**AMENDMENTS TO THE**

**OHIO CODE OF JUDICIAL CONDUCT**

The Supreme Court adopted the following amendments to the Ohio Code of Judicial Conduct [Rules 4.3, 4.4, and 4.6], effective January 1, 2013.

**CANON 4.**

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**RULE 4.3 Campaign Standards and Communications**

During the course of any campaign for nomination or election to judicial office, a *judicial candidate*, by means of campaign materials, including sample ballots, advertisements on radio or television or in a newspaper or periodical, electronic communications, a public speech, press release, or otherwise, shall not *knowingly* or with reckless disregard do any of the following:

(A) Post, publish, broadcast, transmit, circulate, or distribute information concerning the *judicial candidate* or an opponent, either *knowing* the information to be false or with a reckless disregard of whether or not it was false or, if true, that would be deceiving or misleading to a reasonable person;

(B) Manifest bias or prejudice toward an opponent based on race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status;

(C) Use the title of a public office or position immediately preceding or following the name of the *judicial* candidate, when the judicial candidate does not hold that office or position;

(D) Use the term “judge” when the *judicial candidate* is not a judge unless that term appears after or below the name of the *judicial candidate* and is accompanied by either or both of the following:

(1) The words “elect” or “vote,” in *prominent lettering*, before the *judicial candidate’s* name;

(2) The word “for,” in *prominent lettering*, between the name of the *judicial candidate* and the term “judge;”

(E) Use the term “former” or “retired” immediately preceding the term “judge” unless the term “former” or “retired” appears each time the term “judge” is used and the term “former” or “retired” appears in *prominent lettering*;

(F) Use the term “re-elect” in either of the following circumstances:

(1) When the *judicial candidate* has never been elected at a general or special election to the office for which he or she is a *judicial candidate*;

(2) When the *judicial candidate* is not the current occupant of the office for which he or she is a *judicial candidate*;

(G) Misrepresent his or her identity, qualifications, present position, or other fact or the identity, qualifications, present position, or other fact of an opponent;

(H) Make a false statement concerning the formal schooling or training completed or attempted by a *judicial candidate*; a degree, diploma, certificate, scholarship, grant, award, prize of honor received, earned, or held by a *judicial candidate*; or the period of time during which a *judicial candidate* attended any school, college, community technical school, or institution;

(I) Make a false statement concerning the professional, occupational, or vocational licenses held by a *judicial candidate*, or concerning any position a *judicial candidate* held for which he or she received a salary or wages;

(J) Make a false statement that a *judicial candidate* has been arrested, indicted, or convicted of a crime;

(K) Make a statement that a *judicial candidate* has been arrested, indicted, or convicted of any crime without disclosing the outcome of all pending or concluded legal proceedings resulting from the arrest, indictment, or conviction;

(L) Make a false statement that a *judicial candidate* has a record of treatment or confinement for mental disorder;

(M) Make a false statement that a *judicial candidate* has been subjected to military discipline for criminal misconduct or dishonorably discharged from the armed services;

(N) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a *judicial candidate* by a person, *organization*, *political party*, or publication.

**Comment**

[1] A judicial candidate must be scrupulously fair and accurate in all statements made by the candidate and his or her campaign committee. This rule obligates the candidate and the committee to refrain from making statements that are false or misleading or that omit facts necessary to make the communication considered as a whole not materially misleading. Also see Rule 4.2.

[2] A sitting judge, who is a judicial candidate for a judicial office other than the court on which he or she currently serves, violates Rule 4.3(C) if he or she uses the title “judge" without identifying the court on which the judge currently serves.

[3] The use of the title of a public office or position is reserved for those persons who contemporaneously hold the office by election or appointment. The use of the title by one not entitled by law to the office or position falsely states incumbency and thus is inherently misleading and deceptive. A judicial candidate who uses the title in contravention of the rule is acting in a manner inconsistent with the independence, integrity, and impartiality of the judiciary.

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**Rule 4.4 Campaign Solicitations and Contributions**

(A) A *judicial candidate* shall not personally solicit campaign *contributions*, except as expressly authorized in this division, and shall not personally receive campaign *contributions*. A *judicial candidate* may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The *judicial candidate* is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable *law*. A *judicial candidate* may solicit campaign contributions in the following manner:

(1) A judicial candidate may make a general request for campaign *contributions* when speaking to an audience of twenty or more individuals;

(2) A *judicial candidate* may sign letters soliciting campaign *contributions* if the letters are for distribution by the *judicial candidate’s* campaign committee and the letters direct *contributions* to be sent to the campaign committee and not to the *judicial candidate;*

(3) A *judicial candidate* may make a general request for campaign *contributions* via an electronic communication that is in text format if *contributions* are directed to be sent to the campaign committee and not to the *judicial candidate*.

(B) A *judicial candidate* shall prohibit public employees subject to his or her direction or control from soliciting or receiving campaign *contributions*.

(C) The campaign committee of a *judicial candidate* shall not *knowingly* solicit or receive, directly or indirectly, for any political or personal purpose any of the following:

(1) A *contribution* from any employee of the court or person who does business with the court in the form of a contractual or other arrangement in which the person, in the current year or any of the previous six calendar years, received as payment for goods or services *aggregate* funds or fees regardless of the source in excess of two hundred fifty dollars. The committee may receive campaign *contributions* from lawyers who are not employees of the court or doing business with the court in the form of a contractual or other arrangement.

(2) A *contribution* from any appointee of the court unless the campaign committee, on its campaign *contribution* and expenditure statement, reports the name, address, occupation, and employer of the appointee, identifies the person as an appointee of the court, and indicates whether the appointee, in the current year or in any of the previous six calendar years, received *aggregate* compensation from court appointments in excess of two hundred fifty dollars.

(3) A *contribution* from a *political party* unless the *contribution* is made from a separate fund established by the *political party* solely to receive donations for *judicial candidates* and the *political party* reports on the *contribution* and expenditure statements filed by the party the name, address, occupation, and employer of each person who contributed to the separate fund established by the *political party*.

(D) As used in division (C) of this rule:

(1) “Appointee” does not include a person whose appointment is approved, ratified, or made by the court based on an intention expressed in a document such as a will, trust, agreement, or contract.

(2) “Court” means the court for which the *judicial candidate* is seeking election and, if applicable, the court on which he or she currently serves. If the *judicial candidate* is seeking election to a division of a court of common pleas or a municipal court, “court” means the division of the court for which the *judicial candidate* is seeking election and, if applicable, the court or division of the court on which he or she currently serves.

(3) “Division” means any of the following whether separate or in combination: general division of the court of common pleas; domestic relations division of the court of common pleas; juvenile division of the court of common pleas; probate division of the court of common pleas; housing or environmental division of the municipal court.

(4) “Compensation” does not include reasonable reimbursement for travel, meals, and other expenses received by an appointee who serves in a volunteer capacity.

(E) The campaign committee of a *judicial candidate* may begin soliciting and receiving *contributions* no earlier than one hundred twenty days before the first Tuesday after the first Monday in May of the year in which the general election is held. If the general election is held in 2012 or any fourth year thereafter, the campaign committee of a *judicial candidate* may begin soliciting and receiving *contributions* no earlier than one hundred twenty days before the first Tuesday after the first Monday in March of the year in which the general election is held. Except as provided in divisions (F) and (G) of this rule, the solicitation and receipt of *contributions* may continue until one hundred twenty days after the general election.

(F) If the candidate is defeated prior to the general election, the solicitation and receipt of *contributions* may continue until such time as the *contributions* solicited are sufficient to pay the campaign debts and obligations of the *judicial candidate* incurred on or before the date of the primary election, plus the costs of solicitation incurred after the date of the primary election, but in no event shall the solicitation or receipt of *contributions* continue beyond one hundred twenty days after the date of the election at which the defeat occurred. Notwithstanding division (J) of this rule, the limits on *contributions* in a primary election period shall apply to any *contributions* solicited or

received by the campaign committee of the defeated *judicial candidate* after the date of the primary election.

(G) In the case of the death or withdrawal of a *judicial candidate*, the solicitation and receipt of *contributions* may continue until such time as the *contributions* solicited are sufficient to pay the campaign debts and obligations of the *judicial candidate* incurred on or before the date of death or withdrawal, plus the costs of solicitation incurred after the date of death or withdrawal, but in no event shall the solicitation or receipt of *contributions* continue beyond one hundred twenty days after the date of death or withdrawal.

(H) Notwithstanding any provision of division (E) of this rule to the contrary, a *judicial candidate* may do either or both of the following:

(1) Not more than ninety days prior to the commencement of the one hundred twenty-day fundraising period described in division (E) of this rule, contribute personal funds to his or her campaign committee;

(2) After the conclusion of the applicable fundraising period described in division (E), (F), or (G) of this rule, contribute personal funds to his or her campaign committee for the express purpose of satisfying any campaign debt that was incurred during the applicable fundraising period and that remains unpaid at the conclusion of the applicable fundraising period. The name of the individual or entity to whom the debt is owed, the amount of the debt, and the date on which the debt was incurred shall be clearly noted on the appropriate campaign contribution and expenditure statement.

(I) Except as otherwise provided in division (J) of this rule, the campaign committee of a *judicial candidate* shall not directly or indirectly solicit or receive in the fundraising period allowed by division (E), (F), or (G) of this rule a campaign *contribution aggregating* more than the following:

(1) From an individual other than the *judicial candidate* or a member of his or her *immediate family*, three thousand six hundred dollars in the case of a *judicial candidate* for chief justice or justice of the Supreme Court, one thousand two hundred dollars in the case of a *judicial candidate* for the court of appeals, or six hundred dollars in the case of a *judicial candidate* for the court of common pleas, municipal court, or county court.

(2) From any *organization*, six thousand seven hundred dollars in the case of a *judicial candidate* for chief justice or justice of the Supreme Court or three thousand six hundred dollars in the case of all other *judicial candidates*.

(3) From a *political party*:

(a) Three hundred thirty-three thousand dollars in the case of a *judicial candidate* for chief justice or justice of the Supreme Court;

(b) Seventy-two thousand seven hundred dollars in the case of a *judicial candidate* for the court of appeals;

(c) Seventy-two thousand seven hundred dollars in the case of a *judicial candidate* for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of more than seven hundred fifty thousand;

(d) Sixty thousand five hundred dollars in the case of a *judicial candidate* for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of seven hundred fifty thousand or less;

(J) If a *judicial candidate* is opposed in a primary election, the campaign committee of that *judicial candidate* shall not directly or indirectly solicit or receive either of the following:

(1) A campaign *contribution* from an individual or an *organization aggregating* more than the applicable limitation contained in division (I)(1) or (2) of this rule in a primary election period or in a general election period;

(2) A campaign *contribution* from a *political party aggregating* more than the applicable limitation contained in division (I)(3) of this rule in a general election period or aggregating more than the following during a primary election period:

(a) One hundred eighty-one thousand six hundred dollars in the case of a *judicial candidate* for chief justice or justice of the Supreme Court;

(b) Thirty-six thousand three hundred dollars in the case of a *judicial candidate* for the court of appeals;

(c) Thirty-six thousand three hundred dollars in the case of a *judicial candidate* for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of more than seven hundred fifty thousand;

(d) Thirty thousand three hundred dollars in the case of a *judicial candidate* for a court of common pleas, municipal court, or county court that serves a territorial jurisdiction with a population of seven hundred fifty thousand or less.

(K) As used in division (J) of this rule, “primary election period” begins on the first day on which *contributions* may be solicited and received pursuant to division (E) of this rule and ends on the day of the primary election, and “general election period” begins on the day after the primary election and ends on the last day on which *contributions* may be solicited or received pursuant to division (E) of this rule.

(L) For purposes of division (I), (J), and (K) of this rule:

(1) *Contributions* received from *political action committees* that are established, financed, maintained, or controlled by the same corporation, nonprofit corporation, partnership, limited liability company, association, professional association, continuing association, estate, trust, business trust, or other entity, including any parent, subsidiary, local, division, or department of that same corporation, nonprofit corporation, partnership, limited liability company, association, professional association, continuing association, estate, trust, business trust, or other entity, shall be considered to have been received from a single *political action committee*.

(2) All *contributions* received by a *judicial candidate* from a national, state, or county *political party* shall be combined in applying the limits set forth in division (J)(3) of this rule.

(3) *In-kind contributions* consisting of goods and compensated services shall be assigned a fair market value by the campaign committee and shall be subject to the same limitations and reporting requirements as other *contributions*.

(4) A *loan* made to a campaign committee by a person other than the *judicial candidate* or a member of his or her *immediate family* shall not exceed an amount equal to two times the applicable *contribution* limit, and amounts in excess of the applicable *contribution* limit shall be repaid within the fundraising period allowed by division (E) of this rule. A debt remaining at the end of the fundraising period shall be treated as a *contribution* and subject to the applicable *contribution* limit.

(5) A debt incurred by a judge or *judicial candidate* in a previous campaign for public office and forgiven by the individual, *organization*, or *political party* to whom the debt is owed shall not be considered a campaign *contribution*.

(M) In applying the *contribution* limits contained in division (I) and (J) of this rule, the *contribution*s of an individual or *organization* to a *judicial candidate* fund established by a *political party* shall not be *aggregated* with other *contributions* from the same individual or *organization* made directly to the campaign committee of a *judicial candidate* unless the campaign committee of the *judicial candidate* directly or indirectly solicited the *contribution* to the *judicial candidate* fund.

(N) On or before the first day of December beginning in 2008 and every four years thereafter, the secretary of the Board of Commissioners on Grievances and Discipline shall determine the percentage change over the preceding forty-eight months in the Consumer Price Index for All Urban Consumers, or its successive equivalent, as determined by the United States Department of Labor, Bureau of Labor Statistics, or its successor in responsibility, for all items, Series A. The secretary shall apply that percentage change to the *contribution* limitations then in effect and notify the Supreme Court of the results of that calculation. The Supreme Court may adopt revised *contribution* limitations based on the secretary’s calculation or other factors that the Court considers appropriate.

**CONTRIBUTION LIMITS**

**Effective January 1, 2013**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **CANDIDATE FOR:** | **INDIVIDUAL** | | **ORGANIZATION** | | **POLITICAL PARTY** | |
|  | **Primary\*** | **General** | **Primary\*** | **General** | **Primary\*** | **General** |
| **Supreme Court Chief Justice and Justice** | $3,600 | $3,600 | $6,700 | $6,700 | $181,600 | $333,000 |
| **Court of Appeals** | $1,200 | $1,200 | $3,600 | $3,600 | $36,300 | $72,700 |
| **Common Pleas, Municipal,  and** **County Court** **more than** **750,000** | $600 | $600 | $3,600 | $3,600 | $36,300 | $72,700 |
| **750,000 or less** | $600 | $600 | $3,600 | $3,600 | $30,300 | $60,500 |

\*Primary limits apply only if the judicial candidate has a contested primary. If there is no contested primary, the general election limits apply throughout the permissible fundraising period.

**Comment**

[1] A judicial candidate is prohibited from personally soliciting campaign contributions and personally receiving campaign contributions. These limitations protect four vital interests: (1) avoiding the appearance of coercion or *quid pro quo*, especially when a judicial candidate engages in a one-on-one solicitation of a lawyer or party who appears before the court; (2) preserving both the appearance and reality of an impartial, independent, and noncorrupt judiciary; (3) ensuring the public’s right to due process and fairness; and (4) furthering the public trust and confidence in the impartiality of the judicial decision-maker. Rule 4.4(A) recognizes that some forms of solicitation are less coercive and less intrusive than others and permits a candidate to engage in solicitations that are less personal and directed at a wider audience. A judicial candidate who directly solicits campaign contributions in a manner authorized by Rule 4.4(A)(1)-(3) is subject to the limitations relating to the solicitation and receipt of campaign contributions contained in Canon 4. Public employees subject to the direction or control of a judicial candidate are prohibited from soliciting or receiving campaign contributions.

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**RULE 4.6 Definitions**

As used in Canon 4:

(A) “Aggregate” means not only contributions in cash or in-kind made directly to a candidate’s campaign committee, but also all contributions made indirectly with the understanding that they will be used to support the election of a candidate or to oppose the election of the candidate’s opponent.

(B) “Contribution” has the same meaning as in R.C. 3517.01 and includes an in-kind contribution.

(C) “Immediate family” means a spouse or domestic partner or any of the following who are related by blood or marriage to the judicial candidate:

(1) Parent;

(2) Child;

(3) Brother or sister;

(4) Grandparent;

(5) Grandchild;

(6) Uncle or aunt;

(7) Nephew or niece;

(8) Great-grandparent;

(9) First cousin.

(D) “Domestic partner,” “independence,” “integrity,” “impartiality,” “impending,” and “pending” have the same meaning as in the Terminology section of this code.

(E) “In-kind contribution” has the same meaning as in R.C. 3517.01.

(F) “Judicial candidate” means a person who has made a public announcement of candidacy for judicial office, declared or filed as a candidate for judicial office with the election authority, or authorized the solicitation or receipt of contributions or support for judicial office, whichever occurred first.

(G) “Knowingly” means actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances.

(H) “Law firm” means a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship, or other association authorized to practice law or lawyers engaged in a private or public legal aid or public defender organization, a legal services organization, the legal department of a corporation or other organization, or the attorney general, prosecuting attorney, law director, or other public office.

(I) “Loan” means an advance of money with an absolute promise to pay, with or without interest, and includes loan guarantees.

(J) “Organization” means any entity or combination of two or more persons, other than a political party, including, but not limited to, a corporation, nonprofit corporation, partnership, limited liability company, association, professional association, continuing association, estate, trust, business trust, political action committee as defined in R.C. 3517.01, law firm, organization affiliated with a political party, labor organization, campaign committee of another candidate for public office, or caucus campaign committee.

(K) “Organization affiliated with a political party” means a combination of two or more persons, other than a political party or an organization, that is identified by its name or association with a national, state, or county political party or expressly promotes the interests, philosophy, or candidates of a political party.

(L) “Political action committee” has the same meaning as in R.C. 3517.01.

(M) “Political party” has the same meaning as in R.C. 3517.01 and includes any national, state, or county political party.

(N) “Prominent lettering” means not less than the size of the largest type used to display the title of office or the court to which the judicial candidate seeks election.

**Comparison to Ohio Code of Judicial Conduct**

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• Definitions of “domestic partner,” “integrity,” “independence,” and “impartiality,” “impending,” and “pending” have been added to correspond to the Terminology section of the code;

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**FORM OF CITATION, EFFECTIVE DATE, APPLICATION**

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(F) The amendments to Jud.Cond. Rule 4.4(I) and (J) adopted by the Supreme Court of Ohio on December 5, 2012, shall take effect on January 1, 2013. The amended contribution limits shall apply to fundraising that occurs on behalf of judicial candidates who campaign for election to judicial offices that will appear on the ballot in the 2013 and subsequent years. The contribution limits that were in effect prior to January 1, 2013, shall apply to fundraising that has occurred or will occur on behalf of judicial candidates who campaigned for election to judicial offices that appeared on the ballot in calendar year 2012.