

1 CALIFORNIA CODE OF JUDICIAL ETHICS

2
3 Amended by the Supreme Court of California effective January 21, 2015, January 1,
4 2013; previously amended March 4, 1999, December 13, 2000, December 30, 2002, June
5 18, 2003, December 22, 2003, January 1, 2005, June 1, 2005, July 1, 2006, January 1,
6 2007, January 1, 2008, and April 29, 2009.

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26 ***campaign activity that is inconsistent with the independence, integrity, or impartiality***
27 ***of the judiciary.***

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PREFACE

1
2
3 Formal standards of judicial conduct have existed for more than 50 years. The original
4 Canons of Judicial Ethics promulgated by the American Bar Association were modified
5 and adopted in 1949 for application in California by the Conference of California Judges
6 (now the California Judges Association).

7
8 In 1969, the American Bar Association determined that current needs and problems
9 warranted revision of the canons. In the revision process, a special American Bar
10 Association committee, headed by former California Chief Justice Roger Traynor, sought
11 and considered the views of the bench and bar and other interested persons. The
12 American Bar Association Code of Judicial Conduct was adopted by the House of
13 Delegates of the American Bar Association August 16, 1972.

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15 Effective January 5, 1975, the California Judges Association adopted a new California
16 Code of Judicial Conduct adapted from the American Bar Association 1972 Model Code.
17 The California code was recast in gender-neutral form in 1986.

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19 In 1990, the American Bar Association Model Code was further revised after a lengthy
20 study. The California Judges Association again reviewed the model code and adopted a
21 revised California Code of Judicial Conduct on October 5, 1992.

22
23 Proposition 190 (amending Cal. Const., art. VI, § 18(m), effective March 1, 1995) created
24 a new constitutional provision that states, “The Supreme Court shall make rules for the
25 conduct of judges, both on and off the bench, and for judicial candidates in the conduct of
26 their campaigns. These rules shall be referred to as the Code of Judicial Ethics.”

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28 The Supreme Court formally adopted the 1992 Code of Judicial Conduct in March 1995,
29 as a transitional measure pending further review.

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31 The Supreme Court formally adopted the Code of Judicial Ethics effective January 15,
32 1996.

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34 The Supreme Court has formally adopted amendments to the Code of Judicial Ethics on
35 several occasions. The Advisory Committee Commentary is published by the Supreme
36 Court Advisory Committee on the Code of Judicial Ethics.
37

1 **PREAMBLE**

2
3 Our legal system is based on the principle that an independent, fair, and competent
4 judiciary will interpret and apply the laws that govern us. The role of the judiciary is
5 central to American concepts of justice and the rule of law. Intrinsic to this code are the
6 precepts that judges, individually and collectively, must respect and honor the judicial
7 office as a public trust and strive to enhance and maintain confidence in our legal system.
8 The judge is an arbiter of facts and law for the resolution of disputes and a highly visible
9 member of government under the rule of law.

10
11 The Code of Judicial Ethics (“code”) establishes standards for ethical conduct of judges
12 on and off the bench and for candidates for judicial office.* The code consists of broad
13 declarations called canons, with subparts, and a terminology section. Following each
14 canon is a commentary section prepared by the Supreme Court Advisory Committee on
15 the Code of Judicial Ethics. The commentary, by explanation and example, provides
16 guidance as to the purpose and meaning of the canons. The commentary does not
17 constitute additional rules and should not be so construed. All members of the judiciary
18 must comply with the code. Compliance is required to preserve the integrity* of the
19 bench and to ensure the confidence of the public.

20
21 The canons should be read together as a whole, and each provision should be construed in
22 context and consistent with every other provision. They are to be applied in conformance
23 with constitutional requirements, statutes, other court rules, and decisional law. Nothing
24 in the code shall either impair the essential independence* of judges in making judicial
25 decisions or provide a separate basis for civil liability or criminal prosecution.

26
27 The code governs the conduct of judges and candidates for judicial office* and is binding
28 upon them. Whether disciplinary action is appropriate, and the degree of discipline to be
29 imposed, requires a reasoned application of the text and consideration of such factors as
30 the seriousness of the transgression, whether there is a pattern of improper activity, and
31 the effect of the improper activity on others or on the judicial system.

TERMINOLOGY

Terms explained below are noted with an asterisk (*) in the canons where they appear. In addition, the canons in which terms appear are cited after the explanation of each term below.

“Candidate for judicial office” is a person seeking election to or retention of judicial office. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election authority, or authorizes solicitation or acceptance of contributions or support. See Preamble and Canons 3E(2)(b)(i), 3E(3)(a), 5, 5A, 5A (Commentary), 5B(1), 5B(2), 5B(3), 5B (Commentary), 5C, 5D, and 6E.

“Fiduciary” includes such relationships as executor, administrator, trustee, and guardian. See Canons 3E(5)(d), 4E(1), 4E(2), 4E(3), 4E (Commentary), 6B, and 6F (Commentary).

“Gift” denotes anything of value to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. See Canons 4D(5), 4D(5) (Commentary), 4D(6), 4D(6)(a), 4D(6)(b), 4D(6)(b) (Commentary), 4D(6)(d), 4D(6)(f), 4H (Commentary), 5A (Commentary), 6D(2)(c), and 6D(7).

“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, 1 (Commentary), 2A, 2A (Commentary), 2B (Commentary), 2C (Commentary), 3, 3B(9) (Commentary), 3B(10) (Commentary), 3B(12), 3B(12) (Commentary), 3C(1), 3C(5), 3E(4)(b), 3E(4)(c), 4A(1), 4A (Commentary), 4C(3)(b) (Commentary), 4C(3)(c) (Commentary), 4D(1) (Commentary), 4D(6)(a) (Commentary), 4D(6)(b) (Commentary), 4D(6)(g) (Commentary), 4H (Commentary), 5, 5A, 5A (Commentary), 5B (Commentary), 6D(2)(a), and 6D(3)(vii).

“Impending proceeding” is a proceeding or matter that is imminent or expected to occur in the near future. The words “proceeding” and “matter” are used interchangeably, and are intended to have the same meaning. See Canons 3B(7), 3B(7)(a), 3B(9), 3B(9) (Commentary), 4H (Commentary), and 6D(6). “Pending proceeding” is defined below.

“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 Canons 2, 2A (Commentary), 2B (Commentary), 2C

1 (Commentary), 3B(9) (Commentary), 4D(1)(b) (Commentary), 4D(6)(g)
2 (Commentary), 4H, 5, and 5A (Commentary).

3

4 “Independence” means a judge’s freedom from influence or controls other than
5 those established by law. See Preamble, Canons 1, 1 (Commentary), 2C, 4C(2)
6 (Commentary), 4D(6)(a) (Commentary), 4D(6)(g) (Commentary), 4H(3)
7 (Commentary), 5, 5A (Commentary), 5B (Commentary), and 6D(1).

8

9 “Integrity” means probity, fairness, honesty, uprightness, and soundness of
10 character. See Preamble, Canons 1, 1 (Commentary), 2A, 2A (Commentary), 2B
11 (Commentary), 2C (Commentary), 3B(9) (Commentary), 3C(1), 3C(5), 4D(6)(a)
12 (Commentary), 4D(6)(b) (Commentary), 4D(6)(g) (Commentary), 4H
13 (Commentary), 5, 5A (Commentary), 5B (Commentary), and 6D(1).

14

15 “Knowingly,” “knowledge,” “known,” and “knows” mean actual knowledge of the
16 fact in question. A person’s knowledge may be inferred from circumstances. See
17 Canons 2B(2)(b), 2B(2)(e), 2C (Commentary), 3B(2) (Commentary), 3B(7)(a),
18 3B(7)(a) (Commentary), 3D(2), 3D(5), 3E(5)(f), 5B(1)(b), 6D(3)(a)(i), 6D(3)(a)
19 (Commentary), 6D(4) (Commentary), and 6D(5)(a).

20

21 “Law” denotes court rules as well as statutes, constitutional provisions, and
22 decisional law. See Canons 1 (Commentary), 2A, 2C (Commentary), 3A, 3B(2),
23 3B(7), 3B(7)(c), 3B(8), 3B(8) (Commentary), 3B(12) (Commentary), 3E(1),
24 4C(3)(c) (Commentary), 4F, and 4H.

25

26 “Law, the legal system, or the administration of justice.” When a judge engages in
27 an activity that relates to the law, the legal system, or the administration of justice,
28 the judge should also consider factors such as whether the activity upholds the
29 integrity, impartiality, and independence of the judiciary (Canons 1 and 2A),
30 whether it impairs public confidence in the judiciary (Canon 2), whether the judge
31 is allowing the activity to take precedence over judicial duties (Canon 3A), and
32 whether engaging in the activity would cause the judge to be disqualified (Canon
33 4A(4)). See Canons 4B (Commentary), 4C(1), 4C(1) (Commentary), 4C(2), 4C(2)
34 (Commentary), 4C(3)(a), 4C(3)(b) (Commentary), 4C(3)(d)(ii), 4C(3)(d)
35 (Commentary), 4D(6)(d), 4D(6)(e), 5A (Commentary), 5D, and 5D
36 (Commentary).

37

38 “Member of the judge’s family” denotes a spouse, registered domestic partner,
39 child, grandchild, parent, grandparent, or other relative or person with whom the
40 judge maintains a close familial relationship. See Canons 2B(3)(c), 2B
41 (Commentary), 4C(3)(d)(i), 4D(1) (Commentary), 4D(2), 4D(5) (Commentary),
42 4E(1), and 4G (Commentary).

1 “Member of the judge’s family residing in the judge’s household” denotes a
2 spouse or registered domestic partner and those persons who reside in the judge’s
3 household and who are relatives of the judge including relatives by marriage, or
4 persons with whom the judge maintains a close familial relationship. See Canons
5 4D(5), 4D(5) (Commentary), 4D(6), 4D(6)(b) (Commentary), 4D(6)(f) and
6 6D(2)(c).

7
8 ~~“Nonprofit youth organization” is any nonprofit corporation or association, not
9 organized for the private gain of any person, whose purposes are irrevocably
10 dedicated to benefiting and serving the interests of minors and that maintains its
11 nonprofit status in accordance with applicable state and federal tax laws. See
12 Canons 2C, 2C (Commentary), and 6D(5)(b).~~

13
14 *(Deletion of “Nonprofit youth organization” adopted January 21, 2015, effective*
15 *January 21, 2016.)*

16
17 “Nonpublic information” denotes information that, by law, is not available to the
18 public. Nonpublic information may include, but is not limited to, information that
19 is sealed by statute or court order, impounded, or communicated in camera, and
20 information offered in grand jury proceedings, presentencing reports, dependency
21 cases, or psychiatric reports. See Canons 3B(11) and 6D(8)(a).

22
23 “Pending proceeding” is a proceeding or matter that has commenced. A
24 proceeding continues to be pending through any period during which an appeal
25 may be filed and any appellate process until final disposition. The words
26 “proceeding” and “matter” are used interchangeably, and are intended to have the
27 same meaning. See Canons 2A (Commentary), 2B(3)(a), 3B(7), 3B(9), 3B(9)
28 (Commentary), 3E(5)(a), 4H (Commentary), and 6D(6). “Impending proceeding”
29 is defined above.

30
31 “Political organization” denotes a political party, political action committee, or
32 other group, the principal purpose of which is to further the election or
33 appointment of candidates to nonjudicial office. See Canon 5A.

34
35 “Registered domestic partner” denotes a person who has registered for domestic
36 partnership pursuant to state law or who is recognized as a domestic partner
37 pursuant to Family Code section 299.2. See Canons 3E(5)(d), 3E(5)(e), 3E(5)(i),
38 4D(6)(d), 4D(6)(f), 4D(6)(j), 4H(2), 5A (Commentary), 6D(3)(a)(v), and
39 6D(3)(a)(vi).

40
41 “Require.” Any canon prescribing that a judge “require” certain conduct of others
42 means that a judge is to exercise reasonable direction and control over the conduct

1 of those persons subject to the judge's direction and control. See Canons 3B(3),
2 3B(4), 3B(6), 3B(8) (Commentary), 3B(9), 3C(3), 6D(1), 6D(2)(a), and 6D(6).

3
4 “Service organization” includes any organization commonly referred to as a
5 “fraternal organization.” See Canons 3E(5)(d), 4C(2) (Commentary), 4C(3)(b),
6 4C(3)(b) (Commentary), 4C(3)(d) (Commentary), 4D(6)(j), and 6D(2)(b).

7
8 “Subordinate judicial officer.” A subordinate judicial officer is, for the purposes
9 of this code, a person appointed pursuant to article VI, section 22 of the California
10 Constitution, including, but not limited to, a commissioner, referee, and hearing
11 officer. See Canons 3D(3), 4G (Commentary), and 6A.

12
13 “Temporary Judge.” A temporary judge is an active or inactive member of the bar
14 who, pursuant to article VI, section 21 of the California Constitution, serves or
15 expects to serve as a judge once, sporadically, or regularly on a part-time basis
16 under a separate court appointment for each period of service or for each case
17 heard. See Canons 3E(5)(h), 4C(3)(d)(i), 4C(3)(d) (Commentary), 6A, and 6D.

18
19 “Third degree of relationship” includes the following persons: great-grandparent,
20 grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-
21 grandchild, nephew, and niece. See Canons 3E(5)(e), 3E(5)(i), and 6D(3)(a)(v).

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CANON 1

**A JUDGE SHALL UPHOLD THE INTEGRITY* AND
INDEPENDENCE* OF THE JUDICIARY**

An independent, impartial,* and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally 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. A judicial decision or administrative act later determined to be incorrect legally is not itself a violation of this code.

ADVISORY COMMITTEE 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 depend in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law* and 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, violations of this code diminish public confidence in the judiciary and thereby do injury to the system of government under law.*

The basic function of an independent, impartial, and honorable judiciary is to maintain the utmost integrity* in decision making, and this code should be read and interpreted with that function in mind.*

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CANON 2

**A JUDGE SHALL AVOID IMPROPRIETY* AND THE
APPEARANCE OF IMPROPRIETY* IN ALL OF THE
JUDGE’S ACTIVITIES**

A. Promoting Public Confidence

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 judge shall not make statements, whether public or nonpublic, that commit the judge with respect to cases, controversies, or issues that are likely to come before the courts or that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

ADVISORY COMMITTEE COMMENTARY

Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges.

A judge must avoid all impropriety and appearance of impropriety.* 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 other members of the community and should do so freely and willingly.*

The prohibition against behaving with impropriety or the appearance of impropriety* applies to both the professional and personal conduct of a judge.*

The test for the appearance of impropriety is whether a person aware of the facts might reasonably entertain a doubt that the judge would be able to act with integrity,* impartiality,* and competence.*

As to membership in organizations that practice invidious discrimination, see also Commentary under Canon 2C.

As to judges making statements that commit the judge with respect to cases, controversies, or issues that are likely to come before the courts, see also Canon 3B(9) and its commentary concerning comments about pending proceedings, Canon 3E(3)(a) concerning disqualification of judges who make statements that commit the judge to a particular result, and Canon 5B(1)(a) concerning statements made during an election campaign that commit the candidate to a particular result. In addition, Code of Civil Procedure section 170.2, subdivision (b), provides that, with certain exceptions, a judge is not disqualified on the ground that the judge has, in any capacity, expressed a view on a legal or factual issue presented in the proceeding before the judge.*

1 **B. Use of the Prestige of Judicial Office**

2
3 (1) A judge shall not allow family, social, political, or other relationships to
4 influence the judge’s judicial conduct or judgment, nor shall a judge convey or
5 permit others to convey the impression that any individual is in a special position
6 to influence the judge.

7
8 (2) A judge shall not lend the prestige of judicial office or use the judicial title in
9 any manner, including any oral or written communication, to advance the
10 pecuniary or personal interests of the judge or others. This canon does not
11 prohibit the following:

12
13 (a) A judge may testify as a character witness, provided the judge does so only
14 when subpoenaed.

15
16 (b) A judge may, without a subpoena, provide the Commission on Judicial
17 Performance with a written communication containing (i) factual information
18 regarding a matter pending before the commission, or (ii) information related to
19 the character of a judge who has a matter pending before the commission,
20 provided that any such factual or character information is based on personal
21 knowledge.* In commission proceedings, a judge shall provide information
22 responsive to a subpoena or when officially requested to do so by the commission.

23
24 (c) A judge may provide factual information in State Bar disciplinary proceedings
25 and shall provide information responsive to a subpoena or when officially
26 requested to do so by the State Bar.

27
28 (d) A judge may respond to judicial selection inquiries, provide recommendations
29 (including a general character reference, relating to the evaluation of persons being
30 considered for a judgeship), and otherwise participate in the process of judicial
31 selection.

32
33 (e) A judge may serve as a reference or provide a letter of recommendation only if
34 based on the judge’s personal knowledge* of the individual. These written
35 communications may include the judge’s title and may be written on stationery
36 that uses the judicial title.

37
38 (3) Except as permitted in subdivision (c) or otherwise authorized by law* or these
39 canons:

40
41 (a) A judge shall not advance the pecuniary or personal interests of the judge or
42 others by initiating communications with a sentencing judge or a representative of
43 a probation department about a proceeding pending* before the sentencing judge,

1 but may provide information in response to an official request. “Sentencing
2 judge” includes a judge who makes a disposition pursuant to Welfare and
3 Institutions Code section 725.

4
5 (b) A judge, other than the judge who presided over the trial of or sentenced the
6 person seeking parole, pardon, or commutation of sentence, shall not initiate
7 communications with the Board of Parole Hearings regarding parole, or the Office
8 of the Governor regarding parole, pardon, or commutation of sentence, but may
9 provide these entities with information for the record in response to an official
10 request.

11
12 (c) A judge may initiate communications concerning a member of the judge’s
13 family* with a representative of a probation department regarding sentencing, the
14 Board of Parole Hearings regarding parole, or the Office of the Governor
15 regarding parole, pardon, or commutation of sentence, provided the judge is not
16 identified as a judge in the communication.

17
18 *ADVISORY COMMITTEE COMMENTARY*

19 *A strong judicial branch, based on the prestige that comes from effective*
20 *and ethical performance, is essential to a system of government in which the*
21 *judiciary functions independently of the executive and legislative branches.*
22 *Judges should distinguish between proper and improper use of the prestige of*
23 *office in all of their activities.*

24 *As to those communications that are permitted under this canon, a judge*
25 *must keep in mind the general obligations to maintain high standards of conduct,*
26 *as set forth in Canon 1, and to avoid any impropriety* or the appearance of*
27 *impropriety* as set forth in Canon 2. A judge must also be mindful of Canon 2A,*
28 *which requires a judge to act at all times in a manner that promotes public*
29 *confidence in the integrity* and impartiality* of the courts.*

30 *A judge must avoid lending the prestige of judicial office for the*
31 *advancement of the private interests of the judge or others. For example, a judge*
32 *must not use the judicial position to gain advantage in a civil suit involving a*
33 *member of the judge’s family;* or use his or her position to gain deferential*
34 *treatment when stopped by a police officer for a traffic offense.*

35 *As to the use of a judge’s title to identify a judge’s role in the presentation*
36 *and creation of legal education programs and materials, see Commentary to*
37 *Canon 4B. In contracts for publication of a judge’s writings, a judge should*
38 *retain control over the advertising, to the extent feasible, to avoid exploitation of*
39 *the judge’s office. As to the acceptance of awards, see Canon 4D(6).*

40 *This canon does not afford judges a privilege against testifying in response*
41 *to any official summons.*

42 *See also Canons 3D(1) and 3D(2) concerning a judge’s obligation to take*
43 *appropriate corrective action regarding other judges who violate any provision of*

1 *the Code of Judicial Ethics and attorneys who violate any provision of the Rules of*
2 *Professional Conduct.*

3 *Except as set forth in Canon 2B(3)(a), this canon does not preclude*
4 *consultations among judges. Additional limitations on such consultations among*
5 *judges are set forth in Canon 3B(7)(a).*

7 **C. Membership in Organizations**

8
9 A judge shall not hold membership in any organization that practices invidious
10 discrimination on the basis of race, sex, gender, religion, national origin, ethnicity,
11 or sexual orientation.

12
13 This canon does not apply to membership in a religious organization ~~or an official~~
14 ~~military organization of the United States. So long as membership does not~~
15 ~~violate Canon 4A, this canon does not bar membership in a nonprofit youth~~
16 ~~organization.~~

18 *ADVISORY COMMITTEE COMMENTARY*

19 *Membership ~~of~~ by a judge in an organization that practices invidious*
20 *discrimination on the basis of race, sex, gender, religion, national origin,*
21 *ethnicity, or sexual orientation gives rise to a perception that the judge's*
22 *impartiality* is impaired. ~~This canon exempts membership in religious and~~*
23 *~~military organizations and, subject to Canon 4A, does not bar membership in~~*
24 *~~nonprofit youth organizations. These exemptions are necessary because~~*
25 *~~membership in United States military organizations is subject to current valid~~*
26 *~~military regulations, and religious beliefs are constitutionally protected.~~*
27 *~~Membership in nonprofit youth organizations is not barred to accommodate~~*
28 *~~individual rights of intimate association and free expression. See also Canon 3E~~*
29 *~~and its Commentary concerning disqualification and disclosure. The code~~*
30 *prohibits such membership by judges to preserve the fairness, impartiality,**
31 *independence,* and honor of the judiciary, to treat all parties equally under the*
32 *law,* and to avoid impropriety* and the appearance of impropriety.**

33 *Previously, Canon 2C contained exceptions to this prohibition for*
34 *membership in religious organizations, membership in an official military*
35 *organization of the United States and, so long as membership did not violate*
36 *Canon 4A, membership in a nonprofit youth organization. The exceptions for*
37 *membership in an official military organization of the United States and nonprofit*
38 *youth organizations have been eliminated as exceptions to the canon. The*
39 *exception for membership in religious organizations has been preserved.*

40 *Canon 2C refers to the current practices of the organization. Whether an*
41 *organization practices invidious discrimination is often a complex question to*
42 *which judges should be sensitive. The answer cannot be determined from a mere*

1 *examination of an organization's current membership rolls but rather depends on*
2 *how the organization selects members and other relevant factors, such as whether*
3 *the organization is dedicated to the preservation of religious, ethnic, or cultural*
4 *values of legitimate common interest to its members, or whether it is in fact and*
5 *effect an intimate, purely private organization whose membership limitations*
6 *could not be constitutionally prohibited. Absent such factors, an organization is*
7 *generally said to discriminate invidiously if it arbitrarily excludes from*
8 *membership on the basis of race, religion, sex, gender, national origin, ethnicity,*
9 *or sexual orientation persons who would otherwise be admitted to membership.*

10 *Although Canon 2C relates only to membership in organizations that*
11 *invidiously discriminate on the basis of race, sex, gender, religion, national origin,*
12 *ethnicity, or sexual orientation, a judge's membership in an organization that*
13 *engages in any discriminatory membership practices prohibited by law* also*
14 *violates Canon 2 and Canon 2A and gives the appearance of impropriety.* In*
15 *addition, it would be a violation of Canon 2 and Canon 2A for a judge to arrange*
16 *a meeting at a club that the judge knows* practices such invidious discrimination*
17 *or for the judge to use such a club regularly. Moreover, public manifestation by a*
18 *judge of the judge's knowing* approval of invidious discrimination on any basis*
19 *gives the appearance of impropriety* under Canon 2 and diminishes public*
20 *confidence in the integrity* and impartiality* of the judiciary in violation of*
21 *Canon 2A.*

22 *(Amendments to Canon 2C and its commentary adopted January 21,*
23 *2015, effective January 21, 2016.)*

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CANON 3

**A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL
OFFICE IMPARTIALLY,* COMPETENTLY, AND
DILIGENTLY**

A. Judicial Duties in General

All of the judicial duties prescribed by law* shall take precedence over all other activities of every judge. In the performance of these duties, the following standards apply.

B. Adjudicative Responsibilities

(1) A judge shall hear and decide all matters assigned to the judge except those in which he or she is disqualified.

ADVISORY COMMITTEE COMMENTARY

Canon 3B(1) is based upon the affirmative obligation contained in Code of Civil Procedure section 170.

(2) A judge shall be faithful to the law* regardless of partisan interests, public clamor, or fear of criticism, and shall maintain professional competence in the law.*

ADVISORY COMMITTEE COMMENTARY

Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office. Canon 1 provides that an incorrect legal ruling is not itself a violation of this code.*

(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 all staff and court personnel under 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, engage in speech, gestures, or other conduct that would reasonably be perceived as (1) bias or prejudice, including but not limited to bias or prejudice based upon race, sex, gender, religion, national

1 origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic
2 status, or political affiliation, or (2) sexual harassment.

3
4 (6) A judge shall require* lawyers in proceedings before the judge to refrain from
5 manifesting, by words or conduct, bias or prejudice based upon race, sex, gender,
6 religion, national origin, ethnicity, disability, age, sexual orientation, marital
7 status, socioeconomic status, or political affiliation against parties, witnesses,
8 counsel, or others. This canon does not preclude legitimate advocacy when race,
9 sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation,
10 marital status, socioeconomic status, political affiliation, or other similar factors
11 are issues in the proceeding.

12
13 (7) A judge shall accord to every person who has a legal interest in a proceeding,
14 or that person’s lawyer, full right to be heard according to law.* Unless otherwise
15 authorized by law,* a judge shall not independently investigate facts in a
16 proceeding and shall consider only the evidence presented or facts that may be
17 properly judicially noticed. This prohibition extends to information available in
18 all media, including electronic. A judge shall not initiate, permit, or consider ex
19 parte communications, that is, any communications to or from the judge outside
20 the presence of the parties concerning a pending* or impending* proceeding, and
21 shall make reasonable efforts to avoid such communications, except as follows:

22
23 (a) Except as stated below, a judge may consult with other judges. A judge shall
24 not engage in discussions about a case with a judge who has previously been
25 disqualified from hearing that matter; likewise, a judge who knows* he or she is or
26 would be disqualified from hearing a case shall not discuss that matter with the
27 judge assigned to the case. A judge also shall not engage in discussions with a
28 judge who may participate in appellate review of the matter, nor shall a judge who
29 may participate in appellate review of a matter engage in discussions with the
30 judge presiding over the case.

31
32 A judge may consult with court personnel or others authorized by law,* so long as
33 the communication relates to that person’s duty to aid the judge in carrying out the
34 judge’s adjudicative responsibilities.

35
36 In any discussion with judges or court personnel, the judge shall make reasonable
37 efforts to avoid receiving factual information that is not part of the record or an
38 evaluation of that factual information. In such consultations, the judge shall not
39 abrogate the responsibility personally to decide the matter.

40
41 For purposes of Canon 3B(7)(a), “court personnel” includes bailiffs, court
42 reporters, court externs, research attorneys, courtroom clerks, and other employees

1 of the court, but does not include the lawyers in a proceeding before a judge,
2 persons who are appointed by the court to serve in some capacity in a proceeding,
3 or employees of other governmental entities, such as lawyers, social workers, or
4 representatives of the probation department.

5
6 *ADVISORY COMMITTEE COMMENTARY*

7 *Regarding communications between a judge presiding over a matter and a*
8 *judge of a court with appellate jurisdiction over that matter, see also Government*
9 *Code section 68070.5.*

10 *Though a judge may have ex parte discussions with appropriate court*
11 *personnel, a judge may do so only on matters that are within the proper*
12 *performance of that person's duties. For example, a bailiff may inform the judge*
13 *of a threat to the judge or to the safety and security of the courtroom, but may not*
14 *tell the judge ex parte that a defendant was overheard making an incriminating*
15 *statement during a court recess. A clerk may point out to the judge a technical*
16 *defect in a proposed sentence, but may not suggest to the judge that a defendant*
17 *deserves a certain sentence.*

18 *A sentencing judge may not consult ex parte with a representative of the*
19 *probation department about a matter pending before the sentencing judge.*

20 *This canon prohibits a judge from discussing a case with another judge*
21 *who has already been disqualified. A judge also must be careful not to talk to a*
22 *judge whom the judge knows* would be disqualified from hearing the matter.*

23
24 (b) A judge may initiate, permit, or consider ex parte communications, where
25 circumstances require, for scheduling, administrative purposes, or emergencies
26 that do not deal with substantive matters provided:

27
28 (i) the judge reasonably believes that no party will gain a procedural or
29 tactical advantage as a result of the ex parte communication, and

30
31 (ii) the judge makes provision promptly to notify all other parties of the
32 substance of the ex parte communication and allows an opportunity to
33 respond.

34
35 (c) A judge may initiate, permit, or consider any ex parte communication when
36 expressly authorized by law* to do so or when authorized to do so by stipulation
37 of the parties.

38
39 (d) If a judge receives an unauthorized ex parte communication bearing upon the
40 substance of a matter, the judge shall make provision promptly to notify the parties
41 of the substance of the communication and provide the parties with an opportunity
42 to respond.

1 *ADVISORY COMMITTEE COMMENTARY*

2 *An exception allowing a judge, under certain circumstances, to obtain the*
3 *advice of a disinterested expert on the law* has been eliminated from Canon*
4 *3B(7) because consulting with legal experts outside the presence of the parties is*
5 *inconsistent with core tenets of the adversarial system. Therefore, a judge shall*
6 *not consult with legal experts outside the presence of the parties. Evidence Code*
7 *section 730 provides for the appointment of an expert if a judge determines that*
8 *expert testimony is necessary. A court may also invite the filing of amicus curiae*
9 *briefs.*

10 *An exception allowing a judge to confer with the parties separately in an*
11 *effort to settle the matter before the judge has been moved from this canon to*
12 *Canon 3B(12).*

13 *This canon does not prohibit court personnel from communicating*
14 *scheduling information or carrying out similar administrative functions.*

15 *A judge is statutorily authorized to investigate and consult witnesses*
16 *informally in small claims cases. Code of Civil Procedure section 116.520,*
17 *subdivision (c).*

18
19 (8) A judge shall dispose of all judicial matters fairly, promptly, and efficiently. A
20 judge shall manage the courtroom in a manner that provides all litigants the
21 opportunity to have their matters fairly adjudicated in accordance with the law.*
22

23 *ADVISORY COMMITTEE COMMENTARY*

24 *The obligation of a judge to dispose of matters promptly and efficiently*
25 *must not take precedence over the judge's obligation to dispose of the matters*
26 *fairly and with patience. For example, when a litigant is self-represented, a judge*
27 *has the discretion to take reasonable steps, appropriate under the circumstances*
28 *and consistent with the law* and the canons, to enable the litigant to be heard. A*
29 *judge should monitor and supervise cases so as to reduce or eliminate dilatory*
30 *practices, avoidable delays, and unnecessary costs.*

31 *Prompt disposition of the court's business requires a judge to devote*
32 *adequate time to judicial duties, to be punctual in attending court and expeditious*
33 *in determining matters under submission, and to require* that court officials,*
34 *litigants, and their lawyers cooperate with the judge to that end.*
35

36 (9) A judge shall not make any public comment about a pending* or impending*
37 proceeding in any court, and shall not make any nonpublic comment that might
38 substantially interfere with a fair trial or hearing. The judge shall require* similar
39 abstention on the part of staff and court personnel subject to the judge's direction
40 and control. This canon does not prohibit judges from making statements in the
41 course of their official duties or from explaining the procedures of the court, and
42 does not apply to proceedings in which the judge is a litigant in a personal
43 capacity. Other than cases in which the judge has personally participated, this

1 canon does not prohibit judges from discussing in legal education programs and
2 materials, cases and issues pending in appellate courts. This educational
3 exemption does not apply to cases over which the judge has presided or to
4 comments or discussions that might interfere with a fair hearing of the case.
5

6 *ADVISORY COMMITTEE COMMENTARY*

7 *The requirement that judges abstain from public comment regarding a*
8 *pending* or impending* proceeding continues during any appellate process and*
9 *until final disposition. A judge shall make reasonable efforts to ascertain whether*
10 *a case is pending* or impending* before commenting on it. This canon does not*
11 *prohibit a judge from commenting on proceedings in which the judge is a litigant*
12 *in a personal capacity, but in cases such as a writ of mandamus where the judge is*
13 *a litigant in an official capacity, the judge must not comment publicly.*

14 *“Making statements in the course of their official duties” and “explaining*
15 *the procedures of the court” include providing an official transcript or partial*
16 *official transcript of a court proceeding open to the public and explaining the*
17 *rules of court and procedures related to a decision rendered by a judge.*

18 *Although this canon does not prohibit a judge from commenting on cases*
19 *that are not pending* or impending* in any court, a judge must be cognizant of*
20 *the general prohibition in Canon 2 against conduct involving impropriety* or the*
21 *appearance of impropriety.* A judge should also be aware of the mandate in*
22 *Canon 2A that a judge must act at all times in a manner that promotes public*
23 *confidence in the integrity* and impartiality* of the judiciary. In addition, when*
24 *commenting on a case pursuant to this canon, a judge must maintain high*
25 *standards of conduct, as set forth in Canon 1.*

26 *Although a judge is permitted to make nonpublic comments about pending**
27 *or impending* cases that will not substantially interfere with a fair trial or*
28 *hearing, the judge should be cautious when making any such comments. There is*
29 *always a risk that a comment can be misheard, misinterpreted, or repeated. A*
30 *judge making such a comment must be mindful of the judge’s obligation under*
31 *Canon 2A to act at all times in a manner that promotes public confidence in the*
32 *integrity* and impartiality* of the judiciary. When a judge makes a nonpublic*
33 *comment about a case pending* before that judge, the judge must keep an open*
34 *mind and not form an opinion prematurely or create the appearance of having*
35 *formed an opinion prematurely.*

36
37 (10) A judge shall not commend or criticize jurors for their verdict other than in a
38 court order or opinion in a proceeding, but may express appreciation to jurors for
39 their service to the judicial system and the community.
40
41
42
43

1 *ADVISORY COMMITTEE COMMENTARY*

2 *Commending or criticizing jurors for their verdict may imply a judicial*
3 *expectation in future cases and may impair a juror's ability to be fair and*
4 *impartial* in a subsequent case.*

5
6 (11) A judge shall not disclose or use, for any purpose unrelated to judicial duties,
7 nonpublic information* acquired in a judicial capacity.

8
9 *ADVISORY COMMITTEE COMMENTARY*

10 *This canon makes it clear that judges cannot make use of information from*
11 *affidavits, jury results, or court rulings, before they become public information, in*
12 *order to gain a personal advantage.*

13
14 (12) A judge may participate in settlement conferences or in other efforts to
15 resolve matters in dispute, including matters pending before the judge. A judge
16 may, with the express consent of the parties or their lawyers, confer separately
17 with the parties and/or their lawyers during such resolution efforts. At all times
18 during such resolution efforts, a judge shall remain impartial* and shall not engage
19 in conduct that may reasonably be perceived as coercive.

20
21 *ADVISORY COMMITTEE COMMENTARY*

22 *While the judge plays an important role in overseeing efforts to resolve*
23 *disputes, including conducting settlement discussions, a judge should be careful*
24 *that efforts to resolve disputes do not undermine any party's right to be heard*
25 *according to law.**

26 *The judge should keep in mind the effect that the judge's participation in*
27 *dispute resolution efforts may have on the judge's impartiality* or the appearance*
28 *of impartiality* if the case remains with the judge for trial after resolution efforts*
29 *are unsuccessful. Accordingly, a judge may wish to consider: (1) whether the*
30 *parties or their counsel have requested or objected to the participation by the trial*
31 *judge in such discussions; (2) whether the parties and their counsel are relatively*
32 *sophisticated in legal matters or the particular legal issues involved in the case;*
33 *(3) whether a party is unrepresented; (4) whether the case will be tried by the*
34 *judge or a jury; (5) whether the parties will participate with their counsel in*
35 *settlement discussions and, if so, the effect of personal contact between the judge*
36 *and parties; and (6) whether it is appropriate during the settlement conference for*
37 *the judge to express an opinion on the merits or worth of the case or express an*
38 *opinion on the legal issues that the judge may later have to rule upon.*

39 *If a judge assigned to preside over a trial believes participation in*
40 *resolution efforts could influence the judge's decision making during trial, the*
41 *judge may decline to engage in such efforts.*

42 *Where dispute resolution efforts of any type are unsuccessful, the judge*
43 *should consider whether, due to events that occurred during the resolution efforts,*

1 *the judge may be disqualified under the law* from presiding over the trial. See,*
2 *e.g., Code of Civil Procedure section 170.1, subdivision (a)(6)(A).*

3
4 **C. Administrative Responsibilities**

5
6 (1) A judge shall diligently discharge the judge’s administrative responsibilities
7 impartially,* on the basis of merit, without bias or prejudice, free of conflict of
8 interest, and in a manner that promotes public confidence in the integrity* of the
9 judiciary. A judge shall not, in the performance of administrative duties, engage
10 in speech, gestures, or other conduct that would reasonably be perceived as (i) bias
11 or prejudice, including but not limited to bias or prejudice based upon race, sex,
12 gender, religion, national origin, ethnicity, disability, age, sexual orientation,
13 marital status, socioeconomic status, or political affiliation, or (ii) sexual
14 harassment.

15
16 *ADVISORY COMMITTEE COMMENTARY*

17 *In considering what constitutes a conflict of interest under this canon, a*
18 *judge should be informed by Code of Civil Procedure section 170.1, subdivision*
19 *(a)(6).*

20
21 (2) A judge shall maintain professional competence in judicial administration, and
22 shall cooperate with other judges and court officials in the administration of court
23 business.

24
25 (3) A judge shall require* staff and court personnel under the judge’s direction and
26 control to observe appropriate standards of conduct and to refrain from
27 manifesting bias or prejudice based upon race, sex, gender, religion, national
28 origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic
29 status, or political affiliation in the performance of their official duties.

30
31 (4) A judge with supervisory authority for the judicial performance of other judges
32 shall take reasonable measures to ensure the prompt disposition of matters before
33 them and the proper performance of their other judicial responsibilities.

34
35 (5) A judge shall not make unnecessary court appointments. A judge shall
36 exercise the power of appointment impartially,* on the basis of merit, without bias
37 or prejudice, free of conflict of interest, and in a manner that promotes public
38 confidence in the integrity* of the judiciary. A judge shall avoid nepotism and
39 favoritism. A judge shall not approve compensation of appointees above the
40 reasonable value of services rendered.

1 *ADVISORY COMMITTEE COMMENTARY*

2 *Appointees of a judge include assigned counsel and officials such as*
3 *referees, commissioners, special masters, receivers, and guardians. Consent by*
4 *the parties to an appointment or an award of compensation does not relieve the*
5 *judge of the obligation prescribed by Canon 3C(5).*

6
7 **D. Disciplinary Responsibilities**

8
9 (1) Whenever a judge has reliable information that another judge has violated any
10 provision of the Code of Judicial Ethics, the judge shall take appropriate corrective
11 action, which may include reporting the violation to the appropriate authority.
12 (See Commentary following Canon 3D(2).)

13
14 (2) Whenever a judge has personal knowledge,* or concludes in a judicial
15 decision, that a lawyer has committed misconduct or has violated any provision of
16 the Rules of Professional Conduct, the judge shall take appropriate corrective
17 action, which may include reporting the violation to the appropriate authority.
18

19 *ADVISORY COMMITTEE COMMENTARY*

20 *Appropriate corrective action could include direct communication with the*
21 *judge or lawyer who has committed the violation, other direct action, such as a*
22 *confidential referral to a judicial or lawyer assistance program, or a report of the*
23 *violation to the presiding judge, appropriate authority, or other agency or body.*
24 *Judges should note that in addition to the action required by Canon 3D(2),*
25 *California law imposes mandatory additional reporting requirements on judges*
26 *regarding lawyer misconduct. See Business and Professions Code section 6086.7.*

27 *“Appropriate authority” denotes the authority with responsibility for*
28 *initiation of the disciplinary process with respect to a violation to be reported.*

29
30 (3) A judge shall promptly report in writing to the Commission on Judicial
31 Performance when he or she is charged in court by misdemeanor citation,
32 prosecutorial complaint, information, or indictment, with any crime in the United
33 States as specified below. Crimes that must be reported are: (1) all crimes, other
34 than those that would be considered misdemeanors not involving moral turpitude
35 or infractions under California law; and (2) all misdemeanors involving violence
36 (including assaults), the use or possession of controlled substances, the misuse of
37 prescriptions, or the personal use or furnishing of alcohol. A judge also shall
38 promptly report in writing upon conviction of such crimes.

39
40 If the judge is a retired judge serving in the Assigned Judges Program, he or she
41 shall promptly report such information in writing to the Chief Justice rather than to
42 the Commission on Judicial Performance. If the judge is a subordinate judicial
43 officer,* he or she shall promptly report such information in writing to both the

1 presiding judge of the court in which the subordinate judicial officer* sits and the
2 Commission on Judicial Performance.

3
4 (4) A judge shall cooperate with judicial and lawyer disciplinary agencies.

5
6 **ADVISORY COMMITTEE COMMENTARY**

7 *See Government Code section 68725, which requires judges to cooperate*
8 *with and give reasonable assistance and information to the Commission on*
9 *Judicial Performance, and rule 104 of the Rules of the Commission on Judicial*
10 *Performance, which requires a respondent judge to cooperate with the*
11 *commission in all proceedings in accordance with section 68725.*

12
13 (5) A judge shall not retaliate, directly or indirectly, against a person known* or
14 suspected to have assisted or cooperated with an investigation of a judge or a
15 lawyer.

16
17 **E. Disqualification and Disclosure**

18
19 (1) A judge shall disqualify himself or herself in any proceeding in which
20 disqualification is required by law.*

21
22 (2) In all trial court proceedings, a judge shall disclose on the record as follows:

23
24 (a) Information relevant to disqualification

25
26 A judge shall disclose information that is reasonably relevant to the question of
27 disqualification under Code of Civil Procedure section 170.1, even if the judge
28 believes there is no actual basis for disqualification.

29
30 (b) Campaign contributions in trial court elections

31
32 (i) Information required to be disclosed

33
34 In any matter before a judge who is or was a candidate for judicial office* in a trial
35 court election, the judge shall disclose any contribution or loan of \$100 or more
36 from a party, individual lawyer, or law office or firm in that matter as required by
37 this canon, even if the amount of the contribution or loan would not require
38 disqualification. Such disclosure shall consist of the name of the contributor or
39 lender, the amount of each contribution or loan, the cumulative amount of the
40 contributor's contributions or lender's loans, and the date(s) of each contribution
41 or loan. The judge shall make reasonable efforts to obtain current information
42 regarding contributions or loans received by his or her campaign and shall disclose

1 the required information on the record.

2
3 (ii) Manner of disclosure

4
5 The judge shall ensure that the required information is conveyed on the record to
6 the parties and lawyers appearing in the matter before the judge. The judge has
7 discretion to select the manner of disclosure, but the manner used shall avoid the
8 appearance that the judge is soliciting campaign contributions.

9
10 (iii) Timing of disclosure

11
12 Disclosure shall be made at the earliest reasonable opportunity after receiving each
13 contribution or loan. The duty commences no later than one week after receipt of
14 the first contribution or loan, and continues for a period of two years after the
15 candidate takes the oath of office, or two years from the date of the contribution or
16 loan, whichever event is later.

17
18 *ADVISORY COMMITTEE COMMENTARY*

19 *Code of Civil Procedure section 170.1(a)(9)(C) requires a judge to*
20 *“disclose any contribution from a party or lawyer in a matter that is before the*
21 *court that is required to be reported under subdivision (f) of Section 84211 of the*
22 *Government Code, even if the amount would not require disqualification under*
23 *this paragraph.” This statute further provides that the “manner of disclosure*
24 *shall be the same as that provided in Canon 3E of the Code of Judicial Ethics.”*
25 *Canon 3E(2)(b) sets forth the information the judge must disclose, the manner for*
26 *making such disclosure, and the timing thereof.*

27 *“Contribution” includes monetary and in-kind contributions. See Cal.*
28 *Code Regs., tit. 2, § 18215, subd. (b)(3). See generally Government Code section*
29 *84211(f).*

30 *Disclosure of campaign contributions is intended to provide parties and*
31 *lawyers appearing before a judge during and after a judicial campaign with easy*
32 *access to information about campaign contributions that may not require*
33 *disqualification but could be relevant to the question of disqualification of the*
34 *judge. Depending upon the circumstances, the judge may conclude that the most*
35 *effective and efficient manner of providing disclosure is to state the required*
36 *information on the record in open court. In the alternative, a judge may determine*
37 *that it is more appropriate to disclose on the record that parties and lawyers may*
38 *obtain the required information at an easily accessible location in the courthouse,*
39 *and provide an opportunity for the parties and lawyers to review the available*
40 *information.*

41 *In addition to the disclosure obligations set forth in Canon 3E(2)(b), a*
42 *judge must, pursuant to Canon 3E(2)(a), disclose on the record any other*

1 information that may be relevant to the question of disqualification. As examples,
2 such an obligation may arise as a result of contributions or loans of which the
3 judge is aware made by a party, lawyer, or law office or firm appearing before the
4 judge to a third party in support of the judge or in opposition to the judge's
5 opponent; a party, lawyer, or law office or firm's relationship to the judge or role
6 in the campaign; or the aggregate contributions or loans from lawyers in one law
7 office or firm.

8 *Canon 3E(2)(b) does not eliminate the obligation of the judge to recuse*
9 *where the nature of the contribution or loan, the extent of the contributor's or*
10 *lender's involvement in the judicial campaign, the relationship of the contributor*
11 *or lender, or other circumstance requires recusal under Code of Civil Procedure*
12 *section 170.1, and particularly section 170.1, subdivision (a)(6)(A).*

13
14 (3) Judges shall disqualify themselves in accordance with the following:

15
16 (a) Statements that commit the judge to a particular result

17
18 A judge is disqualified if the judge, while a judge or candidate for judicial office,*
19 has made a statement, other than in a court proceeding, judicial decision, or
20 opinion, that a person aware of the facts might reasonably believe commits the
21 judge to reach a particular result or rule in a particular way in a proceeding.

22
23 (b) Bond ownership

24
25 Ownership of a corporate bond issued by a party to a proceeding and having a fair
26 market value exceeding \$1,500 is disqualifying. Ownership of government bonds
27 issued by a party to a proceeding is disqualifying only if the outcome of the
28 proceeding could substantially affect the value of the judge's bond. Ownership in
29 a mutual or common investment fund that holds bonds is not a disqualifying
30 financial interest.

31
32 **ADVISORY COMMITTEE COMMENTARY**

33 *The distinction between corporate and government bonds is consistent with*
34 *the Political Reform Act (see Gov. Code, § 82034), which requires disclosure of*
35 *corporate bonds, but not government bonds. Canon 3E(3) is intended to assist*
36 *judges in complying with Code of Civil Procedure section 170.1, subdivision*
37 *(a)(3) and Canon 3E(5)(d).*

38
39 (4) An appellate justice shall disqualify himself or herself in any proceeding if for
40 any reason:

41
42 (a) the justice believes his or her recusal would further the interests of justice; or
43

1 (b) the justice substantially doubts his or her capacity to be impartial;* or

2
3 (c) the circumstances are such that a reasonable person aware of the facts would
4 doubt the justice’s ability to be impartial.*

5
6 (5) Disqualification of an appellate justice is also required in the following
7 instances:

8
9 (a) The appellate justice has appeared or otherwise served as a lawyer in the
10 pending* proceeding, or has appeared or served as a lawyer in any other
11 proceeding involving any of the same parties if that other proceeding related to the
12 same contested issues of fact and law as the present proceeding, or has given
13 advice to any party in the present proceeding upon any issue involved in the
14 proceeding.

15
16 *ADVISORY COMMITTEE COMMENTARY*

17 *Canon 3E(5)(a) is consistent with Code of Civil Procedure section 170.1,*
18 *subdivision (a)(2), which addresses disqualification of trial court judges based on*
19 *prior representation of a party in the proceeding.*

20
21 (b) Within the last two years, (i) a party to the proceeding, or an officer, director or
22 trustee thereof, either was a client of the justice when the justice was engaged in
23 the private practice of law or was a client of a lawyer with whom the justice was
24 associated in the private practice of law; or (ii) a lawyer in the proceeding was
25 associated with the justice in the private practice of law.

26
27 (c) The appellate justice represented a public officer or entity and personally
28 advised or in any way represented such officer or entity concerning the factual or
29 legal issues in the present proceeding in which the public officer or entity now
30 appears.

31
32 (d) The appellate justice, or his or her spouse or registered domestic partner,* or a
33 minor child residing in the household, has a financial interest or is a fiduciary*
34 who has a financial interest in the proceeding, or is a director, advisor, or other
35 active participant in the affairs of a party. A financial interest is defined as
36 ownership of more than a 1 percent legal or equitable interest in a party, or a legal
37 or equitable interest in a party of a fair market value exceeding \$1,500.
38 Ownership in a mutual or common investment fund that holds securities does not
39 itself constitute a financial interest; holding office in an educational, religious,
40 charitable, service,* or civic organization does not confer a financial interest in the
41 organization’s securities; and a proprietary interest of a policyholder in a mutual
42 insurance company or mutual savings association or similar interest is not a
43 financial interest unless the outcome of the proceeding could substantially affect

1 the value of the interest. A justice shall make reasonable efforts to keep informed
2 about his or her personal and fiduciary* interests and those of his or her spouse or
3 registered domestic partner* and of minor children living in the household.
4

5 (e) The justice or his or her spouse or registered domestic partner,* or a person
6 within the third degree of relationship* to either of them, or the spouse or
7 registered domestic partner* thereof, is a party or an officer, director, or trustee of
8 a party to the proceeding, or a lawyer or spouse or registered domestic partner* of
9 a lawyer in the proceeding is the spouse, registered domestic partner,* former
10 spouse, former registered domestic partner,* child, sibling, or parent of the justice
11 or of the justice's spouse or registered domestic partner,* or such a person is
12 associated in the private practice of law with a lawyer in the proceeding.
13

14 (f) The justice (i) served as the judge before whom the proceeding was tried or
15 heard in the lower court, (ii) has personal knowledge* of disputed evidentiary
16 facts concerning the proceeding, or (iii) has a personal bias or prejudice
17 concerning a party or a party's lawyer.
18

19 (g) A temporary or permanent physical impairment renders the justice unable
20 properly to perceive the evidence or conduct the proceedings.
21

22 (h) The justice has a current arrangement concerning prospective employment or
23 other compensated service as a dispute resolution neutral or is participating in, or,
24 within the last two years has participated in, discussions regarding prospective
25 employment or service as a dispute resolution neutral, or has been engaged in such
26 employment or service, and any of the following applies:
27

28 (i) The arrangement is, or the prior employment or discussion was, with a
29 party to the proceeding;
30

31 (ii) The matter before the justice includes issues relating to the enforcement
32 of either an agreement to submit a dispute to an alternative dispute
33 resolution process or an award or other final decision by a dispute
34 resolution neutral;
35

36 (iii) The justice directs the parties to participate in an alternative dispute
37 resolution process in which the dispute resolution neutral will be an
38 individual or entity with whom the justice has the arrangement, has
39 previously been employed or served, or is discussing or has discussed the
40 employment or service; or
41

42 (iv) The justice will select a dispute resolution neutral or entity to conduct
43 an alternative dispute resolution process in the matter before the justice, and

1 among those available for selection is an individual or entity with whom the
2 justice has the arrangement, with whom the justice has previously been
3 employed or served, or with whom the justice is discussing or has discussed
4 the employment or service.
5

6 For purposes of Canon 3E(5)(h), “participating in discussions” or “has participated
7 in discussions” means that the justice solicited or otherwise indicated an interest in
8 accepting or negotiating possible employment or service as an alternative dispute
9 resolution neutral or responded to an unsolicited statement regarding, or an offer
10 of, such employment or service by expressing an interest in that employment or
11 service, making any inquiry regarding the employment or service, or encouraging
12 the person making the statement or offer to provide additional information about
13 that possible employment or service. If a justice’s response to an unsolicited
14 statement regarding, a question about, or offer of, prospective employment or
15 other compensated service as a dispute resolution neutral is limited to responding
16 negatively, declining the offer, or declining to discuss such employment or
17 service, that response does not constitute participating in discussions.
18

19 For purposes of Canon 3E(5)(h), “party” includes the parent, subsidiary, or other
20 legal affiliate of any entity that is a party and is involved in the transaction,
21 contract, or facts that gave rise to the issues subject to the proceeding.
22

23 For purposes of Canon 3E(5)(h), “dispute resolution neutral” means an arbitrator,
24 a mediator, a temporary judge* appointed under section 21 of article VI of the
25 California Constitution, a referee appointed under Code of Civil Procedure section
26 638 or 639, a special master, a neutral evaluator, a settlement officer, or a
27 settlement facilitator.
28

29 (i) The justice’s spouse or registered domestic partner *or a person within the third
30 degree of relationship* to the justice or his or her spouse or registered domestic
31 partner,* or the person’s spouse or registered domestic partner,* was a witness in
32 the proceeding.
33

34 (j) The justice has received a campaign contribution of \$5,000 or more from a
35 party or lawyer in a matter that is before the court, and either of the following
36 applies:
37

38 (i) The contribution was received in support of the justice’s last election, if
39 the last election was within the last six years; or
40

41 (ii) The contribution was received in anticipation of an upcoming election.
42

1 Notwithstanding Canon 3E(5)(j), a justice shall be disqualified based on a
2 contribution of a lesser amount if required by Canon 3E(4).

3
4 The disqualification required under Canon 3E(5)(j) may be waived if all parties
5 that did not make the contribution agree to waive the disqualification.

6
7 **ADVISORY COMMITTEE COMMENTARY**

8 *Canon 3E(1) sets forth the general duty to disqualify applicable to a judge*
9 *of any court. Sources for determining when recusal or disqualification is*
10 *appropriate may include the applicable provisions of the Code of Civil Procedure,*
11 *other provisions of the Code of Judicial Ethics, the Code of Conduct for United*
12 *States Judges, the American Bar Association’s Model Code of Judicial Conduct,*
13 *and related case law.*

14 *The decision whether to disclose information under Canon 3E(2) is a*
15 *decision based on the facts of the case before the judge. A judge is required to*
16 *disclose only information that is related to the grounds for disqualification set*
17 *forth in Code of Civil Procedure section 170.1.*

18 *Canon 3E(4) sets forth the general standards for recusal of an appellate*
19 *justice. The term “appellate justice” includes justices of both the Courts of*
20 *Appeal and the Supreme Court. Generally, the provisions concerning*
21 *disqualification of an appellate justice are intended to assist justices in*
22 *determining whether recusal is appropriate and to inform the public why recusal*
23 *may occur.*

24 *However, the rule of necessity may override the rule of disqualification.*
25 *For example, a judge might be required to participate in judicial review of a*
26 *judicial salary statute, or might be the only judge available in a matter requiring*
27 *judicial action, such as a hearing on probable cause or a temporary restraining*
28 *order. In the latter case, the judge must promptly disclose on the record the basis*
29 *for possible disqualification and use reasonable efforts to transfer the matter to*
30 *another judge as soon as practicable.*

31 *In some instances, membership in certain organizations may have the*
32 *potential to give an appearance of partiality, although membership in the*
33 *organization generally may not be barred by Canon 2C, Canon 4, or any other*
34 *specific canon. A judge holding membership in an organization should disqualify*
35 *himself or herself whenever doing so would be appropriate in accordance with*
36 *Canon 3E(1), 3E(4), or 3E(5) or statutory requirements. In addition, in some*
37 *circumstances, the parties or their lawyers may consider a judge’s membership in*
38 *an organization relevant to the question of disqualification, even if the judge*
39 *believes there is no actual basis for disqualification. In accordance with this*
40 *canon, a judge should disclose to the parties his or her membership in an*
41 *organization, in any proceeding in which that information is reasonably relevant*
42 *to the question of disqualification under Code of Civil Procedure section 170.1,*
43 *even if the judge concludes there is no actual basis for disqualification.*

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CANON 4

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**A JUDGE SHALL SO CONDUCT THE JUDGE’S QUASI-JUDICIAL AND
EXTRAJUDICIAL ACTIVITIES AS TO MINIMIZE THE RISK OF
CONFLICT WITH JUDICIAL OBLIGATIONS**

7
8

A. Extrajudicial Activities in General

9 A judge shall conduct all of the judge’s extrajudicial activities so that they do not

- 10
11 (1) cast reasonable doubt on the judge’s capacity to act impartially;*
- 12
13 (2) demean the judicial office;
- 14
15 (3) interfere with the proper performance of judicial duties; or
- 16
17 (4) lead to frequent disqualification of the judge.

18
19

ADVISORY COMMITTEE COMMENTARY

20
21 *Complete separation of a judge from extrajudicial activities is neither*

22 *possible nor wise; a judge should not become isolated from the community in*

23 *which he or she lives. Expressions of bias or prejudice by a judge, even outside*

24 *the judge’s judicial activities, may cast reasonable doubt on the judge’s capacity*

25 *to act impartially* as a judge. Expressions that may do so include inappropriate*

26 *use of humor or the use of demeaning remarks. See Canon 2C and accompanying*

27 *Commentary.*

28 *Because a judge’s judicial duties take precedence over all other activities*

29 *(see Canon 3A), a judge must avoid extrajudicial activities that might reasonably*

30 *result in the judge being disqualified.*

31
32

B. Quasi-Judicial and Avocational Activities

33 A judge may speak, write, lecture, teach, and participate in activities concerning

34 legal and nonlegal subject matters, subject to the requirements of this code.

35
36

ADVISORY COMMITTEE COMMENTARY

37 *As a judicial officer and person specially learned in the law,* a judge is in*

38 *a unique position to contribute to the improvement of the law, the legal system,*

39 *and the administration of justice,* including revision of substantive and*

40 *procedural law* and improvement of criminal and juvenile justice. To the extent*

41 *that time permits, a judge may do so, either independently or through a bar or*

42 *judicial association or other group dedicated to the improvement of the law.* It*

43 *may be necessary to promote legal education programs and materials by*

1 *identifying authors and speakers by judicial title. This is permissible, provided*
2 *such use of the judicial title does not contravene Canons 2A and 2B.*

3 *Judges are not precluded by their office from engaging in other social,*
4 *community, and intellectual endeavors so long as they do not interfere with the*
5 *obligations under Canons 2C and 4A.*

7 **C. Governmental, Civic, or Charitable Activities**

8
9 (1) A judge shall not appear at a public hearing or officially consult with an
10 executive or legislative body or public official except on matters concerning the
11 law, the legal system, or the administration of justice* or in matters involving the
12 judge's private economic or personal interests.

13 14 **ADVISORY COMMITTEE COMMENTARY**

15 *When deciding whether to appear at a public hearing or whether to consult*
16 *with an executive or legislative body or public official on matters concerning the*
17 *law, the legal system, or the administration of justice,* a judge should consider*
18 *whether that conduct would violate any other provisions of this code. For a list of*
19 *factors to consider, see the explanation of "law, the legal system, or the*
20 *administration of justice" in the terminology section. See also Canon 2B*
21 *regarding the obligation to avoid improper influence.*

22
23 (2) A judge shall not accept appointment to a governmental committee or
24 commission or other governmental position that is concerned with issues of fact or
25 policy on matters other than the improvement of the law, the legal system, or the
26 administration of justice.* A judge may, however, serve in the military reserve or
27 represent a national, state, or local government on ceremonial occasions or in
28 connection with historical, educational, or cultural activities.

29 30 **ADVISORY COMMITTEE COMMENTARY**

31 *Canon 4C(2) prohibits a judge from accepting any governmental position*
32 *except one relating to the law, legal system, or administration of justice* as*
33 *authorized by Canon 4C(3). The appropriateness of accepting extrajudicial*
34 *assignments must be assessed in light of the demands on judicial resources and*
35 *the need to protect the courts from involvement in extrajudicial matters that may*
36 *prove to be controversial. Judges shall not accept governmental appointments*
37 *that are likely to interfere with the effectiveness and independence* of the*
38 *judiciary, or that constitute a public office within the meaning of the California*
39 *Constitution, article VI, section 17.*

40 *Canon 4C(2) does not govern a judge's service in a nongovernmental*
41 *position. See Canon 4C(3) permitting service by a judge with organizations*
42 *devoted to the improvement of the law, the legal system, or the administration of*
43 *justice* and with educational, religious, charitable, service,* or civic*

1 *organizations not conducted for profit. For example, service on the board of a*
2 *public educational institution, other than a law school, would be prohibited under*
3 *Canon 4C(2), but service on the board of a public law school or any private*
4 *educational institution would generally be permitted under Canon 4C(3).*

5
6 (3) Subject to the following limitations and the other requirements of this code,

7
8 (a) a judge may serve as an officer, director, trustee, or nonlegal advisor of an
9 organization or governmental agency devoted to the improvement of the law, the
10 legal system, or the administration of justice* provided that such position does not
11 constitute a public office within the meaning of the California Constitution, article
12 VI, section 17;

13
14 (b) a judge may serve as an officer, director, trustee, or nonlegal advisor of an
15 educational, religious, charitable, service,* or civic organization not conducted for
16 profit;

17
18 **ADVISORY COMMITTEE COMMENTARY**

19 *Canon 4C(3) does not apply to a judge's service in a governmental position*
20 *unconnected with the improvement of the law, the legal system, or the*
21 *administration of justice.* See Canon 4C(2).*

22 *Canon 4C(3) uses the phrase, "Subject to the following limitations and the*
23 *other requirements of this code." As an example of the meaning of the phrase, a*
24 *judge permitted by Canon 4C(3) to serve on the board of a service organization**
25 *may be prohibited from such service by Canon 2C or 4A if the institution practices*
26 *invidious discrimination or if service on the board otherwise casts reasonable*
27 *doubt on the judge's capacity to act impartially* as a judge.*

28 *Service by a judge on behalf of a civic or charitable organization may be*
29 *governed by other provisions of Canon 4 in addition to Canon 4C. For example, a*
30 *judge is prohibited by Canon 4G from serving as a legal advisor to a civic or*
31 *charitable organization.*

32 *Service on the board of a homeowners' association or a neighborhood*
33 *protective group is proper if it is related to the protection of the judge's own*
34 *economic interests. See Canons 4D(2) and 4D(4). See Canon 2B regarding the*
35 *obligation to avoid improper use of the prestige of a judge's office.*

36
37 (c) a judge shall not serve as an officer, director, trustee, or nonlegal advisor if it is
38 likely that the organization

39
40 (i) will be engaged in judicial proceedings that would ordinarily come
41 before the judge, or
42

1 (ii) will be engaged frequently in adversary proceedings in the court of
2 which the judge is a member or in any court subject to the appellate
3 jurisdiction of the court of which the judge is a member.
4

5 *ADVISORY COMMITTEE COMMENTARY*

6 *The changing nature of some organizations and of their relationship to the*
7 *law* makes it necessary for the judge regularly to reexamine the activities of each*
8 *organization with which the judge is affiliated to determine if it is proper for the*
9 *judge to continue the affiliation. Some organizations regularly engage in*
10 *litigation to achieve their goals or fulfill their purposes. Judges should avoid a*
11 *leadership role in such organizations as it could compromise the appearance of*
12 *impartiality.**

13
14 (d) a judge as an officer, director, trustee, or nonlegal advisor, or as a member or
15 otherwise
16

17 (i) may assist such an organization in planning fundraising and may
18 participate in the management and investment of the organization's funds.
19 However, a judge shall not personally participate in the solicitation of funds
20 or other fundraising activities, except that a judge may privately solicit
21 funds for such an organization from members of the judge's family* or
22 from other judges (excluding court commissioners, referees, retired judges,
23 court-appointed arbitrators, hearing officers, and temporary judges*);
24

25 (ii) may make recommendations to public and private fund-granting
26 organizations on projects and programs concerning the law, the legal
27 system, or the administration of justice;*

28
29 (iii) shall not personally participate in membership solicitation if the
30 solicitation might reasonably be perceived as coercive or if the membership
31 solicitation is essentially a fundraising mechanism, except as permitted in
32 Canon 4C(3)(d)(i);
33

34 (iv) shall not permit the use of the prestige of his or her judicial office for
35 fundraising or membership solicitation but may be a speaker, guest of
36 honor, or recipient of an award for public or charitable service provided the
37 judge does not personally solicit funds and complies with Canons 4A(1),
38 (2), (3), and (4).
39

40 *ADVISORY COMMITTEE COMMENTARY*

41 *A judge may solicit membership or endorse or encourage membership*
42 *efforts for an organization devoted to the improvement of the law, the legal*
43 *system, or the administration of justice,* or a nonprofit educational, religious,*

1 *charitable, service,* or civic organization as long as the solicitation cannot*
2 *reasonably be perceived as coercive and is not essentially a fundraising*
3 *mechanism. Solicitation of funds or memberships for an organization similarly*
4 *involves the danger that the person solicited will feel obligated to respond*
5 *favorably if the solicitor is in a position of influence or control. A judge must not*
6 *engage in direct, individual solicitation of funds or memberships in person, in*
7 *writing, or by telephone except in the following cases: (1) a judge may solicit*
8 *other judges (excluding court commissioners, referees, retired judges, court-*
9 *appointed arbitrators, hearing officers, and temporary judges*) for funds or*
10 *memberships; (2) a judge may solicit other persons for membership in the*
11 *organizations described above if neither those persons nor persons with whom*
12 *they are affiliated are likely ever to appear before the court on which the judge*
13 *serves; and (3) a judge who is an officer of such an organization may send a*
14 *general membership solicitation mailing over the judge’s signature.*

15 *When deciding whether to make recommendations to public and private*
16 *fund-granting organizations on projects and programs concerning the law, the*
17 *legal system, or the administration of justice,* a judge should consider whether*
18 *that conduct would violate any other provision of this code. For a list of factors to*
19 *consider, see the explanation of “law, the legal system, or the administration of*
20 *justice” in the terminology section.*

21 *Use of an organization letterhead for fundraising or membership*
22 *solicitation does not violate Canon 4C(3)(d), provided the letterhead lists only the*
23 *judge’s name and office or other position in the organization, and designates the*
24 *judge’s judicial title only if other persons whose names appear on the letterhead*
25 *have comparable designations. In addition, a judge must also make reasonable*
26 *efforts to ensure that the judge’s staff, court officials, and others subject to the*
27 *judge’s direction and control do not solicit funds on the judge’s behalf for any*
28 *purpose, charitable or otherwise.*

29
30 (e) A judge may encourage lawyers to provide pro bono publico legal services.

31
32 **ADVISORY COMMITTEE COMMENTARY**

33 *In addition to appointing lawyers to serve as counsel for indigent parties in*
34 *individual cases, a judge may promote broader access to justice by encouraging*
35 *lawyers to participate in pro bono publico legal services, as long as the judge*
36 *does not employ coercion or abuse the prestige of judicial office.*

37
38 **D. Financial Activities**

39
40 (1) A judge shall not engage in financial and business dealings that

41
42 (a) may reasonably be perceived to exploit the judge’s judicial position, or

1 (b) involve the judge in frequent transactions or continuing business relationships
2 with lawyers or other persons likely to appear before the court on which the judge
3 serves.

4
5 *ADVISORY COMMITTEE COMMENTARY*

6 *The Time for Compliance provision of this code (Canon 6F) postpones the*
7 *time for compliance with certain provisions of this canon in some cases.*

8 *A judge must avoid financial and business dealings that involve the judge in*
9 *frequent transactions or continuing business relationships with persons likely to*
10 *appear either before the judge personally or before other judges on the judge's*
11 *court. A judge shall discourage members of the judge's family* from engaging in*
12 *dealings that would reasonably appear to exploit the judge's judicial position or*
13 *that involve family members in frequent transactions or continuing business*
14 *relationships with persons likely to appear before the judge. This rule is*
15 *necessary to avoid creating an appearance of exploitation of office or favoritism*
16 *and to minimize the potential for disqualification.*

17 *Participation by a judge in financial and business dealings is subject to the*
18 *general prohibitions in Canon 4A against activities that tend to reflect adversely*
19 *on impartiality,* demean the judicial office, or interfere with the proper*
20 *performance of judicial duties. Such participation is also subject to the general*
21 *prohibition in Canon 2 against activities involving impropriety* or the*
22 *appearance of impropriety* and the prohibition in Canon 2B against the misuse of*
23 *the prestige of judicial office.*

24 *In addition, a judge must maintain high standards of conduct in all of the*
25 *judge's activities, as set forth in Canon 1.*

26
27 (2) A judge may, subject to the requirements of this code, hold and manage
28 investments of the judge and members of the judge's family,* including real
29 estate, and engage in other remunerative activities. A judge shall not participate
30 in, nor permit the judge's name to be used in connection with, any business
31 venture or commercial advertising that indicates the judge's title or affiliation with
32 the judiciary or otherwise lend the power or prestige of his or her office to
33 promote a business or any commercial venture.

34
35 (3) A judge shall not serve as an officer, director, manager, or employee of a
36 business affected with a public interest, including, without limitation, a financial
37 institution, insurance company, or public utility.

38
39 *ADVISORY COMMITTEE COMMENTARY*

40 *Although participation by a judge in business activities might otherwise be*
41 *permitted by Canon 4D, a judge may be prohibited from participation by other*
42 *provisions of this code when, for example, the business entity frequently appears*
43 *before the judge's court or the participation requires significant time away from*

1 *judicial duties. Similarly, a judge must avoid participating in any business activity*
2 *if the judge's participation would involve misuse of the prestige of judicial office.*
3 *See Canon 2B.*

4
5 (4) A judge shall manage personal investments and financial activities so as to
6 minimize the necessity for disqualification. As soon as reasonably possible, a
7 judge shall divest himself or herself of investments and other financial interests
8 that would require frequent disqualification.

9
10 (5) Under no circumstance shall a judge accept a gift,* bequest, or favor if the
11 donor is a party whose interests have come or are reasonably likely to come before
12 the judge. A judge shall discourage members of the judge's family residing in the
13 judge's household* from accepting similar benefits from parties who have come or
14 are reasonably likely to come before the judge.

15
16 **ADVISORY COMMITTEE COMMENTARY**

17 *In addition to the prohibitions set forth in Canon 4D(5) regarding gifts,**
18 *other laws* may be applicable to judges, including, for example, Code of Civil*
19 *Procedure section 170.9 and the Political Reform Act of 1974 (Gov. Code, §*
20 *81000 et seq.).*

21 *Canon 4D(5) does not apply to contributions to a judge's campaign for*
22 *judicial office, a matter governed by Canon 5.*

23 *Because a gift,* bequest, or favor to a member of the judge's family*
24 *residing in the judge's household* might be viewed as intended to influence the*
25 *judge, a judge must inform those family members of the relevant ethical*
26 *constraints upon the judge in this regard and urge them to take these constraints*
27 *into account when making decisions about accepting such gifts,* bequests, or*
28 *favors. A judge cannot, however, reasonably be expected to know or control all of*
29 *the financial or business activities of all family members residing in the judge's*
30 *household.**

31 *The application of Canon 4D(5) requires recognition that a judge cannot*
32 *reasonably be expected to anticipate all persons or interests that may come before*
33 *the court.*

34
35 (6) A judge shall not accept and shall discourage members of the judge's family
36 residing in the judge's household* from accepting a gift,* bequest, favor, or loan
37 from anyone except as hereinafter set forth, provided that acceptance would not
38 reasonably be perceived as intended to influence the judge in the performance of
39 judicial duties:

40
41 (a) a gift,* bequest, favor, or loan from a person whose preexisting relationship
42 with a judge would prevent the judge under Canon 3E from hearing a case
43 involving that person;

1 *ADVISORY COMMITTEE COMMENTARY*

2 *Upon appointment or election as a judge or within a reasonable period of*
3 *time thereafter, a judge may attend an event honoring the judge’s appointment or*
4 *election as a judge provided that (1) the judge would otherwise be disqualified*
5 *from hearing any matter involving the person or entity holding or funding the*
6 *event, and (2) a reasonable person would not conclude that attendance at the*
7 *event undermines the judge’s integrity,* impartiality,* or independence.**
8

9 (b) a gift* for a special occasion from a relative or friend, if the gift* is fairly
10 commensurate with the occasion and the relationship;

11
12 *ADVISORY COMMITTEE COMMENTARY*

13 *A gift* to a judge, or to a member of the judge’s family residing in the*
14 *judge’s household,* that is excessive in value raises questions about the judge’s*
15 *impartiality* and the integrity* of the judicial office and might require*
16 *disqualification of the judge where disqualification would not otherwise be*
17 *required. See, however, Canon 4D(6)(a).*
18

19 (c) commercial or financial opportunities and benefits, including special pricing
20 and discounts, and loans from lending institutions in their regular course of
21 business, if the same opportunities and benefits or loans are made available on the
22 same terms to similarly situated persons who are not judges;

23
24 (d) any gift* incidental to a public testimonial, or educational or resource materials
25 supplied by publishers on a complimentary basis for official use, or an invitation
26 to the judge and the judge’s spouse or registered domestic partner* or guest to
27 attend a bar-related function or an activity devoted to the improvement of the law,
28 the legal system, or the administration of justice;*

29
30 (e) advances or reimbursement for the reasonable cost of travel, transportation,
31 lodging, and subsistence that is directly related to participation in any judicial,
32 educational, civic, or governmental program or bar-related function or activity
33 devoted to the improvement of the law, the legal system, or the administration of
34 justice;*

35
36 *ADVISORY COMMITTEE COMMENTARY*

37 *Acceptance of an invitation to a law-related function is governed by Canon*
38 *4D(6)(d); acceptance of an invitation paid for by an individual lawyer or group of*
39 *lawyers is governed by Canon 4D(6)(g). See also Canon 4H(2) and*
40 *accompanying Commentary.*
41

42 (f) a gift,* award, or benefit incident to the business, profession, or other separate
43 activity of a spouse or registered domestic partner* or other member of the judge’s

1 family residing in the judge’s household,* including gifts,* awards, and benefits
2 for the use of both the spouse or registered domestic partner* or other family
3 member and the judge;

4
5 (g) ordinary social hospitality;

6
7 **ADVISORY COMMITTEE COMMENTARY**

8 *Although Canon 4D(6)(g) does not preclude ordinary social hospitality, a*
9 *judge should carefully weigh acceptance of such hospitality to avoid any*
10 *appearance of impropriety* or bias or any appearance that the judge is misusing*
11 *the prestige of judicial office. See Canons 2 and 2B. A judge should also consider*
12 *whether acceptance would affect the integrity,* impartiality,* or independence* of*
13 *the judiciary. See Canon 2A.*

14
15 (h) a scholarship or fellowship awarded on the same terms and based on the same
16 criteria applied to other applicants;

17
18 (i) rewards and prizes given to competitors or participants in random drawings,
19 contests, or other events that are open to persons who are not judges;

20
21 (j) an invitation to the judge and the judge’s spouse, registered domestic partner,*
22 or guest to attend an event sponsored by an educational, religious, charitable,
23 service,* or civic organization with which the judge is associated or involved, if
24 the same invitation is offered to persons who are not judges and who are similarly
25 engaged with the organization.

26
27 **E. Fiduciary* Activities**

28
29 (1) A judge shall not serve as executor, administrator, or other personal
30 representative, trustee, guardian, attorney in fact, or other fiduciary,* except for
31 the estate, trust, or person of a member of the judge’s family,* and then only if
32 such service will not interfere with the proper performance of judicial duties.

33
34 (2) A judge shall not serve as a fiduciary* if it is likely that the judge as a
35 fiduciary* will be engaged in proceedings that would ordinarily come before the
36 judge, or if the estate, trust, or minor or conservatee becomes engaged in contested
37 proceedings in the court on which the judge serves or one under its appellate
38 jurisdiction.

39
40 (3) The same restrictions on financial activities that apply to a judge personally
41 also apply to the judge while acting in a fiduciary* capacity.

1 *ADVISORY COMMITTEE COMMENTARY*

2 *The Time for Compliance provision of this code (Canon 6F) postpones the*
3 *time for compliance with certain provisions of this canon in some cases.*

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

8

9 **F. Service as Arbitrator or Mediator**

10

11 A judge shall not act as an arbitrator or mediator or otherwise perform judicial
12 functions in a private capacity unless expressly authorized by law.*

13

14 *ADVISORY COMMITTEE COMMENTARY*

15 *Canon 4F does not prohibit a judge from participating in arbitration,*
16 *mediation, or settlement conferences performed as part of his or her judicial*
17 *duties.*

18

19 **G. Practice of Law**

20

21 A judge shall not practice law.

22

23 *ADVISORY COMMITTEE COMMENTARY*

24 *This prohibition refers to the practice of law in a representative capacity*
25 *and not in a pro se capacity. A judge may act for himself or herself in all legal*
26 *matters, including matters involving litigation and matters involving appearances*
27 *before or other dealings with legislative and other governmental bodies.*
28 *However, in so doing, a judge must not abuse the prestige of office to advance the*
29 *interests of the judge or member of the judge's family.* See Canon 2B.*

30 *This prohibition applies to subordinate judicial officers,* magistrates,*
31 *special masters, and judges of the State Bar Court.*

32

33 **H. Compensation, Reimbursement, and Honoraria**

34

35 A judge may receive compensation and reimbursement of expenses as provided by
36 law* for the extrajudicial activities permitted by this code, if the source of such
37 payments does not give the appearance of influencing the judge's performance of
38 judicial duties or otherwise give the appearance of impropriety.*

39

40 (1) Compensation shall not exceed a reasonable amount nor shall it exceed what a
41 person who is not a judge would receive for the same activity.

42

1 (2) Expense reimbursement shall be limited to the actual cost of travel, food,
2 lodging, and other costs reasonably incurred by the judge and, where appropriate
3 to the occasion, by the judge’s spouse or registered domestic partner* or guest.
4 Any payment in excess of such an amount is compensation.
5

6 (3) No judge shall accept any honorarium. “Honorarium” means any payment
7 made in consideration for any speech given, article published, or attendance at any
8 public or private conference, convention, meeting, social event, meal, or like
9 gathering. “Honorarium” does not include earned income for personal services
10 that are customarily provided in connection with the practice of a bona fide
11 business, trade, or profession, such as teaching or writing for a publisher, and does
12 not include fees or other things of value received pursuant to Penal Code section
13 94.5 for performance of a marriage. For purposes of this canon, “teaching” shall
14 include presentations to impart educational information to lawyers in events
15 qualifying for credit under Mandatory Continuing Legal Education, to students in
16 bona fide educational institutions, and to associations or groups of judges.
17

18 *ADVISORY COMMITTEE COMMENTARY*

19 *Judges should not accept compensation or reimbursement of expenses if*
20 *acceptance would appear to a reasonable person to undermine the judge’s*
21 *integrity,* impartiality,* or independence.**

22 *A judge must assure himself or herself that acceptance of reimbursement or*
23 *fee waivers would not appear to a reasonable person to undermine the judge’s*
24 *independence,* integrity,* or impartiality.* The factors a judge should consider*
25 *when deciding whether to accept reimbursement or a fee waiver for attendance at*
26 *a particular activity include:*

27
28 *(a) whether the sponsor is an accredited educational institution or bar*
29 *association rather than a trade association or a for-profit entity;*

30
31 *(b) whether the funding comes largely from numerous contributors rather*
32 *than from a single entity, and whether the funding is earmarked for*
33 *programs with specific content;*

34
35 *(c) whether the content is related or unrelated to the subject matter of a*
36 *pending* or impending* proceeding before the judge, or to matters that are*
37 *likely to come before the judge;*

38
39 *(d) whether the activity is primarily educational rather than recreational,*
40 *and whether the costs of the event are reasonable and comparable to those*
41 *associated with similar events sponsored by the judiciary, bar associations,*
42 *or similar groups;*
43

1 (e) whether information concerning the activity and its funding sources is
2 available upon inquiry;

3
4 (f) whether the sponsor or source of funding is generally associated with
5 particular parties or interests currently appearing or likely to appear in the
6 judge's court, thus possibly requiring disqualification of the judge;

7
8 (g) whether differing viewpoints are presented;

9
10 (h) whether a broad range of judicial and nonjudicial participants are
11 invited; and

12
13 (i) whether the program is designed specifically for judges.

14
15 Judges should be aware of the statutory limitations on accepting gifts.*

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CANON 5

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

Judges and candidates for judicial office* are entitled to entertain their personal views on political questions. They are not required to surrender their rights or opinions as citizens. They shall, however, not engage in political activity that may create the appearance of political bias or impropriety.* Judicial independence,* impartiality,* and integrity* shall dictate the conduct of judges and candidates for judicial office.*

Judges and candidates for judicial office* shall comply with all applicable election, election campaign, and election campaign fundraising laws* and regulations.

A. Political Organizations*

Judges and candidates for judicial office* shall not

- (1) act as leaders or hold any office in a political organization;*
- (2) make speeches for a political organization* or candidate for nonjudicial office or publicly endorse or publicly oppose a candidate for nonjudicial office; or
- (3) personally solicit funds for a political organization* or nonjudicial candidate; or make contributions to a political party or political organization* or to a nonjudicial candidate in excess of \$500 in any calendar year per political party or political organization* or candidate, or in excess of an aggregate of \$1,000 in any calendar year for all political parties or political organizations* or nonjudicial candidates.

ADVISORY COMMITTEE COMMENTARY

The term “political activity” should not be construed so narrowly as to prevent private comment.

This provision does not prohibit a judge or a candidate for judicial office from signing a petition to qualify a measure for the ballot, provided the judge does not use his or her official title.*

In judicial elections, judges are neither required to shield themselves from campaign contributions nor are they prohibited from soliciting contributions from

1 anyone, including attorneys. Nevertheless, there are necessary limits on judges
2 facing election if the appearance of impropriety* is to be avoided. In soliciting
3 campaign contributions or endorsements, a judge shall not use the prestige of
4 judicial office in a manner that would reasonably be perceived as coercive. See
5 Canons 1, 2, 2A, and 2B. Although it is improper for a judge to receive a gift*
6 from an attorney subject to exceptions noted in Canon 4D(6), a judge's campaign
7 may receive attorney contributions.

8 Although attendance at political gatherings is not prohibited, any such
9 attendance should be restricted so that it would not constitute an express public
10 endorsement of a nonjudicial candidate or a measure not affecting the law, the
11 legal system, or the administration of justice* otherwise prohibited by this canon.

12 Subject to the monetary limitation herein to political contributions, a judge
13 or a candidate for judicial office* may purchase tickets for political dinners or
14 other similar dinner functions. Any admission price to such a political dinner or
15 function in excess of the actual cost of the meal shall be considered a political
16 contribution. The prohibition in Canon 5A(3) does not preclude judges from
17 contributing to a campaign fund for distribution among judges who are candidates
18 for reelection or retention, nor does it apply to contributions to any judge or
19 candidate for judicial office.*

20 Under this canon, a judge may publicly endorse a candidate for judicial
21 office.* Such endorsements are permitted because judicial officers have a special
22 obligation to uphold the integrity,* impartiality,* and independence* of the
23 judiciary and are in a unique position to know the qualifications necessary to
24 serve as a competent judicial officer.

25 Although family members of the judge or candidate for judicial office* are
26 not subject to the provisions of this code, a judge or candidate for judicial office*
27 shall not avoid compliance with this code by making contributions through a
28 spouse or registered domestic partner* or other family member.

30 **B. Conduct During Judicial Campaigns and Appointment Process**

31
32 (1) A candidate for judicial office* or an applicant seeking appointment to judicial
33 office shall not:

34
35 (a) make statements to the electorate or the appointing authority that commit the
36 candidate or the applicant with respect to cases, controversies, or issues that are
37 likely to come before the courts, or

38
39 (b) knowingly,* or with reckless disregard for the truth, misrepresent the identity,
40 qualifications, present position, or any other fact concerning himself or herself or
41 his or her opponent or other applicants.

1 (2) A candidate for judicial office* shall review and approve the content of all
2 campaign statements and materials produced by the candidate or his or her
3 campaign committee before their dissemination. A candidate shall take
4 appropriate corrective action if the candidate learns of any misrepresentations
5 made in his or her campaign statements or materials. A candidate shall take
6 reasonable measures to prevent any misrepresentations being made in his or her
7 support by third parties. A candidate shall take reasonable measures to ensure that
8 appropriate corrective action is taken if the candidate learns of any
9 misrepresentations being made in his or her support by third parties.

10
11 (3) Every candidate for judicial office* shall complete a judicial campaign ethics
12 course approved by the Supreme Court no earlier than one year before or no later
13 than 60 days after either the filing of a declaration of intention by the candidate,
14 the formation of a campaign committee, or the receipt of any campaign
15 contribution, whichever is earliest. This requirement does not apply to judges who
16 are unopposed for election and will not appear on the ballot. This requirement
17 also does not apply to appellate justices who have not formed a campaign
18 committee.

19
20 *ADVISORY COMMITTEE COMMENTARY*

21 *The purpose of Canon 5B is to preserve the integrity* of the appointive and*
22 *elective process for judicial office and to ensure that the public has accurate*
23 *information about candidates for judicial office.* Compliance with these*
24 *provisions will enhance the integrity,* impartiality,* and independence* of the*
25 *judiciary and better inform the public about qualifications of candidates for*
26 *judicial office.**

27 *This code does not contain the “announce clause” that was the subject of*
28 *the United States Supreme Court’s decision in Republican Party of Minnesota v.*
29 *White (2002) 536 U.S. 765. That opinion did not address the “commit clause,”*
30 *which is contained in Canon 5B(1)(a). The phrase “appear to commit” has been*
31 *deleted because, although candidates for judicial office* cannot promise to take a*
32 *particular position on cases, controversies, or issues prior to taking the bench and*
33 *presiding over individual cases, the phrase may have been overinclusive.*

34 *Canon 5B(1)(b) prohibits making knowing misrepresentations, including*
35 *false or misleading statements, during an election campaign because doing so*
36 *would violate Canons 1 and 2A, and may violate other canons.*

37 *Candidates for judicial office* must disclose campaign contributions in*
38 *accordance with Canon 3E(2)(b).*

39 *The time limit for completing a judicial campaign ethics course in Canon*
40 *5B(3) is triggered by the earliest of either the filing of a declaration of intention,*
41 *formation of a campaign committee, or receipt of any campaign contribution. A*
42 *financial contribution by a candidate for judicial office* to his or her own*
43 *campaign constitutes receipt of a campaign contribution.*

1 **C. Speaking at Political Gatherings**

2

3 Candidates for judicial office* may speak to political gatherings only on their own
4 behalf or on behalf of another candidate for judicial office.*

5

6 **D. Measures to Improve the Law**

7

8 A judge or candidate for judicial office* may engage in activity in relation to
9 measures concerning improvement of the law, the legal system, or the
10 administration of justice,* only if the conduct is consistent with this code.

11

12 *ADVISORY COMMITTEE COMMENTARY*

13 *When deciding whether to engage in activity relating to measures*
14 *concerning the law, the legal system, or the administration of justice,* such as*
15 *commenting publicly on ballot measures, a judge must consider whether the*
16 *conduct would violate any other provisions of this code. See explanation of “law,*
17 *the legal system, or the administration of justice” in the terminology section.*

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CANON 6

COMPLIANCE WITH THE CODE OF JUDICIAL ETHICS

A. Judges

Anyone who is an officer of the state judicial system and who performs judicial functions, including, but not limited to, a subordinate judicial officer,* magistrate, court-appointed arbitrator, judge of the State Bar Court, temporary judge,* and special master, is a judge within the meaning of this code. All judges shall comply with this code except as provided below.

ADVISORY COMMITTEE COMMENTARY

For the purposes of this canon, if a retired judge is serving in the Assigned Judges Program, the judge is considered to “perform judicial functions.” Because retired judges who are privately retained may perform judicial functions, their conduct while performing those functions should be guided by this code.

B. Retired Judge Serving in the Assigned Judges Program

A retired judge who has filed an application to serve on assignment, meets the eligibility requirements set by the Chief Justice for service, and has received an acknowledgment of participation in the Assigned Judges Program shall comply with all provisions of this code, except for the following:

4C(2)—Appointment to governmental positions

4E—Fiduciary* activities

C. Retired Judge as Arbitrator or Mediator

A retired judge serving in the Assigned Judges Program is not required to comply with Canon 4F of this code relating to serving as an arbitrator or mediator, or performing judicial functions in a private capacity, except as otherwise provided in the *Standards and Guidelines for Judicial Assignments* promulgated by the Chief Justice.

ADVISORY COMMITTEE COMMENTARY

In California, article VI, section 6 of the California Constitution provides that a “retired judge who consents may be assigned to any court” by the Chief Justice. Retired judges who are serving in the Assigned Judges Program pursuant to the above provision are bound by Canon 6B, including the requirement of Canon 4G barring the practice of law. Other provisions of California law, and*

1 *standards and guidelines for eligibility and service set by the Chief Justice, further*
2 *define the limitations on who may serve on assignment.*

3
4 **D. Temporary Judge,* Referee, or Court-Appointed Arbitrator¹**

5
6 A temporary judge,* a person serving as a referee pursuant to Code of Civil
7 Procedure section 638 or 639, or a court-appointed arbitrator shall comply only
8 with the following code provisions:

9
10 (1) A temporary judge,* referee, or court-appointed arbitrator shall comply with
11 Canons 1 [integrity* and independence* of the judiciary], 2A [promoting public
12 confidence], 3B(3) [order and decorum], 3B(4) [patient, dignified, and courteous
13 treatment], 3B(6) [require* lawyers to refrain from manifestations of any form of
14 bias or prejudice], 3D(1) [action regarding misconduct by another judge], and
15 3D(2) [action regarding misconduct by a lawyer], when the temporary judge,*
16 referee, or court-appointed arbitrator is actually presiding in a proceeding or
17 communicating with the parties, counsel, or staff or court personnel while serving
18 in the capacity of a temporary judge,* referee, or court-appointed arbitrator in the
19 case.

20
21 (2) A temporary judge,* referee, or court-appointed arbitrator shall, from the time
22 of notice and acceptance of appointment until termination of the appointment:

23
24 (a) Comply with Canons 2B(1) [not allow family or other relationships to
25 influence judicial conduct], 3B(1) [hear and decide all matters unless disqualified],
26 3B(2) [be faithful to and maintain competence in the law*], 3B(5) [perform
27 judicial duties without bias or prejudice], 3B(7) [accord full right to be heard to
28 those entitled; avoid ex parte communications, except as specified], 3B(8) [dispose
29 of matters fairly and promptly], 3B(12) [remain impartial* and not engage in
30 coercive conduct during efforts to resolve disputes], 3C(1) [discharge
31 administrative responsibilities without bias and with competence and
32 cooperatively], 3C(3) [require* staff and court personnel to observe standards of
33 conduct and refrain from bias and prejudice], and 3C(5) [make only fair,
34 necessary, and appropriate appointments];

35
36 (b) Not personally solicit memberships or donations for religious, service,*
37 educational, civic, or charitable organizations from the parties and lawyers
38 appearing before the temporary judge,* referee, or court-appointed arbitrator;
39

¹ Reference should be made to relevant commentary to analogous or individual canons cited or described in this canon and appearing elsewhere in this code.

1 (c) Under no circumstance accept a gift,* bequest, or favor if the donor is a party,
2 person, or entity whose interests are reasonably likely to come before the
3 temporary judge,* referee, or court-appointed arbitrator. A temporary judge,*
4 referee, or court-appointed arbitrator shall discourage members of the judge's
5 family residing in the judge's household* from accepting benefits from parties
6 who are reasonably likely to come before the temporary judge,* referee, or court-
7 appointed arbitrator.

8
9 (3) A temporary judge* shall, from the time of notice and acceptance of
10 appointment until termination of the appointment, disqualify himself or herself in
11 any proceeding as follows:

12
13 (a) A temporary judge*—other than a temporary judge solely conducting
14 settlement conferences—is disqualified to serve in a proceeding if any one or more
15 of the following is true:

16
17 (i) the temporary judge* has personal knowledge* (as defined in Code of
18 Civil Procedure section 170.1, subdivision (a)(1)) of disputed evidentiary
19 facts concerning the proceeding;

20
21 (ii) the temporary judge* has served as a lawyer (as defined in Code of
22 Civil Procedure section 170.1, subdivision (a)(2)) in the proceeding;

23
24 (iii) the temporary judge,* within the past five years, has given legal advice
25 to, or served as a lawyer (as defined in Code of Civil Procedure section
26 170.1, subdivision (a)(2), except that this provision requires disqualification
27 if the temporary judge* represented a party in the past five years rather than
28 the two-year period specified in section 170.1, subdivision (a)(2)) for a
29 party in the present proceeding;

30
31 (iv) the temporary judge* has a financial interest (as defined in Code of
32 Civil Procedure sections 170.1, subdivision (a)(3) and 170.5) in the subject
33 matter in the proceeding or in a party to the proceeding;

34
35 (v) the temporary judge,* or the spouse or registered domestic partner* of
36 the temporary judge,* or a person within the third degree of relationship* of
37 either of them, or the spouse or registered domestic partner* of such a
38 person is a party to the proceeding or is an officer, director, or trustee of a
39 party;

40
41 (vi) a lawyer or a spouse or registered domestic partner* of a lawyer in the
42 proceeding is the spouse, former spouse, registered domestic partner,*
43 former registered domestic partner,* child, sibling, or parent of the

1 temporary judge* or the temporary judge's spouse or registered domestic
2 partner,* or if such a person is associated in the private practice of law with
3 a lawyer in the proceeding; or
4

5 (vii) for any reason:

6
7 (A) the temporary judge* believes his or her recusal would further the
8 interests of justice;

9
10 (B) the temporary judge* believes there is a substantial doubt as to his or
11 her capacity to be impartial;* or
12

13 (C) a person aware of the facts might reasonably entertain a doubt that the
14 temporary judge* would be able to be impartial.* Bias or prejudice toward
15 an attorney in the proceeding may be grounds for disqualification.
16

17 (viii) the temporary judge* has received a campaign contribution of \$1,500
18 or more from a party or lawyer in a matter that is before the court and the
19 contribution was received in anticipation of an upcoming election.
20

21 *ADVISORY COMMITTEE COMMENTARY*

22 *The application of Canon 6D(3)(a)(iii), providing that a temporary judge**
23 *is disqualified if he or she has given legal advice or served as a lawyer for a party*
24 *to the proceeding in the past five years, may depend on the type of assignment and*
25 *the amount of time available to investigate whether the temporary judge* has*
26 *previously represented a party. If time permits, the temporary judge* must*
27 *conduct such an investigation. Thus, if a temporary judge* is privately*
28 *compensated by the parties or is presiding over a particular matter known* in*
29 *advance of the hearing, the temporary judge* is presumed to have adequate time*
30 *to investigate. If, however, a temporary judge* is assigned to a high volume*
31 *calendar, such as traffic or small claims, and has not been provided with the*
32 *names of the parties prior to the assignment, the temporary judge* may rely on his*
33 *or her memory to determine whether he or she has previously represented a party.*
34

35 (b) A temporary judge* before whom a proceeding was tried or heard is
36 disqualified from participating in any appellate review of that proceeding.
37

38 (c) If the temporary judge* has a current arrangement concerning prospective
39 employment or other compensated service as a dispute resolution neutral or is
40 participating in, or, within the last two years has participated in, discussions
41 regarding prospective employment or service as a dispute resolution neutral, or has
42 been engaged in such employment or service, and any of the following applies:
43

1 (i) The arrangement or current employment is, or the prior employment or
2 discussion was, with a party to the proceeding.

3
4 (ii) The temporary judge* directs the parties to participate in an alternative
5 dispute resolution process in which the dispute resolution neutral will be an
6 individual or entity with whom the temporary judge* has the arrangement,
7 is currently employed or serves, has previously been employed or served,
8 or is discussing or has discussed the employment or service.

9
10 (iii) The temporary judge* will select a dispute resolution neutral or entity
11 to conduct an alternative dispute resolution process in the matter before the
12 temporary judge,* and among those available for selection is an individual
13 or entity with whom the temporary judge* has the arrangement, is currently
14 employed or serves, has previously been employed or served, or is
15 discussing or has discussed the employment or service.

16
17 For the purposes of canon 6D(3)(c), the definitions of “participating in
18 discussions,” “has participated in discussions,” “party,” and “dispute resolution
19 neutral” are set forth in Code of Civil Procedure section 170.1, subdivision (a)(8),
20 except that the words “temporary judge” shall be substituted for the word “judge”
21 in such definitions.

22
23 (d) A lawyer is disqualified from serving as a temporary judge* in a family law or
24 unlawful detainer proceeding if in the same type of proceeding:

25
26 (i) the lawyer holds himself or herself out to the public as representing
27 exclusively one side; or

28
29 (ii) the lawyer represents one side in 90 percent or more of the cases in
30 which he or she appears.

31
32 *ADVISORY COMMITTEE COMMENTARY*

33 *Under Canon 6D(3)(d), “one side” means a category of persons such as*
34 *landlords, tenants, or litigants exclusively of one gender.*

35
36 (4) After a temporary judge* who has determined himself or herself to be
37 disqualified from serving under Canon 6D(3)(a)–(d) has disclosed the basis for his
38 or her disqualification on the record, the parties and their lawyers may agree to
39 waive the disqualification and the temporary judge* may accept the waiver. The
40 temporary judge* shall not seek to induce a waiver and shall avoid any effort to
41 discover which lawyers or parties favored or opposed a waiver.

1 *ADVISORY COMMITTEE COMMENTARY*

2 *Provisions addressing waiver of mandatory disqualifications or limitations,*
3 *late discovery of grounds for disqualification or limitation, notification of the*
4 *court when a disqualification or limitation applies, and requests for*
5 *disqualification by the parties are located in rule 2.818 of the California Rules of*
6 *Court. Rule 2.818 states that the waiver must be in writing, must recite the basis*
7 *for the disqualification or limitation, and must state that it was knowingly* made.*
8 *It also states that the waiver is effective only when signed by all parties and their*
9 *attorneys and filed in the record.*

10
11 (5) A temporary judge,* referee, or court-appointed arbitrator shall, from the time
12 of notice and acceptance of appointment until termination of the appointment:

13
14 (a) In all proceedings, disclose in writing or on the record information as required
15 by law,* or information that is reasonably relevant to the question of
16 disqualification under Canon 6D(3), including personal or professional
17 relationships known* to the temporary judge,* referee, or court-appointed
18 arbitrator, that he or she or his or her law firm has had with a party, lawyer, or law
19 firm in the current proceeding, even though the temporary judge,* referee, or
20 court-appointed arbitrator concludes that there is no actual basis for
21 disqualification; and

22
23 (b) In all proceedings, disclose in writing or on the record membership of the
24 temporary judge,* referee, or court-appointed arbitrator, in any organization that
25 practices invidious discrimination on the basis of race, sex, gender, religion,
26 national origin, ethnicity, or sexual orientation, except for membership in a
27 religious ~~or an official military organization of the United States and membership~~
28 ~~in a nonprofit youth organization* so long as membership does not violate Canon~~
29 ~~4A [conduct of extrajudicial activities].~~

30
31 *(Amendments to Canon 6D(5)(b) adopted January 21, 2015, effective January*
32 *21, 2016.)*

33
34 (6) A temporary judge,* referee, or court-appointed arbitrator, from the time of
35 notice and acceptance of appointment until the case is no longer pending in any
36 court, shall not make any public comment about a pending* or impending*
37 proceeding in which the temporary judge,* referee, or court-appointed arbitrator
38 has been engaged, and shall not make any nonpublic comment that might
39 substantially interfere with such proceeding. The temporary judge,* referee, or
40 court-appointed arbitrator shall require* similar abstention on the part of staff and
41 court personnel subject to his or her control. This canon does not prohibit the
42 following:
43

1 (a) Statements made in the course of the official duties of the temporary judge,*
2 referee, or court-appointed arbitrator; and

3
4 (b) Explanations about the procedures of the court.

5
6 (7) From the time of appointment and continuing for two years after the case is no
7 longer pending* in any court, a temporary judge,* referee, or court-appointed
8 arbitrator shall under no circumstances accept a gift,* bequest, or favor from a
9 party, person, or entity whose interests have come before the temporary judge,*
10 referee, or court-appointed arbitrator in the matter. The temporary judge,* referee,
11 or court-appointed arbitrator shall discourage family members residing in the
12 household of the temporary judge,* referee, or court-appointed arbitrator from
13 accepting any benefits from such parties, persons or entities during the time period
14 stated in this subdivision. The demand for or receipt by a temporary judge,*
15 referee, or court-appointed arbitrator of a fee for his or her services rendered or to
16 be rendered shall not be a violation of this canon.

17
18 (8) A temporary judge,* referee, or court-appointed arbitrator shall, from time of
19 notice and acceptance of appointment and continuing indefinitely after the
20 termination of the appointment:

21
22 (a) Comply with Canon 3B(11) [no disclosure of nonpublic information* acquired
23 in a judicial capacity] (except as required by law*);

24
25 (b) Not commend or criticize jurors sitting in a proceeding before the temporary
26 judge,* referee, or court-appointed arbitrator for their verdict other than in a court
27 order or opinion in such proceeding, but may express appreciation to jurors for
28 their service to the judicial system and the community; and

29
30 (c) Not lend the prestige of judicial office to advance his, her, or another person's
31 pecuniary or personal interests and not use his or her judicial title in any written
32 communication intended to advance his, her, or another person's pecuniary or
33 personal interests, except to show his, her, or another person's qualifications.

34
35 (9)(a) A temporary judge* appointed under rule 2.810 of the California Rules of
36 Court, from the time of appointment and continuing indefinitely after the
37 termination of the appointment, shall not use his or her title or service as a
38 temporary judge* (1) as a description of the lawyer's current or former principal
39 profession, vocation, or occupation on a ballot designation for judicial or other
40 elected office, (2) in an advertisement about the lawyer's law firm or business, or
41 (3) on a letterhead, business card, or other document that is distributed to the
42 public identifying the lawyer or the lawyer's law firm.

1 (b) This canon does not prohibit a temporary judge* appointed under rule 2.810 of
2 the California Rules of Court from using his or her title or service as a temporary
3 judge* on an application to serve as a temporary judge,* including an application
4 in other courts, on an application for employment or for an appointment to a
5 judicial position, on an individual resume or a descriptive statement submitted in
6 connection with an application for employment or for appointment or election to a
7 judicial position, or in response to a request for information about the public
8 service in which the lawyer has engaged.

9
10 (10) A temporary judge,* referee, or court-appointed arbitrator shall comply with
11 Canon 6D(2) until the appointment has been terminated formally or until there is
12 no reasonable probability that the temporary judge,* referee, or court-appointed
13 arbitrator will further participate in the matter. A rebuttable presumption that the
14 appointment has been formally terminated shall arise if, within one year from the
15 appointment or from the date of the last hearing scheduled in the matter,
16 whichever is later, neither the appointing court nor counsel for any party in the
17 matter has informed the temporary judge,* referee, or court-appointed arbitrator
18 that the appointment remains in effect.

19
20 (11) A lawyer who has been a temporary judge,* referee, or court-appointed
21 arbitrator in a matter shall not accept any representation relating to the matter
22 without the informed written consent of all parties.

23
24 (12) When by reason of serving as a temporary judge,* referee, or court-appointed
25 arbitrator in a matter, he or she has received confidential information from a party,
26 the person shall not, without the informed written consent of the party, accept
27 employment in another matter in which the confidential information is material.

28 29 *ADVISORY COMMITTEE COMMENTARY*

30 *Any exceptions to the canons do not excuse a judicial officer's separate*
31 *statutory duty to disclose information that may result in the judicial officer's*
32 *recusal or disqualification.*

33 34 **E. Judicial Candidate**

35
36 A candidate for judicial office* shall comply with the provisions of Canon 5.

37 38 **F. Time for Compliance**

39
40 A person to whom this code becomes applicable shall comply immediately with
41 all provisions of this code except Canons 4D(4) and 4E and shall comply with
42 these canons as soon as reasonably possible and shall do so in any event within a
43 period of one year.

1 *ADVISORY COMMITTEE COMMENTARY*

2 *If serving as a fiduciary* when selected as a judge, a new judge may,*
3 *notwithstanding the prohibitions in Canon 4E, continue to serve as fiduciary* but*
4 *only for that period of time necessary to avoid adverse consequences to the*
5 *beneficiary of the fiduciary* relationship and in no event longer than one year.*

6
7 **G. (Canon 6G repealed effective June 1, 2005; adopted December 30, 2002.)**

8
9 **H. Judges on Leave Running for Other Public Office**

10
11 A judge who is on leave while running for other public office pursuant to article
12 VI, section 17 of the California Constitution shall comply with all provisions of
13 this code, except for the following, insofar as the conduct relates to the campaign
14 for public office for which the judge is on leave:

15
16 2B(2)—Lending the prestige of judicial office to advance the judge’s personal
17 interest

18
19 4C(1)—Appearing at public hearings

20
21 5—Engaging in political activity (including soliciting and accepting campaign
22 contributions for the other public office).

23
24 *ADVISORY COMMITTEE COMMENTARY*

25 *These exceptions are applicable only during the time the judge is on leave*
26 *while running for other public office. All of the provisions of this code will*
27 *become applicable at the time a judge resumes his or her position as a judge.*
28 *Conduct during elections for judicial office is governed by Canon 5.*