

1 CALIFORNIA CODE OF JUDICIAL ETHICS

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

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8 ***Preface***

9  
10 ***Preamble***

11  
12 ***Terminology***

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14 ***Canon 1. A judge shall uphold the integrity and independence of the judiciary.***

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16 ***Canon 2. A judge shall avoid impropriety and the appearance of impropriety in***  
17 ***all of the judge’s activities.***

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19 ***Canon 3. A judge shall perform the duties of judicial office impartially,***  
20 ***competently, and diligently.***

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22 ***Canon 4. A judge shall so conduct the judge’s quasi-judicial and extrajudicial***  
23 ***activities as to minimize the risk of conflict with judicial obligations.***

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25 ***Canon 5. A judge or ~~judicial~~ candidate for judicial office shall ~~refrain from~~***  
26 ***inappropriate not engage in political or campaign activity that is inconsistent***  
27 ***with the independence, integrity, or impartiality of the judiciary.***

28  
29 ***Canon 6. Compliance with the code of judicial ethics.***

1 **PREFACE**

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

7  
8 In 1969, the American Bar Association determined that current needs and  
9 problems warranted revision of the Canons. In the revision process, a special  
10 American Bar Association committee, headed by former California Chief Justice  
11 Roger Traynor, sought and considered the views of the bench and bar and other  
12 interested persons. The American Bar Association Code of Judicial Conduct was  
13 adopted by the House of Delegates of the American Bar Association August 16,  
14 1972.

15  
16 Effective January 5, 1975, the California Judges Association adopted a new  
17 California Code of Judicial Conduct adapted from the American Bar Association  
18 1972 Model Code. The California code was recast in gender-neutral form in 1986.

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

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

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30 The Supreme Court formally adopted the 1992 Code of Judicial Conduct in March  
31 1995, as a transitional measure pending further review.

32  
33 The Supreme Court formally adopted the Code of Judicial Ethics effective January  
34 15, 1996.

35  
36 The Supreme Court has formally adopted amendments to the Code of Judicial  
37 Ethics, ~~effective April 15, 1996~~ on several occasions. The Advisory Committee  
38 Commentary is published by the Supreme Court Advisory Committee on the Code  
39 of Judicial Ethics.

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  
5 is central to American concepts of justice and the rule of law. Intrinsic to this  
6 code are the precepts that judges, individually and collectively, must respect and  
7 honor the judicial office as a public trust and strive to enhance and maintain  
8 confidence in our legal system. The judge is an arbiter of facts and law for the  
9 resolution of disputes and a highly visible member of government under the rule  
10 of law.

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

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

29  
30 The Code governs the conduct of judges and ~~judicial~~ candidates for judicial  
31 office\* and is binding upon them. Whether disciplinary action is appropriate, and  
32 the degree of discipline to be imposed, requires a reasoned application of the text  
33 and consideration of such factors as the seriousness of the transgression, whether  
34 there is a pattern of improper activity, and the effect of the improper activity on  
35 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.

~~“Appropriate authority” denotes the authority with responsibility for initiation of the disciplinary process with respect to a violation to be reported. See Commentary to Canon 3D (Commentary).~~

~~“Candidate for judicial office.” A candidate is a person seeking election for to or retention of judicial office by election. 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. The term “candidate” has the same meaning when applied to a judge seeking election to nonjudicial office, unless on leave of absence. See Preamble and Canons 2B(3), the preliminary paragraph of 3E(2)(b)(i), 3E(3)(a), 5, 5A, 5A (Commentary), 5B(1), 5B(2), 5B(3), 5B (Commentary), 5C, 5D, and 6E.~~

~~“Court personnel” does not include the lawyers in a proceeding before a judge. See Canons 3B(4), 3B(7)(b), 3B(9), and 3C(2).~~

~~“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),~~

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

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

9  
10 “Impropriety” includes conduct that violates the law, court rules, or provisions of  
11 this code, and conduct that undermines a judge’s independence, integrity, or  
12 impartiality. See Canons 2, 2A (Commentary), 2B (Commentary), 2C  
13 (Commentary), 3B(9) (Commentary), 4D(1)(b) (Commentary), 4D(6)(g)  
14 (Commentary), 4H, 5, and 5A (Commentary).

15  
16 “Independence” means a judge’s freedom from influence or controls other than  
17 those established by law. See Preamble, Canons 1, 1 (Commentary), 4C(2)  
18 (Commentary), 4D(6)(a) (Commentary), 4D(6)(g) (Commentary), 4H(3)  
19 (Commentary), 5, 5A (Commentary), 5B (Commentary), and 6D(1).

20  
21 “Integrity” means probity, fairness, honesty, uprightness, and soundness of  
22 character. See Preamble, Canons 1, 1 (Commentary), 2A, 2A (Commentary), 2B  
23 (Commentary), 2C (Commentary), 3B(9) (Commentary), 3C(1), 3C(5), 4D(6)(a)  
24 (Commentary), 4D(6)(b) (Commentary), 4D(6)(g) (Commentary), 4H  
25 (Commentary), 5, 5A (Commentary), 5B (Commentary), and 6D(1).

26  
27 “Knowingly,” “knowledge,” “known,” and “knows” mean actual knowledge of the  
28 fact in question. A person’s knowledge may be inferred from circumstances. See  
29 Canons 2B(2)(b), 2B(2)(e), 2C (Commentary), 3B(2) (Commentary), 3B(7)(a),  
30 3B(7)(a) (Commentary), 3D(2), 3D(5), 3E(5)(f), 5B(1)(b), 6D(3)(a)(i), 6D(3)(a)  
31 (Commentary), 6D(4) (Commentary), and 6D(5)(a).

32  
33 “Law” denotes court rules as well as statutes, constitutional provisions, and  
34 decisional law. See Canons 1 (Commentary), 2A, 2C (Commentary), 3A, 3B(2),  
35 3B(7), 3B(7)(c), 3B(8), 3B(8) (Commentary), 3B(12) (Commentary), 3E(1), 4B  
36 (Commentary), 4C(3)(c) (Commentary), 4C(3)(d)(ii), 4C(3)(Commentary),  
37 4D(6)(a) (b), 4F, and 4H, and 5D.

38  
39 “Law, the legal system, or the administration of justice.” When a judge engages in  
40 an activity that relates to the law, the legal system, or the administration of justice,  
41 the judge should also consider factors such as whether the activity upholds the  
42 integrity, impartiality, and independence of the judiciary (Canons 1 and 2A),

1 whether it impairs public confidence in the judiciary (Canon 2), whether the judge  
2 is allowing the activity to take precedence over judicial duties (Canon 3A), and  
3 whether engaging in the activity would cause the judge to be disqualified (Canon  
4 4A(4)). See Canons 4B (Commentary), 4C(1), 4C(1) (Commentary), 4C(2), 4C(2)  
5 (Commentary), 4C(3)(a), 4C(3)(b) (Commentary), 4C(3)(d)(ii), 4C(3)(d)  
6 (Commentary), 4D(6)(d), 4D(6)(e), 5A (Commentary), 5D, and 5D  
7 (Commentary).

8  
9 “Member of the judge’s family” denotes a spouse, registered domestic partner,  
10 child, grandchild, parent, grandparent, or other relative or person with whom the  
11 judge maintains a close familial relationship. See Canons 2B(3)(c), 2B  
12 (Commentary), 4C(3)(d)(i), 4D(1) (Commentary), 4D(2), 4D(5) (Commentary),  
13 4E(1), and 4G (Commentary).

14  
15 “Member of the judge’s family residing in the judge’s household” denotes a  
16 spouse or registered domestic partner and those persons who reside in the judge’s  
17 household and who are relatives of the judge including relatives by marriage, or  
18 persons with whom the judge maintains a close familial relationship. See Canons  
19 4D(5), 4D(5) (Commentary), 4D(6), 4D(6)(b) (Commentary), 4D(6)(f) and  
20 6D(2)(c).

21  
22 “Nonprofit youth organization” is any nonprofit corporation or association, not  
23 organized for the private gain of any person, whose purposes are irrevocably  
24 dedicated to benefiting and serving the interests of minors and ~~which~~ that  
25 maintains its nonprofit status in accordance with applicable state and federal tax  
26 laws. See Canons 2C, 2C (Commentary), and 6D(5)(b).

27  
28 “Nonpublic information” denotes information that, by law, is not available to the  
29 public. Nonpublic information may include, but is not limited to, information that  
30 is sealed by statute or court order, impounded, or communicated in camera, and  
31 information offered in grand jury proceedings, presentencing reports, dependency  
32 cases, or psychiatric reports. See Canons 3B(11) and 6D(8)(a).

33  
34 “Pending proceeding” is a proceeding or matter that has commenced. A  
35 proceeding continues to be pending through any period during which an appeal  
36 may be filed and any appellate process until final disposition. The words  
37 “proceeding” and “matter” are used interchangeably, and are intended to have the  
38 same meaning. See Canons 2A (Commentary), 2B(3)(a), 3B(7), 3B(9), 3B(9)  
39 (Commentary), 3E(5)(a), 4H (Commentary), and 6D(6). “Impending proceeding”  
40 is defined above.

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

4  
5 “Registered domestic partner” denotes a person who has registered for domestic  
6 partnership pursuant to state law or who is recognized as a domestic partner  
7 pursuant to Family Code section 299.2. See Canons 3E(5)(d), 3E(5)(e), 3E(5)(i),  
8 4D(6)(d), 4D(6)(f), 4D(6)(j), 4H(2), 5A (Commentary), 6D(3)(a)(v), and  
9 6D(3)(a)(vi).

10  
11 “Require.” Any Canon prescribing that a judge “require” certain conduct of  
12 others means that a judge is to exercise reasonable direction and control over the  
13 conduct of those persons subject to the judge's direction and control. See Canons  
14 3B(3), 3B(4), 3B(6), 3B(8) (Commentary), 3B(9), ~~3C(2)~~ 3C(3), 6D(1), 6D(2)(a),  
15 and 6D(6).

16  
17 “Service organization” includes any organization commonly referred to as a  
18 “fraternal organization.” See Canons 3E(5)(d), 4C(2) (Commentary), 4C(3)(b),  
19 4C(3)(b) (Commentary), 4C(3)(d) (Commentary), 4D(6)(j), and 6D(2)(b).

20  
21 “Subordinate judicial officer.” A subordinate judicial officer is, for the purposes  
22 of this Code, a person appointed pursuant to article VI, section 22 of the  
23 California Constitution, including, but not limited to, a commissioner, referee, and  
24 hearing officer. See Canons 3D(3), 4G (Commentary), and 6A.

25  
26 “Temporary Judge.” A temporary judge is an active or inactive member of the bar  
27 who, pursuant to article VI, section 21 of the California Constitution, serves or  
28 expects to serve as a judge once, sporadically, or regularly on a part-time basis  
29 under a separate court appointment for each period of service or for each case  
30 heard. See Canons 3E(5)(h), 4C(3)(d)(i), 4C(3)(d) (Commentary), 6A, and 6D.

31  
32 “Third degree of relationship” includes the following persons: great-grandparent,  
33 grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-  
34 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 initiate initiating communications with a sentencing judge or a probation  
43 or corrections officer, a representative of a probation department about a

1 proceeding pending\* before the sentencing judge, but may provide information in  
2 response to an official request. “Sentencing judge” includes a judge who makes a  
3 disposition pursuant to Welfare and 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 them these entities with information for the record in response to an  
10 official request.  
11

12 (c) A judge may initiate communications concerning a member of the judge’s  
13 family\* with a probation or corrections officer a representative of a probation  
14 department regarding sentencing, the Board of Parole Hearings regarding parole,  
15 or the Office of the Governor regarding parole, pardon, or commutation of  
16 sentence concerning a member of the judge’s family, provided the judge is not  
17 identified as a judge in the communication.  
18

#### 19 *ADVISORY COMMITTEE COMMENTARY*

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

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

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

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

42 *This ~~C~~canon does not afford judges a privilege against testifying in*  
43 *response to any official summons.*

1           See also Canons 3D(1) and 3D(2) concerning a judge’s obligation to take  
2 appropriate corrective action regarding other judges who violate any provision of  
3 the Code of Judicial Ethics and attorneys who violate any provision of the Rules of  
4 Professional Conduct.

5           ~~Except as set forth in Canon 2B(3)(a), this Canon does not preclude~~  
6 ~~internal discussions consultations among judges regarding the application of~~  
7 ~~substantive or procedural provisions of law\* to any pending criminal or civil case.~~  
8 Additional limitations on such consultations among judges are set forth in Canon  
9 3B(7)(a).

### 11 C. Membership in Organizations

12  
13 A judge shall not hold membership in any organization that practices invidious  
14 discrimination on the basis of race, sex, gender, religion, national origin, ethnicity,  
15 or sexual orientation.

16  
17 This Canon does not apply to membership in a religious organization or an  
18 official military organization of the United States. So long as membership does  
19 not violate Canon 4A, this Canon does not bar membership in a nonprofit youth  
20 organization.\*

#### 22 ADVISORY COMMITTEE COMMENTARY

23           Membership of a judge in an organization that practices invidious  
24 discrimination gives rise to a perception that the judge's impartiality\* is impaired.  
25 This Canon exempts membership in religious and military organizations and,  
26 subject to Canon 4A, does not bar membership in nonprofit youth organizations.\*  
27 These exemptions are necessary because membership in United States military  
28 organizations is subject to current valid military regulations, and religious beliefs  
29 are constitutionally protected. Membership in nonprofit youth organizations\* is  
30 not barred to accommodate individual rights of intimate association and free  
31 expression. See also Canon 3E and its Commentary concerning disqualification  
32 and disclosure.

33           Canon 2C refers to the current practices of the organization. Whether an  
34 organization practices invidious discrimination is often a complex question to  
35 which judges should be sensitive. The answer cannot be determined from a mere  
36 examination of an organization’s current membership rolls but rather depends on  
37 how the organization selects members and other relevant factors, such as whether  
38 the organization is dedicated to the preservation of religious, ethnic, or cultural  
39 values of legitimate common interest to its members, or whether it is in fact and  
40 effect an intimate, purely private organization whose membership limitations  
41 could not be constitutionally prohibited. Absent such factors, an organization is  
42 generally said to discriminate invidiously if it arbitrarily excludes from

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

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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 ~~the~~ 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 ~~court~~ 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, ~~or~~  
2 socioeconomic 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, ~~or~~ socioeconomic status, or political affiliation against parties, witnesses,  
8 counsel, or others. This ~~C~~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, ~~or consider other~~ that is, any communications made to or  
20 from the judge outside the presence of the parties concerning a pending\* or  
21 impending\* proceeding, and shall make reasonable efforts to avoid such  
22 communications, except as follows:

23  
24 ~~(a) A judge may obtain the advice of a disinterested expert on the law applicable~~  
25 ~~to a proceeding\* before the judge if the judge gives notice to the parties of the~~  
26 ~~person consulted and the substance of the advice, and affords the parties~~  
27 ~~reasonable opportunity to respond.~~

28  
29 ~~(b) (a) Except as stated below, a A judge may consult with court personnel whose~~  
30 ~~function is to aid the judge in carrying out the judge's adjudicative responsibilities~~  
31 ~~or with other judges. A judge shall not engage in discussions about a case with a~~  
32 ~~judge who has previously been disqualified from hearing that matter; likewise, a~~  
33 ~~judge who knows\* he or she is or would be disqualified from hearing a case shall~~  
34 ~~not discuss that matter with the judge assigned to the case. A judge also shall not~~  
35 ~~engage in discussions with a judge who may participate in appellate review of the~~  
36 ~~matter, nor shall a judge who may participate in appellate review of a matter~~  
37 ~~engage in discussions with the judge presiding over the case.~~

38  
39 A judge may consult with court personnel or others authorized by law,\* so long as  
40 the communication relates to that person's duty to aid the judge in carrying out the  
41 judge's adjudicative responsibilities.

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

5  
6 For purposes of Canon 3B(7)(a), “court personnel” includes bailiffs, court  
7 reporters, court externs, research attorneys, courtroom clerks, and other employees  
8 of the court, but does not include the lawyers in a proceeding before a judge,  
9 persons who are appointed by the court to serve in some capacity in a proceeding,  
10 or employees of other governmental entities, such as lawyers, social workers, or  
11 representatives of the probation department.

12  
13 ADVISORY COMMITTEE COMMENTARY

14 Regarding communications between a judge presiding over a matter and a  
15 judge of a court with appellate jurisdiction over that matter, see also Government  
16 Code section 68070.5

17 Though a judge may have ex parte discussions with appropriate court  
18 personnel, a judge may do so only on matters that are within the proper  
19 performance of that person’s duties. For example, a bailiff may inform the judge  
20 of a threat to the judge or to the safety and security of the courtroom, but may not  
21 tell the judge ex parte that a defendant was overheard making an incriminating  
22 statement during a court recess. A clerk may point out to the judge a technical  
23 defect in a proposed sentence, but may not suggest to the judge that a defendant  
24 deserves a certain sentence.

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

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

30  
31 ~~(e) A judge may, with the consent of the parties, confer separately with the parties~~  
32 ~~and their lawyers in an effort to mediate or settle matters pending before the judge.~~

33  
34 ~~(d)~~ (b) A judge may initiate, permit, or consider ex parte communications, where  
35 circumstances require, for scheduling, administrative purposes, or emergencies  
36 that do not deal with substantive matters provided:

37  
38 (i) the judge reasonably believes that no party will gain a procedural or  
39 tactical advantage as a result of the ex parte communication, and

40  
41 (ii) the judge makes provision promptly to notify all other parties of the  
42 substance of the ex parte communication and allows an opportunity to  
43 respond.



1 (e) (c) A judge may initiate, permit, or consider any ex parte communication when  
2 expressly authorized by law\* to do so or when authorized to do so by stipulation  
3 of the parties.

4  
5 (d) If a judge receives an unauthorized ex parte communication bearing upon the  
6 substance of a matter, the judge shall make provision promptly to notify the parties  
7 of the substance of the communication and provide the parties with an opportunity  
8 to respond.

9  
10 **ADVISORY COMMITTEE COMMENTARY**

11 An exception allowing a judge, under certain circumstances, to obtain the  
12 advice of a disinterested expert on the law\* has been eliminated from Canon  
13 3B(7) because consulting with legal experts outside the presence of the parties is  
14 inconsistent with core tenets of the adversarial system. Therefore, a judge shall  
15 not consult with legal experts outside the presence of the parties. Evidence Code  
16 section 730 provides for the appointment of an expert if a judge determines that  
17 expert testimony is necessary. A court may also invite the filing of amicus curiae  
18 briefs.

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

22 The proscription against communications concerning a proceeding  
23 includes communications from lawyers, law\* professors, and other persons who  
24 are not participants in the proceeding except to the limited extent permitted by the  
25 exceptions noted in Canon 3B(7).

26 This Canon does not prohibit a judge from initiating or considering an ex  
27 parte communication when authorized to do so by stipulation of the parties.

28 This Canon does not prohibit court staff personnel from communicating  
29 scheduling information or carrying out similar administrative functions.

30 An appropriate and often desirable procedure for a court to obtain the  
31 advice of a disinterested expert on legal issues is to invite the expert to file an  
32 amicus curiae brief.

33 A judge must not independently investigate facts in a case and must  
34 consider only the evidence presented, unless otherwise authorized by law. For  
35 example, a judge is statutorily authorized to investigate and consult witnesses  
36 informally in small claims cases. Code of Civil Procedure section 116.520,  
37 subdivision (c).

38  
39 (8) A judge shall dispose of all judicial matters fairly, promptly, and efficiently. A  
40 judge shall manage the courtroom in a manner that provides all litigants the  
41 opportunity to have their matters fairly adjudicated in accordance with the law.\*

1 *ADVISORY COMMITTEE COMMENTARY*

2 *The obligation of a judge to dispose of matters promptly and efficiently*  
3 *must not take precedence over the judge’s obligation to dispose of the matters*  
4 *fairly and with patience. For example, when a litigant is self-represented, a judge*  
5 *has the discretion to take reasonable steps, appropriate under the circumstances*  
6 *and consistent with the law\* and the canons, to enable the litigant to be heard. A*  
7 *judge should monitor and supervise cases so as to reduce or eliminate dilatory*  
8 *practices, avoidable delays, and unnecessary costs. ~~A judge should encourage and~~*  
9 *~~seek to facilitate settlement, but parties should not feel coerced into surrendering~~*  
10 *~~the right to have their controversy resolved by the courts.~~*

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

15  
16 (9) A judge shall not make any public comment about a pending\* or impending\*  
17 proceeding in any court, and shall not make any nonpublic comment that might  
18 substantially interfere with a fair trial or hearing. The judge shall require\* similar  
19 abstention on the part of staff and court personnel subject to the judge’s direction  
20 and control. This ~~C~~canon does not prohibit judges from making statements in the  
21 course of their official duties or from explaining ~~for public information~~ the  
22 procedures of the court, and does not apply to proceedings in which the judge is a  
23 litigant in a personal capacity. Other than cases in which the judge has personally  
24 participated, this ~~C~~canon does not prohibit judges from discussing in legal  
25 education programs and materials, cases and issues pending in appellate courts.  
26 This educational exemption does not apply to cases over which the judge has  
27 presided or to comments or discussions that might interfere with a fair hearing of  
28 the case.

29  
30 *ADVISORY COMMITTEE COMMENTARY*

31 *The requirement that judges abstain from public comment regarding a*  
32 *pending\* or impending\* proceeding continues during any appellate process and*  
33 *until final disposition. A judge shall make reasonable efforts to ascertain whether*  
34 *a case is pending\* or impending\* before commenting on it. This ~~C~~canon does not*  
35 *prohibit a judge from commenting on proceedings in which the judge is a litigant*  
36 *in a personal capacity, but in cases such as a writ of mandamus where the judge is*  
37 *a litigant in an official capacity, the judge must not comment publicly.*

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

42 *Although this canon does not prohibit a judge from commenting on cases*  
43 *that are not pending\* or impending\* in any court, a judge must be cognizant of*

1 the general prohibition in Canon 2 against conduct involving impropriety\* or the  
2 appearance of impropriety.\* A judge should also be aware of the mandate in  
3 Canon 2A that a judge must act at all times in a manner that promotes public  
4 confidence in the integrity\* and impartiality\* of the judiciary. In addition, when  
5 commenting on a case pursuant to this canon, a judge must maintain high  
6 standards of conduct, as set forth in Canon 1.

7 Although a judge is permitted to make nonpublic comments about pending\*  
8 or impending\* cases that will not substantially interfere with a fair trial or  
9 hearing, the judge should be cautious when making any such comments. There is  
10 always a risk that a comment can be misheard, misinterpreted, or repeated. A  
11 judge making such a comment must be mindful of the judge's obligation under  
12 Canon 2A to act at all times in a manner that promotes public confidence in the  
13 integrity\* and impartiality\* of the judiciary. When a judge makes a nonpublic  
14 comment about a case pending\* before that judge, the judge must keep an open  
15 mind and not form an opinion prematurely or create the appearance of having  
16 formed an opinion prematurely.

17  
18 (10) A judge shall not commend or criticize jurors for their verdict other than in a  
19 court order or opinion in a proceeding, but may express appreciation to jurors for  
20 their service to the judicial system and the community.

21  
22 **ADVISORY COMMITTEE COMMENTARY**

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

26  
27 (11) A judge shall not disclose or use, for any purpose unrelated to judicial duties,  
28 nonpublic information\* acquired in a judicial capacity.

29  
30 **ADVISORY COMMITTEE COMMENTARY**

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

34  
35 (12) A judge may participate in settlement conferences or in other efforts to  
36 resolve matters in dispute, including matters pending before the judge. A judge  
37 may, with the express consent of the parties or their lawyers, confer separately  
38 with the parties and/or their lawyers during such resolution efforts. At all times  
39 during such resolution efforts, a judge shall remain impartial\* and shall not engage  
40 in conduct that may reasonably be perceived as coercive.

1 ADVISORY COMMITTEE COMMENTARY

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

6 The judge should keep in mind the effect that the judge's participation in  
7 dispute resolution efforts may have on the judge's impartiality\* or the appearance  
8 of impartiality\* if the case remains with the judge for trial after resolution efforts  
9 are unsuccessful. Accordingly, a judge may wish to consider: (1) whether the  
10 parties or their counsel have requested or objected to the participation by the trial  
11 judge in such discussions; (2) whether the parties and their counsel are relatively  
12 sophisticated in legal matters or the particular legal issues involved in the case;  
13 (3) whether a party is unrepresented; (4) whether the case will be tried by the  
14 judge or a jury; (5) whether the parties will participate with their counsel in  
15 settlement discussions and, if so, the effect of personal contact between the judge  
16 and parties; and (6) whether it is appropriate during the settlement conference for  
17 the judge to express an opinion on the merits or worth of the case or express an  
18 opinion on the legal issues that the judge may later have to rule upon.

19 If a judge assigned to preside over a trial believes participation in  
20 resolution efforts could influence the judge's decision making during trial, the  
21 judge may decline to engage in such efforts.

22 Where dispute resolution efforts of any type are unsuccessful, the judge  
23 should consider whether, due to events that occurred during the resolution efforts,  
24 the judge may be disqualified under the law\* from presiding over the trial. See,  
25 e.g., Code of Civil Procedure section 170.1, subdivision (a)(6)(A).

26  
27 **C. Administrative Responsibilities**

28  
29 (1) A judge shall diligently discharge the judge's administrative responsibilities  
30 impartially,\* on the basis of merit, without bias or prejudice, free of conflict of  
31 interest, and in a manner that promotes public confidence in the integrity\* of the  
32 judiciary. A judge shall not, in the performance of administrative duties, engage  
33 in speech, gestures, or other conduct that would reasonably be perceived as (i) bias  
34 or prejudice, including but not limited to bias or prejudice based upon race, sex,  
35 gender, religion, national origin, ethnicity, disability, age, sexual orientation,  
36 marital status, ~~or~~ socioeconomic status, or political affiliation, or (ii) sexual  
37 harassment. A judge shall maintain professional competence in judicial  
38 administration, and shall cooperate with other judges and court officials in the  
39 administration of court business.

1 *ADVISORY COMMITTEE COMMENTARY*

2 *In considering what constitutes a conflict of interest under this Canon, a*  
3 *judge should be informed by Code of Civil Procedure section 170.1, subdivision*  
4 *(a)(6).*

5  
6 ~~(2) A judge shall require\* staff and court personnel under the judge's direction and~~  
7 ~~control to observe appropriate standards of conduct and to refrain from~~  
8 ~~manifesting bias or prejudice based upon race, sex, religion, national origin,~~  
9 ~~disability, age, sexual orientation, or socioeconomic status in the performance of~~  
10 ~~their official duties. A judge shall maintain professional competence in judicial~~  
11 ~~administration, and shall cooperate with other judges and court officials in the~~  
12 ~~administration of court business.~~

13  
14 ~~(3) A judge with supervisory authority for the judicial performance of other judges~~  
15 ~~shall take reasonable measures to ensure the prompt disposition of matters before~~  
16 ~~them and the proper performance of their other judicial responsibilities. A judge~~  
17 ~~shall require\* staff and court personnel under the judge's direction and control to~~  
18 ~~observe appropriate standards of conduct and to refrain from manifesting bias or~~  
19 ~~prejudice based upon race, sex, gender, religion, national origin, ethnicity,~~  
20 ~~disability, age, sexual orientation, marital status, or socioeconomic status, or~~  
21 ~~political affiliation in the performance of their official duties.~~

22  
23 ~~(4) A judge shall not make unnecessary court appointments. A judge shall exercise~~  
24 ~~the power of appointment impartially\* and on the basis of merit. A judge shall~~  
25 ~~avoid nepotism and favoritism. A judge shall not approve compensation of~~  
26 ~~appointees above the reasonable value of services rendered. A judge with~~  
27 ~~supervisory authority for the judicial performance of other judges shall take~~  
28 ~~reasonable measures to ensure the prompt disposition of matters before them and~~  
29 ~~the proper performance of their other judicial responsibilities.~~

30  
31 *ADVISORY COMMITTEE COMMENTARY*

32 *Appointees of a judge include assigned counsel, officials such as referees,*  
33 *commissioners, special masters, receivers, and guardians, and personnel such as*  
34 *clerks,\* secretaries, court reporters,\* court interpreters,\* and bailiffs.\* Consent*  
35 *by the parties to an appointment or an award of compensation does not relieve the*  
36 *judge of the obligation prescribed by Canon 3C(4).*

37  
38 ~~(5) A judge shall perform administrative duties without bias or prejudice. A judge~~  
39 ~~shall not, in the performance of administrative duties, engage in speech, gestures,~~  
40 ~~or other conduct that would reasonably be perceived as (1) bias or prejudice,~~  
41 ~~including but not limited to bias or prejudice based upon race, sex, religion,~~  
42 ~~national origin, disability, age, sexual orientation, or socioeconomic status, or (2)~~  
43 ~~sexual harassment. A judge shall not make unnecessary court appointments. A~~

1 judge shall exercise the power of appointment impartially,\* on the basis of merit,  
2 without bias or prejudice, free of conflict of interest, and in a manner that  
3 promotes public confidence in the integrity\* of the judiciary. A judge shall avoid  
4 nepotism and favoritism. A judge shall not approve compensation of appointees  
5 above the reasonable value of services rendered.

6  
7 **ADVISORY COMMITTEE COMMENTARY**

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

12  
13 **D. Disciplinary Responsibilities**

14  
15 (1) Whenever a judge has reliable information that another judge has violated any  
16 provision of the Code of Judicial Ethics, the judge shall take ~~or initiate~~ appropriate  
17 corrective action, which may include reporting the violation to the appropriate  
18 authority. (See Commentary following Canon 3D(2).)

19  
20 (2) Whenever a judge has personal knowledge,\* or concludes in a judicial  
21 decision, that a lawyer has committed misconduct or ~~that a lawyer~~ has violated any  
22 provision of the Rules of Professional Conduct, the judge shall take appropriate  
23 corrective action, which may include reporting the violation to the appropriate  
24 authority.

25  
26 **ADVISORY COMMITTEE COMMENTARY**

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

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

36  
37 (3) A judge shall promptly report in writing to the Commission on Judicial  
38 Performance when he or she is charged in court by misdemeanor citation,  
39 prosecutorial complaint, information, or indictment, with any crime in the United  
40 States as specified below. Crimes that must be reported are: (1) all crimes, other  
41 than those that would be considered misdemeanors not involving moral turpitude  
42 or infractions under California law; and (2) all misdemeanors involving violence  
43 (including assaults), the use or possession of controlled substances, the misuse of

1 prescriptions, or the personal use or furnishing of alcohol. A judge also shall  
2 promptly report in writing upon conviction of such crimes.

3  
4 If the judge is a retired judge serving in the Assigned Judges Program, he or she  
5 shall promptly report such information in writing to the Chief Justice rather than to  
6 the Commission on Judicial Performance. If the judge is a subordinate judicial  
7 officer,\* he or she shall promptly report such information in writing to both the  
8 presiding judge of the court in which the subordinate judicial officer\* sits and the  
9 Commission on Judicial Performance.

10  
11 ~~ADVISORY COMMITTEE COMMENTARY:~~

12 ~~Appropriate corrective action could include direct communication with the~~  
13 ~~judge or lawyer who has committed the violation, other direct action if available,~~  
14 ~~or a report of the violation to the presiding judge, appropriate authority, or other~~  
15 ~~agency or body. Judges should note that in addition to the action required by~~  
16 ~~Canon 3D(2), California law imposes additional reporting requirements~~  
17 ~~regarding lawyers.~~

18  
19 (4) A judge shall cooperate with judicial and lawyer disciplinary agencies.

20  
21 ADVISORY COMMITTEE COMMENTARY

22 See Government Code section 68725, which requires judges to cooperate  
23 with and give reasonable assistance and information to the Commission on  
24 Judicial Performance, and rule 104 of the Rules of the Commission on Judicial  
25 Performance, which requires a respondent judge to cooperate with the  
26 commission in all proceedings in accordance with section 68725.

27  
28 (5) A judge shall not retaliate, directly or indirectly, against a person known\* or  
29 suspected to have assisted or cooperated with an investigation of a judge or a  
30 lawyer.

31  
32 **E. Disqualification and Disclosure**

33  
34 (1) A judge shall disqualify himself or herself in any proceeding in which  
35 disqualification is required by law.\*

36  
37 (2) In all trial court proceedings, a judge shall disclose on the record as follows:

38  
39 (a) Information relevant to disqualification

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

4  
5 (b) Campaign contributions in trial court elections

6  
7 (i) Information required to be disclosed

8  
9 In any matter before a judge who is or was a candidate for judicial office\* in a trial  
10 court election, the judge shall disclose any contribution or loan of \$100 or more  
11 from a party, individual lawyer, or law office or firm in that matter as required by  
12 this canon, even if the amount of the contribution or loan would not require  
13 disqualification. Such disclosure shall consist of the name of the contributor or  
14 lender, the amount of each contribution or loan, the cumulative amount of the  
15 contributor's contributions or lender's loans, and the date(s) of each contribution  
16 or loan. The judge shall make reasonable efforts to obtain current information  
17 regarding contributions or loans received by his or her campaign and shall disclose  
18 the required information on the record.

19  
20 (ii) Manner of disclosure

21  
22 The judge shall ensure that the required information is conveyed on the record to  
23 the parties and lawyers appearing in the matter before the judge. The judge has  
24 discretion to select the manner of disclosure, but the manner used shall avoid the  
25 appearance that the judge is soliciting campaign contributions.

26  
27 (iii) Timing of disclosure

28  
29 Disclosure shall be made at the earliest reasonable opportunity after receiving each  
30 contribution or loan. The duty commences no later than one week after receipt of  
31 the first contribution or loan, and continues for a period of two years after the  
32 candidate takes the oath of office, or two years from the date of the contribution or  
33 loan, whichever event is later.

34  
35 ADVISORY COMMITTEE COMMENTARY

36 Code of Civil Procedure section 170.1(a)(9)(C) requires a judge to  
37 “disclose any contribution from a party or lawyer in a matter that is before the  
38 court that is required to be reported under subdivision (f) of Section 84211 of the  
39 Government Code, even if the amount would not require disqualification under  
40 this paragraph.” This statute further provides that the “manner of disclosure  
41 shall be the same as that provided in Canon 3E of the Code of Judicial Ethics.”



1 Canon 3E(2)(b) sets forth the information the judge must disclose, the manner for  
2 making such disclosure, and the timing thereof.

3 “Contribution” includes monetary and in-kind contributions. See Cal.  
4 Code Regs., tit. 2, § 18215, subd. (b)(3). See generally Government Code section  
5 84211(f).

6 Disclosure of campaign contributions is intended to provide parties and  
7 lawyers appearing before a judge during and after a judicial campaign with easy  
8 access to information about campaign contributions that may not require  
9 disqualification but could be relevant to the question of disqualification of the  
10 judge. Depending upon the circumstances, the judge may conclude that the most  
11 effective and efficient manner of providing disclosure is to state the required  
12 information on the record in open court. In the alternative, a judge may determine  
13 that it is more appropriate to disclose on the record that parties and lawyers may  
14 obtain the required information at an easily accessible location in the courthouse,  
15 and provide an opportunity for the parties and lawyers to review the available  
16 information.

17 In addition to the disclosure obligations set forth in Canon 3E(2)(b), a  
18 judge must, pursuant to Canon 3E(2)(a), disclose on the record any other  
19 information that may be relevant to the question of disqualification. As examples,  
20 such an obligation may arise as a result of contributions or loans of which the  
21 judge is aware made by a party, lawyer, or law office or firm appearing before the  
22 judge to a third party in support of the judge or in opposition to the judge’s  
23 opponent; a party, lawyer, or law office or firm’s relationship to the judge or role  
24 in the campaign; or the aggregate contributions or loans from lawyers in one law  
25 office or firm.

26 Canon 3E(2)(b) does not eliminate the obligation of the judge to recuse  
27 where the nature of the contribution or loan, the extent of the contributor’s or  
28 lender’s involvement in the judicial campaign, the relationship of the contributor  
29 or lender, or other circumstance requires recusal under Code of Civil Procedure  
30 section 170.1, and particularly section 170.1, subdivision (a)(6)(A).

31  
32 (3) Judges shall disqualify themselves in accordance with the following:

33  
34 (a) Statements that commit the judge to a particular result

35  
36 A judge is disqualified if the judge, while a judge or candidate for judicial office,\*  
37 has made a statement, other than in a court proceeding, judicial decision, or  
38 opinion, that a person aware of the facts might reasonably believe commits the  
39 judge to reach a particular result or rule in a particular way in a proceeding.

1 (b) Bond ownership

2  
3 Ownership of a corporate bond issued by a party to a proceeding and having a fair  
4 market value exceeding ~~one thousand five hundred dollars~~ \$1,500 is disqualifying.  
5 Ownership of government bonds issued by a party to a proceeding is disqualifying  
6 only if the outcome of the proceeding could substantially affect the value of the  
7 judge's bond. Ownership in a mutual or common investment fund that holds  
8 bonds is not a disqualifying financial interest.

9  
10 ADVISORY COMMITTEE COMMENTARY

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

16  
17 (4) An appellate justice shall disqualify himself or herself in any proceeding if for  
18 any reason:

19  
20 (a) the justice believes his or her recusal would further the interests of justice; or

21  
22 (b) the justice substantially doubts his or her capacity to be impartial;\* or

23  
24 (c) the circumstances are such that a reasonable person aware of the facts would  
25 doubt the justice's ability to be impartial.\*

26  
27 (5) Disqualification of an appellate justice is also required in the following  
28 instances:

29  
30 (a) The appellate justice has appeared or otherwise served as a lawyer in the  
31 pending\* ~~matter~~ proceeding, or has appeared or served as a lawyer in any other  
32 ~~matter~~ proceeding involving any of the same parties if that other ~~matter~~ proceeding  
33 related to the same contested issues of fact and law as the present ~~matter~~  
34 proceeding, or has given advice to any party in the present proceeding upon any  
35 issue involved in the proceeding.

36  
37 ADVISORY COMMITTEE COMMENTARY

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

41  
42 (b) Within the last two years, (i) a party to the proceeding, or an officer, director or  
43 trustee thereof, either was a client of the justice when the justice was engaged in

1 the private practice of law or was a client of a lawyer with whom the justice was  
2 associated in the private practice of law; or (ii) a lawyer in the proceeding was  
3 associated with the justice in the private practice of law.

4  
5 (c) The appellate justice represented a public officer or entity and personally  
6 advised or in any way represented such officer or entity concerning the factual or  
7 legal issues in the present proceeding in which the public officer or entity now  
8 appears.

9  
10 (d) The appellate justice, or his or her spouse or registered domestic partner,\* or a  
11 minor child residing in the household, has a financial interest or is a fiduciary\*  
12 who has a financial interest in the proceeding, or is a director, advisor, or other  
13 active participant in the affairs of a party. A financial interest is defined as  
14 ownership of more than a 1 percent legal or equitable interest in a party, or a legal  
15 or equitable interest in a party of a fair market value exceeding ~~one thousand five~~  
16 ~~hundred dollars~~ \$1,500. Ownership in a mutual or common investment fund that  
17 holds securities does not itself constitute a financial interest; holding office in an  
18 educational, religious, charitable, ~~fraternal~~ service\*, or civic organization does not  
19 confer a financial interest in the organization's securities; and a proprietary  
20 interest of a policyholder in a mutual insurance company or mutual savings  
21 association or similar interest is not a financial interest unless the outcome of the  
22 proceeding could substantially affect the value of the interest. A justice shall  
23 make reasonable efforts to keep informed about his or her personal and fiduciary\*  
24 interests and those of his or her spouse or registered domestic partner\* and of  
25 minor children living in the household.

26  
27 (e) The justice or his or her spouse or registered domestic partner,\* or a person  
28 within the third degree of relationship\* to either of them, or the spouse or  
29 registered domestic partner\* thereof, is a party or an officer, director, or trustee of  
30 a party to the proceeding, or a lawyer or spouse or registered domestic partner\* of  
31 a lawyer in the proceeding is the spouse, registered domestic partner,\* former  
32 spouse, former registered domestic partner,\* child, sibling, or parent of the justice  
33 or of the justice's spouse or registered domestic partner,\* or such a person is  
34 associated in the private practice of law with a lawyer in the proceeding.

35  
36 (f) The justice (i) served as the judge before whom the proceeding was tried or  
37 heard in the lower court, (ii) has a personal knowledge\* of disputed evidentiary  
38 facts concerning the proceeding, or (iii) has a personal bias or prejudice  
39 concerning a party or a party's lawyer.

40  
41 (g) A temporary or permanent physical impairment renders the justice unable  
42 properly to perceive the evidence or conduct the proceedings.

1 (h) The justice has a current arrangement concerning prospective employment or  
2 other compensated service as a dispute resolution neutral or is participating in, or,  
3 within the last two years has participated in, discussions regarding prospective  
4 employment or service as a dispute resolution neutral, or has been engaged in such  
5 employment or service, and any of the following applies:

6  
7 (i) The arrangement is, or the prior employment or discussion was, with a  
8 party to the proceeding;

9  
10 (ii) The matter before the justice includes issues relating to the enforcement  
11 of either an agreement to submit a dispute to an alternative dispute  
12 resolution process or an award or other final decision by a dispute  
13 resolution neutral;

14  
15 (iii) The justice directs the parties to participate in an alternative dispute  
16 resolution process in which the dispute resolution neutral will be an  
17 individual or entity with whom the justice has the arrangement, has  
18 previously been employed or served, or is discussing or has discussed the  
19 employment or service; or

20  
21 (iv) The justice will select a dispute resolution neutral or entity to conduct  
22 an alternative dispute resolution process in the matter before the justice, and  
23 among those available for selection is an individual or entity with whom the  
24 justice has the arrangement, with whom the justice has previously been  
25 employed or served, or with whom the justice is discussing or has discussed  
26 the employment or service.

27  
28 For purposes of ~~this e~~Canon 3E(5)(h), “participating in discussions” or “has  
29 participated in discussions” means that the justice solicited or otherwise indicated  
30 an interest in accepting or negotiating possible employment or service as an  
31 alternative dispute resolution neutral or responded to an unsolicited statement  
32 regarding, or an offer of, such employment or service by expressing an interest in  
33 that employment or service, making any inquiry regarding the employment or  
34 service, or encouraging the person making the statement or offer to provide  
35 additional information about that possible employment or service. If a justice’s  
36 response to an unsolicited statement regarding, a question about, or offer of,  
37 prospective employment or other compensated service as a dispute resolution  
38 neutral is limited to responding negatively, declining the offer, or declining to  
39 discuss such employment or service, that response does not constitute participating  
40 in discussions.

1 For purposes of ~~this e~~Canon 3E(5)(h), “party” includes the parent, subsidiary, or  
2 other legal affiliate of any entity that is a party and is involved in the transaction,  
3 contract, or facts that gave rise to the issues subject to the proceeding.  
4

5 For purposes of ~~this e~~Canon 3E(5)(h), “dispute resolution neutral” means an  
6 arbitrator, a mediator, a temporary judge\* appointed under section 21 of article VI  
7 of the California Constitution, a referee appointed under Code of Civil Procedure  
8 section 638 or 639, a special master, a neutral evaluator, a settlement officer, or a  
9 settlement facilitator.  
10

11 (i) The justice’s spouse or registered domestic partner \*or a person within the third  
12 degree of relationship\* to the justice or his or her spouse or registered domestic  
13 partner,\* or the person’s spouse or registered domestic partner,\* was a witness in  
14 the proceeding.  
15

16 (j) The justice has received a campaign contribution of \$5,000 or more from a  
17 party or lawyer in a matter that is before the court, and either of the following  
18 applies:  
19

20 (i) The contribution was received in support of the justice’s last election, if  
21 the last election was within the last six years; or  
22

23 (ii) The contribution was received in anticipation of an upcoming election.  
24

25 Notwithstanding Canon 3E(5)(j), a justice shall be disqualified based on a  
26 contribution of a lesser amount if required by Canon 3E(4).  
27

28 The disqualification required under Canon 3E(5)(j) may be waived if all parties  
29 that did not make the contribution agree to waive the disqualification.  
30

### 31 *ADVISORY COMMITTEE COMMENTARY*

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

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

42 *Canon 3E(4) sets forth the general standards for recusal of an appellate*  
43 *justice. The term “appellate justice” includes justices of both the Courts of*

1 *Appeal and the Supreme Court. Generally, the provisions concerning*  
2 *disqualification of an appellate justice are intended to assist justices in*  
3 *determining whether recusal is appropriate and to inform the public why recusal*  
4 *may occur.*

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

12 *In some instances, membership in certain organizations may have the*  
13 *potential to give an appearance of partiality, although membership in the*  
14 *organization generally may not be barred by Canon 2C, Canon 4, or any other*  
15 *specific canon. A judge holding membership in an organization should disqualify*  
16 *himself or herself whenever doing so would be appropriate in accordance with*  
17 *Canon 3E(1), 3E(4), or 3E(5) or statutory requirements. In addition, in some*  
18 *circumstances, the parties or their lawyers may consider a judge's membership in*  
19 *an organization relevant to the question of disqualification, even if the judge*  
20 *believes there is no actual basis for disqualification. In accordance with this*  
21 *Canon, a judge should disclose to the parties his or her membership in an*  
22 *organization, in any proceeding in which that information is reasonably relevant*  
23 *to the question of disqualification under Code of Civil Procedure section 170.1,*  
24 *even if the judge concludes there is no actual basis for disqualification.*

1 CANON 4

2  
3 A JUDGE SHALL SO CONDUCT THE JUDGE’S QUASI-JUDICIAL AND  
4 EXTRAJUDICIAL ACTIVITIES AS TO MINIMIZE THE RISK OF  
5 CONFLICT WITH JUDICIAL OBLIGATIONS  
6

7 A. Extrajudicial Activities in General

8  
9 A judge shall conduct all of the judge’s extrajudicial activities so that they do not

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

14  
15  
16  
17  
18 ADVISORY COMMITTEE COMMENTARY

19 *Complete separation of a judge from extrajudicial activities is neither*  
20 *possible nor wise; a judge should not become isolated from the community in*  
21 *which ~~the judge~~ he or she lives. Expressions of bias or prejudice by a judge, even*  
22 *outside the judge’s judicial activities, may cast reasonable doubt on the judge’s*  
23 *capacity to act impartially\* as a judge. Expressions ~~which~~ that may do so include*  
24 *~~jokes~~ inappropriate use of humor or ~~other~~ the use of demeaning remarks*  
25 *~~demeaning individuals on the basis of a classification such as their race, sex,~~*  
26 *~~religion, sexual orientation, or national origin.~~ See Canon 2C and accompanying*  
27 *Commentary.*

28  
29 *Because a judge’s judicial duties take precedence over all other activities*  
30 *(see Canon 3A), a judge must avoid extrajudicial activities that might reasonably*  
31 *result in the judge being disqualified.*

32  
33 B. Quasi-Judicial and Avocational Activities

34  
35 A judge may speak, write, lecture, teach, and participate in activities concerning  
36 legal and nonlegal subject matters, subject to the requirements of this ~~C~~code.

37  
38 ADVISORY COMMITTEE COMMENTARY

39 *As a judicial officer and person specially learned in the law,\* a judge is in*  
40 *a unique position to contribute to the improvement of the law, the legal system,*  
41 *and the administration of justice,\* including revision of substantive and*  
42 *procedural law\* and improvement of criminal and juvenile justice. To the extent*  
43 *that time permits, a judge may do so, either independently or through a bar or*

1 *judicial association or other group dedicated to the improvement of the law.\* It*  
2 *may be necessary to promote legal education programs and materials by*  
3 *identifying authors and speakers by judicial title. This is permissible, provided*  
4 *such use of the judicial title does not contravene Canons 2A and 2B.*

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

### 9 **C. Governmental, Civic, or Charitable Activities**

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

#### 15 **ADVISORY COMMITTEE COMMENTARY**

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

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

#### 31 **ADVISORY COMMITTEE COMMENTARY**

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

41  
42 *Canon 4C(2) does not govern a judge’s service in a nongovernmental*  
43 *position. See Canon 4C(3) permitting service by a judge with organizations*



1 *devoted to the improvement of the law, the legal system, or the administration of*  
2 *justice\* and with educational, religious, charitable, ~~fraternal~~ service,\* or civic*  
3 *organizations not conducted for profit. For example, service on the board of a*  
4 *public educational institution, other than a law school, would be prohibited under*  
5 *Canon 4C(2), but service on the board of a public law school or any private*  
6 *educational institution would generally be permitted under Canon 4C(3).*

7  
8 (3) Subject to the following limitations and the other requirements of this Code,

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

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

19  
20 **ADVISORY COMMITTEE COMMENTARY**

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

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

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

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

39  
40 (c) a judge shall not serve as an officer, director, trustee, or nonlegal advisor if it is  
41 likely that the organization

1 (i) will be engaged in judicial proceedings that would ordinarily come  
2 before the judge, or

3  
4 (ii) will be engaged frequently in adversary proceedings in the court of  
5 which the judge is a member or in any court subject to the appellate  
6 jurisdiction of the court of which the judge is a member.  
7

8 *ADVISORY COMMITTEE COMMENTARY*

9 *The changing nature of some organizations and of their relationship to the*  
10 *law\* makes it necessary for the judge regularly to reexamine the activities of each*  
11 *organization with which the judge is affiliated to determine if it is proper for the*  
12 *judge to continue the affiliation. Some organizations regularly engage in*  
13 *litigation to achieve their goals or fulfill their purposes. Judges should avoid a*  
14 *leadership role in such organizations as it could compromise the appearance of*  
15 *impartiality.\**  
16

17 (d) a judge as an officer, director, trustee, or nonlegal advisor, or as a member or  
18 otherwise

19  
20 (i) may assist such an organization in planning fundraising and may  
21 participate in the management and investment of the organization's funds;  
22 ~~but~~ However, a judge shall not personally participate in the solicitation of  
23 funds or other fundraising activities, except that a judge may privately  
24 solicit funds for such an organization from members of the judge's family\*  
25 or from other judges (excluding court commissioners, referees, retired  
26 judges, court-appointed arbitrators, hearing officers, and temporary  
27 judges\*);  
28

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

32  
33 (iii) shall not personally participate in membership solicitation if the  
34 solicitation might reasonably be perceived as coercive or if the membership  
35 solicitation is essentially a fundraising mechanism, except as permitted in  
36 Canon 4C(3)(d)(i);  
37

38 (iv) shall not permit the use of the prestige of his or her judicial office for  
39 fundraising or membership solicitation but may be a speaker, guest of  
40 honor, or recipient of an award for public or charitable service provided the  
41 judge does not personally solicit funds and complies with Canons 4A(1),  
42 (2), ~~and~~ (3), and (4).  
43

1 ADVISORY COMMITTEE COMMENTARY

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

20 When deciding whether to make recommendations to public and private  
21 fund-granting organizations on projects and programs concerning the law, the  
22 legal system, or the administration of justice,\* a judge should consider whether  
23 that conduct would violate any other provision of this code. For a list of factors to  
24 consider, see the explanation of "law, the legal system, or the administration of  
25 justice" in the terminology section.

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

34  
35 (e) A judge may encourage lawyers to provide pro bono publico legal services.

36  
37 ADVISORY COMMITTEE COMMENTARY

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

1 **D. Financial Activities**

2  
3 (1) A judge shall not engage in financial and business dealings that

4  
5 (a) may reasonably be perceived to exploit the judge’s judicial position, or

6  
7 (b) involve the judge in frequent transactions or continuing business relationships  
8 with lawyers or other persons likely to appear before the court on which the judge  
9 serves.

10  
11 *ADVISORY COMMITTEE COMMENTARY*

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

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

23 *Participation by a judge in financial and business dealings is subject to the*  
24 *general prohibitions in Canon 4A against activities that tend to reflect adversely*  
25 *on impartiality,\* demean the judicial office, or interfere with the proper*  
26 *performance of judicial duties. Such participation is also subject to the general*  
27 *prohibition in Canon 2 against activities involving impropriety\* or the*  
28 *appearance of impropriety\* and the prohibition in Canon 2B against the misuse of*  
29 *the prestige of judicial office.*

30 *In addition, a judge must maintain high standards of conduct in all of the*  
31 *judge’s activities, as set forth in Canon 1.*

32  
33 (2) A judge may, subject to the requirements of this Code, hold and manage  
34 investments of the judge and members of the judge’s family,\* including real  
35 estate, and engage in other remunerative activities. A judge shall not participate  
36 in, nor permit the judge’s name to be used in connection with, any business  
37 venture or commercial advertising that indicates the judge’s title or affiliation with  
38 the judiciary or otherwise lend the power or prestige of his or her office to  
39 promote a business or any commercial venture.

40  
41 (3) A judge shall not serve as an officer, director, manager, or employee of a  
42 business affected with a public interest, including, without limitation, a financial  
43 institution, insurance company, or public utility.

1 *ADVISORY COMMITTEE COMMENTARY*

2 *Although participation by a judge in business activities might otherwise be*  
3 *permitted by Canon 4D, a judge may be prohibited from participation by other*  
4 *provisions of this Code when, for example, the business entity frequently appears*  
5 *before the judge's court or the participation requires significant time away from*  
6 *judicial duties. Similarly, a judge must avoid participating in any business activity*  
7 *if the judge's participation would involve misuse of the prestige of judicial office.*  
8 *See Canon 2B.*

9  
10 (4) A judge shall manage personal investments and financial activities so as to  
11 minimize the necessity for disqualification. As soon as reasonably possible, a  
12 judge shall divest himself or herself of investments and other financial interests  
13 that would require frequent disqualification.

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

20  
21 *ADVISORY COMMITTEE COMMENTARY*

22 *In addition to the prohibitions set forth in Canon 4D(5) regarding gifts,\**  
23 *other laws\* may be applicable to judges, including, for example, Code of Civil*  
24 *Procedure section 170.9 and the Political Reform Act of 1974 (Gov. Code, §*  
25 *81000 et seq.).*

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

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

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

39  
40 (6) A judge shall not accept and shall discourage members of the judge's family  
41 residing in the judge's household\* from accepting a gift,\* bequest, favor, or loan  
42 from anyone except as hereinafter set forth, provided that acceptance would not

1 reasonably be perceived as intended to influence the judge in the performance of  
2 judicial duties:

3  
4 ~~(a) any gift\* incidental to a public testimonial, books, tapes, and other resource~~  
5 ~~materials supplied by publishers on a complimentary basis for official use, or an~~  
6 ~~invitation to the judge and the judge's spouse or registered domestic partner\* or~~  
7 ~~guest to attend a bar related function or an activity devoted to the improvement of~~  
8 ~~the law, the legal system, or the administration of justice;\*~~

9  
10 (a) a gift,\* bequest, favor, or loan from a person whose preexisting relationship  
11 with a judge would prevent the judge under Canon 3E from hearing a case  
12 involving that person;

13  
14 ADVISORY COMMITTEE COMMENTARY

15 *Upon appointment or election as a judge or within a reasonable period of*  
16 *time thereafter, a judge may attend an event honoring the judge's appointment or*  
17 *election as a judge provided that (1) the judge would otherwise be disqualified*  
18 *from hearing any matter involving the person or entity holding or funding the*  
19 *event, and (2) a reasonable person would not conclude that attendance at the*  
20 *event undermines the judge's integrity,\* impartiality,\* or independence.\**

21  
22 ~~(b) advances or reimbursement for the reasonable cost of travel, transportation,~~  
23 ~~lodging, and subsistence which is directly related to participation in any judicial,~~  
24 ~~educational, civic, or governmental program or bar related function or activity,~~  
25 ~~devoted to the improvement of the law, the legal system, or the administration of~~  
26 ~~justice;\*~~

27  
28 ADVISORY COMMITTEE COMMENTARY

29 *Acceptance of an invitation to a law related function is governed by Canon*  
30 *4D(6)(a); acceptance of an invitation paid for by an individual lawyer or group of*  
31 *lawyers is governed by Canon 4D(6)(d).*

32  
33 (b) a gift\* for a special occasion from a relative or friend, if the gift\* is fairly  
34 commensurate with the occasion and the relationship;

35  
36 ADVISORY COMMITTEE COMMENTARY

37 *A gift\* to a judge, or to a member of the judge's family residing in the*  
38 *judge's household,\* that is excessive in value raises questions about the judge's*  
39 *impartiality\* and the integrity\* of the judicial office and might require*  
40 *disqualification of the judge where disqualification would not otherwise be*  
41 *required. See, however, Canon 4D(6)(a).*

1 ~~(e) a gift,\* award, or benefit incident to the business, profession, or other separate~~  
2 ~~activity of a spouse or registered domestic partner\* or other member of the judge's~~  
3 ~~family\* residing in the judge's household,\* including gifts,\* awards, and benefits~~  
4 ~~for the use of both the spouse or registered domestic partner\* or other family~~  
5 ~~member and the judge, provided the gift,\* award, or benefit could not reasonably~~  
6 ~~be perceived as intended to influence the judge in the performance of judicial~~  
7 ~~duties;~~

8  
9 (c) commercial or financial opportunities and benefits, including special pricing  
10 and discounts, and loans from lending institutions in their regular course of  
11 business, if the same opportunities and benefits or loans are made available on the  
12 same terms to similarly situated persons who are not judges;

13  
14 ~~(d) ordinary social hospitality;~~

15  
16 *ADVISORY COMMITTEE COMMENTARY*

17 *Although Canon 4D(6)(d) does not preclude ordinary social hospitality*  
18 *between members of the bench and bar, a judge should carefully weigh*  
19 *acceptance of such hospitality to avoid any appearance of bias. See Canon 2B.*  
20

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

26  
27 ~~(e) a gift\* for a special occasion from a relative or friend, if the gift\* is fairly~~  
28 ~~commensurate with the occasion and the relationship;~~

29  
30 *ADVISORY COMMITTEE COMMENTARY*

31 *A gift\* to a judge, or to a member of the judge's family residing in the*  
32 *judge's household,\* that is excessive in value raises questions about the judge's*  
33 *impartiality\* and the integrity\* of the judicial office and might require*  
34 *disqualification of the judge where disqualification would not otherwise be*  
35 *required. See, however, Canon 4D(6)(f).*  
36

37 (e) advances or reimbursement for the reasonable cost of travel, transportation,  
38 lodging, and subsistence that is directly related to participation in any judicial,  
39 educational, civic, or governmental program or bar-related function or activity,  
40 devoted to the improvement of the law, the legal system, or the administration of  
41 justice;\*

1 ADVISORY COMMITTEE COMMENTARY

2 Acceptance of an invitation to a law-related function is governed by Canon  
3 4D(6)(d); acceptance of an invitation paid for by an individual lawyer or group of  
4 lawyers is governed by Canon 4D(6)(g). See also Canon 4H(2) and  
5 accompanying Commentary.

6  
7 ~~(f) a gift,\* bequest, favor, or loan from a relative or close personal friend whose~~  
8 ~~appearance or interest in a case would in any event require disqualification under~~  
9 ~~Canon 3E;~~

10  
11 (f) a gift,\* award, or benefit incident to the business, profession, or other separate  
12 activity of a spouse or registered domestic partner\* or other member of the judge's  
13 family residing in the judge's household,\* including gifts,\* awards, and benefits  
14 for the use of both the spouse or registered domestic partner\* or other family  
15 member and the judge;

16  
17 ~~(g) a loan in the regular course of business on the same terms generally available~~  
18 ~~to persons who are not judges;~~

19  
20 (g) ordinary social hospitality;

21  
22 ADVISORY COMMITTEE COMMENTARY

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

29  
30 (h) a scholarship or fellowship awarded on the same terms and based on the same  
31 criteria applied to other applicants; ;

32  
33 (i) rewards and prizes given to competitors or participants in random drawings,  
34 contests, or other events that are open to persons who are not judges;

35  
36 (j) an invitation to the judge and the judge's spouse, registered domestic partner,\*  
37 or guest to attend an event sponsored by an educational, religious, charitable,  
38 service,\* or civic organization with which the judge is associated or involved, if  
39 the same invitation is offered to persons who are not judges and who are similarly  
40 engaged with the organization.



1 **E. Fiduciary\* Activities**

2  
3 (1) A judge shall not serve as executor, administrator, or other personal  
4 representative, trustee, guardian, attorney in fact, or other fiduciary,\* except for  
5 the estate, trust, or person of a member of the judge’s family,\* and then only if  
6 such service will not interfere with the proper performance of judicial duties.

7  
8 (2) A judge shall not serve as a fiduciary\* if it is likely that the judge as a  
9 fiduciary\* will be engaged in proceedings that would ordinarily come before the  
10 judge, or if the estate, trust, or minor or conservatee becomes engaged in contested  
11 proceedings in the court on which the judge serves or one under its appellate  
12 jurisdiction.

13  
14 (3) The same restrictions on financial activities that apply to a judge personally  
15 also apply to the judge while acting in a fiduciary\* capacity.

16  
17 *ADVISORY COMMITTEE COMMENTARY*

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

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

24  
25 **F. Service as Arbitrator or Mediator**

26  
27 A judge shall not act as an arbitrator or mediator or otherwise perform judicial  
28 functions in a private capacity unless expressly authorized by law.\*

29  
30 *ADVISORY COMMITTEE COMMENTARY*

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

34  
35 **G. Practice of Law**

36  
37 A judge shall not practice law.

38  
39 *ADVISORY COMMITTEE COMMENTARY*

40 *This prohibition refers to the practice of law in a representative capacity*  
41 *and not in a pro se capacity. A judge may act for himself or herself in all legal*  
42 *matters, including matters involving litigation and matters involving appearances*  
43 *before or other dealings with legislative and other governmental bodies.*

1 *However, in so doing, a judge must not abuse the prestige of office to advance the*  
2 *interests of the judge or member of the judge’s family.\* See Canon 2B.*

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

5  
6 **H. Compensation, and Reimbursement, and Honoraria**

7  
8 A judge may receive compensation and reimbursement of expenses as provided by  
9 law\* for the extrajudicial activities permitted by this Code, if the source of such  
10 payments does not give the appearance of influencing the judge’s performance of  
11 judicial duties or otherwise give the appearance of impropriety.\*

12  
13 (1) Compensation shall not exceed a reasonable amount nor shall it exceed what a  
14 person who is not a judge would receive for the same activity.

15  
16 (2) Expense reimbursement shall be limited to the actual cost of travel, food,  
17 lodging, and other costs reasonably incurred by the judge and, where appropriate  
18 to the occasion, by the judge’s spouse or registered domestic partner\* or guest.  
19 Any payment in excess of such an amount is compensation.

20  
21 (3) No judge shall accept any honorarium. “Honorarium” means any payment  
22 made in consideration for any speech given, article published, or attendance at any  
23 public or private conference, convention, meeting, social event, meal, or like  
24 gathering. “Honorarium” does not include earned income for personal services  
25 that are customarily provided in connection with the practice of a bona fide  
26 business, trade, or profession, such as teaching or writing for a publisher, and does  
27 not include fees or other things of value received pursuant to Penal Code section  
28 94.5 for performance of a marriage. For purposes of this canon, “teaching” shall  
29 include presentations to impart educational information to lawyers in events  
30 qualifying for credit under Mandatory Continuing Legal Education, to students in  
31 bona fide educational institutions, and to associations or groups of judges.

32  
33 ***ADVISORY COMMITTEE COMMENTARY***

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

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

1 (a) whether the sponsor is an accredited educational institution or bar  
2 association rather than a trade association or a for-profit entity;

3  
4 (b) whether the funding comes largely from numerous contributors rather  
5 than from a single entity, and whether the funding is earmarked for  
6 programs with specific content;

7  
8 (c) whether the content is related or unrelated to the subject matter of a  
9 pending\* or impending\* proceeding before the judge, or to matters that are  
10 likely to come before the judge;

11  
12 (d) whether the activity is primarily educational rather than recreational,  
13 and whether the costs of the event are reasonable and comparable to those  
14 associated with similar events sponsored by the judiciary, bar associations,  
15 or similar groups;

16  
17 (e) whether information concerning the activity and its funding sources is  
18 available upon inquiry;

19  
20 (f) whether the sponsor or source of funding is generally associated with  
21 particular parties or interests currently appearing or likely to appear in the  
22 judge's court, thus possibly requiring disqualification of the judge;

23  
24 (g) whether differing viewpoints are presented;

25  
26 (h) whether a broad range of judicial and nonjudicial participants are  
27 invited; and

28  
29 (i) whether the program is designed specifically for judges.

30  
31 Judges should be aware of the statutory limitations on accepting gifts,  
32 including honoraria.\*

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CANON 5

**A JUDGE OR JUDICIAL CANDIDATE FOR JUDICIAL OFFICE\* SHALL  
REFRAIN FROM INAPPROPRIATE 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, ~~avoid~~ not engage in political activity that may create the appearance of political bias or impropriety.\* Judicial independence,\* ~~and impartiality,\* and integrity\*~~ should 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 ~~five hundred dollars~~ \$500 in any calendar year per political party or political organization\* or candidate, or in excess of an aggregate of ~~one thousand dollars~~ \$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, ~~without the provided~~ the judge does not use of the judge’s his or her official title.*

1           In judicial elections, judges are neither required to shield themselves from  
2 campaign contributions nor are they prohibited from soliciting contributions from  
3 anyone, including attorneys. Nevertheless, there are necessary limits on judges  
4 facing election if the appearance of impropriety\* is to be avoided. In soliciting  
5 campaign contributions or endorsements, a judge shall not use the prestige of  
6 judicial office in a manner that would reasonably be perceived as coercive. See  
7 Canons 1, 2, 2A, and 2B. Although it is improper for a judge to receive a gift\*  
8 from an attorney subject to exceptions noted in Canon 4D(6), a judge's campaign  
9 may receive attorney contributions.

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

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

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

28           Although family members of the judge's or candidate for judicial office\*  
29 family are not subject to the provisions of this Code, a judge or candidate for  
30 judicial office\* shall not avoid compliance with this Code by making  
31 contributions through a spouse or registered domestic partner\* or other family  
32 member.

## 33 34 **B. Conduct During Judicial Campaigns and Appointment Process**

35  
36 (1) A candidate for ~~election~~ judicial office\* or an applicant seeking appointment to  
37 judicial office shall not:

38  
39 (1) (a) make statements to the electorate or the appointing authority that commit  
40 the candidate or the applicant with respect to cases, controversies, or issues that  
41 ~~could~~ are likely to come before the courts, or  
42

1 ~~(2)~~ (b) knowingly,\* or with reckless disregard for the truth, misrepresent the  
2 identity, qualifications, present position, or any other fact concerning ~~the candidate~~  
3 himself or herself or his or her opponent or other applicants.  
4

5 (2) A candidate for judicial office\* shall review and approve the content of all  
6 campaign statements and materials produced by the candidate or his or her  
7 campaign committee before their dissemination. A candidate shall take  
8 appropriate corrective action if the candidate learns of any misrepresentations  
9 made in his or her campaign statements or materials. A candidate shall take  
10 reasonable measures to prevent any misrepresentations being made in his or her  
11 support by third parties. A candidate shall take reasonable measures to ensure that  
12 appropriate corrective action is taken if the candidate learns of any  
13 misrepresentations being made in his or her support by third parties.  
14

15 (3) Every candidate for judicial office\* shall complete a judicial campaign ethics  
16 course approved by the Supreme Court no earlier than one year before or no later  
17 than 60 days after either the filing of a declaration of intention by the candidate,  
18 the formation of a campaign committee, or the receipt of any campaign  
19 contribution, whichever is earliest. This requirement does not apply to judges who  
20 are unopposed for election and will not appear on the ballot. This requirement  
21 also does not apply to appellate justices who have not formed a campaign  
22 committee.  
23

#### 24 *ADVISORY COMMITTEE COMMENTARY*

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

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

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

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

1            The time limit for completing a judicial campaign ethics course in Canon  
2 5B(3) is triggered by the earliest of either the filing of a declaration of intention,  
3 formation of a campaign committee, or receipt of any campaign contribution. A  
4 financial contribution by a candidate for judicial office\* to his or her own  
5 campaign constitutes receipt of a campaign contribution.  
6

### 7 **C. Speaking at Political Gatherings**

8

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

### 11 **D. Measures to Improve the Law**

12

13 ~~Except as otherwise permitted in this Code, judges shall not engage in any~~  
14 ~~political activity, other than in relation to measures concerning the improvement of~~  
15 ~~the law, the legal system, or the administration of justice. A judge or candidate for~~  
16 ~~judicial office\* may engage in activity in relation to measures concerning~~  
17 ~~improvement of the law, the legal system, or the administration of justice,\* only if~~  
18 ~~the conduct is consistent with this code.~~  
19

### 20 ADVISORY COMMITTEE COMMENTARY

21

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

1  
2  
3 **CANON 6**

4 **COMPLIANCE WITH THE CODE OF JUDICIAL ETHICS**

5 **A. Judges**

6  
7 Anyone who is an officer of the state judicial system and who performs judicial  
8 functions, including, but not limited to, a subordinate judicial officer,\* magistrate,  
9 court-appointed arbitrator, judge of the State Bar Court, temporary judge,\* and  
10 special master, is a judge within the meaning of this Code. All judges shall  
11 comply with this Code except as provided below.

12  
13 *ADVISORY COMMITTEE COMMENTARY*

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

19  
20 **B. Retired Judge Serving in the Assigned Judges Program**

21  
22 A retired judge who has filed an application to serve on assignment, meets the  
23 eligibility requirements set by the Chief Justice for service, and has received an  
24 acknowledgment of participation in the Assigned Judges Program shall comply  
25 with all provisions of this Code, except for the following:

26  
27 4C(2)—Appointment to governmental positions

28  
29 4E—Fiduciary\* activities

30  
31 **C. Retired Judge as Arbitrator or Mediator**

32  
33 A retired judge serving in the Assigned Judges Program is not required to  
34 comply with Canon 4F of this Code relating to serving as an arbitrator or  
35 mediator, or performing judicial functions in a private capacity, except as  
36 otherwise provided in the *Standards and Guidelines for Judges Serving on*  
37 *Judicial Assignments* promulgated by the Chief Justice.

38  
39 *ADVISORY COMMITTEE COMMENTARY*

40 *In California, article VI, section 6 of the California Constitution provides*  
41 *that a “retired judge who consents may be assigned to any court” by the Chief*  
42 *Justice. Retired judges who are serving in the Assigned Judges Program*  
43 *pursuant to the above provision are bound by Canon 6B, including the*



1 *requirement of Canon 4G barring the practice of law. Other provisions of*  
2 *California law,\* and standards and guidelines for eligibility and service set by the*  
3 *Chief Justice, further define the limitations on who may serve on assignment.*  
4

5 **D. Temporary Judge,\* Referee, or Court-Appointed Arbitrator<sup>1</sup>**  
6

7 A temporary judge,\* a person serving as a referee pursuant to Code of Civil  
8 Procedure section 638 or 639, or a court-appointed arbitrator shall comply only  
9 with the following ~~€~~code provisions:  
10

11 (1) A temporary judge,\* referee, or court-appointed arbitrator shall comply with  
12 Canons 1 [integrity\* and independence\* of the judiciary], 2A [promoting public  
13 confidence], 3B(3) [order and decorum], ~~and 3B(4)~~ [patient, dignified, and  
14 courteous treatment], 3B(6) [require\* lawyers to refrain from manifestations of  
15 any form of bias or prejudice], 3D(1) [action regarding misconduct by another  
16 judge], and 3D(2) [action regarding misconduct by a lawyer], when the temporary  
17 judge,\* referee, or court-appointed arbitrator is actually presiding in a proceeding  
18 or communicating with the parties, counsel, or staff or court personnel while  
19 serving in the capacity of a temporary judge,\* referee, or court-appointed  
20 arbitrator in the case.  
21

22 (2) A temporary judge,\* referee, or court-appointed arbitrator shall, from the time  
23 of notice and acceptance of appointment until termination of the appointment:  
24

25 (a) Comply with Canons 2B(1) [not allow family or other relationships to  
26 influence judicial conduct], 3B(1) [hear and decide all matters unless disqualified],  
27 ~~and 3B(2)~~ [be faithful to and maintain competence in the law\*], 3B(5) [perform  
28 judicial duties without bias or prejudice], 3B(7) [accord full right to be heard to  
29 those entitled; avoid ex parte communications, except as specified], ~~and 3B(8)~~  
30 [dispose of matters fairly and promptly], 3B(12) [remain impartial\* and not  
31 engage in coercive conduct during efforts to resolve disputes], 3C(1) [discharge  
32 administrative responsibilities without bias and with competence and  
33 cooperatively], ~~(2) 3C(3)~~ [require\* staff and court personnel to observe standards  
34 of conduct and refrain from bias and prejudice], and ~~(4) 3C(5)~~ [make only fair,  
35 necessary, and appropriate appointments];  
36

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

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<sup>1</sup> 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\* to  
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 (6) A temporary judge,\* referee, or court-appointed arbitrator, from the time of  
32 notice and acceptance of appointment until the case is no longer pending in any  
33 court, shall not make any public comment about a pending\* or impending\*  
34 proceeding in which the temporary judge,\* referee, or court-appointed arbitrator  
35 has been engaged, and shall not make any nonpublic comment that might  
36 substantially interfere with such proceeding. The temporary judge,\* referee, or  
37 court-appointed arbitrator shall require\* similar abstention on the part of staff and  
38 court personnel subject to his or her control. This ~~C~~an~~o~~n does not prohibit the  
39 following:

40  
41 (a) Statements made in the course of the official duties of the temporary judge,\*  
42 referee, or court-appointed arbitrator; and

1 (b) Explanations ~~for public information~~ about the procedures of the court.

2  
3 (7) From the time of appointment and continuing for two years after the case is no  
4 longer pending\* in any court, a temporary judge,\* referee, or court-appointed  
5 arbitrator shall under no circumstances accept a gift,\* bequest, or favor from a  
6 party, person, or entity whose interests have come before the temporary judge,\*  
7 referee, or court-appointed arbitrator in the matter. The temporary judge,\* referee,  
8 or court-appointed arbitrator shall discourage family members residing in the  
9 household of the temporary judge,\* referee, or court-appointed arbitrator from  
10 accepting any benefits from such parties, persons or entities during the time period  
11 stated in this subdivision. The demand for or receipt by a temporary judge,\*  
12 referee, or court-appointed arbitrator of a fee for his or her services rendered or to  
13 be rendered shall not be a violation of this ~~C~~anon.

14  
15 (8) A temporary judge,\* referee, or court-appointed arbitrator shall, from time of  
16 notice and acceptance of appointment and continuing indefinitely after the  
17 termination of the appointment:

18  
19 (a) Comply with Canon 3(B)(11) [no disclosure of nonpublic information\*  
20 acquired in a judicial capacity] (except as required by law\*);

21  
22 (b) Not commend or criticize jurors sitting in a proceeding before the temporary  
23 judge,\* referee, or court-appointed arbitrator for their verdict other than in a court  
24 order or opinion in such proceeding, but may express appreciation to jurors for  
25 their service to the judicial system and the community; and

26  
27 (c) Not lend the prestige of judicial office to advance his, her, or another person's  
28 pecuniary or personal interests and not use his or her judicial title in any written  
29 communication intended to advance his, her, or another person's pecuniary or  
30 personal interests, except to show his, her, or another person's qualifications.

31  
32 (9)(a) A temporary judge\* appointed under rule 2.810 of the California Rules of  
33 Court, from the time of appointment and continuing indefinitely after the  
34 termination of the appointment, shall not use his or her title or service as a  
35 temporary judge\* (1) as a description of the lawyer's current or former principal  
36 profession, vocation, or occupation on a ballot designation for judicial or other  
37 elected office, (2) in an advertisement about the lawyer's law firm or business, or  
38 (3) on a letterhead, business card, or other document that is distributed to the  
39 public identifying the lawyer or the lawyer's law firm.

40  
41 (b) This ~~C~~anon does not prohibit a temporary judge\* appointed under rule 2.810  
42 of the California Rules of Court from using his or her title or service as a  
43 temporary judge\* on an application to serve as a temporary judge,\* including an

1 application in other courts, on an application for employment or for an  
2 appointment to a judicial position, on an individual resume or a descriptive  
3 statement submitted in connection with an application for employment or for  
4 appointment or election to a judicial position, or in response to a request for  
5 information about the public service in which the lawyer has engaged.

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

16  
17 (11) A lawyer who has been a temporary judge,\* referee, or court-appointed  
18 arbitrator in a matter shall not accept any representation relating to the matter  
19 without the informed written consent of all parties.

20  
21 (12) When by reason of serving as a temporary judge,\* referee, or court-appointed  
22 arbitrator in a matter, he or she has received confidential information from a party,  
23 the person shall not, without the informed written consent of the party, accept  
24 employment in another matter in which the confidential information is material.

25  
26 **ADVISORY COMMITTEE COMMENTARY**

27 *Any exceptions to the €canons do not excuse a judicial officer's separate*  
28 *statutory duty to disclose information that may result in the judicial officer's*  
29 *recusal or disqualification.*

30  
31 **E. Judicial Candidate**

32  
33 A candidate for judicial office\* shall comply with the provisions of Canon 5.

34  
35 **F. Time for Compliance**

36  
37 A person to whom this €code becomes applicable shall comply immediately with  
38 all provisions of this €code except ~~4D(2)~~ 4D(4) and ~~4F~~ 4E and shall  
39 comply with these €canons as soon as reasonably possible and shall do so in any  
40 event within a 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\**  
4 *but 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 ~~*Similarly, if engaged at the time of judicial selection in a business activity, a new*~~  
7 ~~*judge may, notwithstanding the prohibitions in Canon 4D(2), continue in that*~~  
8 ~~*activity for a reasonable period but in no event longer than one year.*~~

9  
10 **G. (Canon 6G repealed effective June 1, 2005; adopted December 30, 2002.)**

11  
12 **H. Judges on Leave Running for Other Public Office**

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

18  
19 2B(2)—Lending the prestige of judicial office to advance the judge’s personal  
20 interest

21  
22 ~~2B(4)—Using the judicial title in written communications intended to advance the~~  
23 ~~judge’s personal interest~~

24  
25 4C(1)—Appearing at public hearings

26  
27 5—Engaging in political activity (including soliciting and accepting campaign  
28 contributions for the other public office).

29  
30 *ADVISORY COMMITTEE COMMENTARY*

31 *These exceptions are applicable only during the time the judge is on leave*  
32 *while running for other public office. All of the provisions of this Code will*  
33 *become applicable at the time a judge resumes his or her position as a judge.*  
34 *Conduct during elections for judicial office is governed by Canon 5.*  
35