

1 **RULE 4.1**

2 ***Political and Campaign Activities of Judges and Judicial***
3 ***Candidates* in General***

4 **(A) Except as permitted in this Canon, a judge or a judicial**
5 **candidate shall not:**

6 **(1) act as a leader in, or hold an office in, a political organization;***

7 **(2) make speeches on behalf of a political organization;**

8 **(3) publicly endorse or oppose a candidate for any public office;**

9 **(4) solicit funds for, pay an assessment to, or make a**
10 **contribution* to a political organization or a candidate for public**
11 **office;**

12 **(5) attend or purchase tickets for dinners or other events**
13 **sponsored by a political organization or a candidate for public office;**

14 **(6) publicly identify himself or herself as a member of a political**
15 **organization, except as necessary to vote in an election;**

16 **(7) seek, accept, or use endorsements from a political**
17 **organization;**

18 **(8) use court staff or make excessive use of court facilities or**
19 **other court resources in seeking judicial office;**

20 **(9) knowingly,* or with reckless disregard for the truth, make any**
21 **false or misleading statement in seeking judicial office;**

22 **(10) make any statement that would reasonably be expected to**
23 **affect the outcome or impair the fairness of a matter pending* or**
24 **impending* in any court; or**

25 **(11) make pledges, promises, or commitments other than the**
26 **faithful, impartial and diligent performance of judicial duties.**

27 **(B) A judicial candidate shall comply with paragraphs (A)(7),**
28 **(A)(9), and (A)(11).**

29 **(~~B~~ C) A judge or judicial candidate shall take reasonable**
30 **measures to ensure that other persons do not undertake, on behalf of**
31 **the judge or judicial candidate, any activities prohibited under this**
32 **Canon.**

33 **~~(C) Prior to confirmation, a non-judge judicial candidate is not~~**
34 **~~required to comply with Subsections (A)(1) or (A)(6).~~**

35 COMMENT

36 General Considerations

37 [1] Even when subject to public election, a judge plays a role different
38 from that of a legislator or executive branch official. Rather than making
39 decisions based upon the expressed views or preferences of the
40 electorate, a judge makes decisions based upon the law and the facts of
41 every case. Therefore, in furtherance of this interest, judges
42 and judicial candidates must, to the greatest extent possible, be free and
43 appear to be free from political influence and political pressure.
44 This Canon imposes narrowly tailored restrictions upon the political and
45 campaign activities of all judges and judicial candidates.

46 Participation in Political Activities.

47 [2] Public confidence in the independence and impartiality of the
48 judiciary is eroded if judges or judicial candidates are perceived to be
49 subject to political influence.

50 [3] Although members of the families of judges and judicial candidates
51 are free to engage in their own political activity, including running for public
52 office, there is no “family exception” to the prohibition in paragraph (A)(3)
53 against a judge or candidate publicly endorsing candidates for public office.
54 A judge or judicial candidate must not become involved in, or publicly
55 associated with, a family member's political activity or campaign for public
56 office. To avoid public misunderstanding, judges and judicial candidates
57 should take, and should urge members of their families to take, reasonable

58 steps to avoid any implication that they endorse any family member's
59 candidacy or other political activity.

60 [4] ~~Judges and judicial candidates~~ retain the right to participate in the
61 political process as voters in both primary and general elections.

62 Statements and Comments Made During a Campaign
63 for Judicial Office.

64 [5] ~~Judicial candidates~~ Judges and judicial candidates must be
65 scrupulously fair and accurate in all statements made by them and by their
66 campaign committees. Paragraph (A)(9) obligates judicial candidates, and
67 judges, and their committees to refrain from making statements that are
68 false or misleading, or that omit facts necessary to make the
69 communication considered as a whole not materially misleading.

70 [6] ~~Judicial candidates~~ Judges and judicial candidates are sometimes
71 the subject of false, misleading, or unfair allegations made by third parties
72 or the media. For example, false or misleading statements might be made
73 regarding the identity, present position, experience, or qualifications, of a
74 judge or judicial candidate, or judicial rulings of a candidate judge. In other
75 situations, false or misleading allegations may be made that bear upon a
76 candidate's integrity or judge or judicial candidate's fitness
77 for judicial office. As long as the judge or judicial candidate does not violate
78 other provisions of this Canon, the judge or judicial candidate may make a
79 factually accurate public response.

80 [7] Subject to the provisions of this Canon, a judge or judicial candidate
81 is permitted to respond directly to false, misleading, or unfair allegations
82 made against ~~him or her~~ the judge or judicial candidate while
83 seeking retention or appointment to judicial office, although it is preferable
84 for someone else to respond if the allegations relate to a pending case.

85 [8] Paragraph (A)(10) prohibits ~~judicial candidates~~ judges from making
86 comments that might impair the fairness of pending or impending judicial
87 proceedings. This provision does not restrict ~~arguments or statements to~~
88 ~~the court or jury by a lawyer who is a judicial candidate, or rulings,~~
89 statements, or instructions by a judge that may appropriately affect the
90 outcome of a matter.

91 Pledges, Promises, or Commitments

92 [9] The role of a judge is different from that of a legislator or executive
93 branch official, even when the judge is subject to public election.
94 Campaigns for judicial office must be conducted differently from campaigns
95 for other offices.

96 [10] Paragraph (A)(11) makes applicable to both judges
97 and judicial candidates the prohibition that applies to judges in Rule
98 2.10(B), relating to pledges, promises, or commitments that are
99 inconsistent with the impartial performance of the adjudicative duties of
100 the judicial office.

101 [11] The making of a pledge, promise, or commitment is not dependent
102 upon, or limited to, the use of any specific words or phrases; instead, the
103 totality of the statement must be examined to determine if a reasonable
104 person would believe that the judge or judicial candidate for judicial office
105 has specifically undertaken to reach a particular result.

106 [12] A judge or judicial candidate may make promises related
107 to judicial organization, administration, and court management, such as a
108 promise to dispose of a backlog of cases, start court sessions on time, or
109 avoid favoritism in appointments and hiring. A judge or judicial candidate
110 may also pledge to take action outside the courtroom, such as working
111 toward an improved jury selection system, or advocating for more funds to
112 improve the physical plant and amenities of the courthouse.