Analysis of the Judicial Ethics Code for the Republic of Azerbaijan
ANALYSIS OF THE JUDICIAL ETHICS CODE FOR THE REPUBLIC OF AZERBAIJAN

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I. Introduction

This assessment of the Code of Judicial Ethics is a thematic discussion that identifies the major strengths and weakness of the code, with comparative reference to the Draft Bangalore Principles of Judicial Conduct (“Bangalore Principles”) and, where relevant, other international, European, and American standards.

The Code of Judicial Ethics reflects a well-intended effort to ensure the independence, impartiality, integrity, and competence of the judiciary in Azerbaijan. However, the code may be improved upon by incorporating additional ethical standards embodied in the Bangalore Principles, especially those concerning matters of equality and judicial diligence. Many provisions of the code should also provide more elaborate explanations and clarification in order to prevent conflicting interpretations or abuse of the provisions. This is particularly true of the provisions regarding extra-judicial activities, which should be further clarified with the aim to prevent not only conflicts of interest within the judiciary, but also to protect the individual rights of judges. Despite these weaknesses, the code represents a major step forward in the effort to establish an independent and respected judicial system in which the judges collectively can take pride.

II. Organization and Structure

The Draft Bangalore Principles of Judicial Conduct provide a comprehensive framework for the regulation of judicial conduct, and are broken down into values, principles, and more detailed explanations regarding ethical standards for judges. The adoption of a similar framework to the Bangalore Principles is suggested in order to more closely conform the Code of Judicial Ethics to an internationally recognized format. One proposal might be to organize the articles of the code around the six values provided for in the Bangalore Principles: Independence; Impartiality; Integrity; Propriety; Equality; Competence and Diligence. For example, Articles 1, 6, 7, 13, 14, 22, and 23 of the Code of Judicial Ethics could be condensed into one Article titled “Impartiality.” Furthermore, should the framework of the Bangalore Principles be adopted, consideration should be given to the other elements of the Bangalore Principles that are not covered by the articles of the code.

III. Clarifications

The Code of Judicial Ethics does not contain an introductory statement specifying the categories of judges to whom it applies or the body that is charged with interpreting and applying its provisions. The addition of such an introductory statement would provide clarity for the public as to which public officials fall within the province of the code while overall enhancing the value of the code for judges.

In addition, the burden of administering the code might be improved if it included an applicable compliance date prescribing when, after a candidate has been appointed to a judgeship, the provisions become fully applicable. There may be situations in which a new judge
IV. Definitions and Commentary

The code lacks definitions and descriptions of listed terms and proscribed actions. The drafters should consider including a glossary that supplies the definitions of specialized terms used in the code. For example, words such as “independence” or “impropriety” should be defined within the code. The inclusion of a glossary or definitions of specialized terms is particularly vital to the understanding and implementation of the code, since conceptual words may be interpreted in a variety of ways even by members of the judiciary and the bar.

In the more complex provisions, commentary should be incorporated providing further descriptions of the types of actions proscribed. Article 14 concerning disqualification provides an example of the need for such commentary, in that the article lacks specific examples of situations in which a judge should disqualify himself/herself from a proceeding. A newly appointed judge who is just beginning his/her judicial career may not be immediately aware or sensitive to the types of activities that may detract from judicial status and dignity or deserve special consideration.

V. Judicial Independence

The primary objectives of a code should be to enhance public trust in the judiciary and to provide judges with adequate notice of their responsibilities towards society. Both of these goals can only be accomplished, however, if judges are protected against encroachments on their independence. The provisions of the Code of Judicial Ethics adequately ensure the independence and impartiality of judges, thus reinforcing protections regarding the right to a fair trial. This right is enshrined in the Bangalore Principles, Article 14 of the International Covenant on Civil and Political Rights, and Article 6 of the European Convention on Human Rights and Fundamental Freedoms, which establish the principle that judges must refrain from any behavior likely to create even an impression of lack of impartiality or independence. Despite the code’s clear dedication to the protection of judicial independence, a few provisions may invite abuse or confusion due to their broad scope and vagueness.

The Bangalore Principles stress the importance of judicial independence and a fair trial by calling for judges to be free from “any extraneous influences” in the exercise of their judicial duties. Nevertheless, the prohibition of all ideological influences in the performance of judicial functions as stated in Article 23 of the code may be too broad. While the code should aim to ensure that judges decide cases based on the law, the exclusion of all social influences may unnecessarily and harmfully restrict the development of the law. In addition, the vagueness of Article 23 may allow for abusive disciplinary proceedings to be brought against a judge that interfere with the functioning and independence of the judiciary.

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1 Bangalore Principles of Judicial Conduct 2002, adopted by the Judicial Group on Strengthening Judicial Integrity
Value 1: Independence
2 Bangalore Principles, Value 1.1
Another issue may arise in regards to Article 19’s reference to the loyalty of a judge. The article provides that a judge’s extra-judicial activities should not call into question his/her being “loyal.” The vague allusion to a judge’s loyalty may create the appearance that a judge is beholden to a particular person, group of persons, or political party, and thereby compromise the independence and impartiality of a judge.

VI. Judicial Integrity and Propriety

Not only must the judiciary uphold the principles of integrity and propriety in the performance of their judicial functions, but they must also give the appearance of doing so to a reasonable outside observer. Ensuring that the integrity and propriety of the judiciary is upheld serves to reinforce the people’s faith in the judiciary. Having this in mind, the code should make reference to a reasonable person or reasonable mind test in the context of the appearance of impropriety in order to improve the judiciary’s understanding of this principle. It is insufficient for a judge to engage in an ethically defensible activity if the activity, by its appearance, creates a sense of impropriety in the minds of the litigants, the practicing bar, or the public.

A. Transparency of Judicial Opinions

Transparency is vital to ensuring the integrity of the judiciary. Thus, the lack of any requirement in the Code of Judicial Ethics obligating judges to provide explanations for their judicial opinions serves to weaken the integrity of the judiciary. By having the opportunity to view a judge’s explanation of his/her decision, the public, in turn, will know the reasoning of the judge. Securing the transparency of judicial decision-making will help to maintain the public’s trust and confidence in the judiciary, rather than leaving open the suspicion that decisions are being made for unethical reasons.

B. Judicial Criticism

As the Bangalore Principles stress, a judge is entitled to freedom of expression as long as he/she acts with the dignity required of the judicial office and in accordance with the principles of an independent and impartial judiciary. Although representing the admirable motive of protecting the privacy of parties to litigation and the principle of professional secrecy, Article 11 prohibition on the disclosure of “information acquired in a judicial capacity” may be too far-reaching. Article 11 could be invoked to prevent judges from commenting on any judicial decisions under all circumstances. Comments, for instance, made in the course of scholarly debate or presentations should be allowed.

Article 11, rather, should be limited to “preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary” as required by Article 10 of the European Convention on Human Rights and Fundamental Freedoms. Also, as the Code of Conduct for United States Judges has indicated in Canon 4 Bangalore Principles, Value 4.6.

3 Bangalore Principles, Value 3: Integrity; Value 4: Propriety.
3(A)(6) and its accompanying commentary, some forms of expression are important and their suppression may, in fact, compound the adverse effect of unfounded criticism of the judiciary when judges are prohibited from responding. Furthermore, the commentary of judges on their own judicial opinions and the opinions of other judges may be valuable to society if done in a respectful manner.

VII. Impartiality

Judicial impartiality requires judges to perform their duties without “favor, bias or prejudice” and to disqualify themselves from proceedings when their impartiality may be compromised. A judge should go so far as to prevent even the appearance of bias or prejudice in their conduct whether or not his/her impartiality has actually been compromised, in order to ensure the confidence of the public in the judiciary.5

Although Article 13 imposes restrictions on judges’ “non-procedural relationships,” the code should be unambiguous in prohibiting judges’ communication with anyone involved in a case outside the formal proceedings. Even when such communication is innocent, the interaction of judges and persons connected with a case outside the formal proceedings tends to undermine the impartiality and perception of impartiality of a judge, thereby eroding the integrity of the judiciary.

A. Gifts and Awards

A balance should be struck in efforts to combat bribery and corruption within the judiciary between prohibiting the receipt of gifts or benefits intended to influence a judge’s performance of his/her duties and allowing judges to receive awards or gifts in recognition of judicial contribution.6

Article 18 prohibiting the receipt of extra-judicial benefits by judges with respect to particular cases should be broadened to proscribe the receipt of any benefit intended to win the favor of a judge, even in the situation that the benefit does not relate to any current proceedings. For instance, groups, organizations and business entities will attempt to flatter a judge or his/her family with invitations to dinners and parties so that if cases arise involving them or their perspectives, the judge might look favorably upon them or their interests. Activities such as these should be expressly forbidden by the code.

While Article 18’s prohibition of the receipt of benefits by judges should be extended, a judge’s freedom to receive awards from a bar or civic association or judicial organization for exemplary judicial contributions and to seek and obtain grants and materials for use in improving the administration of justice should be protected. The reference to “award” in Article 18 may be construed to preclude positive recognition of a judge for his/her judicial contributions as well as grants directed at improving the operations of the judiciary.

5 Bangalore Principles, Value 2: Impartiality.
6 Bangalore Principles, Value 4.14; 4.16
B. Financial Disclosure Requirement

Since judicial corruption is frequently based on inappropriate financial gain through the exercise of the judicial office, the integrity of a judicial ethics code in the perception of the bar, the media, and the public would be enhanced by the enforcement of a financial disclosure requirement for judges. Although a financial disclosure requirement may appropriately belong in the Law of the Azerbaijan Republic on Courts and Judges or some other law or regulation, reference to it in the code would not only strengthen the code, but also enhance the overall perception of the code by the public.

C. Disqualification

According to the Bangalore Principles, a judge should disqualify himself/herself in situations where his/her impartiality has been compromised or appears to have been compromised to a “reasonable observer.” In addition, the judge should not allow family or social relationships to influence his/her impartiality. While the code does address the judge’s duty to disqualify himself/herself if he/she cannot remain impartial, it should provide further specification as to what degree of family ties or what level of social or other relationship would constitute grounds for disqualification. The inclusion of a more detailed explanation such as this would provide further clarity to the interaction between Article 6, prohibiting the influence of “family, social and other relationships” on a judge, and Article 14, concerning a judge’s duty to disqualify himself/herself if he/she is unable to maintain impartiality.

VIII. Equality

The principle of equality is considered an essential element to the ethical conduct of a judge. As provided for in the Bangalore Principles regarding the value of equality, the “General Provisions” chapter of the code should incorporate a statement to the effect that a judge shall show no partiality towards or against any person because of race, religion, ethnicity, gender, nationality, age, standing or status in the community, or any other discriminatory category. The statement should apply to parties, witnesses, attorneys, jurors, victims, and anyone else who comes within the judge’s jurisdiction, as well as to the hiring, firing and treatment of staff and court personnel.

IX. Competence and Diligence

A. Training

A judge should endeavor to improve upon his/her knowledge necessary to the performance of his/her judicial duties by seeking out and utilizing training facilities, which should be made available to the judiciary. The implementation of Article 9 concerning judicial

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7 Bangalore Principles, Value 2.5.
8 Bangalore Principles, Value 4.8.
9 Bangalore Principles, Value 5.
10 Bangalore Principles, Value 5.1.
11 Bangalore Principles, Value 5.1.
12 Bangalore Principles, Value 6.3.
education and training would be more effective if the article included a requirement of minimal annual participation in training courses and further explanation of the types of study or sponsors, which would be acceptable in the fulfillment of that requirement. Furthermore, the code should include a mechanism for assuring compliance with the continuing judicial education requirement.

B. Timeliness and attendance

The code should contain provisions regarding the judge’s duty to reach all decisions in a timely manner, to manage the assigned caseload efficiently and expeditiously, and to attend court during the established business hours every day unless sick or on vacation. Although Article 4 secures the precedence of judicial duties over all other activities, this provision is insufficient in regards to ensuring the diligent performance of such duties. By incorporating the three suggested provisions above, the code would better reflect the required personal attitude and high level of commitment required by judicial office.

X. Political Activity

The code’s provisions concerning the political activity of judges should provide greater detail as to the judge’s rights in that sphere of activity and the standards of propriety regarding a judge’s relationship with other branches of government. In addition to articles prohibiting certain political activities of judges (i.e. Article 23), the code should also include a provision permitting political activities imperative to a judge’s personal rights and freedoms, such as the right to vote.

Article 22 provides exceptions to the prohibition of political activity, but the allowance for judges to “establish relations with legislative, executive bodies and their officials” should be clarified. The statement may give rise to questions concerning whether a judge can be appointed to legislative or executive commissions or lobby for judicial reform.

XI. Extra-Judicial Activities

A judge should be permitted to teach, lecture, write and generally involve himself/herself in activities related to the law, so long as those activities do not harm the “dignity of the judicial office” or “interfere with the performance of judicial duties.” Considering this standard, Articles 13, 17, and 18 may be too far-reaching in the regulation of extra-judicial activities. Judges should be entitled to freely undertake activities outside their judicial mandate as long as they do not bring the profession into disrepute. Article 21 represents an example of this principal in reference to the social activities of judges. In general, prohibitions on the activities of a judge should be restricted to those actions that might jeopardize the impartiality or independence of a judge. Such proscribed activities might include involvement with organizations that frequently litigate before the courts in cases that might reasonably be expected to come before the judge.

In addition, a judge should have the right to invest in profit-making enterprises and provide for the future security of his or her family. Article 20 appears to preclude any financial

\[\text{13 Bangalore Principles, Value 4.11.1; 4.11.4}\]
dealings of a judge besides for teaching and research, and fails to address the paid participation of judges in seminars, study tours, judicial conferences and workshops.

**XII. Human Rights**

The Bangalore Principles stress the duty of the judiciary to protect human rights by upholding the values of competence, independence and impartiality and to be informed of the relevant international instruments that establish human rights standards.\(^{14}\) Having in mind Azerbaijan’s ratification of the Convention on Human Rights and Fundamental Freedoms of the Commonwealth of Independent States (CIS) and the European Convention on Human Rights and Fundamental Freedoms, the code should give more attention to a judge’s obligation to apply international human rights law and to ensure the protection of human rights in the performance of his/her judicial functions.

**XIII. Sanctions**

A potential conflict exists between Article 24 and Article 26 concerning the consequences of violating provisions of the code. Article 24 provides that a judge who violates the code’s provisions will bear responsibility for his/her actions, but yet “will be entitled to his/her privileges of office,” while Article 26 provides that a judge may be “dismissed” for violations of the code’s provisions. The two articles generate confusion as to the relationship between a judge’s entitlement to maintain his/her privileges of office after violating provisions of the code and the possibility that a judge may be dismissed for such violations.

\(^{14}\) Bangalore Principles, Preamble and Value 6.4
Appendix A

Biographical Statements of Experts Assessing the Code of Judicial Ethics for Azerbaijan

The Honorable Dorothy Toth Beasley

Judge Dorothy Toth Beasley is a Senior Judge of the State of Georgia, which authorizes her to sit in superior courts when called to a jurisdiction which needs additional or substitute assistance temporarily. Judge Beasley served on the Court of Appeals for more than fourteen years, until 1999, and prior to that on the State Court of Fulton County for seven years. She was an Assistant United States Attorney, prosecuting federal crimes after four years as an Assistant Attorney General of Georgia in the Criminal Division. Among other areas of responsibility as an AAG, she represented the State in death penalty cases before the Georgia Supreme Court and in several landmark cases before the U.S. Supreme Court. She also represented the Georgia State Patrol. From 1999 through 2002 she was affiliated with the National Center for State Courts, International Programs Division, Washington office. In addition to sitting as a senior judge, Judge Beasley currently serves as a mediator and arbitrator with Henning Mediation and Arbitration Service.

Judge Beasley’s interest in international work began at St. Lawrence University, where she majored in American history and government and sought a career in the foreign service after graduation. While working for the State Department in Washington, Judge Beasley decided to go to law school, which she did at American University Washington College of Law. She later earned a Masters degree in the Judicial Process from the University of Virginia and was awarded an Honorary Degree of Doctor of Humane Letters by her alma mater, St. Lawrence University. The Lodestar Award of the American University was presented in 1993.

While a judge, she participated as a teacher in two judicial seminars in Albania after first becoming acquainted with that country when sent to advise on a new constitution, soon after the U.S. reestablished diplomatic relations in 1991. International work also included commenting on draft laws and constitutional provisions for countries in Eastern and Central Europe, work undertaken by the American Bar Association CEELI program. More recent was involvement in the NCSC International Programs Division, which provides technical assistance for the improvement of court administration in emerging democracies. These projects are funded primarily by the U.S. Agency for International Development and the World Bank. In June 2003 she participated as a lecturer in a course on International Commercial Arbitration conducted for students of Georgia State University College of Law in Linz, Austria.

Judge Beasley is on the Dean’s Advisory Council at American University Washington College of Law, the Board of Visitors of Georgia State University College of Law, the Board of Visitors of Emory University, the Board of Trustees of the Southern Center of International Studies, a participant in the Georgia Council for International Visitors, and the Advisory Board of the Center for International Strategy, Technology and Policy at Georgia Institute of Technology. She serves on the Church Council and Executive Committee of the Lutheran Church of the Redeemer and is a co-founder of Atlanta’s Table, a project of the Atlanta Community Food Bank.
Professor Curtis F. Doebbler

Professor Curtis Doebbler works at Khartoum University in Sudan, where he teaches human rights law and public international law and serves as an advisor on human rights to the Ministry of Justice of the government of Sudan. He has lectured in Iraq, Italy, and Germany. He also represents pro bono clients on human rights issues, including refugees and displaced persons. He has previously worked with Amnesty International, Human Rights Watch, and UNICEF.

Professor Doebbler has published several books on international human rights and asylum law, including human rights policy strategies in the former Yugoslavia, Iraq, and Sudan. Professor Doebbler received his Doctor of Philosophy from the London School of Economics, his Juris Doctor degree from New York University, and his Master of Laws degree from Katholieke Universiteit Nijmegen, The Netherlands. He earned his undergraduate degree in journalism at Southern Methodist University.

The Honorable Robert F. Utter

Robert F. Utter served as a Justice on the Supreme Court of the State of Washington from 1971 to 1995. He was also the Acting Chief Justice, later the Chief Justice, from 1977 to 1980. He received his Bachelor of Laws degree in 1954 from the University of Washington. Upon graduation, he became a law clerk to the Honorable Matthew W. Hill of the Washington Supreme Court. Justice Utter served as a Deputy Prosecuting Attorney for King County (Washington) before entering the private practice of law in 1956. He was appointed a Commissioner in 1959, a Judge of the Washington Superior Court in 1964, and to the Court of Appeals in 1969. He has also been an Adjunct Professor at the University of Puget Sound, where he has taught seminars on State Constitutional Law, since 1987.

Justice Utter has provided frequent legal development assistance to nations around the world. With CEELI, he has commented on proposed constitutions for Albania, Romania, Lithuania, Russia, Azerbaijan, Uzbekistan, Belarus, Kazakhstan, and Ukraine. Justice Utter has hosted two judicial training workshops for judges from the Republic of Kazakhstan and the Republic of Kyrgyzstan and participated in a criminal code workshop in Kazakhstan for CEELI. He has also repeatedly led Judges and Lawyers Comparative Law Study Delegations to the People’s Republic of China, the U.S.S.R., and Indonesia and led a Dispute Resolution Delegation to the People’s Republic of China.

Markus Zimmer

Markus B. Zimmer has been the Clerk of Court of the U.S. District Court for the District of Utah since 1987. From 1978 - 1987, he held senior-level positions at the Federal Judicial Center. Zimmer earned his BA and MA from the University of Utah and EdM and EdD from Harvard. He was a Fulbright Scholar at the University of Zurich. He was born in Basel, Switzerland.

Zimmer has served on numerous national advisory and other committees for the Judicial Branch. In 1994, he received the AO Director's Award for Outstanding Leadership.
Since 1992, Mr. Zimmer has worked with court systems and judiciaries in Bulgaria, Croatia, Macedonia, Poland, Hungary, Romania, Slovakia, Montenegro, Rwanda, Azerbaijan, and Kosovo. He worked on the 1993 Russian Jury Trial Project, consulted with the Justices of the Constitutional Court of Bosnia and Herzegovina in 1995, and worked on and taught at the ABA/CEELI Judicial Training Institute in Prague from 1999 to 2001.
Appendix B

Draft Bangalore Principles of Judicial Conduct
DRAFT BANGALORE PRINCIPLES OF JUDICIAL CONDUCT

Preamble

WHEREAS the Universal Declaration of Human Rights recognizes as fundamental the principle that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of rights and obligations and of any criminal charge.

WHEREAS the International Covenant on Civil and Political Rights guarantees that all persons shall be equal before the courts, and that in the determination of any criminal charge or of rights and obligations in a suit at law, everyone shall be entitled, without undue delay, to a fair and public hearing by a competent, independent and impartial tribunal established by law.

WHEREAS the foregoing fundamental principles and rights are also recognized or reflected in regional human rights instruments, in domestic constitutional, statutory and common law, and in judicial conventions and traditions.

WHEREAS the importance of a competent, independent and impartial judiciary to the protection of human rights is given emphasis by the fact that the implementation of all the other rights ultimately depends upon the proper administration of justice.

WHEREAS a competent, independent and impartial judiciary is likewise essential if the courts are to fulfil their role in upholding constitutionalism and the rule of law.

WHEREAS public confidence in the judicial system and in the moral authority and integrity of the judiciary is of the utmost importance in a modern democratic society.

WHEREAS it is essential that judges, individually and collectively, respect and honour judicial office as a public trust and strive to enhance and maintain confidence in the judicial system.

WHEREAS the primary responsibility for the promotion and maintenance of high standards of judicial conduct lies with the judiciary in each country.

AND WHEREAS the United Nations Basic Principles on the Independence of the Judiciary are designed to secure and promote the independence of the judiciary, and are addressed primarily to States.

THE FOLLOWING PRINCIPLES are intended to establish standards for ethical conduct of judges. They are designed to provide guidance to judges and to afford the judiciary a framework for regulating judicial conduct. They are also intended to assist members of the executive and the legislature, and lawyers and the public in general, to better understand and support the judiciary. These principles presuppose that judges are accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial, and are intended to supplement and not to derogate from existing rules of law and conduct which bind the judge.
Value 1:
INDEPENDENCE

Principle:
Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

Application:
1.1 A judge shall exercise the judicial function independently on the basis of the judge's assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

1.2 A judge shall be independent in relation to society in general and in relation to the particular parties to a dispute which the judge has to adjudicate.

1.3 A judge shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to a reasonable observer to be free therefrom.

1.4 In performing judicial duties, a judge shall be independent of judicial colleagues in respect of decisions which the judge is obliged to make independently.

1.5 A judge shall encourage and uphold safeguards for the discharge of judicial duties in order to maintain and enhance the institutional and operational independence of the judiciary.

1.6 A judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary which is fundamental to the maintenance of judicial independence.

Value 2:
IMPARTIALITY

Principle:
Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

Application:
2.1 A judge shall perform his or her judicial duties without favour, bias or prejudice.

2.2 A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and
of the judiciary.

2.3 A judge shall, so far as is reasonable, so conduct himself or herself as to minimise the occasions on which it will be necessary for the judge to be disqualified from hearing or deciding cases.

2.4 A judge shall not knowingly, while a proceeding is before, or could come before, the judge, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue.

2.5 A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where

2.5.1 the judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;

2.5.2 the judge previously served as a lawyer or was a material witness in the matter in controversy; or

2.5.3 the judge, or a member of the judge's family, has an economic interest in the outcome of the matter in controversy:
Provided that disqualification of a judge shall not be required if no other tribunal can be constituted to deal with the case or, because of urgent circumstances, failure to act could lead to a serious miscarriage of justice.

Value 3: INTEGRITY

Principle:
Integrity is essential to the proper discharge of the judicial office.

Application:
3.1 A judge shall ensure that his or her conduct is above reproach in the view of a reasonable observer.

3.2 The behaviour and conduct of a judge must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.
Value 4: PROPERITY

Principle:
Propriety, and the appearance of propriety, are essential to the performance of all of the activities of a judge.

Application:
4.1 A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

4.2. As a subject of constant public scrutiny, a judge must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, a judge shall conduct himself or herself in a way that is consistent with the dignity of the judicial office.

4.3. A judge shall, in his or her personal relations with individual members of the legal profession who practise regularly in the judge's court, avoid situations which might reasonably give rise to the suspicion or appearance of favouritism or partiality.

4.4 A judge shall not participate in the determination of a case in which any member of the judge's family represents a litigant or is associated in any manner with the case.

4.5 A judge shall not allow the use of the judge's residence by a member of the legal profession to receive clients or other members of the legal profession.

4.6 A judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.

4.7 A judge shall inform himself or herself about the judge's personal and fiduciary financial interests and shall make reasonable efforts to be informed about the financial interests of members of the judge's family.

4.8 A judge shall not allow the judge's family, social or other relationships improperly to influence the judge's judicial conduct and judgment as a judge.

4.9 A judge shall not use or lend the prestige of the judicial office to advance the private interests of the judge, a member of the judge's family or of anyone else, nor shall a judge convey or permit others to convey the impression that anyone is in a special position improperly to influence the judge in the performance of judicial duties.

4.10 Confidential information acquired by a judge in the judge's judicial capacity shall not be
used or disclosed by the judge for any other purpose not related to the judge's judicial duties.

4.11 Subject to the proper performance of judicial duties, a judge may:

4.11.1 write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters;

4.11.2 appear at a public hearing before an official body concerned with matters relating to the law, the legal system, the administration of justice or related matters;

4.11.3 serve as a member of an official body, or other government commission, committee or advisory body, if such membership is not inconsistent with the perceived impartiality and political neutrality of a judge; or

4.11.4 engage in other activities if such activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties.

4.12 A judge shall not practise law whilst the holder of judicial office.

4.13 A judge may form or join associations of judges or participate in other organisations representing the interests of judges.

4.14 A judge and members of the judge's family, shall neither ask for, nor accept, any gift, bequest, loan or favour in relation to anything done or to be done or omitted to be done by the judge in connection with the performance of judicial duties.

4.15 A judge shall not knowingly permit court staff or others subject to the judge's influence, direction or authority, to ask for, or accept, any gift, bequest, loan or favour in relation to anything done or to be done or omitted to be done in connection with his or her duties or functions.

4.16 Subject to law and to any legal requirements of public disclosure, a judge may receive a token gift, award or benefit as appropriate to the occasion on which it is made provided that such gift, award or benefit might not reasonably be perceived as intended to influence the judge in the performance of judicial duties or otherwise give rise to an appearance of partiality.

Value 5:
EQUALITY

Principle:
Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

Application:
5.1 A judge shall be aware of, and understand, diversity in society and differences arising from
various sources, including but not limited to race, colour, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes ("irrelevant grounds").

5.2 A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds.

5.3 A judge shall carry out judicial duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers, court staff and judicial colleagues, without differentiation on any irrelevant ground, immaterial to the proper performance of such duties.

5.4 A judge shall not knowingly permit court staff or others subject to the judge's influence, direction or control to differentiate between persons concerned, in a matter before the judge, on any irrelevant ground.

5.5 A judge shall require lawyers in proceedings before the court to refrain from manifesting, by words or conduct, bias or prejudice based on irrelevant grounds, except such as are legally relevant to an issue in proceedings and may be the subject of legitimate advocacy.

Value 6: COMPETENCE AND DILIGENCE

Principle:
Competence and diligence are prerequisites to the due performance of judicial office.

Application:
6.1 The judicial duties of a judge take precedence over all other activities.

6.2 A judge shall devote the judge's professional activity to judicial duties, which include not only the performance of judicial functions and responsibilities in court and the making of decisions, but also other tasks relevant to the judicial office or the court's operations.

6.3 A judge shall take reasonable steps to maintain and enhance the judge's knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this purpose of the training and other facilities which should be made available, under judicial control, to judges.

6.4 A judge shall keep himself or herself informed about relevant developments of international law, including international conventions and other instruments establishing human rights norms.

6.5 A judge shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.

6.6 A judge shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, jurors, witnesses, lawyers and others with whom
the judge deals in an official capacity. The judge shall require similar conduct of legal representatives, court staff and others subject to the judge's influence, direction or control.

6.7 A judge shall not engage in conduct incompatible with the diligent discharge of judicial duties.

IMPLEMENTATION
By reason of the nature of judicial office, effective measures shall be adopted by national judiciaries to provide mechanisms to implement these principles if such mechanisms are not already in existence in their jurisdictions.

DEFINITIONS
In this statement of principles, unless the context otherwise permits or requires, the following meanings shall be attributed to the words used:
"Court staff" includes the personal staff of the judge including law clerks. "Judge" means any person exercising judicial power, however designated.
"Judge's family" includes a judge's spouse, son, daughter, son-in-law, daughter-in-law, and any other close relative or person who is a companion or employee of the judge and who lives in the judge's household.
"Judge's spouse" includes a domestic partner of the judge or any other person of either sex in a close personal relationship with the judge.

Explanatory Note
1. At its first meeting held in Vienna in April 2000 on the invitation of the United Nations Centre for International Crime Prevention, and in conjunction with the 10th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Judicial Group on Strengthening Judicial Integrity (comprising Chief Justice Latifur Rahman of Bangladesh, Chief Justice Y. Bhaskar Rao of Karnataka State in India, Justice Govind Bahadur Shrestha of Nepal, Chief Justice M.L. Uwais of Nigeria, Deputy President Pius Langa of the Constitutional Court of South Africa, Chief Justice F.L. Nyali of Tanzania, and Justice B.J. Odoki of Uganda, meeting under the chairmanship of Judge Christopher Weeramantry, Vice-President of the International Court of Justice, with Justice Michael Kirby of the High Court of Australia as Rapporteur, and with the participation of Dato Param Cumaraswamy, UN Special Rapporteur on the Independence of Judges and Lawyers) recognized the need for a code against which the conduct of judicial officers may be measured. Accordingly, the Judicial Group requested that codes of judicial conduct which had been adopted in some jurisdictions be analyzed, and a report be prepared by the Co-ordinator of the Judicial Integrity Programme, Dr Nihal Jayawickrama, concerning:

a. the core considerations which recur in such codes; and

b. the optional or additional considerations which occur in some, but not all, such codes and which may or may not be suitable for adoption in particular countries.
2. In preparing a draft code of judicial conduct in accordance with the directions set out above, reference was made to several existing codes and international instruments including, in particular, the following:

(b) Declaration of Principles of Judicial Independence issued by the Chief Justices of the Australian States and Territories, April 1997.
(c) Code of Conduct for the Judges of the Supreme Court of Bangladesh, prescribed by the Supreme Judicial Council in the exercise of power under Article 96(4)(a) of the Constitution of the People's Republic of Bangladesh, May 2000.
(d) Ethical Principles for Judges, drafted with the cooperation of the Canadian Judges Conference and endorsed by the Canadian Judicial Council, 1998.
(g) Restatement of Values of Judicial Life adopted by the Chief Justices Conference of India, 1999.
(h) The Iowa Code of Judicial Conduct.
(j) The Judges' Code of Ethics of Malaysia, prescribed by the Yang di-Pertuan Agong on the recommendation of the Chief Justice, the President of the Court of Appeal and the Chief Judges of the High Courts, in the exercise of powers conferred by Article 125(3A) of the Federal Constitution of Malaysia, 1994.
(k) The Code of Conduct for Magistrates in Namibia.
(l) Rules Governing Judicial Conduct, New York State, USA.
(n) Code of Conduct to be observed by Judges of the Supreme Court and of the High Courts of Pakistan.
(p) The Canons of Judicial Ethics of the Philippines, proposed by the Philippines Bar Association, approved by the Judges of First Instance of Manila, and adopted for the guidance of and observance by the judges under the administrative supervision of the Supreme Court, including municipal judges and city judges.
(r) Guidelines for Judges of South Africa, issued by the Chief Justice, the President of the Constitutional Court, and the Presidents of High Courts, the Labour Appeal Court, and the Land Claims Court, March 2000.
(t) The Texas Code of Judicial Conduct


(ee) The Latimer House Guidelines for the Commonwealth on good practice governing relations between the Executive, Parliament and the Judiciary in the promotion of good governance, the rule of law and human rights to ensure the effective implementation of the Harare Principles, 1998.


3. At its second meeting held in Bangalore in February 2001, the Judicial Group (comprising Chief Justice Mainur Reza Chowdhury of Bangladesh, Justice Claire L'Heureux Dube of Canada, Chief Justice P.V. Reddi of Karnataka State in India, Chief Justice Keshav Prasad Upadhyay of Nepal, Chief Justice M.L. Uwais of Nigeria, Deputy Chief Justice Pius Langa of South Africa, Chief Justice S.N. Silva of Sri Lanka, Chief Justice B.A. Samatta of Tanzania, and Chief Justice B.J. Odoki of Uganda, meeting under the chairmanship of Judge Weeramantry, with Justice Kirby as Rapporteur, and with the participation of the UN Special Rapporteur and Justice P.N. Bhagwati, Chairman of the UN Human Rights Committee, representing the UN High Commissioner for Human Rights) proceeding by way of examination of the draft placed before it, identified the core values, formulated the relevant principles, and agreed on the Bangalore Draft Code of Judicial Conduct. The Judicial Group recognized, however, that since the Bangalore Draft had been developed by judges drawn principally from common law countries, it was essential that it be scrutinized by judges of other legal traditions to enable it to assume the status of a duly authenticated international code of judicial conduct.

4. The Bangalore Draft was widely disseminated among judges of both common law and civil law systems and discussed at several judicial conferences. In June 2002, it was reviewed by the Working Party of the Consultative Council of European Judges (CCJE-GT), comprising Vice-President Gerhard Reissner of the Austrian Association of Judges, Judge Robert Fremr of the High Court in the Czech Republic, President Alain Lacabarats of the Cour d'Appel de Paris in France, Judge Otto Mallmann of the Federal Administrative Court of Germany, Magistrate Raffaele Sabato of Italy, Judge Virgilijus
of the Lithuanian Court of Appeal, Premier Conseiller Jean-Claude Wiwinius of the Cour d'Appel of Luxembourg, Juge Conseiller Orlando Afonso of the Court of Appeal of Portugal, Justice Dusan Ogrizek of the Supreme Court of Slovenia, President Johan Hirschfeldt of the Svea Court of Appeal in Sweden, and Lord Justice Mance of the United Kingdom. On the initiative of the American Bar Association, the Bangalore Draft was translated into the national languages, and reviewed by judges, of the Central and Eastern European countries; in particular, of Bosnia-Herzegovina, Bulgaria, Croatia, Kosovo, Romania, Serbia and Slovakia.

5. The Bangalore Draft was revised in the light of the comments received from CCJE-GT and others referred to above; Opinion no.1 (2001) of CCJE on standards concerning the independence of the judiciary; the draft Opinion of CCJE on the principles and rules governing judges' professional conduct, in particular ethics, incompatible behaviour and impartiality; and by reference to more recent codes of judicial conduct including the Guide to Judicial Conduct published by the Council of Chief Justices of Australia in June 2002, the Model Rules of Conduct for Judges of the Baltic States, the Code of Judicial Ethics for Judges of the People's Republic of China, and the Code of Judicial Ethics of the Macedonian Judges Association.

6. The revised Bangalore Draft was placed before a Round-Table Meeting of Chief Justices (or their representatives) from the civil law system, held in the Peace Palace in The Hague, Netherlands, in November 2002, with Judge Weeramantry presiding. Those participating were Judge Vladimir de Freitas of the Federal Court of Appeal of Brazil, Chief Justice Iva Brozova of the Supreme Court of the Czech Republic, Chief Justice Mohammad Fathy Naguib of the Supreme Constitutional Court of Egypt (assisted by Justice Dr Adel Omar Sherif), Conseillere Christine Chanet of the Cour de Cassation of France, President Genaro David Gongora Pimentel of the Suprema Corte de Justicia de la Nacion of Mexico, President Mario Mangaze of the Supreme Court of Mozambique, President Pim Haak of the Hoge Raad der Nederlanden, Justice Trond Dolva of the Supreme Court of Norway, and Chief Justice Hilario Davide of the Supreme Court of the Philippines (assisted by Justice Reynato S. Puno). Also participating in one session were the following Judges of the International Court of Justice: Judge Raymond Ranjeva (Madagascar), Judge Geza Herczegh (Hungary), Judge Carl-August Fleischhauer (Germany), Judge Abdul G. Koroma (Sierra Leone), Judge Rosalyn Higgins (United Kingdom), Judge Francisco Rezek (Brazil), Judge Nabil Elaraby (Egypt), and Ad-Hoc Judge Thomas Frank (USA). The UN Special Rapporteur was in attendance. The Bangalore Principles of Judicial Conduct was the product of this meeting.
Appendix C

American Bar Association Model Code of Judicial Conduct
CANON 1: A JUDGE SHALL UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY
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A. An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

Commentary:

Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depends in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.

CANON 2: A JUDGE SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL OF THE JUDGE'S ACTIVITIES
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A. A judge shall respect and comply with the law* and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Commentary:

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

The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. Actual improprieties under this standard include violations of law, court rules or other specific provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired. See also Commentary under Section 2C.

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

Commentary:

Maintaining the prestige of judicial office is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. Respect for the judicial office facilitates the orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of the prestige of office in all of their activities. For example, it would be improper for a judge to allude to his or her judgeship to gain a personal advantage such as deferential treatment when stopped by a police officer for a traffic offense. Similarly, judicial letterhead must not be used for conducting a judge's personal business.

A judge must avoid lending the prestige of judicial office for the advancement of the private interests of others. For example, a judge must not use the judge's judicial position to gain advantage in a civil suit involving a member of the judge's family. In contracts for publication of a judge's writings, a judge should retain control over the advertising to avoid exploitation of the judge's office. As to the acceptance of awards, see Section 4D(5)(a) and Commentary.

Although a judge should be sensitive to possible abuse of the prestige of office, a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation. However, a judge must not initiate the communication of information to a sentencing judge or a probation or corrections officer but may provide to such persons information for the record in response to a formal request.

Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees seeking names for consideration, and by responding to official inquiries concerning a person being considered for a judgeship. See also Canon 5
regarding use of a judge's name in political activities.

A judge must not testify voluntarily as a character witness because to do so may lend the prestige of the judicial office in support of the party for whom the judge testifies. Moreover, when a judge testifies as a witness, a lawyer who regularly appears before the judge may be placed in the awkward position of cross-examining the judge. A judge may, however, testify when properly summoned. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.

C. A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or national origin.

Commentary:

Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge's impartiality is impaired. Section 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex or national origin persons who would otherwise be admitted to membership. See New York State Club Ass'n. Inc. v. City of New York, 108 S.Ct. 2225, 101 L.Ed.2d 1 (1988); Board of Directors of Rotary International v. Rotary Club of Duarte, 481 U.S. 537, 107 S.Ct. 1940 (1987), 95 L.Ed.2d 474; Roberts v. United States Jaycees, 468 U.S. 609, 104 S.Ct. 3244, 82 L.Ed.2d 462 (1984).

Although Section 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, religion or national origin, a judge's membership in an organization that engages in any discriminatory membership practices prohibited by the law of the jurisdiction also violates Canon 2 and Section 2A and gives the appearance of impropriety. In addition, it would be a violation of Canon 2 and Section 2A for a judge to arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, sex, religion or national origin in its membership or other policies, or for the judge to regularly use such a club. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Section 2A.

When a person who is a judge on the date this Code becomes effective [in the jurisdiction in which the person is a judge] [FN1] learns that an organization to which the judge belongs
engages in invidious discrimination that would preclude membership under Section 2C or under
Canon 2 and Section 2A, the judge is permitted, in lieu of resigning, to make immediate efforts
to have the organization discontinue its invidiously discriminatory practices, but is required to
suspend participation in any other activities of the organization. If the organization fails to
discontinue its invidiously discriminatory practices as promptly as possible (and in all events
within a year of the judge's first learning of the practices), the judge is required to resign
immediately from the organization.

FN1. The language within the brackets should be deleted when the jurisdiction adopts this
provision.

CANON 3 [FN2]: A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE
IMPARTIALLY AND DILIGENTLY
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A. Judicial Duties in General. The judicial duties of a judge take precedence over all the
judge's other activities. The judge's judicial duties include all the duties of the judge's office
prescribed by law*. In the performance of these duties, the following standards apply.

B. Adjudicative Responsibilities.

(1) A judge shall hear and decide matters assigned to the judge except those in which
disqualification is required.

(2) A judge shall be faithful to the law* and maintain professional competence in it. A judge
shall not be swayed by partisan interests, public clamor or fear of criticism.

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

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

Commentary:

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. Judges can be efficient and businesslike while
being patient and deliberate.

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the
performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.

Commentary:

A judge must refrain from speech, gestures or other conduct that could reasonably be perceived as sexual harassment and must require the same standard of conduct of others subject to the judge's direction and control.

A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expression and body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as prejudicial.

(6) A judge shall require* lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, against parties, witnesses, counsel or others. This Section 3B(6) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.

(7) 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*. 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 concerning a pending or impending proceeding except that:

(a) Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:

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

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

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

(c) A judge may consult with court personnel* whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

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

(e) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

Commentary:

The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted.

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

Whenever presence of a party or notice to a party is required by Section 3B(7), it is the party's lawyer, or if the party is unrepresented the party, who is to be present or to whom notice is to be given.

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

Certain ex parte communication is approved by Section 3B(7) to facilitate scheduling and other administrative purposes and to accommodate emergencies. In general, however, a judge must discourage ex parte communication and allow it only if all the criteria stated in Section 3B(7) are clearly met. A judge must disclose to all parties all ex parte communications described in Sections 3B(7)(a) and 3B(7)(b) regarding a proceeding pending or impending before the judge.

A judge must not independently investigate facts in a case and must consider only the evidence presented.

A judge may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions.

A judge must make reasonable efforts, including the provision of appropriate supervision, to ensure that Section 3B(7) is not violated through law clerks or other personnel on the judge's staff.

If communication between the trial judge and the appellate court with respect to a proceeding is permitted, a copy of any written communication or the substance of any oral communication should be provided to all parties.

(8) A judge shall dispose of all judicial matters promptly, efficiently and fairly.
Commentary:

In disposing of matters promptly, efficiently and fairly, a judge must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. Containing costs while preserving fundamental rights of parties also protects the interests of witnesses and the general public. A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays and unnecessary costs. A judge should encourage and seek to facilitate settlement, but parties should not feel coerced into surrendering the right to have their controversy resolved by the courts.

Prompt disposition of the court's business requires a judge to devote adequate time to judicial 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 the judge to that end.

(9) A judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require* similar abstention on the part of court personnel* subject to the judge's direction and control. This Section 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. This Section does not apply to proceedings in which the judge is a litigant in a personal capacity.

Commentary:

The requirement that judges abstain from public comment regarding a pending or impending proceeding continues during any appellate process and until final disposition. This Section does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity, but in cases such as a writ of mandamus where the judge is a litigant in an official capacity, the judge must not comment publicly. The conduct of lawyers relating to trial publicity is governed by [Rule 3.6 of the ABA Model Rules of Professional Conduct]. (Each jurisdiction should substitute an appropriate reference to its rule.)

(10) 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.

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

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

C. Administrative Responsibilities.

(1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

(2) A judge shall require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

(3) A judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to assure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.

(4) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered.

(5) A judge shall not appoint a lawyer to a position if the judge either knows that the lawyer has contributed more than [$***] within the prior [***] years to the judge's election campaign, [FN3] or learns of such a contribution by means of a timely motion by a party or other person properly interested in the matter, unless
(a) the position is substantially uncompensated;
(b) 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
(c) the judge or another presiding or administrative judge affirmatively finds that no other lawyer is willing, competent and able to accept the position.

Commentary:

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

D. Disciplinary Responsibilities.
(1) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action. A judge having knowledge* that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority*.

(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct [[[substitute correct title if the applicable rules of lawyer conduct have a different title]] should take appropriate action. A judge having knowledge* that a lawyer has committed a violation of the Rules of Professional Conduct [[[substitute correct title if the applicable rules of lawyer conduct have a different title]] that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority*.

(3) Acts of a judge, in the discharge of disciplinary responsibilities, required or permitted by Sections 3D(1) and 3D(2) are part of a judge's judicial duties and shall be absolutely privileged, and no civil action predicated thereon may be instituted against the judge.

Commentary:

Appropriate action may include direct communication with the judge or lawyer who has committed the violation, other direct action if available, and reporting the violation to the appropriate authority or other agency or body.

E. Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

Commentary:

Under this rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless whether any of the specific rules in Section 3E(1) apply. For example, if a judge were in the process of negotiating for employment with a law firm, the judge would be disqualified from any matters in which that law firm appeared, unless the disqualification was waived by the parties after disclosure by the judge.

A judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification.

By decisional law, the rule of necessity may override the rule of disqualification. For example,
a judge might be required to participate in judicial review of a judicial salary statute, or might be
the only judge available in a matter requiring immediate judicial action, such as a hearing on
probable cause or a temporary restraining order. In the latter case, the judge must disclose on the
record the basis for possible disqualification and use reasonable efforts to transfer the matter to
another judge as soon as practicable.

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or
personal knowledge* of disputed evidentiary facts concerning the proceeding;
(b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the
judge previously practiced law served during such association as a lawyer concerning the matter,
or the judge has been a material witness concerning it;

Commentary:

A lawyer in a government agency does not ordinarily have an association with other lawyers
employed by that agency within the meaning of Section 3E(1)(b); a judge formerly employed by
a government agency, however, should disqualify himself or herself in a proceeding if the
judge's impartiality might reasonably be questioned because of such association.

(c) the judge knows* that he or she, individually or as a fiduciary, or the judge's spouse,
parent or child wherever residing, or any other member of the judge's family residing in the
judge's household*, has an economic interest* in the subject matter in controversy or in a party
to the proceeding or has any other more than de minimis* interest that could be substantially
affected by the proceeding;
(d) the judge or the judge's 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;
(iii) is known* by the judge to have a more than de minimis* interest that could be
substantially affected by the proceeding;
(iv) is to the judge's knowledge* likely to be a material witness in the proceeding;
(e) the judge knows or learns by means of a timely motion that a party or a party's lawyer
has within the previous [***] year[s] made aggregate* contributions to the judge's campaign in
an amount that is greater than [ [ [ [ $ ***] for an individual or [$ ***] for an entity] ] [[is
reasonable and appropriate for an individual or an entity]]. [FN4]

Commentary:

The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the
judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the
fact that "the judge's impartiality might reasonably be questioned" under Section 3E(1), or that
the 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 Section 3E(1)(d)(iii) may require the judge's
disqualification.
(2) 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 and minor children residing in the judge's household.

F. Remittal of Disqualification. A judge disqualified by the terms of Section 3E may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

Commentary:

A remittal procedure provides the parties an opportunity to proceed without delay if they wish to waive the disqualification. To assure that consideration of the question of remittal is made independently of the judge, a judge must not solicit, seek or hear comment on possible remittal or waiver of the disqualification unless the lawyers jointly propose remittal after consultation as provided in the rule. A party may act through counsel if counsel represents on the record that the party has been consulted and consents. As a practical matter, a judge may wish to have all parties and their lawyers sign the remittal agreement.


FN3. This provision is meant to be applicable wherever judges are subject to public election; specific amount and time limitations, to be determined based on circumstances within the jurisdiction, should be inserted in the brackets.

FN4. This provision is meant to be applicable wherever judges are subject to public election. Jurisdictions that adopt specific dollar limits on contributions in section 5(C)(3) should adopt the same limits in section 3(E)(1)(e). Where specific dollar amounts determined by local circumstances are not used, the "reasonable and appropriate" language should be used.
A. Extra-judicial Activities in General. A judge shall conduct all of the judge's extra-judicial activities so that they do not:

(1) cast reasonable doubt on the judge's capacity to act impartially as a judge;
(2) demean the judicial office; or
(3) interfere with the proper performance of judicial duties.

Commentary:

Complete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives.

Expressions of bias or prejudice by a judge, even outside the judge's judicial activities, may cast reasonable doubt on the judge's capacity to act impartially as a judge. Expressions which may do so include jokes or other remarks demeaning individuals on the basis of their race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status. See Section 2C and accompanying Commentary.

B. Avocational Activities. A judge may speak, write, lecture, teach and participate in other extra-judicial activities concerning the law*, the legal system, the administration of justice and non-legal subjects, subject to the requirements of this Code.

Commentary:

As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that time permits, a judge is encouraged to do so, either independently or through a bar association, judicial conference or other organization dedicated to the improvement of the law. Judges may participate in efforts to promote the fair administration of justice, the independence of the judiciary and the integrity of the legal profession and may express opposition to the persecution of lawyers and judges in other countries because of their professional activities.

In this and other Sections of Canon 4, the phrase "subject to the requirements of this Code" is used, notably in connection with a judge's governmental, civic or charitable activities. This phrase is included to remind judges that the use of permissive language in various Sections of the Code does not relieve a judge from the other requirements of the Code that apply to the specific conduct.

C. Governmental, Civic or Charitable Activities.
(1) A judge shall not appear at a public hearing before, or otherwise consult with, an executive or legislative body or official except on matters concerning the law*, the legal system or the administration of justice or except when acting pro se in a matter involving the judge or the judge's interests.

Commentary:

See Section 2B regarding the obligation to avoid improper influence.

(2) A judge shall not accept appointment to a governmental committee or commission or other governmental 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. A judge may, however, represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities.

Commentary:

Section 4C(2) prohibits a judge from accepting any governmental position except one relating to the law, legal system or administration of justice as authorized by Section 4C(3). The appropriateness of accepting extra-judicial assignments must be assessed in light of the demands on judicial resources created by crowded dockets and the need to protect the courts from involvement in extra-judicial matters that may prove to be controversial. Judges should not accept governmental appointments that are likely to interfere with the effectiveness and independence of the judiciary.

Section 4C(2) does not govern a judge's service in a nongovernmental position. See Section 4C(3) permitting service by a judge with organizations devoted to the improvement of the law, the legal system or the administration of justice and with educational, religious, charitable, fraternal or civic organizations not conducted for profit. For example, service on the board of a public educational institution, unless it were a law school, would be prohibited under Section 4C(2), but service on the board of a public law school or any private educational institution would generally be permitted under Section 4C(3).

(3) A judge may serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law,* the legal system or the administration of justice or of an educational, religious, charitable, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code.

Commentary:
Section 4C(3) does not apply to a judge's service in a governmental position unconnected with the improvement of the law, the legal system or the administration of justice; see Section 4C(2).

See Commentary to Section 4B regarding use of the phrase "subject to the following limitations and the other requirements of this Code." As an example of the meaning of the phrase, a judge permitted by Section 4C(3) to serve on the board of a fraternal institution may be prohibited from such service by Sections 2C or 4A if the institution practices invidious discrimination or if service on the board otherwise casts reasonable doubt on the judge's capacity to act impartially as a judge.

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

(a) A judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that the organization

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

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

Commentary:

The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine if it is proper for the judge to continue the affiliation. 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.

(b) A judge as an officer, director, trustee or non-legal advisor, or as a member or otherwise:

(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities, except that a judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority;

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

(iii) shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or, except as permitted in Section 4C(3)(b)(i), if the membership solicitation is essentially a fund-raising mechanism;

(iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.
Commentary:

A judge may solicit membership or endorse or encourage membership efforts for an organization devoted to the improvement of the law, the legal system or the administration of justice or a nonprofit educational, religious, charitable, fraternal or civic organization as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fund-raising mechanism. Solicitation of funds for an organization and solicitation of memberships similarly involve the danger that the person solicited will feel obligated to respond favorably to the solicitor if the solicitor is in a position of influence or control. A judge must not engage in direct, individual solicitation of funds or memberships in person, in writing or by telephone except in the following cases: 1) a judge may solicit for funds or memberships other judges over whom the judge does not exercise supervisory or appellate authority, 2) a judge may solicit other persons for membership in the organizations described above if neither those persons nor persons with whom they are affiliated are likely ever to appear before the court on which the judge serves and 3) a judge who is an officer of such an organization may send a general membership solicitation mailing over the judge's signature.

Use of an organization letterhead for fund-raising or membership solicitation does not violate Section 4C(3)(b) provided the letterhead lists only the judge's name and office or other position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation. In addition, a judge must also make reasonable efforts to ensure that the judge's staff, court officials and others subject to the judge's direction and control do not solicit funds on the judge's behalf for any purpose, charitable or otherwise.

A judge must not be a speaker or guest of honor at an organization's fund-raising event, but mere attendance at such an event is permissible if otherwise consistent with this Code.

D. Financial Activities.

(1) A judge shall not engage in financial and business dealings that:
   (a) may reasonably be perceived to exploit the judge's judicial position, or
   (b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.

Commentary:

The Time for Compliance provision of this Code (Application, Section F) postpones the time for compliance with certain provisions of this Section in some cases.

When a judge acquires in a judicial capacity information, such as material contained in filings with the court, that is not yet generally known, the judge must not use the information for private gain. See Section 2B; see also Section 3B(11).
A judge must avoid financial and business dealings that involve the judge in frequent transactions or continuing business relationships with persons likely to come either before the judge personally or before other judges on the judge's court. In addition, a judge should discourage members of the judge's family from engaging in dealings that would reasonably appear to exploit the judge's judicial position. This rule is necessary to avoid creating an appearance of exploitation of office or favoritism and to minimize the potential for disqualification. With respect to affiliation of relatives of judge with law firms appearing before the judge, see Commentary to Section 3E(1) relating to disqualification.

Participation by a judge in financial and business dealings is subject to the general prohibitions in Section 4A against activities that tend to reflect adversely on impartiality, demean the judicial office, or interfere with the proper performance of judicial duties. Such participation is also subject to the general prohibition in Canon 2 against activities involving impropriety or the appearance of impropriety and the prohibition in Section 2B against themisuse of the prestige of judicial office. In addition, a judge must maintain high standards of conduct in all of the judge's activities, as set forth in Canon 1. See Commentary for Section 4B regarding use of the phrase "subject to the requirements of this Code."

(2) A judge may, subject to the requirements of this Code, hold and manage investments of the judge and members of the judge's family,* including real estate, and engage in other remunerative activity.

Commentary:

This Section provides that, subject to the requirements of this Code, a judge may hold and manage investments owned solely by the judge, investments owned solely by a member or members of the judge's family, and investments owned jointly by the judge and members of the judge's family.

(3) A judge shall not serve as an officer, director, manager, general partner, advisor or employee of any business entity except that a judge may, subject to the requirements of this Code, manage and participate in:
   (a) a business closely held by the judge or members of the judge's family,* or
   (b) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.*

Commentary:

Subject to the requirements of this Code, a judge may participate in a business that is closely held either by the judge alone, by members of the judge's family, or by the judge and members of the judge's family.
Although participation by a judge in a closely-held family business might otherwise be permitted by Section 4D(3), a judge may be prohibited from participation by other provisions of this Code when, for example, the business entity frequently appears before the judge's court or the participation requires significant time away from judicial duties. Similarly, a judge must avoid participating in a closely-held family business if the judge's participation would involve misuse of the prestige of judicial office.

(4) A judge shall manage the judge's investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.

(5) A judge shall not accept, and shall urge members of the judge's family residing in the judge's household* not to accept, a gift, bequest, favor or loan from anyone except for:

Commentary:

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

Because a gift, bequest, favor or loan to a member of the judge's family residing in the judge's household might be viewed as intended to influence the judge, a judge must inform those family members of the relevant ethical constraints upon the judge in this regard and discourage those family members from violating them. A judge cannot, however, reasonably be expected to know or control all of the financial or business activities of all family members residing in the judge's household.

(a) a gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law,* the legal system or the administration of justice;

Commentary:

Acceptance of an invitation to a law-related function is governed by Section 4D(5)(a); acceptance of an invitation paid for by an individual lawyer or group of lawyers is governed by Section 4D(5)(h).

A judge may accept a public testimonial or a gift incident thereto only if the donor organization is not an organization whose members comprise or frequently represent the same side in litigation, and the testimonial and gift are otherwise in compliance with other provisions of this Code. See Sections 4A(1) and 2B.
(b) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member of a judge residing in the judge's household, including gifts, awards and benefits for the use of both the spouse or other family member and the judge (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;

(c) ordinary social hospitality;

(d) a gift from a relative or friend, for a special occasion, such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;

Commentary:

A gift to a judge, or to a member of the judge's family living in the judge's household, that is excessive in value raises questions about the judge's impartiality and the integrity of the judicial office and might require disqualification of the judge where disqualification would not otherwise be required. See, however, Section 4D(5)(e).

(e) a gift, bequest, favor or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification under Section 3E;

(f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;

(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) any other gift, bequest, favor or loan, only if: the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge; and, if its value exceeds $150.00, the judge reports it in the same manner as the judge reports compensation in Section 4H.

Commentary:

Section 4D(5)(h) prohibits judges from accepting gifts, favors, bequests or loans from lawyers or their firms if they have come or are likely to come before the judge; it also prohibits gifts, favors, bequests or loans from clients of lawyers or their firms when the clients' interests have come or are likely to come before the judge.

E. Fiduciary Activities.

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

(2) A judge shall not serve as a fiduciary* if it is likely that the judge as a fiduciary will 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.

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

Commentary:

The Time for Compliance provision of this Code (Application, Section F) postpones the time for compliance with certain provisions of this Section in some cases.

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

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

Commentary:

Section 4F does not prohibit a judge from participating in arbitration, mediation or settlement conferences performed as part of judicial duties.

G. Practice of Law. A judge shall not practice law. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family.*

Commentary:

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

The Code allows a judge to give legal advice to and draft legal documents for members of the judge's family, so long as the judge receives no compensation. A judge must not, however, act as an advocate or negotiator for a member of the judge's family in a legal matter.
Canon 6, new in the 1972 Code, reflected concerns about conflicts of interest and appearances of impropriety arising from compensation for off-the-bench activities. Since 1972, however, reporting requirements that are much more comprehensive with respect to what must be reported and with whom reports must be filed have been adopted by many jurisdictions. The Committee believes that although reports of compensation for extra-judicial activities should be required, reporting requirements preferably should be developed to suit the respective jurisdictions, not simply adopted as set forth in a national model code of judicial conduct. Because of the Committee's concern that deletion of this Canon might lead to the misconception that reporting compensation for extra-judicial activities is no longer important, the substance of Canon 6 is carried forward as Section 4H in this Code for adoption in those jurisdictions that do not have other reporting requirements. In jurisdictions that have separately established reporting requirements, Section 4H(2) (Public Reporting) may be deleted and the caption for Section 4H modified appropriately.

H. Compensation, Reimbursement and Reporting.

(1) Compensation and Reimbursement. A judge may receive compensation and reimbursement of expenses for the extra-judicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety.

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

(b) Expense reimbursement 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 or guest. Any payment in excess of such an amount is compensation.

(2) Public Reports. A judge shall report the date, place and nature of any activity for which the judge received compensation, and the name of the payor and the amount of compensation so received. Compensation or income of a spouse attributed to the judge by operation of a community property law is not extra-judicial compensation to the judge. The judge's report shall be made at least annually and shall be filed as a public document in the office of the clerk of the court on which the judge serves or other office designated by law.*

Commentary:

See Section 4D(5) regarding reporting of gifts, bequests and loans.

The Code does not prohibit a judge from accepting honoraria or speaking fees provided that the compensation is reasonable and commensurate with the task performed. A judge should ensure, however, that no conflicts are created by the arrangement. A judge must not appear to trade on the judicial position for personal advantage. Nor should a judge spend significant time away from court duties to meet speaking or writing commitments for compensation. In addition,
the source of the payment must not raise any question of undue influence or the judge's ability or willingness to be impartial.

I. Disclosure of a judge's income, debts, investments or other assets is required only to the extent provided in this Canon and in Sections 3E and 3F, or as otherwise required by law.*

Commentary:

Section 3E requires a judge to disqualify himself or herself in any proceeding in which the judge has an economic interest. See "economic interest" as explained in the Terminology Section. Section 4D requires a judge to refrain from engaging in business and from financial activities that might interfere with the impartial performance of judicial duties; Section 4H requires a judge to report all compensation the judge received for activities outside judicial office. A judge has the rights of any other citizen, including the right to privacy of the judge's financial affairs, except to the extent that limitations established by law are required to safeguard the proper performance of the judge's duties.

**CANON 5 [FN5], [FN6]: A JUDGE OR JUDICIAL CANDIDATE SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITY**

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A. All Judges and Candidates

(1) Except as authorized in Sections 5B(2), 5C(1) and 5C(5), a judge or a candidate* for election or appointment to judicial office shall not:
   (a) act as a leader or hold an office in a political organization,*
   (b) publicly endorse or publicly oppose another candidate for public office;
   (c) make speeches on behalf of a political organization;
   (d) attend political gatherings; or
   (e) solicit funds for, pay an assessment to or make a contribution to a political organization or candidate, or purchase tickets for political party dinners or other functions.

Commentary:

A judge or candidate for judicial office retains the right to participate in the political process as a voter.

Where false information concerning a judicial candidate is made public, a judge or another judicial candidate having knowledge of the facts is not prohibited by Section 5A(1) from making the facts public.

Section 5A(1)(a) does not prohibit a candidate for elective judicial office from retaining
during candidacy a public office such as county prosecutor, which is not "an office in a political organization."

Section 5A(1)(b) does not prohibit a judge or judicial candidate from privately expressing his or her views on judicial candidates or other candidates for public office.

A candidate does not publicly endorse another candidate for public office by having that candidate's name on the same ticket.

(2) A judge shall resign from judicial office upon becoming a candidate* for a non-judicial office either in a primary or in a general election, except that the judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention if the judge is otherwise permitted by law* to do so.

(3) A candidate* for a judicial office:
   (a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary, and shall encourage members of the candidate's family* to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;

Commentary:

Although a judicial candidate must encourage members of his or her family to adhere to the same standards of political conduct in support of the candidate that apply to the candidate, family members are free to participate in other political activity.

(b) shall prohibit employees and officials who serve at the pleasure of the candidate*, and shall discourage other employees and officials subject to the candidate's direction and control from doing on the candidate's behalf what the candidate is prohibited from doing under the Sections of this Canon;

(c) except to the extent permitted by Section 5C(2), shall not authorize or knowingly* permit any other person to do for the candidate* what the candidate is prohibited from doing under the Sections of this Canon;

(d) shall not:
   (i) make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office;
   (ii) 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
   (iii) knowingly* misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent;

Commentary:
Section 5A(3)(d) prohibits a candidate for judicial office from making statements that appear to commit the candidate regarding cases, controversies or issues likely to come before the court. As a corollary, a candidate should emphasize in any public statement the candidate's duty to uphold the law regardless of his or her personal views. See also Section 3B(9), the general rule on public comment by judges. Section 5A(3)(d) does not prohibit a candidate from making pledges or promises respecting improvements in court administration. Nor does this Section prohibit an incumbent judge from making private statements to other judges or court personnel in the performance of judicial duties. This Section applies to any statement made in the process of securing judicial office, such as statements to commissions charged with judicial selection and tenure and legislative bodies confirming appointment. See also Rule 8.2 of the ABA Model Rules of Professional Conduct.

(e) may respond to personal attacks or attacks on the candidate's record as long as the response does not violate Section 5A(3)(d).

B. Candidates Seeking Appointment to Judicial or Other Governmental Office.

(1) A candidate* for appointment to judicial office or a judge seeking other governmental office shall not solicit or accept funds, personally or through a committee or otherwise, to support his or her candidacy.

(2) A candidate* for appointment to judicial office or a judge seeking other governmental office shall not engage in any political activity to secure the appointment except that:

(a) such persons may:

(i) communicate with the appointing authority, including any selection or nominating commission or other agency designated to screen candidates;

(ii) seek support or endorsement for the appointment from organizations that regularly make recommendations for reappointment or appointment to the office, and from individuals to the extent requested or required by those specified in Section 5B(2)(a); and

(iii) provide to those specified in Sections 5B(2)(a)(i) and 5B(2)(a)(ii) information as to his or her qualifications for the office;

(b) a non-judge candidate* for appointment to judicial office may, in addition, unless otherwise prohibited by law*:

(i) retain an office in a political organization*,

(ii) attend political gatherings, and

(iii) continue to pay ordinary assessments and ordinary contributions to a political organization or candidate and purchase tickets for political party dinners or other functions.

Commentary:

Section 5B(2) provides a limited exception to the restrictions imposed by Sections 5A(1) and 5D. Under Section 5B(2), candidates seeking reappointment to the same judicial office or appointment to another judicial office or other governmental office may apply for the appointment and seek appropriate support.
Although under Section 5B(2) non-judge candidates seeking appointment to judicial office are permitted during candidacy to retain office in a political organization, attend political gatherings and pay ordinary dues and assessments, they remain subject to other provisions of this Code during candidacy. See Sections 5B(1), 5B(2)(a), 5E and Application Section.

C. Judges and Candidates Subject to Public Election.

(1) A judge or a candidate subject to public election may, except as prohibited by law:
   (a) at any time
      (i) purchase tickets for and attend political gatherings;
      (ii) identify himself or herself as a member of a political party; and
      (iii) contribute to a political organization;
   (b) when a candidate for election
      (i) speak to gatherings on his or her own behalf;
      (ii) appear in newspaper, television and other media advertisements supporting his or her candidacy;
      (iii) distribute pamphlets and other promotional campaign literature supporting his or her candidacy; and
      (iv) publicly endorse or publicly oppose other candidates for the same judicial office in a public election in which the judge or judicial candidate is running.

Commentary:

Section 5C(1) permits judges subject to election at any time to be involved in limited political activity. Section 5D, applicable solely to incumbent judges, would otherwise bar this activity.

(2) A candidate shall not personally solicit or accept campaign contributions or personally solicit publicly stated support. A candidate may, however, 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. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate's committees may 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. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

Commentary:

There is legitimate concern about a judge's impartiality when parties whose interests may
come before a judge, or the lawyer who represent such parties, are known to have made contributions to the election campaigns of judicial candidates. This is among the reasons that merit selection of judges is a preferable manner in which to select the judiciary. Notwithstanding that preference, Section 5C(2) recognizes that in many jurisdictions judicial candidates must raise funds to support their candidacies for election to judicial office. It therefore permits a candidate, other than a candidate for appointment, to establish campaign committees to solicit and accept public support and reasonable financial contributions. In order to guard against the possibility that conflicts of interest will arise, the candidate must instruct his or her campaign committees at the start of the campaign to solicit or accept only contributions that are reasonable and appropriate under the circumstances. Though not prohibited, campaign contributions of which a judge has knowledge, made by lawyers or others who appear before the judge, may, by virtue of their size or source, raise questions about a judge's impartiality and be cause for disqualification as provided under Section 3E.

Campaign committees established under Section 5C(2) should manage campaign finances responsibly, avoiding deficits that might necessitate post-election fund-raising, to the extent possible. Such committees must at all times comply with applicable statutory provisions governing their conduct.

Section 5C(2) does not prohibit a candidate from initiating an evaluation by a judicial selection commission or bar association, or, subject to the requirements of this Code, from responding to a request for information from any organization.

(3) A candidate shall instruct his or her campaign committee(s) at the start of the campaign not to accept campaign contributions for any election that exceed, in the aggregate*, [$ ***] from an individual or [$ ***] from an entity. This limitation is in addition to the limitations provided in Section 5C(2). [FN7]

(4) In addition to complying with all applicable statutory requirements for disclosure of campaign contributions, campaign committees established by a candidate shall file with [***] [FN8] a report stating the name, address, occupation and employer of each person who has made campaign contributions to the committee whose value in the aggregate* exceed [$ ***]. [FN9] The report must be filed within [***] [FN10] days following the election.

(5) Except as prohibited by law*, a candidate* for judicial office in a public election* may permit the candidate's name: (a) to be listed on election materials along with the names of other candidates for elective public office, and (b) to appear in promotions of the ticket.

Commentary:

Section 5C(5) provides a limited exception to therestrictions imposed by Section 5A(1).

D. Incumbent Judges. A judge shall not engage in any political activity except (i) as authorized under any other Section of this Code, (ii) on behalf of measures to improve the law*,
the legal system or the administration of justice, or (iii) as expressly authorized by law.

Commentary:

Neither Section 5D nor any other section of the Code prohibits a judge in the exercise of administrative functions from engaging in planning and other official activities with members of the executive and legislative branches of government. With respect to a judge's activity on behalf of measures to improve the law, the legal system and the administration of justice, see Commentary to Section 4B and Section 4C(1) and its Commentary.

E. Applicability. Canon 5 generally applies to all incumbent judges and judicial candidates*. A successful candidate, whether or not an incumbent, is subject to judicial discipline for his or her campaign conduct; an unsuccessful candidate who is a lawyer is subject to lawyer discipline for his or her campaign conduct. A lawyer who is a candidate for judicial office is subject to [Rule 8.2(b) of the ABA Model Rules of Professional Conduct]. (An adopting jurisdiction should substitute a reference to its applicable rule.)

FN5. Introductory Note to Canon 5: There is wide variation in the methods of judicial selection used, both among jurisdictions and within the jurisdictions themselves. In a given state, judges may be selected by one method initially, retained by a different method, and selected by still another method to fill interim vacancies.

According to figures compiled in 1987 by the National Center for State Courts, 32 states and the District of Columbia use a merit selection method (in which an executive such as a governor appoints a judge from a group of nominees selected by a judicial nominating commission) to select judges in the state either initially or to fill an interim vacancy. Of those 33 jurisdictions, a merit selection method is used in 18 jurisdictions to choose judges of courts of last resort, in 13 jurisdictions to choose judges of intermediate appellate courts, in 12 jurisdictions to choose judges of general jurisdiction courts and in 5 jurisdictions to choose judges of limited jurisdiction courts.

Methods of judicial selection other than merit selection include nonpartisan election (10 states use it for initial selection at all court levels, another 10 states use it for initial selection for at least one court level) and partisan election (8 states use it for initial selection at all court levels, another 7 states use it for initial selection for at least one level). In a small minority of the states, judicial selection methods include executive or legislative appointment (without nomination of a group of potential appointees by a judicial nominating commission) and court selection. In addition, the federal judicial system utilizes an executive appointment method. See State Court Organization 1987 (National Center for State Courts, 1988).

FN7. Jurisdictions wishing to adopt campaign contribution limits that are lower than generally applicable campaign finance regulations provide should adopt this provision, inserting appropriate dollar amounts where brackets appear.

FN8. Each jurisdiction should identify an appropriate depository for the information required under this provision, giving consideration to the public's need for convenient and timely access to the information. Electronic filing is to be preferred.

FN9. Jurisdictions wishing to adopt campaign contribution disclosure levels lower than those set in generally applicable campaign finance regulations should adopt this provision, inserting appropriate dollar amounts where brackets appear.

FN10. A time period chosen by the adopting jurisdiction should appear in the bracketed space.
CHAPTER I. CODE OF CONDUCT FOR UNITED STATES JUDGES

Introduction

This Code applies to United States Circuit Judges, District Judges, Court of International Trade Judges, Court of Federal Claims Judges, Bankruptcy Judges, and Magistrate Judges. Certain provisions of this Code apply to special masters and commissioners as indicated in the "Compliance" section. In addition, the Tax Court, Court of Appeals for Veterans Claims, and Court of Appeals for the Armed Forces have adopted this Code. Persons to whom the Code applies must arrange their affairs as soon as reasonably possible to comply with the Code and should do so in any event within one year of appointment.

The Judicial Conference has authorized its Committee on Codes of Conduct to render advisory opinions concerning the application and interpretation of this Code only when requested by a judge to whom this Code applies. Requests for opinions and other questions concerning this Code and its applicability should be addressed to the Chairman of the Committee on Codes of Conduct as follows:

Chairman, Committee on Codes of Conduct
c/o General Counsel
Administrative Office of the United States Courts
One Columbus Circle, N.E.
Washington, D.C. 20544
(202) 502-1100

CODE OF CONDUCT FOR UNITED STATES JUDGES

CANON 1
A JUDGE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and should personally observe those standards, 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.

COMMENTARY

Deference to the judgments and rulings of courts depends upon public confidence in the
integrity and independence of judges. The integrity and independence of judges depend in turn upon their acting without fear or favor. Although judges should be independent, they should comply with the law, as well as the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.

The Canons are rules of reason. They should be applied consistent with constitutional requirements, statutes, other court rules and decisional law, and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The Code is designed to provide guidance to judges and nominees for judicial office. The Code may also provide standards of conduct for application in proceedings under the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 (28 U.S.C. §§ 332(d)(1), 372(c)), although it is not intended that disciplinary action would be appropriate for every violation of its provisions. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable application of the text and should depend on such factors as the seriousness of the violation, the intent of the judge, whether there is a pattern of improper activity, and the effect of the improper activity on others or on the judicial system. Many of the proscriptions in the Code are necessarily cast in general terms, and it is not suggested that disciplinary action is appropriate where reasonable judges might be uncertain as to whether or not the conduct is proscribed. Furthermore, the Code is not designed or intended as a basis for civil liability or criminal prosecution. Finally, the purpose of the Code would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding.

**CANON 2**

**A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES**

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

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

C. A judge should not hold membership in any organization that practices invidious
discrimination on the basis of race, sex, religion, or national origin.

**COMMENTARY**

**Canon 2A.** Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. Actual improprieties under this standard include violations of law, court rules or other specific provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose, a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, and competence is impaired.

**Canon 2B.** The testimony of a judge as a character witness injects the prestige of the judicial office into the proceeding in which the judge testifies and may be misunderstood to be an official testimonial. This Canon, however, does not afford the judge a privilege against testifying in response to an official summons. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.

A judge should avoid lending the prestige of judicial office for the advancement of the private interests of the judge or others. For example, a judge should not use the judge's judicial position to gain advantage in litigation involving a friend or a member of the judge's family. In contracts for publication of a judge's writings, a judge should retain control over the advertising to avoid exploitation of the judge's office.

A judge should be sensitive to possible abuse of the prestige of office. A judge should not initiate the communication of information to a sentencing judge or a probation or corrections officer but may provide to such persons information in response to a formal request. Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees seeking names for consideration, and by responding to official inquiries concerning a person being considered for a judgeship.

**Canon 2C.** Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge's impartiality is impaired. Canon 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, or that it is in fact
and effect an intimate, purely private organization whose membership limitations could
not be constitutionally prohibited. See New York State Club Ass'n, Inc. v. City of New
York, 487 U.S. 1, 108 S. Ct. 2225, 101 L. Ed. 2d 1 (1988); Board of Directors of Rotary.
International v. Rotary Club of Duarte, 481 U.S. 537, 107 S. Ct. 1940, 95 L. Ed. 2d 474
(1987); Roberts v. United States Jaycees, 468 U.S. 609, 104 S. Ct. 3244, 82 L. Ed. 2d 462
(1984). Other relevant factors include the size and nature of the organization and the
diversity of persons in the locale who might reasonably be considered potential members.
Thus the mere absence of diverse membership does not by itself demonstrate a violation
unless reasonable persons with knowledge of all the relevant circumstances would expect
that the membership would be diverse in the absence of invidious discrimination. Absent
such factors, an organization is generally said to discriminate invidiously if it arbitrarily
excludes from membership on the basis of race, religion, sex, or national origin persons
who would otherwise be admitted to membership.

Although Canon 2C relates only to membership in organizations that invidiously
discriminate on the basis of race, sex, religion or national origin, a judge's membership in
an organization that engages in any invidiously discriminatory membership practices
prohibited by applicable law violates Canons 2 and 2A and gives the appearance of
impropriety. In addition, it would be a violation of Canons 2 and 2A for a judge to
arrange a meeting at a club that the judge knows practices invidious discrimination on the
basis of race, sex, religion, or national origin in its membership or other policies, or for
the judge to use such a club regularly. Moreover, public manifestation by a judge of the
judge's knowing approval of invidious discrimination on any basis gives the appearance
of impropriety under Canon 2 and diminishes public confidence in the integrity and
impartiality of the judiciary, in violation of Canon 2A.

When a judge determines that an organization to which the judge belongs engages in
invidious discrimination that would preclude membership under Canon 2C or under
Canons 2 and 2A, the judge is permitted, in lieu of resigning, to make immediate and
continuous efforts to have the organization discontinue its invidiously discriminatory
practices. If the organization fails to discontinue its invidiously discriminatory practices
as promptly as possible (and in all events within two years of the judge's first learning of
the practices), the judge should resign immediately from the organization.

CANON 3
A JUDGE SHOULD PERFORM THE DUTIES
OF THE OFFICE IMPARTIALLY AND DILIGENTLY

The judicial duties of a judge take precedence over all other activities. In performing the
duties prescribed by law, the judge should adhere to the following standards:

A. Adjudicative Responsibilities.

(1) A judge should be faithful to and maintain professional competence in the law, and
should not be swayed by partisan interests, public clamor, or fear of criticism.

(2) A judge should hear and decide matters assigned, unless disqualified, and should maintain order and decorum in all judicial proceedings.

(3) A judge should be patient, dignified, respectful, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and should require similar conduct of those subject to the judge's control, including lawyers to the extent consistent with their role in the adversary process.

(4) A judge should accord to every person who is legally interested in a proceeding, or the person's lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider *ex parte* communications on the merits, or procedures affecting the merits, of a pending or impending proceeding. A judge may, however, obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond. A judge may, with consent of the parties, confer separately with the parties and their counsel in an effort to mediate or settle pending matters.

(5) A judge should dispose promptly of the business of the court.

(6) A judge should avoid public comment on the merits of a pending or impending action, requiring similar restraint by court personnel subject to the judge's direction and control. This proscription does not extend to public statements made in the course of the judge's official duties, to the explanation of court procedures, or to a scholarly presentation made for purposes of legal education.

**B. Administrative Responsibilities.**

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

(2) A judge should require court officials, staff, and others subject to the judge's direction and control, to observe the same standards of fidelity and diligence applicable to the judge.

(3) A judge should initiate appropriate action when the judge becomes aware of reliable evidence indicating the likelihood of unprofessional conduct by a judge or lawyer.

(4) A judge should not make unnecessary appointments and should exercise that power only on the basis of merit, avoiding nepotism and favoritism. A judge should not approve compensation of appointees beyond the fair value of services rendered.

(5) A judge with supervisory authority over other judges should take reasonable measures
to assure the timely and effective performance of their duties.

C. Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances in which:

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

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

(c) the judge knows that the judge, individually or as a fiduciary, or the judge's spouse or minor child residing in the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be affected substantially by the outcome of the proceeding;

(d) the judge or the judge's spouse, or a person related to either within the third degree of relationship, 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;
   (iii) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or
   (iv) is to the judge's knowledge likely to be a material witness in the proceeding.

(e) the judge has served in governmental employment and in such capacity participated as counsel, advisor, or material witness concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy.

(2) A judge should keep informed about the judge's personal and fiduciary financial interests, and make a reasonable effort to keep informed about the personal financial interests of the judge's spouse and minor children residing in the judge's household.

(3) For the purposes of this section:

(a) the degree of relationship is calculated according to the civil law system; the following relatives are within the third degree of relationship: parent, child, grandparent, grandchild, great grandparent, great grandchild, sister, brother, aunt, uncle, niece and nephew; the listed relatives include whole and half blood relatives and most step relatives;
(b) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(c) "financial interest" means ownership of a legal or equitable interest, however small, 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, or a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;
(iv) ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(d) "proceeding" includes pretrial, trial, appellate review, or other stages of litigation.

(4) Notwithstanding the preceding provisions of this Canon, if a judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

D. Remittal of Disqualification.
A judge disqualified by the terms of Canon 3C(1), except in the circumstances specifically set out in subsections (a) through (e), may, instead of withdrawing from the proceeding, disclose on the record the basis of disqualification. If the parties and their lawyers after such disclosure and an opportunity to confer outside of the presence of the judge, all agree in writing or on the record that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.
Canon 3A(3). 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 businesslike while being patient and deliberate. The duty under Canon 2 to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary applies to all the judge's activities, including the discharge of the judge's adjudicative and administrative responsibilities. For example, the duty to be respectful of others includes the responsibility to avoid comment or behavior that can reasonably be interpreted as manifesting prejudice or bias towards another on the basis of personal characteristics like race, sex, religion, or national origin.

Canon 3A(4). The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted. It does not preclude a judge from consulting with other judges, or with court personnel whose function is to aid the judge in carrying out adjudicative responsibilities. A judge should make reasonable efforts to ensure that this provision is not violated through law clerks or other staff personnel. An appropriate and often desirable procedure for a court to obtain the advice of a disinterested expert on legal issues is to invite the expert to file a brief *amicus-curiae*.

Canon 3A(5). In disposing of matters promptly, efficiently and fairly, a judge must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays and unnecessary costs. A judge should encourage and seek to facilitate settlement, but parties should not feel coerced into surrendering the right to have their controversy resolved by the courts. Prompt disposition of the court's business requires a judge to devote adequate time to judicial 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 the judge to that end.

Canon 3A(6). The admonition against public comment about the merits of a pending or impending action continues until completion of the appellate process. If the public comment involves a case from the judge's own court, particular care should be taken that the comment does not denigrate public confidence in the integrity and impartiality of the judiciary in violation of Canon 2A. This provision does not restrict comments about proceedings in which the judge is a litigant in a personal capacity, but in mandamus proceedings when the judge is a litigant in an official capacity, the judge should not comment beyond the record. "Court personnel" does not include the lawyers in a proceeding before a judge. The conduct of lawyers is governed by the rules of professional conduct applicable in the various jurisdictions.

Canon 3B(3). Appropriate action may include direct communication with the judge or lawyer who has committed the violation, other direct action if available, and reporting the
violation to the appropriate authorities.

**Canon 3B(4).** 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.

**Canon 3C(1)(d)(ii).** 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 "the judge's 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.

*NOTE: In September 1985, the Judicial Conference approved a form developed by the Advisory Committee on Codes of Conduct entitled "Notice Concerning Waiver of Judicial Disqualification" and authorized its distribution for consideration and possible adoption by the courts. The form is reprinted below.*

**NOTICE CONCERNING WAIVER OF JUDICIAL DISQUALIFICATION**

FROM: The Clerk Date________________

TO: XXXX (Counsel) XXXX (Counsel)

XXXX

RE: ABC v. DEF, Case No. ________________

Canon 3D of the Code of Conduct provides (with exceptions not pertinent to this case) that when a judge is disqualified in a proceeding because "the judge's impartiality might reasonably be questioned", the judge may participate in the proceeding if all the parties and lawyers, after notice of the basis for the disqualification, agree in writing to waive the disqualification under a procedure independent of the judge's participation. Unless a waiver is obtained from all parties and all counsel, Judge ________________
intends to disqualify in this proceeding because of these circumstances: If you and your client(s) wish to waive the judge's disqualification, letters to that effect from you and from your client(s) must be sent to me within ______ days of the date of this Notice. The letters should not be sent to the judge and copies should not be sent to other counsel. If all parties and all counsel submit such letters, this Notice and all responses will be made part of the record, as required by Canon 3D, and the judge will continue participation in the proceeding. If a waiver is not received from all parties and all counsel, this Notice and any responses will be kept under seal by the clerk and not shown to the judge, nor will the judge be informed of the identity of any party or lawyer who declined to waive the disqualification. If the disqualification is not waived, the case will be reassigned to another judge.

**CANON 4**

**A JUDGE MAY ENGAGE IN EXTRA-JUDICIAL ACTIVITIES TO IMPROVE THE LAW, THE LEGAL SYSTEM, AND THE ADMINISTRATION OF JUSTICE**

A judge, subject to the proper performance of judicial duties, may engage in the following law-related activities, if in doing so the judge does not cast reasonable doubt on the capacity to decide impartially any issue that may come before the judge:

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

B. A judge may appear at a public hearing before, or otherwise consult with, an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice to the extent that it would generally be perceived that a judge's judicial experience provides special expertise in the area. A judge acting pro se may also appear before or consult with such officials or bodies in a matter involving the judge or the judge's interest.

C. A judge may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. A judge may assist such an organization in planning fund-raising activities and may participate in the management and investment of funds, but should not personally participate in public fund-raising activities. A judge 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. A judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority. A judge shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or is essentially a fund-raising mechanism.

D. A judge should not use to any substantial degree judicial chambers, resources, or staff to engage in activities permitted by this Canon.
COMMENTARY

Canon 4. As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that the judge's time permits, the judge is encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law. Within the boundaries of applicable law, see, e.g., 18 U.S.C. § 953, a judge may express opposition to the persecution of lawyers and judges anywhere in the world if the judge has ascertained, after reasonable inquiry, that the persecution is occasioned by conflict between the professional responsibilities of the persecuted judge or lawyer and the policies or practices of the relevant government.

Canon 4C. Service on the board of a public, as well as private, law school is permissible. A judge may attend fund-raising activities of a law-related organization although the judge may not be a speaker, guest of honor, or featured on the program of such an event.

CANON 5
A JUDGE SHOULD REGULATE EXTRA-JUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL DUTIES

A. Avocational Activities. A judge 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 the judge's office or interfere with the performance of the judge's judicial duties.

B. Civic and Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of judicial duties. A judge 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) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.

(2) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of the judicial office for that purpose, but the judge may be listed as an officer, director, or trustee of such an organization. A judge should not personally participate in
membership solicitation if the solicitation might reasonably be perceived as coercive or is essentially a fund-raising mechanism.

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

C. Financial Activities
(1) A judge should refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of judicial duties, exploit the judicial position, or involve the judge in frequent transactions with lawyers or other persons likely to come before the court on which the judge serves.

(2) Subject to the requirements of subsection (1), a judge may hold and manage investments, including real estate, and engage in other remunerative activity, but should not serve as an officer, director, active partner, manager, advisor, or employee of any business other than a business closely held and controlled by members of the judge's family. For this purpose, "members of the judge's family" means persons related to the judge or the judge's spouse within the third degree of relationship calculated according to the civil law system, any other relatives with whom the judge or the judge's spouse maintains a close familial relationship, and the spouse of any of the foregoing.

(3) A judge should manage investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge should divest himself or herself of investments and other financial interests that might require frequent disqualification.

(4) A judge should not solicit or accept anything of value from anyone seeking official action from or doing business with the court or other entity served by the judge, or from anyone whose interests may be substantially affected by the performance or nonperformance of official duties; except that a judge may accept a gift as permitted by the Judicial Conference gift regulations. A judge should endeavor to prevent a member of a judge's family residing in the household from soliciting or accepting a gift except to the extent that a judge would be permitted to do so by the Judicial Conference gift regulations.

(5) For the purposes of this section "members of the judge's family residing in the judge's household" means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household.

(6) A judge should report the value of any gift, bequest, favor, or loan as required by statute or by the Judicial Conference of the United States.
(7) A judge is not required by this Code to disclose his or her income, debts, or investments, except as provided in this Canon and Canons 3 and 6.

(8) Information acquired by a judge in the judge's judicial capacity should not be used or disclosed by the judge in financial dealings or for any other purpose not related to the judge's judicial duties.

D. **Fiduciary Activities.** A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties. "Member of the judge's family" means any relative of a judge by blood, adoption, or marriage or any other person treated by a judge as a member of the judge's family.

As a family fiduciary a judge is subjected to the following restrictions:
(1) The judge should not serve if it is likely that as a fiduciary the judge will 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.

(2) While acting as a fiduciary a judge is subject to the same restrictions on financial activities that apply to the judge in his or her personal capacity.

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

F. **Practice of Law.** A judge should not practice law. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family.

G. **Extra-judicial Appointments.** A judge 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, unless appointment of a judge is required by Act of Congress. A judge should not, in any event, accept such an appointment if the judge's governmental duties would interfere with the performance of judicial duties or tend to undermine the public confidence in the integrity, impartiality, or independence of the judiciary. A judge may represent the judge's country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

H. **Chambers, Resources, and Staff.** A judge should not use judicial chambers, resources, or staff to engage in activities permitted by this Canon, except for uses that are de minimis.
COMMENTARY

Canon 5A. Complete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the society in which the judge lives.

Canon 5B(1). The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine if it is proper for the judge to continue the judge's 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.

Canon 5B(2) and (3). A judge may attend fund-raising activities of the organization although the judge may not be a speaker, a guest of honor, or featured on the program of such an event. Use of an organization's letterhead for fund-raising or membership solicitation does not violate Canons 5B(2) and (3) provided the letterhead lists only the judge's name and position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation.

Canon 5C. Canon 3 requires a judge to disqualify in any proceeding in which the judge has a financial interest, however small; Canon 5 requires a judge to refrain from engaging in business and from financial activities that might interfere with the impartial performance of the judge's judicial duties; Canon 6 requires a judge to report all compensation received for activities outside the judicial office. A judge has the rights of an ordinary citizen with respect to financial affairs, except for limitations required to safeguard the proper performance of the judge's duties. A judge's participation in a closely held family business, while generally permissible, may be prohibited if it takes too much time or involves misuse of judicial prestige or if the business is likely to come before the judge's court. Owning and receiving income from investments do not as such affect the performance of a judge's duties.

Canon 5C(4). Reimbursement or direct payment of travel expenses may be a gift and, if so, its acceptance is governed by Canons 5C(4) and (5). A judge or employee may receive as a gift travel expense reimbursement including the cost of transportation, lodging, and meals, for the judge and a relative incident to the judge's attendance at a bar-related function or at an activity devoted to the improvement of the law, the legal system, or the administration of justice.

Canon 5D. Mere residence in the household of a judge is insufficient for a person to be considered a member of the judge's family for purposes of this Canon. The person must be treated by the judge as a member of the judge's family.

Canon 5D(1). The Applicable 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.
**Canon 5D(2).** A judge's obligation under this Code and the judge's obligation 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).

**Canon 5F.** This prohibition refers to the practice of law in a representative capacity and not in a pro se capacity. A judge may act for himself or herself in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. However, in so doing, a judge must not abuse the prestige of office to advance the interests of the judge or the judge's family.

**Canon 5G.** 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 judicial resources 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.

The dangers attendant upon acceptance of extra-judicial governmental assignments are ordinarily less serious where the appointment of a judge is required by legislation. Such assignments ordinarily do not involve excessive commitments of time, and they typically do not pose a serious threat to the independence of the judiciary.

A code of conduct ought not compel judges to refuse, without regard to the circumstances, tasks Congress has seen fit to authorize as appropriate in the public interest. Although legislatively prescribed extra-judicial assignments should be discouraged, where Congress requires the appointment of a judge to perform extra-judicial duties, the judge may accept the appointment provided that the judge's services would not interfere with the performance of the judge's judicial responsibilities or tend to undermine public confidence in the judiciary.

**CANON 6**

**A JUDGE SHOULD REGULARLY FILE REPORTS OF COMPENSATION RECEIVED FOR LAW-RELATED AND EXTRA-JUDICIAL ACTIVITIES**

A judge may receive compensation and reimbursement of expenses for the law-related and extra-judicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing the judge in the judge's 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 costs of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or relative. Any payment in excess of such an amount is compensation.

C. **Public Reports.** A judge should make required financial disclosures in compliance with applicable statutes and Judicial Conference regulations and directives.

**COMMENTARY**

Additional restrictions on the receipt of compensation by judges are imposed by the Ethics Reform Act of 1989 and regulations promulgated by the Judicial Conference thereunder. That Act and those regulations should be consulted before a judge enters into any arrangement involving the receipt of compensation. The restrictions so imposed include, but are not limited to: (1) a prohibition against receiving "honoraria" (defined as anything of value received for a speech, appearance, or article), (2) a prohibition against receiving compensation for service as a director, trustee, or officer of a profit or nonprofit organization, (3) a requirement that compensated teaching activities receive prior approval, and (4) a 15% limitation on the receipt of "outside earned income."

**CANON 7**

**A JUDGE SHOULD REFRAIN FROM POLITICAL ACTIVITY**

A. A judge should not:

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

(2) make speeches for a political organization or candidate or publicly endorse or oppose a candidate for public office;

(3) 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.

B. A judge should resign the judicial office when the judge becomes a candidate either in a primary or in a general election for any office.

C. A judge should not engage in any other political activity; provided, however, this should not prevent a judge from engaging in the activities described in Canon 4.
COMPLIANCE WITH THE CODE OF CONDUCT

Anyone who is an officer of the federal judicial system authorized to perform judicial functions is a judge for the purpose of this Code. All judges should comply with this Code except as provided below.

A. Part-time Judge. A part-time judge is a judge who serves on a continuing or periodic basis, but is permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. A part-time judge:

(1) is not required to comply with Canons 5C(2), D, E, F, and G, and Canon 6C;

(2) except as provided in the Conflict-of-Interest Rules for Part-time Magistrate Judges, should not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, or act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

B. Judge Pro Tempore. A judge pro tempore is a person who is appointed to act temporarily as a judge or as a special master.

(1) While acting as such, a judge pro tempore is not required to comply with Canons 5C(2), (3), D, E, F, and G, and Canon 6C; further, one who acts solely as a special master is not required to comply with Canons 4C, 5B (except the first sentence thereof), 5C(4), and 7.

(2) A person who has been a judge pro tempore should not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

C. Retired Judge. A retired judge who is retired under 28 U.S.C. §§ 371(b) or 372(a), or who is recalled to judicial service, should comply with all the provisions of this Code except Canon 5G, but the judge should refrain from judicial service during the period of an extra-judicial appointment not sanctioned by Canon 5G. All other retired judges who are eligible for recall to judicial service (except those in Territories and Possessions) should comply with the provisions of this Code governing part-time judges. A senior judge in the Territories and Possessions must comply with this Code as prescribed by 28 U.S.C. § 373(c)(5) and (d).

APPLICABLE DATE OF COMPLIANCE

Persons to whom this Code becomes applicable should arrange their affairs as soon as reasonably possible to comply with it and should do so in any event within the period of one year following appointment. If, however, the demands on the person's time and the possibility of conflicts of interest are not substantial, such a person may continue to act, without compensation, as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a
member of the person's family, if terminating such relationship would unnecessarily jeopardize any substantial interest of the estate or person and the judicial council of the circuit approves.

1. The Code of Conduct for United States Judges was initially adopted by the Judicial Conference on April 5, 1973, and was known as the "Code of Judicial Conduct for United States Judges." At its March 1987 session, the Judicial Conference deleted the word "Judicial" from the name of the Code. Substantial revisions to the Code were adopted by the Judicial Conference at its September 1992 session. Section C. of the Compliance section, following the code, was revised at the March 1996 Judicial Conference. Canons 3C(3)(a) and 5C(4) were revised at the September 1996 Judicial Conference. Canon 3C(1)(c) was revised at the September 1999 Judicial Conference. The Compliance Section was clarified at the September 2000 Judicial Conference.


3. This Code governs the conduct of United States Circuit Judges, District Judges, Court of International Trade Judges, Court of Federal Claims Judges, Bankruptcy Judges, and Magistrate Judges. In addition, certain provisions of this Code apply to special masters and commissioners as indicated in the "Compliance" section.
Appendix E

Georgia Code of Judicial Conduct
Georgia Code of Judicial Conduct

Preamble

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

The Code of Judicial Conduct is intended to establish standards for ethical conduct of judges. It consists of broad statements called Canons, specific rules set forth in Sections under each Canon, a Terminology Section, an Application Section and Commentary. The text of the Canons and the Sections, including the Terminology and Application Sections, is authoritative. The Commentary, by explanation and example, provides guidance with respect to the purpose and meaning of the Canons and Sections. The Commentary is not intended as a statement of additional rules.

When the text uses "shall" or "shall not," it is intended to impose binding obligations the violation of which can result in disciplinary action. When "should" or "should not" is used, the text is intended as advisory and as a statement of what is or is not appropriate conduct, but not as a binding rule under which a judge may be disciplined. When "may" is used, it denotes permissible discretion or, depending on the context, it refers to action that is not covered by specific proscriptions.

The Canons and Sections are rules of reason. They should be applied consistent with constitutional requirements, statutes, other court rules and decisional law, as well as in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The Code is designed to provide guidance to judges and candidates for judicial office and to provide a structure for regulating conduct through disciplinary agencies. It is not designed for nor intended as a basis for civil liability or criminal prosecution. Furthermore, the purpose of the Code would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding.

The text of the Canons and Sections is intended to govern conduct of judges and to be binding upon them. It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity, and the effect of the improper activity on others or on the judicial system.

The Code of Judicial Conduct is not intended as an exhaustive guide for the conduct of judges. They should also be governed in their judicial and personal conduct by general ethical standards. The Code is intended, however, to state basic standards which should govern the conduct of all judges and to provide guidance to assist judges in establishing and maintaining high standards of judicial and personal conduct.

Terminology

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

"Appropriate authority" denotes the authority with responsibility for initiation of disciplinary process with respect to the violation to be reported. See Sections 3D(1) and 3D(2).
"Candidate." A candidate is a person seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as he or she appoints and/or forms a campaign committee, makes a public announcement of candidacy, declares or files as a candidate with the election or appointment authority, or authorizes solicitation or acceptance of contributions or support. The term "candidate" has the same meaning when applied to a judge seeking election or appointment to non-judicial office. See Preamble and Sections 7A(1), 7A(2), 7B(1), 7B(2) and 7C.

"Comment" in connection with a case refers to valuative statements judging the professional wisdom of specific lawyering tactics or the legal correctness of particular court decisions. In contrast, it does not mean the giving of generally informative explanations to describe litigation factors including: the prima facie legal elements of case types pending before the courts, legal concepts such as burden of proof and duty of persuasion or principles such as innocent until proven guilty and knowing waiver of constitutional rights, variable realities illustrated by hypothetical factual patterns of aggravating or mitigating conduct, procedural phases of unfolding lawsuits, the social policy goals behind the law subject to application in various cases, as well as competing theories about what the law should be. See Section 3B(9).

"Court personnel" does not include the lawyers in a proceeding before a judge. See Sections 3B(7)(c) and 3B(9).

"De minimis" denotes an insignificant interest that could not raise reasonable question as to a judge's impartiality. See Section 3E(1)(c).

"Economic interest" denotes ownership of a more than de minimis legal or equitable interest, or a relationship as officer, director, advisor or other active participant in the affairs of a party, except that:

(i) ownership of an interest in a mutual or common investment fund that holds securities is not an economic interest in such securities unless the judge participates in the management of the fund or a proceeding pending or impending before the judge could substantially affect the value of the interest;

(ii) service by a judge as an officer, director, advisor or other active participant in an educational, religious, charitable, fraternal or civic organization, or service by a judge's spouse, parent or child as an officer, director, advisor or other active participant in any organization does not create an economic interest in securities held by that organization;

(iii) a deposit in a financial institution, the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association, is not an economic interest in the organization unless a proceeding pending or impending before the judge could substantially affect the value of the interest;

(iv) ownership of government securities is not an economic interest in the issuer unless a proceeding pending or impending before the judge could substantially affect the value of the securities. See Section 3E(2).

"Fiduciary" includes such relationships as executor, administrator, trustee, and guardian. See Sections 3E(2) and 5D.

"Invidious discrimination" is any action by an organization that characterizes some immutable individual trait such as a person's race, gender or national origin, as well as religion, as odious or as signifying inferiority, which therefore is used to justify arbitrary exclusion of persons possessing those traits from membership, position or participation in the organization. See Section 2C.

"Knowingly," "knowledge," "known" or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances. See Sections 3D(1), 3D(2) and 3E(1).

"Law" denotes court rules as well as statutes, constitutional provisions and decisional law. See Sections 2A, 3A, 3B(2), 3B(7), 4A, 4B, 4C, 5C(4), 5F and 5G.
"Member of the judge's family residing in the judge's household" denotes any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household. See Sections 3E(1)(c) and 5C(4).

"Non-public information" denotes information that, by law, is not available to the public. Non-public 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, dependency cases or psychiatric reports. See Section 3B(11).

"Political organization" denotes a political party or other group, the principal purpose of which is to further the election or appointment of candidates to political office. See Section 7A(1).

"Public election." This term includes primary and general elections; it includes partisan elections, nonpartisan elections and may include (as context demands) retention elections. See Sections 7A(1), 7A(2), 7B(1) and 7B(2).

"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 subject to the judge's direction and control. See Sections 3B(3), 3B(4), 3B(6), 3B(9) and 3C(2).

"Third degree of relationship." The following persons are relatives within the third degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece. See Section 3E(1)(c).

CANON 1
Judges Shall Uphold the Integrity and Independence of the Judiciary.

An independent and honorable judiciary is indispensable to justice in our society. Judges shall participate in establishing, maintaining, and enforcing high standards of conduct and shall personally observe such 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.

Commentary: Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depends in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.

CANON 2
Judges Shall Avoid Impropriety and the Appearance of Impropriety in All Their Activities.

A. Judges shall respect and comply with the law* and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

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

The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. Actual improprieties under this standard include violations of law, court rules, or other specific provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.

See also, Commentary under Section 2C.
B. Judges shall not allow their family, social, political or other relationships to influence their judicial conduct or judgment. Judges shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor should they convey or permit others to convey the impression that they are in a special position to influence them. Judges should not testify voluntarily as a character witness.

Commentary: Maintaining the prestige of judicial office is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. Respect for the judicial office facilitates the orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of the prestige of office in all of their activities. For example, it would be improper for a judge to allude to his or her judgeship to gain a personal advantage such as deferential treatment when stopped by a police officer for a traffic offense. Similarly, judicial letterhead must not be used for conducting a judge's personal business.

A judge must avoid lending the prestige of judicial office for the advancement of the private interests of others. For example, a judge must not use the judge's position to gain advantage in a civil suit involving a member of the judge's family. In contracts for publication of a judge's writings, a judge should retain control over the advertising to avoid exploitation of the judge's office. As to the acceptance of awards, see Section 5C(4)(a) and Commentary.

Although a judge should be sensitive to possible abuse of the prestige of office, a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation. However, a judge must not initiate the communication of information to a sentencing judge or probation or corrections officer, but may provide to such person information for the record in response to a formal request. Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees seeking names for consideration, and by responding to official inquiries concerning a person being considered for a judgeship. See also Canon 7, regarding use of a judge's name in political activities.

A judge must not testify voluntarily as a character witness, because to do so may lend the prestige of the judicial office in support of a party for whom the judge testifies. Moreover, when a judge testifies as a witness, a lawyer who regularly appears before the judge may be placed in the awkward position of cross-examining the judge. A judge may, however, testify when properly summoned. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.

C. Judges shall not hold membership in any organization that practices invidious discrimination*.

Commentary: Membership by a judge in an organization that practices invidious discrimination may give rise to perceptions that the judge's impartiality is impaired. Section 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather depends on how the organization selects members and other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex or national origin persons who would otherwise be admitted to membership. See New York State Club Ass'n, Inc. v. City of New York, 108 S. Ct. 2225, 108 L.Ed. 2d 1 (1988); Board of Directors of Rotary International v. Rotary Club of Duarte, 481 U.S. 537, 107 S.Ct. 1940, 95 L.Ed. 2d 474 (1987); Roberts v. United States Jaycees, 468 U.S. 609, 104 S.Ct. 3244, 82 L.Ed. 2d. 462 (1984). Ultimately, each judge must determine in the judge's own conscience whether an organization of which the judge is a member practices invidious discrimination.
CANON 3
Judges Shall Perform the Duties of Judicial Office Impartially and Diligently.

A. Judicial Duties in General. 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:

B. Adjudicative Responsibilities.

(1) Judges shall hear and decide matters assigned to them, except those in which they are disqualified.

(2) Judges shall be faithful to the law* and maintain professional competence in it. Judges shall not be swayed by partisan interests, public clamor, or fear of criticism.

(3) Judges shall require* order and decorum in proceedings over which they preside.

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

Commentary: 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. Judges can be efficient and business-like while being patient and deliberate.

(5) Judges shall perform judicial duties without bias or prejudice. Judges shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to judicial direction and control to do so.

Commentary: Judges must refrain from speech, gestures or other conduct that could reasonably be perceived as sexual harassment and must require the same standard of conduct of others subject to their direction and control.

Judges must perform judicial duties impartially and fairly. Judges who manifest bias on any basis in a proceeding impair the fairness of the proceeding and bring the judiciary into disrepute. Facial expression, body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias. Judges must be alert to avoid behavior that may be perceived as prejudicial.

(6) Judges shall require* lawyers in proceedings before the court to refrain from manifesting, by words and conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, against parties, witnesses, counsel or others. This Section, 3B(6), does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.

(7) Judges 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*. Judges shall not initiate or consider ex parte communications, or consider other communications made to them outside the presence of the parties concerning a pending or impending proceeding, except that:

(a) where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:
(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and

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

(b) Judges may obtain the advice of a disinterested expert on the law applicable to a proceeding before the court, if they give notice to the parties of the person consulted and the substance of the advice, and afford the parties reasonable opportunity to respond.

(c) Judges may consult with court personnel whose function is to aid them in carrying out their adjudicative responsibilities, or with other judges.

(d) Judges may, with the consent of the parties, confer separately with the parties or their lawyers in an effort to mediate or settle matters pending before the court.

(e) Judges may initiate or consider any ex parte communications when expressly authorized by law to do so.

Commentary: The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted. To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge. Whenever presence of a party or notice to a party is required by Section 3B(7), it is the party's lawyer, or if the party is unrepresented, the party, who is to be present or to whom notice is given. An appropriate and often desirable procedure for a court to obtain the advice of a disinterested expert on legal issues is to invite the expert to file a brief amicus curiae. Certain ex parte communication is approved by Section 3B(7) to facilitate scheduling and other administrative purposes and to accommodate emergencies. In general, however, judges must discourage ex parte communication and allow it only if all the criteria stated in Section 3B(7) are clearly met. Judges must disclose to all parties all ex parte communications described in Section 3B(7)(a) and 3B(7)(b) regarding a proceeding pending or impending before them. Judges must not independently investigate facts in a case and must consider only the evidence presented. Judges may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions. Judges must make reasonable efforts, including the provision of appropriate supervision, to ensure that Section 3B(7) is not violated through law clerks or other personnel on their staff. If communication between the trial judge and the appellate court with respect to a proceeding is permitted, a copy of any written communication or the substance of any oral communication should be provided to all parties.

(8) Judges shall dispose of all judicial matters fairly, promptly, and efficiently. Commentary: In disposing of matters promptly, efficiently and fairly, judges must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. Containing costs while preserving fundamental rights of parties also protects the interests of witnesses and the general public. Judges should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays and unnecessary costs. Judges should encourage and seek to facilitate settlement, but parties should not feel coerced into surrendering the right to have their controversy resolved by courts.
The obligation of a judge to dispose of matters promptly and efficiently must not take precedence over the judge’s obligation to dispose of matters fairly and with patience.

Commentary: 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.

(9) Judges shall not, while a proceeding is pending or impending in any court, make any public comment* that might reasonably be expected to affect its outcome or impair its fairness or make any non-public comment that might substantially interfere with a fair trial or hearing. Judges shall 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. This Section does not apply to proceedings in which the judge is a litigant in a personal capacity.

Commentary: The requirement that judges abstain from public comment regarding a pending or impending proceeding continues during any appellate process and until final disposition. This Section does not prohibit judges from commenting on proceedings in which the judge is a litigant in a personal capacity, but in cases such as a writ of mandamus where a judge is a litigant in an official capacity, the judge must not comment publicly.

(10) Judges 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.

Commentary: Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial.

(11) Judges shall not disclose or use, for any purpose unrelated to judicial duties, non-public information* acquired in a judicial capacity.

C. Administrative Responsibilities.

(1) Judges shall diligently discharge their administrative responsibilities without bias or prejudice, maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

(2) Judges shall require* their staffs, court officials and others subject to their direction and control to observe the standards of fidelity and diligence that apply to the judges and to refrain from manifesting bias or prejudice in the performance of their official duties.

(3) Judges with supervisory authority for judicial performance of other judges should take reasonable measures to assure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.

(4) Judges shall not make unnecessary appointments. Judges shall exercise the power of appointment impartially and on the basis of merit. Judges shall avoid nepotism and favoritism. Judges shall not approve compensation of appointees beyond the fair value of services rendered.

Commentary: Appointees of judges include assigned counsel, 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 Section 3C(4).
D. Disciplinary Responsibilities

(1) Judges who receive information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action. Judges having knowledge* that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority*.

(2) Judges who receive information indicating a substantial likelihood that a lawyer has committed a violation of the Standards of Conduct of the State Bar of Georgia should take appropriate action. Judges having knowledge* that a lawyer has committed a violation of the Standards of Conduct of the State Bar of Georgia that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority*.

(3) Acts of judges, in the discharge of disciplinary responsibilities, required or permitted by Sections 3D(1) and 3D(2) are part of their judicial duties and shall be absolutely privileged, and no civil action predicated thereon may be instituted against these judges.

Commentary: Appropriate action may include direct communication with the judge or lawyer who has committed the violation, or other direct action if available, and reporting the violation to the appropriate authority or other agency or body.

Section 3D(1) requires judges to inform the Judicial Qualifications Commission of any other judge's violation of the Code of Judicial Conduct, if the violation raises a substantial question of fitness for office and if the violation is actually known to the reporting judge.

Section 3D(2) also requires judges to report to the State Bar of Georgia any violation by a lawyer of the Standards of Conduct, if the violation raises a substantial question of the lawyer's fitness as a lawyer and, again, if the violation is actually known to the reporting judge.

E. Disqualification.

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

Commentary: Under this rule, judges are subject to disqualification whenever their impartiality might reasonably be questioned, regardless of whether any of the specific rules in Section 3E(1) apply. For example, if a judge were in the process of negotiating for employment with a law firm, the judge would be disqualified from any matters in which that firm appeared, unless the disqualification was waived by the parties after disclosure by the judge.

Judges should disclose on the record information that the court believes the parties or their lawyers might consider relevant to the question of disqualification, even if they believe there is no legal basis for disqualification.

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

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge* of disputed evidentiary facts concerning the proceeding;

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

Commentary: A lawyer in a government agency does not ordinarily have an association with other lawyers employed by that agency within the meaning of Section 3E(1)(b); 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) the judge or the judge’s spouse, or a person within the third degree of relationship* to either of them, or the spouse of such a person, or any other member of the judge's family residing in the judge's household*:

(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;

(iii) is known* by the judge to have a more than de minimis* interest that could be substantially affected by the proceeding;

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

Commentary: The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "the judge's impartiality might reasonably be questioned" under Section 3E(1), or that the 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 Section 3E(1)(c)(iii) requires the judge's disqualification.

(2) Judges shall keep informed about their personal and fiduciary* economic interests*, and make a reasonable effort to keep informed about the personal financial interests of their spouses and minor children residing in their households.

F. Remittal of Disqualification.
Judges disqualified by the terms of Section 3E may disclose on the record the basis of their disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

Commentary: A remittal procedure provides the parties an opportunity to proceed without delay if they wish to waive the disqualification. To assure that consideration of the question of remittal is made independently to the court, judges must not solicit, seek or hear comment on possible remittal or waiver of the disqualification, unless the lawyers jointly propose remittal after consultation as provided in Section 3F. A party may act through counsel, if counsel represents on the record that the party has been consulted and consents. As a practical matter, judges may wish to have all parties and their lawyers sign a remittal agreement.

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 not engage in the following quasi-judicial activities, if in so doing they cast doubt on their capacity to decide impartially any issue that may come before them;

A. Judges may speak, write, lecture, teach, and participate in other activities concerning the law*, the legal system, and the administration of justice.
B. Judges may appear at public hearings 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. Judges may serve as members, officers, or directors of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. They may assist such organizations 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.

Commentary: As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that time permits, judges are encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law.

Non quasi-judicial, or non law-related, extra-judicial activities are governed by Canon 5.

CANON 5
Judges Shall Regulate Their Extra-Judicial Activities to Minimize the Risk of Conflict with Their Judicial Duties.

A. Avocational Activities. Judges may not engage in such avocational activities as detract from the dignity of their office or interfere with the performance of their judicial duties.

Commentary: 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 not participate in civic and charitable activities that reflect adversely upon their impartiality or interfere with the performance of their judicial duties. Judges may serve as officers, directors, trustees, or non-legal advisors of educational, religious, charitable, fraternal, or civic organizations not conducted for the economic or political advantage of their members, subject to the following limitations:

(1) Judges shall 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.

Commentary: The changing nature of some organizations and of their relationship to the law makes it necessary for judges regularly to re-examine 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 shall 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 officers, directors, or trustees of such organizations. A judge should not be a speaker or the guest of honor at an organization’s fund-raising event, but may attend such events.

(3) Judges shall 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.

Commentary: A judge’s participation in an organization devoted to quasi-judicial, or law-related, extra-judicial activities is governed by Canon 4.

C. Financial Activities.
(1) Judges should refrain from financial and business dealings with lawyers, litigants, and others that tend to reflect adversely on their impartiality, interfere with the proper performance of their judicial duties, or exploit their judicial positions.

(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 business.

(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) Neither judges nor members of their families residing in their households* should accept a substantial gift, bequest, favor, or loan from anyone except as follows:

(a) judges may accept gifts incident to a public testimonial to them; books supplied by publishers on a complimentary basis for official use; or invitations to judges and their spouses to attend bar-related functions or activities devoted to the improvement of the law*, the legal system, or the administration of justice;

(b) judges or members of their families residing in their households may accept ordinary social hospitality; a gift, bequest, favor, or loan from a relative; a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges, or a scholarship or fellowship awarded on the same terms applied to other applicants.

(c) judges or members of their families residing in their households may accept any other gift, bequest, favor, or loan only if the donor is not a party or other person whose interests have come or are likely to come before them, and if its value exceeds $100, the judges report it in the same manner as they report compensation in Canon 6C.

Commentary: This subsection does not apply to contributions to a judge's campaign for judicial office, a matter governed by Canon 7.

(5) Judges are not required by this Code to disclose their income, debts, or investments, except as provided in this Canon and Canons 3 and 6.

Commentary: Canon 3 requires judges to disqualify themselves in any proceeding in which they have a financial interest; Canon 5 requires judges to refrain from financial activities that might interfere with the impartial performance of their judicial duties; Canon 6 requires them to report all compensation they receive for activities involving personal services outside their judicial office. Judges have the rights of an ordinary citizen, including the right to privacy in their financial affairs, except to the extent that limitations thereon are required to safeguard the proper performance of their duties. Owning and receiving income from investments do not as such affect the performance of a judge's duties.

(6) 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.

D. Fiduciary* Activities. Judges should not serve as executors, administrators, trustees, guardians, or other fiduciaries, except for the estates, trusts, or persons of members of their families and then only if such service will not interfere with the proper performance of their judicial duties. "Member of their families" includes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. As family fiduciaries, judges are subject to the following restrictions:
(1) They should not serve if it is likely that as fiduciaries, they will be engaged in proceedings that would ordinarily come before them, or if the estates, trusts, or wards become involved in adversary proceedings in the court on which they serve or one under its appellate jurisdiction.

(2) While acting as fiduciaries, judges are subject to the same restrictions on financial activities that apply to them in their personal capacities.

Commentary: Judges’ obligations under this Canon and their obligations as fiduciaries 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 shall not act as arbitrators or mediators for compensation. This prohibition does not apply to senior judges who serve as judges.

F. Practice of Law. Judges shall not practice law, unless allowed by law*.

G. Extra-judicial Appointments. A judge 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, if acceptance of such appointment might reasonably cast doubt upon the judge’s impartiality or demean the judge’s office.

Commentary: 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 judicial manpower 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
Judges Should Regularly File Reports of Compensation Received for Quasi-Judicial and Extra-Judicial Activities.

Judges may not receive compensation and reimbursement of expenses for the quasi-judicial and extra-judicial activities permitted by this Code, if the source of such payments gives the appearance of influencing the judge in his judicial duties or otherwise gives the appearance of impropriety. Such compensation is 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 and other necessary expense reasonably incurred by the judge and, where appropriate to the occasion, by their spouses. Any payment in excess of such an amount is compensation.

C. Reports. Except as hereinafter provided to the contrary, full-time judges should report the dates, places, and nature of any activities involving personal services for which they received compensation, and the name of the payor and the amount of compensation so received. Compensation or income of a spouse attributed to the judge by operation of a community property law is not extra-judicial compensation to the judge. Judges’ reports for each calendar year should be filed between January first and April fifteenth of the following year in the office of the Clerk of the Supreme Court of Georgia. A copy of a judge’s federal income tax return shall be considered a sufficient compliance with this paragraph. Such report or tax return shall be filed under seal and shall be available for inspection only by the Justices of the Supreme Court of Georgia and the members of the Judicial Qualifications Commission.
CANON 7
Judges Shall Refrain from Political Activity Inappropriate to Their Judicial Office.

A. Political Conduct in General.
(1) A judge or a candidate for public election to judicial office shall 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;
   (c) solicit funds for or pay an assessment or make a contribution to a political organization, 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 candidates for such office, may attend political gatherings and speak to such gatherings on their own behalf when they are candidates for election or re-election.

B. Campaign Conduct.
(1) Candidates, including an incumbent judge, for any judicial office that is filled by public election between competing candidates:
   (a) shall maintain the dignity appropriate to judicial office and shall encourage members of the candidate's family to adhere to the same standards of political conduct as those applying to the candidate;
   (b) shall prohibit officials or employees subject to their direction or control from doing for them what they are prohibited from doing under this Canon; and except to the extent authorized under subsection B(2), shall not allow any other person to do for them what they are prohibited from doing under this Canon;
   (c) shall 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 issues likely to come before the court; or misrepresent their identities, qualifications, present positions, or other facts.

Commentary: A candidate does not publicly endorse another candidate for public office by having his name on the same ticket.

Commentary: Because it is not possible or practical to define precisely the phrase "dignity appropriate to judicial office," this requirement is necessarily cast in general terms. While truthful criticism of an opponent and/or his/her performance is not prohibited, illustrative examples of campaign conduct falling below the standard enunciated by this section are found in numerous Formal Advisory Opinions issued by the Commission and specifically include, but are not limited to, the use of the title of a judicial office not currently held by the candidate or the use of the term "re-elect" when the candidate has never been elected at a general or special election to the office to which election is sought; the making and/or using of any false or misleading statement concerning the educational, occupational or professional accomplishments of any candidate, including an opponent; the making and/or using of any false or misleading statement concerning a candidate's mental condition, military service, or criminal record; and any other conduct which tends to bring ridicule, contempt or disrepute upon the high office to which election is sought.
(d) shall not use or participate in the use of any form of public communication which the candidate knows or reasonably should know is false, fraudulent, misleading, deceptive, or which contains a material misrepresentation of fact or law or omits a fact necessary to make the communication considered as a whole not materially misleading or which is likely to create an unjustified expectation about results the candidate can achieve.

(e) shall be responsible for the content of any statement or advertisement published or communicated in any medium by a campaign committee if the candidate knew or reasonably should have known of the content of said statement or advertisement prior to its release.

(2) Candidates*, including an incumbent judge, for a judicial office that is filled by public election* between competing candidates shall not themselves solicit campaign funds, or solicit publicly stated support, or be present at a function while solicitations of campaign funds on their behalf are conducted, but they may establish committees of responsible persons to secure and manage the expenditure of funds for their campaigns and to obtain public statements of support for their candidacies. Such committees are not prohibited from soliciting reasonable campaign contributions and public support from lawyers. Candidates, including incumbent judges, should not use or permit the use of campaign contributions for the private benefit of themselves or members of their families.

C. Applicability.

(1) This Canon generally applies to all incumbent judges and judicial candidates*. A successful candidate, whether or not an incumbent, is subject to judicial discipline by the Judicial Qualifications Commission for his or her campaign conduct.

(2) A lawyer who is a candidate* for judicial office shall comply with all provisions of the Code of Judicial Conduct applicable to candidates* for judicial office. An unsuccessful lawyer candidate* is subject to discipline for campaign conduct by the State Bar of Georgia pursuant to applicable standards of the State Bar of Georgia, and the Judicial Qualifications Commission shall immediately report any such alleged conduct to the office of the General Counsel of the State Bar of Georgia for such action as may be appropriate under applicable bar rules.

(3) An unsuccessful nonlawyer candidate* is subject to discipline for campaign misconduct by the Judicial Qualifications Commission, and in addition to any other sanctions authorized by the Rules of the Judicial Qualifications Commission, the Commission, after full hearing, is authorized to recommend that such individual be barred from seeking any elective or appointive judicial office in this State for a period not to exceed 10 years.

Application of 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 an administrative law judge of an executive branch agency or of the Board of Workers Compensation, an associate judge, special master, or magistrate, or any person who is a candidate for any such office is a judge for the purpose of this Code. All judges shall comply with this Code except as provided below.

A. Part-time Judges. A part-time judge is a judge who serves on a continuing or periodic basis, but is permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. Part-time judges:

(1) are not required to comply with Canon 5D [fiduciary activities], 5E [arbitration], 5F [practice of law], and 5G [extra-judicial appointments], and are not required to comply with Canon 6C [annual financial reporting].
(2) should not practice law in the court on which they serve, or in any court subject to the appellate jurisdiction of the court on which they serve, or act as lawyers in proceedings in which they have served as judges or in any other proceeding related thereto.

B. Judge Pro Tempore. A judge pro tempore is a person who is appointed to act temporarily as a judge.

(1) While acting as such, a judge pro tempore is not required to comply with Canon 5C(3) [financial activities], 5D [fiduciary activities], 5E [arbitration and mediation], 5F [practice of law], and 5G [extra judicial appointments], and Canon 6C [annual financial reporting].

(2) Persons who have been judges pro tempore should not act as lawyers in proceedings in which they have served as judges or in other proceedings related thereto.

C. Time for Compliance. A person to whom this Code becomes applicable shall comply immediately with all provisions of this Code except Sections 5C(1), 5C(2), 5C(3) [personal and family financial activities] and 5D [fiduciary activities], and shall comply with these Sections as soon as reasonably possible and shall do so in any event within the period of one year.

Commentary: If serving as a fiduciary when selected as judge, a new judge may, notwithstanding the prohibitions in Section 5D, continue to serve, but only for that period of time necessary to avoid serious adverse consequences to the beneficiary of the fiduciary relationship, and in no event longer than one year. Similarly, if engaged at the time of judicial selection in a business activity, a new judge may, notwithstanding the prohibitions in Section 5C(1), 5C(2) and 5C(3), continue in that activity for a reasonable period, but in no event longer than one year.

D. In addition to the foregoing, the Commission shall have continuing jurisdiction over individuals to whom this Code is applicable regarding allegations of misconduct occurring during such individual's service as an officer of a judicial system if a complaint is filed no later than one (1) year following service of such judicial officer.

Effective Date of Code
This Code shall become effective January 1, 1998.
Appendix F

United Nations Basic Principles on the Independence of the Judiciary
Basic Principles on the Independence of the Judiciary

Whereas in the Charter of the United Nations the peoples of the world affirm, inter alia, their determination to establish conditions under which justice can be maintained to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms without any discrimination,

Whereas the Universal Declaration of Human Rights enshrines in particular the principles of equality before the law, of the presumption of innocence and of the right to a fair and public hearing by a competent, independent and impartial tribunal established by law,

Whereas the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights both guarantee the exercise of those rights, and in addition, the Covenant on Civil and Political Rights further guarantees the right to be tried without undue delay,

Whereas frequently there still exists a gap between the vision underlying those principles and the actual situation,

Whereas the organization and administration of justice in every country should be inspired by those principles, and efforts should be undertaken to translate them fully into reality,

Whereas rules concerning the exercise of judicial office should aim at enabling judges to act in accordance with those principles,

Whereas judges are charged with the ultimate decision over life, freedoms, rights, duties and property of citizens,

Whereas the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, by its resolution 16, called upon the Committee on Crime Prevention and Control to include among its priorities the elaboration of guidelines relating to the independence of judges and the selection, professional training and status of judges and prosecutors,

Whereas it is, therefore, appropriate that consideration be first given to the role of judges in relation to the system of justice and to the importance of their selection, training and conduct,
The following basic principles, formulated to assist Member States in their task of securing and promoting the independence of the judiciary should be taken into account and respected by Governments within the framework of their national legislation and practice and be brought to the attention of judges, lawyers, members of the executive and the legislature and the public in general. The principles have been formulated principally with professional judges in mind, but they apply equally, as appropriate, to lay judges, where they exist.

**Independence of the judiciary**
1. The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.

2. The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.

3. The judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law.

4. There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision. This principle is without prejudice to judicial review or to mitigation or commutation by competent authorities of sentences imposed by the judiciary, in accordance with the law.

5. Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.

6. The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.

7. It is the duty of each Member State to provide adequate resources to enable the judiciary to properly perform its functions.

**Freedom of expression and association**
8. In accordance with the Universal Declaration of Human Rights, members of the judiciary are like other citizens entitled to freedom of expression, belief, association and assembly; provided, however, that in exercising such rights, judges shall always conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary.
9. Judges shall be free to form and join associations of judges or other organizations to represent their interests, to promote their professional training and to protect their judicial independence.

Qualifications, selection and training
10. Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives. In the selection of judges, there shall be no discrimination against a person on the grounds of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or status, except that a requirement, that a candidate for judicial office must be a national of the country concerned, shall not be considered discriminatory.

Conditions of service and tenure
11. The term of office of judges, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law.

12. Judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office, where such exists.

13. Promotion of judges, wherever such a system exists, should be based on objective factors, in particular ability, integrity and experience.

14. The assignment of cases to judges within the court to which they belong is an internal matter of judicial administration. Professional secrecy and immunity

15. The judiciary shall be bound by professional secrecy with regard to their deliberations and to confidential information acquired in the course of their duties other than in public proceedings, and shall not be compelled to testify on such matters.

16. Without prejudice to any disciplinary procedure or to any right of appeal or to compensation from the State, in accordance with national law, judges should enjoy personal immunity from civil suits for monetary damages for improper acts or omissions in the exercise of their judicial functions.

Discipline, suspension and removal
17. A charge or complaint made against a judge in his/her judicial and professional capacity shall be processed expeditiously and fairly under an appropriate procedure. The judge shall have the right to a fair hearing. The examination of the matter at its initial stage shall be kept confidential, unless otherwise requested by the judge.

18. Judges shall be subject to suspension or removal only for reasons of incapacity or behaviour that renders them unfit to discharge their duties.
19. All disciplinary, suspension or removal proceedings shall be determined in accordance with established standards of judicial conduct.

20. Decisions in disciplinary, suspension or removal proceedings should be subject to an independent review. This principle may not apply to the decisions of the highest court and those of the legislature in impeachment or similar proceedings.
Appendix G

Code of Judicial Ethics of Azerbaijan Republic

Approved by the decision of the Azerbaijan Republic Presidential Judicial –Legal Council and the Plenum of Azerbaijan Republic Supreme Court on December 12, 2002.

Preamble

The performance of judicial tasks according to high status of judiciary and promotion of public confidence in independence of Courts creates important responsibilities for judges.

Maintaining the prestige of judicial office directly depends on judges’ dignity, their personal qualifications, and the respect towards them in society, high professional competence, high personal standard of conduct and their ethics.

Judges must realize the high responsibility of their judicial duties, respect laws and human rights, follow the accepted by society general ethics norms and standards of conduct, protect the integrity and respect for judicial office.

In order to achieve these goals judges shall comply with the following rules:

I. General Provisions

Article 1. Serving his/her term of office, a judge should personally adhere to high standards of conduct in compliance with given before state, citizens and judiciary judge’s oath both in his/her professional and personal conduct.

Article 2. A judge shall respect and comply with Constitution and laws of Azerbaijan Republic, and universally accepted rules, uphold the integrity and independence of judiciary, and uplift its prestige.

Article 3. A judge shall comply with rule of law, decide on the basis of facts, provide for ethical effect of judicial activities, and be fair and impartial.

Article 4. The judicial duties of a judge take precedence over all the judge’s other activities.

Article 5. A judge shall act at any times in a manner that protects honor and high prestige of judicial office. A judge shall avoid all impropriety that can harm judge’s high position, his/her honor and dignity.
II. Rules applicable to judicial duties.

Article 6. A judge shall be impartial. A judge shall not allow any person, including family, social or other relationships to influence a case before a Court.

Article 7. A judge shall perform judicial duties on the basis of principle of everyone’s equal rights before the law and court, without bias or prejudice towards any party to the proceedings.

Article 8. A judge shall preserve his/her right judgment of the case merits and shall not be influenced by any executive or legislative structure, and individuals; abstain from making any public comments and critics on pending proceedings.

Article 9. In order to diligently discharge the judge’s duties, a judge shall raise his professional competence and constantly improve his legal knowledge.

Article 10. A judge shall maintain high standards towards himself (should be exacting towards himself), perform judicial duties with high responsibility, review cases and all materials on time. A judge’s professional and personal conduct should be reserved, serious and sincere and he/she shall require similar conduct of other court officials.

Article 11. A judge shall not disclose information acquired in a judicial capacity. A judge shall not, while a proceeding is pending or just started, make any public comment. He/she shall not express his/her opinion on any case on public or during meetings with journalists. A judge shall not question any enforced court decision or acts of other judges in private capacity.

Article 12. A judge shall not disclose information obtained during deliberations or closed Courts hearings.

Article 13. A judge shall refrain from establishing non-procedural relationships neither with process participants nor with other Court instances, if law does not provide it.

Article 14. A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned.

Article 15. A judge must be independent. Considering each case, a judge shall decide independently on the basis of his belief formed as a result of thorough and unbiased case consideration, irrespective of contradicting to legal views of other members of court panel.

Article 16. With parties consent, a judge shall let mass-media representatives to highlight the courts proceedings, if it does not interfere with courts procedure or will not be used as means to influence court.

Article 17. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or his family members. He/she shall act in a manner that his
family, social and other relationship will not demean the prestige of judicial office.

Article 18. A judge shall not accept a gift, award, favor or benefit in connection with the case under his/her consideration; shall refrain from receiving any services if they can affect case outcome.

III. The judge’s extra-judicial activities.

Article 19. A judge’s personal standard of conduct should not question his/her being just, unbiased and loyal.

Article 20. A judge shall not be appointed or chosen to any other position, engage himself/herself in any financial or business dealings, except for teaching and research.

Article 21. A judge may be involved in social activities that shall not demean the prestige of judicial office.

Article 22. A judge may participate in public discussions and establish relations with legislative, executive bodies and their officials while performing judge’s duties, or regarding legal system, only if it shall not interfere with performance of his/her judicial duties and his/her impartiality will not be questioned.

Article 23. A judge shall not publicly express his/her opinion on current internal political issues, participate in political actions, support financially or by other means parties, engage in propaganda, except as permitted by law, should not act in a manner which could imply that he/she is under ideological or any other influence.

IV. A judge’s responsibility for violation the Code’s provisions.

Article 24. A judge, who violates the Code’s provisions in his/her professional or private conduct, will be entitled to his/her privileges of office, however will bear responsibility under the law.

Article 25. Cases of violation of Code’s provisions will be carefully investigated, and once judge’s acts demeaning judicial office are proved, legal actions may be instituted against judge in accordance with laws.

Article 26. A judge, who with his/her improper behavior deems prestige of judicial office, may be dismissed in accordance with law on “Courts and Judges”.