

CODE OF JUDICIAL CONDUCT

Canon

1. A Judge Should Uphold the Integrity and Independence of the Judiciary
2. A Judge Should Avoid Impropriety and the Appearance of Impropriety in All the Judge's Activities
3. A Judge Should Perform the Duties of Judicial Office Impartially and Diligently
4. A Judge May Engage in Activities to Improve the Law, the Legal System, and the Administration of Justice

Canon

5. A Judge Should Regulate the Judge's Extrajudicial Activities to Minimize the Risk of Conflict with His or Her Judicial Duties
6. A Judge Should Regularly File Reports of Compensation Received for Quasi-Judicial and Extrajudicial Activities
7. A Judge Should Refrain from Political Activity Inappropriate to the Judicial Office

NOTE: This code of judicial conduct was adopted by the judges of the superior court effective Oct. 1, 1974. The Canons and accompanying commentaries are those adopted by the House of Delegates of the American Bar Association on August 16, 1972, as adapted to conform with Connecticut judicial procedures.

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, and should observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

(P.B. 1978-1997, Canon 1.)

Canon 2. A Judge Should Avoid Impropriety and the Appearance of Impropriety in All the Judge's 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 the judge's family, social, or other relationships to influence his or her judicial conduct or judgment. The judge should not lend the prestige of judicial office to advance the private interests of others; nor should the judge convey or permit others to convey the impression that they are in a special position to influence him or her. The judge should not testify voluntarily as a character witness.

(P.B. 1978-1997, Canon 2.)

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. The judge must expect to be the subject of constant public scrutiny. The judge must therefore accept restrictions on his or her conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The testimony of a judge as a character witness injects the prestige of 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.

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.

Canon 3. A Judge Should Perform the Duties of Judicial Office Impartially and Diligently

The judicial duties of a judge take precedence over all the judge's other activities. Judicial duties include all the duties of that office prescribed by law. In the performance of these duties, the following standards apply:

(a) **Adjudicative Responsibilities.**

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

(2) A judge should maintain order and decorum in proceedings before the judge.

(3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of the judge's 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. Courts can be efficient and businesslike while being patient and deliberate.

(4) A judge should accord to every person who is legally interested in a proceeding, or that person's lawyer, full 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 or 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 Canon 3(a)(4), 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 Canon 3(a)(4) 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 Canon 3(a)(4) are clearly met. A judge must disclose to all parties all ex parte communications described in Canons 3(a)(4)(A) and 3(a)(4)(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 Canon 3(a)(4)

is not violated through law clerks or other personnel on the judge's staff.

If communication between the trial judge and an 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.

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

COMMENTARY: 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.

(6) A judge should abstain from public comment about a pending or impending proceeding in any court, and should require similar abstention on the part of court personnel subject to the judge's direction and control. This subdivision does not prohibit judges from making public statements in the course of their official duties, from explaining for public information the procedures of the court, or from correcting factual misrepresentation in the reporting of a case.

(Amended June 29, 1998, to take effect Jan. 1, 1999; amended June 28, 1999, on an interim basis pursuant to the provisions of Sec. 1-9 (c) to take effect Jan. 1, 2000, and amendment adopted June 26, 2000, to take effect Jan. 1, 2001.)

COMMENTARY: "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.

(b) Administrative Responsibilities.

(1) A judge should diligently discharge his or her 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 the judge's staff and court officials subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge.

(3) A judge should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware. A judge is not required to disclose information gained by the judge while serving as a member of a committee that renders assistance to ill or impaired judges or lawyers or while serving as a member of a bar association professional ethics committee.

COMMENTARY: Disciplinary measures may include reporting a lawyer's misconduct to an appropriate disciplinary body. The judge who receives this information still has discretion to report it to the appropriate authority, depending on the seriousness of the conduct and the circumstances involved.

(4) A judge, in the exercise of the judge's power of appointment, should appoint on the basis of merit, should avoid favoritism, and should make only those appointments which are necessary. A judge should not approve compensation of

appointees beyond the fair value of services rendered.

COMMENTARY: 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 subdivision.

(5) A judge shall not knowingly advocate or knowingly participate in the appointment, employment, promotion or advancement of a relative in or to a position in the judicial branch. For purposes of this subdivision, relative means grandfather, grandmother, father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(c) Disqualification.

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

(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 concerning it;

COMMENTARY: A lawyer in a governmental agency does not necessarily have an association with other lawyers employed by that agency within the meaning of this subparagraph; a judge formerly employed by a governmental agency, however, should disqualify himself or herself in a proceeding if his or her impartiality might reasonably be questioned because of such association.

(C) the judge knows that he or she, individually or as a fiduciary, or his or her 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 substantially affected by the outcome of 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;

COMMENTARY: 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 3(c)(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 3(c)(1)(D)(iii) may require the judge's disqualification.

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

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

(2) Notwithstanding the foregoing, a judge may contribute to a client security fund maintained under the auspices of the court, and such contribution will not require that the judge disqualify himself or herself from service on such a client security fund committee or from participation in a lawyer disciplinary proceeding or in any matter concerning restitution or subrogation relating to such a client security fund;

(Amended June 29, 1998, to take effect Jan. 1, 1999.)

COMMENTARY: This is intended to make clear that the restrictions imposed by *Dacey v. Connecticut Bar Assn.*, 184 Conn. 21 (1981), or any implications therefrom should not be considered to apply to judges contributing to a client security fund under the auspices of the court.

(3) A judge is not automatically disqualified from sitting on a proceeding merely because a lawyer or party to the proceeding has filed a lawsuit against the judge or filed a complaint against the judge with the judicial review council. When the judge becomes aware that such a lawsuit or complaint has been filed against him or her, the judge should, on the record, disclose that fact to the lawyers and parties to the proceeding before such judge.

(Amended June 25, 2001, to take effect Jan. 1, 2002.)

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

(5) For the purposes of this section:

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

(Amended June 29, 1998, to take effect Jan. 1, 1999.)

COMMENTARY: According to the civil law system, the third degree of relationship test would, for example, disqualify the judge if the judge's or the judge's spouse's parent, grandparent, uncle or aunt, sibling, or niece's or nephew's spouse were a party or lawyer in the proceeding, but would not disqualify the judge if a cousin were a party or lawyer in the proceeding.

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

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

