

1 **RULE 3.5 Use of Nonpublic Information**

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3 A judge shall not ~~intentionally~~ knowingly disclose or use *nonpublic information* acquired
4 in a judicial capacity for any purpose unrelated to the judge’s judicial duties.
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7 **Comment**
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9 [1] In the course of performing judicial duties, a judge may acquire information of
10 commercial or other value that is unavailable to the public. The judge must not reveal or use
11 such information for personal gain or for any purpose unrelated to his or her judicial duties.
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13 [1A] The premature disclosure of confidential information regarding the outcome of
14 pending cases gives the appearance of partiality and fosters obvious public distrust of the
15 judiciary and legal profession. Among other things, premature disclosure creates the potential
16 for the release of inaccurate information and allows attorneys, litigants, and others with access to
17 the information to use it for personal gain before it becomes public knowledge.
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19 [2] This rule is not intended, however, to affect a judge’s ability to act on information
20 as necessary to protect the health or safety of the judge or a member of a judge’s family, court
21 personnel, or other judicial officers if consistent with other provisions of this code.
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23 [3] Nothing in this rule shall prohibit the disclosure of any of the following: (1) a
24 decision that has been announced on the record or in open court, but that has not been
25 journalized in a written opinion, entry, or other document; (2) information regarding the probable
26 or actual decision in a pending case or legal proceeding to a judge or employee of the court in
27 which the matter is pending; (3) other information that is a matter of public record or that may be
28 disclosed pursuant to law.
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30 [4] The imposition of discipline upon a judge for violation of this rule shall not
31 preclude prosecution for a violation of any applicable provision of the Revised Code, including,
32 but not limited to, R.C. 102.03(B).
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35 **Comparison to Ohio Code of Judicial Conduct**
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37 Other than Ohio Canon 3(B)(11), addressing the disclosure of information regarding
38 pending matters before the Supreme Court of Ohio, the courts of appeals, and a panel of judges
39 in the common pleas courts, there is no Ohio rule comparable to Rule 3.5.
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41 Comments [1A], [3], and [4] are taken from Ohio Canon 3(B)(11).
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Comparison to ABA Model Code of Judicial Conduct

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Rule 3.5 is modified to incorporate the standard of “knowingly” contained in Ohio Canon 3(B)(11), instead of the “intentionally” standard contained in Model Rule 3.5.

Comments [1A], [3], and [4] were added from Ohio Canon 3(B)(11).