

## **CANON 4**

A JUDGE OR JUDICIAL CANDIDATE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.

### **RULE 4.1: POLITICAL AND CAMPAIGN ACTIVITIES IN PUBLIC ELECTIONS**

- (A) Except as authorized in paragraphs (D)(2) and (F), a judge or judicial candidate shall not:
  - (1) act as a leader or hold an office in a political organization;\*
  - (2) publicly endorse or publicly oppose another candidate for public office;
  - (3) make speeches on behalf of a political organization; or
  - (4) solicit funds for, or pay an assessment to, a political organization or candidate.
- (B) A judge shall resign from judicial office upon becoming a candidate for a nonjudicial elected office.
- (C) A judicial candidate:
  - (1) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the independence, integrity, and impartiality of the judiciary;
  - (2) shall prohibit employees and officials who serve at the pleasure of the candidate, and shall discourage other employees and officials subject to the candidate's direction and control, from doing on the candidate's behalf what the candidate is prohibited from doing under the provisions of this Rule;
  - (3) except to the extent permitted by Paragraph (E), shall not authorize, encourage, or knowingly permit members of the judicial candidate's family\* or other persons to do for the candidate what the candidate is prohibited from doing under the provisions of this Rule;
  - (4) shall not:

- (a) make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office with respect to cases, controversies, or issues that are likely to come before the court; or
  - (b) knowingly misrepresent the identity, qualifications, present position, or other fact concerning the candidate or an opponent.
- (D) A judge or judicial candidate may, except as prohibited by law:
  - (1) at any time:
    - (a) purchase tickets for and attend political gatherings;
    - (b) identify as a member of a political party; and
    - (c) contribute to a political organization.
  - (2) when a candidate for public election: \*
    - (a) speak to gatherings supporting candidacy;
    - (b) appear in advertisements and other electronic media supporting the candidacy;
    - (c) distribute campaign materials supporting the candidacy;
    - (d) publicly endorse or publicly oppose any judicial candidates in a primary or general election in which the judge or judicial candidate is running and use or allow the use of campaign materials authorized by Paragraph F;
    - (e) respond to personal attacks or attacks on the candidate's record as long as the response does not violate Paragraph (C)(4) and is not reasonably expected to impair the fairness of a matter pending or impending in any court. See Rule 2.10(D).
- (E) A judicial candidate shall not:
  - (1) personally solicit\* or accept campaign contributions; or

- (2) use or permit the use of campaign contributions for the private benefit of the candidate or others. See Rule 4.4.
- (F) A candidate for judicial office in a public election may permit the candidate's name or image to be included in campaign materials along with other candidates for elective public office.
- (G) A judge shall not engage in any political activity, except:
  - (1) as authorized under Rule 4.1(D) and Rule 4.4;
  - (2) on behalf of measures that concern the law, the legal system, or the administration of justice; or
  - (3) as expressly authorized by law.
- (H) Rule 4.1 applies to all judges and judicial candidates. Judges and successful judicial candidates are subject to judicial discipline for their campaign conduct. Lawyers are subject to lawyer discipline for their campaign conduct that violates Rule 4.1 of the Illinois Rules of Professional Conduct of 2010.

## COMMENTS

- [1] A judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based upon the expressed views or preferences of the electorate, a judge makes decisions based upon the law and the facts of every case. Therefore, in furtherance of this interest, judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. This Canon imposes narrowly tailored restrictions upon the political and campaign activities of all judges and judicial candidates.
- [2] When a person becomes a judicial candidate, this Canon becomes applicable.
- [2A] Except as may be specifically authorized in the context of judicial election campaigns, Rule 4.1 prohibits judges and judicial candidates from “publicly” endorsing or making “speeches” on behalf of political candidates or organizations. Comments by judges active on social media or social networking platforms may be considered “public” for purposes of this Rule.

## PARTICIPATION IN POLITICAL ACTIVITIES

- [3] Public confidence in the independence, integrity, and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence.
- [4] Paragraphs (A)(2) and (A)(3) prohibit judges and judicial candidates from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office, respectively, to prevent them from misusing the prestige of judicial office to advance the interests of others. See Rule 1.3. The prohibition contained in paragraph (A)(3) does not prohibit candidates from campaigning on their own behalf or from endorsing or opposing candidates for judicial office in the same primary or general election.
- [5] Although members of the families of judges and judicial candidates are free to engage in their own political activity, including running for public office, there is no “family exception” to the prohibition in paragraph (A)(2) against a judge or candidate publicly endorsing candidates for public office. A judge or judicial candidate must not become involved in, or publicly associate with, a family member’s political activity or campaign for public office. To avoid public misunderstanding, judges and judicial candidates should take, and should urge members of their families to take, reasonable steps to avoid any implication that they endorse any family member’s candidacy or other political activity. The judge or judicial candidate may, however, attend events advancing the candidacy of the family member and contribute financially to the family member’s campaign to the same extent that a judge or judicial candidate may attend events and contribute money to any other candidate for public office.
- [5A] Because society recognizes the special relationship between members of a family, including the expectation that family members generally support each other in all facets of their lives, there is less danger that a judge’s association with a family member’s campaign for public office will create the impression that the judge is misusing judicial prestige to support the candidate. For example, a judge may appear in a photograph to be used in a family member’s campaign for public office. A judge must not, however, be depicted in judicial robes in a courtroom or other context that suggests the prestige of judicial office is being misused.
- [5B] A judge or judicial candidate should encourage family members in supporting the candidacy of the judge or judicial candidate to adhere to the same standards of political conduct contained in this Canon.
- [6] Judges and judicial candidates retain the right to participate in the political process as voters in any election. Judges and judicial candidates may sign election-related petitions. Judicial candidates may also circulate petitions for themselves or other

judicial candidates in the same election but must not circulate petitions for any nonjudicial candidates for public office.

#### STATEMENTS AND COMMENTS MADE DURING A CAMPAIGN FOR JUDICIAL OFFICE

- [7] Judicial candidates should be scrupulously fair and accurate in all statements made by them and by their campaign committees. Paragraph (C)(4)(b) obligates candidates to refrain from knowingly, or with reckless disregard for the truth, making statements that are false or misleading or that omit facts necessary to make the communication considered as a whole not a false or misleading statement.
- [8] Judicial candidates are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. For example, false or misleading statements might be made regarding the identity, present position, experience, qualifications, or judicial rulings of a candidate. In other situations, false or misleading allegations may be made that bear upon a candidate's integrity or fitness for judicial office. As long as the candidate does not violate paragraph (D)(2)(e), the candidate may make a factually accurate public response. In addition, when false or misleading statements have been made regarding a candidate's opponent, the candidate should disavow the statements and request the source of the statements to cease.
- [9] Subject to paragraph (D)(2)(e), a judicial candidate is permitted to respond directly to false or misleading allegations made against him or her. The candidate should consider whether it is preferable for someone else to respond if the allegations relate to a pending case.
- [10] Paragraph (C)(4)(a) prohibits judicial candidates from making comments that might impair the fairness of pending or impending judicial proceedings. This provision does not restrict arguments or statements to the court or jury by a lawyer who is a judicial candidate or rulings, statements, or instructions by a judge that may appropriately affect the outcome of a matter.

#### PLEDGES, PROMISES, OR COMMITMENTS INCONSISTENT WITH IMPARTIAL PERFORMANCE OF THE ADJUDICATIVE DUTIES OF JUDICIAL OFFICE

- [11] The role of a judge is different from that of a legislator or executive branch official, even when the judge is subject to public election. Campaigns for judicial office must be conducted differently from campaigns for other offices. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in Canon 4 allow candidates to conduct campaigns that provide voters

with sufficient information to permit them to distinguish between candidates and make informed electoral choices.

- [12] Paragraph (C)(4)(a) makes applicable to both judges and judicial candidates the prohibition that applies to judges in Rule 2.10(B) relating to pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.
- [13] The making of a pledge, promise, or commitment is not dependent upon, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result. Pledges, promises, or commitments must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law without regard to any personal views.
- [14] A judicial candidate may make promises related to judicial organization, administration, and court management, such as a promise to dispose of a backlog of cases, start court sessions on time, or avoid favoritism in appointments and hiring. A candidate may also pledge to take action outside the courtroom, such as working toward an improved jury selection system or advocating for more funds to improve the physical plant and amenities of the courthouse.
- [15] Judicial candidates who respond to questions or questionnaires or requests for interviews may have their responses viewed as improper pledges, promises, or commitments. See Comment 13. To avoid violating paragraph (D)(2)(e), candidates who respond should give assurances that they will keep an open mind and will carry out their adjudicative duties faithfully and impartially. Candidates who do not respond may state their reasons such as the danger that answering might be perceived by a reasonable person as undermining a successful candidate's independence or impartiality or that it might lead to frequent disqualification. See Rule 2.11.

**RULE 4.2: RESERVED**

[Reserved]

**RULE 4.3: ACTIVITIES OF CANDIDATES FOR APPOINTIVE JUDICIAL OFFICE**

A candidate for appointment to judicial office shall:

- (A) maintain the dignity appropriate to judicial office and act in a manner consistent with the independence,\* integrity,\* and impartiality of the judiciary;
  - (B) prohibit employees and officials who serve at the pleasure of the candidate, and discourage other employees and officials subject to the candidate's direction and control, from doing on the candidate's behalf what the candidate is prohibited from doing under the provisions of this Rule;
  - (C) A candidate shall not:
    - (1) make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office with respect to cases, controversies, or issues that are likely to come before the court; or
    - (2) knowingly\* or with reckless disregard for the truth, make any false or misleading statement in connection with:
      - (a) an application for appointment; or
      - (b) the identity, qualifications, present position, or other fact concerning the candidate; or
      - (c) except to the extent permitted by Rule 4.1(E), authorize, encourage, or knowingly permit members of the judicial candidate's family or other persons to do for the candidate what the candidate is prohibited from doing under the provisions of this Rule.
  - (D) A candidate for appointment to judicial office may, except as prohibited by law:\*
- (1) at any time:
    - (a) purchase tickets for and attend political gatherings;
    - (b) personally identify as a member of a political party; and
    - (c) contribute to a political organization.

## COMMENTS

- [1] When seeking support or endorsement or when communicating directly with an appointing or confirming authority, a candidate for appointive judicial office must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. See Rule 4.1(D)(4)(a).
- [2] “Appointment to judicial office” means appointment, assignment, or recall to any judicial office under article VI of the Illinois Constitution of 1970.

## **RULE 4.4: CAMPAIGN COMMITTEES**

- (A) A judicial candidate subject to public election may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The candidate is responsible for ensuring that the campaign committee complies with applicable provisions of this Code and other applicable law.\*
- (B) A judicial candidate subject to public election shall direct the campaign committee:
- (1) to solicit and accept campaign contributions\* only as permitted by law;
  - (2) not to solicit or accept contributions for a campaign more than 1 year before the applicable primary, general, or retention election, nor more than 90 days after the last election in which the candidate participated; and
  - (3) to comply with all applicable campaign finance laws.

## COMMENTS

- [1] Judicial candidates are prohibited from personally soliciting campaign contributions or personally accepting campaign contributions. See Rule 4.1(A)(8). This Rule recognizes that, in many jurisdictions, judicial candidates must raise campaign funds to support their candidacies and permits candidates, other than candidates for appointive judicial office, to establish campaign committees to solicit and accept reasonable financial contributions or in-kind contributions.
- [2] Campaign committees may solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct campaigns. To the extent possible, campaign committees should manage campaign finances to avoid deficits that might necessitate postelection fundraising. Candidates are responsible for

compliance with the requirements of election law and other applicable law and for the activities of their campaign committees.

- [3] The campaign committee may solicit and accept campaign contributions from lawyers and others who might appear before the candidate. The candidate should instruct the campaign committee to be cautious in connection with such contributions so it does not create grounds for disqualification. See Rule 2.11.
- [4] During the campaign, the candidate and the campaign committee should be aware that a contribution may affect the independence, integrity, and impartiality of the judge and may create grounds for disqualification if the candidate is elected to office.

#### **RULE 4.5: ACTIVITIES OF JUDGES WHO BECOME CANDIDATES FOR NONJUDICIAL OFFICE**

- (A) Upon becoming a candidate for a nonjudicial elective office, a judge shall resign from judicial office, unless permitted by law\* to continue to hold judicial office. A person becomes a candidate for nonjudicial office by (1) making a public announcement of candidacy, (2) declaring or filing as a candidate with the election authority, (3) authorizing or, where permitted, engaging in solicitation or acceptance of contributions or support, or (4) being nominated for election. A judge may continue to hold office while a candidate for election to or serving as a delegate in a state constitutional convention.
- (B) Upon becoming a candidate for a nonjudicial appointive office, a judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code.

#### **COMMENTS**

- [1] In campaigns for nonjudicial elective public office, candidates may make pledges, promises, or commitments related to positions they would take and ways they would act if elected to office. Although appropriate in nonjudicial campaigns, this manner of campaigning is inconsistent with the role of a judge, who must remain fair and impartial. The potential for misuse of judicial office, and the political promises that the judge may make in the course of campaigning for nonjudicial elective office, together dictate that a judge who wishes to run for such an office must resign upon becoming a candidate.
- [2] The “resign to run” rule set forth in paragraph (A) ensures that a judge cannot use the judicial office to promote such candidacy and eliminates any potential issue of

postcampaign retaliation by a judge defeated in an election. When a judge is seeking appointive nonjudicial office, however, the dangers are not sufficient to warrant imposing the “resign to run” rule.

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