

MAINE CODE OF JUDICIAL CONDUCT*

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MAINE CODE OF JUDICIAL CONDUCT

COVERAGE AND EFFECTIVE DATE

I. IN GENERAL

(A) Every justice, judge, family law magistrate, active retired justice, and active retired judge of the Supreme Judicial Court, the Superior Court, and the District Court shall comply with the provisions of this Code from the time the justice, judge, or magistrate takes the oath of office.

(B) A judge of the Probate Courts shall comply with the provisions of this Code, except that a judge of probate:

(1) Is required to comply with Rules 2.10 and 3.2 only while serving as a judge, or as to matters pending in the judge's court; and

(2) Is not required to comply with Rules 3.8, 3.9, 3.10, 3.11(B), 3.12, and 4.1(A)(1)-(4). A judge of probate shall not, however, act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

II. EFFECTIVE DATE

This Code takes effect on September 1, 2015.

III. TIME FOR COMPLIANCE

All persons to whom this Code is applicable on the effective date, and all persons to whom this Code thereafter becomes applicable, shall comply immediately with all provisions of this Code except Rules 3.6, 3.8, 3.11(B), and 3.11(C), and should comply with these provisions as soon as reasonably possible and shall do so in any event within the period of one year.

IV. TITLE

This Code may be known and cited as the Maine Code of Judicial Conduct.

PREAMBLE

An independent, fair, competent, and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, fair, competent, and impartial judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. The judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in 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 justice system.

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, integrity, fairness, and competence.

The Code of Judicial Conduct establishes standards for the ethical conduct of judges and judicial candidates. It 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.

The Code of Judicial Conduct consists of five Canons, Canons 1, 2, 3, 4, and 6. Canon 6 is generally unchanged from current Canon 6. There is no Canon 5. Numbered Rules appear under each Canon. The Terminology section provides additional guidance in interpreting and applying the Code.

The Canons state overriding principles of judicial ethics that all judges must observe. Although a judge may be disciplined only for violating a Rule or the Canons, supporting Advisory Notes provide important guidance in interpreting the Rules. When 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 is authorized for action or inaction within the bounds of such discretion.

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.

This Code sets forth 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 Code is not to be construed or applied in any manner that would impinge upon the essential independence of judges in making judicial decisions.

The Code is designed to provide standards for the regulation of judicial conduct through disciplinary proceedings when necessary. Although the black letter of the Rule is binding and enforceable when using terms such as “shall” or “must,” it is not contemplated that every transgression will result in the imposition of discipline. Whether discipline is warranted should be determined through a reasonable and reasoned application of the Rules, with consideration given to the seriousness of the transgression, the extent of any pattern of improper activity, any history of previous violations, and the effect of the improper activity upon the judicial system or others.

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

TERMINOLOGY

Unless the context requires otherwise, the following terms have the following meanings in interpreting and applying this Code:

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

“Committee” means the Committee on Judicial Responsibility and Disability established by order of the Maine Supreme Judicial Court.

“Contribution” includes 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.

“Court staff” means employees of the court, including full-time, part-time, temporary, or contract employees, interns, externs, volunteers, and employees of the several counties while engaged in support of a judge in the performance of judicial duties, but does not include lawyers advocating for or representing a party in a proceeding before a judge.

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

“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.

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

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

“Election” includes primary, general, and special elections.

“Fiduciary” includes positions as personal representative, executor, administrator, trustee, or guardian.

“Honorarium” means a payment of money or any thing of significant value for an appearance, speech, or article, not including reimbursement or payment for actual and necessary expenses for travel, food, and lodging incident to an appearance or speech.

“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 the judge.

“Impending matter” is a matter that is imminent or expected to occur in the near future.

“Impropriety” is conduct that violates the law, court rules, or provisions of this Code, and that undermines a judge’s independence, integrity, or impartiality.

“Income” includes, but is not limited to, compensation for services rendered (other than amounts paid by the State of Maine for performance of judicial duties), dividends, interest, rent, royalties, capital gains, and amounts received from a trade or business, trust, estate, pension (other than amounts paid under a pension plan administered by a state or by the federal government), or other financial arrangement. “Income” does not include honoraria, gifts, bequests, favors, reimbursement or payment of expenses, or payments of alimony, spousal support, child support, or separate maintenance.

“Independence” means a judge’s freedom from influence or controls other than those established by law.

“Integrity” means probity, fairness, honesty, uprightness, and soundness of character.

“Judicial candidate” means any person, including a sitting judge, who is seeking selection for or retention in a judicial office by election or appointment. A person becomes a candidate for judicial office as soon as he or she makes a

public announcement of candidacy; declares or files as a candidate with the election authority; authorizes or, where permitted, engages in solicitation or acceptance of contributions or support; or is nominated for election or appointment to office.

“Knowingly,” “knowledge,” “known,” and “knows” mean actual knowledge of the fact in question. Actual knowledge may be inferred from the circumstances.

“Law” encompasses court rules, statutes, administrative rules and regulations, constitutional provisions, and decisional law.

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

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

“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, impounded, or communicated in camera, and information offered in grand jury proceedings, presentencing reports, child protective cases, or psychiatric reports.

“Pending matter” is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition.

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

“Political organization” means a political party or other group sponsored by or affiliated with a political party or candidate, or an independent political action committee, the principal purpose of which is to further the election or appointment of candidates for political office. For purposes of this Code, the term does not include a judicial candidate’s campaign committee.

“Require.” The rules prescribing that a judge “require” certain conduct of others are, like all of the rules in this Code, rules of reason. The use of the term “require” in that context means a judge is to exercise reasonable direction and control over the conduct of those persons while they are subject to the judge’s direction and control.

“The 1993 Code.” References to the 1993 Code, the 1993 Maine Code of Judicial Conduct, the 1993 Canons, or similar references to the 1993 Code or Canons, include any amendments adopted since 1993 and until the 2015 adoption of this revised Maine Code of Judicial Conduct, unless the context indicates that the reference is limited to actions taken in 1993.

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

CANON 1

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

RULE 1.1

Compliance with the Law

A judge shall comply with the law and the Maine Code of Judicial Conduct.

RULE 1.2

Promotion of 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; shall avoid impropriety; and should avoid the appearance of impropriety.

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; nor shall a judge convey or permit

others to convey the impression that any person or organization is in a special position to influence the judge.

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 personal and extrajudicial activities.

RULE 2.2

Impartiality and Fairness; Upholding the Law

A judge shall uphold and apply the law, and shall perform all judicial and administrative duties promptly, fairly, and competently. An error of law in a judicial decision, whether recognized on appeal or not, shall not constitute a violation of this Code unless the judge's action demonstrates willful or repeated disregard of explicit requirements of the law.

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 for or against an individual or a party, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon, race, sex, gender, gender identity, 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, while 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, gender identity, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation against parties, witnesses, lawyers, court staff, or others.

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

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.

RULE 2.5

Competence, Diligence, and Cooperation

(A) A judge shall perform judicial and administrative duties competently and diligently.

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

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 forces any

party to settle. A judge may participate in case management conferences, judicial settlement conferences, and dispositional conferences, and such participation alone does not disqualify the judge from participating in later adjudicatory proceedings.

(C) A judge may take affirmative steps, consistent with the law, as the judge deems appropriate to enable an unrepresented litigant to be heard. A judge may explain the requirements of applicable rules and statutes so that a person appearing before the judge understands the process to be employed. A judge may also inform unrepresented individuals of free or reduced cost legal or other assistance that is available in the courthouse or elsewhere.

RULE 2.7

Responsibility to Decide

A judge shall hear and decide matters except when disqualification or recusal is required.

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, law enforcement and corrections officers, members of the public, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officers, 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, but may express appreciation to jurors for their service to the judicial system and the community.

RULE 2.9

Ex Parte Communications

(A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers concerning a pending or impending matter except as follows:

(1) Where circumstances require it, ex parte communication for scheduling, administrative, or emergency purposes that does not address substantive matters is permitted, provided:

(a) The judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and

(b) The judge makes provision promptly to notify all other parties of the substance of the ex parte communication and gives the parties an opportunity to respond.

(2) A judge may obtain the written advice of a disinterested expert on the law applicable to a specific proceeding before the judge if the judge (a) gives notice to the parties of the person to be consulted and the subject matter of the advice to be solicited, and (b) affords the parties a reasonable opportunity to object and respond to the notice and the advice requested.

(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 may, with the consent of the parties, confer separately with the parties with or without their lawyers present, or separately with their lawyers alone.

(5) A judge may initiate or consider any ex parte communications when expressly authorized by law, court rule, or administrative order to do so, such as when serving in judicially assisted settlement conferences or on therapeutic or problem-solving courts, mental health courts, or drug courts. In this capacity, judges may assume a more interactive role with parties, counsel, treatment providers, probation officers, social workers, and others.

(B) If a judge inadvertently 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) Except when receiving case-related information about events in or around the courthouse that is relevant to assuring a fair trial and protecting the integrity of the judicial process, 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 by 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.

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 subsequently interfere with a fair trial or hearing.

(B) A judge shall require court staff and others subject to the judge's discretion and control to refrain from making statements that the judge would be prohibited from making.

(C) Notwithstanding the restrictions, a judge may make public statements in the course of official duties and may explain court procedures.

(D) Notwithstanding the restrictions, a judge may comment on any proceeding in which the judge is a litigant in a personal capacity.

(E) Subject to this rule, a judge may respond directly or through a third party to statements in the media or elsewhere concerning the judge's conduct in a matter.

(F) This rule is not violated by any statement a judge may make in the course of managing or deciding matters pending before the judge or in the course of fulfilling the judge's administrative responsibilities, provided that such statements are relevant to judicial proceedings or administrative matters within the judge's authority.

RULE 2.11

Disqualification or Recusal

(A) A judge shall disqualify or recuse 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 the judge has personal knowledge of facts that are in dispute in the proceeding when the personal knowledge that would form the basis for disqualification has been gained outside the regular course of present or prior judicial proceedings.

(2) The judge knows that the judge, individually or as a fiduciary, the judge's spouse, domestic partner, a person within the third degree of relationship to either of them, or any other member of the judge's family residing in the judge's household

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

(b) Is acting as a lawyer in the proceeding;

(c) Is a person who has more than a de minimis interest that could be substantially affected by the proceeding; or

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

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

(4) The judge

(a) 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) Served in government employment, and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding or has publicly expressed in such capacity an opinion concerning the merit of the particular matter in controversy; or

(c) Was a material witness concerning the matter.

A judge who disqualifies or recuses himself or herself in any proceeding need not state the grounds for disqualification or recusal.

(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. However, the obligation to keep reasonably informed about personal economic interests does not extend to knowledge of each stock or other security or property interest held within a mutual fund, retirement account, deferred compensation plan, or other similar investment account in which the decision to purchase or sell particular investments is made by an individual or entity other than the judge or the judge's spouse or domestic partner.

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

(D) The filing of a complaint with the Committee on Judicial Responsibility and Disability by a party or attorney involved in litigation pending before the judge does not require the judge to disqualify or recuse himself or herself.

(E) A judge may decline to disqualify or recuse himself or herself in any proceeding in which disqualification or recusal might otherwise be required under section A of this Rule if no other judge or court is available and disqualification or recusal will result in a failure of justice. In such a case, the judge shall disclose on the record the basis for disqualification or recusal and the reason why the judge is declining to disqualify or recuse himself or herself under this Rule, and the judge shall thereafter disqualify or recuse himself or herself if at any time it becomes possible to transfer the proceeding to another judge or court without a failure of justice.

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 should take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.

RULE 2.13

Administrative Appointments

- (A) In making administrative appointments, a judge
- (1) Shall exercise the power of appointment impartially and on the basis of merit; and
 - (2) Shall avoid nepotism, favoritism, and unnecessary appointments.
- (B) A judge shall not appoint a lawyer to a position if the judge either knows that the lawyer, or the lawyer's spouse or domestic partner, has contributed any amount within the past four years to the judge's election campaign, or learns of such a contribution by means of a timely motion by a party or other person properly interested in the matter, unless
- (1) The position is substantially uncompensated;
 - (2) The lawyer has been selected in rotation from a list of qualified and available lawyers compiled without regard to their having made political contributions; or
 - (3) The judge or another presiding or administrative judge affirmatively finds that no other lawyer is competent for the position and is willing and able to accept the position.
- (C) A judge shall not approve compensation of appointees beyond the fair value of services rendered.

RULE 2.14

Disability and Impairment

A judge who has actual knowledge 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 the Maine Assistance Program.

RULE 2.15

Disciplinary Responsibilities

(A) A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question as to the judge's honesty, trustworthiness, or fitness as a judge in other respects shall inform the Committee on Judicial Responsibility and Disability or the appropriate authority.

(B) A judge having knowledge that a lawyer has committed a violation of the Maine Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the Board of Overseers of the Bar and any other appropriate authority including disciplinary boards of other jurisdictions in which the lawyer is admitted to practice. The fact that a judge has referred an attorney to the Maine Assistance Program or has filed a disciplinary complaint against an attorney with the Board of Overseers of the Bar does not provide a good faith basis for recusal when the basis for the complaint would not otherwise require recusal.

(C) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action.

(D) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Maine Rules of Professional Conduct should take appropriate action.

(E) Acts or omissions of a judge, in the discharge of disciplinary responsibilities required or permitted by sections A through D of this rule, are a part of a judge's judicial duties and shall be absolutely privileged, and no civil actions predicated thereon may be instituted against the judge.

(F) This Rule does not require disclosure of information obtained in the course of a lawyer's or judge's participation in the Maine Assistance Program for Lawyers and Judges, or an equivalent peer assistance program approved by a state's highest court.

RULE 2.16

A Judge Shall Comply 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 lawyer.

CANON 3

A judge shall conduct the judge's personal and extrajudicial activities 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 or this Code. However, when engaging in extrajudicial activities, a judge shall not

- (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 and for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law; or
- (F) Demean the judicial office.

RULE 3.2

Governmental, Civic, or Charitable Activities

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

- (A) In connection with matters concerning the law, the legal system, or the administration of justice or the appointment or reappointment of the judge;
- (B) In connection with matters about which the judge acquired knowledge or expertise in the course of the judge's judicial duties; or
- (C) When the judge is acting in a matter involving the judge's personal, legal, or economic interests, or when the judge is acting in a fiduciary capacity.

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.

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.

RULE 3.5

Use of Nonpublic Information

A judge shall not intentionally disclose or use nonpublic information acquired in a judicial capacity for any purpose unrelated to the judge's judicial duties, except that disclosure of nonpublic information is allowed when reasonably necessary to protect public health and safety.

RULE 3.6

Affiliation with Discriminatory Organizations

(A) A judge shall not hold membership in any organization that practices unlawful discrimination. A judge who is a member of such an organization at the effective date of this Rule, or who learns at a later time that an organization of which the judge is a member practices unlawful discrimination, may retain membership in the organization for a reasonable time not exceeding one year, but must resign if the organization does not discontinue its discriminatory practices within that time.

(B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices unlawful discrimination. 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.

(C) A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule.

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 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 as follows:

(1) A judge may assist such an organization or entity in planning related to fund-raising and participating in the management and investment of the organization's or entity's funds.

(2) A judge shall not personally participate in the solicitation of such funds or other fund-raising activities, except that a judge may:

(a) Solicit funds from members of the judge's family or from other judges over whom the judge does not exercise supervisory or appellate authority;

(b) Be listed as an officer, director, or trustee of such an organization on its fund-raising letters, but may not sign that letter or be listed as a judge or as honorable; and

(c) Work at a fund-raising event so long as the judge's participation could not be reasonably perceived by others as directly soliciting funds.

(3) A judge may solicit 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.

(4) A judge may appear or speak at, receive an award or other recognition at, be featured on the program of, and permit his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, or the administration of justice.

(5) A judge may make recommendations to such a public or private fund-granting organization or entity in connection with its projects and activities, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice.

(6) A judge may serve as an officer, director, trustee, or nonlegal advisor of such an organization or entity, or a governmental entity, unless it is likely that the organization or entity

(a) Will be engaged in proceedings that would ordinarily come before the judge; or

(b) Will be engaged 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.

(7) A judge may speak, lecture, teach, write, and participate in other extrajudicial activities concerning the law, the legal system, the administration of justice, and nonlegal subjects, subject to the requirements of this Code.

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

(C) A judge's donation to a not-for-profit organization that accepts donations for the purpose of distributing the money collected, after the payment of expenses, to not-for-profit entities providing legal services to low income or elderly persons does not disqualify the judge from presiding over matters in which legal services are provided by those entities.

RULE 3.8

Fiduciary Activities

(A) A judge shall not accept an appointment to serve in a fiduciary position, such as executor, administrator, trustee, guardian, attorney in fact, or other personal representative, except for the estate or trust 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 a 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 section as soon as reasonably practical, but in no event later than one year after becoming a judge.

RULE 3.9

Service as Arbitrator or Mediator

A judge shall not act as an arbitrator or mediator or perform other judicial functions apart from the judge's official duties unless expressly authorized by law. A judge conducting a case management conference, a judicial settlement conference, or a dispositional conference is not acting as an arbitrator or mediator.

RULE 3.10

Practice of Law

A judge shall not practice law. A judge may represent himself or herself in any proceeding 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 before any forum.

RULE 3.11

Financial 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 any business entity except that a judge may manage and participate in:

(1) A business closely held by the judge or members of the judge's family; or

- (2) A business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.
- (C) A judge shall not engage in financial activities permitted under sections A and B of this Rule if they will:
 - (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 of other persons likely to come before the court on which the judge serves; or
 - (4) Result in a violation of another provision of this Code.
- (D) Subject to any fiduciary obligations, a judge shall manage the judge's investments and other financial interests held or managed by the judge in a manner that will minimize the number of cases in which the judge is disqualified. If the judge can do so without serious financial detriment or violation of any fiduciary obligations, the judge shall divest himself or herself of investments and other financial interests held or managed by the judge that might require frequent disqualification.
- (E) A judge, after leaving practice and becoming a judge, may continue to receive fees and payments entirely earned while engaged in the practice of law before becoming a judge, including fees for services rendered, payments from structured settlements and judgments to be paid over time, deferred compensation plans, retirement plans, payments to the judge for sale of his or her practice, payments to the judge for his or her equity upon leaving a firm, and any other fees or payments entirely earned while engaged in the practice of law before becoming a judge.

RULE 3.12
Compensation for Extrajudicial Activities

A judge may receive income and honoraria attributable to the extrajudicial activities permitted by this Code, unless such acceptance would appear to undermine the judge's independence, integrity, or impartiality. Income and honoraria shall not exceed a reasonable amount nor shall they exceed what a person who is not a judge would receive as a result of the same activity. Expense reimbursement or payment shall be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse, domestic partner, guest, or dependent children. Any payment in excess of such an amount shall be treated as an honorarium.

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, or dependent children not to accept, any gifts, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

(B) Unless otherwise prohibited by law, or by this Rule, a judge may accept the following without publicly reporting such acceptance:

(1) Items with little intrinsic value, such as plaques, pens, mugs, 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 and awards offered on the same terms and based on the same criteria applied to other applicants;

(7) Books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use; and

(8) Gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner, or other family members of a judge residing in the judge's household, but that incidentally benefit the judge.

(C) Unless otherwise prohibited by law or by section A of this Rule, a judge may accept the following items, and must report such acceptance to the extent required by Canon 6:

(1) Gifts incident to a public testimonial;

(2) Gifts, loans, bequests, or other things of value, if the source is a party or other person, including a lawyer, whose interests have come or are likely to come before the judge.

RULE 3.14

Reimbursement of Expenses and Waivers of Fees or Charges

(A) Unless otherwise prohibited by Rule 3.1 or Rule 3.13 or other law, 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, from sources other than the judge's employing entity, if the

expenses or charges are associated with the judge's participation in extrajudicial activities permitted by this Code.

(B) Reimbursement of expenses for necessary 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.

(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 Canon 6.

CANON 4

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

RULE 4.1

Political Conduct of Incumbent Judges and Judicial Candidates in General

(A) Except as permitted by law, or by the Rules of this Canon, a judge or a judicial candidate shall not

- (1) Act as a leader in, or hold an office in, a political organization;
- (2) Make speeches on behalf of a political organization;
- (3) Publicly endorse or oppose a candidate for any public office;
- (4) Attend political gatherings;
- (5) Solicit funds for, pay an assessment to, or make a contribution to a political organization or a candidate for public office;
- (6) Engage in any other political activity except as authorized under any other section of this Code or on behalf of measures to

improve the law, the legal system, or the administration of justice;
or

(7) Use court staff, facilities, or other court resources in a campaign for judicial office.

(B) **Applicability.** A successful candidate, whether or not an incumbent, or an unsuccessful candidate who is an incumbent, is subject to judicial discipline for conduct in the course of seeking appointment or election that violates the Rules of this Canon. An unsuccessful candidate who is a lawyer is subject to lawyer discipline for any conduct in the course of seeking appointment or election that violates the Rules of this Canon. A lawyer who is a candidate for judicial office is subject to Maine Rule of Professional Conduct 8.2.

RULE 4.2

Political Conduct of Candidates for Election as Judge of Probate

(A) A candidate for election or reelection as judge of probate shall comply with the applicable provisions of Rule 4.1, Rule 4.3, and Rule 4.4, except as provided in section B of this Rule.

(B) A candidate for election or reelection as judge of probate may, while a candidate:

(1) Appear in newspaper, television, and other media advertisements supporting his or her candidacy;

(2) Speak to gatherings on his or her own behalf;

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

(4) Distribute pamphlets and other promotional campaign literature supporting his or her candidacy; and

(5) Permit the candidate's name:

(a) To be listed on election materials along with the names of other candidates for elected office; and

- (b) To appear in promotions of the ticket.
- (C) A candidate for election or reelection as judge of probate shall not:
 - (1) Personally solicit or accept campaign contributions or personally solicit publicly stated support; or
 - (2) Use or permit the use of campaign contributions for the private benefit of the candidate or others.

RULE 4.3

Political Conduct of Candidates Seeking Appointments to Judicial Office

- (A) A candidate for appointment to judicial office shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary.
- (B) A candidate for appointment to judicial office may
 - (1) Communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar agency; and
 - (2) Seek endorsements for the appointment from any person or organization other than a partisan political organization.
- (C) A candidate for appointment to judicial office shall not
 - (1) Make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office;
 - (2) Make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in connection with cases, controversies, or issues that are likely to come before the court; or

(3) Knowingly or with reckless disregard for the truth make any false or misleading statement.

(D) A judge who is a candidate for reappointment, or for appointment to another judicial or nonjudicial office, shall also comply with the Rules of this Canon.

RULE 4.4

Campaign Committees

(A) A candidate for election or reelection as judge of probate may establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums, and other means not prohibited by law.

(B) Such a campaign committee may

(1) Solicit and accept reasonable campaign contributions;

(2) Solicit contributions and public support for the candidate's campaign no earlier than one year before an election and no later than 90 days after the last election in which the candidate participates during the election year;

(3) Manage the expenditure of funds for the candidate's campaign;

(4) Obtain public statements of support for the candidate's candidacy; and

(5) Solicit and accept reasonable campaign contributions and public support from lawyers.

RULE 4.5

Activities of Judges Who Become Candidates for Nonjudicial Office

(A) A judge shall resign from judicial office upon becoming a candidate for any elective office, except that a judge of probate may be a candidate

for reelection while holding that office, provided the judge complies with the provisions of Rule 4.2.

(B) Upon becoming a candidate for a nonjudicial appointive office, a judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code.

CANON 5 (Reserved)

CANON 6

A judge shall file annual financial disclosure reports.

To avoid actual or apparent conflicts of interest, and to assure compliance with Rule 2.11 and the requirements of Canon 3, a judge is required to file initial and annual financial disclosure reports to which the public has access. This requirement is a rule of reason and should not be interpreted to intrude unnecessarily on the privacy of a judge or others, including spouses, domestic partners, or dependent children of judges. Nevertheless, the specific disclosure requirements of this Canon are minimum standards and are not intended to be all-inclusive. In case of doubt about whether a particular disclosure is necessary to serve the purposes of this Canon, the decision should be in favor of disclosure.

A. Filing Required.

(1) Upon initial appointment or election to the judiciary of the State of Maine, a judge shall make a financial disclosure report to the Chief Justice containing the information set forth in section B(1)(e)-(j) of this Canon, and any information respecting a spouse, domestic partner, or dependent child required under section B(2)(c)-(d) of this Canon, as of the date of the report. The report shall be filed with the Executive Clerk of the Supreme Judicial Court not more than 60 days after the date upon which the judge takes the oath of office.

(2) A judge who holds office for more than 60 days in any calendar year shall make a financial disclosure report to the Chief Justice containing the information required by section B of this Canon for

the portion of that year in which the judge held office. The report shall be filed with the Executive Clerk of the Supreme Judicial Court on or before May 15 of the succeeding year.

(3) All reports required to be filed by this section shall be made on forms that the Supreme Judicial Court shall adopt, and may from time to time amend, by administrative order. The forms shall be distributed by the Executive Clerk of the Supreme Judicial Court.

(4) The Chief Justice may, for good cause shown, grant an extension of the time to file any report required by this section for a period not to exceed 90 days.

(5) Disclosure of a judge's income, investments, liabilities, or other financial interests is required only to the extent provided in this Canon and Rule 2.11.

B. Contents of the Report.

(1) Each report filed pursuant to subsection A(2) of this Canon shall contain the following information for the period for which the report is filed:

(a) The source and type of any income received in money or in kind having a value in excess of \$1,000 in the aggregate from any single source.

(b) The source and a brief description of any honoraria received.

(c) The source and a brief description of any gift, bequest, or favor received in money or in kind having a value in excess of \$300 in the aggregate from any single source, not including gifts, bequests, or favors that may be accepted pursuant to Rule 3.13(B)(2), (3), (4), (5), (6), (7), and (8).

(d) The source and a brief description of any reimbursement or payment received in money or in kind by the judge for the judge's own expenses or those of a spouse, domestic partner,

or dependent child in excess of \$300 per person in the aggregate from any single source, not including reimbursement or payment of the judge's expenses by the State of Maine or a political subdivision thereof.

(e) A brief description of any interest in real property held at any time during the year.

(f) A brief description of any interest in tangible or intangible personal property exceeding \$1,000 in value and held at any time during the year in a trade or business or for investment or the production of income, provided that a personal indebtedness owed by a relative need not be reported.

(g) The identity and a brief description of any indebtedness or other liability exceeding \$1,000 in the aggregate owed at any time during the year to any single creditor, not including (i) alimony, child support, and separate maintenance obligations; (ii) any loan from a relative; (iii) any mortgage or other loan held by a lending institution and secured by real property that is a personal residence of the judge or by a personal motor vehicle or other tangible personal property, provided that the loan is one made in the regular course of business on the same terms generally available to persons who are not judges; and (iv) any credit card or revolving charge account, or similar credit arrangement, not in arrears on the final date of the reporting period.

(h) The identity of any position held at any time during the year as a fiduciary of a trust, estate, or person or as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of a business or nonprofit enterprise.

(i) The title, court, and docket number of litigation pending at any time during the year in which the judge is a party-in-interest, not including suits against the judge for acts in an official capacity.

(j) The identity of any pension or other retirement or disability plan from which the judge has received at any time during the year, or may become eligible to receive, benefits, not including any plan administered by a state or the federal government.

(2) Each report filed as required by this Canon shall separately set forth, to the extent known by the judge or ascertainable by reasonable inquiry, the following information respecting the spouse, domestic partner, or any dependent child of the judge:

(a) Under section B(1)(a), the type of economic activity representing each source of income of \$1,000 or more received by a spouse, domestic partner, or dependent child.

(b) Under section B(1)(b), (c), and (d), honoraria, gifts, bequests, favors, and expense reimbursements or payments received by a spouse, domestic partner, or dependent child that are received jointly with the judge or solely as a result of the recipient's relationship to the judge.

(c) Under section B(1)(e), (f), (g), and (j), property interests; liabilities; and pension, retirement or disability plans of a spouse, domestic partner, or dependent child that

(i) are held jointly with the judge;

(ii) are derived or payable from the income, assets, or activities of the judge; or

(iii) provide, or are expected to provide, any substantial financial or economic benefit or detriment to the judge.

(d) Under section B(1)(h), the identity of any fiduciary or other position held jointly with the judge, or held in connection with an interest or enterprise from which the judge receives, or may be expected to receive, any substantial financial or economic benefit.

(3) Upon the request of a judge and a showing of good cause for nondisclosure, the Chief Justice may order that specific information required to be reported under this Canon shall be treated as confidential. Such information shall be omitted from the judge's report with a note stating that the omission is pursuant to the order of the Chief Justice. The omitted information shall be set forth in an appendix to the report. The request for nondisclosure and the appendix shall thereafter be retained by the Executive Clerk of the Supreme Judicial Court in a confidential file for the period for which the report is retained under section C(1) of this Canon. The request and appendix shall not be available for public inspection under section C(2).

(4) An item that is required to be described under subsection 1 of this section is sufficiently described if the report lists the type of any asset or liability and the name and principal type of economic activity of any individual or entity that is (a) the source of any income or other benefit received, (b) a debtor or other party liable for satisfaction of the judge's interest in any intangible asset held, or (c) a creditor on any liability owed. The report need not specify the amount or value of any income, benefit, asset, or liability.

C. Public Access.

(1) The Executive Clerk of the Supreme Judicial Court shall retain all reports filed under this Canon on file for a period of six years from the date of filing.

(2) Except as provided in section B(3) of this Canon, the Executive Clerk shall permit any person to inspect a report on file and shall furnish a copy of such report to any person for a fee reflecting the actual cost of reproduction and mailing.

D. Failure to File. The Executive Clerk of the Supreme Judicial Court shall review all reports filed within 45 days of the filing deadline and shall promptly notify any judge who has failed to file a report or provide complete information. A copy of the notification shall be sent to the Chief Justice. If a judge does not, within 15 days of such notification, file the

required report or information or receive an extension of the filing deadline under section A(4) of this Canon, the Executive Clerk shall refer the matter to the Committee on Judicial Responsibility and Disability for appropriate action.

E. Judges of Probate. A judge of probate shall make initial and annual financial disclosure reports to which the public has access as provided in this Canon, with the following exceptions:

(1) A report of self-employment income under section B(1)(a) need only specify the principal type of economic activity from which that income is derived and, if the judge is associated with a partnership, firm, professional association, or similar business entity, the name and major areas of economic activity of that entity; provided that, if the judge is a practicing lawyer, the major areas of practice of the judge and any firm or other professional entity with which the judge is associated shall also be reported.

(2) Honoraria, gifts, bequests, favors, and expense reimbursements or payments need be reported under section B(1)(b)-(d) of this Canon only if they are received by the judge in the course of, or as a result of, activities undertaken in an official capacity or are received from a party or other person whose interests have come or are likely to come before the judge.

(3) The identity of a position held in the ordinary course of the practice of law and reportable under section B(1)(h) need not be reported if to do so would breach a professional obligation of confidentiality concerning the affairs of a client of the judge, but the general fact of such activity shall be reported.

(4) Campaign contributions received and duly reported as required by law by a judge of probate as a candidate for that office need not be reported under this Canon.