

## **CODE OF JUDICIAL CONDUCT**

### **CANON 1. JUDGES SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY.**

An independent and honorable judiciary is indispensable to justice in our society. Judges should participate in establishing, maintaining, and enforcing, and should themselves observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

### **CANON 2. JUDGES SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL THEIR ACTIVITIES.**

A. Judges should respect and comply with the law and should conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. Judges should not allow their family, social, or other relationships to influence their judicial conduct or judgment. They should not lend the prestige of their office to advance the private interests of others; nor should they convey or knowingly permit others to convey the impression that they are in a special position to influence the judge. Judges should not testify voluntarily as a character witness.

**Note:** Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. Judges must avoid all impropriety and appearance of impropriety. They must expect to be the subject of constant public scrutiny. They must therefore accept restrictions on their conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The testimony of judges as character witnesses injects the prestige of their office into the proceeding in which they testify and may be misunderstood to be an official testimonial. This Canon, however, does not afford them a privilege against testifying in response to an official summons.

### **CANON 3. JUDGES SHOULD PERFORM THE DUTIES OF THEIR OFFICE IMPARTIALLY AND DILIGENTLY.**

The judicial duties of judges take precedence over all their other activities. Their judicial duties include all the duties of their office prescribed by law. In the performance of these duties, the following standards apply:

### **A. Adjudicative Responsibilities.**

(1) Judges should be faithful to the law and maintain professional competence in it. They should be unswayed by partisan interests, public clamor, or fear of criticism.

(2) Judges should maintain order and decorum in proceedings before them.

(3) Judges should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom they deal in their official capacity, and should require similar conduct of lawyers, and of their staff, court officials, and others subject to their direction and control.

**Note:** The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and business-like while being patient and deliberate.

(4) Judges should accord to all persons who are legally interested in a proceeding, or their lawyers, full right to be heard according to law, and, except as authorized by law, must not consider ex parte communications concerning a pending proceeding.

(5) Judge should dispose promptly of the business of the court.

**Note:** Prompt disposition of the court's business requires judges to devote adequate time to their duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with them to that end.

(6) Judges should abstain from public comment about a pending proceeding in any court, and should require similar abstention on the part of court personnel subject to their direction and control. This subsection does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

**Note:** "Court personnel" does not include the lawyers in a proceeding before a judge. The conduct of lawyers is governed by DR 7-107 of the Code of Professional Responsibility.

(7) Judges should prohibit broadcasting, televising, recording or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions, except that a judge may authorize:

- (a) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record or for other purposes of judicial administration;
- (b) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings;

(c) the photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:

(i) the means of recording will not distract participants or impair the dignity of the proceedings; and

(ii) the parties have consented, and the consent to being depicted or recorded has been obtained from each witness appearing in the recording and reproductions; and

(iii) the reproduction will not be exhibited until after the proceeding has been concluded and all direct appeals have been exhausted; and

(iv) the reproduction will be exhibited only for instructional purposes in educational institutions.

(d) the use of electronic broadcasting, televising, recording and taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions of any trial court non-jury civil proceeding, however, for the purposes of this subsection “civil proceedings” shall not be construed to mean a support, custody or divorce proceeding. Subsection (iii) and (iv) shall not apply to non-jury civil proceedings as heretofore defined. No witness or party who expresses any prior objection to the judge shall be photographed nor shall the testimony of such witness or party be broadcast or telecast. Permission for the broadcasting, televising, recording and photographing of any civil non-jury proceeding shall have first been expressly granted by the judge, and under such conditions as the judge may prescribe in accordance with the guidelines contained in this Order.

**Publisher’s CJD Note:** Paragraph 2 of the order of the Supreme Court of Sept. 20, 1979, amending Canon 3(A)(7) of the Code of Judicial Conduct by adding paragraph (d), provided as follows:

**“a. Officers of Court.** The judge has the authority to direct whether broadcast equipment may be taken within the courtroom. The broadcast news person should advise the tipstaff prior to the start of a court session that he or she desires to electronically record and/or broadcast live from within the courtroom. The tipstaff may have prior instructions from the judge as to where the broadcast reporter and/or camera operator may position themselves. In the absence of any directions from the judge or tipstaff, the position should be behind the front row of spectator seats by the least used aisleway or other unobtrusive but viable location.

**“b. Pooling.** Unless the judge directs otherwise, no more than one TV camera should be taking pictures in the courtroom at any one time. Where coverage is by both radio and TV, the microphones used by TV should also serve for radio and radio should be permitted to feed from the TV sound system. Multiple radio feeds, if any, should be provided by a junction box outside of the courtroom, such as in the adjacent public hallway. It should be the responsibility of each broadcast news representative present at the opening of each session of court to achieve an understanding with all other broadcast representatives as to who will function at any given time, or, in the alternative, how they will pool their photographic coverage. This understanding should be reached outside the courtroom and without imposing on the judge or court personnel.

“Broadcast coverage outside the courtroom should be handled with care and discretion, but need not be pooled.

**“c. Broadcast Equipment.** All running wires used should be securely tapped to the floor. All broadcasting equipment should be handled as inconspicuously and quietly as reasonably possible. Sufficient file and/or tape capacities should be provided to obviate film and/or tape changes except during court recess. No camera should give any indication of whether it is or is not operating, such as the red light on some studio cameras. No additional lights should be used without the specific approval of the presiding judge, and then only as he may specifically approve.

**“d. Decorum.** Broadcast representatives’ dress should not set them apart unduly from other trial spectators. Camera operators should not move tripod-mounted cameras except during court recesses. All broadcast equipment should be in place and ready to function no less than five minutes before the beginning of each session of court.”

Paragraph 3 of the order of Sept. 20, 1979, provided that at the expiration of the one year period during which such order is effective, “Canon 3(A)7 shall be reinstated, without further order of this court, in its form immediately prior to the entry of said Order.”

Order of the Supreme Court of Oct. 1, 1980, provided that the order of Sept. 20, 1979, should remain in effect until further order of this court.

## **B. Administrative Responsibilities.**

(1) Judges should diligently discharge their administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

(2) Judges should require their staff and court officials subject to their direction and control to observe the standards of fidelity and diligence that apply to judges.

(3) Judges should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware.

**Note:** Disciplinary measures may include reporting a judge's or lawyer's misconduct to an appropriate disciplinary body.

(4) Judges should not make unnecessary appointments. They should exercise their power of appointment only on the basis of merit, avoiding favoritism. They should not approve compensation of appointees beyond the fair value of services rendered.

**Note:** Appointees of the judge include officials such as referees, commissioners, special masters, receivers, 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 this subsection.

### **C. Disqualification.**

(1) Judges should disqualify themselves in a proceeding in which their impartiality might reasonably be questioned, including but not limited to instances where:

(a) they have a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) they served as a lawyer in the matter in controversy, or a lawyer with whom they previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

**Note:** A lawyer in a governmental agency does not necessarily have an association with other lawyers employed by that agency within the meaning of this subsection; judges formerly employed by a governmental agency, however, should disqualify themselves in a proceeding if their impartiality might reasonably be questioned because of such association.

(c) they know that they, individually or as a fiduciary, or their spouse or minor child residing in their household, have a substantial financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(d) they or their spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

**Note:** The fact that a lawyer in a proceeding is affiliated with a law firm with which a lawyer-relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "their impartiality might reasonably be questioned" under Canon 3C(1), or that the lawyer-relative is known by the judge to have an interest in the law firm that could be "substantially affected by the outcome of the proceeding" under Canon 3C(1)(d)(iii) may require the judge's disqualification.

(iii) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) is to the judge's knowledge likely to be a material witness in the proceeding.

(2) Judges should inform themselves about their personal and fiduciary financial interests, and make a reasonable effort to inform themselves about the personal financial interests of their spouse and minor children residing in their household.

(3) For the purposes of this section:

(a) the degree of relationship is calculated according to the civil law system;

**Note:** According to the civil law system, the third degree of relationship test would, for example, disqualify judges if their or their spouse's parents, grandparents, aunts or uncles, siblings, nieces or nephews or their spouses were a party or lawyer in the proceeding, but would not disqualify them if a cousin were a party or lawyer in the proceeding.

(b) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(c) "financial interest" means ownership of a legal or equitable interest, if substantial, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

(i) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

(ii) an office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

(iii) the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a substantial "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) ownership of securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of securities.

#### **CANON 4. JUDGES MAY ENGAGE IN ACTIVITIES TO IMPROVE THE LAW, THE LEGAL SYSTEM, AND THE ADMINISTRATION OF JUSTICE.**

Judges, subject to the proper performance of their judicial duties, may engage in the following quasi-judicial activities, if in doing so they do not cast doubt on their capacity to decide impartially any issue that may come before them:

A. They may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.

B. They may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and they may otherwise consult with an executive or legislative body or official, but only on matters concerning the administration of justice.

C. They may serve as a member, officer, or director of an organization or governmental agency developed to the improvement of the law, the legal system, or the administration of justice. They may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund

raising activities. They may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

**Note:** As a judicial officer and person specially learned in the law, judges are in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice. To the extent that their time permits, they are encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law.

Extra-judicial activities are governed by Canon 5.

**CANON 5. JUDGES SHOULD REGULATE THEIR EXTRA-JUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH HIS JUDICIAL DUTIES.**

**A. Avocational Activities.** Judges may write, lecture, teach, and speak on non-legal subjects, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of their office or interfere with the performance of their judicial duties.

**Note:** Complete separation of judges from extra-judicial activities is neither possible nor wise; they should not become isolated from the society in which they live.

**B. Civic and Charitable Activities.** Judges may participate in civic and charitable activities that do not reflect adversely upon their impartiality or interfere with the performance of their judicial duties. Judges may serve as an officer, director, trustee, or non-legal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

(1) Judges should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before them or will be regularly engaged in adversary proceedings in any court.

**Note:** The changing nature of some organizations and of their relationship to the law makes it necessary for judges regularly to reexamine the activities of each organization with which they are affiliated to determine if it is proper for them to continue their relationship with it. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

(2) Judges should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of their office for that purpose, but they may be listed as an officer, director, or trustee of such an organization. They should not be a speaker or the guest of honor at an organization's fund raising events, but they may attend such events.

(3) Judges should not give investment advice to such an organization, but they may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

**Note:** A judge's participation in an organization devoted to quasi-judicial activities is governed by Canon 4.

### **C. Financial Activities.**

(1) Judges should refrain from financial and business dealings that tend to reflect adversely on their impartiality, interfere with the proper performance of their judicial duties, exploit their judicial position, or involve them in frequent transactions with lawyers or persons likely to come before the court on which they serve.

(2) Subject to the requirement of subsection (1), judges may hold and manage investments, including real estate, and engage in other remunerative activity including the operation of a family business.

**Note:** The Effective Date of Compliance provision of this Code qualifies this subsection with regard to a judge engaged in a family business at the time this Code becomes effective.

(3) Judges should manage their investments and other financial interests to minimize the number of cases in which they are disqualified. As soon as they can do so without serious financial detriment, they should divest themselves of investments and other financial interests that might require frequent disqualification.

(4) Information acquired by judges in their judicial capacity should not be used or disclosed by them in financial dealings or for any other purpose not related to their judicial duties.

**Note:** Pursuant to the authority granted by Article V, Section 10 of the Pennsylvania Constitution, the Supreme Court adopted the Code of Judicial Conduct as the exclusive means of regulating the conduct of judicial officers under the supervision of the Supreme Court (see also Rules Governing Standards of Conduct of Magisterial District Judges). Disqualification from proceedings is the most appropriate means of ensuring judicial integrity and impartiality in proceedings, including, but not limited to, those arising from the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S.A. §1101 et seq.).

No judge shall have a financial interest, as defined by Section 1512(B) of the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S.A. §1101 et seq.), in or be employed, directly or indirectly, by any licensed racing entity or licensed gaming entity, or any holding, affiliate, intermediary or subsidiary company thereof or any such applicant, or engage in the active ownership or participate in the management of any such entities and related companies. The term "judge" shall include justices, judges of the Superior Court, judges of the Commonwealth Court, judges of the Courts of Common Pleas and judges of Philadelphia Municipal Court, but shall not include lawyers and non-lawyers performing judicial functions, including but not limited to masters and arbitrators, for the Unified Judicial System.

Canon 3(C) of the Code of Judicial Conduct continues to govern the disqualification of judges where the interest in or relationship with a licensed racing or licensed gaming entity or related company thereto, or any such applicant therefor, of the judge or a family member is at issue.

**D. Fiduciary Activities.** Judges should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of their family, and then only if such service will not interfere with the proper performance of their judicial duties. "Member of their family" includes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. As a family fiduciary judges are subject to the following restrictions:

(1) They should not serve if it is likely that as a fiduciary they will be engaged in proceedings that would ordinarily come before them, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which they serve or one under its appellate jurisdiction.

**Note:** The Effective Date of Compliance provision of this Code qualifies this subsection with regard to a judge who is an executor, administrator, trustee, or other fiduciary at the time this Code becomes effective.

(2) While acting as a fiduciary judges are subject to the same restrictions on financial activities that apply to them in their personal capacity.

**Note:** Judge's obligations under this Canon and their obligations as a fiduciary may come into conflict. For example, a judge should resign as trustee if it would result in detriment to the trust to divest it of holdings whose retention would place the judge in violation of Canon 5C(3).

**E. Arbitration.** Judges should not act as an arbitrator or mediator.

**F. Practice of Law.** Judges should not practice law.

**G. Extra-Judicial Appointments.** Judges should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. Judges, however, may represent their country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

**Note:** Valuable services have been rendered in the past to the states and the nation by judges appointed by the executive to undertake important extra-judicial assignments. The appropriateness of conferring these assignments on judges must be reassessed, however, in light of the demands on judges created by today's crowded dockets and the need to protect the courts from involvement in extra-judicial matters that may prove to be controversial. Judges should not be expected or permitted to accept governmental appointments that could interfere with the effectiveness and independence of the judiciary.

## **CANON 6. COMPENSATION RECEIVED FOR QUASI-JUDICIAL AND EXTRA-JUDICIAL ACTIVITIES PERMITTED BY THIS CODE.**

Judges may receive compensation and reimbursement of expenses for the quasi-judicial and extra-judicial activities permitted by this Code, if the source of such payments does

not give the appearance of influencing judges in their judicial duties or otherwise give the appearance of impropriety, subject to the following, restrictions:

**A. Compensation.** Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.

**B. Expense Reimbursement.** Expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by judges and, where appropriate to the occasion, by their spouses.

## **CANON 7. JUDGES SHOULD REFRAIN FROM POLITICAL ACTIVITY INAPPROPRIATE TO THEIR JUDICIAL OFFICE.**

### **A. Political Conduct in General.**

(1) A judge or a candidate for election to judicial office should not:

(a) act as a leader or hold any office in a political organization;

(b) make speeches for a political organization or candidate or publicly endorse a candidate for public office; except as authorized in subsection A(2);

**Note:** Candidates do not publicly endorse another candidate for public office by having their name on the same ticket.

(c) solicit funds for or pay an assessment or make a contribution to a political organization or candidate, attend political gatherings, or purchase tickets for political party dinners, or other functions, except as authorized in subsection A(2);

(2) Judges holding an office filled by public election between competing candidates, or a candidate for such office, may, only insofar as permitted by law, attend political gatherings, speak to such gatherings on their own behalf when they are a candidate for election or reelection, or speak on behalf of any judicial candidate for the same office, identify themselves as a member of a political party, and contribute to a political party or organization.

(3) Judges should resign their office when they become a candidate either in a party primary or in a general election for a non-judicial office, except that they may continue to hold their judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention, if they are otherwise permitted by law to do so.

(4) Judges should not engage in any other political activity except on behalf of measures to improve the law, the legal system, or the administration of justice.

## **B. Campaign Conduct.**

(1) Candidates, including an incumbent judge, for a judicial office that is filled either by public election between competing candidates or on the basis of a merit system election:

(a) should maintain the dignity appropriate to judicial office, and should encourage members of their family to adhere to the same standards of political conduct that apply to them;

(b) should prohibit public officials or employees subject to their direction or control from doing for them what judges are prohibited from doing under this Canon; and except to the extent authorized under subsection B(2) or B(3), they should not allow any other person to do for them what judges are prohibited from doing under this Canon;

(c) should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court; or misrepresent their identity, qualifications, present position, or other fact.

(2) Candidates, including an incumbent judge, for a judicial office that is filled by public election between competing candidates should not themselves solicit or accept campaign funds, or solicit publicly stated support, but they may establish committees of responsible persons to secure and manage the expenditure of funds for their campaign and to obtain public statements of support for their candidacy. Such committees are not prohibited from soliciting campaign contributions and public support from lawyers. Candidates' committees may solicit funds for their campaign no earlier than thirty days (30) prior to the first day for filing nominating petitions or the last day for filing a declaration of intention to seek reelection on a retention basis, and all fundraising activities in connection with such judicial campaign shall terminate no later than the last calendar day of the year in which the judicial election is held. Candidates should not use or permit the use of campaign contributions for the private benefit of themselves or members of their family.

(3) Incumbent judges who are candidates for retention in or reelection to office without a competing candidate may campaign and may obtain publicly stated support and campaign funds in the manner provided in subsection B(2).

## **COMPLIANCE WITH THE CODE OF JUDICIAL CONDUCT**

Anyone, whether or not a lawyer, who is an officer of a judicial system performing judicial functions, including an officer such as a referee in bankruptcy, special master, court commissioner, or magistrate, is a judge for the purpose of this Code. All judges should comply with this Code except as provided below.

**Senior Judge.** Senior judges who receive the same compensation as full-time judges on the court from which they retired and are eligible for recall to judicial service should comply with all the provisions of this Code except Canon 5G, but they should refrain from judicial service during the period of an extra-judicial appointment not sanctioned by Canon 5G. All other senior judges eligible for recall to judicial service should comply with the provisions of this Code.

This Code shall not apply to magisterial district judges and judges of the Traffic Court of the City of Philadelphia.

**Note:** Specific rules governing standards of conduct of magisterial district judges, and judges of the Traffic Court of the City of Philadelphia, are set forth in the Rules Governing Standards of Conduct of Magisterial District Judges.

### **EFFECTIVE DATE OF COMPLIANCE**

Persons to whom this Code becomes applicable should arrange their affairs as soon as reasonably possible to comply with it. If, however, the demands on their time and the possibility of conflicts of interest are not substantial, persons who hold judicial office on the date this Code becomes effective may:

- (a) continue to act as an officer, director, or non-legal advisor of a family business;
- (b) continue to act as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a member of their family.

The effective date of this Code shall be January 1, 1974.

### **RELIANCE ON ADVISORY OPINIONS**

The Ethics Committee of the Pennsylvania Conference of State Trial Judges is designated as the approved body to render advisory opinions regarding ethical concerns involving judges, justices and other judicial officers subject to the Code of Judicial Conduct, and, although such opinions are not per se binding upon the Judicial Conduct Board, the Court of Judicial Discipline or the Supreme Court of Pennsylvania, action taken in reliance thereupon and pursuant thereto shall be taken into account in determining whether discipline should be recommended or imposed.