

PREAMBLE & SCOPE

[1] An independent, fair, and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of judges with integrity, will interpret and apply the law. Thus, the judiciary plays a central role in preserving justice and the rule of law. Inherent in the Rules contained in the Code of Judicial Conduct (Code) are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

[2] Judges should maintain the dignity of judicial office and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

[3] The Code establishes standards for the ethical conduct of judges and judicial candidates. The Code is intended to guide and assist judges in maintaining the highest standards of judicial and personal conduct and to provide a basis for regulating their conduct through the Illinois Judicial Inquiry Board and the Illinois Courts Commission.

[4] The Code governs a judge's personal and judicial activities conducted in person, on paper, and by telephone or other electronic means. A violation of the Code may occur when a judge uses the Internet, including social networking sites, to post comments or other materials such as links to websites, articles, or comments authored by others, photographs, cartoons, jokes, or any other words or images that convey information or opinion. Violations may occur even if a judge's distribution of a communication is restricted to family and friends and is not accessible to the public. Judges must carefully monitor their social media accounts to ensure that no communication can be reasonably interpreted as suggesting a bias or prejudice; an *ex parte* communication; the misuse of judicial power or prestige; a violation of restrictions on charitable, financial, or political activities; a comment on a pending or impending case; a basis for disqualification; or an absence of judicial independence, impartiality, integrity, or competence.

[5] The Code consists of four Canons, numbered Rules under each Canon, and Comments that generally follow and explain each Rule. The Policy and Scope and Terminology sections provide additional guidance in interpreting and applying the Code. The numbering of the Code is patterned on the American Bar Association Model Code of Judicial Conduct (rev. 2010), reserving numbers for provisions not incorporated in Illinois.

[6] The Canons state principles of judicial ethics that all judges must observe. Although a judge may be disciplined only for violating a Rule, the Canons provide important guidance in interpreting the Rules. Where a Rule contains a permissive term, such as "may" or "should," the conduct being addressed is committed to the personal and professional

discretion of the judge or candidate in question, and no disciplinary action should be taken for action or inaction within the bounds of such discretion.

[7] The Comments that accompany the Rules serve two functions. First, they provide guidance regarding the purpose, meaning, and proper application of the Rules. They contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. Comments neither add to nor subtract from the binding obligations set forth in the Rules. Therefore, when a Comment contains the terms “must” or “shall,” it does not mean that the Comment itself is binding or enforceable; it signifies that the Rule in question, properly understood, is obligatory as to the conduct at issue.

[8] Second, the Canons combined with the Comments identify aspirational goals for judges. To implement fully the principles of this Code as articulated in the Canons, judges should strive to exceed the standards of conduct established by the Rules, holding themselves to the highest ethical standards and seeking to achieve those aspirational goals, thereby enhancing the dignity of the judicial office.

[9] The Rules of the Code are rules of reason that should be applied consistent with constitutional requirements, statutes, other court rules, and decisional law and with due regard for all relevant circumstances. The Rules should not be interpreted to impinge upon the essential independence of judges in making judicial decisions.

[10] Although the black letter of the Rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. Whether discipline is imposed should be determined through a reasonable and reasoned application of the Rules and should depend upon factors such as the seriousness of the conduct, the facts and circumstances that existed at the time of the conduct, the extent of any pattern of improper conduct, whether there have been previous violations, and the effect of the conduct upon the judicial system or others.

[11] The Code is not designed or intended as a basis for civil or criminal liability. Nor is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

TERMINOLOGY

The first time any term listed below is used in a Rule in its defined sense, it is followed by an asterisk (*).

“Contributions” means both financial and in-kind contributions, such as goods, professional or volunteer services, advertising, and other types of assistance, which, if obtained by the recipient otherwise, would require a financial expenditure. See Rules 3.7, 4.1, and 4.4.

“De minimis,” in the context of interests pertaining to disqualification of a judge, means an insignificant interest that could not raise a reasonable question regarding the judge’s impartiality. See Rule 2.11.

“Domestic partner” means a person with whom another person maintains a household and an intimate relationship, other than a person’s legal spouse. See Rule 2.11.

“Economic interest” means ownership of more than a *de minimis* legal or equitable interest. Except for situations in which the judge participates in the management of such a legal or equitable interest or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include (1) an interest in the individual holdings within a mutual or common investment fund; (2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge’s spouse, domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant; (3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union or similar proprietary interests; or (4) an interest in the issuer of government securities held by the judge. See Rules 1.3 and 2.11.

“Fiduciary” includes relationships such as executor, administrator, trustee, or guardian. See Rules 2.11, 3.2, and 3.8.

“Impartial,” “impartiality,” and “impartially” mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge. See Canons 1, 2, and 4 and Rules 1.2, 2.2, 2.10, 2.11, 2.13, 3.1, 3.12, 4.1, and 4.3.

“Impending matter” is a matter that is imminent or expected to occur in the near future. See Rules 2.9, 2.10, and 4.1.

“Impropriety” includes conduct that violates the law, court rules, or provisions of this Code and conduct that undermines a judge’s independence, integrity, or impartiality. See Canon 1 and Rule 1.2.

“Independence” means a judge’s freedom from influence or controls other than those established by law. See Canons 1 and 4 and Rules 1.2, 3.1, 3.12, 4.1, and 4.3.

“Integrity” means probity, fairness, honesty, uprightness, and soundness of character. See Canons 1 and 4 and Rules 1.2, 3.1, 3.12, 4.1, and 4.3.

“Judicial candidate” means any person, including a sitting judge, who is seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as such person makes a public announcement of candidacy; declares or files as a candidate with the election or appointment authority; authorizes or, where permitted, engages in solicitation or acceptance of contributions or support; or is nominated for election or appointment to office. See Rules 4.1, 4.3, and 4.4.

“Knowingly,” “knowledge,” “known,” and “knows” mean actual knowledge of the fact in question. A person’s knowledge may be inferred from the circumstances. See Rules 2.11, 2.13, 2.15, 2.16, 3.6, and 4.1.

“Law” encompasses court rules as well as statutes, constitutional provisions, and decisional law. See Rules 1.1, 2.1, 2.2, 2.6, 2.7, 2.9, 3.1, 3.9, 3.12, 3.14, 4.1, 4.3, 4.4, and 4.5.

“Member of the judicial candidate’s family” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the judicial candidate maintains a close familial relationship. See Rule 4.1.

“Member of the judge’s family” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Rules 3.7, 3.8, and 3.11.

“Member of a judge’s family residing in the judge’s household” means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge’s family, who resides in the judge’s household. See Rule 2.11.

“Must” when used in a Rule imposes a mandatory duty on a judge to comply with the Rule. When used in a Comment, the term does not mean that the Comment itself is binding or enforceable; it signifies that the Rule in question, properly understood, is obligatory as to the conduct at issue. See Rule 3.8.

“Nonpublic information” means information that is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute or court order or impounded or communicated *in camera* and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports. See Rule 3.5.

“Pending matter” is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition. See Rules 2.9, 2.10, and 4.1.

“Personally solicit” means a direct request made by a judge or a judicial candidate for financial support or in-kind services, whether made by letter, telephone, or any other means of communication. See Rule 4.1.

“Political organization” means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office. For purposes of this Code, the term does not include a judicial candidate’s campaign committee created as authorized by Rule 4.4. See Rules 4.1 and 4.3.

“Public election” includes primary and general elections, partisan elections, nonpartisan elections, and retention elections. See Rules 4.1 and 4.3.

“Require,” when used in the context of the Rules prescribing that a judge “require” certain conduct of others, means that a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge’s direction and control. See Rules 2.8, 2.10, and 2.12.

“Shall” imposes a mandatory duty on a judge to comply with the Rule. When used in a Comment, the term does not mean that the Comment itself is binding or enforceable; it signifies that the Rule in question, properly understood, is obligatory as to the conduct at issue. (Because the term “shall” appears *passim*, its first use in a Rule is not marked with an asterisk (*).)

“Third degree of relationship” includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece. See Rule 2.11.

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