3517.01 of the Revised Code and includes an in-kind contribution.

(4) “In-kind contribution” means anything of value, as defined in section 1.03 of the Revised Code, other than money or uncompensated volunteer services, that is used to influence the results of an election or is transferred to or used in support of or in opposition to a judicial candidate and that is made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of a judicial candidate, the campaign committee or agent of the judicial candidate, or a political party and that is paid for by any person other than the benefited judicial candidate or campaign committee for that judicial candidate.

(5) “Loan” means an advance of money with an absolute promise to pay, with or without interest, and includes loan guarantees.

(6) “Political party” has the same meaning as in section 3517.01 of the Revised Code and includes any national, state, or county political party.

(7) “Organization” means any entity or combination of two or more persons, other than a political party, including, but not limited to, a corporation, nonprofit corporation, partnership, limited liability company, association, professional association, continuing association, estate, trust, business trust, political action committee as defined as in section 3517.01 of the Revised Code, law firm, organization affiliated with a political party, labor organization, campaign committee of another candidate for public office, or caucus campaign committee.

(8) “Political action committee” has the same meaning as in section 3517.01 of the Revised Code.

(9) “Law firm” means two or more lawyers joined together to engage in the practice of law, regardless of the nature of the association and excluding lawyers whose only association is through the sharing of office space. “Law firm” includes, but is not limited to, a partnership, legal professional association, limited liability company, partnership with limited liability, law clinic, corporate law department, or attorney general, prosecuting attorney, law director, public defender, legal aid, or other public office.

(10) “Organization affiliated with a political party” means a combination of two or more persons, other than a political party or an organization, that is identified by its name or association with a national, state, or county political party or expressly promotes the interests, philosophy, or candidates of a political party.

(11) “Immediate family” means any of the following who are related by blood or marriage to the judicial candidate:

- (a) Spouse;
- (b) Parent;
- (c) Child;
- (d) Brother or sister;
- (e) Grandparent;
- (f) Grandchildren;
- (g) Uncle or aunt;
- (h) Nephew or niece;
- (i) Great-grandparent;
- (j) Cousin.

(B) Political and Campaign Conduct in General.

(1) A judge or judicial candidate shall maintain the dignity appropriate to judicial office.

(2) A judge or judicial candidate shall not do any of the following:

(a) Act as a leader or hold any office in a political organization;

(b) Make speeches on behalf of a political organization or another candidate at a political meeting or publicly endorse or oppose a candidate for another public office;

(c) Make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office;

(d) Make statements that commit or appear to commit the judge or judicial candidate with respect to cases or controversies that are likely to come before the court;

(e) Comment on any substantive matter relating to a specific pending case on the docket of a judge;

(f) Knowingly misrepresent his or her identity, qualifications, present position, or other fact or the identity, qualifications, present position, or other fact of an opponent;

(g) Jointly raise funds with a candidate for nonjudicial office. Judicial candidates may appear together in joint campaign advertisements and may conduct joint fund raising activities with other judicial candidates. A judicial candidate may participate with judicial and nonjudicial candidates in fund raising activities organized or sponsored by a political party and may appear with other candidates for public office on slate cards, sample ballots, and other publications of a political party that identify all candidates endorsed by the party in an election.

(3)(a) A judge or judicial candidate may do any of the following:

(i) Attend political gatherings;

(ii) Speak to political gatherings;

(iii) State in person or in advertising that he or she is the nominee of or is endorsed by a political party;

(iv) From the day on which he or she becomes a judicial candidate through the day of the primary election, identify himself or herself in person or in advertising as a member of or affiliated with a political party.

(b) After the day of the primary election, a judicial candidate shall not identify himself or herself in advertising as a member of or affiliated with a political party.

(4) A judge shall resign from office when he or she becomes a candidate in a primary or general election for a nonjudicial office. A judge may continue to hold judicial office while he or she is a candidate for election to or serving as a delegate in a state constitutional convention, if the judge is otherwise permitted by law to do so.

(5) No earlier than one year prior to and no later than thirty days after certification of his or her candidacy by the election authority, a judicial candidate shall complete a two-hour course in campaign practices, finance, and ethics accredited by the Commission on Continuing Legal Education. Within five days of completing the course, the judicial candidate shall certify to the Board of Commissioners on Grievances and Discipline his or her completion of the course and understanding of the requirements of the Code of Judicial Conduct and applicable provisions of the Revised Code.

(C) Campaign Solicitations; Use of Campaign Funds.

(1) A judicial candidate shall prohibit public employees subject to his or her direction or control from soliciting or receiving campaign fund contributions.

(2)(a) A judicial candidate personally shall not solicit or receive campaign funds. A judicial candidate may establish a committee to secure and manage the expenditure of funds for his or her campaign and to obtain statements of support for his or her candidacy. The campaign committee shall not knowingly receive directly or indirectly for any political or personal purpose any of the following:

(i) A contribution from any employee of the court or person who does business with the court in the form of a contractual or other arrangement in which the person, in the current year or any of the previous six calendar years, received as payment for goods or services aggregate funds or fees regardless of the source in excess of two hundred fifty dollars. The committee may receive campaign contributions from lawyers who are not employees of the court or doing business with the court in the form of a contractual or other arrangement.

(ii) A contribution from any appointee of the court unless the campaign committee, on its campaign contribution and expenditure statement, reports the name, address, occupation, and employer of the appointee, identifies the person as an appointee of the court, and indicates whether the appointee, in the current year or in any of the previous six calendar years, received aggregate compensation from court appointments in excess of two hundred fifty dollars.

(iii) A contribution from a political party unless the contribution is made from a separate fund established by the political party solely to receive donations for judicial candidates and the political party reports on the contribution and expenditure statements filed by the party the name, address, occupation, and employer of each person who contributed to the separate fund established by the political party.

(b) As used in divisions (C)(2)(a)(i) and (ii) of this canon:

(i) “Appointee” does not include a person whose appointment is approved, ratified, or made by the court based on an intention expressed in a document such as a will, trust agreement, or contract.

(ii) “Court” means the court for which the judicial candidate is seeking election and, if applicable, the court on which he or she currently serves. If the judicial candidate is seeking

election to a division of a court of common pleas or a municipal court, “court” means the division of the court for which the judicial candidate is seeking election and, if applicable, the court or division of the court on which he or she currently serves.

(iii) “Division” means any of the following whether separate or in combination: general division of the court of common pleas; domestic relations division of the court of common pleas; juvenile division of the court of common pleas; probate division of the court of common pleas; housing or environmental division of the municipal court.

(iv) “Compensation” does not include reasonable reimbursement for travel, meals, and other expenses received by an appointee who serves in a volunteer capacity.

(3) A judicial candidate shall not participate in or receive campaign contributions from a judicial fund raising event that categorizes or identifies participants by the amount of the contribution made to the event.

(4)(a) The campaign committee of a judicial candidate may begin soliciting and receiving contributions no earlier than one hundred twenty days before the first Tuesday after the first Monday in May of the year in which the general election is held. If the general election is held in 2000 or any fourth year thereafter, the campaign committee of a judicial candidate may begin soliciting and receiving contributions no earlier than one hundred twenty days before the first Tuesday after the first Monday in March of the year in which the general election is held. Except as provided in divisions (C)(4)(b) and (c) of this canon, the solicitation and receipt of contributions may continue until one hundred twenty days after the general election.

(b) If the candidate is defeated prior to the general election, the solicitation and receipt of contributions may continue until such time as the contributions solicited are sufficient to pay the campaign debts and obligations of the judicial candidate incurred on or before the date of the primary election, plus the costs of solicitation incurred after the date of the primary election, but in no event shall the solicitation or receipt of contributions continue beyond one hundred twenty days after the date of the election at which the defeat occurred. Notwithstanding division (C)(5)(b)(ii) of this canon, the limits on contributions in a primary election period shall apply to any contributions solicited or received by the campaign committee of the defeated judicial candidate after the date of the primary election.

(c) In the case of the death or withdrawal of a judicial candidate, the solicitation and receipt of contributions may continue until such time as the contributions solicited are sufficient to pay the campaign debts and obligations of the judicial candidate incurred on or before the date of death or withdrawal, plus the costs of solicitation incurred after the date of death or withdrawal, but in no event shall the solicitation or receipt of contributions continue beyond one hundred twenty days after the date of death or withdrawal.

(d) Notwithstanding any provision of division (C)(4) of this rule to the contrary, a judicial candidate may do either or both of the following:

(i) Not more than ninety days prior to the commencement of the one hundred twenty-day fundraising period described in division (C)(4)(a) of this rule, contribute personal funds to his or her campaign committee;

(ii) After the conclusion of the applicable fundraising period described in division (C)(4)(a), (b), or (c) of this rule, contribute personal funds to his or her campaign committee for the express purpose of satisfying any campaign debt that was incurred during the applicable fundraising period and that remains unpaid at the conclusion of the applicable fundraising period. The name of the individual or entity to whom the debt is owed, the amount of the debt, and the date on which the debt was incurred shall be clearly noted on the appropriate campaign contribution and expenditure statement.

(5)(a) Except as otherwise provided in division (C)(5)(b) of this canon, the campaign committee of a judicial candidate shall not directly or indirectly solicit or receive in the fund raising period allowed by division (C)(4) of this canon a campaign contribution aggregating more than the following:

(i) From an individual other than the judicial candidate or a member of his or her immediate family, three thousand four hundred fifty dollars in the case of a judicial candidate for chief justice or justice of the Supreme Court, one thousand one hundred fifty dollars in the case of a judicial candidate for the court of appeals, or five hundred seventy-five dollars in the case of a judicial candidate for the court of common pleas, municipal court, or county court.

(ii) From any organization, six thousand three hundred twenty-five dollars in the case of a judicial candidate for chief justice or justice of the Supreme Court or three thousand four hundred fifty dollars in the case of all other judicial candidates.

(iii) From a political party:

(A) Three hundred sixteen thousand two hundred fifty dollars in the case of a judicial candidate for chief justice or justice of the Supreme Court;

(B) Sixty-nine thousand dollars in the case of a judicial candidate for the court of appeals;

(C) Sixty-nine thousand dollars in the case of a judicial candidate for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of more than seven hundred fifty thousand;

(D) Fifty-seven thousand five hundred dollars in the case of a judicial candidate for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of seven hundred fifty thousand or less;

(b) If a judicial candidate is opposed in a primary election, the campaign committee of that judicial candidate shall not directly or indirectly solicit or receive either of the following:

(i) A campaign contribution from an individual or an organization aggregating more than the applicable limitation contained in division (C)(5)(a) (i) or (ii) of this canon in a primary election period or in a general election period;

(ii) A campaign contribution from a political party aggregating more than the applicable limitation contained in division (C)(5)(a)(iii) of this canon in a general election period or aggregating more than the following during a primary election period:

(A) One hundred seventy-two thousand five hundred dollars in the case of a judicial candidate for chief justice or justice of the Supreme Court;

(B) Thirty-four thousand five hundred dollars in the case of a judicial candidate for the court of appeals;

(C) Thirty-four thousand five hundred dollars in the case of a judicial candidate for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of more than seven hundred fifty thousand;

(D) Twenty-eight thousand seven hundred fifty dollars in the case of a judicial candidate for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of seven hundred fifty thousand or less.

(c) As used in division (C)(5)(b) of this canon, “primary election period” begins on the first day on which contributions may be solicited and received pursuant to division (C)(4) of this canon and ends on the day of the primary election, and “general election period” begins on the day after the primary election and ends on the last day on which contributions may be solicited or received pursuant to division (C)(4) of this canon.

(d) For purposes of division (C)(5)(a), (b), and (c) of this canon:

(i) Contributions received from political action committees that are established, financed, maintained, or controlled by the same corporation, nonprofit corporation, partnership, limited liability company, association, professional association, continuing association, estate, trust, business trust, or other entity, including any parent, subsidiary, local, division, or department of that same corporation, nonprofit corporation, partnership, limited liability company, association, professional association, continuing association, estate, trust, business trust, or other entity, shall be considered to have been received from a single political action committee.

(ii) All contributions received by a judicial candidate from a national, state, or county political party shall be combined in applying the limits set forth in division (C)(5)(a)(iii) of this canon.

(iii) In-kind contributions consisting of goods and compensated services shall be assigned a fair market value by the campaign committee and shall be subject to the same limitations and reporting requirements as other contributions.

(iv) A loan made to a campaign committee by a person other than the judicial candidate or a member of his or her immediate family shall not exceed an amount equal to two times the applicable contribution limit, and amounts in excess of the applicable contribution limit shall be repaid within the fund raising period allowed by division (C)(4) of this canon. A debt remaining at the end of the fund raising period shall be treated as a contribution and subject to the applicable contribution limit.

(v) A debt incurred by a judge or judicial candidate in a previous campaign for public office and forgiven by the individual, organization, or political party to whom the debt is owed shall not be considered a campaign contribution.

(e) In applying the contribution limits contained in division (C)(5) of this canon, the contributions of an individual or organization to a judicial candidate fund established by a political party shall not be aggregated with other contributions from the same individual or organization made directly to the campaign committee of a judicial candidate unless the campaign committee of the judicial candidate directly or indirectly solicited the contribution to the judicial candidate fund.

(6) On or before the first day of December beginning in 2008 and every four years thereafter, the secretary of the Board of Commissioners on Grievances and Discipline shall determine the percentage change over the preceding forty-eight months in the Consumer Price Index for All Urban Consumers, or its successive equivalent, as determined by the United States Department of Labor, Bureau of Labor Statistics, or its successor in responsibility, for all items, Series A. The secretary shall apply that percentage change to the contribution limitations then in effect and notify the Supreme Court of the results of that calculation. The Supreme Court may adopt revised contribution limitations based on the secretary's calculation or other factors that the Court considers appropriate.

(7)(a) A judicial candidate shall not expend funds in a judicial campaign that have been contributed to him or her to promote his or her candidacy for a nonjudicial office.

(b) A judge or judicial candidate shall not contribute or expend campaign funds in support of or opposition to a candidate for a public office, other than the public office to which the judge or judicial candidate is seeking election. A judge or judicial candidate may contribute or expend campaign funds to attend a social or fundraising event held by or on behalf of another public official or candidate for public office.

(c) For any of the purposes contained in division (A) of section 3517.18 of the Revised Code and subject to the limitations contained in division (B) of that section, a judge or judicial candidate may contribute campaign funds to or expend campaign funds for a political party or to attend social events sponsored by a political party.

(8) The campaign committee of a judicial candidate who is elected to the Supreme Court, court of common pleas, municipal court, or county court shall file a copy of all contribution and expenditure statements specified in division (A) of section 3517.10 of the

Revised Code with the clerk of the court. The campaign committee of a judicial candidate who is elected to the court of appeals shall file a copy of all required contribution and expenditure statements with the clerk of court of each county in the appellate district. The statements shall be filed with the clerk no later than ten days after the date on which the term of office of the judicial candidate begins.

(D) Campaign Standards. During the course of any campaign for nomination or election to judicial office, a judicial candidate, by means of campaign materials, including sample ballots, an advertisement on radio or television or in a newspaper or periodical, a public speech, press release, or otherwise, shall not knowingly or with reckless disregard do any of the following:

(1) Use the title of an office not currently held by a judicial candidate in a manner that implies that the judicial candidate does currently hold that office;

(2) Use the term “judge” when a judge is a candidate for another judicial office and does not indicate the court on which the judge currently serves;

(3) Use the term “judge” when the judicial candidate is not a judge unless that term appears after or below the name of the judicial candidate and is accompanied by either or both of the following:

(a) The words “elect” or “vote,” in prominent lettering, before the judicial candidate’s name;

(b) The word “for,” in prominent lettering, between the name of the judicial candidate and the term “judge.”

(4) Use the term "re-elect" when the judicial candidate has never been elected at a general or special election to the office for which he or she is a judicial candidate.

(5) Make a false statement concerning the formal schooling or training completed or attempted by a judicial candidate; a degree, diploma, certificate, scholarship, grant, award, prize of honor received, earned, or held by a judicial candidate; or the period of time during which a judicial candidate attended any school, college, community technical school, or institution;

(6) Make a false statement concerning the professional, occupational, or vocational licenses held by a judicial candidate, or concerning any position a judicial candidate held for which he or she received a salary or wages;

(7) Make a false statement that a judicial candidate has been arrested, indicted, or convicted of a crime;

(8) Make a statement that a judicial candidate has been arrested, indicted, or convicted of any crime without disclosing the outcome of all pending or concluded legal proceedings resulting from the arrest, indictment, or conviction;

(9) Make a false statement that a judicial candidate has a record of treatment or confinement for mental disorder;

(10) Make a false statement that a judicial candidate has been subjected to military discipline for criminal misconduct or dishonorably discharged from the armed services;

(11) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a judicial candidate by a person, organization, political party, or publication.

(E) Campaign Communications. During the course of any campaign for nomination or election to judicial office, a judicial candidate, by means of campaign materials, including sample ballots, an advertisement on radio or television or in a newspaper or periodical, a public speech, press release, or otherwise, shall not knowingly or with reckless disregard do any of the following:

(1) Post, publish, broadcast, transmit, circulate, or distribute information concerning a judicial candidate or an opponent, either knowing the information to be false or with a reckless disregard of whether or not it was false or, if true, that would be deceiving or misleading to a reasonable person.

(2) Manifest bias or prejudice toward an opponent based on race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status or permit members of his or her campaign committee or others subject to his or her direction or control to do so.

(F) Accountability.

A judicial candidate shall be responsible for the content of any statement communicated in any medium by his or her campaign committee and for compliance by his or her campaign committee with the limitations on campaign solicitations and contributions contained in this canon if the candidate knew of the statement, solicitation, or contribution.

(G) Effective Date and Amendments.

(1) The amendments to Canon 7 of the Code of Judicial Conduct, adopted by the Supreme Court on April 25, 1995, shall take effect on July 1, 1995.

(2) The amendments to Canon 7(C)(6) of the Code of Judicial Conduct, adopted by the Supreme Court of Ohio on February 20, 1996, shall take effect on February 20, 1996.

(3) The amendments to Canon 7 of the Code of Judicial Conduct, adopted by the Supreme Court of Ohio on March 20, 1996, shall take effect on April 18, 1996.

(4) The amendments to Canon 7 of the Code of Judicial Conduct, adopted by the Supreme Court of Ohio on June 5, 1996 shall take effect on June 5, 1996.

(5) The amendments to Canon 7 of the Code of Judicial Conduct, adopted by the Supreme Court of Ohio on May 6, 1997, shall take effect on June 1, 1997. Canon 7(C)(6) shall apply to expenditures made by a campaign committee of a judicial candidate on or after June 1, 1997. The expenditures made prior to June 1, 1997 by the campaign committee of a judicial candidate seeking election in 1997 shall not be considered in computing the total amount of expenditures made by the judicial candidate's campaign committee during the permissible fund raising period.

(6) The amendments to Canon 7 of the Code of Judicial Conduct, adopted by the Supreme Court of Ohio on October 12, 1999 shall take effect on November 1, 1999.

(7) The amendments to Canon 7 of the Code of Judicial Conduct, adopted by the Supreme Court of Ohio on December 12, 2000, shall take effect on January 1, 2001.

(8) The amendments to Canon 7 of the Code of Judicial Conduct, adopted by the Supreme Court of Ohio on October 7, 2003, shall take effect on November 3, 2003. The amended contribution limits shall apply to fundraising that occurs on behalf of judicial candidates who are campaigning for election to judicial offices that will appear on the ballot in the 2004 and subsequent elections. The contribution limits that were in effect prior to November 3, 2003 shall apply to fundraising that has occurred or will occur on behalf of judicial candidates who are campaigning or have campaigned for election to judicial offices that appeared on the ballot in calendar year 2003.

(9) The amendments to Canon 7 of the Code of Judicial Conduct, adopted by the Supreme Court on December 15, 2003, shall take effect on January 1, 2004.

(10) The amendments to Canon 7(C) of the Code of Judicial Conduct, adopted by the Supreme Court on February 1, 2005, shall take effect on February 1, 2005. The amended contribution limits shall apply to fundraising that occurs on behalf of judicial candidates who campaign for election to judicial offices that will appear on the ballot in the 2005 and subsequent years. The contribution limits that were in effect prior to February 1, 2005 shall apply to fundraising that has occurred or will occur on behalf of judicial candidates who campaigned for election to judicial offices that appeared on the ballot in calendar year 2004.

(11) The amendments to Canon 7(C) of the Code of Judicial Conduct, adopted by the Supreme Court on December 15, 2008, shall take effect on January 1, 2009. The amended contribution limits shall apply to fundraising that occurs on behalf of judicial candidates who campaign for election to judicial offices that will appear on the ballot in the 2009 and subsequent years. The contribution limits that were in effect prior to January 1, 2009 shall apply to fundraising that has occurred or will occur on behalf of judicial candidates who campaigned for election to judicial offices that appeared on the ballot in calendar year 2008.

COMPLIANCE WITH THE CODE OF JUDICIAL CONDUCT

(A) Anyone, whether or not a lawyer, who is an officer of a judicial system performing judicial functions, including an officer such as a referee in bankruptcy, special master, court commissioner, or magistrate, is a judge for the purpose of this Code except as provided below.

(B) **Part-time Judge.** A part-time judge is a judge who serves on a continuing or periodic basis, but is permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. A part-time judge:

(1) Is not required to comply with Canon 2(C)(3); Canon 4(C)(2), (D), (E), (F), and Canon 2(D)(3), except that a part-time judge must file the annual disclosure statement required by section 102.02 of the Revised Code;

(2) Shall not practice law in the court on which he or she serves or in any court subject to the appellate jurisdiction of the court on which he or she serves, or act as a lawyer in a proceeding in which he or she has served as a judge or in any other related proceeding.

(C) **Judge *Pro Tempore*.** A judge *pro tempore* is a person who is appointed to act temporarily as a judge.

(1) While acting as such a judge *pro tempore* is not required to comply with Canon 2(C)(3), (4), Canon 4(C)(2), (D), (E), (F), and Canon 2(D)(3).

(2) A person who has been a judge *pro tempore* shall not act as a lawyer in a proceeding in which he or she has served as a judge or in any other related proceeding.

(D) **Retired Judge.** A retired judge who is eligible for recall to judicial service shall comply with all the provisions of this Code except Canon 2(C)(3), Canon 4(C)(2), (D), and (E).

[Effective: December 20, 1973; amended effective December 8, 1982; May 1, 1997; December 8, 1997.]

EFFECTIVE DATE OF COMPLIANCE

Canons 1-4 of this Code, as amended by the Supreme Court of Ohio on March 4, 1997, shall be effective on May 1, 1997.

A person to whom this Code becomes applicable should arrange his or her affairs as soon as reasonably possible to comply with it. In any event a non-incumbent who has been elected to, is elected to, or has been or is appointed to a judicial position to which this Code is applicable shall fully and completely comply with the Code at the beginning of his or her term of office. An incumbent judge shall be in full compliance with all the provisions of this Code no later than the date upon which his or her next term of office begins.

[Effective: December 20, 1973; amended effective May 13, 1974; May 1, 1997.]