

1 **Preamble**

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3 [1] An independent, fair, and impartial judiciary is indispensable to our system of
4 justice. The United States legal system is based upon the principle that an independent,
5 impartial, and competent judiciary, composed of men and women of integrity, will interpret and
6 apply the law that governs our society. Thus, the judiciary plays a central role in preserving the
7 principles of justice and the rule of law. Inherent in all the rules contained in this code are the
8 precepts that judges, individually and collectively, must respect and honor the judicial office as a
9 public trust and strive to maintain and enhance confidence in the legal system.

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11 [2] Judges should maintain the dignity of judicial office at all times and avoid both
12 impropriety and the appearance of impropriety in their professional and personal lives. They
13 should aspire at all times to conduct that ensures the greatest possible public confidence in their
14 independence, impartiality, integrity, and competence.

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16 [3] The ~~Model~~ Ohio Code of Judicial Conduct establishes standards for the ethical
17 conduct of judges and judicial candidates. It is not intended as an exhaustive guide for the
18 conduct of judges and judicial candidates, who are governed in their judicial and personal
19 conduct by general ethical standards as well as by the Code. The Code is intended, however, to
20 provide guidance and assist judges in maintaining the highest standards of judicial and personal
21 conduct and to provide a basis for regulating their conduct through disciplinary agencies.

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23 **Scope**

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25 [1] The ~~Model~~ Ohio Code of Judicial Conduct consists of four Canons, numbered
26 rules under each Canon, and comments that generally follow and explain each rule. Scope and
27 Terminology sections provide additional guidance in interpreting and applying the Code. An
28 Application section establishes when the various rules apply to a judge or judicial candidate.

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30 [2] The Canons state overarching principles of judicial ethics that all judges must
31 observe. Although a judge may be disciplined only for violating a rule, the Canons provide
32 important guidance in interpreting the rules. Where a rule contains a permissive term, such as
33 “may” or “should,” the conduct being addressed is committed to the personal and professional
34 discretion of the judge or candidate in question, and no disciplinary action should be taken for
35 action or inaction within the bounds of such discretion.

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37 [3] The comments that accompany the rules serve two functions. First, they provide
38 guidance regarding the purpose, meaning, and proper application of the rules. They contain
39 explanatory material and, in some instances, provide examples of permitted or prohibited
40 conduct. Comments neither add to nor subtract from the binding obligations set forth in the
41 rules. Therefore, when a comment contains the term “must,” it does not mean that the comment
42 itself is binding or enforceable; it signifies that the rule in question, properly understood, is
43 obligatory as to the conduct at issue.

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45 [4] Second, the comments identify aspirational goals for judges. To implement fully
46 the principles of this code as articulated in the Canons, judges should strive to exceed the

47 standards of conduct established by the rules, holding themselves to the highest ethical standards
48 and seeking to achieve those aspirational goals, thereby enhancing the dignity of the judicial
49 office.

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51 [5] The rules of the ~~Model~~ Ohio Code of Judicial Conduct are rules of reason that
52 should be applied consistent with constitutional requirements, statutes, other court rules, and
53 decisional law, and with due regard for all relevant circumstances. The rules should not be
54 interpreted to impinge upon the essential independence of judges in making judicial decisions.

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56 [6] Although the black letter of the rules is binding and enforceable, it is not
57 contemplated that every transgression will result in the imposition of discipline. Whether
58 discipline should be imposed should be determined through a reasonable and reasoned
59 application of the rules and should depend upon factors such as the seriousness of the
60 transgression, the facts and circumstances that existed at the time of the transgression, the extent
61 of any pattern of improper activity, whether there have been previous violations, and the effect of
62 the improper activity upon the judicial system or others.

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64 [7] The Code is not designed or intended as a basis for civil or criminal liability.
65 Neither is it intended to be the basis for litigants to seek collateral remedies against each other or
66 to obtain tactical advantages in proceedings before a court.

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

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71 The Preamble is new and contains statements not found in the Ohio Code. Scope [1], [2],
72 [3], and [4] have antecedents in the first paragraph of the existing Preamble, and portions of
73 Scope [5], [6], and [7] are found in the second, third, and fourth paragraphs of the Preamble to
74 the Ohio Code.

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

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