

ILLINOIS SUPREME COURT RULES: CODE OF JUDICIAL CONDUCT

Rule 67. Canon 7. A Judge or Judicial Candidate Shall Refrain from Inappropriate Political Activity.

A. All Judges and Candidates.

(1) Except as authorized in subsections B(1)(b) and B(3), a judge or a candidate for election to judicial office shall not:

- (a) act as a leader or hold an office in a political organization;
- (b) publicly endorse or publicly oppose another candidate for public office;
- (c) make speeches on behalf of a political organization;
- (d) solicit funds for, or pay an assessment to a political organization or candidate.

(2) A judge shall resign from judicial office upon becoming a candidate for a non-judicial office either in a primary or in a general election.

(3) A candidate for a judicial office:

(a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary, and shall encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;

(b) shall prohibit employees and officials who serve at the pleasure of the candidate, and shall discourage other employees and officials subject to the candidate's direction and control from doing on the candidate's behalf what the candidate is prohibited from doing under the provisions of this Canon;

(c) except to the extent permitted by subsection B(2), shall not authorize or knowingly permit any other person to do for the candidate what the candidate is prohibited from doing under the provisions of this Canon;

(d) shall not:

(i) make statements that commit or appear to commit the candidate with respect to cases, controversies or issues within cases that are likely to come before the court; or

(ii) knowingly misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent; and

(e) may respond to personal attacks or attacks on the candidate's record as long as the response does not violate subsection A(3)(d).

B. Authorized Activities for Judges and Candidates.

(1) A judge or candidate may, except as prohibited by law:

(a) at any time

- (i) purchase tickets for and attend political gatherings;
- (ii) identify himself or herself as a member of a political party; and
- (iii) contribute to a political organization;

(b) when a candidate for public election

- (i) speak to gatherings on his or her own behalf;
- (ii) appear in newspaper, television and other media advertisement supporting his or her candidacy;
- (iii) distribute pamphlets and other promotional campaign literature supporting his or her candidacy; and
- (iv) publicly endorse or publicly oppose other candidates in a public election in which the judge or judicial candidate is running.

(2) A candidate shall not personally solicit or accept campaign contributions. A candidate may establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate's committees may solicit contributions and public support for the candidate's campaign no earlier than one year before an election and no later than 90 days after the last election in which the candidate participates during the election year. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

(3) Except as prohibited by law, a candidate for judicial office in a public election may permit the candidate's name: (a) to be listed on election materials along with the names of other candidates for elective public office, and (b) to appear in promotions of the ticket.

C. Incumbent Judges. A judge shall not engage in any political activity except (i) as authorized under any other provision of this Code, (ii) on behalf of measures to improve the law, the legal system or the administration of justice, or (iii) as expressly authorized by law.

D. Applicability. Canon 7 generally applies to all incumbent judges and judicial candidates. A successful candidate, whether or not an incumbent, is subject to judicial discipline for his or her campaign conduct; an unsuccessful candidate who is a lawyer is subject to lawyer discipline for his or her campaign conduct. A lawyer who is a candidate for judicial office is subject to *Rule 8.2(b) of the Rules of Professional Conduct*.

JUSTICE HEIPLE, concurring;

JUSTICE McMORROW, dissenting.

HISTORY: Adopted 12-2-86, eff. 1-1-87; amended 4-20-87, eff. 8-1-87; amended 8-6-93, eff. immediately; amended 3-24-94, eff. immediately.

COMMITTEE COMMENTS

This canon regulates the extent to which a judicial officer may engage in political activity. Canon 7 adopts as its foundation the provisions of Canon 5 of the ABA Model Code of Judicial Conduct, which was adopted by the ABA in 1990.

Paragraph 7A(1). A judge or candidate for judicial office retains the right to participate in the political process as a voter.

Where false information concerning a judicial candidate is made public, a judge or another judicial candidate having knowledge of the facts is not prohibited by paragraph 7A(1) from making the facts public.

Subparagraph 7A(1)(a) does not prohibit a candidate for elective judicial office from retaining during candidacy a public office such as State's Attorney, which is not "an office in a political organization."

Subparagraph 7A(1)(b) does not prohibit a judge or judicial candidate from privately expressing his or her views on judicial candidates or other candidates for public office.

A candidate does not publicly endorse another candidate for public office by having that candidate's name on the same ticket.

Subparagraph 7A(1)(d). The ABA provisions that prohibit the following activities were deleted: attending political gatherings (5A(1)(d) of ABA), making contributions to political organizations or candidates (5A(1)(e)), and purchasing tickets for political party dinners or other functions (5A(1)(e)). These provisions were deleted because the ABA provisions adopted in subparagraph 7B(1)(a) were modified to authorize all judges and candidates to engage in such activities at any time. However, the prohibition on the solicitation of funds for, or paying an assessment to, a political organization or candidate, is adopted and renumbered as subparagraph (d).

Subparagraph 7A(3)(a). Although a judicial candidate must encourage members of his or her family to adhere to the same standards of political conduct in support of the candidate that apply to the candidate, family members are free to participate in other political activity.

Subparagraph 7A(3)(d). The ABA clause prohibiting "pledges and promises of conduct in office," found in Canon 5A(3)(d) of the Model Code (which was similar to the language of Canon 7B(1)(c) of our previous rules on political conduct) was deleted. This change was made to clarify the limitations of the rule, see *In re Buckley* (Ill. Cts. Comm'n Oct. 25, 1991), No. 91-CC-1 slip. op., which gave a broader construction to the rule. Subparagraph

7A(3)(d) prohibits a candidate for judicial office from making statements that commit or appear to commit the candidate with respect to cases, controversies or issues within cases that are likely to come before the court. However, as a corollary, a candidate should emphasize in any public statement the candidate's duty to uphold the law regardless of his or her personal views. See also paragraph 3A(6), the general rule on public comment by judges. Subparagraph 7A(3)(d) does not prohibit a candidate from making pledges or promises respecting improvements in court administration. Nor does this provision prohibit an incumbent judge from making private statements to other judges or court personnel in the performance of judicial duties. This subparagraph applies to any statement made in the process of securing judicial office. See also *Rule 8.2 of the Rules of Professional Conduct*.

The ABA Model Code of 1990 was modified to remove the provisions pertaining to candidates seeking appointment to judicial or other governmental office that are found in subsection B of Canon 5. Hence ABA subsections C, D and E were renumbered and are now subsections B, C and D of our Canon 7.

Paragraph 7B(1). This paragraph permits judges at any time to be involved in limited political activity. Subsection 7C, applicable solely to judges, would otherwise bar this activity.

Paragraph 7B(2). This paragraph is substantially identical to the Section 5C(2) of the 1990 ABA Model Code. The one difference is that the language prohibiting the candidates from personally soliciting publicly stated support is omitted to allow judicial candidates to appear before editorial boards of newspapers and other organizations. Paragraph 7B(2) permits a candidate to solicit publicly stated support, and to establish campaign committees to solicit and accept public support and reasonable financial contributions. At the start of the campaign, the candidate must instruct his or her campaign committees to solicit or accept only contributions that are reasonable under the circumstances. Though not prohibited, campaign contributions of which a judge has knowledge, made by lawyers or others who appear before the judge, may be relevant to disqualification under subsection C of Canon 3.

Campaign committees established under Section 7B(2) should manage campaign finances responsibly; avoiding deficits that might necessitate post-election fundraising, to the extent possible.

Paragraph 7B(3). This paragraph provides a limited exception to the restrictions imposed by paragraph 7A(1).

Subsection 7C. Neither subsection 7C nor any other section of the Code prohibits a judge in the exercise of administrative functions from engaging in planning and other official activities with members of the executive and legislative branches of government.