

**OHIO CODE OF JUDICIAL CONDUCT**  
(Effective March 1, 2009; as amended June 6, 2017)

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**Note:** Except for Latin terms, words and phrases that appear in italicized type in each rule denote terms that are defined in Terminology or Rule 4.6.

**Appendix A:** Correlation Table—2009 Ohio Code to Former Ohio Code

**Appendix B:** Correlation Table—Former Ohio Code to 2009 Ohio Code

## **Preamble**

[1] An independent, fair, and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the rules contained in this code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

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

[3] The Ohio Code of Judicial Conduct establishes standards for the ethical conduct of judges and judicial candidates. The code is not intended as an exhaustive guide for the conduct of judges and judicial candidates, who are governed in their judicial and personal conduct by general ethical standards as well as by the code. The code is intended, however, to provide guidance and assist judges in maintaining the highest standards of judicial and personal conduct and to provide a basis for regulating their conduct through disciplinary agencies.

## **Scope**

[1] The Ohio Code of Judicial Conduct consists of four canons, numbered rules under each canon, and comments that generally follow and explain each rule. Scope and Terminology sections provide additional guidance in interpreting and applying the code. The Application section establishes when the various rules apply to a judge or judicial candidate.

[2] The canons state overarching principles of judicial ethics that all judges must observe. Although a judge may be disciplined only for violating a rule, the canons provide important guidance in interpreting the rules. Where a rule contains a permissive term, such as “may” or “should,” the conduct being addressed is committed to the personal and professional discretion of the judge or candidate in question, and no disciplinary action should be taken for action or inaction within the bounds of such discretion.

[3] The comments that accompany the rules serve two functions. First, they provide guidance regarding the purpose, meaning, and proper application of the rules. They contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. Comments neither add to nor subtract from the binding obligations set forth in the rules. Therefore, when a comment contains the term “must,” it does not

mean that the comment itself is binding or enforceable; it signifies that the rule in question, properly understood, is obligatory as to the conduct at issue.

[4] Second, the comments identify aspirational goals for judges. To implement fully the principles of this code as articulated in the canons, judges should strive to exceed the standards of conduct established by the rules, holding themselves to the highest ethical standards and seeking to achieve those aspirational goals, thereby enhancing the dignity of the judicial office.

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

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

[7] The code is not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

### **Comparison to Ohio Code of Judicial Conduct**

The Preamble is new and contains statements not found in the Ohio Code. Scope [1], [2], [3], and [4] have antecedents in the first paragraph of the existing Preamble, and portions of Scope [5], [6], and [7] are found in the second, third, and fourth paragraphs of the Preamble to the Ohio Code.

### **Comparison to ABA Model Code of Judicial Conduct**

The Preamble and Scope are substantively identical to the Model Code provisions.

## **Application**

The Application section establishes how and when the various rules apply to a judge or judicial candidate.

### **I. Applicability of this Code**

(A) This code applies to all fulltime judges. The Application section identifies provisions that do not apply to distinct categories of judges. Canon 4 applies to judicial candidates.

(B) A judge, within the meaning of this code, is a lawyer who is authorized to perform judicial functions within a court, including an officer such as a magistrate, court commissioner, or special master.

### **Comment**

[1] The rules in this code have been formulated to address the ethical obligations of any person who serves a judicial function and are premised upon the supposition that a uniform system of ethical principles should apply to all those authorized to perform judicial functions.

[2] The determination of which category and, accordingly, which specific rules apply to an individual judicial officer, depends upon the facts of the particular judicial service.

[3] [RESERVED]

### **II. Retired Judge Subject to Recall**

This code applies to a retired judge subject to recall for service, who by law is not permitted to practice law, except that a retired judge is not required to comply with either of the following:

(A) Rule 3.9, except while serving as a judge;

(B) Rule 3.8, at any time.

### **Comment**

[1] For the purposes of this section, as long as a retired judge is subject to being recalled for service, the judge is considered to be performing judicial functions.

### **III. Parttime Judge**

(A) This code applies to a judge who serves repeatedly on a parttime basis by election or appointment, except that a parttime judge is not required to comply with Rules 3.4, 3.8, 3.9, 3.10, and 3.11(A) and (B), at any time.

(B) A parttime judge shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other related proceeding.

#### **Comment**

[1] When a person who has been a parttime judge is no longer a parttime judge, including a retired judge no longer subject to recall, that person may act as a lawyer in a proceeding in which he or she has served as a judge or in any other related proceeding only with the informed consent of all parties and pursuant to Rule 1.12 of the Ohio Rules of Professional Conduct.

[2] Division (B) prohibits a parttime judge from appearing in his or her own court and from appearing in another court from which matters may be appealed to the parttime judge's court. For example, a parttime judge could not practice in a mayor's court within the territorial jurisdiction of the court on which the parttime judge serves.

### **IV. [RESERVED]**

### **V. Acting Judge**

This code applies to an acting judge who serves or expects to serve once or only sporadically on a parttime basis by appointment made pursuant to R.C. 1901.10, 1901.12, or 1907.14, except that an acting judge is not required to comply with any of the following:

(A) Rules 1.2, 2.4, 2.10, 3.2, 3.12, or 3.13, except while serving as an acting judge;

(B) Rules 3.4, 3.7, 3.8, 3.9, 3.10, 3.11, 3.15, 4.1, 4.2, 4.3, 4.4, 4.5, and 4.6, at any time.

#### **Comment**

[1] An acting judge violates Rule 1.3 by engaging in the solicitation or receipt of campaign contributions on behalf of the judge who appointed the acting judge while serving as an acting judge.

[2] Although division (B) exempts an acting judge from compliance with Rules 4.1 to 4.6, this exemption does not apply to an acting judge who is a judicial candidate as defined in Rule 4.6. See Rule 8.2(b) of the Ohio Rules of Professional Conduct.

## **VI. Time for Compliance**

A person to whom this code becomes applicable shall comply immediately with its provisions, except as otherwise provided in Rules 3.8 and 3.11.

### **Comment**

[1] [RESERVED]

#### **Comparison to Ohio Code of Judicial Conduct**

The Application section is analogous to the Compliance section of the Ohio Code.

Part I corresponds to division (A) of the Compliance section.

Part II (retired judges) corresponds to division (D) of the Compliance section. Part II is more restrictive than the Compliance section of the Ohio Code in that it does not include exemptions from compliance by a retired judge with prohibitions related to outside business activities [*c.f.*, Ohio Canon 2(C)(3) and Rule 3.11(B)] and accepting appointments to governmental committees and commissions [*c.f.*, Ohio Canon 4(C)(2) and Rule 3.4].

The exemptions contained in Part III (parttime judges) are analogous to those contained in division (B) of the Compliance section, except that Part III exempts a parttime judge from compliance with Rule 3.9 (Service as an Arbitrator or Mediator).

Part V (acting judges) corresponds to, but is structured differently from, division (C) of the Compliance section. The Ohio Code lists certain provisions from which an acting judge is exempt while serving in that capacity. The new Compliance section adds several exemptions in division (A), but specifies that the acting judge must adhere to the exempted provisions while serving in that capacity. The exemptions listed in division (B) apply at anytime and, except for the addition of Rule 3.7, are substantively identical to those contained in the Ohio Code.

Part V, Comment [1] is intended to clarify that an acting judge, consistent with Rule 1.3, may not engage in political activity, including fundraising on behalf of the appointing judge, while serving as an acting judge. This comment has no antecedent in the Ohio Code. Comment [2] is a restatement of Ohio law as reflected in Rule 4.6(E) [former Ohio Canon 7(A)(1)] and Rule 8.2(b) of the Ohio Rules of Professional Conduct.

Part VI corresponds to the Effective Date of Compliance section of the Ohio Code.

## **Comparison to ABA Model Code of Judicial Conduct**

Part I of the Application section is modified from the Model Code to conform to Ohio law. As executive branch employees, administrative hearing officers are excluded from application of the Code as is the case in the existing Ohio Code. Comment [3] is stricken because it suggests that a court, through the adoption of local rules, can nullify provisions of the Code of Judicial Conduct. Such a suggestion is contrary to the plenary authority of the Supreme Court to regulate the conduct of the judiciary and the concept of prescribing a uniform set of standards applicable to all judicial officers.

Part II contains minor, stylistic changes.

Part III is modified to reflect the nature of parttime judges in Ohio as elected public officials. Comment [2] is added to clarify the limitations on the practice of law by parttime judges.

Part IV is stricken as inapplicable in Ohio.

Part V is modified to reflect the designation of “acting judge” used in Ohio law and other provisions relative to the appointment of acting judges. Two comments are added to Part V to expand on limits on political activity by acting judges and application of Canon 4 to an acting judge who is a candidate for judicial office.

Part VI is modified to reflect Ohio law and the provisions of Rules 3.8 and 3.11.

## Terminology

As used in Canons 1 to 3 of this Code:

“Appropriate authority” means the authority having responsibility for initiation of disciplinary process in connection with the violation to be reported. See Rule 2.15.

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

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

“Domestic partner” means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married. See Rules 2.11, 3.13, and 3.14.

“Economic interest” means ownership of more than a *de minimis* legal or equitable interest. Except for situations in which the judge participates in the management of such a legal or equitable interest or the interest could be substantially affected by the outcome of a proceeding before a judge, “economic interest” does not include any of the following:

- (1) An interest in the individual holdings within a mutual or common investment fund;
- (2) An interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge’s spouse, domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant;
- (3) A deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests;
- (4) An interest in the issuer of government securities held by the judge.

See Rules 1.3, 2.11, and 3.2.

“*Ex parte* communication” means a communication, concerning a *pending* or *impending matter*, between counsel or an unrepresented party and the court when opposing counsel or an unrepresented party is not present or any other communication made to the judge outside the presence of the parties or their lawyers. See Rule 2.9.

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

“Impartial,” “impartiality,” and “impartially” mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge. See Canons 1 and 2 and Rules 1.2, 2.2, 2.10, 2.11, 2.13, 3.1, 3.7, 3.12, 3.13, and 3.14.

“Impending” references a matter or proceeding that is imminent or expected to occur in the near future. See Rules 2.9, 2.10, and 3.13.

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

“Independence” means a judge’s freedom from influence or controls other than those established by law. See Canon 1 and Rules 1.2, 3.1, 3.7, 3.12, 3.13, and 3.14

“Integrity” means probity, fairness, honesty, uprightness, and soundness of character. See Canon 1 and Rules 1.2, 3.1, 3.7, 3.12, 3.13, and 3.14.

“Judicial candidate” has the same meaning as in Rule 4.6. See Rule 2.11.

“Knowingly,” “knowledge,” “known,” and “knows” mean actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances. See Rules 2.11, 2.15, 2.16, 3.5, and 3.6.

“Law” encompasses court rules, including this code and the Ohio Rules of Professional Conduct, statutes, constitutional provisions, and decisional law. See Rules 1.1, 2.1, 2.2, 2.6, 2.7, 2.9, 3.1, 3.2, 3.4, 3.7, 3.9, 3.12, and 3.13.

“Member of the judge’s family” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Rules 3.7, 3.8, 3.10, and 3.11.

“Member of a judge’s family residing in the judge’s household” means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge’s family, who resides in the judge’s household. See Rules 2.11 and 3.13.

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

“Pending” references a matter or proceeding that has commenced. A matter continues to be pending through any appellate process until final disposition. See Rules 2.9, 2.10, and 3.13.

“Specialized docket” means a particular session of court that has received initial or final certification from the Supreme Court pursuant to Rule 36.24 or 36.26 of the Rules of Superintendence of the Courts of Ohio. “Specialized docket” includes, but is not limited to, drug courts, mental health courts, domestic violence courts, child support enforcement courts, sex offender courts, OVI courts, and reentry courts. Courts created in the Ohio Constitution or Revised Code, including appellate courts, common pleas courts, and divisions of a common pleas court, municipal courts, and county courts are not, without more, a specialized docket. See Rule 2.9.

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

### **Comparison to Ohio Code of Judicial Conduct**

The words and phrases defined in the Terminology section are comparable to those found in the corresponding section of the Ohio Code, with the following exceptions:

- “Appropriate authority,” “contribution,” “domestic partner,” “*ex parte* communication,” “impartial,” “impending matter,” “impropriety,” “independence,” “integrity,” “judicial candidate,” “pending matter,” and “specialized docket” are newly defined terms;
- The Ohio Code definition of “court personnel” is not included in the Terminology section.

### **Comparison to ABA Model Code of Judicial Conduct**

The following modifications are made to the ABA Terminology section:

- The definition of “aggregate” is stricken, due to the deletion of Rule 2.11(A)(4), and moved to Rule 4.6;
- The definition of “judicial candidate” is modified to reference the definition in Rule 4.6;
- The definition of “law” is modified to reference specifically the Ohio Code of Judicial Conduct and the Ohio Rules of Professional Conduct;
- The definitions of “member of the candidate’s family,” “personally solicit,” “political organization,” and “public election” are stricken because those terms are not used in Canons 1-3;
- Definitions of “*ex parte* communication” and “specialized docket” are added to correspond to modifications made to Rules 2.9 and 2.11.

## Canon 1

A judge shall uphold and promote the *independence, integrity, and impartiality* of the judiciary, and shall avoid *impropriety* and the appearance of *impropriety*.

## **Rule 1.1. Compliance with the Law**

A judge shall comply with the *law*.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 1.1 is comparable to the first portion of Canon 2 of the Ohio Code.

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 1.1 is identical to Model Rule 1.1, except that the phrase “including the Code of Judicial Conduct” is deleted. See the definition of “law” in the Terminology section.

## **RULE 1.2 Promoting Confidence in the Judiciary**

A judge shall act at all times in a manner that promotes public confidence in the *independence, integrity, and impartiality* of the judiciary, and shall avoid *impropriety* and the appearance of *impropriety*.

### **Comment**

[1] Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.

[2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the code.

[3] Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the rule is necessarily cast in general terms.

[4] Judges should participate in activities that promote ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

[5] Actual improprieties include violations of law, court rules, or provisions of this code. The test for appearance of impropriety is an objective standard that focuses on whether the conduct would create, in reasonable minds, a perception that the judge violated this code, engaged in conduct that is prejudicial to public confidence in the judiciary, or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

[6] A judge should initiate and participate in activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judge must act in a manner consistent with this code. See Rules 3.1 and 3.7.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 1.2 substantially combines the first portion of Canon 2 and the provisions of Canon 1 of the Ohio Code.

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 1.2 is identical to Model Rule 1.2.

Comment [5] is modified to be consistent with *In re Complaint Against Harper* (1996), 77 Ohio St.3d 211 and *Office of Disciplinary Counsel v. Medley* (2001), 93 Ohio St.3d 474.

Comment [6] is modified to broaden the scope of activities that are encouraged.

## **RULE 1.3 Avoiding Abuse of the Prestige of Judicial Office**

A judge shall not abuse the prestige of judicial office to advance the personal or *economic interests* of the judge or others, or allow others to do so.

### **Comment**

[1] It is improper for a judge to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to his or her judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use judicial letterhead to gain an advantage in conducting his or her personal business.

[2] A judge may provide a reference or recommendation for an individual based upon the judge's personal knowledge. The judge may use official letterhead for such reference.

[3] Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees, and by responding to inquiries from such entities concerning the professional qualifications of a person being considered for judicial office. However, a judge should not serve on any screening committee.

[4] Special considerations arise when judges write or contribute to publications of for-profit entities. A judge should not permit anyone associated with the publication of such materials to exploit the judge's office in a manner that violates this rule or other applicable law. A judge who writes or contributes to a publication does not violate this rule by allowing his or her title and judicial experience to be used as a means of identification or to demonstrate an expertise in the subject-matter of the publication.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 1.3, in many respects, is comparable to Ohio Canon 4(A). However, Canon 4(A) uses the standard "lend the prestige of judicial office" as the test for a violation. Rule 1.3 adopts a test that prohibits the "abuse of judicial office." The test for a violation may be less restrictive than under the Ohio Code.

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 1.3 is identical to Model Rule 1.3.

Comment [2] is less restrictive than the Model Rule comment in that it does not require the judge to indicate that the reference is personal, and the perception requirement is removed. Further, Comment [2] is consistent with Advisory Opinions 95-5 and 98-4 issued by the Board of Commissioners on Grievances and Discipline.

Comment [3] is clarified to advise that while a judge may participate in the process of judicial selection, participation as a member of a screening committee is prohibited.

Comment [4] regarding publications has been amended to provide more definitive guidance.

## Canon 2

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

## **RULE 2.1 Giving Precedence to the Duties of Judicial Office**

The duties of judicial office, as prescribed by *law*, shall take precedence over all of a judge's other activities.

### **Comment**

[1] To ensure that judges are available to fulfill their judicial duties, judges must conduct their personal and extrajudicial activities to minimize the risk of conflicts that would result in frequent disqualification or unavailability. See Canon 3.

[2] Although it is not a duty of judicial office unless prescribed by law, judges are encouraged to participate in activities that promote public understanding of and confidence in the justice system.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 2.1 is comparable to Ohio Canon 3(A) and does not depart substantively from that rule.

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 2.1 is modified to substitute the word "other" for the phrase "personal and extrajudicial," thus retaining language found in the Ohio Code. "Other" is broader and more encompassing than the Model Code language.

## **RULE 2.2 Impartiality and Fairness**

A judge shall uphold and apply the *law*, and shall perform all duties of judicial office fairly and *impartially*.

### **Comment**

[1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

[3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this rule.

[4] To ensure self-represented litigants the opportunity to have their matters fairly heard, a judge may make reasonable accommodations to a self-represented litigant consistent with the law. See also Rule 2.6, Comment [1A].

### **Comparison to Ohio Code of Judicial Conduct**

Rule 2.2 is comparable to Ohio Canons 3(B)(2) and (B)(5). Canon 3(B)(2) specifies a judge's duty to be competent in the law and avoid being swayed by outside influences, and the first sentence of Canon 3(B)(5) requires a judge to perform judicial duties without bias or prejudice. By contrast, Rule 2.2 addresses these duties in terms of a judge's responsibility to uphold and apply the law and perform all judicial duties fairly and impartially. Avoiding external influences and maintaining competency are addressed by Rules 2.4 and 2.5, respectively.

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 2.2 is the same as Model Rule 2.2. Comment [4] is modified to be consistent with Ohio law concerning a judge's duties toward self-represented litigants.

## **RULE 2.3 Bias, Prejudice, and Harassment**

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

(C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.

(D) The restrictions of divisions (B) and (C) of this rule do not preclude judges or lawyers from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

### **Comment**

[1] A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

[2] Examples of manifestations of bias or prejudice include, but are not limited to: epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and lawyers in the proceeding, jurors, the media, and others an appearance of bias or prejudice. A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.

[3] Harassment, as referred to in divisions (B) and (C), is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

[4] Sexual harassment includes, but is not limited to, sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 2.3 is substantially comparable to Ohio Canons 3(B)(5) and (6). Rules 2.3(B) and (C) add “sex,” “marital status,” and “political affiliation” to the categories of prohibited discrimination.

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 2.3 is identical to Model Rule 2.3.

## **RULE 2.4 External Influences on Judicial Conduct**

(A) A judge shall not be swayed by public clamor or fear of criticism.

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.

(C) A judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge.

### **Comment**

[1] An independent judiciary requires that judges decide cases according to the law and facts, without regard to whether particular laws or litigants are popular or unpopular with the public, the media, government officials, or the judge's friends or family. Confidence in the judiciary is eroded if judicial decision making is perceived to be subject to inappropriate outside influences.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 2.4(A) is comparable to a sentence contained in Ohio Canon 3(B)(2), and Rule 2.4(B) is comparable to a sentence in Canon 4(A). Rule 2.4(B) uses the phrase "interests or relationships," which is more precise, and therefore preferable to the word "relationships" used in Canon 4(A).

Rule 2.4(C) is comparable to a sentence of Canon 4(A). However, the rule clarifies that a judge must not allow others to convey the impression that any person or organization is in a position to influence the judge.

The comment explains that the purpose of the rule is not only that actual external influences should not influence a judge in the performance of his or her judicial duties, but the judge should not give the impression that he or she can be influenced by persons or organizations or permit others to do so. The Ohio Code commentary does not address this purpose.

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 2.4 is identical to Model Rule 2.4.

## **RULE 2.5 Competence, Diligence, and Cooperation**

(A) A judge shall perform judicial and administrative duties competently and diligently and shall comply with guidelines set forth in the Rules of Superintendence for the Courts of Ohio.

(B) A judge shall cooperate with other judges and court officials in the administration of court business.

### **Comment**

[1] 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.

[2] A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.

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

[4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

[5] In discharging the obligation to cooperate with other judges and court officials in the performance of administrative duties, a judge must place the public's interest in an efficient and well-run court system above any personal or partisan interests. Where good faith differences of opinion exist, unrelated to personal or partisan interests but relative to the administration of court business, the duty to cooperate requires the judge to engage in efforts to reach compromise for the good of the court but does not require compromise.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 2.5 addresses matters previously found in Ohio Canons 3(B)(8) and (C). Rule 2.5(B) contains language from Canon 3(C)(1) regarding cooperation with judges and court officials on administrative matters. "Should," as used in the Canon, is changed to "shall" to reflect the mandatory obligation of the rule.

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 2.5(A) is modified to include language from Ohio Canon 3(B)(8) requiring compliance with the Ohio Rules of Superintendence. Among other requirements, the Rules of

Superintendence include time guidelines for the disposition of cases and statistical reporting requirements applicable to Ohio judges. This language was added to the Ohio Code in 1997 and provides a specific basis for charging misconduct arising from noncompliance with requirements contained in the Rules of Superintendence.

Comment [5] is added to more fully address the cooperation required by Rule 2.5(B).

## **RULE 2.6 Ensuring the Right to Be Heard**

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to *law*.

(B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

### **Comment**

[1] The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.

[1A] The rapid growth in litigation involving self-represented litigants and increasing awareness of the significance of the role of the courts in promoting access to justice have led to additional flexibility by judges and other court officials in order to facilitate a self-represented litigant's ability to be heard. By way of illustration, individual judges have found the following affirmative, nonprejudicial steps helpful in this regard: (1) providing brief information about the proceeding and evidentiary and foundational requirements; (2) modifying the traditional order of taking evidence; (3) refraining from using legal jargon; (4) explaining the basis for a ruling; and (5) making referrals to any resources available to assist the litigant in the preparation of the case.

[2] The judge plays an important role in overseeing the settlement of disputes, but should be careful that efforts to further settlement do not undermine any party's right to be heard according to law. The judge should keep in mind the effect that the judge's participation in settlement discussions may have, not only on the judge's own views of the case, but also on the perceptions of the lawyers and the parties if the case remains with the judge after settlement efforts are unsuccessful. Among the factors that a judge should consider when deciding upon an appropriate settlement practice for a case are: (1) whether the parties have requested or voluntarily consented to a certain level of participation by the judge in settlement discussions; (2) whether the parties and their counsel are relatively sophisticated in legal matters; (3) whether the case will be tried by the judge or a jury; (4) whether the parties participate with their counsel in settlement discussions; (5) whether any parties are unrepresented by counsel; and (6) whether the matter is civil or criminal.

[3] Judges must be mindful of the effect settlement discussions can have, not only on their objectivity and impartiality, but also on the appearance of their objectivity and impartiality. Despite a judge's best efforts, there may be instances when information obtained during settlement discussions could influence a judge's decision making during trial, and, in such instances, the judge should consider whether disqualification may be appropriate. See Rule 2.11(A)(1).

### **Comparison to Ohio Code of Judicial Conduct**

The Ohio Code contains no provision analogous to Rule 2.6.

## **Comparison to ABA Model Code of Judicial Conduct**

Rule 2.6 and Comments [1], [2], and [3] are identical to Model Rule 2.6.

Comment [1A] is new language not found in the Model Rule. The first sentence acknowledges that the number of litigants who represent themselves, voluntarily or involuntarily, is increasing and that for many of those litigants, the lack of familiarity with the law and the rules of procedure may prevent them from participating in a meaningful way. Judges sometimes struggle with the need to facilitate access while maintaining appropriate neutrality. The second sentence of the comment is included to provide some guidance, particularly to trial judges, about how to facilitate access while maintaining appropriate neutrality. The language is adapted, in part, from a comment proposed to the American Bar Association for inclusion in Model Rule 2.6 by Chief Justice Karla Gray of the Montana Supreme Court.

## **RULE 2.7 Responsibility to Decide**

A judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other *law*.

### **Comment**

[1] Judges must be available to decide the matters that come before the court. Although there are times when disqualification is necessary to protect the rights of litigants and preserve public confidence in the independence, integrity, and impartiality of the judiciary, judges must be available to decide matters that come before the courts. Unwarranted disqualification may bring public disfavor to the court and to the judge personally. The dignity of the court, the judge's respect for fulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge's colleagues require that a judge not use disqualification to avoid cases that present difficult, controversial, or unpopular issues.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 2.7 is comparable to Ohio Canon 3(B)(1).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 2.7 is identical to Model Rule 2.7.

## **RULE 2.8 Decorum, Demeanor, and Communication with Jurors**

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

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

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

### **Comment**

[1] The duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 2.5 to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

[2] Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case. This rule does not preclude a judge from expressing appreciation to jurors for their service to the judicial system and the community or from communicating with jurors personally, in writing, or through court personnel to obtain information for the purpose of improving the administration of justice.

[3] A judge who is not otherwise prohibited by law from doing so may meet with jurors who choose to remain after trial but should be careful not to discuss the merits of the case.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 2.8(A) is identical to Ohio Canon 3(B)(3).

Rule 2.8(B) is identical to Ohio Canon 3(B)(4).

Rule 2.8(C) is identical to Ohio Canon 3(B)(10).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 2.8 and Comments [1] and [3] are identical to Model Rule 2.8.

Comment [2] is expanded to set forth permissible conduct involving jurors.

## **RULE 2.9 *Ex Parte* Contacts and Communications with Others**

(A) A judge shall not initiate, receive, permit, or consider *ex parte* communications, except as follows:

(1) When circumstances require it, an *ex parte* communication for scheduling, administrative, or emergency purposes, that does not address substantive matters or issues on the merits, is permitted, provided the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the *ex parte* communication;

(2) A judge may obtain the advice of a disinterested expert on the *law* applicable to a proceeding before the judge, if the judge gives notice to the parties of the person consulted and the subject-matter of the advice solicited, and affords the parties a reasonable opportunity to object or respond to the advice received;

(3) A judge may consult with court staff and court officials whose functions are to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record and does not abrogate the responsibility personally to decide the matter;

(4) A judge, with the consent of the parties, may confer separately with the parties and their lawyers in an effort to settle matters pending before the judge;

(5) A judge may initiate, receive, permit, or consider an *ex parte* communication when expressly authorized by *law* to do so;

(6) A judge may initiate, receive, permit, or consider an *ex parte* communication when administering a *specialized docket*, provided the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage while in the specialized docket program as a result of the *ex parte* communication.

(B) If a judge receives an unauthorized *ex parte* communication bearing upon the substance of a matter, the judge shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.

(C) A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.

(D) A judge shall make reasonable efforts, including providing appropriate supervision, to ensure that this rule is not violated by court staff, court officials, and others subject to the judge's direction and control.

## Comment

[1] To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.

[2] Whenever the presence of a party or notice to a party is required by this rule, it is the party's lawyer, or if the party is unrepresented, the party, who is to be present or to whom notice is to be given.

[3] The proscription against communications concerning a proceeding includes communications with lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted by this rule.

[4] A judge may initiate, receive, permit, or consider *ex parte* communications expressly authorized by law, such as when: (1) an indigent defendant demonstrates a particularized need to retain an expert witness and has not determined whether the expert will testify at trial; (2) the judge obtains information that may result in a confidential referral of counsel to a lawyers assistance program [see Rule 2.14]; or (3) in order to comply with Crim. R. 46(C) provided the prosecutor and accused, or accused's attorney, are apprised of the information prior to any decision that is made as a result of the information gathered by the judge or member of the judge's staff.

[4A] A judge may initiate, receive, permit, or consider *ex parte* communications when administering a specialized docket established under the authority of the Rules of Superintendence or other law. In this capacity, judges may assume a more interactive role with parties, treatment providers, probation officers, social workers, and others.

[5] A judge may consult with other judges on pending matters, but must avoid *ex parte* discussions of a case with judges who have previously been disqualified from hearing the matter and with judges who have appellate jurisdiction over the matter.

[6] The prohibition against a judge investigating the facts in a matter extends to information available in all mediums, including electronic.

[7] A judge may consult ethics advisory committees, outside counsel, or legal experts concerning the judge's compliance with this code. Such consultations are not subject to the restrictions of division (A)(2).

### Comparison to Ohio Code of Judicial Conduct

Rule 2.9(A) is substantially comparable to Ohio Canon 3(B)(7).

Rule 2.9(A)(1) is substantially the same as Ohio Canon 3(B)(7)(a).

Rule 2.9(A)(2) is comparable to Ohio Canon 3(B)(7)(b).

Rule 2.9(A)(3) expands upon Ohio Canon 3(B)(7)(c) by describing conduct a judge should attempt to avoid when consulting with court staff and officials and other judges.

Rule 2.9(A)(4), dealing with the judge's settlement authority, has no comparable provision in the Ohio Code.

Rule 2.9(A)(5) is comparable to Ohio Canon 3(B)(7)(d).

Rule 2.9(A)(6), addressing the conduct of a judge who presides over a specialized docket, has no comparable provision in the Ohio Code.

Rules 2.9(B), (C), and (D) have no comparable provisions in the Ohio Code.

### **Comparison to ABA Model Code of Judicial Conduct**

The title to Rule 2.9 is modified to reflect more accurately the content of the rule.

Rule 2.9(A) is modified to add a prohibition against the receipt of an *ex parte* communication, a concept contained in Ohio Canon 3(B)(7). Deleted from division (A) is a reference to a judge's consideration of other communications outside the presence of the parties or their lawyers concerning a pending or impending matter. This phrase is incorporated in the definition of "*ex parte* communication" found in the Terminology section of the Code.

Rule 2.9(A)(1) is modified to retain the provisions of Ohio Canon 3(B)(7)(a). Further, Model Rule 2.9(A)(1)(b) is deleted because if a judge complies with provisions of the modified rule, notice to the other parties is unnecessary.

Rule 2.9(A)(2) retains the concept of after-the-fact notification to the parties when the judge obtains advice from a legal expert, as compared to the before-the-fact notice requirements contained in Model Rule 2.9(A)(2). The advance notice requirements contained in the Model Rules would be unworkable in many situations.

Rule 2.9(A)(6) is added due the increasing prevalence of specialized dockets in Ohio and the necessity to make provision for the manner in which communications with parties and others must occur to facilitate the proper administration of a specialized docket.

Comment [4] is divided into [4] and [4A] to treat two separate and distinct matters. Comment [4] deals with *ex parte* communications authorized by law and addresses the requirements in *State v. Mason* (1998), 82 Ohio St.3d 144 and *State v. Smith* (1991), 61 Ohio St.3d 284, as well as the well-recognized confidentiality in Ohio for referrals to a lawyer assistance program. Comment [4A] deals with *ex parte* communications that are necessary for proper administration of a specialized docket.

## **RULE 2.10 Judicial Statements on Pending and Impending Cases**

(A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter *pending* or *impending* in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.

(B) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the *impartial* performance of the adjudicative duties of judicial office.

(C) A judge shall require court staff, court officials, and others subject to the judge's direction and control to refrain from making statements that the judge would be prohibited from making by divisions (A) and (B) of this rule.

(D) Notwithstanding the restrictions in division (A) of this rule, a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a personal, nonjudicial capacity.

(E) Subject to the requirements of division (A) of this rule, a judge may respond directly or through a third-party to allegations in the media or elsewhere concerning the judge's conduct in a matter.

### **Comment**

[1] This rule's restrictions on judicial speech are essential to the maintenance of the independence, integrity, and impartiality of the judiciary.

[2] This rule does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal, nonjudicial capacity. In cases in which the judge is a litigant in a judicial capacity, such as a writ of mandamus, the judge must not comment publicly.

[3] Depending upon the circumstances, the judge should consider whether it may be preferable for a third party, rather than the judge, to respond or issue statements in connection with allegations concerning the judge's conduct in a matter.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 2.10(A) corresponds to Ohio Canons 3(B)(9) and 7(B)(2)(e).

Rule 2.10(B) corresponds to Ohio Canons 7(B)(2)(c) and (d), except that it does not encompass judicial candidates and it is narrower with respect to its prohibitions. Placing this particular restriction in Rule 2.10 makes it clear that the prohibition applies to pledges and promises made by a judge even when made outside the context of a political campaign. However, in light of the decision issued by the United States Supreme Court in *Republican Party of*

*Minnesota v. White*, 536 U. S. 765 (2002), the prohibition is limited to pledges, promises, or commitments that are made in connection with cases, controversies, or issues likely to come before the court and that are inconsistent with the impartial performance of a judge’s adjudicative duties. For the same reason, the reference in Canon 7(B)(2)(d) to “statements that commit or appear to commit the judge” is not retained in this rule.

Rule 2.10(C) corresponds to the second sentence of Ohio Canon 3(B)(9), but replaces the phrase “court personnel” with “court staff, court officials, and others” so as to include all persons subject to the judge’s direction and control.

Rule 2.10(D) corresponds with the third and fourth sentences of Ohio Canon 3(B)(9).

Rule 2.10(E) is new and is intended to allow a judge to respond to allegations in the media or elsewhere concerning the judge’s conduct in a particular matter, so long as the response would not affect the outcome or impair the fairness of that proceeding.

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 2.10 is identical to ABA Model Rule 2.10, except for the addition of wording in Rule 2.10(D) and Comment [2]. The added language distinguishes between lawsuits in which a judge may be named personally, but arising out of his or her judicial conduct, and those in which a judge is involved in a purely personal, nonjudicial capacity.

## RULE 2.11 Disqualification

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's *impartiality* might reasonably be questioned, including but not limited to the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal *knowledge* of facts that are in dispute in the proceeding.

(2) The judge *knows* that the judge, the judge's spouse or *domestic partner*, or a person within the *third degree of relationship* to either of them, or the spouse or *domestic partner* of such a person is any of the following:

(a) A party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(b) Acting as a lawyer in the proceeding;

(c) Has more than a *de minimis* interest that could be substantially affected by the proceeding;

(d) Likely to be a material witness in the proceeding.

(3) The judge *knows* that he or she, individually or as a *fiduciary*, or the judge's spouse, *domestic partner*, parent, or child, or any other member of the *judge's family residing in the judge's household*, has an *economic interest* in the subject matter in controversy or in a party to the proceeding.

(4) [RESERVED]

(5) The judge, while a judge or a *judicial candidate*, has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

(6) The judge *knows* that the judge's spouse or *domestic partner*, or a person within the *third degree of relationship* to either of them, or the spouse or *domestic partner* of such a person has acted as a judge in the proceeding.

(7) The judge meets any of the following criteria:

(a) The judge served as a lawyer in the matter in controversy or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(b) The judge served in governmental employment, and in such capacity participated personally and substantially as a lawyer or public official concerning the particular matter, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy;

(c) The judge was a material witness concerning the matter;

(d) The judge previously presided as a judge over the matter in another court.

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

(C) A judge subject to disqualification under this rule, other than for personal bias or prejudice under division (A)(1) of this rule, may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

### **Comment**

[1] Under this rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of divisions (A)(1) to (6) apply. A judge's knowledge that a lawyer, law firm, or litigant in a proceeding contributed to the judge's election campaign within the limits set forth in Rules 4.4(J) and (K), or publicly supported the judge in the campaign, does not, in and of itself, disqualify the judge.

[2] A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

[3] The rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In matters that require immediate action, the judge must disclose on the record the basis for possible disqualification and make reasonable efforts to transfer the matter to another judge as soon as practicable.

[4] The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not itself disqualify the judge. If, however, the judge's impartiality might reasonably be questioned under division (A), or the relative is known by the

judge to have an interest in the law firm that could be substantially affected by the proceeding under division (A)(2)(c), the judge’s disqualification is required.

[5] A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.

[6] [RESERVED]

### **Comparison to Ohio Code of Judicial Conduct**

Rule 2.11 is comparable to Ohio Canons 3(E) and (F) with the exception of Rule 2.11(A)(5), which has no comparable provision in the Ohio Code.

### **Comparison to ABA Model Code of Judicial Conduct**

With two exceptions, Rule 2.11 is comparable to Model Rule 2.11. Division (A)(4), relative to the disqualification of a judge who receives a campaign contribution in excess of a specific amount, is not adopted, in part because Rule 4.4 contains what are considered reasonable contribution limits applicable to individuals and organizations, including parties, lawyers, and law firms.

Division (A)(6) is new language that addresses disqualification when a judge’s spouse has previously acted as a judge in the same proceeding. This provision is comparable to Ohio Canon 3(E)(1)(d)(iii) but is not found in the Model Code.

Comment [1] is modified to remove a reference to the fact that some jurisdictions use interchangeably the terms “recusal” and “disqualification” and to indicate that the mere receipt of a campaign contribution within the permissible limits set forth in Rule 4.4 is not grounds for disqualification. Comment [6] is stricken because it merely restates the definition of “economic interest” found in the Terminology section.

## **RULE 2.12 Supervisory Duties**

(A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this code.

(B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.

### **Comment**

[1] A judge is responsible for his or her own conduct and for the conduct of others when those persons are acting at the judge's direction or control. A judge may not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate the code if undertaken by the judge.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judge with supervisory authority must take the steps needed to ensure that judges under his or her supervision administer their workloads promptly.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 2.12(A) is comparable to Ohio Canon 3(C)(2), and Rule 2.12(B) is comparable to Ohio Canon 3(C)(3).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 2.12 is identical to Model Rule 2.12, except for the deletion of surplus language in Comment [1].

## **RULE 2.13 Administrative Appointments**

(A) In making administrative appointments, a judge shall do both of the following:

- (1) Exercise the power of appointment *impartially* and on the basis of merit;
- (2) Avoid nepotism, favoritism, and unnecessary appointments.

(B) [RESERVED]

(C) A judge shall not approve compensation of appointees beyond the fair value of services rendered.

### **Comment**

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

[2] Unless otherwise defined by law, nepotism is the appointment or hiring of any relative within the third degree of relationship of either the judge or the judge's spouse or domestic partner, or the spouse or domestic partner of such relative.

[3] [RESERVED]

### **Comparison to Ohio Code of Judicial Conduct**

Rule 2.13(A) and (C) are substantially similar to Ohio Canon 3(C)(4).

### **Comparison to ABA Model Code of Judicial Conduct**

Model Rule 2.13(B) and the corresponding Comment [3] are not adopted. Rule 4.4 contains limitations on campaign contributions applicable to lawyers and requires that court appointees be specifically identified on campaign finance reports. Rule 8 of the Rules of Superintendence contains additional procedures applicable to court appointments. These provisions are substitutes for the disqualification provisions of the Model Rule.

Comment [1] is modified to substitute “magistrate” for “referee.”

## **RULE 2.14 Disability and Impairment**

(A) A judge having a reasonable belief that the performance of a lawyer or another judge is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall take appropriate action, which may include a confidential referral to a lawyer or judicial assistance program.

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

### **Comment**

[1] “Appropriate action” means action intended and reasonably likely to help the judge or lawyer in question address the problem and prevent harm to the justice system. Depending upon the circumstances, appropriate action may include, but is not limited to, speaking directly to the impaired person and notifying a partner, a colleague, or an individual with supervisory responsibility over the impaired person, or making a referral to an assistance program.

[2] Taking or initiating corrective action by way of referral to an assistance program may satisfy a judge’s responsibility under this rule. Assistance programs have many approaches for offering help to impaired judges and lawyers, such as intervention, counseling, or referral to appropriate health care professionals. Depending upon the gravity of the conduct that has come to the judge’s attention, however, the judge may be required to take other action, such as reporting the impaired judge or lawyer to the appropriate authority, agency, or body. See Rule 2.15.

### **Comparison to Ohio Code of Judicial Conduct**

There is no Ohio Canon comparable to Rule 2.14(A). Rule 2.14(B) corresponds to Ohio Canon 3(D)(4).

### **Comparison to ABA Model Code of Judicial Conduct**

Model Rule 2.14 is modified to add division (B) that is taken from Ohio Canon 3(D)(4).

## **RULE 2.15 Responding to Judicial and Lawyer Misconduct**

(A) A judge having *knowledge* that another judge has committed a violation of this Code that raises a question regarding the judge’s honesty, trustworthiness, or fitness as a judge in other respects shall inform the *appropriate authority*.

(B) A judge having *knowledge* that a lawyer has committed a violation of the Ohio Rules of Professional Conduct that raises a question regarding the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the *appropriate authority*.

(C) [RESERVED]

(D) [RESERVED]

### **Comment**

Taking action to address known misconduct is a judge’s obligation. Divisions (A) and (B) impose an obligation on the judge to report to the appropriate disciplinary authority the known misconduct of another judge or a lawyer that raises a question regarding the honesty, trustworthiness, or fitness of that judge or lawyer. Ignoring or denying known misconduct among one’s judicial colleagues or members of the legal profession undermines a judge’s responsibility to participate in efforts to ensure public respect for the justice system. This rule limits the reporting obligation to those offenses that an independent judiciary must vigorously endeavor to prevent.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 2.15 corresponds to Ohio Canon 3(D)(1) and (2), although the latter imposes a strict reporting requirement once a judge has knowledge of a violation by a lawyer or judge. Rule 2.15 follows the standard created in Rule 8.3 of the Ohio Rules of Professional Conduct for reporting attorney misconduct: reporting is required when the conduct raises a question about the honesty, trustworthiness, or fitness of a lawyer or judge.

### **Comparison to ABA Model Code of Judicial Conduct**

Rules 2.15(A) and (B) are altered to require a judge to report misconduct when the judge possesses knowledge that raises a “question” about a lawyer or judge’s honesty, trustworthiness, or fitness. Model Rule 2.15(A) and (B) imposes a reporting requirement when the judge possesses knowledge that raises a “substantial question.” With these changes, Rules 2.15(A) and (B) conform to the reporting requirement in Rule 8.3 of the Ohio Rules of Professional Conduct.

Model Rules 2.15(C) and (D), which are stricken from Rule 2.15, address a judge’s responsibility when the judge receives information indicating a disciplinary violation may have occurred but does not possess actual knowledge regarding the alleged violation.

## **RULE 2.16 Cooperation with Disciplinary Authorities**

(A) A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.

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

### **Comment**

[1] Cooperation with investigations and proceedings of judicial and lawyer discipline agencies, as required in division (A), instills confidence in the commitment of judges to the integrity of the judicial system and the protection of the public.

#### **Comparison to Ohio Code of Judicial Conduct**

There is no Ohio Canon comparable to Rule 2.16, although Canon 3(D)(3) addresses a judge's duty to respond to requests from disciplinary authorities.

#### **Comparison to ABA Model Code of Judicial Conduct**

Rule 2.16 is substantially the same as Model Rule 2.16.

## **Canon 3**

A judge shall conduct the judge's personal and extrajudicial activities so as to minimize the risk of conflict with the obligations of judicial office.

## **RULE 3.1 Extrajudicial Activities in General**

A judge may engage in extrajudicial activities, except as prohibited by *law*. However, when engaging in extrajudicial activities, a judge shall not do any of the following:

- (A) Participate in activities that will interfere with the proper performance of the judge's judicial duties;
- (B) Participate in activities that will lead to frequent disqualification of the judge;
- (C) Participate in activities that would appear to a reasonable person to undermine the judge's *independence, integrity, or impartiality*;
- (D) Engage in conduct that would appear to a reasonable person to be coercive;
- (E) Make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for extrajudicial activities permitted by *law*.

### **Comment**

[1] To the extent that time permits, and judicial independence and impartiality are not compromised, judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by: (1) speaking, writing, teaching, or participating in scholarly research projects; (2) participating in judicial or bar association activities; or (3) serving on a board, commission, committee or task force established by the Supreme Court or a judicial or bar association. In addition, judges are permitted and encouraged to engage in educational, religious, charitable, fraternal, or civic extrajudicial activities not conducted for profit, even when the activities do not involve the law. See Rule 3.7. However, a judge should consider whether engaging in a particular extrajudicial activity could give rise to an unlawful interest in a public contract as prohibited by R.C. 2921.42.

[2] Participation in both law-related and other extrajudicial activities helps integrate judges into their communities and furthers public understanding of and respect for courts and the judicial system.

[3] Discriminatory actions and expressions of bias or prejudice by a judge, even outside the judge's official or judicial actions, are likely to appear to a reasonable person to call into question the judge's integrity and impartiality. Examples include jokes or other remarks that demean individuals based upon their race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status. For the same reason, a judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination. See Rule 3.6.

[4] While engaged in permitted extrajudicial activities, judges must not coerce others or take action that would reasonably be perceived as coercive. For example, depending upon the circumstances, a judge’s solicitation of contributions or memberships for an organization, even as permitted by Rule 3.7(A), might create the risk that the person solicited would feel obligated to respond favorably, or would do so to curry favor with the judge.

### **Comparison to Ohio Code of Judicial Conduct**

Rules 3.1(A), (D), and (E) have no counterparts in the Ohio Code. Rules 3.1(B) and (C) are found in Ohio Canon 2(A).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 3.1 is identical to Model Rule 3.1, other than a modification to division (E) to extend the “incidental use” exception to any extrajudicial activity. The Model Code limits the “incidental use” exception to those extrajudicial activities that concern the law, legal system, or administration of justice. Comment [1] is modified to provide other examples of generally permissible extrajudicial activities and to remind judges that it may not be permissible to engage in certain extrajudicial activities given statutory prohibitions applicable to public officials. See Advisory Opinion 2006-7 issued by the Board of Commissioners on Grievances and Discipline.

## **RULE 3.2 Appearances before Governmental Bodies and Consultation with Government Officials**

A judge shall not appear voluntarily at a public hearing before, or otherwise consult with, an executive or a legislative body or official, except as follows:

(A) In connection with matters concerning the *law*, the legal system, or the administration of justice;

(B) In connection with matters about which the judge acquired knowledge or expertise in the course of the judge's judicial duties;

(C) When the judge is acting *pro se* in a matter involving the judge's legal or *economic interests*, or when the judge is acting in a *fiduciary* capacity.

### **Comment**

[1] Judges possess special expertise in matters of law, the legal system, and the administration of justice, and may properly share that expertise with governmental bodies and executive or legislative branch officials.

[2] In appearing before governmental bodies or consulting with government officials, judges must be mindful that they remain subject to other provisions of this code, such as Rule 1.3, prohibiting judges from using the prestige of office to advance their own or others' interests, Rule 2.10, governing public comment on pending and impending matters, and Rule 3.1(C), prohibiting judges from engaging in extrajudicial activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

[3] In general, it would be an unnecessary and unfair burden to prohibit judges from appearing before governmental bodies or consulting with government officials on matters that are likely to affect them as private citizens, such as zoning proposals affecting their real property. In engaging in such activities, however, judges must not refer to their judicial positions, and must otherwise exercise caution to avoid using the prestige of judicial office.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 3.2(A) is comparable to Ohio Canon 2(A)(2).

Rule 3.2(B) has no comparable provision in the Ohio Code.

Rule 3.2(C) is comparable to a portion of Ohio Canon 4(C)(1).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 3.2 is identical to Model Rule 3.2.

## **RULE 3.3 Testifying as a Character Witness**

A judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly summoned.

### **Comment**

[1] A judge who, without being subpoenaed, testifies as a character witness abuses the prestige of judicial office to advance the interests of another. See Rule 1.3. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 3.3 is comparable to the last sentence in Ohio Canon 4(A).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 3.3 is identical to Model Rule 3.3.

## **RULE 3.4 Appointments to Governmental Positions**

A judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless it is one that concerns the *law*, the legal system, or the administration of justice.

### **Comment**

[1] Rule 3.4 implicitly acknowledges the value of judges accepting appointments to entities that concern the law, the legal system, or the administration of justice. Even in such instances, however, a judge should assess the appropriateness of accepting an appointment, paying particular attention to the subject matter of the appointment and the availability and allocation of judicial resources, including the judge's time commitments, and giving due regard to the requirements of the independence and impartiality of the judiciary.

[2] A judge may represent his or her country, state, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. Such representation does not constitute acceptance of a government position.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 3.4 is comparable to the first sentence in Ohio Canon 4(C)(2), and Comment [2] is identical to the second sentence in Ohio Canon 4(C)(2).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 3.4 is identical to Model Rule 3.4.

## **RULE 3.5 Use of Nonpublic Information**

A judge shall not *knowingly* disclose or use *nonpublic information* acquired in a judicial capacity for any purpose unrelated to the judge's judicial duties.

### **Comment**

[1] In the course of performing judicial duties, a judge may acquire information of commercial or other value that is unavailable to the public. The judge must not reveal or use such information for personal gain or for any purpose unrelated to his or her judicial duties.

[1A] The premature disclosure of confidential information regarding the outcome of pending cases gives the appearance of partiality and fosters obvious public distrust of the judiciary and legal profession. Among other things, premature disclosure creates the potential for the release of inaccurate information and allows attorneys, litigants, and others with access to the information to use it for personal gain before it becomes public knowledge.

[2] This rule is not intended, however, to affect a judge's ability to act on information as necessary to protect the health or safety of the judge or a member of a judge's family, court personnel, or other judicial officers if consistent with other provisions of this code.

[3] Nothing in this rule shall prohibit the disclosure of any of the following: (1) a decision that has been announced on the record or in open court, but that has not been journalized in a written opinion, entry, or other document; (2) information regarding the probable or actual decision in a pending case or legal proceeding to a judge or employee of the court in which the matter is pending; (3) other information that is a matter of public record or that may be disclosed pursuant to law.

[4] The imposition of discipline upon a judge for violation of this rule shall not preclude prosecution for a violation of any applicable provision of the Revised Code, including, but not limited to, R.C. 102.03(B).

### **Comparison to Ohio Code of Judicial Conduct**

Other than Ohio Canon 3(B)(11), addressing the disclosure of information regarding pending matters before the Supreme Court of Ohio, the courts of appeals, and a panel of judges in the common pleas courts, there is no Ohio rule comparable to Rule 3.5.

Comments [1A], [3], and [4] are taken from Ohio Canon 3(B)(11).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 3.5 is modified to incorporate the standard of "knowingly" contained in Ohio Canon 3(B)(11), instead of the "intentionally" standard contained in Model Rule 3.5.

Comments [1A], [3], and [4] were added from Ohio Canon 3(B)(11).

## **RULE 3.6 Affiliation with Discriminatory Organizations**

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

(B) A judge shall not use the benefits or facilities of an organization if the judge *knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in division (A) of this rule. A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

### **Comment**

[1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired.

[2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited.

[3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization.

[4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this rule.

[5] This rule does not apply to national or state military service.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 3.6(A) is substantially the same as Ohio Canon 4(B). Rule 3.6(A) adds to the list of organizations to which a judge may not belong any organizations that discriminate on the basis of sex, ethnicity, or sexual orientation.

There is no Ohio Canon comparable to Rule 3.6(B).

## **Comparison to ABA Model Code of Judicial Conduct**

Rule 3.6 is identical to Model Rule 3.6.

### **RULE 3.7 Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities**

(A) Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the *law*, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

- (1) Assisting such an organization or entity in planning related to fundraising, and participating in the management and investment of the organization's or entity's funds;
- (2) Soliciting *contributions* for such an organization or entity, but only from *members of the judge's family*, or from judges over whom the judge does not exercise supervisory or appellate authority;
- (3) Participating in but not soliciting funds for *de minimis* fundraising activities that are directed at a broad range of the community and that may be performed by other volunteers who do not hold judicial office;
- (4) Soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity, but only if the organization or entity is concerned with the *law*, the legal system, or the administration of justice;
- (5) Appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, provided the participation does not reflect adversely on the judge's *independence, integrity, or impartiality*;
- (6) Making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization or entity is concerned with the *law*, the legal system, or the administration of justice;
- (7) Serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity will be engaged in either of the following:
  - (a) Proceedings that would ordinarily come before the judge;
  - (b) Frequently in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

- (B) A judge may encourage lawyers to provide *pro bono publico* legal services.

### **Comment**

[1] The activities permitted by division (A) generally include those sponsored by or undertaken on behalf of public or private not-for-profit educational institutions, and other not-for-profit organizations, including law-related, charitable, and other organizations.

[2] Even for law-related organizations, a judge should consider whether the membership and purposes of the organization, or the nature of the judge's participation in or association with the organization, would conflict with the judge's obligation to refrain from activities that reflect adversely upon a judge's independence, integrity, and impartiality.

[3] Mere attendance at an event, whether or not the event serves a fundraising purpose, does not constitute a violation of division (A)(5). It is also generally permissible for a judge to serve as an usher or a food server or preparer, or to perform similar functions, at fundraising events sponsored by educational, religious, charitable, fraternal, or civic organizations. Such activities are not solicitation and do not present an element of coercion or abuse the prestige of judicial office.

[4] Identification of a judge's position in educational, religious, charitable, fraternal, or civic organizations on letterhead used for fundraising or membership solicitation does not violate this rule. The letterhead may list the judge's title or judicial office if comparable designations are used for other persons.

[5] In addition to appointing lawyers to serve as counsel for indigent parties in individual cases, a judge may promote broader access to justice by encouraging lawyers to participate in *pro bono publico* legal services, if in doing so the judge does not employ coercion, or abuse the prestige of judicial office. Such encouragement may take many forms, including providing lists of available programs, training lawyers to do *pro bono publico* legal work, and participating in events recognizing lawyers who have done *pro bono publico* work.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 3.7(A)(1) corresponds to the first portion of Ohio Canon 2(B)(2)(a). Rule 3.7(A)(2) corresponds to Ohio Canon 2(B)(2)(a)(i), with the addition that a judge may solicit contributions from members of the judge's family

Rule 3.7(A)(3) is identical to Ohio Canon 2(B)(2)(a)(ii).

Rule 3.7(A)(4) is similar to Ohio Canon 2(B)(2)(c) in that it allows judges to solicit persons for membership in civic organizations, but the rule alters the test for determining whether membership solicitations are permissible. Under the Ohio Canon, membership solicitation is prohibited if it might reasonably be perceived as coercive and is essentially a fundraising mechanism for the organization. Rule 3.7(A)(4) deletes the coercion test but allows membership solicitation only if the organization is concerned with the law, legal system, or administration of

justice and even if the membership dues or fees will be used to support the organization's objectives.

Rule 3.7(A)(5) allows a judge to participate in certain activities sponsored by educational, religious, charitable, fraternal, and civic organizations, including those that might have a fundraising purpose, provided the judge's participation does not reflect adversely on his or her independence, integrity, or impartiality. Ohio Canons 2(B)(2)(a) and (d) limit a judge's involvement in these activities if there is a fundraising component.

Rules 3.7(A)(6) corresponds to Ohio Canon 2(B)(2)(b), and Rule 3.7(A)(7) corresponds to Ohio Canon 2(B)(1).

Rule 3.7(B) has no counterpart in the Ohio Code.

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 3.7 differs from Model Rule 3.7 in two respects. Division (A)(3) incorporates a 2004 amendment to the Ohio Code that specifically authorizes judicial participation in certain *de minimis* fundraising activities. Division (A)(5) is modified to alter the test for determining whether a judge may participate in an event sponsored by an educational, religious, charitable, fraternal, or civic organizations. Where such an event serves a fundraising purpose, the Model Code permits judicial participation only if the event concerns the law, legal system, or the administration of justice. The Ohio version of Rule 3.7 allows a judge to participate in these activities, without regard to whether they have a fundraising purpose, provided the participation does not reflect adversely on the judge's independence, integrity, or impartiality. This is consistent with the test used elsewhere in the Code.

Comment [3] is modified to correct a cross-reference to the rule.

## **RULE 3.8 Appointments to Fiduciary Positions**

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

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

(C) A judge acting in a *fiduciary* capacity shall be subject to the same restrictions on engaging in financial activities that apply to a judge personally.

(D) If a person who is serving in a *fiduciary* position becomes a judge, he or she must comply with this rule as soon as reasonably practicable, but in no event later than six months after becoming a judge.

### **Comment**

[1] A judge should recognize that other restrictions imposed by this code may conflict with a judge's obligations as a fiduciary; in such circumstances, a judge should resign as fiduciary. For example, serving as a fiduciary might require frequent disqualification of a judge under Rule 2.11 because a judge is deemed to have an economic interest in shares of stock held by a trust if the amount of stock held is more than *de minimis*.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 3.8(A), (B), and (C) are substantially the same as Ohio Canon 4(D)(1), (2), and (3). There is no Ohio Canon comparable to Rule 3.8(D).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 3.8 is identical to Model Rule 3.8. Ohio chose to adopt a six-month compliance window in division (D).

## **RULE 3.9 Service as Arbitrator or Mediator**

A judge shall not act as an arbitrator or a mediator or perform other judicial functions apart from the judge's official duties unless expressly authorized by *law*.

### **Comment**

[1] This rule does not prohibit a judge from participating in arbitration, mediation, or settlement conferences performed as part of assigned judicial duties. Rendering dispute resolution services apart from those duties, whether or not for economic gain, is prohibited unless it is expressly authorized by law.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 3.9 is substantially the same as Ohio Canon 4(E).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 3.9 is identical to Model Rule 3.9.

## **RULE 3.10 Practice of Law**

A judge shall not practice law. A judge may act *pro se* and may, without compensation, give legal advice to and draft or review documents for a *member of the judge's family*, but is prohibited from serving as the family member's lawyer in any forum.

### **Comment**

[1] A judge may act *pro se* in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. A judge must not use the prestige of office to advance the judge's personal or family interests. See Rule 1.3.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 3.10 is substantially the same as Ohio Canon 4(F).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 3.10 is identical to Model Rule 3.10.

## **RULE 3.11 Financial, Business, or Remunerative Activities**

(A) A judge may hold and manage investments of the judge and *members of the judge's family*.

(B) A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of or independent contractor for any business entity except that a judge may do any of the following:

(1) Manage or participate in a business closely held by the judge or *members of the judge's family*;

(2) Manage or participate in a business entity primarily engaged in investment of the financial resources of the judge or *members of the judge's family*;

(3) Write or teach.

(C) A judge shall not engage in financial activities permitted under divisions (A) and (B) of this rule if they will do any of the following:

(1) Interfere with the proper performance of judicial duties;

(2) Lead to frequent disqualification of the judge;

(3) Involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves;

(4) Result in violation of other provisions of this code.

(D) As soon as practicable without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification or otherwise violate this rule.

### **Comment**

[1] Judges are generally permitted to engage in financial activities, including managing real estate and other investments for themselves or for members of their families. Participation in these activities, like participation in other extrajudicial activities, is subject to the requirements of this code. For example, it would be improper for a judge to spend so much time on business activities that it interferes with the performance of judicial duties. See Rule 2.1. Similarly, it would be improper for a judge to use his or her official title or appear in judicial robes in business advertising or to conduct his or her business or financial affairs in such a way that disqualification is frequently required. See Rules 1.3 and 2.11. With regard to writing or teaching relationships authorized by division (B)(3), also see Rule 3.12.

[2] [RESERVED]

### **Comparison to Ohio Code of Judicial Conduct**

Rule 3.11 is comparable to Ohio Canon 2(C)(1) to (4).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 3.11 is modified to add “independent contractor” to the list of prohibited relationships with a business entity and to add a general exemption for writing and teaching activities. Comment [1] is modified to include a cross-reference to Rule 3.12. Comment [2], which is comparable to Canon 2(C)(4), is moved to division (D) to emphasize in the text of the rule that a judge must divest himself or herself of financial interests that might lead to frequent disqualification or are otherwise contrary to Rule 3.11.

## **RULE 3.12 Compensation for Extrajudicial Activities**

A judge may accept compensation for extrajudicial activities permitted by *law* unless such acceptance would appear to a reasonable person to undermine the judge's *independence, integrity, or impartiality*. The compensation shall be reasonable and commensurate to the task performed.

### **Comment**

[1] Unless otherwise prohibited by law, a judge is permitted to accept compensation for extrajudicial activities. The judge should be mindful, however, that judicial duties must take precedence over other activities. See Rule 2.1.

[1A] A judge is prohibited by R.C. 102.03(H) from receiving an honorarium, including any payment made in consideration for a speech given, article published, or attendance at a public or private conference, convention, meeting, social event, meals, or similar gathering. See R.C. 102.01(H).

[1B] Compensation for an extrajudicial activity shall not exceed a reasonable amount or what a person who is not a judge would receive for the same activity.

[2] Compensation derived from extrajudicial activities is subject to public reporting. See Rule 3.15.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 3.12 corresponds to Ohio Canon 2(D), except that the receipt of compensation for extrajudicial activities is permitted only where such receipt would not “appear to a reasonable person to undermine the judge’s independence, integrity or impartiality.” Receipt of compensation under Ohio Canon 2(D) is prohibited where “the source of the compensation \* \* \* give[s] the appearance of influencing the judge in his or her judicial duties or otherwise give[s] the appearance of impropriety.” The new standard gives clearer and more objective guidance to judges and is consistent with the standard used elsewhere in the Model Code.

Reimbursement of expenses, which is included in Ohio Canon 2(D), is now addressed in Rule 3.14.

Comment [1] makes it clear that any extrajudicial activities must not take precedence over the judge’s judicial duties.

Comment [1A] corresponds to the referenced statutory prohibitions against the solicitation or receipt of honorarium by public officials. Comment [1B] reflects the pronouncement in current Canon 2(D)(1) that the compensation “shall not exceed a reasonable amount or what a person who is not a judge would receive for the same act.”

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 3.12 is modified to incorporate in the black-letter the standard of “reasonable and commensurate” found in the comments to Model Rule 3.12. Comment [1] is modified remove the list of specific types of compensation and extrajudicial activities, and Comment [1A] is added to reflect the statutory ban on the solicitation or receipt of honorarium. See R.C. 102.03(H). Comment [1B] is added from Ohio Canon 2(D)(1).

### **RULE 3.13 Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value**

(A) A judge shall not accept, and shall urge the judge's spouse, *domestic partner*, and other *members of the judge's family residing in the judge's household* not to accept, any gifts, loans, bequests, benefits, or other things of value, except as follows:

- (1) Items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;
- (2) Gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding *pending* or *impending* before the judge would in any event require disqualification of the judge under Rule 2.11;
- (3) Ordinary social hospitality;
- (4) Commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not judges;
- (5) Rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not judges;
- (6) Scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated persons who are not judges, based upon the same terms and criteria;
- (7) Books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use;
- (8) Gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a *domestic partner*, or other *member of the judge's family residing in the judge's household*, but that incidentally benefit the judge, provided the gift, award, or benefit does not give the appearance of influencing the judge in his or her judicial duties or otherwise appear to a reasonable person to undermine the judge's *independence, integrity, or impartiality*;
- (9) A gift from a relative or friend for a social occasion, such as a wedding, anniversary, or birthday, if the gift is commensurate with the relationship and occasion;
- (10) A gift incident to a public testimonial;

(11) An invitation to the judge and the judge's spouse, *domestic partner*, or guest to attend without charge either of the following:

(a) An event associated with a bar-related function or other activity related to the *law*, the legal system, or the administration of justice;

(b) An event associated with any of the judge's educational, religious, charitable, fraternal, or civic activities permitted by this code, if the same invitation is offered to nonjudges who are engaged in similar ways in the activity as is the judge.

(12) Any other thing of value, if the donor is neither of the following:

(a) A party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge;

(b) A person who is doing or seeking to do business with the court.

(B) A judge shall report the acceptance of any gift, loan, bequest, benefit, or other thing of value as required by Rule 3.15.

### **Comment**

[1] Whenever a judge accepts a gift or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as intended to influence the judge's decision in a case. Rule 3.13 prohibits the acceptance of such benefits, except in circumstances where the risk of improper influence is low and subject to applicable financial disclosure requirements. See Rule 3.15 and R.C. 102.02.

[2] Gift-giving between friends and relatives is a common occurrence, and ordinarily does not create an appearance of impropriety or cause reasonable persons to believe that the judge's independence, integrity, or impartiality has been compromised. In addition, when the appearance of friends or relatives in a case would require the judge's disqualification under Rule 2.11, there would be no opportunity for a gift to influence the judge's decision making. Division (A)(2) places no restrictions upon the ability of a judge to accept gifts or other things of value from friends or relatives under these circumstances, but requires public reporting.

[3] Businesses and financial institutions frequently make available special pricing, discounts, and other benefits, either in connection with a temporary promotion or for preferred customers, based upon longevity of the relationship, volume of business transacted, and other factors. A judge may freely accept such benefits if they are available to the general public, or if the judge qualifies for the special price or discount according to the same criteria as are applied to persons who are not judges. As an example, loans provided at generally prevailing interest rates are not gifts, but a judge could not accept a loan from a financial institution at below-market interest rates unless the same rate was being made available to the general public for a certain period of time or only to borrowers with specified qualifications that the judge also possesses.

[4] [RESERVED]

[5] Rule 3.13 does not apply to contributions to a judge's campaign for judicial office. Such contributions are governed by other rules of this code, including Rules 4.3 and 4.4.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 3.13 corresponds to Ohio Canon 2(C)(5). That provision, together with R.C. 102.03, generally bars a judge from accepting gifts, loans, bequests, or benefits, except for those items specifically permitted in Canon 2(C)(5)(a) to (h). The new rule is essentially the same as the existing standards, with the exception that Rules 3.13(A)(1), (A)(5), and (A)(11)(b) are new provisions with no counterpart in the Ohio Code. Specifically:

- Rule 3.13(A)(2) corresponds to Ohio Canon 2(C)(5)(e);
- Rule 3.13(A)(3) corresponds to Ohio Canon 2(C)(5)(c);
- Rule 3.13(A)(4) corresponds to Ohio Canon 2(C)(5)(f);
- Rule 3.13(A)(6) corresponds to Ohio Canon 2(C)(5)(g);
- Rule 3.13(A)(7) corresponds to a portion of Ohio Canon 2(C)(5)(a);
- Rule 3.13(A)(8) corresponds to Ohio Canon 2(C)(5)(b) but adds “domestic partner” and incorporates the “independence, integrity, or impartiality” standards used throughout the Code;
- Rule 3.13(A)(9) corresponds to Ohio Canon 2(C)(5)(d);
- Rules 3.13(A)(10) and (A)(11)(a) correspond to portions of Ohio Canon 2(C)(5)(a);
- Rule 3.13(A)(12) corresponds to Ohio Canon 2(C)(5)(h), but is expanded to address gifts from a person who is doing or seeking to do business with the court.

Comment [3] provides guidance to judges in situations where special pricing, discounts, and other benefits are made available by businesses and financial institutions.

Requirements for the reporting of gifts and other things of value are addressed in Rule 3.15.

### **Comparison to ABA Model Code of Judicial Conduct**

Model Rule 3.13 is reorganized entirely to be consistent with Ohio law. The Model Rule 3.13 divides gifts and other things of value into three categories: those that a judge may not accept under any circumstances [Model Rule 3.13(A)]; those that a judge may accept without having to report the acceptance of the item [Model Rule 3.13(B)]; and those that a judge may accept,

provided the acceptance is publicly reported [Model Rule 3.13(C)]. By contrast, the Ohio version of Rule 3.13(A) prohibits the acceptance of any gift or item of value, except those expressly listed that would not create an appearance of impropriety or cause a reasonable person to believe that the judge's independence, integrity, or impartiality has been compromised. Rule 3.13(B) requires disclosure of any gift or other item of value as required by Rule 3.15. The comments are revised to correspond to the rule.

### **Rule 3.14 Reimbursement of Expenses and Waivers of Fees or Charges**

(A) A judge may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items if both of the following apply:

(1) The expenses or charges are associated with the judge's participation in activities permitted by this code;

(2) The source of the reimbursement or waiver does not give the appearance of influencing the judge in his or her judicial duties or otherwise appear to a reasonable person to undermine the judge's *independence, integrity, or impartiality*.

(B) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the judge and, when appropriate to the occasion, by the judge's spouse, *domestic partner*, or guest. Any reimbursement in excess of actual cost is compensation and shall be publicly reported as required by Rule 3.15.

(C) A judge who accepts reimbursement of expenses or waivers or partial waivers of fees or charges on behalf of the judge or the judge's spouse, *domestic partner*, or guest shall publicly report such acceptance as required by Rule 3.15.

#### **Comment**

[1] Educational, civic, religious, fraternal, and charitable organizations often sponsor meetings, seminars, symposia, dinners, awards ceremonies, and similar events. Judges are encouraged to attend educational programs, as both teachers and participants, in law-related and academic disciplines, in furtherance of their duty to remain competent in the law. Participation in a variety of other extrajudicial activity is also permitted and encouraged by this code.

[2] Not infrequently, sponsoring organizations invite certain judges to attend seminars or other events on a fee-waived or partial fee-waived basis, and sometimes include reimbursement for necessary travel, food, lodging, or other incidental expenses. A judge's decision whether to accept reimbursement of expenses or a waiver or partial waiver of fees or charges in connection with these or other extrajudicial activities must be based upon an assessment of all the circumstances. The judge must undertake a reasonable inquiry to obtain the information necessary to make an informed judgment about whether acceptance would be consistent with the requirements of this code.

[3] A judge must determine whether acceptance of reimbursement or fee waivers would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality. The factors that a judge should consider when deciding whether to accept reimbursement or a fee waiver for attendance at a particular activity include:

- (a) whether the sponsor is an accredited educational institution or bar association rather than a trade association or a for-profit entity;
- (b) whether the funding comes largely from numerous contributors rather than from a single entity and is earmarked for programs with specific content;
- (c) whether the content is related or unrelated to the subject matter of litigation pending or impending before the judge, or to matters that are likely to come before the judge;
- (d) whether the activity is primarily educational rather than recreational, and whether the costs of the event are reasonable and comparable to those associated with similar events sponsored by the judiciary, bar associations, or similar groups;
- (e) whether information concerning the activity and its funding sources is available upon inquiry;
- (f) whether the sponsor or source of funding is generally associated with particular parties or interests currently appearing or likely to appear in the judge's court, thus possibly requiring disqualification of the judge under Rule 2.11;
- (g) whether differing viewpoints are presented;
- (h) whether a broad range of judicial and nonjudicial participants are invited, whether a large number of participants are invited, and whether the program is designed specifically for judges.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 3.14 is generally comparable to Ohio Canon 2(D). However, the existing prohibition on the acceptance of compensation, expenses, or fee waivers that give the appearance of impropriety is replaced by a standard that looks to whether the acceptance of the compensation, expense, or fee waiver would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality. This modification is consistent with the independence, integrity, and impartiality standard used elsewhere in the code.

As is the case with other rules, Rules 3.14(B) and (C) include a reference to "domestic partner."

### **Comparison to ABA Model Code of Judicial Conduct**

Model Rule 3.14(A) is modified in two respects. First, Ohio law contains no exemption for expense reimbursements and fee waivers that a judge receives from his or her employing entity, thus necessitating removal of the exemption that appears in the Model Code. Second, Model Rule 3.14(A) conditions the acceptance of expense reimbursements or fee waivers solely on whether the expenses or charges are associated with the judges' participation in permissible extrajudicial activities. Rule 3.14(A) sets a higher standard by requiring an Ohio judge to consider whether the

source of the reimbursement or waiver gives the appearance of influencing the judge or otherwise appears to a reasonable person to undermine the judge's independence, integrity, or impartiality. Rule 3.14(A)(1) applies this standard to expense reimbursements or fee waivers that a judge may receive for any activity permitted by the Code, and not only extrajudicial activities.

Rule 3.14(B) adds language taken from Ohio Canon 2(D)(2) providing that reimbursement in excess of actual cost is compensation and must be publicly reported.

## **RULE 3.15 Reporting Requirements**

A judge shall file annually the disclosure statement required by R.C. 102.02 with the director of the Board of Professional Conduct of the Supreme Court of Ohio. The completion and filing of the annual disclosure statement fulfills the reporting requirements set forth in Rules 3.12, 3.13, and 3.14.

(B) [RESERVED]

(C) [RESERVED]

(D) [RESERVED]

### **Comment**

[1] The information required to be reported by Rules 3.12, 3.13, and 3.14 is a portion of the information that must be included on the annual financial disclosure statement mandated by R.C. 102.02. A judge is obligated to disclose fully and accurately all information requested on the annual disclosure statement and does not fulfill the statutory obligation by reporting only the information required by Rules 3.12, 3.13, and 3.14.

[2] Previously, judges were required to report extrajudicial income and gifts on both the statutorily mandated form and on a quasi-judicial or extrajudicial activity compensation report that was required to be filed with the Board of Professional Conduct. Rule 3.15 simplifies the reporting requirements by allowing judges to complete a single form to satisfy the reporting requirements of this Code and the Revised Code.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 3.15 continues the requirement of Ohio Canon 2(D)(3)(a) to file the annual financial disclosure statement required by R.C. 102.02. This filing satisfied the reporting requirements of Rules 3.12, 3.13, and 3.14.

Comment [1] explains that a judge shall report other information on the annual financial disclosure statement mandated by R.C. 102.02. This is implied, but not expressed, in Canon 2(D)(3)(a).

Rule 3.15 no longer requires a judge to file a separate statement of quasijudicial or extrajudicial compensation as prescribed by Ohio Canon 2(D)(3)(b). The content of this statement is included within the statutorily mandated financial disclosure statement, and Rule 3.15 requires the filing of only the statement required by R.C. 102.02.

### **Comparison to ABA Model Code of Judicial Conduct**

The reporting requirements and detail of the Model Rule are eliminated from Rule 3.15 in favor of a reference to the annual financial disclosure statement required by R.C. 102.02.

## Canon 4

A judge or *judicial candidate* shall not engage in political or campaign activity that is inconsistent with the *independence, integrity, or impartiality* of the judiciary.

## **RULE 4.1 Political and Campaign Activities of Judges and Judicial Candidates**

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

(1) Act as a leader of, or hold an office in, a *political party*;

(2) Make speeches on behalf of a *political party* or another candidate for public office;

(3) Publicly endorse or oppose a candidate for another public office;

(4) Solicit funds for or make a *contribution* or expenditure of campaign funds to a *political party* or a candidate for public office, except as permitted by division (B)(2) or (3) of this rule;

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

(6) Make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court;

(7) In connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the *impartial* performance of the adjudicative duties of judicial office.

(B) A judge or judicial candidate may do any of the following, subject to limitations set forth in this canon:

(1) Attend or speak to a political gathering;

(2) Make a *contribution* or expenditure of campaign funds to purchase a ticket to attend a social or fundraising event held by or on behalf of another public official or candidate for public office;

(3) Make a *contribution* or expenditure of campaign funds to a *political party* or to purchase a ticket to attend a social event sponsored by a *political party*, provided the *contribution* or expenditure will be used for any of the purposes set forth in R.C. 3517.18(A) and will not be used for any of the purposes set forth in R.C. 3517.18(B).

## Comment

### *General Considerations*

[1] Though subject to public election, a judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based upon the expressed views or preferences of the electorate, a judge makes decisions based upon the law and the facts of each case. Therefore, in furtherance of this interest, judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. Canon 4 imposes narrowly tailored restrictions upon the political and campaign activities of all judges and judicial candidates.

[2] When a person becomes a judicial candidate, Canon 4 becomes applicable to his or her conduct. See Rule 4.6.

### *Participation in Political Activities*

[3] Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. Although judges and judicial candidates may register to vote as members of a political party, they are prohibited by division (A)(1) from assuming leadership roles in political organizations.

[4] Divisions (A)(2) and (A)(3) prohibit judges and judicial candidates from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office to prevent them from abusing the prestige of judicial office to advance the interests of others. See Rule 1.3. These rules do not prohibit candidates from campaigning on their own behalf or from other permitted conduct. See Rule 4.2(C).

[5] Although members of the families of judges and judicial candidates are free to engage in their own political activity, including running for public office, there is no “family exception” to the prohibition in division (A)(3) against a judge or candidate publicly endorsing candidates for public office. A judge or judicial candidate must not become publicly involved in, or publicly associated with, a family member’s political activity or campaign for public office. To avoid public misunderstanding, judges and judicial candidates should take, and should urge members of their families to take, reasonable steps to avoid any implication that they endorse any family member’s candidacy or other political activity.

[6] Judges and judicial candidates retain the right to participate in the political process as voters in both primary and general elections.

### *Statements and Comments Made during a Campaign for Judicial Office*

[7] Divisions (A)(5) and (A)(6) prohibit judicial candidates from making comments that might impair the fairness of pending or impending judicial proceedings. This provision does not restrict arguments or statements to the court or jury by a lawyer who is a judicial candidate, or

rulings, statements, or instructions by a judge that may appropriately affect the outcome of a matter.

*Pledges, Promises, or Commitments Inconsistent with Impartial Performance of the Adjudicative Duties of Judicial Office.*

[8] The role of a judge is different from that of a legislator or executive branch official, even when the judge is subject to public election. A judge must at all times strive for the respect and confidence of all persons who come before the judge and decide each case on the law and facts presented. Campaigns for judicial office must be conducted differently from campaigns for other offices so as to foster and enhance respect and confidence for the judiciary. Judicial candidates have a special obligation to ensure the judicial system is viewed as fair, impartial, and free from partisanship. To that end, judicial candidates are urged to conduct their campaigns in such a way that will allow them, if elected, to maintain an open mind and uncommitted spirit with respect to cases or controversies coming before them. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in Canon 4 allow candidates to conduct campaigns that provide voters with sufficient information to permit them to distinguish between candidates and make informed electoral choices.

[9] Division (A)(7) makes applicable to both judges and judicial candidates the prohibition that applies to judges in Rule 2.10(B), relating to pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

[10] The making of a pledge, promise, or commitment is not dependent upon, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result. Pledges, promises, or commitments must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements or announcements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law without regard to his or her personal views.

[11] A judicial candidate may make campaign promises related to judicial organization, administration, and court management, such as a promise to dispose of a backlog of cases, start court sessions on time, or avoid favoritism in appointments and hiring. A candidate may also pledge to take action outside the courtroom, such as working toward jury selection system, or advocating for more funds to improve the physical plant and amenities of the courthouse.

[12] Judicial candidates may receive questionnaires or requests for interviews from the media and from issue advocacy or other community organizations that seek to learn their views on disputed or controversial legal or political issues. Division (A)(7) does not specifically address responses to such inquiries. Depending upon the wording and format of such questionnaires, judicial candidates' responses might be viewed as pledges, promises, or commitments to perform the adjudicative duties of office other than in an impartial way. To avoid violating division (A)(7), therefore, candidates who respond to media and other inquiries should also give assurances that they will keep an open mind and will carry out their adjudicative duties faithfully and impartially.

if elected. Candidates who do not respond may state their reasons for not responding, such as the danger that answering might be perceived by a reasonable person as undermining a successful candidate's independence or impartiality, or that it might lead to frequent disqualification. See Rule 2.11.

### *Permitted Conduct*

[13] Subject to the other requirements in this canon, a judge or judicial candidate may attend and speak to a political gathering and may make contributions and expend campaign funds to attend a social or fundraising event on behalf of or sponsored by another office holder or candidate.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 4.1 contains the provisions applicable to judges and judicial candidates that are found in Ohio Canons 7(B) and (C)(7)(b) and (c). Specifically:

- Rules 4.1(A)(1) to (3) correspond to Ohio Canons 7(B)(2)(a) and (b);
- Rules 4.1(A)(4) and (B)(2) and (3) correspond to Ohio Canons 7(C)(7)(b) and (c);
- Rule 4.1(A)(5) corresponds to Ohio Canon 7(B)(2)(e);
- Rule 4.1(B)(1) corresponds to Ohio Canons 7(B)(3)(a)(i) and (ii).

Rule 4.1(A)(6) is a new rule insofar as it addresses a statement made by a judge or judicial candidate in the course of political and campaign activity. However, the rule is similar to Ohio Canons 3(B)(9) and 7(B)(2)(e). Also see Rule 2.10(A)(1).

Rule 4.1(A)(7) replaces Ohio Canons 7(B)(2)(c) and (d), with the primary difference being elimination of the phrase “appear to commit” found in Canon 7(B)(2)(d).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 4.1 is analogous to portions of Model Rule 4.1. Specifically:

- Rule 4.1 retains, with minor modifications, the provisions of Model Rules 4.1(A)(1), (2), (3), (12), and (13);
- Rules 4.1(A)(4) and (B)(2) and (3) replace Model Rules 4.1(A)(4) and (5);
- Model Rules 4.1(A)(6) and (7) are not adopted since Rule 4.2 permits judicial candidates to solicit political party endorsements and advertise or otherwise state party affiliation, membership, nominations, and endorsements;
- Model Rule 4.1(A)(8) is moved to Rule 4.4;

- Model Rules 4.1(A)(9) and (10) contain prohibitions found in the Ohio Revised Code and are thus duplicative;
- Model Rule (A)(11) is moved to Rule 4.3(A);
- Model Rule 4.1(B) is moved to Rule 4.2(A)(3).

Comments [1] to [6] are taken from the corresponding comments to Model Rule 4.1. Comment [1] does not contain a phrase found in the Model Rule comment that references different judicial selection methods. Comment [4] is modified to remove a phrase contained in the Model Rule comment that would permit candidate endorsements prohibited by Rule 4.1(A)(3). Comment [6] is revised to delete a reference to caucus elections.

Comment [7] corresponds to Model Rule 4.1, Comment [10], and Comments [8] to [12] correspond to Model Rule Comments [11] to [15]. Comment [8] is revised to further underscore the need for narrowly tailored limitations on the campaign activity of judicial candidates. The inserted language is based on the public reprimand administered by the Supreme Court of Florida to Judge Carven Angel in 2004. See *Florida Bar News*, July 1, 2004. Comment [13] is added to acknowledge conduct that is permissible under Rule 4.1(C).

## **RULE 4.2 Political and Campaign Activities of Judicial Candidates**

(A) A *judicial candidate* shall be responsible for all of the following:

(1) Acting at all times in a manner consistent with the *independence, integrity, and impartiality* of the judiciary;

(2) Reviewing and approving the content of all campaign statements and materials produced by the *judicial candidate* or his or her campaign committee before their dissemination;

(3) The content of any statement communicated in any medium by his or her campaign committee and for compliance by his or her campaign committee with the limitations on campaign solicitations and *contributions* contained in Rule 4.4, if the candidate knew of the statement, solicitation, or *contribution*;

(4) No earlier than one year prior to or no later than sixty days after certification of his or her candidacy by the election authority, completing a two-hour course in campaign practices, finance, and ethics accredited by the Commission on Continuing Legal Education and certifying such completion within five days of the date of the course to the Board of Professional Conduct.

(B) A *judicial candidate* shall not do any of the following:

(1) Jointly raise funds with a candidate for nonjudicial office, except as permitted by division (C) of this rule;

(2) Appear in a joint campaign advertisement with a candidate for nonjudicial office, except as permitted by division (C) of this rule;

(3) Expend funds in a judicial campaign that have been contributed to the *judicial candidate* to promote his or her candidacy for a nonjudicial office.

(C) A *judicial candidate* may do any of the following:

(1) Conduct joint fundraising activities with other *judicial candidates*;

(2) Appear in joint campaign advertisements with other *judicial candidates*;

(3) Participate with *judicial* and nonjudicial *candidates* in fundraising activities organized or sponsored by a *political party*;

(4) Appear with other candidates for public office on slate cards, sample ballots, and other publications of a *political party* that identify all of the candidates endorsed by the party in an election;

- (5) Seek, accept, or use endorsements from any person or *organization*;
- (6) State in person or in advertising that he or she is a member of, affiliated with, nominee of, or endorsed by a *political party*.

### **Comment**

[1] A judicial candidate remains subject to Rules 4.1, 4.3, and 4.4, in addition to the requirements of this rule. For example, a candidate continues to be prohibited from soliciting funds for a political party, knowingly making false statements during a campaign, or making certain promises, pledges, or commitments related to future adjudicative duties. See Rule 4.1(A), 4.3, and 4.4(F).

[2] In elections for judicial office, a candidate may be nominated by or otherwise publicly identified or associated with a political party. This relationship may be maintained through the period of the campaign, and a judicial candidate may include political party affiliation or similar designations in his or her campaign communications. Although these affiliations and others may be communicated to the electorate, a judicial candidate should consider the effect that partisanship has on the principles of judicial independence, integrity, and impartiality.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 4.2 contains many of the provisions found in Ohio Canons 7(B), (C), and (F). The rule is organized in three parts: division (A) sets forth activities for which a judicial candidate is responsible during the campaign; division (B) sets forth prohibited campaign activities; and division (C) lists permissible campaign activities.

Rule 4.2(A)(1) reflects the “independence, integrity, and impartiality” standard used elsewhere in the Code and replaces the “maintain the dignity appropriate to judicial office” standard found in Ohio Canon 7(B)(1). Rules 4.2(A)(2) and (3) are analogous to Ohio Canon 7(F), with the addition of placing an affirmative duty on a judicial candidate to review and approve the content of campaign statements and materials prior to dissemination. Rule 4.2(A)(4) is identical to the substance of Ohio Canon 7(B)(5).

Rules 4.2(B)(1) and (2) retain the prohibitions on fundraising and advertising with nonjudicial candidates found in Ohio Canon 7(B)(2)(g). Rule 4.2(B)(3) is identical to Ohio Canon 7(C)(7)(a), and Rule 4.2(B)(4) corresponds to Ohio Canon 7(B)(3)(b).

Rules 4.2(C)(1), (2), (3), and (4) correspond to conduct that is permissible under Ohio Canon 7(B)(2)(g). Rule 4.2(C)(5) affirms what is permissible under Canon 7—that a judicial candidate may seek, accept, and use endorsements from persons and organizations. Rule 4.3 and case law govern the manner in which endorsements are used in campaign communications. See *In re Judicial Campaign Complaint Against Roberts* (1996), 82 Ohio Misc.2d 59; *In re Judicial Campaign Complaint Against Burick* (1999), 95 Ohio Misc.2d 1; and *Disciplinary Counsel v. Kaup* 102 Ohio St.3d 29, 2004-Ohio-1525.

Rule 4.2(C)(6) permits the use of party nominations and endorsements in campaign communications throughout a judicial campaign, and Rule 4.2(C)(7) allow party affiliation or membership to be communicated in person or in advertising through the date of the primary election. These provisions continue the standards contained in Ohio Canons 7(B)(3)(a)(iii) and (iv).

### **Comparison to ABA Model Code of Judicial Conduct**

Model Rule 4.2 sets forth standards applicable to judicial candidates who are subject to public election, whether the election is a retention election or partisan or nonpartisan in nature. Rule 4.2 retains many of these standards and modifies or eliminates others to reflect the present system of selecting judges in Ohio.

Model Rule 4.2(A)(1) is retained in Rule 4.2(A)(1).

Model Rule 4.2(A)(2) is unnecessary in light of statutory provisions contained in Title 35 of the Revised Code applicable to all candidates for public office.

Model Rule 4.2(A)(3) is identical in substance to Rule 4.2(A)(2), and Model Rule 4.2(A)(4) is replaced by the more definitive requirement found in Rule 4.2(A)(3). Rule 4.2(A)(4) has no counterpart in the Model Code.

Model Rules 4.2(B) and (C) are replaced by the provisions of Rule 4.2(B) and (C) that are taken from Ohio Canon 7.

Comments [1] and [2] correspond to Model Rule 4.2, Comments [2] and [3], with modifications to conform the comments to the rule. Comments [1] and [4] to [7] of the Model Rule are inconsistent with Rule 4.2 and other provisions of Canon 4 and are not adopted.

## **RULE 4.3 Campaign Standards and Communications**

During the course of any campaign for nomination or election to judicial office, a *judicial candidate*, by means of campaign materials, including sample ballots, advertisements on radio or television or in a newspaper or periodical, electronic communications, a public speech, press release, or otherwise, shall not *knowingly* or with reckless disregard do any of the following:

(A) Post, publish, broadcast, transmit, circulate, or distribute information concerning the *judicial candidate* or an opponent, either *knowing* the information to be false or with a reckless disregard of whether or not it was false;

(B) Manifest bias or prejudice toward an opponent based on race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status;

(C) Use the title of a public office or position immediately preceding or following the name of the *judicial candidate*, when the judicial candidate does not hold that office or position;

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

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

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

(E) Use the term “former” or “retired” immediately preceding the term “judge” unless the term “former” or “retired” appears each time the term “judge” is used and the term “former” or “retired” appears in *prominent lettering*;

(F) Use the term “re-elect” in either of the following circumstances:

(1) When the *judicial candidate* has never been elected at a general or special election to the office for which he or she is a *judicial candidate*;

(2) When the *judicial candidate* is not the current occupant of the office for which he or she is a *judicial candidate*;

(G) Misrepresent his or her identity, qualifications, present position, or other fact or the identity, qualifications, present position, or other fact of an opponent;

(H) Make a false statement concerning the formal schooling or training completed or attempted by a *judicial candidate*; a degree, diploma, certificate,

scholarship, grant, award, prize of honor received, earned, or held by a *judicial candidate*; or the period of time during which a *judicial candidate* attended any school, college, community technical school, or institution;

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

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

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

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

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

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

### **Comment**

[1] A judicial candidate must be scrupulously fair and accurate in all statements made by the candidate and his or her campaign committee. This rule obligates the candidate and the committee to refrain from making statements that are false.

[2] The use of the title of a public office or position is reserved for those persons who contemporaneously hold the office by election or appointment. The use of the title by one not entitled by law to the office or position falsely states incumbency and thus is inherently misleading and deceptive. A judicial candidate who uses the title in contravention of the rule is acting in a manner inconsistent with the independence, integrity, and impartiality of the judiciary.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 4.3 contains standards governing the content of campaign communications that are taken from Ohio Canons 7(B), (D), and (E). Specifically:

- Rules 4.3(A) and (B) correspond to Ohio Canons 7(E)(1) and (2);
- Rule 4.3(C) corresponds to Ohio Canon 7(D)(1);

- Rule 4.3(D) corresponds to Ohio Canon 7(D)(3);
- Rule 4.3(E) corresponds to Ohio Canon 7(D)(4), with a modification to preclude a former judge from using the term “re-elect” when seeking to return to the office to which he or she was previously elected. See *In re Judicial Campaign Complaint Against Lilly* (2008), 117 Ohio St.3d 1467.
- Rule 4.3(F) corresponds to Ohio Canon 7(B)(2)(f);
- Rules 4.3(G) to (M) correspond to Ohio Canons 7(D)(5) to (11).

### **Comparison to ABA Model Code of Judicial Conduct**

Because Ohio judges are elected, Model Rule 4.3, which governs the conduct of candidates for appointive judicial office, is not adopted in Ohio. The Ohio version of Rule 4.3 contains standards governing the content of campaign communications by judicial candidates.

Comment [1] corresponds to Model Rule 4.1, Comment [7].

## **RULE 4.4 Campaign Solicitations and Contributions**

(A) A *judicial candidate* shall not personally solicit campaign *contributions*, except as expressly authorized in this division, and shall not personally receive campaign *contributions*. A *judicial candidate* may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The *judicial candidate* is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable *law*. A *judicial candidate* may solicit campaign contributions in the following manner:

(1) A judicial candidate may make a general request for campaign *contributions* when speaking to an audience of twenty or more individuals;

(2) A *judicial candidate* may sign letters soliciting campaign *contributions* if the letters are for distribution by the *judicial candidate's* campaign committee and the letters direct *contributions* to be sent to the campaign committee and not to the *judicial candidate*;

(3) A *judicial candidate* may make a general request for campaign *contributions* via an electronic communication that is in text format if *contributions* are directed to be sent to the campaign committee and not to the *judicial candidate*.

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

(C) The campaign committee of a *judicial candidate* shall not *knowingly* solicit or receive, directly or indirectly, for any political or personal purpose any of the following:

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

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

(3) A *contribution* from a *political party* unless the *contribution* is made from a separate fund established by the *political party* solely to receive donations for *judicial candidates* and the *political party* reports on the *contribution* and

expenditure statements filed by the party the name, address, occupation, and employer of each person who contributed to the separate fund established by the *political party*.

(D) As used in division (C) of this rule:

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

(2) "Court" means the court for which the *judicial candidate* is seeking election and, if applicable, the court on which he or she currently serves. If the *judicial candidate* is seeking election to a division of a court of common pleas or a municipal court, "court" means the division of the court for which the *judicial candidate* is seeking election and, if applicable, the court or division of the court on which he or she currently serves.

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

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

(E) The campaign committee of a *judicial candidate* may begin soliciting and receiving *contributions* no earlier than one hundred twenty days before the first Tuesday after the first Monday in May of the year in which the general election is held. If the general election is held in 2012 or any fourth year thereafter, the campaign committee of a *judicial candidate* may begin soliciting and receiving *contributions* no earlier than one hundred twenty days before the first Tuesday after the first Monday in March of the year in which the general election is held. Except as provided in divisions (F) and (G) of this rule, the solicitation and receipt of *contributions* may continue until one hundred twenty days after the general election.

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

received by the campaign committee of the defeated *judicial candidate* after the date of the primary election.

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

(H) Notwithstanding any provision of division (E) of this rule to the contrary, a *judicial candidate* may do either or both of the following:

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

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

(I) Except as otherwise provided in division (J) of this rule, the campaign committee of a *judicial candidate* shall not directly or indirectly solicit or receive in the fundraising period allowed by division (E), (F), or (G) of this rule a campaign *contribution aggregating* more than the following:

(1) From an individual other than the *judicial candidate* or a member of his or her *immediate family*, three thousand eight hundred dollars in the case of a *judicial candidate* for chief justice or justice of the Supreme Court, one thousand three hundred dollars in the case of a *judicial candidate* for the court of appeals, or six hundred dollars in the case of a *judicial candidate* for the court of common pleas, municipal court, or county court.

(2) From any *organization*, seven thousand dollars in the case of a *judicial candidate* for chief justice or justice of the Supreme Court or three thousand eight hundred dollars in the case of all other *judicial candidates*.

(3) From a *political party*:

(a) Three hundred forty-seven thousand six hundred dollars in the case of a *judicial candidate* for chief justice or justice of the Supreme Court;

(b) Seventy-five thousand nine hundred dollars in the case of a *judicial candidate* for the court of appeals;

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

(d) Sixty-three thousand one hundred dollars in the case of a *judicial candidate* for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of seven hundred fifty thousand or less;

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

(1) A campaign *contribution* from an individual or an *organization aggregating* more than the applicable limitation contained in division (I)(1) or (2) of this rule in a primary election period or in a general election period;

(2) A campaign *contribution* from a *political party aggregating* more than the applicable limitation contained in division (I)(3) of this rule in a general election period or aggregating more than the following during a primary election period:

(a) One hundred eighty-nine thousand five hundred dollars in the case of a *judicial candidate* for chief justice or justice of the Supreme Court;

(b) Thirty-seven thousand nine hundred dollars in the case of a *judicial candidate* for the court of appeals;

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

(d) Thirty-one thousand six hundred dollars in the case of a *judicial candidate* for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of seven hundred fifty thousand or less.

(K) As used in division (J) of this rule, “primary election period” begins on the first day on which *contributions* may be solicited and received pursuant to division (E) of this rule and ends on the day of the primary election, and “general election period” begins

on the day after the primary election and ends on the last day on which *contributions* may be solicited or received pursuant to division (E) of this rule.

(L) For purposes of division (I), (J), and (K) of this rule:

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

(2) All *contributions* received by a *judicial candidate* from a national, state, or county *political party* shall be combined in applying the limits set forth in division (J)(3) of this rule.

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

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

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

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

(N) On or before the first day of December beginning in 2008 and every four years thereafter, the director of the Board of Professional Conduct shall determine the percentage change over the preceding forty-eight months in the Consumer Price Index for All Urban Consumers, or its successive equivalent, as determined by the United States Department of Labor, Bureau of Labor Statistics, or its successor in responsibility, for all items, Series A. The director shall apply that percentage change to the *contribution*

limitations then in effect and notify the Supreme Court of the results of that calculation. The Supreme Court may adopt revised *contribution* limitations based on the director's calculation or other factors that the Court considers appropriate.

**CONTRIBUTION LIMITS**  
**Effective January 1, 2017**

CANDIDATE FOR:	INDIVIDUAL		ORGANIZATION		POLITICAL PARTY	
	Primary*	General	Primary*	General	Primary*	General
<b>Supreme Court Chief Justice and Justice</b>	\$3,800	\$3,800	\$7,000	\$7,000	\$189,500	\$347,600
<b>Court of Appeals</b>	\$1,300	\$1,300	\$3,800	\$3,800	\$37,900	\$75,900
<b>Common Pleas, Municipal, and County Court more than 750,000</b>	\$600	\$600	\$3,800	\$3,800	\$37,900	\$75,900
<b>750,000 or less</b>	\$600	\$600	\$3,800	\$3,800	\$31,600	\$63,600

\*Primary limits apply only if the judicial candidate has a contested primary. If there is no contested primary, the general election limits apply throughout the permissible fundraising period.

**Comment**

[1] A judicial candidate is prohibited from personally soliciting campaign contributions and personally receiving campaign contributions. These limitations protect four vital interests: (1) avoiding the appearance of coercion or *quid pro quo*, especially when a judicial candidate engages in a one-on-one solicitation of a lawyer or party who appears before the court; (2) preserving both the appearance and reality of an impartial, independent, and noncorrupt judiciary; (3) ensuring the public's right to due process and fairness; and (4) furthering the public trust and confidence in the impartiality of the judicial decision-maker. Rule 4.4(A) recognizes that some forms of solicitation are less coercive and less intrusive than others and permits a candidate to engage in solicitations that are less personal and directed at a wider audience. A judicial candidate who directly solicits campaign contributions in a manner authorized by Rule 4.4(A)(1)-(3) is subject to the limitations relating to the solicitation and receipt of campaign contributions contained in Canon 4. Public employees subject to the direction or control of a judicial candidate are prohibited from soliciting or receiving campaign contributions.

[2] A judicial candidate may establish a judicial campaign committee to solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct the campaign. In so doing, the campaign committee shall follow the provisions of the rule regarding

the solicitation and receipt of contributions. A campaign committee shall follow all time guidelines controlling when judicial fundraising shall begin and end in reference to a particular judicial election.

[3] The campaign committee may accept contributions that do not exceed the limitations established for individuals, organizations, and political parties. The judicial candidate is responsible under Rule 4.2(A)(3) for compliance by his or her campaign committee with the limitations established on campaign solicitations and contributions.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 4.4 corresponds to Ohio Canon 7(C), with two substantive differences:

- The provisions of Ohio Canon 7(C)(7), governing the use of campaign funds, are moved to Rules 4.1(A)(4), 4.1(B)(2) and (3), and 4.2(B)(3);
- The requirement of Ohio Canon 7(C)(8), requiring a successful candidate to file copies of his or her campaign finance reports with the clerk of court, is not retained. Increasingly, campaign finance statements are available electronically, through web sites maintained by the Secretary of State and county boards of election.

### **Comparison to ABA Model Code of Judicial Conduct**

Model Rule 4.4, governing the conduct of judicial campaign committees, is replaced by Ohio's more comprehensive provisions regulating the solicitation and receipt of campaign contributions. The Ohio version of Rule 4.4 has provisions analogous to Model Rule 4.4(B)(1) and (2).

Rule 4.4, Comments [1] and [2] correspond to the same comments in Model Rule 4.4, with modifications to reflect the content of the Ohio rule. Comment [3] is new and does not correspond to Comment [3] of the Model Rule.

## **RULE 4.5 Activities of a Judge Who Becomes a Candidate for Nonjudicial Office**

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

### **Comment**

[1] In campaigns for nonjudicial elective public office, candidates may make pledges, promises, or commitments related to positions they would take and ways they would act if elected to office. Although appropriate in nonjudicial campaigns, this manner of campaigning is inconsistent with the role of a judge, who must remain fair and impartial to all who come before him or her. The potential for misuse of the judicial office, and the political promises that the judge would be compelled to make in the course of campaigning for nonjudicial elective office, together dictate that a judge who wishes to run for such an office must resign upon becoming a candidate.

[2] The “resign to run” rule ensures that a judge cannot use the judicial office to promote his or her candidacy, and prevents post-campaign retaliation from the judge in the event the judge is defeated in the election.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 4.5 is identical in substance to Ohio Canon 7(B)(4).

### **Comparison to ABA Model Code of Judicial Conduct**

Rule 4.5 is similar to Model Rule 4.5. However, the Ohio rule contains an absolute requirement that a judge resign from judicial office upon becoming a candidate for nonjudicial office, without drawing a distinction between elective and appointive office. The Ohio rule also includes language that allows a judge to remain in office while seeking election to or serving as a delegate in a state constitutional convention.

## **RULE 4.6 Definitions**

As used in Canon 4:

(A) “Aggregate” means not only contributions in cash or in-kind made directly to a candidate’s campaign committee, but also all contributions made indirectly with the understanding that they will be used to support the election of a candidate or to oppose the election of the candidate’s opponent.

(B) “Contribution” has the same meaning as in R.C. 3517.01 and includes an in-kind contribution.

(C) “Immediate family” means a spouse or domestic partner or any of the following who are related by blood or marriage to the judicial candidate:

- (1) Parent;
- (2) Child;
- (3) Brother or sister;
- (4) Grandparent;
- (5) Grandchild;
- (6) Uncle or aunt;
- (7) Nephew or niece;
- (8) Great-grandparent;
- (9) First cousin.

(D) “Domestic partner,” “independence,” “integrity,” “impartiality,” “impending,” and “pending” have the same meaning as in the Terminology section of this code.

(E) “In-kind contribution” has the same meaning as in R.C. 3517.01.

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

(G) “Knowingly” means actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances.

(H) “Law firm” means a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship, or other association authorized to practice law or lawyers engaged in a private or public legal aid or public defender organization, a legal services organization, the legal department of a corporation or other organization, or the attorney general, prosecuting attorney, law director, or other public office.

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

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

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

(L) “Political action committee” has the same meaning as in R.C. 3517.01.

(M) “Political party” has the same meaning as in R.C. 3517.01 and includes any national, state, or county political party.

(N) “Prominent lettering” means not less than the size of the largest type used to display the title of office or the court to which the judicial candidate seeks election.

### **Comparison to Ohio Code of Judicial Conduct**

Rule 4.6 is analogous to Ohio Canon 7(A). The following definitions in Rule 4.6 have been added to or modified from those contained in Ohio Canon 7(A):

- A definition of “aggregate” has been added based on the definition contained in the Terminology section of the Model Code;
- “Immediate family” has been modified to include a reference to “domestic partner” and specify that the definition includes first cousins only;
- Definitions of “domestic partner,” “integrity,” “independence,” and “impartiality,” “impending,” and “pending” have been added to correspond to the Terminology section of the code;
- “In-kind contribution” has been modified to conform to the statutory definition contained in R.C. 3517.01. See *Disciplinary Counsel v. Spicer* 106 Ohio St.3d 247, 2005-Ohio-4788;

- “Law firm” has been modified to conform to the definition found in Rule 1.0 of the Ohio Rules of Professional Conduct, with the addition of references to lawyers who practice together in a public office.

### **Comparison to ABA Model Code of Judicial Conduct**

The Model Code contains no rule analogous to Rule 4.6. The definitions applicable to Model Canon 4 are contained in the Terminology section of the Model Code.

## FORM OF CITATION, EFFECTIVE DATE, APPLICATION

(A) These rules shall be known as the Ohio Code of Judicial Conduct and cited as “Jud. Cond. Rule \_\_\_\_.”

(B) The Ohio Code of Judicial Conduct shall take effect March 1, 2009, at which time the Code shall supersede and replace the Ohio Code of Judicial Conduct, in effect prior to March 1, 2009, to govern the conduct of judges occurring on or after that effective date. The former Ohio Code of Judicial Conduct shall continue to apply to govern conduct occurring prior to March 1, 2009 and shall apply to all disciplinary investigations and prosecutions relating to conduct that occurred prior to March 1, 2009.

(C) The amendments to the Jud. Cond. Rule 4.2(B) and (C) and Comment [2] and Jud. Cond. Rule 4.4(A) and Comment [1]) adopted by the Supreme Court of Ohio on August 10, 2010, shall take effect on August 12, 2010.

(D) The amendment to the Jud. Cond. Rule 4.4(F) adopted by the Supreme Court of Ohio on August 8, 2011, shall take effect on August 9, 2011.

(E) The amendment to the Jud. Cond. Rule 4.4(F) and Temporary Provision adopted by the Supreme Court of Ohio on October 4, 2011, shall take effect on October 5, 2011.

(F) The amendments to Jud. Cond. Rule 4.4(I) and (J) adopted by the Supreme Court of Ohio on December 5, 2012, shall take effect on January 1, 2013. The amended contribution limits shall apply to fundraising that occurs on behalf of judicial candidates who campaign for election to judicial offices that will appear on the ballot in the 2013 and subsequent years. The contribution limits that were in effect prior to January 1, 2013, shall apply to fundraising that has occurred or will occur on behalf of judicial candidates who campaigned for election to judicial offices that appeared on the ballot in calendar year 2012.

(G) The amendments to Jud. Cond. Rules 4.3(C) and (E), Rules 4.4(A)(3) and 4.6(D) and (N) adopted December 5, 2012, shall take effect on January 2, 2013.

(H) The amendment to the Terminology section adopted by the Supreme Court of Ohio on November 13, 2012, shall take effect on January 1, 2014.

(I) The amendments to Jud. Cond. Rule 4.3(A), adopted by the Supreme Court of Ohio on November 18, 2014, in response to *In re Judicial Campaign Complaint Against O’Toole*, Slip Opinion No. 2014-Ohio-4046, shall take effect immediately and apply retroactively to September 24, 2014.

(J) The amendments to Jud. Cond. Rule 3.15 and Comment [2], Jud. Cond. Rule 4.2(A)(4), and Jud. Cond. Rule 4.4(N), adopted August 11, 2015, shall take effect on August 11, 2015.

(K) The amendments to Jud. Cond. Rules 4.2, Comment [1], 4.3, Comment [1], and 4.4(I) and (J) adopted by the Supreme Court of Ohio on November 29, 2016, shall take effect on January 1, 2017. The amended contribution limits shall apply to fundraising that occurs on behalf of judicial candidates who campaign for election to judicial offices that will appear on the ballot in the 2017 and subsequent years. The contribution limits that were in effect prior to January 1, 2017, shall apply to fundraising that has occurred or will occur on behalf of judicial candidates who campaigned for election to judicial offices that appeared on the ballot in calendar year 2016.

(L) The amendments to Jud. Cond. Rule 4.3, Comment [2], adopted on May 26, 2017, in response to the May 17, 2017, opinion and order of the United States District Court for the Southern District of Ohio Eastern Division in *O'Toole, et al. v. O'Connor, et al.*, Case No: 2:15-cv-1446, shall take effect immediately and apply retroactively to May 17, 2017.

(M) The amendments to Jud. Cond. Rule 2.15, Comment [2], adopted on June 6, 2017, shall take effect immediately.

## APPENDIX A

### CORRELATION TABLE 2009 OHIO CODE OF JUDICIAL CONDUCT TO FORMER OHIO CODE OF JUDICIAL CONDUCT

The following is a numerical listing of the 2009 Ohio Code of Judicial Conduct with cross-references to substantially similar provisions of the former Ohio Code of Judicial Conduct. Please consult the code comparisons that follow each rule for a more detailed treatment of corresponding provisions.

<b>2009 OHIO CODE OF JUDICIAL CONDUCT</b>	<b>FORMER OHIO CODE OF JUDICIAL CONDUCT</b>
<b>Preamble and Scope</b>	Preamble
<b>Application</b>	Compliance
<b>Terminology</b>	Terminology
<b>CANON 1</b>	
<b>Rule 1.1 Compliance with the Law</b>	Canon 2
<b>Rule 1.2 Promoting Confidence in the Judiciary</b>	Canons 1 and 2
<b>Rule 1.3 Avoiding Abuse of the Prestige of Judicial Office</b>	Canon 4(A)
<b>CANON 2</b>	
<b>Rule 2.1 Giving Precedence to Duties of Judicial Office</b>	Canon 3(A)
<b>Rule 2.2 Impartiality and Fairness</b>	Canons 3(B)(2) & (B)(5)
<b>Rule 2.3 Bias, Prejudice, and Harassment</b>	
Rule 2.3(A)	Canon 3(B)(5), 1 <sup>st</sup> sentence
Rule 2.3(B)	Canon 3(B)(5), 2 <sup>nd</sup> sentence
Rule 2.3(C)	Canon 3(B)(6)
Rule 2.3(D)	cf. Canon 3(B)(6)

**Rule 2.4 External Influences on  
Judicial Conduct**

Rule 2.4(A)	Canon 3(B)(2)
Rule 2.4(B)	Canon 4(A)
Rule 2.4(C)	Canon 4(A)

**Rule 2.5 Competence, Diligence,  
and Cooperation**

Rule 2.5(A)	Canon 3(B)(8)
Rule 2.5(B)	Canon 3(C)(1)

**Rule 2.6 Ensuring the Right to be  
Heard**

None

**Rule 2.7 Responsibility to Decide**

Canon 3(B)(1)

**Rule 2.8 Decorum, Demeanor, and  
Communication with Jurors**

Rule 2.8(A)	Canon 3(B)(3)
Rule 2.8(B)	Canon 3(B)(4)
Rule 2.8(C)	Canon 3(B)(10)

**Rule 2.9 *Ex Parte* Contacts and  
Communications with Others**

Rule 2.9(A)(1)	Canon 3(B)(7)(a)
Rule 2.9(A)(2)	Canon 3(B)(7)(b)
Rule 2.9(A)(3)	Canon 3(B)(7)(c)
Rule 2.9(A)(4)	None
Rule 2.9(A)(5)	Canon 3(B)(7)(d)
Rule 2.9(A)(6)	None
Rule 2.9(B)	None
Rule 2.9(C)	None
Rule 2.9(D)	None

**Rule 2.10 Judicial Statements on  
Pending and Impending Cases**

Rule 2.10(A)	Canon 3(B)(9) and Canon 7(B)(2)(e)
Rule 2.10(B)	Canons 7(B)(2)(c) & (d)
Rule 2.10(C)	Canon 3(B)(9)
Rule 2.10(D)	Canon 3(B)(9)
Rule 2.10(E)	None

**Rule 2.11 Disqualification**

Rule 2.11(A)(1)	Canon 3(E)(1)(a)
Rule 2.11(A)(2)	Canon 3(E)(1)(d) [part]
Rule 2.11(A)(3)	Canon 3(E)(1)(c)
Rule 2.11(A)(5)	None
Rule 2.11(A)(6)	Canon 3(E)(1)(d)(iii)
Rule 2.11(A)(7)	Canon 3(E)(1)(b) [part]
Rule 2.11(B)	Canon 3(E)(2)
Rule 2.11(C)	Canon 3(F)

**Rule 2.12 Supervisory Duties**

Rule 2.12(A)	Canon 3(C)(2)
Rule 2.12(B)	Canon 3(C)(3)

**Rule 2.13 Administrative Appointments**

Rule 2.13(A)	Canon 3(C)(4), 1 <sup>st</sup> three sentences
Rule 2.13(C)	Canon 3(C)(4), last sentence

**Rule 2.14 Disability and Impairment**

Rule 2.14(A)	None
Rule 2.14(B)	Canon 3(D)(4)

**Rule 2.15 Responding to Judicial and Lawyer Misconduct**

Rule 2.15(A)	Canon 3(D)(1)
Rule 2.15(B)	Canon 3(D)(2)

**Rule 2.16 Cooperation with Disciplinary Authorities**

cf. Canon 3(D)(3)

**CANON 3**

**Rule 3.1 Extrajudicial Activities in General**

Rule 3.1(A)	None
Rule 3.1(B)	Canon 2(A)
Rule 3.1(C)	Canon 2(A)
Rule 3.1(D)	None
Rule 3.1(E)	None

**Rule 3.2 Appearances Before  
Governmental Bodies and  
Consultation with Government  
Officials**

Rule 3.2(A)	Canon 2(A)(2)
Rule 3.2(B)	None
Rule 3.2(C)	Canon 4(C)(1)

**Rule 3.3 Testifying as a Character  
Witness**

Canon 4(A), last sentence

**Rule 3.4 Appointments to  
Governmental Positions**

Canon 4(C)(2)

**Rule 3.5 Use of Nonpublic  
Information**

None

**Rule 3.6 Affiliation with  
Discriminatory Organizations**

Rule 3.6(A)	Canon 4(B)
Rule 3.6(B)	None

**Rule 3.7 Participation in  
Educational, Religious, Charitable,  
Fraternal, or Civic Organizations  
and Activities**

Rule 3.7(A)	Canon 2(B), 1 <sup>st</sup> paragraph
Rule 3.7(A)(1)	Canon 2(B)(2)(a)
Rule 3.7(A)(2)	Canon 2(B)(2)(a)(i)
Rule 3.7(A)(3)	Canon 2(B)(2)(a)(ii)
Rule 3.7(A)(4)	Canon 2(B)(2)(c)
Rule 3.7(A)(5)	Canons 2(B)(2)(a) & (d)
Rule 3.7(A)(6)	Canon 2(B)(2)(b)
Rule 3.7(A)(7)	Canon 2(B)(1)
Rule 3.7(B)	None

**Rule 3.8 Appointments to  
Fiduciary Positions**

Rule 3.8(A)	Canon 4(D)(1)
Rule 3.8(B)	Canon 4(D)(2)
Rule 3.8(C)	Canon 4(D)(3)
Rule 3.8(D)	None

<b>Rule 3.9 Service as Arbitrator or Mediator</b>	Canon 4(E)
<b>Rule 3.10 Practice of Law</b>	Canon 4(F)
<b>Rule 3.11 Financial, Business, or Remunerative Activities</b>	
Rule 3.11(A)	Canon 2(C)(2)
Rule 3.11(B)	Canon 2(C)(3)
Rule 3.11(C)	Canons 2(C)(1) & (4), first sentence
Rule 3.11(D)	Canon 2(C)(4), second sentence
<b>Rule 3.12 Compensation for Extrajudicial Activities</b>	Canon 2(D)
<b>Rule 3.13 Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value</b>	
Rule 3.13(A)	Canon 2(C)(5)
Rule 3.13(A)(1)	None
Rule 3.13(A)(2)	Canon 2(C)(5)(e)
Rule 3.13(A)(3)	Canon 2(C)(5)(c)
Rule 3.13(A)(4)	Canon 2(C)(5)(f)
Rule 3.13(A)(5)	None
Rule 3.13(A)(6)	Canon 2(C)(5)(g)
Rule 3.13(A)(7)	Canon 2(C)(5)(a)
Rule 3.13(A)(8)	Canon 2(C)(5)(b)
Rule 3.13(A)(9)	Canon 2(C)(5)(d)
Rule 3.13(A)(10)	Canon 2(C)(5)(a)
Rule 3.13(A)(11)(a)	Canon 2(C)(5)(a)
Rule 3.13(A)(11)(b)	None
Rule 3.13(A)(12)	Canon 2(C)(5)(h); R.C. 102.03
Rule 3.13(C)	Canon 2(D)(3)
<b>Rule 3.14 Reimbursement of Expenses and Waivers of Fees or Charges</b>	
Rule 3.14(A)	Canons 2(D) & (D)(1)
Rule 3.14(B)	Canon 2(D)(2)
Rule 3.14 (C)	Canon 2(D)(3)
<b>Rule 3.15 Reporting Requirements</b>	Canon 2(D)(3); R.C. 102.02

## **CANON 4**

### **Rule 4.1 Political and Campaign Activities of Judges and Judicial Candidates**

Rule 4.1(A)(1)	Canon 7(B)(2)(a)
Rule 4.1(A)(2)	Canon 7(B)(2)(b)
Rule 4.1(A)(3)	Canon 7(B)(2)(b)
Rule 4.1(A)(4)	Canons 7(C)(7)(b) & (c)
Rule 4.1(A)(5)	Canon 7(B)(2)(e)
Rule 4.1(A)(6)	cf. Canons 3(B)(9) & Canon 7(B)(2)(e)
Rule 4.1(A)(7)	Canons 7(B)(2)(c) & (d)
Rule 4.1(B)(1)	Canons 7(B)(3)(a)(i) & (ii)
Rule 4.1(B)(2)	Canons 7(C)(7)(b) & (c)
Rule 4.1(B)(3)	Canons 7(C)(7)(b) & (c)

### **Rule 4.2 Political and Campaign Activities of Judicial Candidates**

Rule 4.2(A)(1)	Canon 7(B)(1)
Rule 4.2(A)(2)	Canon 7(F)
Rule 4.2(A)(3)	Canon 7(F)
Rule 4.2(A)(4)	Canon 7(B)(5)
Rule 4.2(B)(1)	Canon 7(B)(2)(g)
Rule 4.2(B)(2)	Canon 7(B)(3)(g)
Rule 4.2(B)(3)	Canon 7(C)(7)(a)
Rule 4.2(C)(1)	Canon 7(B)(3)(g)
Rule 4.2(C)(2)	Canon 7(B)(3)(g)
Rule 4.2(C)(3)	Canon 7(B)(3)(g)
Rule 4.2(C)(4)	Canon 7(B)(3)(g)
Rule 4.2(C)(5)	None
Rule 4.2(C)(6)	Canons 7(B)(3)(a)(iii) & (iv) and 7(B)(3)(b)

### **Rule 4.3 Campaign Standards and Communications**

Rule 4.3(A)	Canon 7(E)(1)
Rule 4.3(B)	Canon 7(E)(2)
Rule 4.3(C)	Canon 7(D)(1)
Rule 4.3(D)	Canon 7(D)(3)
Rule 4.3(E)	Canon 7(D)(4)
Rule 4.3(F)	Canon 7(B)(2)(f)
Rule 4.3(G)	Canon 7(D)(5)
Rule 4.3(H)	Canon 7(D)(6)

Rule 4.3(I)	Canon 7(D)(7)
Rule 4.3(J)	Canon 7(D)(8)
Rule 4.3(K)	Canon 7(D)(9)
Rule 4.3(L)	Canon 7(D)(10)
Rule 4.3(M)	Canon 7(D)(11)

**Rule 4.4 Campaign Solicitations and**

**Contributions**

Rule 4.4(A)	Canon 7(C)(2)(a)
Rule 4.4(B)	Canon 7(C)(1)
Rule 4.4(C)	Canons 7(C)(2)(a) (i) to (iii)
Rule 4.4(D)	Canon 7(C)(2)(b)
Rule 4.4(E)	Canon 7(C)(3)
Rule 4.4(F)	Canon 7(C)(4)(a)
Rule 4.4(G)	Canon 7(C)(4)(b)
Rule 4.4(H)	Canon 7(C)(4)(c)
Rule 4.4(I)	Canon 7(C)(4)(d)
Rule 4.4(J)	Canon 7(C)(5)(a)
Rule 4.4(K)	Canon 7(C)(5)(b)
Rule 4.4(L)	Canon 7(C)(5)(c)
Rule 4.4(M)	Canon 7(C)(5)(d)
Rule 4.4(N)	Canon 7(C)(5)(e)
Rule 4.4(O)	Canon 7(C)(6)

**Rule 4.5 Activities of a Judge Who Becomes a Candidate for Nonjudicial Office**

Canon 7(B)(4)

**Rule 4.6. Definitions**

Rule 4.6(A)	None
Rule 4.6(B)	Canon 7(A)(3)
Rule 4.6(C)	Canon 7(A)(11)
Rule 4.6(D)	None
Rule 4.6(E)	Canon 7(A)(4)
Rule 4.6(F)	Canon 7(A)(1)
Rule 4.6(G)	None
Rule 4.6(H)	Canon 7(A)(9)
Rule 4.6(I)	Canon 7(A)(5)
Rule 4.6(J)	Canon 7(A)(7)
Rule 4.6(K)	Canon 7(A)(10)
Rule 4.6(L)	Canon 7(A)(8)
Rule 4.6(M)	Canon 7(A)(6)

## APPENDIX B

### CORRELATION TABLE FORMER OHIO CODE OF JUDICIAL CONDUCT TO 2009 OHIO CODE OF JUDICIAL CONDUCT

The following is a numerical listing of the former Ohio Code of Judicial Conduct with cross-references to provisions of 2009 Ohio Code of Judicial Conduct that address substantially similar subject-matter. Please consult the code comparisons that follow each rule for a more detailed treatment of corresponding provisions.

<b>FORMER OHIO CODE OF JUDICIAL CONDUCT</b>	<b>2009 OHIO CODE OF JUDICIAL CONDUCT</b>
<b>CANON 1 A Judge Shall Uphold the Integrity and Independence of the Judiciary</b>	Rule 1.2
<b>CANON 2 A Judge Shall Respect and Comply with the Law and Shall Act in a Manner that Promotes Public Confidence in the Integrity and Impartiality of the Judiciary</b>	Rules 1.1 and 1.2
Canon 2(A)(1) and (2)	Rules 3.1(B) & (C) and 3.2(A)
Canon 2(B)(1)(a)	Rules 3.7(A) & (A)(7)
Canon 2(B)(1)(b)	
Canon 2(B)(2)(a)	Rules 3.7(A)(1), (2), (3), & (5)
Canon 2(B)(2)(b)	Rule 3.7(A)(6)
Canon 2(B)(2)(c)	Rule 3.7(A)(4)
Canon 2(B)(2)(d)	Rule 3.7(A)(5)
Canon 2(C)(1)	Rule 3.11(C)
Canon 2(C)(2)	Rule 3.11(A)
Canon 2(C)(3)	Rule 3.11(B)
Canon 2(C)(4)	Rules 3.11(C) & (D)
Canon 2(C)(5)	Rule 3.13(A)
Canon 2(C)(5)(a)	Rules 3.13(A)(7), (10) & (11)(a)
Canon 2(C)(5)(b)	Rule 3.13(A)(8)
Canon 2(C)(5)(c)	Rule 3.13(A)(3)
Canon 2(C)(5)(d)	Rule 3.13(A)(9)
Canon 2(C)(5)(e)	Rule 3.13(A)(2)
Canon 2(C)(5)(f)	Rule 3.13(A)(4)
Canon 2(C)(5)(g)	Rule 3.13(A)(6)
Canon 2(C)(5)(h)	Rule 3.13(A)(12)
Canon 2(D)	Rule 3.12

Canon 2(D)(1)  
Canon 2(D)(2)  
Canon 2(D)(3)

Rule 3.14(A)  
Rule 3.14(B)  
Rules 3.13(C), 3.14(C), and 3.15

**CANON 3 A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently**

Canon 3(A)  
Canon 3(B)(1)  
Canon 3(B)(2)  
Canon 3(B)(3)  
Canon 3(B)(4)  
Canon 3(B)(5)  
Canon 3(B)(6)  
Canon 3(B)(7)(a)  
Canon 3(B)(7)(b)  
Canon 3(B)(7)(c)  
Canon 3(B)(7)(d)  
Canon 3(B)(8)  
Canon 3(B)(9)  
Canon 3(B)(10)  
Canon 3(B)(11)  
Canon 3(C)(1)  
Canon 3(C)(2)  
Canon 3(C)(3)  
Canon 3(C)(4)  
Canon 3(D)(1)  
Canon 3(D)(2)  
Canon 3(D)(3)  
Canon 3(D)(4)  
Canon 3(E)(1)(a)  
Canon 3(E)(1)(b)  
Canon 3(E)(1)(c)  
Canon 3(E)(1)(d)  
Canon 3(E)(2)  
Canon 3(F)  
Canon 3(G)  
Canon 3(H)

Rule 2.1  
Rule 2.7  
Rules 2.2 and 2.4(A)  
Rule 2.8(A)  
Rule 2.8(B)  
Rules 2.2 and 2.3(A) & (B)  
Rule 2.3(C) & (D)  
Rule 2.9(A)(1)  
Rule 2.9(A)(2)  
Rule 2.9(A)(3)  
Rule 2.9(A)(5)  
Rule 2.5(A)  
Rules 2.10(A), (C), & (D) and 4.1(A)(6)  
Rule 2.8(C)  
Rule 3.5, Comments [1A], [3], & [4]  
Rule 2.5(B)  
Rule 2.12(A)  
Rule 2.12(B)  
Rules 2.13(A) & (C)  
Rule 2.15(A)  
Rule 2.15(B)  
cf. Rule 2.16  
Rule 2.14(B)  
Rule 2.11(A)(1)  
Rule 2.11(A)(7)(a)  
Rule 2.11(A)(3)  
Rules 2.11(A)(2) & (A)(6)  
Rule 2.11(B)  
Rule 2.11(C)

**CANON 4 A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities**

Canon 4(A)  
Canon 4(B)

Rules 1.3, 2.4 (B) & (C) and 3.3  
Rule 3.6(A)

Canon 4(C)(1)	Rule 3.2(C)
Canon 4(C)(2)	Rule 3.4
Canon 4(D)(1)	Rule 3.8(A)
Canon 4(D)(2)	Rule 3.8(B)
Canon 4(D)(3)	Rule 3.8(C)
Canon 4(E)	Rule 3.9
Canon 4(F)	Rule 3.10

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

Canon 7(A)	Rule 4.6
Canon 7(B)(1)	Rule 4.2(A)(1)
Canon 7(B)(2)(a)	Rule 4.1(A)(1)
Canon 7(B)(2)(b)	Rules 4.1(A)(2) & (3)
Canon 7(B)(2)(c) and (d)	Rules 2.10(B) and 4.1(A)(6) & (A)(7)
Canon 7(B)(2)(e)	Rule 4.1(A)(5)
Canon 7(B)(2)(f)	Rule 4.3(F)
Canon 7(B)(2)(g)	Rules 4.2(B)(1) & (2) and (C)(1) to (4)
Canon 7(B)(3)(a) and (b)	Rules 4.1(B)(1) and 4.2(C)(6)
Canon 7(B)(4)	Rule 4.5
Canon 7(B)(5)	Rule 4.2(A)(4)
Canon 7(C)(1)	Rule 4.4(B)
Canon 7(C)(2)	Rule 4.4(A)
Canon 7(C)(2)(a)(i) to (iii)	Rule 4.4(C)
Canon 7(C)(2)(b)	Rule 4.4(D)
Canon 7(C)(3)	Rule 4.4(E)
Canon 7(C)(4)(a) and (b)	Rules 4.4(F) & (G)
Canon 7(C)(4)(c)	Rule 4.4(H)
Canon 7(C)(4)(d)	Rule 4.4(I)
Canon 7(C)(5)(a)	Rule 4.4(J)
Canon 7(C)(5)(b)	Rule 4.4(K)
Canon 7(C)(5)(c)	Rule 4.4(L)
Canon 7(C)(5)(d)	Rule 4.4(M)
Canon 7(C)(5)(e)	Rule 4.4(N)
Canon 7(C)(6)	Rule 4.4(O)
Canon 7(C)(7)(a)	Rule 4.2(B)(3)
Canon 7(C)(7)(b) & (c)	Rules 4.1(A)(4), (B)(2), & (B)(3)
Canon 7(C)(8)	None
Canon 7(D)(1)	Rule 4.3(C)
Canon 7(D)(2)	Rule 4.3, Comment [2]
Canon 7(D)(3)	Rule 4.3(D)
Canon 7(D)(4)	Rule 4.3(E)
Canon 7(D)(5)	Rule 4.3(G)
Canon 7(D)(6)	Rule 4.3(H)

Canon 7(D)(7)  
Canon 7(D)(8)  
Canon 7(D)(9)  
Canon 7(D)(10)  
Canon 7(D)(11)  
Canon 7(E)(1)  
Canon 7(E)(2)  
Canon 7(F)

Rule 4.3(I)  
Rule 4.3(J)  
Rule 4.3(K)  
Rule 4.3(L)  
Rule 4.3(M)  
Rule 4.3(A)  
Rule 4.3(B)  
Rules 4.2(A)(2) & (3)