



CALIFORNIA CODE OF JUDICIAL ETHICS

ANNOTATED BY THE CALIFORNIA SUPREME COURT COMMITTEE ON JUDICIAL ETHICS OPINIONS

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CJEO ANNOTATED CALIFORNIA CODE OF JUDICIAL ETHICS

Amended by the Supreme Court of California effective July 1, 2020; adopted effective January 15, 1996; previously amended March 4, 1999, December 13, 2000, December 30, 2002, June 18, 2003, December 22, 2003, January 1, 2005, June 1, 2005, July 1, 2006, January 1, 2007, January 1, 2008, April 29, 2009, January 1, 2013, January 21, 2015, and August, 19, 2015, December 1, 2016, and October 10, 2018.

Preface

Preamble

Terminology

Canon 1. A judge shall uphold the integrity and independence of the judiciary.

Canon 2. A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

Canon 3. A judge shall perform the duties of judicial office impartially, competently, and diligently.

Canon 4. A judge shall so conduct the judge's quasi-judicial and extrajudicial activities as to minimize the risk of conflict with judicial obligations.

Canon 5. A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.

Canon 6. Compliance with the Code of Judicial Ethics.

PREFACE

Formal standards of judicial conduct have existed for more than 65 years. The original Canons of Judicial Ethics promulgated by the American Bar Association were modified and adopted in 1949 for application in California by the Conference of California Judges (now the California Judges Association).

In 1969, the American Bar Association determined that then current needs and problems warranted revision of the canons. In the revision process, a special American Bar Association committee, headed by former California Chief Justice Roger Traynor, sought and considered the views of the bench and bar and other interested persons. The American Bar Association Code of Judicial Conduct was adopted by the House of Delegates of the American Bar Association August 16, 1972.

Effective January 5, 1975, the California Judges Association adopted a new California Code of Judicial Conduct adapted from the American Bar Association 1972 Model Code. The California code was recast in gender-neutral form in 1986.

In 1990, the American Bar Association Model Code was further revised after a lengthy study. The California Judges Association again reviewed the model code and adopted a revised California Code of Judicial Conduct on October 5, 1992.

Proposition 190 (amending Cal. Const., art., § 18, subd. (m), operative March 1, 1995) created a new constitutional provision that states, “The Supreme Court shall make rules for the conduct of judges, both on and off the bench, and for judicial candidates in the conduct of their campaigns. These rules shall be referred to as the Code of Judicial Ethics.”

The Supreme Court formally adopted the 1992 Code of Judicial Conduct in March 1995, as a transitional measure pending further review.

The Supreme Court formally adopted the Code of Judicial Ethics effective January 15, 1996.

The Supreme Court has formally adopted amendments to the Code of Judicial Ethics on several occasions. The Advisory Committee Commentary is published by the Supreme Court Advisory Committee on the Code of Judicial Ethics.

➤ **CJEO Historical Note:**

Preface amended effective January 21, 2015; previously amended effective January 1, 2013 and April 15, 1996; adopted effective January 15, 1996.

PREAMBLE

Our legal system is based on the principle that an independent, fair, and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to this code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and must strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and is a highly visible member of government under the rule of law.

The Code of Judicial Ethics (“code”) establishes standards for ethical conduct of judges on and off the bench and for candidates for judicial office.* The code consists of broad declarations called canons, with subparts, and a terminology section. Following many canons is a commentary section prepared by the Supreme Court Advisory Committee on the Code of Judicial Ethics. The commentary, by explanation and example, provides guidance as to the purpose and meaning of the canons. The commentary does not constitute additional rules and should not be so construed. All members of the judiciary must comply with the code. Compliance is required to preserve the integrity* of the bench and to ensure the confidence of the public.

The canons should be read together as a whole, and each provision should be construed in context and consistent with every other provision. They are to be applied in conformance with constitutional requirements, statutes, other court rules, and decisional law. Nothing in the code shall either impair the essential independence* of judges in making judicial decisions or provide a separate basis for civil liability or criminal prosecution.

The code governs the conduct of judges and candidates for judicial office* and is binding upon them. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, requires a reasoned application of the text and consideration of such factors as the seriousness of the transgression, if there is a pattern of improper activity, and the effect of the improper activity on others or on the judicial system.

➤ **CJEO Historical Note:**

Preamble amended effective January 21, 2015; previously amended effective January 1, 2013 and January 1, 2008; adopted effective January 15, 1996.

TERMINOLOGY

Terms explained below are noted with an asterisk (*) in the canons where they appear. In addition, the canons in which these terms appear are cited after the explanation of each term below.

“Candidate for judicial office” is a person seeking election to or retention of a judicial office. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election authority, or authorizes solicitation or acceptance of contributions or support. See Preamble and Canons 3E(2)(b)(i), 3E(3)(a), 5, 5A, 5A (Commentary), 5B(1), 5B(2), 5B(3), 5B(4), 5B (Commentary), 5B(4) (Commentary), 5C, 5D, and 6E.

“Fiduciary” includes such relationships as executor, administrator, trustee, and guardian. See Canons 3E(5)(d), 4E(1), 4E(2), 4E(3), 4E (Commentary), 6B, and 6F (Commentary).

“Gender identity” means a person’s internal sense of being male, female, a combination of male and female, or neither male nor female. See Canons 2C, 2C (Commentary), 3B(5), 3B(6), 3C(1), and 3C(3).

“Gender expression” is the way people communicate or externally express their gender identity to others, through such means as pronouns used, clothing, appearance, and demeanor. See Canons 2C, 2C (Commentary), 3B(5), 3B(6), 3C(1), and 3C(3).

“Gift” means anything of value to the extent that consideration of equal or greater value is not received, and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. See Canons 4D(5), 4D(5) (Commentary), 4D(6), 4D(6)(a), 4D(6)(b), 4D(6)(b) (Commentary), 4D(6)(d), 4D(6)(f), 4D(6)(i), 4D(6)(i) (Commentary), 4D(6) and 4D(7) (Commentary), 4H (Commentary), 5A (Commentary), 5B(4) (Commentary), 6D(2)(c), and 6D(7).

➤ **CJEO Annotation:**

A law firm offer to provide attorney services to an appellate justice constitutes a gift from the law firm to both the justice and the court, which does not fall within any exception to the general prohibition on gifts. [CJEO Expedited Opinion 2021-038](#), *Acceptance of Attorney Services from a Law Firm*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

Gifts of di minimus or nominal value fall within the definition of a gift in the Code of Judicial Ethics and are subject to canons 4D(5) & (6). [CJEO Formal Opinion 2014-005](#), *Accepting Gifts of Little or Nominal Value Under the Ordinary Social Hospitality Exception*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 6.

“Impartial,” “impartiality,” and “impartially” mean the absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as the maintenance of an open mind in considering issues that may come before a judge. See Canons 1, 1 (Commentary), 2A, 2 and 2A (Commentary), 2B (Commentary), 2C (Commentary), 3, 3B(9) (Commentary), 3B(10) (Commentary), 3B(12), 3B(12) (Commentary), 3C(1), 3C(5), 3E(4)(b), 3E(4)(c), 4A(1), 4A (Commentary), 4C(3)(b) (Commentary), 4C(3)(c) (Commentary), 4D(1) (Commentary), 4D(6)(a) (Commentary), 4D(6)(b) (Commentary), 4D(6)(g) (Commentary), 4D(6)(i) (Commentary), 4H (Commentary), 5, 5A, 5A (Commentary), 5B (Commentary), 5B(4) (Commentary), 6D(2)(a), and 6D(3)(a)(vii).

“Impending proceeding” is a proceeding or matter that is imminent or expected to occur in the near future. The words “proceeding” and “matter” are used interchangeably, and are intended to have the same meaning. See Canons 2 and 2A (Commentary), 3B(7), 3B(7)(a), 3B(9), 3B(9) (Commentary), 4H (Commentary), and 6D(6). “Pending proceeding” is defined below.

“Impropriety” includes conduct that violates the law, court rules, or provisions of this code, as well as conduct that undermines a judge’s independence, integrity, or impartiality. See Canons 2, 2 and 2A (Commentary), 2B (Commentary), 2C (Commentary), 3B(9) (Commentary), 4D(1)(b) (Commentary), 4D(6)(g) (Commentary), 4D(6)(i) (Commentary), 4H, 5.

“Independence” means a judge’s freedom from influence or control other than as established by law. See Preamble, Canons 1, 1 (Commentary), 2C, 4C(2) (Commentary), 4D(6)(a) (Commentary), 4D(6)(g) (Commentary), 4D(6)(i) (Commentary), 4H(3) (Commentary), 5, 5A (Commentary), 5B (Commentary), and 6D(1).

“Integrity” means probity, fairness, honesty, uprightness, and soundness of character. See Preamble, Canons 1, 1 (Commentary), 2A, 2 and 2A (Commentary), 2B (Commentary), 2C (Commentary), 3B(9) (Commentary), 3C(1), 3C(5), 4D(6)(a) (Commentary), 4D(6)(b) (Commentary), 4D(6)(g) (Commentary), 4D(6)(i) (Commentary), 4H (Commentary), 5, 5A (Commentary), 5B (Commentary), and 6D(1).

“Knowingly,” “knowledge,” “known,” and “knows” mean actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances. See Canons 2B(2)(b), 2B(2)(e), 2C (Commentary), 3B(2) (Commentary), 3B(7)(a), 3B(7)(a) (Commentary), 3D(2), 3D(5), 3E(5)(f), 5B(1)(b), 6D(3)(a)(i), 6D(3)(a) (Commentary), 6D(4) (Commentary), and 6D(5)(a).

➤ **CJEO Annotation:**

Appellate Presiding Judges have an affirmative obligation under canon 3D(2) to take appropriate corrective actions if they have personal knowledge of facts that constitute attorney misconduct. [CJEO Oral Advice Summary 2018-024](#), *Reporting Misconduct by a Superior Court Research Attorney in a Pending Matter*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 3-4.

“Law” means constitutional provisions, statutes, court rules, and decisional law. See Canons 1 (Commentary), 2A, 2C (Commentary), 3A, 3B(2), 3B(7), 3B(7)(c), 3B(8), 3B(8) (Commentary), 3B(12) (Commentary), 3E(1), 4C(3)(c) (Commentary), 4F, and 4H.

➤ **CJEO Annotation:**

Effective July 10, 2017, judges may again accept compensation for performing marriages on weekends or holidays. The inconsistency with the Code of Judicial Ethics and Penal Code section 94.5, as discussed in this oral advice summary, was eliminated. [CJEO Oral Advice Summary 2016-019](#), *Accepting Compensation for Performing a Marriage After January 1, 2017*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

“Law, the legal system, or the administration of justice.” When a judge engages in an activity that relates to the law, the legal system, or the administration of justice, the judge should also consider factors such as whether the activity upholds the integrity, impartiality, and independence of the judiciary (Canons 1 and 2A), whether the activity impairs public confidence in the judiciary (Canon 2), whether the judge is allowing the activity to take precedence over judicial duties (Canon 3A), and whether engaging in the activity would cause the judge to be disqualified (Canon 4A(4)). See Canons 4B (Commentary), 4C(1), 4C(1) (Commentary), 4C(2), 4C(2) (Commentary), 4C(3)(a), 4C(3)(b) (Commentary), 4C(3)(d)(ii), 4C(3)(d) (Commentary), 4D(6)(d), 4D(6)(e), 5A (Commentary), 5D, and 5D (Commentary).

➤ **CJEO Annotation:**

When analyzing whether serving as a member of an organization or government agency is permissible, judges must determine whether service falls within the meaning of the phrase, “the law, the legal system, or the administration of justice,” which is not defined with specificity in the code but requires consideration of other code obligations. Judicial engagement in substantive policy matters may fall within the law, the legal system, or the administration of justice if the primary focus is to benefit the court system and its users rather than favoring partisan causes or groups. [CJEO Expedited Opinion 2021-043](#), *Service on the California Access to Justice Commission or Child Welfare Council*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 6-7.

The code does not precisely define the law, the legal system, or the administration of justice, and an overly broad interpretation could sweep nearly any sociopolitical topic within its ambit. Judges must therefore exercise caution to ensure that public statements directly relate to the law, the legal system, or the administration of justice rather than their personal social or political views. [CJEO Expedited Opinion 2021-042](#), *Social Media Posts About the Law, the Legal System, or the Administration of Justice*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 7.

The phrase “the law, the legal system, or the administration of justice” is not defined with specificity in the code and requires a careful analysis of the facts. [CJEO Expedited](#)

[Opinion 2021-041](#), *Service on a Governmental Task Force*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 3-4.

Activities falling within the scope of “the law, the legal system, or the administration of justice” are those addressing the legal process. Comment and consultation about substantive legal issues, where the purpose is to benefit the law and legal system itself rather than any particular cause or group, would fall within the permissible scope of the term. [CJEO Formal Opinion 2014-006](#), *Judicial Comment at Public Hearings and Consultation with Public Officials and Other Branches of Government*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 7.

“Member of the judge’s family” means a spouse, registered domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Canons 2B(3)(c), 2B (Commentary), 4C(3)(d)(i), 4D(1) (Commentary), 4D(2), 4D(5) (Commentary), 4E(1), and 4G (Commentary).

“Member of the judge’s family residing in the judge’s household” means a spouse or registered domestic partner and those persons who reside in the judge’s household and who are relatives of the judge, including relatives by marriage or persons with whom the judge maintains a close familial relationship. See Canons 4D(5), 4D(5) (Commentary), 4D(6), 4D(6)(b) (Commentary), 4D(6)(f) and 6D(2)(c).

“Nonpublic information” means information that, by law, is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute or court order, impounded, or communicated in camera, and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports. Nonpublic information also includes information from affidavits, jury results, or court rulings before it becomes public information. See Canons 3B(11) and 6D(8)(a).

“Pending proceeding” is a proceeding or matter that has commenced. A proceeding continues to be pending through any period during which an appeal may be filed and any appellate process until final disposition. The words “proceeding” and “matter” are used interchangeably, and are intended to have the same meaning. See Canons 2 and 2A (Commentary), 2B(3)(a), 3B(7), 3B(9), 3B(9) (Commentary), 3E(5)(a), 4H (Commentary), and 6D(6). “Impending proceeding” is defined above.

➤ **CJEO Annotation:**

Communication between an appellate presiding justice and a superior court presiding judge regarding a superior court research attorney’s misconduct in a matter is an impermissible ex parte communication pursuant to canon 3B(7) so long as there is still time to file a writ of certiorari. [CJEO Oral Advice Summary 2018-024](#), *Reporting*

Misconduct by a Superior Court Research Attorney in a Pending Matter, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

“Political organization” means a political party, political action committee, or other group, the principal purpose of which is to further the election or appointment of candidates to nonjudicial office. See Canon 5A.

“Registered domestic partner” means a person who has registered for domestic partnership pursuant to state law or who is recognized as a domestic partner pursuant to Family Code section 299.2. See Canons 3E(5)(d), 3E(5)(e), 3E(5)(i), 4D(6)(d), 4D(6)(f), 4D(6)(j), 4H(2), 5A (Commentary), 6D(3)(a)(v), and 6D(3)(a)(vi).

“Require.” Any canon prescribing that a judge “require” certain conduct of others means that a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge’s direction and control. See Canons 3B(3), 3B(4), 3B(6), 3B(8) (Commentary), 3B(9), 3C(3), 6D(1), 6D(2)(a), and 6D(6).

“Service organization” includes any organization commonly referred to as a “fraternal organization.” See Canons 3E(5)(d), 4C(2) (Commentary), 4C(3)(b), 4C(3)(b) (Commentary), 4C(3)(d) (Commentary), 4D(6)(j), and 6D(2)(b).

“Subordinate judicial officer.” A subordinate judicial officer is, for the purposes of this code, a person appointed pursuant to article VI, section 22 of the California Constitution, including, but not limited to, a commissioner, referee, and hearing officer. See Canons 3D(3), 4G (Commentary), and 6A.

“Temporary Judge” means an active or inactive member of the bar who, pursuant to article VI, section 21 of the California Constitution, serves or expects to serve as a judge once, sporadically, or regularly on a part-time basis under a separate court appointment for each period of service or for each case heard. See Canons 3E(5)(h), 4C(3)(d)(i), 4C(3)(d) (Commentary), 6A, and 6D.

“Third degree of relationship” includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece. See Canons 3E(5)(e), 3E(5)(i), and 6D(3)(a)(v).

➤ **CJEO Historical Note:**

Terminology amended effective October 10, 2018; previously amended effective January 21, 2016, January 1, 2015, January 1, 2013, January 1, 2008, and January 1, 2007; adopted effective January 15, 1996.

CANON 1

A JUDGE SHALL UPHOLD THE INTEGRITY* AND INDEPENDENCE* OF THE JUDICIARY

An independent, impartial,* and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity* and independence* of the judiciary is preserved. The provisions of this code are to be construed and applied to further that objective. A judicial decision or administrative act later determined to be incorrect legally is not itself a violation of this code.

ADVISORY COMMITTEE COMMENTARY: Canon 1

Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence* of judges. The integrity* and independence* of judges depend in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law* and the provisions of this code. Public confidence in the impartiality* of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violations of this code diminish public confidence in the judiciary and thereby do injury to the system of government under law.*

The basic function of an independent, impartial, and honorable judiciary is to maintain the utmost integrity* in decisionmaking, and this code should be read and interpreted with that function in mind.*

➤ **CJEO Historical Notes:**

Commentary following canon 1 adopted effective January 15, 1996.

Canon 1 amended effective August 19, 2015; previously amended effective January 1, 2013; adopted effective January 15, 1996.

➤ **CJEO Annotations:**

Before attending or otherwise participating in a public demonstration or rally, or making a public statement on matters of public concern, judges should examine whether their conduct promotes the public's confidence in judicial impartiality. [CJEO Formal Opinion 2020-014](#), *Judicial Participation in Public Demonstrations and Rallies*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

A judge should disclose if the judge's spouse is engaged in campaign services to reelect the head of a government legal office when attorneys from that office appear. Disclosure should continue while the spouse provides such services and for a reasonable period of time after the spouse's services end or after the last payment related to the services is received, whichever is later. [CJEO Informal Opinion Summary 2018-005](#), *Disqualification for Spouse's Political Campaign Services*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 3, 8.

A judicial officer may not serve on an advisory council of a nonprofit credit union.
[CJEO Oral Advice Summary 2017-020](#), *Judicial Service on a Nonprofit Credit Union
Advisory Council*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

CANON 2

A JUDGE SHALL AVOID IMPROPRIETY* AND THE APPEARANCE OF IMPROPRIETY* IN ALL OF THE JUDGE'S ACTIVITIES

A. Promoting Public Confidence

A judge shall respect and comply with the law* and shall act at all times in a manner that promotes public confidence in the integrity* and impartiality* of the judiciary. A judge shall not make statements, whether public or nonpublic, that commit the judge with respect to cases, controversies, or issues that are likely to come before the courts or that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

ADVISORY COMMITTEE COMMENTARY: Canons 2 and 2A

Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges.

A judge must avoid all impropriety and appearance of impropriety.* A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by other members of the community and should do so freely and willingly.*

A judge must exercise caution when engaging in any type of electronic communication, including communication by text or email, or when participating in online social networking sites or otherwise posting material on the Internet, given the accessibility, widespread transmission, and permanence of electronic communications and material posted on the Internet. The same canons that govern a judge's ability to socialize and communicate in person, on paper, or over the telephone apply to electronic communications, including use of the Internet and social networking sites. These canons include, but are not limited to, Canons 2B(2) (lending the prestige of judicial office), 3B(7) (ex parte communications), 3B(9) (public comment about pending or impending proceedings*), 3E(2) (disclosure of information relevant to disqualification), and 4A (conducting extrajudicial activities to avoid casting doubt on the judge's capacity to act impartially,* demeaning the judicial office, or frequent disqualification).*

The prohibition against behaving with impropriety or the appearance of impropriety* applies to both the professional and personal conduct of a judge.*

The test for the appearance of impropriety is whether a person aware of the facts might reasonably entertain a doubt that the judge would be able to act with integrity,* impartiality,* and competence.*

As to membership in organizations that practice invidious discrimination, see Commentary under Canon 2C.

As to judges making statements that commit the judge with respect to cases, controversies, or issues that are likely to come before the courts, see Canon 3B(9) and its commentary concerning comments about a pending proceeding, Canon 3E(3)(a) concerning the disqualification of a judge who makes statements that commit the judge to a particular result, and Canon 5B(1)(a) concerning statements made during an election campaign that commit the candidate to a particular result. In addition, Code of Civil Procedure section 170.2, subdivision (b), provides that, with certain exceptions, a judge is not disqualified on the ground that the*

judge has, in any capacity, expressed a view on a legal or factual issue presented in the proceeding before the judge.

➤ **CJEO Historical Notes:**

Commentary following canons and 2A amended effective October 10, 2018; previously amended effective January 1, 2013; adopted effective January 15, 1996.

Canon 2A amended effective January 1, 2013; adopted effective January 15, 1996.

➤ **CJEO Annotations:**

Judicial use of social media is governed by the same ethical rules that govern judicial conduct in any other setting. The code instructs judges to use caution in online communications due to lack of control over dissemination or permanence of statements. Judges must be mindful of how the public may perceive social media activity and refrain from any online statements or communications that call into question the impartiality of the judiciary. A judge's online statements and social media posts are particularly likely to draw heightened attention when a judge is engaging in discourse on controversial subjects or current events. Thus, judges must assume that any statements they make on social media are public statements, potentially subject to scrutiny, and use discretion and heightened caution when online. [CJEO Expedited Opinion 2021-042](#), *Social Media Posts About the Law, the Legal System, or the Administration of Justice*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-4, 6.

Service on a county task force created to address hate crimes with a broad-based agenda would not promote public confidence in the impartiality of the judiciary because it is not reasonable to expect the judge limit participation when the task force activities concern matters beyond the law. Nor is it reasonable to expect members of the public to make the distinction between permissible and impermissible activities, even if a judge could limit involvement. A judge may assist the task force in ways other than serving as a member. [CJEO Expedited Opinion 2021-041](#), *Service on a Governmental Task Force*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 5-6.

Before attending a public demonstration or rally, or making a public statement on matters of public concern, judges should examine whether a person aware of their presence at the event might reasonably entertain a doubt about the judge's impartiality or might interpret the judge's presence as an endorsement of a political candidate or cause. Judges should also consider whether it is reasonably foreseeable that their attendance might result in a violation of a law such as a curfew. When attending judges should avoid engaging in symbolic gestures or wearing apparel likely to be seen as one-sided statements that may call into question their impartiality. Speaking at a demonstration or rally on a topic likely to come before the courts in a way that commits a judge to taking a position is prohibited. [CJEO Formal Opinion 2020-014](#), *Judicial Participation in Public Demonstrations and Rallies*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 5-13.

Judges may speak about and teach legal subject matters through specialty bar associations but must avoid creating an appearance of bias and avoid an appearance that the specialty bar association is in a special position to influence the judge. [CJEO Formal Opinion 2018-012](#), *Providing Educational Presentations at Specialty Bar Events*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 6-10.

When soliciting attorney assistance regarding the court budget, judges should avoid any suggestion of advantage or favor. [CJEO Formal Opinion 2013-001](#), *Requesting Assistance from Attorneys*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 6.

Factors for judges to consider when meeting with attorneys or requesting assistance include whether the invitations might (1) convey impropriety or the appearance of impropriety, (2) convey an impression of favor or influence, or (3) reasonably lead to disqualification. [CJEO Formal Opinion 2013-001](#), *Requesting Assistance from Attorneys*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 6.

A judge should disclose if the judge's spouse is engaged in campaign services to reelect the head of a government legal office when attorneys from that office appear. Disclosure should continue while the spouse provides such services and for a reasonable period of time after the spouse's services end or after the last payment related to the services is received, whichever is later. [CJEO Informal Opinion Summary 2018-005](#), *Disqualification for Spouse's Political Campaign Services*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 3, 8.

Appellate justices must exercise reasonable direction and control over the conduct of their staff to prevent them from making public comments that would violate the canons. When a justice becomes aware that a staff member has used social media to post a comment that violates the canons, the justice should immediately take steps to remedy the violation. [CJEO Oral Advice Summary 2020-037](#), *Judicial Obligations Relating to Social Media Comments by Appellate Staff*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

A judicial officer may not serve on an advisory council of a nonprofit credit union. [CJEO Oral Advice Summary 2017-020](#), *Judicial Service on a Nonprofit Credit Union Advisory Council*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2, 4.

Effective July 10, 2017, judges may again accept compensation for performing marriages on weekends or holidays. The inconsistency with the Code of Judicial Ethics and Penal Code section 94.5, as discussed in this oral advice summary, was eliminated. [CJEO Oral Advice Summary 2016-019](#), *Accepting Compensation for Performing a Marriage After January 1, 2017*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

While judges must avoid activities that might convey an appearance of bias, a person aware of the fact that a judge was performing an official function of office, such as administering an oath, would not entertain doubt as to impartiality. [CJEO Oral Advice](#)

[Summary 2016-018](#), *Administering the Oath of Office to a Recently Elected District Attorney*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 1-2.

Presiding justices may invite attorneys to speak on law-related topics at a legal education program for the justices of the appellate district court where the attorneys practice, so long as precautions are taken to avoid the appearance of favor or influence. [CJEO Oral Advice Summary 2015-012](#), *Inviting Attorneys to Provide Legal Education to Appellate Justices*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 1-2.

Service by an appellate justice as a court appointed prison compliance officer in a federal court matter is not prohibited because a person aware of the federal court appointment would not have reason to doubt the justice's impartiality or independence in state appellate matters generally. [CJEO Oral Advice Summary 2015-010](#), *Service by an Appellate Justice as a Compliance Officer in Pending Federal Proceedings*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

B. Use of the Prestige of Judicial Office

(1) A judge shall not allow family, social, political, or other relationships to influence the judge's judicial conduct or judgment, nor shall a judge convey or permit others to convey the impression that any individual is in a special position to influence the judge.

➤ **CJEO Annotations:**

Judges should carefully consider whether online friendships or participation in certain online groups or forums suggest that they have allowed family, social, political, other relationships to influence their judgement or convey the impression that anyone is in a special position to influence them. [CJEO Expedited Opinion 2021-042](#), *Social Media Posts About the Law, the Legal System, or the Administration of Justice*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 4-5.

Judges may speak about and teach legal subject matters through specialty bar associations but must avoid creating an appearance of bias and avoid an appearance that the specialty bar association is in a special position to influence the judge. A judge should request to review promotional materials related to an educational presentation and if the judge is aware that the promotional materials create an appearance of bias or lend the prestige of judicial office to advance the interests of the specialty bar association, the judge has a duty to take corrective action. [CJEO Formal Opinion 2018-012](#), *Providing Educational Presentations at Specialty Bar Events*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 6-11.

A judge may meet with private vendors, including private vendors providing remote alcohol monitoring services to parties under court order, if such meetings are authorized by law, would aid the judge in discharging administrative responsibilities, and would not

violate the Code of Judicial Ethics by creating a conflict of interest, conveying influence or favoritism, advancing the pecuniary interests of others, or involving the judge in business relationships with potential litigants. Judges should, where possible, enlist the assistance of court administrative staff to ensure compliance with administrative rules and public contracting laws, guarantee impartiality and avoid the appearance of improper use of judicial office to advance the pecuniary interests of the vendors. [CJEO Formal Opinion 2017-09](#), *Judges Meeting with Vendors*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 7, 11-12, 14-15.

A judge should disclose if the judge's spouse is engaged in campaign services to reelect the head of a government legal office when attorneys from that office appear. Disclosure should continue while the spouse provides such services and for a reasonable period of time after the spouse's services end or after the last payment related to the services is received, whichever is later. [CJEO Informal Opinion Summary 2018-005](#), *Disqualification for Spouse's Political Campaign Services*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 3, 8.

When an intimate personal relationship develops between an appellate justice and an attorney assigned to his or her chambers, continued service by the attorney in the justice's chambers create the appearance of nepotism, favoritism, and impropriety. [CJEO Informal Opinion Summary 2012-001](#), *Employment of an Appellate Court Justice's Spouse as a Staff Attorney in that Justice's Chambers*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

(2) A judge shall not lend the prestige of judicial office or use the judicial title in any manner, including any oral or written communication, to advance the pecuniary or personal interests of the judge or others. This canon does not prohibit the following:

➤ **CJEO Annotations:**

Judges must ensure that online statements and social media posts do not lend judicial prestige to benefit anyone's personal or pecuniary interest. [CJEO Expedited Opinion 2021-042](#), *Social Media Posts About the Law, the Legal System, or the Administration of Justice*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 5.

An appellate justice may not accept the services of an attorney from a law firm because it would impermissibly lend the prestige of judicial office to advance the interests of the law firm. Allowing a law firm to place an incoming associate on a justice's staff, even temporarily, is likely to enhance the law firm's reputation and afford the law firm a favored position not enjoyed by its competitors. [CJEO Expedited Opinion 2021-038](#), *Acceptance of Attorney Services from a Law Firm*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-4.

Judges may speak about and teach legal subject matters through specialty bar associations but must avoid creating an appearance of bias and avoid an appearance that the specialty bar association is in a special position to influence the judge. A judge should request to review promotional materials related to an educational presentation and if the judge is aware that the promotional materials create an appearance of bias or lend the prestige of judicial office to advance the interests of the specialty bar association, the judge has a duty to take corrective action. [CJEO Formal Opinion 2018-012](#), *Providing Educational Presentations at Specialty Bar Events*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 6, 10-11.

A judge may meet with private vendors, including private vendors providing remote alcohol monitoring services to parties under court order, if such meetings are authorized by law, would aid the judge in discharging administrative responsibilities, and would not violate the California Code of Judicial Ethics by creating a conflict of interest, conveying influence or favoritism, advancing the pecuniary interests of others, or involving the judge in business relationships with potential litigants. Judges should, where possible, enlist the assistance of court administrative staff to ensure compliance with administrative rules and public contracting laws, guarantee impartiality and avoid the appearance of improper use of judicial office to advance the pecuniary interests of the vendors. [CJEO Formal Opinion 2017-09](#), *Judges Meeting with Vendors*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 7, 12-16.

When a judge's attendance at a partisan political fundraising event is known to the event organizers, the judge should request that he or she not be introduced to avoid improper use of judicial title. [CJEO Formal Opinion 2016-008](#), *Attending Political Fundraising or Endorsement Events*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 13.

A judge's volunteer work for a civics organization may not include accepting a legal advisory or advocacy position that would impermissibly lend title and prestige to the organization in court proceedings or otherwise create an appearance of impartiality. [CJEO Oral Advice Summary 2019-031](#) *Extrajudicial Service as a Rotary District Youth Protection Officer*, Cal. Supreme Ct., Com. Jud. Ethics Adv. Opns., p.4.

A judge may allow a civics organization to name an award given to a law student in honor of the judge, where no pecuniary interest or advantage flowed to the judge, the student, or the organization from the award. [CJEO Oral Advice Summary 2019-030](#), *Acceptance of a Private Testimonial Dinner and Honors*, Cal. Supreme Ct., Com. on Jud. Ethics Opns., p. 7.

A judicial officer may not serve on an advisory council of a nonprofit credit union. [CJEO Oral Advice Summary 2017-020](#), *Judicial Service on a Nonprofit Credit Union Advisory Council*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2, 4.

A scholarship may not be named in honor of a judge if it will be funded by donations solicited using judicial title. [CJEO Oral Advice Summary 2015-011](#), *Use of Judicial Title on a Scholarship Fund*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

(a) A judge may testify as a character witness, provided the judge does so only when subpoenaed.

(b) A judge may, without a subpoena, provide the Commission on Judicial Performance with a written communication containing (i) factual information regarding a matter pending before the commission or (ii) information related to the character of a judge who has a matter pending before the commission, provided that any such factual or character information is based on personal knowledge.* In commission proceedings, a judge shall provide information responsive to a subpoena or when officially requested to do so by the commission.

(c) A judge may provide factual information in State Bar disciplinary proceedings and shall provide information responsive to a subpoena or when officially requested to do so by the State Bar.

(d) A judge may respond to judicial selection inquiries, provide recommendations (including a general character reference relating to the evaluation of persons being considered for a judgeship), and otherwise participate in the process of judicial selection.

(e) A judge may serve as a reference or provide a letter of recommendation only if based on the judge's personal knowledge* of the individual. These written communications may include the judge's title and may be written on stationery that uses the judicial title.

➤ **CJEO Annotation:**

A judicial officer may sign a testimonial letter mailed directly to sitting federal and state judges using judicial letterhead to promote a national bar association program. [CJEO Oral Advice Summary 2014-004](#), *Use of a Testimonial Letter to Promote a National Bar Association Program*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

(3) Except as permitted in subdivision (c) or otherwise authorized by law* or these canons:

(a) A judge shall not advance the pecuniary or personal interests of the judge or others by initiating communications with a sentencing judge or a representative of a probation department about a proceeding pending* before the sentencing judge, but may provide information in response to an official request. "Sentencing judge" includes a judge who makes a disposition pursuant to Welfare and Institutions Code section 725.

(b) A judge, other than the judge who presided over the trial of or sentenced the person seeking parole, pardon, or commutation of sentence, shall not initiate communications with the Board of Parole Hearings regarding parole or the Office of the Governor regarding parole, pardon, or commutation of sentence, but may provide these entities with information for the record in response to an official request.

(c) A judge may initiate communications concerning a member of the judge's family* with a representative of a probation department regarding sentencing, the Board of Parole Hearings regarding parole, or the Office of the Governor regarding parole, pardon, or commutation of sentence, provided the judge is not identified as a judge in the communication.

ADVISORY COMMITTEE COMMENTARY: Canon 2B

A strong judicial branch, based on the prestige that comes from effective and ethical performance, is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. A judge should distinguish between proper and improper use of the prestige of office in all of his or her activities.

As to those communications that are permitted under this canon, a judge must keep in mind the general obligations to maintain high standards of conduct as set forth in Canon 1, and to avoid any impropriety or the appearance of impropriety* as set forth in Canon 2. A judge must also be mindful of Canon 2A, which requires a judge to act at all times in a manner that promotes public confidence in the integrity* and impartiality* of the courts.*

A judge must avoid lending the prestige of judicial office for the advancement of the private interests of the judge or others. For example, a judge must not use the judicial position to gain advantage in a civil suit involving a member of the judge's family, or use his or her position to gain deferential treatment when stopped by a police officer for a traffic offense.*

If a judge posts on social networking sites such as Facebook or crowdsourced sites such as Yelp or Trip Advisor, the judge may not lend the prestige of judicial office to advance the pecuniary or personal interests of the judge or others. For example, a judge may not comment on, recommend, or criticize businesses, products, or services on such sites if it is reasonably likely that the judge can be identified as a judge.

See canon 4C(3)(d)(iv) prohibiting the use of the prestige of judicial office for fundraising or membership solicitation, but allowing a judge to be a speaker, guest of honor, or recipient of an award for public or charitable service, provided the judge does not personally solicit funds and complies with Canons 4A (1), (2), (3), and (4).

As to the use of a judge's title to identify a judge's role in the presentation and creation of legal education programs and materials, see Commentary to Canon 4B. In contracts for publication of a judge's writings, a judge should retain control over the advertising, to the extent feasible, to avoid exploitation of the judge's office.

This canon does not afford a judge a privilege against testifying in response to any official summons.

See also Canons 3D(1) and 3D(2) concerning a judge's obligation to take appropriate corrective action regarding other judges who violate any provision of the Code of Judicial Ethics and attorneys who violate any provision of the Rules of Professional Conduct.

Except as set forth in Canon 2B(3)(a), this canon does not preclude consultations among judges. Additional limitations on such consultations among judges are set forth in Canon 3B(7)(a).

➤ **CJEO Historical Notes:**

Commentary following canon 2B amended effective July 1, 2020; previously amended effective January 21, 2015, January 1, 2013, January 1, 2007, and March 4, 1999; adopted effective January 15, 1996.

Canon 2B amended effective August 19, 2015; previously amended effective January 1, 2013 and January 1, 2008; adopted effective January 15, 1996.

C. Membership in Organizations

A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, gender identity,* gender expression,* religion, national origin, ethnicity, or sexual orientation.

This canon does not apply to membership in a religious organization.

ADVISORY COMMITTEE COMMENTARY: Canon 2C

Membership by a judge in an organization that practices invidious discrimination on the basis of race, sex, gender, gender identity, gender expression,* religion, national origin, ethnicity, or sexual orientation gives rise to a perception that the judge's impartiality* is impaired. The code prohibits such membership by judges to preserve the fairness, impartiality,* independence,* and honor of the judiciary, to treat all parties equally under the law,* and to avoid impropriety* and the appearance of impropriety.**

Previously, Canon 2C contained exceptions to this prohibition for membership in religious organizations, membership in an official military organization of the United States and, so long as membership did not violate Canon 4A, membership in a nonprofit youth organization. The exceptions for membership in an official military organization of the United States and nonprofit youth organizations have been eliminated as exceptions to the canon. The exception for membership in religious organizations has been preserved.

Canon 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather depends on how the organization selects members and other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex, gender, gender identity, gender expression,* national origin, ethnicity, or sexual orientation persons who would otherwise be admitted to membership.*

Although Canon 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, gender, gender identity, gender expression,* religion, national origin, ethnicity, or sexual orientation, a judge's membership in an organization that engages in any discriminatory membership practices prohibited by law* also violates Canon 2 and Canon 2A and gives the appearance of impropriety.* In addition, it would be a violation of Canon 2 and Canon 2A for a judge to arrange a meeting at a club that the judge knows**

practices such invidious discrimination or for the judge to use such a club regularly. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety* under Canon 2 and diminishes public confidence in the integrity* and impartiality* of the judiciary in violation of Canon 2A.*

➤ **CJEO Historical Notes:**

Commentary following canon 2C amended effective October 10, 2018; previously amended effective January 21, 2016, January 21, 2015, June 18, 2003, and March 4, 1999; adopted effective January 15, 1996.

Canon 2C amended effective October 10, 2018; previously amended effective January 21, 2016, January 1, 2013, and June 18, 2003; adopted effective January 15, 1996.

➤ **CJEO Annotations:**

Judges who are leaders of a Boy Scouts of America troop must investigate their troop's policies, practices, and values of common interest to determine whether their local troop practices invidious discrimination. [CJEO Oral Advice Summary 2015-014](#), *Judicial Membership in a Church-Sponsored Boy Scouts of America Troop*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

Membership in a Boy Scouts of America alumni group is permissible under the organization's policy prohibiting the denial of membership and employment on the basis of sexual orientation. [CJEO Oral Advice Summary 2015-013](#), *Judicial Membership in a Boy Scouts of America-Sponsored Eagle Scout Alumni Group*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

CANON 3

A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY,* COMPETENTLY, AND DILIGENTLY

A. Judicial Duties in General

All of the judicial duties prescribed by law* shall take precedence over all other activities of every judge. In the performance of these duties, the following standards apply.

➤ **CJEO Historical Note:**

Canon 3A adopted effective January 15, 1996.

➤ **CJEO Annotation:**

A judge may not attend a public demonstration or rally if doing so would interfere with the judge's official duties. [CJEO Formal Opinion 2020-014](#), *Judicial Participation in Public Demonstrations and Rallies*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 6-7.

A justice appointed by a federal court as a prison compliance officer in a federal case must continually assess appropriateness of the simultaneous service in light of time demands and potential for interference with judicial duties. [CJEO Oral Advice Summary 2015-010](#), *Service by an Appellate Justice as a Compliance Officer in Pending Federal Proceedings*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

B. Adjudicative Responsibilities

(1) A judge shall hear and decide all matters assigned to the judge except those in which he or she is disqualified.

ADVISORY COMMITTEE COMMENTARY: Canon 3B(1)

Canon 3B(1) is based upon the affirmative obligation contained in Code of Civil Procedure section 170.

➤ **CJEO Historical Note:**

Commentary following canon 3B(1) amended effective January 1, 2013; adopted effective January 15, 1996.

➤ **CJEO Annotations:**

A judge is obligated to hear and decide all matters unless the judge is disqualified, including those matters that are controversial and may subject the judge to public disapproval and criticism. [CJEO Informal Opinion Summary 2018-005](#), Disqualification for Spouse's Political Campaign Services, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 3.

While a judge has an ethical duty to hear all matters assigned unless disqualified, the question of whether a judge may work remotely during the COVID-19 pandemic is a matter left to presiding judges who are responsible for court management and administration. [CJEO Oral Advice Summary 2020-034](#), *Judges Working Remotely After Court Reopening During the COVID-19 Pandemic*, Cal. Supreme Ct., Com. on Jud. Ethics Opns., pp. 3-4.

(2) A judge shall be faithful to the law* regardless of partisan interests, public clamor, or fear of criticism, and shall maintain professional competence in the law.*

ADVISORY COMMITTEE COMMENTARY: Canon 3B(2)

Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office. Canon 1 provides that an incorrect legal ruling is not itself a violation of this code.*

➤ **CJEO Historical Note:**

Commentary following canon 3B(2) adopted effective January 1, 2013.

(3) A judge shall require* order and decorum in proceedings before the judge.

(4) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and shall require* similar conduct of lawyers and of all staff and court personnel under the judge's direction and control.

➤ **CJEO Annotation:**

Appellate justices must exercise reasonable direction and control over the conduct of their staff to prevent them from making public comments that would violate the canons. When a justice becomes aware that a staff member has used social media to post a comment that violates the canons, the justice should immediately take steps to remedy the violation. [CJEO Oral Advice Summary 2020-037](#), *Judicial Obligations Relating to Social Media Comments by Appellate Staff*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, engage in speech, gestures, or other conduct that would reasonably be perceived as (a) bias, prejudice, or harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, gender identity,* gender expression,* religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, or (b) sexual harassment.

(6) A judge shall require* lawyers in proceedings before the judge to refrain from (a) manifesting, by words or conduct, bias, prejudice, or harassment based upon race, sex, gender, gender identity,* gender expression,* religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, or (b) sexual harassment against parties, witnesses, counsel, or others. This canon does not preclude legitimate advocacy when race, sex, gender, gender identity,* gender expression,* religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, political affiliation, or other similar factors are issues in the proceeding.

(7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the full right to be heard according to law.* Unless otherwise authorized by law,* a judge shall not independently investigate facts in a proceeding and shall consider only the evidence presented or facts that may be properly judicially noticed. This prohibition extends to information available in all media, including electronic. A judge shall not initiate, permit, or consider ex parte communications, that is, any communications to or from the judge outside the presence of the parties concerning a pending* or impending* proceeding, and shall make reasonable efforts to avoid such communications, except as follows:

(a) Except as stated below, a judge may consult with other judges. A judge presiding over a case shall not engage in discussions about that case with a judge who has previously been disqualified from hearing that case; likewise, a judge who knows* he or she is or would be disqualified from hearing a case shall not discuss that matter with the judge assigned to the case. A judge also shall not engage in discussions with a judge who may participate in appellate review of the matter, nor shall a judge who may participate in appellate review of a matter engage in discussions with the judge presiding over the case.

A judge may consult with court personnel or others authorized by law,* as long as the communication relates to that person's duty to aid the judge in carrying out the judge's adjudicative responsibilities.

In any discussion with judges or court personnel, a judge shall make reasonable efforts to avoid receiving factual information that is not part of the record or an evaluation of that factual information. In such consultations, the judge shall not abrogate the responsibility personally to decide the matter.

For purposes of Canon 3B(7)(a), "court personnel" includes bailiffs, court reporters, court externs, research attorneys, courtroom clerks, and other employees of the court, but does not include the lawyers in a proceeding before a judge, persons who are appointed by the court to

serve in some capacity in a proceeding, or employees of other governmental entities, such as lawyers, social workers, or representatives of the probation department.

➤ **CJEO Annotations:**

A local rule allowing ex parte communications to determine good cause in non-domestic-violence emergency orders does not fall within any exception in the Code of Judicial Ethics if the ex parte communications are not specifically authorized by statute. [CJEO Formal Opinion 2014-004](#), *Judicial Screening of Ex Parte Applications for Non-Domestic-Violence Emergency Family Law Orders*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 9-11.

A matter remains pending within the meaning of the Code of Judicial Ethics if there is sufficient time for a party to petition the United States Supreme Court seeking review of the appellate decision. Therefore, it is an impermissible ex parte communication where an appellate presiding justice contacts a superior court presiding judge about a case while there is sufficient time for a party to file a writ of certiorari. [CJEO Oral Advice Summary 2018-024](#), *Reporting Misconduct by a Superior Court Research Attorney in a Pending Matter*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

ADVISORY COMMITTEE COMMENTARY: Canon 3B(7)(a)

Regarding communications between a judge presiding over a matter and a judge of a court with appellate jurisdiction over that matter, see Government Code section 68070.5.

Though a judge may have ex parte discussions with appropriate court personnel, a judge may do so only on matters that are within the proper performance of that person's duties. For example, a bailiff may inform the judge of a threat to the judge or to the safety and security of the courtroom, but may not tell the judge ex parte that a defendant was overheard making an incriminating statement during a court recess. A clerk may point out to the judge a technical defect in a proposed sentence, but may not suggest to the judge that a defendant deserves a certain sentence.

A sentencing judge may not consult ex parte with a representative of the probation department about a matter pending before the sentencing judge.

This canon prohibits a judge who is presiding over a case from discussing that case with another judge who has already been disqualified from hearing that case. A judge also must be careful not to talk to a judge whom the judge knows would be disqualified from hearing the matter.*

➤ **CJEO Historical Note:**

Commentary following canon 3B(7)(a) amended effective October 10, 2018; adopted effective January 1, 2013.

(b) A judge may initiate, permit, or consider ex parte communications, where circumstances require, for scheduling, administrative purposes, or emergencies that do not deal with substantive matters provided:

(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(c) A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law* to do so or when authorized to do so by stipulation of the parties.

(d) If a judge receives an unauthorized ex parte communication, the judge shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.

ADVISORY COMMITTEE COMMENTARY: Canon 3B(7)

An exception allowing a judge, under certain circumstances, to obtain the advice of a disinterested expert on the law has been eliminated from Canon 3B(7) because consulting with legal experts outside the presence of the parties is inconsistent with the core tenets of the adversarial system. Therefore, a judge shall not consult with legal experts outside the presence of the parties. Evidence Code section 730 provides for the appointment of an expert if a judge determines that expert testimony is necessary. A court may also invite the filing of amicus curiae briefs.*

An exception allowing a judge to confer with the parties separately in an effort to settle the matter before the judge has been moved from this canon to Canon 3B(12).

This canon does not prohibit court personnel from communicating scheduling information or carrying out similar administrative functions.

A judge is statutorily authorized to investigate and consult witnesses informally in small claims cases. Code of Civil Procedure section 116.520, subdivision (c).

➤ **CJEO Historical Note:**

Commentary following canon 3B(7) amended effective January 1, 2013, adopted effective March 4, 1999.

➤ **CJEO Annotations:**

In cases where the duty of oversight requires a supervising judge to communication with a trial judge about a party's complaint, the supervising judge should give careful consideration to whether it is necessary to refer to specific facts and circumstances that relate to a proceeding pending before the trial judge. Disclosure of such information by the supervising judge to the trial judge would constitute an ex parte communication. If discussion of a case currently before the trial judge is required, the supervising judge

should consider whether it would be appropriate and practicable to avoid an ex parte communication by delaying the discussion while the case proceeds to conclusion, and then resuming the inquiry with the trial judge when the case is no longer pending and no further proceedings before the trial judge are reasonably anticipated. [CJEO Formal Opinion 2020-015](#), *Supervising Judge's Duties When a Party Complains About a Judge in a Pending Matter*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 5.

(8) A judge shall dispose of all judicial matters fairly, promptly, and efficiently. A judge shall manage the courtroom in a manner that provides all litigants the opportunity to have their matters fairly adjudicated in accordance with the law.*

➤ **CJEO Annotations:**

Judges are permitted to work remotely on their judicial assignments as court administration and management allow during the COVID-19 pandemic. [CJEO Oral Advice Summary 2020-034](#), *Judges Working Remotely After Court Reopening During the COVID-19 Pandemic*, Cal. Supreme Ct., Com. on Jud. Ethics Opns., p. 4.

When considering whether witnesses may be ordered to remove a face mask during the COVID-19 pandemic, judges must consider their duty to ensure that litigants have their matters fairly adjudicated when resolving questions of law raised in individual matters and circumstances. [CJEO Oral Advice Summary 2020-032](#), *Judicial Obligations Regarding Witness Face Masks During the COVID-19 Pandemic*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 3.

ADVISORY COMMITTEE COMMENTARY: Canon 3B(8)

The obligation of a judge to dispose of matters promptly and efficiently must not take precedence over the judge's obligation to dispose of the matters fairly and with patience. For example, when a litigant is self-represented, a judge has the discretion to take reasonable steps, appropriate under the circumstances and consistent with the law and the canons, to enable the litigant to be heard. A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.*

Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to require that court officials, litigants, and their lawyers cooperate with the judge to those ends.*

➤ **CJEO Historical Note:**

Commentary following canon amended effective January 1, 2013; previously amended effective January 1, 2007; adopted effective January 15, 1996.

(9) A judge shall not make any public comment about a pending* or impending* proceeding in any court, and shall not make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require* similar abstention on the part of staff and court personnel subject to the judge's direction and control. This canon does not prohibit judges from making statements in the course of their official duties or from explaining the procedures of the court, and does not apply to proceedings in which the judge is a litigant in a personal capacity. In connection with a judicial election or recall campaign, this canon does not prohibit any judge from making a public comment about a pending* proceeding, provided (a) the comment would not reasonably be expected to affect the outcome or impair the fairness of the proceeding, and (b) the comment is about the procedural, factual, or legal basis of a decision about which a judge has been criticized during the election or recall campaign. Other than cases in which the judge has personally participated, this canon does not prohibit judges from discussing, in legal education programs and materials, cases and issues pending in appellate courts. This educational exemption does not apply to cases over which the judge has presided or to comments or discussions that might interfere with a fair hearing of the case.

ADVISORY COMMITTEE COMMENTARY: Canon 3B(9)

The requirement that judges abstain from public comment regarding a pending or impending* proceeding continues during any appellate process and until final disposition. A judge shall make reasonable efforts to ascertain whether a case is pending* or impending* before commenting on it. This canon does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity, but in cases such as a writ of mandamus where the judge is a litigant in an official capacity, the judge must not comment publicly.*

“Making statements in the course of their official duties” and “explaining the procedures of the court” include providing an official transcript or partial official transcript of a court proceeding open to the public and explaining the rules of court and procedures related to a decision rendered by a judge.

The provision allowing a judge to make a public comment about a pending decision that is the subject of criticism during an election campaign applies to all judicial elections, including recall elections. Depending on the circumstances, the judge should consider whether it may be preferable for a third party, rather than the judge, to respond or issue statements in connection with allegations concerning the decision. For purposes of this provision, a recall campaign begins when a judge is served with a notice of intention to circulate a recall petition (see Elec. Code, § 11006), and a judicial election campaign begins when a judge or candidate for judicial office* files a declaration of intention of candidacy for judicial office (see Elec. Code, § 8023).*

Although this canon does not prohibit a judge from commenting on cases that are not pending or impending* in any court, a judge must be cognizant of the general prohibition in Canon 2 against conduct involving impropriety* or the appearance of impropriety.* A judge should also be aware of the mandate in Canon 2A that a judge must act at all times in a manner that promotes public confidence in the integrity* and impartiality* of the judiciary. In addition, when commenting on a case pursuant to this canon, a judge must maintain the high standards of conduct, as set forth in Canon 1.*

Although a judge is permitted to make nonpublic comments about pending or impending* cases that will not substantially interfere with a fair trial or hearing, the judge*

should be cautious when making any such comments. There is always a risk that a comment can be misheard, misinterpreted, or repeated. A judge making such a comment must be mindful of the judge's obligation under Canon 2A to act at all times in a manner that promotes public confidence in the integrity and impartiality* of the judiciary. When a judge makes a nonpublic comment about a case pending* before that judge, the judge must keep an open mind and not form an opinion prematurely or create the appearance of having formed an opinion prematurely.*

➤ **CJEO Historical Note:**

Commentary following canon 3B(9) amended effective July 1, 2020; previously amended January 1, 2013, March 4, 1999; adopted effective January 15, 1996.

➤ **CJEO Annotations:**

A judge advising a close family member about law-related issues must be cautious not to violate the constitutional and code prohibitions on practicing law, and not to violate the prohibition against improper ex parte communications by commenting on pending or impending cases. [CJEO Formal Opinion 2021-017](#), *Providing Close Family Members with Advice that Implicates Legal Issues*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 12.

Judges must avoid demonstrations and rallies concerning current and future cases, and should not make any statement or symbolic reference at a demonstration or rally about a pending or impending proceeding. [CJEO Formal Opinion 2020-014](#), *Judicial Participation in Public Demonstrations and Rallies*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 8, 12.

Appellate justices must exercise reasonable direction and control over the conduct of their staff to prevent them from making public comments that would violate the canons. When a justice becomes aware that a staff member has used social media to post a comment that violates the canons, the justice should immediately take steps to remedy the violation. [CJEO Oral Advice Summary 2020-037](#), *Judicial Obligations Relating to Social Media Comments by Appellate Staff*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

Judges may speak about and teach legal subject matters through specialty bar associations but must avoid creating an appearance of bias and avoid an appearance that the specialty bar association is in a special position to influence the judge. A judge may discuss cases and issues pending in appellate courts as long as the judge did not preside over the case, the comments or discussions do not interfere with a fair hearing of the case, and the discussions are limited to legal education programs and materials. [CJEO Formal Opinion 2018-012](#), *Providing Educational Presentations at Specialty Bar Events*, p. 9.

In giving an interview under the public procedural exemption, a judge may comment on the procedures of a pending case but on not the substance of the matter. [CJEO Informal](#)

[Opinion Summary 2014-004](#), *Judicial Appearance in an Educational Documentary*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 9.

An interview to develop a personal profile of a judge that does not mention pending cases is permissible. [CJEO Informal Opinion Summary 2014-004](#), *Judicial Appearance in an Educational Documentary*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 10.

(10) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.

ADVISORY COMMITTEE COMMENTARY: Canon 3B(10)

Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case.*

➤ **CJEO Historical Note:**

Commentary following canon 3B(10) adopted effective January 15, 1996.

(11) A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information* acquired in a judicial capacity.

(12) A judge may participate in settlement conferences or in other efforts to resolve matters in dispute, including matters pending before the judge. A judge may, with the express consent of the parties or their lawyers, confer separately with the parties and/or their lawyers during such resolution efforts. At all times during such resolution efforts, a judge shall remain impartial* and shall not engage in conduct that may reasonably be perceived as coercive.

ADVISORY COMMITTEE COMMENTARY: Canon 3B(12)

*While the judge plays an important role in overseeing efforts to resolve disputes, including conducting settlement discussions, a judge should be careful that efforts to resolve disputes do not undermine any party's right to be heard according to law.**

The judge should keep in mind the effect that the judge's participation in dispute resolution efforts may have on the judge's impartiality or the appearance of impartiality* if the case remains with the judge for trial after resolution efforts are unsuccessful. Accordingly, a judge may wish to consider whether: (1) the parties or their counsel have requested or objected to the participation by the trial judge in such discussions; (2) the parties and their counsel are relatively sophisticated in legal matters or the particular legal issues involved in the case; (3) a party is unrepresented; (4) the case will be tried by the judge or a jury; (5) the parties will participate with their counsel in settlement discussions and, if so, the effect of personal contact between the judge and parties; and (6) it is appropriate during the settlement conference for the judge to express an opinion on the merits or worth of the case or express an opinion on the legal issues that the judge may later have to rule upon.*

If a judge assigned to preside over a trial believes participation in resolution efforts could influence the judge's decisionmaking during trial, the judge may decline to engage in such efforts.

Where dispute resolution efforts of any type are unsuccessful, the judge should consider whether, due to events that occurred during the resolution efforts, the judge may be disqualified under the law from presiding over the trial. See, e.g., Code of Civil Procedure section 170.1, subdivision (a)(6)(A).*

➤ **CJEO Historical Notes:**

Commentary following canon 3B(12) adopted effective January 1, 2013.

Canon 3B amended effective July 1, 2020; previously amended effective October 10, 2018, August 19, 2015, January 1, 2013, January 1, 2008, and December 22, 2003; adopted effective January 15, 1996.

C. Administrative Responsibilities

(1) A judge shall diligently discharge the judge's administrative responsibilities impartially,* on the basis of merit, without bias or prejudice, free of conflict of interest, and in a manner that promotes public confidence in the integrity* of the judiciary. A judge shall not, in the performance of administrative duties, engage in speech, gestures, or other conduct that would reasonably be perceived as (a) bias, prejudice, or harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, gender identity,* gender expression,* religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, or (b) sexual harassment.

ADVISORY COMMITTEE COMMENTARY: Canon 3C(1)

In considering what constitutes a conflict of interest under this canon, a judge should be informed by Code of Civil Procedure section 170.1, subdivision (a)(6).

➤ **CJEO Historical Note:**

Commentary following canon 3C(1) adopted effective April 29, 2009.

➤ **CJEO Annotations:**

A judge may meet with private vendors, including private vendors providing remote alcohol monitoring services to parties under court order, if such meetings are authorized by law, would aid the judge in discharging administrative responsibilities, and would not violate the Code of Judicial Ethics by creating a conflict of interest, conveying influence or favoritism, advancing the pecuniary interests of others, or involving the judge in business relationships with potential litigants. Judges should, where possible, enlist the

assistance of court administrative staff to ensure compliance with administrative rules and public contracting laws, guarantee impartiality and avoid the appearance of improper use of judicial office to advance the pecuniary interests of the vendors. [CJEO Formal Opinion 2017-09](#), *Judges Meeting with Vendors*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 6-7, 13-16.

A presiding justice may verify timesheets of another justice's chambers attorney for administrative convenience purposes, but not to relieve that justice of their administrative duties. [CJEO Informal Opinion Summary 2012-001](#), *Employment of an Appellate Court Justice's Spouse as a Staff Attorney in that Justice's Chambers*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 3.

(2) A judge shall maintain professional competence in judicial administration, and shall cooperate with other judges and court officials in the administration of court business.

➤ **CJEO Annotation:**

A judge may meet with private vendors, including private vendors providing remote alcohol monitoring services to parties under court order, if such meetings are authorized by law, would aid the judge in discharging administrative responsibilities, and would not violate the California Code of Judicial Ethics by creating a conflict of interest, conveying influence or favoritism, advancing the pecuniary interests of others, or involving the judge in business relationships with potential litigants. Judges should, where possible, enlist the assistance of court administrative staff to ensure compliance with administrative rules and public contracting laws, guarantee impartiality and avoid the appearance of improper use of judicial office to advance the pecuniary interests of the vendors. [CJEO Formal Opinion 2017-09](#), *Judges Meeting with Vendors*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 6-7, 13, 15.

(3) A judge shall require* staff and court personnel under the judge's direction and control to observe appropriate standards of conduct and to refrain from (a) manifesting bias, prejudice, or harassment based upon race, sex, gender, gender identity,* gender expression,* religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, or (b) sexual harassment in the performance of their official duties.

➤ **CJEO Annotations:**

Supervising judges should always take reasonable measures to review, investigate, and respond to a complaint about a judge in a way that is designed to take appropriate corrective action when the supervising judge determines that the information is reliable. [CJEO Formal Opinion 2020-015](#), *Supervising Judge's Duties When a Party Complains About a Judge in a Pending Matter*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 5.

Appellate justices must exercise reasonable direction and control over the conduct of their staff to prevent them from making public comments that would violate the canons. When a justice becomes aware that a staff member has used social media to post a comment that violates the canons, the justice should immediately take steps to remedy the violation. [CJEO Oral Advice Summary 2020-037](#), *Judicial Obligations Relating to Social Media Comments by Appellate Staff*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

(4) A judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to ensure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.

➤ **CJEO Annotations:**

Supervising judges are required to exercise proper oversight of the judicial officers they supervise, regardless of the size of their court or the way in which supervisory duties are delegated within the court. [CJEO Formal Opinion 2020-015](#), *Supervising Judge's Duties When a Party Complains About a Judge in a Pending Matter*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 5.

(5) A judge shall not make unnecessary court appointments. A judge shall exercise the power of appointment impartially,* on the basis of merit, without bias or prejudice, free of conflict of interest, and in a manner that promotes public confidence in the integrity* of the judiciary. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees above the reasonable value of services rendered.

ADVISORY COMMITTEE COMMENTARY: Canon 3C(5)

Appointees of a judge include assigned counsel and officials such as referees, commissioners, special masters, receivers, and guardians. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by Canon 3C(5).

➤ **CJEO Historical Notes:**

Commentary following canon 3C(5) amended effective January 1, 2013; adopted effective January 15, 1996.

Canon 3C amended effective October 10, 2018; previously amended effective August 19, 2015, January 1, 2013, April 29, 2009, and December 22, 2003; adopted effective January 15, 1996.

D. Disciplinary Responsibilities

(1) Whenever a judge has reliable information that another judge has violated any provision of the Code of Judicial Ethics, that judge shall take appropriate corrective action, which may include reporting the violation to the appropriate authority. (See Commentary to Canon 3D(2).)

(2) Whenever a judge has personal knowledge,* or concludes in a judicial decision, that a lawyer has committed misconduct or has violated any provision of the Rules of Professional Conduct, the judge shall take appropriate corrective action, which may include reporting the violation to the appropriate authority.

➤ **CJEO Annotation:**

An appellate presiding justice has an affirmative duty to take appropriate corrective action if the justice has personal knowledge that an attorney committed misconduct or violated any provision of the Rules of Professional Conduct. Appropriate corrective action may include reporting the attorney to the State Bar of California [CJEO Oral Advice Summary 2018-024](#), *Reporting Misconduct by a Superior Court Research Attorney in a Pending Matter*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 3-4.

ADVISORY COMMITTEE COMMENTARY: Canons 3D(1) and 3D(2)

Appropriate corrective action could include direct communication with the judge or lawyer who has committed the violation, writing about the misconduct in a judicial decision, or other direct action, such as a confidential referral to a judicial or lawyer assistance program, or a report of the violation to the presiding judge, appropriate authority, or other agency or body. Judges should note that in addition to the action required by Canon 3D(2), California law imposes additional mandatory reporting requirements to the State Bar on judges regarding lawyer misconduct. See Business and Professions Code sections 6086.7 and 6086.8, subdivision (a), and California Rules of Court, rules 10.609 and 10.1017.

“Appropriate authority” means the authority with responsibility for initiation of the disciplinary process with respect to a violation to be reported.

➤ **CJEO Historical Note:**

Commentary following canons 3D(1) and 3D(2) amended effective October 10, 2018; previously amended January 21, 2015, January 1, 2013 and March 4, 1999; adopted effective January 15, 1996.

(3) A judge shall promptly report in writing to the Commission on Judicial Performance when he or she is charged in court by misdemeanor citation, prosecutorial complaint, information, or indictment with any crime in the United States as specified below. Crimes that must be reported are: (1) all crimes, other than those that would be considered misdemeanors not involving moral turpitude or infractions under California law; and (2) all misdemeanors involving violence

(including assaults), the use or possession of controlled substances, the misuse of prescriptions, or the personal use or furnishing of alcohol. A judge also shall promptly report in writing upon conviction of such crimes.

If the judge is a retired judge serving in the Assigned Judges Program, he or she shall promptly report such information in writing to the Chief Justice rather than to the Commission on Judicial Performance. If the judge is a subordinate judicial officer,* he or she shall promptly report such information in writing to both the presiding judge of the court in which the subordinate judicial officer* sits and the Commission on Judicial Performance.

(4) A judge shall cooperate with judicial and lawyer disciplinary agencies.

ADVISORY COMMITTEE COMMENTARY: Canons 3D(3) and 3D(4)

See Government Code section 68725, which requires judges to cooperate with and give reasonable assistance and information to the Commission on Judicial Performance, and rule 104 of the Rules of the Commission on Judicial Performance, which requires a respondent judge to cooperate with the commission in all proceedings in accordance with section 68725.

➤ **CJEO Historical Note:**

Commentary following canons 3D(3) and 3D(4) adopted effective January 1, 2013.

(5) A judge shall not retaliate, directly or indirectly, against a person known* or suspected to have assisted or cooperated with an investigation of a judge or a lawyer.

➤ **CJEO Historical Note:**

Canon 3D amended effective August 19, 2015; previously amended effective January 1, 2013, January 1, 2008, March 4, 1999, and June 19, 1997; adopted effective January 15, 1996.

E. Disqualification and Disclosure

(1) A judge shall disqualify himself or herself in any proceeding in which disqualification is required by law.*

ADVISORY COMMITTEE COMMENTARY: Canon 3E(1)

The term “proceeding” as used in this canon encompasses prefilings judicial determinations. Thus, if a judge has a disqualifying interest in a matter, the judge is disqualified from taking any action in the matter, even if it predates the actual filing of a case, such as making a probable cause determination, signing a search or arrest warrant, setting bail, or ordering an own recognizance release. Interpreting “proceeding” to include prefilings judicial

determinations effectuates the intent of the canon because it assures the parties and the public of the integrity and fairness of the judicial process.*

➤ **CJEO Historical Note:**

Commentary following canon 3E(1) adopted effective December 1, 2016.

➤ **CJEO Annotations:**

Disqualification is not required under Civil Procedure Code section 107.1(a)(2) for a prior appearance as a deputy district attorney in a nonsubstantive matter without any active participation. [CJEO Formal Opinion 2015-007](#), *Disqualification for Prior Appearance as a Deputy District Attorney in a Nonsubstantive Matter*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 14.

In most instances, a judicial officer may decline to disqualify when the judge's spouse provides campaign services to reelect the head of a government legal office and attorneys from that office, but not the head of the office, appear as counsel in a proceeding. [CJEO Informal Opinion Summary 2018-005](#), *Disqualification for Spouse's Political Campaign Services*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 3-7.

Disqualification is not required under Civil Procedure Code section 170.1 if the judge's spouse's law firm's landlord is an attorney for a party in the matter. [CJEO Informal Opinion Summary 2012-002](#), *Assignment and Disqualification of a Judge When Counsel for a Party is the Landlord of the Law Firm That Employs the Judge's Spouse*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

Disqualification is required at a criminal arraignment if the judge previously served as the prosecutor and was actively involved in a prior conviction alleged as a strike for sentencing enhancement in the current matter. [CJEO Oral Advice Summary 2016-017](#), *Disqualification of a Prior Appearance as a Deputy District Attorney in Another Proceeding*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 3-5.

Disqualification is recommended for a superior court judge sitting as a pro tem appellate justice while under active consideration by the Governor for appointment to the Court of Appeal when asked to decide a habeas corpus matter in which the Governor's decision to affirm, modify, or reverse the parole board is at issue. [CJEO Oral Advice Summary 2016-016](#), *Disqualification of a Pro Tem Appellate Justice Under Active Consideration*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 3.

Disqualification is required under Civil Procedure Code section 170.1 if the judge's spouse is employed by the city or had a relationship with the city as a director, advisor or other active participant in city's affairs. [CJEO Oral Advice Summary 2013-001](#), *Disclosure When a Judge's Spouse Serves on a City Commission*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

(2) In all trial court proceedings, a judge shall disclose on the record as follows:

(a) Information relevant to disqualification. A judge shall disclose information that is reasonably relevant to the question of disqualification under Code of Civil Procedure section 170.1, even if the judge believes there is no actual basis for disqualification.

➤ **CJEO Annotations:**

In a proceeding lacking a court reporter or electronic recording, the judge is responsible for accurately documenting disclosures by making them part of the case file and orally stating them in open court. [CJEO Formal Opinion 2013-002](#), *Disclosure on the Record When There is No Court Reporter or Electronic Recording of the Proceedings*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 7-8.

A judge should disclose if the judge's spouse is engaged in campaign services to reelect the head of a government legal office when attorneys from that office, but not the head of the office, appear as counsel in a proceeding. Disclosure should occur while the spouse provides such services and for a reasonable period of time after the spouse's services end or after the last payment related to the services is received, whichever is later. [CJEO Informal Opinion Summary 2018-005](#), *Disqualification for Spouse's Political Campaign Services*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 3, 8.

A trial court judge who sits on assignment as a pro tempore justice of an appellate court is subject to the disqualification and disclosure obligations applicable to an appellate justice. While an appellate justice pro tempore, the judge is not required to disclose information that is relevant to the question of disqualification. [CJEO Oral Advice Summary 2018-025](#), *Disqualification and Disclosure Duties of a Trial Judge Assigned as an Appellate Justice*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 4-5.

A State Bar Court Review Department judge is not required to make disclosures because Review Department proceedings are not a trial court proceeding. [CJEO Oral Advice Summary 2018-022](#), *Disclosure Requirements for a State Bar Court Review Department Judge*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

Disclosure is required when a judge's spouse is an unpaid city utility commissioner and the matter before the judge involves the city. [CJEO Oral Advice Summary 2013-001](#), *Disclosure When a Judge's Spouse Serves on a City Commission*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

(b) Campaign contributions in trial court elections

(i) Information required to be disclosed

In any matter before a judge who is or was a candidate for judicial office* in a trial court election, the judge shall disclose any contribution or loan of \$100 or more from a party, individual lawyer, or law office or firm in that matter as required by this canon, even if the amount of the contribution or loan would not require disqualification. Such disclosure shall consist of the name of the contributor or lender, the amount of each contribution or loan, the cumulative amount of the contributor's contributions or lender's loans, and the date of each contribution or loan. The judge shall make reasonable efforts to obtain current information regarding contributions or loans received by his or her campaign and shall disclose the required information on the record.

➤ **CJEO Annotation:**

A trial court judge who sits on assignment as a pro tempore justice is under no obligation to disclose campaign contributions from several parties in the appellate matter that were less than the \$5,000 limit for appellate justices but that would require trial court disqualification. [CJEO Oral Advice Summary 2018-025](#), *Disqualification and Disclosure Duties of a Trial Judge Assigned as an Appellate Justice*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 4-5.

(ii) Manner of disclosure

The judge shall ensure that the required information is conveyed on the record to the parties and lawyers appearing in the matter before the judge. The judge has discretion to select the manner of disclosure, but the manner used shall avoid the appearance that the judge is soliciting campaign contributions.

(iii) Timing of disclosure

Disclosure shall be made at the earliest reasonable opportunity after receiving each contribution or loan. The duty commences no later than one week after receipt of the first contribution or loan, and continues for a period of two years after the candidate takes the oath of office, or two years from the date of the contribution or loan, whichever event is later.

ADVISORY COMMITTEE COMMENTARY: Canon 3E(2)(b)

Code of Civil Procedure section 170.1, subdivision (a)(9)(C) requires a judge to “disclose any contribution from a party or lawyer in a matter that is before the court that is required to be reported under subdivision (f) of Section 84211 of the Government Code, even if the amount would not require disqualification under this paragraph.” This statute further provides that the “manner of disclosure shall be the same as that provided in Canon 3E of the Code of Judicial Ethics.” Canon 3E(2)(b) sets forth the information the judge must disclose, the manner for making such disclosure, and the timing thereof.

“Contribution” includes monetary and in-kind contributions. See Cal. Code Regs., tit. 2, § 18215, subd. (b)(3). See generally Government Code section 84211, subdivision (f).

Disclosure of campaign contributions is intended to provide parties and lawyers appearing before a judge during and after a judicial campaign with easy access to information about campaign contributions that may not require disqualification but could be relevant to the question of disqualification of the judge. The judge is responsible for ensuring that the disclosure is conveyed to the parties and lawyers appearing in the matter. The canon provides that the judge has discretion to select the manner of making the disclosure. The appropriate manner of disclosure will depend on whether all of the parties and lawyers are present in court, whether it is more efficient or practicable given the court's calendar to make a written disclosure, and other relevant circumstances that may affect the ability of the parties and lawyers to access the required information. The following alternatives for disclosure are non-exclusive. If all parties are present in court, the judge may conclude that the most effective and efficient manner of providing disclosure is to state orally the required information on the record in open court. In the alternative, again if all parties are present in court, a judge may determine that it is more appropriate to state orally on the record in open court that parties and lawyers may obtain the required information at an easily accessible location in the courthouse, and provide an opportunity for the parties and lawyers to review the available information. Another alternative, particularly if all or some parties are not present in court, is that the judge may disclose the campaign contribution in a written minute order or in the official court minutes and notify the parties and the lawyers of the written disclosure. See California Supreme Court Committee on Judicial Ethics Opinions, CJEO Formal Opinion No. 2013-002, pp. 7-8. If a party appearing in a matter before the judge is represented by a lawyer, it is sufficient to make the disclosure to the lawyer.

In addition to the disclosure obligations set forth in Canon 3E(2)(b), a judge must, pursuant to Canon 3E(2)(a), disclose on the record any other information that may be relevant to the question of disqualification. As examples, such an obligation may arise as a result of contributions or loans of which the judge is aware made by a party, lawyer, or law office or firm appearing before the judge to a third party in support of the judge or in opposition to the judge's opponent; a party, lawyer, or law office or firm's relationship to the judge or role in the campaign; or the aggregate contributions or loans from lawyers in one law office or firm.

Canon 3E(2)(b) does not eliminate the obligation of the judge to recuse himself or herself where the nature of the contribution or loan, the extent of the contributor's or lender's involvement in the judicial campaign, the relationship of the contributor or lender, or other circumstance requires recusal under Code of Civil Procedure section 170.1, and particularly section 170.1, subdivision (a)(6)(A).

➤ **CJEO Historical Note:**

Commentary following canon 3E(2)(b) adopted effective January 1, 2013.

➤ **CJEO Annotation:**

A trial court judge must disclose campaign contributions of \$100 or more from a party, lawyer, or law office or firm in a matter before the judge, or from a witness or other person whose credibility the judge will evaluate. A judge should also disclose smaller contributions and other campaign-related assistance to maintain an appearance of impartiality. Disclosure must include

the contributor's or lender's name, the amount and date of each contribution or loan, and the cumulative amount of the contributions or loans. The disclosure must be made on the record and should not create an appearance that the judge is soliciting campaign contributions. The judge should start making this disclosure no later than one week after the judge receives the first campaign contribution and continues disclosing for at least two years after the judge is sworn in or receives the last contribution, whichever is later. [CJEO Formal Opinion 2019-013](#), *Disclosure of Campaign Contributions by Trial Court Judges*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp.8-17.

(3) A judge shall disqualify himself or herself in accordance with the following:

(a) Statements that commit the judge to a particular result

A judge is disqualified if the judge, while a judge or candidate for judicial office,* made a statement, other than in a court proceeding, judicial decision, or opinion, that a person aware of the facts might reasonably believe commits the judge to reach a particular result or rule in a particular way in a proceeding.

(b) Bond ownership

Ownership of a corporate bond issued by a party to a proceeding and having a fair market value exceeding \$1,500 is disqualifying. Ownership of a government bond issued by a party to a proceeding is disqualifying only if the outcome of the proceeding could substantially affect the value of the judge's bond. Ownership in a mutual or common investment fund that holds bonds is not a disqualifying financial interest.

ADVISORY COMMITTEE COMMENTARY: Canon 3E(3)(b)

The distinction between corporate and government bonds is consistent with the Political Reform Act (see Gov. Code, § 82034), which requires disclosure of corporate bonds, but not government bonds. Canon 3E(3) is intended to assist judges in complying with Code of Civil Procedure section 170.1, subdivision (a)(3) and Canon 3E(5)(d).

➤ **CJEO Historical Note:**

Commentary following canon 3E(3)(b) adopted effective January 1, 2013.

(4) An appellate justice shall disqualify himself or herself in any proceeding if for any reason:

(a) the justice believes his or her recusal would further the interests of justice; or

(b) the justice substantially doubts his or her capacity to be impartial;* or

(c) the circumstances are such that a reasonable person aware of the facts would doubt the justice's ability to be impartial.*

➤ **CJEO Annotations:**

The risk that a judge would undermine the purpose of the prohibition against practicing law is reduced when providing law-related advice to a close family member because judges are generally disqualified when a close family member is a party. Because the constitutional and code prohibitions on practicing law apply to all judicial conduct and are not limited to presiding over case matters, disqualification alone does not make advice that constitutes the practice of law otherwise permissible. [CJEO Formal Opinion 2021-017](#), *Providing Close Family Members with Advice that Implicates Legal Issues*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 9 at footnote 5.

A person aware of a justice's university teaching in an undergraduate law-related course and in a clinical program at a university's law school would not reasonably doubt the justice's impartiality, absent a substantive relationship between the two. [CJEO Informal Opinion Summary 2012-003](#), *Disqualification and Disclosure: University Representation of a Party in a Matter Before a Justice Employed by the University*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 1-2.

An appellate justice's prior service as a nonvoting Judicial Council member and as a voting member of the council's Rules Committee, standing alone, would not require the justice to disqualify from matters involving emergency rules approved by the Judicial Council. However, in matters naming the Judicial Council as a party, the justice should disqualify because a person aware of the justice's membership in a named party would have reason to doubt the justice's impartiality when that party's actions are challenged. [CJEO Oral Advice Summary 2020-036](#), *Appellate Disqualification for Judicial Council Service in Matters Challenging COVID-19 Emergency Rules and Orders*, Cal. Supreme Ct., Com. Jud. Ethics. Opns., pp. 3-6.

A person aware that an appellate justice had been disqualified as trial court judge in a matter by a peremptory challenge would reasonably doubt the justice's ability to be impartial on appellate review of the same matter. [CJEO Oral Advice Summary 2020-035](#), *Appellate Disqualification for a Peremptory Challenge as a Trial Judge in the Matter*, Cal. Supreme Ct., Com. Jud. Ethics. Opns., p. 2.

Facts relevant to whether an appellate justice's participation in trial court cases would cause a reasonable person to doubt impartiality are: (1) rulings on contested issues of law or facts relevant to the appeal; (2) a ruling that is referenced or implicated in the appeal; (3) a ruling on the case in chief or affirmative defenses; (4) a procedural ruling that substantially affected the outcome; or (5) a ruling about which a claim of error is raised on appeal. Reasonable doubt about a justice's ability to be impartial would not arise when the justice did not actively participate in adjudication of appellate issues. [CJEO](#)

[Oral Advice Summary 2019-029](#), *Appellate Disqualifications for Prior Assignment as Coordinated Proceedings Judge*, Cal. Supreme Ct. Com. Jud. Ethics Opns., pp. 5-6.

A trial court judge who sits on assignment as a pro tempore justice of an appellate court is subject to the disqualification obligations applicable to an appellate justice and must make a discretionary decision whether to disqualify in the assigned matter. The judge must consider whether a reasonable person aware of (1) campaign contributions made to the judge from parties to the action, (2) the judge's membership in an organization devoted to the law, the legal system, and the administration of justice, which includes parties to the appellate matter as other members of the organization, or (3) any other circumstances related to the judge's campaign or the judge's membership in an organization might doubt the judge's impartiality. [CJEO Oral Advice Summary 2018-025](#), *Disqualification and Disclosure Duties of a Trial Judge Assigned as an Appellate Justice*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 5-6.

A person would not have reasonable doubt as to an appellate justice's impartiality where the justice is acquainted with leading members of an association that has filed an amicus curiae brief in a matter being heard by the justice, where the acquaintance was limited to greetings at events and lunches and occurred over two years ago. [CJEO Oral Advice Summary 2017-021](#), *Disqualification for Acquaintance with Leaders of an Amicus Curiae*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

A person aware of a superior court judge sitting as a pro tem appellate justice under active consideration by the governor for appointment to the Court of Appeal would likely doubt the justice's ability to be impartial when reviewing matters involving the governor's parole decisions. [CJEO Oral Advice Summary 2015-016](#), *Disqualification of a Pro Tem Appellate Justice Under Active Consideration*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 3.

A presiding judge has no authority to disqualify an entire local bench in a matter because judges must decide for themselves whether disqualification is required. [CJEO Oral Advice Summary 2015-015](#), *Full Bench Disqualification*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

A person aware of a women's bar association's mission and membership would not reasonably doubt a judicial member's ability to be impartial towards female litigants. [CJEO Oral Advice Summary 2014-006](#), *Disqualification for Membership in a Specialty Women's Bar Association*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

A person aware of a justice's university teaching in an undergraduate law-related course and a clinical program at a university's law school would not reasonably doubt a justice's impartiality, absent a substantive relationship between the two]. [CJEO Oral Advice Summary 2014-005](#), *Disqualification for Membership in an Amicus Curiae*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 3.

(5) Disqualification of an appellate justice is also required in the following instances:

(a) The appellate justice has served as a lawyer in the pending* proceeding, or has served as a lawyer in any other proceeding involving any of the same parties if that other proceeding related to the same contested issues of fact and law as the present proceeding, or has given advice to any party in the present proceeding upon any issue involved in the proceeding.

➤ **CJEO Annotation:**

An appellate justice's prior service as a nonvoting Judicial Council member and as a voting member of the council's Rules Committee, standing alone, would not require the justice to disqualify from matters involving emergency rules approved by the Judicial Council. However, in matters naming the Judicial Council as a party, the justice should disqualify because a person aware of the justice's membership in a named party would have reason to doubt the justice's impartiality when that party's actions are challenged. [CJEO Oral Advice Summary 2020-036](#), *Appellate Disqualification For Judicial Council Service in Matters Challenging COVID-19 Emergency Rules and Orders*, Cal. Supreme Ct., Com. Jud. Ethics. Opns., pp. 3-6.

ADVISORY COMMITTEE COMMENTARY: Canon 3E(5)(a)

Canon 3E(5)(a) is consistent with Code of Civil Procedure section 170.1, subdivision (a)(2), which addresses disqualification of trial court judges based on prior representation of a party in the proceeding.

➤ **CJEO Historical Note:**

Commentary following canon 3E(5)(a) adopted effective January 1, 2013.

(b) Within the last two years, (i) a party to the proceeding, or an officer, director or trustee thereof, either was a client of the justice when the justice was engaged in the private practice of law or was a client of a lawyer with whom the justice was associated in the private practice of law; or (ii) a lawyer in the proceeding was associated with the justice in the private practice of law.

(c) The appellate justice represented a public officer or entity and personally advised or in any way represented that officer or entity concerning the factual or legal issues in the present proceeding in which the public officer or entity now appears.

(d) The appellate justice, his or her spouse or registered domestic partner,* or a minor child residing in the household, has a financial interest or is either a fiduciary* who has a financial interest in the proceeding, or is a director, advisor, or other active participant in the affairs of a party. A financial interest is defined as ownership of more than a 1 percent legal or equitable interest in a party, or a legal or equitable interest in a party of a fair market value exceeding \$1,500. Ownership in a mutual or common investment fund that holds securities does not itself

constitute a financial interest; holding office in an educational, religious, charitable, service,* or civic organization does not confer a financial interest in the organization's securities; and a proprietary interest of a policyholder in a mutual insurance company or mutual savings association or similar interest is not a financial interest unless the outcome of the proceeding could substantially affect the value of the interest. A justice shall make reasonable efforts to keep informed about his or her personal and fiduciary* interests and those of his or her spouse or registered domestic partner* and of minor children living in the household.

➤ **CJEO Annotation:**

Ownership or interest in an amicus curiae does not require disqualification. [CJEO Oral Advice Summary 2014-005](#), *Disqualification for Membership in an Amicus Curiae*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 4.

(e)(i) The justice or his or her spouse or registered domestic partner,* or a person within the third degree of relationship* to either of them, or the spouse or registered domestic partner* thereof, is a party or an officer, director, or trustee of a party to the proceeding, or

(ii) a lawyer or spouse or registered domestic partner* of a lawyer in the proceeding is the spouse, registered domestic partner,* former spouse, former registered domestic partner,* child, sibling, or parent of the justice or of the justice's spouse or registered domestic partner,* or such a person is associated in the private practice of law with a lawyer in the proceeding.

(f) The justice

(i) served as the judge before whom the proceeding was tried or heard in the lower court,

➤ **CJEO Annotation:**

An appellate justice is not disqualified for previously serving as a coordinated proceedings judge while the trial court had no jurisdiction over a matter that was stayed or pending appeal and the justice did not hear or try the matter as a trial court judge. [CJEO Oral Advice Summary 2019-029](#), *Appellate Disqualifications for Prior Assignment as Coordinated Proceedings Judge*, Cal. Supreme Ct. Com. Jud. Ethics Opns., p. 4.

(ii) has personal knowledge* of disputed evidentiary facts concerning the proceeding, or

(iii) has a personal bias or prejudice concerning a party or a party's lawyer.

(g) A temporary or permanent physical impairment renders the justice unable properly to perceive the evidence or conduct the proceedings.

(h) The justice has a current arrangement concerning prospective employment or other compensated service as a dispute resolution neutral or is participating in, or, within the last two years has participated in, discussions regarding prospective employment or service as a dispute resolution neutral, or has been engaged in such employment or service, and any of the following applies:

(i) The arrangement is, or the prior employment or discussion was, with a party to the proceeding;

(ii) The matter before the justice includes issues relating to the enforcement of either an agreement to submit a dispute to an alternative dispute resolution process or an award or other final decision by a dispute resolution neutral;

(iii) The justice directs the parties to participate in an alternative dispute resolution process in which the dispute resolution neutral will be an individual or entity with whom the justice has the arrangement, has previously been employed or served, or is discussing or has discussed the employment or service; or

(iv) The justice will select a dispute resolution neutral or entity to conduct an alternative dispute resolution process in the matter before the justice, and among those available for selection is an individual or entity with whom the justice has the arrangement, with whom the justice has previously been employed or served, or with whom the justice is discussing or has discussed the employment or service.

For purposes of Canon 3E(5)(h), “participating in discussions” or “has participated in discussions” means that the justice (i) solicited or otherwise indicated an interest in accepting or negotiating possible employment or service as an alternative dispute resolution neutral, or (ii) responded to an unsolicited statement regarding, or an offer of, such employment or service by expressing an interest in that employment or service, making any inquiry regarding the employment or service, or encouraging the person making the statement or offer to provide additional information about that possible employment or service. If a justice’s response to an unsolicited statement regarding a question about, or offer of, prospective employment or other compensated service as a dispute resolution neutral is limited to responding negatively, declining the offer, or declining to discuss such employment or service, that response does not constitute participating in discussions.

For purposes of Canon 3E(5)(h), “party” includes the parent, subsidiary, or other legal affiliate of any entity that is a party and is involved in the transaction, contract, or facts that gave rise to the issues subject to the proceeding.

For purposes of Canon 3E(5)(h), “dispute resolution neutral” means an arbitrator, a mediator, a temporary judge* appointed under article VI, section 21 of the California Constitution, a referee appointed under Code of Civil Procedure section 638 or 639, a special master, a neutral evaluator, a settlement officer, or a settlement facilitator.

(i) The justice's spouse or registered domestic partner *a person within the third degree of relationship* to the justice or his or her spouse or registered domestic partner,* or the person's spouse or registered domestic partner,* was a witness in the proceeding.

(j) The justice has received a campaign contribution of \$5,000 or more from a party or lawyer in a matter that is before the court, and either of the following applies:

(i) The contribution was received in support of the justice's last election, if the last election was within the last six years; or

(ii) The contribution was received in anticipation of an upcoming election.

Notwithstanding Canon 3E(5)(j), a justice shall disqualify himself or herself based on a contribution of a lesser amount if required by Canon 3E(4).

The disqualification required under Canon 3E(5)(j) may be waived if all parties that did not make the contribution agree to waive the disqualification.

➤ **CJEO Annotation:**

A trial court judge who sits on assignment as a pro tempore justice of an appellate court is subject to the disqualification and disclosure obligations applicable to an appellate court justice. Receipt of a \$7,000 campaign contribution from a super political action committee does not require disqualification because it is a third party contribution and was not made by a party or lawyer in the appellate matter. [CJEO Oral Advice Summary 2018-025](#), *Disqualification and Disclosure Duties of a Trial Judge Assigned as an Appellate Justice*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 4-5.

ADVISORY COMMITTEE COMMENTARY: Canon 3E

Canon 3E(1) sets forth the general duty to disqualify applicable to a judge of any court. Sources for determining when recusal or disqualification is appropriate may include the applicable provisions of the Code of Civil Procedure, other provisions of the Code of Judicial Ethics, the Code of Conduct for United States Judges, the American Bar Association's Model Code of Judicial Conduct, and related case law.

The decision whether to disclose information under Canon 3E(2) is a decision based on the facts of the case before the judge. A judge is required to disclose only information that is related to the grounds for disqualification set forth in Code of Civil Procedure section 170.1.

Canon 3E(4) sets forth the general standards for recusal of an appellate justice. The term "appellate justice" includes justices of both the Courts of Appeal and the Supreme Court. Generally, the provisions concerning disqualification of an appellate justice are intended to assist justices in determining whether recusal is appropriate and to inform the public why recusal may occur.

The rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the

only judge available in a matter requiring judicial action, such as a hearing on probable cause or a temporary restraining order. In the latter case, the judge must promptly disclose on the record the basis for possible disqualification and use reasonable efforts to transfer the matter to another judge as soon as practicable.

In some instances, membership in certain organizations may have the potential to give an appearance of partiality, although membership in the organization generally may not be barred by Canon 2C, Canon 4, or any other specific canon. A judge holding membership in an organization should disqualify himself or herself whenever doing so would be appropriate in accordance with Canon 3E(1), 3E(4), or 3E(5) or statutory requirements. In addition, in some circumstances, the parties or their lawyers may consider a judge's membership in an organization relevant to the question of disqualification, even if the judge believes there is no actual basis for disqualification. In accordance with this canon, a judge should disclose to the parties his or her membership in an organization, in any proceeding in which that information is reasonably relevant to the question of disqualification under Code of Civil Procedure section 170.1, even if the judge concludes there is no actual basis for disqualification.

➤ **CJEO Historical Note:**

Commentary following canon 3E amended effective January 1, 2007; previously amended effective December 13, 2000; adopted effective March 4, 1999.

(6) It shall not be grounds for disqualification that the justice:

(a) Is or is not a member of a racial, ethnic, religious, sexual, or similar group and the proceeding involves the rights of such a group;

(b) Has in any capacity expressed a view on a legal or factual issue presented in the proceeding, except as provided in Canon 3E(5)(a), (b), or (c);

(c) Has as a lawyer or public official participated in the drafting of laws* or in the effort to pass or defeat laws,* the meaning, effect, or application of which is in issue in the proceeding unless the judge believes that his or her prior involvement was so well known* as to raise a reasonable doubt in the public mind as to his or her capacity to be impartial.*

ADVISORY COMMITTEE COMMENTARY: Canon 3E(6)

Canon 3E(6) is substantively the same as Code of Civil Procedure section 170.2, which pertains to trial court judges.

➤ **CJEO Historical Notes:**

Commentary following canon 3E(6) adopted effective December 1, 2016.

Canon 3E amended effective December 1, 2016; previously amended effective August 19, 2015, January 1, 2013, April 29, 2009, January 1, 2008, January 1, 2007, January 1, 2005, December 22, 2003, June 18, 2003, December 13, 2000, March 4, 1999, June 19, 1997, and April 15, 1996; adopted effective January 15, 1996.

➤ **CJEO Annotations:**

An appellate justice's prior service as a nonvoting Judicial Council member and as a voting member of the council's Rules Committee, standing alone, would not require the justice to disqualify from matters involving emergency rules approved by the Judicial Council. [CJEO Oral Advice Summary 2020-036](#), *Appellate Disqualification For Judicial Council Service in Matters Challenging COVID-19 Emergency Rules and Orders*, Cal. Supreme Ct., Com. Jud. Ethics. Opns., pp. 3-6.

The disqualification obligations of appellate justices are contained within canon 3E(1), (3), (4), (5), and (6). There are no disclosure requirements for appellate justices. An appellate justice may request a waiver of disqualification from the parties and may also revoke his or her disqualification if the factors that necessitated disqualification are no longer present. Both waiver and revocation of disqualification only should be used in exceptional circumstances where there are no doubts regarding the justice's impartiality. [CJEO Oral Advice Summary 2018-023](#), *Disqualification Responsibilities of Appellate Court Justices*, Com. Jud. Ethics Opns., pp. 2-4, 6-7.

When all sitting and retired California appellate justices share a financial interest in a matter, the rule of necessity qualifies an assigned appellate justice to author an opinion. [CJEO Oral Advice Summary 2014-008](#), *Application of the Rule of Necessity*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2 [cited in *Gilbert v. Chiang* (2014) 227 Cal.App.4th 537, 543].

CANON 4

A JUDGE SHALL SO CONDUCT THE JUDGE'S QUASI-JUDICIAL AND EXTRAJUDICIAL ACTIVITIES AS TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL OBLIGATIONS

A. Extrajudicial Activities in General

A judge shall conduct all of the judge's extrajudicial activities so that they do not

- (1) cast reasonable doubt on the judge's capacity to act impartially,*
- (2) demean the judicial office,
- (3) interfere with the proper performance of judicial duties, or
- (4) lead to frequent disqualification of the judge.

➤ CJEO Annotations:

When advising close family members on law-related issues, it is not permissible for judges to accept compensation for their advice, provide assistance that could lead to disqualification, neglect official duties in favor of matters involving family members, or engage in activities that would cause a reasonable person to question their independence or integrity. [CJEO Formal Opinion 2021-017](#), *Providing Close Family Members with Advice that Implicates Legal Issues*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 9.

Before attending a public demonstration or rally, judges should consider whether their attendance could lead to their disqualification, and whether the event might lead to litigation. A judge should not attend an event that is promoted by use of derogatory or disrespectful references to individuals, groups of people or communities. [CJEO Formal Opinion 2020-014](#), *Judicial Participation in Public Demonstrations and Rallies*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 6-10.

Judges may speak about and teach legal subject matters through specialty bar associations but must avoid casting reasonable doubt on the judge's capacity to act impartially. [CJEO Formal Opinion 2018-012](#), *Providing Educational Presentations at Specialty Bar Events*, pp. 6, 9-10.

When requesting assistance from attorneys, judges must consider whether the request would require disqualification or disclosure in matters likely to come before them. [CJEO Formal Opinion 2013-001](#), *Requesting Assistance from Attorneys*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 7-8.

While volunteering for a nonprofit civics organization, a judge may not accept a position that makes it likely the judge will be called as a witness or otherwise create an appearance of impartiality. [CJEO Oral Advice Summary 2019-031](#), *Extrajudicial Service as a Rotary District Youth Protection Officer*, Cal. Supreme Ct., Com. Jud. Ethics Adv. Opns., p. 4.

ADVISORY COMMITTEE COMMENTARY: Canon 4A

Complete separation of a judge from extrajudicial activities is neither possible nor wise; a judge should not become isolated from the community in which he or she lives. Expressions of bias or prejudice by a judge, even outside the judge's judicial activities, may cast reasonable doubt on the judge's capacity to act impartially as a judge. Expressions that may do so include inappropriate use of humor or the use of demeaning remarks. See Canon 2C and accompanying Commentary.*

Because a judge's judicial duties take precedence over all other activities (see Canon 3A), a judge must avoid extrajudicial activities that might reasonably result in the judge being disqualified.

➤ **CJEO Historical Notes:**

Commentary following canon 4A amended effective January 1, 2013; adopted effective January 15, 1996.

Canon 4A amended effective August 19, 2015; previously amended effective January 1, 2013; adopted effective January 15, 1996.

B. Quasi-Judicial and Avocational Activities

A judge may speak, write, lecture, teach, and participate in activities concerning legal and nonlegal subject matters, subject to the requirements of this code.

ADVISORY COMMITTEE COMMENTARY: Canon 4B

As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice,* including revision of substantive and procedural law* and improvement of criminal and juvenile justice. To the extent that time permits, a judge may do so, either independently or through a bar or judicial association or other group dedicated to the improvement of the law.* It may be necessary to promote legal education programs and materials by identifying authors and speakers by judicial title. This is permissible, provided such use of the judicial title does not contravene Canons 2A and 2B.*

Judges are not precluded by their office from engaging in other social, community, and intellectual endeavors so long as they do not interfere with the obligations under Canons 2C and 4A.

➤ **CJEO Historical Notes:**

Commentary following canon 4B adopted effective January 15, 1996.

Canon 4B amended effective January 1, 2013; adopted effective January 15, 1996.

➤ **CJEO Annotations:**

The code generally permits judges to engage in activities concerning the law, the legal system, or the administration of justice provided those activities do not violate other provisions of the code. The reasoning behind this broad permission is that judges are specially learned in the law and therefore in a unique position to contribute to its improvement. [CJEO Expedited Opinion 2021-042](#), *Social Media Posts About the Law, the Legal System, or the Administration of Justice*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 6.

Judges may speak about and teach legal subject matters through specialty bar associations but must avoid creating an appearance of bias and avoid an appearance that the specialty bar association is in a special position to influence the judge. [CJEO Formal Opinion 2018-012](#), *Providing Educational Presentations at Specialty Bar Events*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 6-10.

Court budget shortfalls are matters relating to the administration of justice. [CJEO Formal Opinion 2013-001](#), *Requesting Assistance from Attorneys*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 5.

A judge's appearance in an educational program is permissible if it does not advance the pecuniary interests of others. [CJEO Informal Opinion Summary 2014-004](#), *Judicial Appearance in an Educational Documentary*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 3-4.

An appellate justice may accept appointment by the Governor to serve as a member of a California State Library advisory panel. [CJEO Oral Advice Summary 2019-028](#), *Service on a Civil Liberties Program Advisory Panel for the State Library*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

A judge may serve on the advisory board of a nonprofit organization involved in criminal justice issues and may address matters that fall within the judge's judicial experience but cannot participate as a legal advisor. [CJEO Oral Advice Summary 2019-027](#), *Service on a Nonprofit Advisory Board Involved in Criminal Justice Issues*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

A judicial officer may meet with the board of a private foundation to discuss matters concerning the law, the legal system, or the administration of justice. [CJEO Oral Advice](#)

[Summary 2013-002](#), *Attending a Private Foundation Meeting to Speak About National and State Civics Education Work*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

C. Governmental, Civic, or Charitable Activities

(1) A judge shall not appear at a public hearing or officially consult with an executive or legislative body or public official except on matters concerning the law, the legal system, or the administration of justice,* or in matters involving the judge’s private economic or personal interests.

ADVISORY COMMITTEE COMMENTARY: Canon 4C(1)

When deciding whether to appear at a public hearing or to consult with an executive or legislative body or public official on matters concerning the law, the legal system, or the administration of justice, a judge should consider if that conduct would violate any other provisions of this code. For a list of factors to consider, see the explanation of “law, the legal system, or the administration of justice” in the Terminology section. See also Canon 2B regarding the obligation to avoid improper influence.*

➤ **CJEO Historical Note:**

Commentary following canon 4C(1) amended effective January 1, 2013; adopted effective January 15, 1996.

➤ **CJEO Annotations:**

A judge may not serve as a member of a governmental task force when the stated purposes of the task force are so broad and varied that a judge cannot reasonably limit participation to topics directly related to the law, the legal system, or the administration of justice. However, a judge could support the task force in other ways, such as by appearing before, providing information to, or advising the task force on issues within the judicial branch’s purview and relating to the judge’s experiences and unique perspective as a judge. [CJEO Expedited Opinion 2021-041](#), *Service on a Governmental Task Force*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2, 6-7.

Legislative appearances by a judge are generally permissible where the subject matter may reasonably be considered to merit judicial attention and comment on substantive law-related matters is made from a judicial perspective. [CJEO Formal Opinion 2014-006](#), *Judicial Comment at Public Hearings and Consultation with Public Officials and Other Branches of Government*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 7.

When a judge has both judicial and attorney experience in an area of law, the judge’s comment and consultation to the Legislature should be presented from a purely judicial perspective. [CJEO Formal Opinion 2014-006](#), *Judicial Comment at Public Hearings and*

Consultation with Public Officials and Other Branches of Government, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 7.

(2) A judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice.* A judge may, however, serve in the military reserve or represent a national, state, or local government on ceremonial occasions or in connection with historical, educational, or cultural activities.

ADVISORY COMMITTEE COMMENTARY: Canon 4C(2)

Canon 4C(2) prohibits a judge from accepting any governmental position except one relating to the law, legal system, or administration of justice as authorized by Canon 4C(3). The appropriateness of accepting extrajudicial assignments must be assessed in light of the demands on judicial resources and the need to protect the courts from involvement in extrajudicial matters that may prove to be controversial. Judges shall not accept governmental appointments that are likely to interfere with the effectiveness and independence* of the judiciary, or that constitute a public office within the meaning of article VI, section 17 of the California Constitution.*

Canon 4C(2) does not govern a judge's service in a nongovernmental position. See Canon 4C(3) permitting service by a judge with organizations devoted to the improvement of the law, the legal system, or the administration of justice and with educational, religious, charitable, service,* or civic organizations not conducted for profit. For example, service on the board of a public educational institution, other than a law school, would be prohibited under Canon 4C(2), but service on the board of a public law school or any private educational institution would generally be permitted under Canon 4C(3).*

➤ **CJEO Historical Note:**

Commentary following canon 4C(2) adopted effective January 15, 1996.

➤ **CJEO Annotations:**

Service on the Child Welfare Council, established by the Child Welfare and Performance Accountability Act of 2006, codified at Welfare and Institutions Code sections 16540-16545, may qualify as an “appointment to a governmental committee or commission or other governmental position” under canon 4C(2). Assuming it does not qualify as “public office” under article VI, section 17, of the California Constitution, such service is permitted by the code and encouraged by the California Standards of Judicial Administration. [CJEO Expedited Opinion 2021-043](#), *Service on the California Access to Justice Commission or Child Welfare Council*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3, 5 at footnote 5, 8-9.

Service on a county task force created to address hate crimes with a broad-based agenda would not promote public confidence in the impartiality of the judiciary because it is not reasonable to expect the judge limit participation when the task force activities concern matters beyond the law. Nor is it reasonable to expect members of the public to make the distinction between permissible and impermissible activities, even if a judge could limit involvement. A judge may assist the task force in ways other than serving as a member. [CJEO Expedited Opinion 2021-041](#), *Service on a Governmental Task Force*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 5-6.

An appellate justice may accept appointment by the Governor to serve as a member of a California State Library advisory panel. [CJEO Oral Advice Summary 2019-028](#), *Service on a Civil Liberties Program Advisory Panel for the State Library*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

An appellate justice's federal court appointment as a prison compliance officer is a permissible extrajudicial activity involving the law, legal system, and the administration of justice. [CJEO Oral Advice Summary 2015-010](#), *Service by an Appellate Justice as a Compliance Officer in Pending Federal Proceedings*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

(3) Subject to the following limitations and the other requirements of this code,

(a) a judge may serve as an officer, director, trustee, or nonlegal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice* provided that such position does not constitute a public office within the meaning of article VI, section 17 of the California Constitution;

(b) a judge may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, service,* or civic organization not conducted for profit;

ADVISORY COMMITTEE COMMENTARY: Canon 4C(3)

Canon 4C(3) does not apply to a judge's service in a governmental position unconnected with the improvement of the law, the legal system, or the administration of justice. See Canon 4C(2).*

Canon 4C(3) uses the phrase, "Subject to the following limitations and the other requirements of this code." As an example of the meaning of the phrase, a judge permitted by Canon 4C(3) to serve on the board of a service organization may be prohibited from such service by Canon 2C or 4A if the institution practices invidious discrimination or if service on the board otherwise casts reasonable doubt on the judge's capacity to act impartially* as a judge.*

Service by a judge on behalf of a civic or charitable organization may be governed by other provisions of Canon 4 in addition to Canon 4C. For example, a judge is prohibited by Canon 4G from serving as a legal advisor to a civic or charitable organization.

Service on the board of a homeowners association or a neighborhood protective group is proper if it is related to the protection of the judge's own economic interests. See Canons 4D(2)

and 4D(4). See Canon 2B regarding the obligation to avoid improper use of the prestige of a judge's office.

➤ **CJEO Historical Note:**

Commentary following canon 4C(3) amended effective January 1, 2013; adopted effective January 15, 1996.

➤ **CJEO Annotation:**

The California Access to Justice Commission and Child Welfare Council are organizations devoted to the law, the legal system, or the administration of justice under canon 4C(3)(a); judicial membership in such organizations is permitted by the code and encouraged by the California Standards of Judicial Administration. In addition, the California Access to Justice Commission is an “educational...or civic organization not conducted for profit” under canon 4C(3)(b), which permits judges to serve as officers or directors of nonprofit organizations, whether or not related to the law, subject to other requirements of the code. [CJEO Expedited Opinion 2021-043](#), *Service on the California Access to Justice Commission or Child Welfare Council*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2, 5-6, 8-9.

A judge may not act as a legal advisor to a nonprofit civics organization. [CJEO Oral Advice Summary 2019-031](#), *Extrajudicial Service as a Rotary District Youth Protection Officer*, Cal. Supreme Ct., Com. Jud. Ethics Adv. Opns., p.3.

(c) a judge shall not serve as an officer, director, trustee, or nonlegal advisor if it is likely that the organization

(i) will be engaged in judicial proceedings that would ordinarily come before the judge, or

(ii) will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

ADVISORY COMMITTEE COMMENTARY: Canon 4C(3)(c)

The changing nature of some organizations and of their relationship to the law makes it necessary for the judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine if it is proper for the judge to continue the affiliation. Some organizations regularly engage in litigation to achieve their goals or fulfill their purposes. Judges should avoid a leadership role in such organizations as it could compromise the appearance of impartiality.**

➤ **CJEO Historical Note:**

Commentary following canon 4C(3)(c) adopted effective January 15, 1996.

➤ **CJEO Annotations:**

A judge may not serve as an officer or nonlegal advisor in an organization that is likely to be engaged in adversary proceedings in the court in which the judge is a member. [CJEO Oral Advice Summary 2019-031](#), *Extrajudicial Service as a Rotary District Youth Protection Officer*, Cal. Supreme Ct., Com. Jud. Ethics Adv. Opns., p.3.

An appellate justice may accept appointment by the Governor to serve as a member of a California State Library advisory panel. The justice should continually assess the appropriateness of ongoing service on the advisory panel and examine whether the panel's activities are consistent with the justice's obligations required by the code. [CJEO Oral Advice Summary 2019-028](#), *Service on a Civil Liberties Program Advisory Panel for the State Library*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

A judge may serve on the advisory board of a nonprofit organization involved in criminal justice issues and may address matters that fall within the judge's judicial experience but cannot participate as a legal advisor. The judge must also consider other code restrictions and continually reassess the appropriateness of service on the advisory board. [CJEO Oral Advice Summary 2019-027](#), *Service on a Nonprofit Advisory Board Involved in Criminal Justice Issues*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

(d) a judge as an officer, director, trustee, nonlegal advisor, or as a member or otherwise

(i) may assist such an organization in planning fundraising and may participate in the management and investment of the organization's funds. However, a judge shall not personally participate in the solicitation of funds or other fundraising activities, except that a judge may privately solicit funds for such an organization from members of the judge's family* or from other judges (excluding court commissioners, referees, court-appointed arbitrators, hearing officers, temporary judges*, and retired judges who serve in the Temporary Assigned Judges Program, practice law, or provide alternative dispute resolution services);

➤ **CJEO Annotations:**

A judge's request that attorneys assist with court budgeting by writing to or meeting with a legislator is not a prohibited judicial fundraising activity. [CJEO Formal Opinion 2013-001](#), *Requesting Assistance from Attorneys*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 8.

Any solicitation for scholarship funds using a judge's name will necessarily use judicial title and be impermissible fundraising. [CJEO Oral Advice Summary 2015-011](#), *Use of Judicial Title on a Scholarship Fund*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

A state court commissioner is prohibited from fundraising on behalf of a sovereign nation's tribal court, even without the use of the state court judicial title. [CJEO Oral Advice Summary 2014-009](#), *Prohibition on Fundraising While a Subordinate Judicial Officer*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

An appellate justices may solicit money from other judges to fund a civics education project of a nonprofit association devoted to the improvement of the law, legal system, and the administration of justice, although soliciting judges within the justice's same appellate district would be prohibited. [CJEO Oral Advice Summary 2013-003](#), *Fundraising Among Judges for a Civics Education Project of a Nonprofit National Legal Association*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 2.

(ii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system, or the administration of justice;*

(iii) shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or if the membership solicitation is essentially a fundraising mechanism, except as permitted in Canon 4C(3)(d)(i);

(iv) shall not permit the use of the prestige of his or her judicial office for fundraising or membership solicitation but may be a speaker, guest of honor, or recipient of an award for public or charitable service provided the judge does not personally solicit funds and complies with Canons 4A(1), (2), (3), and (4).

➤ **CJEO Annotation:**

An otherwise permissible testimonial letter by a judge may not be sent as part of program materials intended to solicit funds. [CJEO Oral Advice Summary 2014-004](#), *Use of a Testimonial Letter to Promote a National Bar Association Program*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

ADVISORY COMMITTEE COMMENTARY: Canon 4C(3)(d)

A judge may solicit membership or endorse or encourage membership efforts for an organization devoted to the improvement of the law, the legal system, or the administration of justice, or a nonprofit educational, religious, charitable, service,* or civic organization as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fundraising mechanism. Solicitation of funds or memberships for an organization similarly involves the danger that the person solicited will feel obligated to respond favorably if the solicitor is in a position of influence or control. A judge must not engage in direct, individual*

solicitation of funds or memberships in person, in writing, or by telephone except in the following cases: (1) a judge may solicit other judges (excluding court commissioners, referees, court-appointed arbitrators, hearing officers, temporary judges, and retired judges who serve in the Temporary Assigned Judges Program, practice law, or provide alternative dispute resolution services) for funds or memberships; (2) a judge may solicit other persons for membership in the organizations described above if neither those persons nor persons with whom they are affiliated are likely ever to appear before the court on which the judge serves; and (3) a judge who is an officer of such an organization may send a general membership solicitation mailing over the judge's signature.*

When deciding whether to make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system, or the administration of justice, a judge should consider whether that conduct would violate any other provision of this code. For a list of factors to consider, see the explanation of "law, the legal system, or the administration of justice" in the Terminology section.*

Use of an organization's letterhead for fundraising or membership solicitation does not violate Canon 4C(3)(d), provided the letterhead lists only the judge's name and office or other position in the organization, and designates the judge's judicial title only if other persons whose names appear on the letterhead have comparable designations. In addition, a judge must also make reasonable efforts to ensure that the judge's staff, court officials, and others subject to the judge's direction and control do not solicit funds on the judge's behalf for any purpose, charitable or otherwise.

➤ **CJEO Historical Note:**

Commentary following canon 4C(3)(d) amended effective July 1, 2020; previously amended effective January 1, 2013, March 4, 1999; adopted effective January 15, 1996.

(e) A judge may encourage lawyers to provide pro bono publico legal services.

ADVISORY COMMITTEE COMMENTARY: Canon 4C(3)(e)

In addition to appointing lawyers to serve as counsel for indigent parties in individual cases, a judge may promote broader access to justice by encouraging lawyers to participate in pro bono publico legal services, as long as the judge does not employ coercion or abuse the prestige of judicial office.

➤ **CJEO Historical Notes:**

Commentary following canon 4C(3)(e) adopted effective January 1, 2013.

Canon 4C amended effective July 1, 2020; previously amended effective August 19, 2015, January 1, 2013; adopted effective January 15, 1996.

D. Financial Activities

(1) A judge shall not engage in financial and business dealings that

(a) may reasonably be perceived to exploit the judge's judicial position, or

(b) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to appear before the court on which the judge serves.

ADVISORY COMMITTEE COMMENTARY: Canon 4D(1)

The Time for Compliance provision of this code (Canon 6F) postpones the time for compliance with certain provisions of this canon in some cases.

A judge must avoid financial and business dealings that involve the judge in frequent transactions or continuing business relationships with persons likely to appear either before the judge personally or before other judges on the judge's court. A judge shall discourage members of the judge's family from engaging in dealings that would reasonably appear to exploit the judge's judicial position or that would involve family members in frequent transactions or continuing business relationships with persons likely to appear before the judge. This rule is necessary to avoid creating an appearance of exploitation of office or favoritism and to minimize the potential for disqualification.*

Participation by a judge in financial and business dealings is subject to the general prohibitions in Canon 4A against activities that tend to reflect adversely on impartiality, demean the judicial office, or interfere with the proper performance of judicial duties. Such participation is also subject to the general prohibition in Canon 2 against activities involving impropriety* or the appearance of impropriety* and the prohibition in Canon 2B against the misuse of the prestige of judicial office.*

In addition, a judge must maintain high standards of conduct in all of the judge's activities, as set forth in Canon 1.

➤ **CJEO Historical Note:**

Commentary following canon 4D(1) adopted effective January 15, 1996.

➤ **CJEO Annotations:**

A judge may meet with private vendors, including private vendors providing remote alcohol monitoring services to parties under court order, if such meetings are authorized by law, would aid the judge in discharging administrative responsibilities, and would not violate the Code of Judicial Ethics by creating a conflict of interest, conveying influence or favoritism, advancing the pecuniary interests of others, or involving the judge in business relationships with potential litigants. Judges should, where possible, enlist the assistance of court administrative staff to ensure compliance with administrative rules and public contracting laws, guarantee impartiality and avoid the appearance of improper use of judicial office to advance the pecuniary interests of the vendors. [CJEO Formal](#)

[Opinion 2017-09](#), *Judges Meeting with Vendors*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 7.

A judicial officer may not serve on an advisory council of a nonprofit credit union.
[CJEO Oral Advice Summary 2017-020](#), *Judicial Service on a Nonprofit Credit Union Advisory Council*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2, 4.

(2) A judge may, subject to the requirements of this code, hold and manage investments of the judge and members of the judge's family,* including real estate, and engage in other remunerative activities. A judge shall not participate in, nor permit the judge's name to be used in connection with, any business venture or commercial advertising that indicates the judge's title or affiliation with the judiciary or otherwise lend the power or prestige of his or her office to promote a business or any commercial venture.

(3) A judge shall not serve as an officer, director, manager, or employee of a business affected with a public interest, including, without limitation, a financial institution, insurance company, or public utility.

ADVISORY COMMITTEE COMMENTARY: Canon 4D(3)

Although participation by a judge in business activities might otherwise be permitted by Canon 4D, a judge may be prohibited from participation by other provisions of this code when, for example, the business entity frequently appears before the judge's court or the participation requires significant time away from judicial duties. Similarly, a judge must avoid participating in any business activity if the judge's participation would involve misuse of the prestige of judicial office. See Canon 2B.

➤ **CJEO Historical Note:**

Commentary following canon 4D(3) adopted effective January 15, 1996.

➤ **CJEO Annotation:**

A judicial officer may not serve on an advisory council of a nonprofit credit union.
[CJEO Oral Advice Summary 2017-020](#), *Judicial Service on a Nonprofit Credit Union Advisory Council*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2, 4.

(4) A judge shall manage personal investments and financial activities so as to minimize the necessity for disqualification. As soon as reasonably possible, a judge shall divest himself or herself of investments and other financial interests that would require frequent disqualification.

(5) Under no circumstance shall a judge accept a gift,* bequest, or favor if the donor is a party whose interests have come or are reasonably likely to come before the judge. A judge shall

discourage members of the judge's family residing in the judge's household* from accepting similar benefits from parties who have come or are reasonably likely to come before the judge.

ADVISORY COMMITTEE COMMENTARY: Canon 4D(5)

*In addition to the prohibitions set forth in Canon 4D(5) regarding gifts, * other laws* may be applicable to judges, including, for example, Code of Civil Procedure section 170.9 and the Political Reform Act of 1974 (Gov. Code, § 81000 et seq.).*

Canon 4D(5) does not apply to contributions to a judge's campaign for judicial office, a matter governed by Canon 5, although such contributions may give rise to an obligation by the judge to disqualify or disclose. See Canon 3E(2)(b) and accompanying Commentary and Code of Civil Procedure section 170.1, subdivision (a)(9).

*Because a gift, * bequest, or favor to a member of the judge's family residing in the judge's household* might be viewed as intended to influence the judge, a judge must inform those family members of the relevant ethical constraints upon the judge in this regard and urge them to take these constraints into account when making decisions about accepting such gifts, * bequests, or favors. A judge cannot, however, reasonably be expected to know or control all of the financial or business activities of all family members residing in the judge's household.**

The application of Canon 4D(5) requires recognition that a judge cannot reasonably be expected to anticipate all persons or interests that may come before the court.

➤ **CJEO Historical Note:**

Commentary following canon 4D(5) amended effective January 1, 2013; previously amended March 4, 1999; adopted effective January 15, 1996.

➤ **CJEO Annotations:**

Gifts offered by attorneys are not impermissible gifts from a party under canon 4D(5) but must be closely scrutinized under canon 4D(6). [CJEO Formal Opinion 2014-005](#), *Accepting Gifts of Little or Nominal Value Under the Ordinary Social Hospitality Exception*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 10.

Factors for determining whether a gift donor is reasonably likely to appear include the size of the community and the size of judge's court. [CJEO Formal Opinion 2014-005](#), *Accepting Gifts of Little or Nominal Value Under the Ordinary Social Hospitality Exception*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 8-9.

A judge may not accept reimbursement for travel-related expenses from litigants or their attorneys, which are prohibited as party gifts. [CJEO Oral Advice Summary 2020-033](#), *Party Reimbursement of Judicial Expenses*, Cal. Supreme Ct., Com. on Jud. Ethics Opns., pp. 3-4.

(6) A judge shall not accept and shall discourage members of the judge's family residing in the judge's household* from accepting a gift,* bequest, favor, or loan from anyone except as hereinafter set forth. Gifts* that are permitted by Canons 4D(6)(a) through (i) may only be accepted if the gift,* bequest, favor, or loan would neither influence nor reasonably be perceived as intended to influence the judge in the performance of judicial duties:

(a) a gift,* bequest, favor, or loan from a person whose preexisting relationship with the judge would prevent the judge under Canon 3E from hearing a case involving that person;

ADVISORY COMMITTEE COMMENTARY: Canon 4D(6)(a)

Upon appointment or election as a judge or within a reasonable period of time thereafter, a judge may attend an event honoring the judge's appointment or election as a judge provided that (1) the judge would otherwise be disqualified from hearing any matter involving the person or entity holding or funding the event, and (2) a reasonable person would not conclude that attendance at the event undermines the judge's integrity, impartiality,* or independence.**

➤ **CJEO Historical Note:**

Commentary following canon 4D(6)(a) adopted effective January 1, 2013.

➤ **CJEO Annotation:**

An appellate justice may not accept the services of an attorney offered by a law firm because the attorney's services constitute a gift which does not fall into any exception to the general prohibition on gifts. Although there may be no actual influence, an objective observer might reasonably believe that the presence of the law firm's attorney in the justice's chambers could place the law firm in a position of influence and the gift may not be accepted even if the justice were to disqualify when the law firm appeared. [CJEO Expedited Opinion 2021-038](#), *Acceptance of Attorney Services from a Law Firm*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

A judge may accept a gift from staff under canon 4D(6)(a) because the judge would be disqualified from hearing a case involving staff, but the judge may not pressure staff to exchange gifts and may not give gifts that are offensive, demeaning, or otherwise inappropriate, or that would be perceived as harassment. [CJEO Expedited Opinion 2021-039](#), *Gift Exchanges between Judges and Their Staff*, Cal. Supreme Ct., Com. on Jud. Ethics Opns., pp. 2-3.

A judge may attend, but must report as a gift, a dinner in honor of the judge's retirement from the executive committee of a civics organization whose members are personal friends of the judge from whom the judge disqualifies when they appear before the judge. The judge may accept as a gift a personalized plaque that has no commercial value. [CJEO Oral Advice Summary 2019-030](#), *Acceptance of a Private Testimonial Dinner and Honors*, Cal. Supreme Ct., Com. on Jud. Ethics Opns., pp. 5-6.

(b) a gift* for a special occasion from a relative or friend, if the gift* is fairly commensurate with the occasion and the relationship;

ADVISORY COMMITTEE COMMENTARY: Canon 4D(6)(b)

A gift to a judge, or to a member of the judge's family residing in the judge's household,* that is excessive in value raises questions about the judge's impartiality* and the integrity* of the judicial office and might require disqualification of the judge where disqualification would not otherwise be required. See, however, Canon 4D(6)(a).*

➤ **CJEO Historical Note:**

Commentary following canon 4D(6)(b) adopted effective January 15, 1996.

(c) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not judges;

(d) any gift* incidental to a public testimonial, or educational or resource materials supplied by publishers on a complimentary basis for official use, or a discounted or complimentary membership in a bar-related association, or an invitation to the judge and the judge's spouse or registered domestic partner* or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system, or the administration of justice;*

(e) advances or reimbursement for the reasonable cost of travel, transportation, lodging, and subsistence that is directly related to participation in any judicial, educational, civic, or governmental program or bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice;*

ADVISORY COMMITTEE COMMENTARY: Canon 4D(6)(e)

Acceptance of an invitation to a law-related function is governed by Canon 4D(6)(d); acceptance of an invitation paid for by an individual lawyer or group of lawyers is governed by Canon 4D(6)(g). See also Canon 4H(2) and accompanying Commentary.

➤ **CJEO Historical Note:**

Commentary following canon 4D(6)(e) adopted effective January 15, 1996.

(f) a gift,* award, or benefit incident to the business, profession, or other separate activity of a spouse or registered domestic partner* or other member of the judge's family residing in the

judge's household,* including gifts,* awards, and benefits for the use of both the spouse or registered domestic partner* or other family member and the judge;

(g) ordinary social hospitality;

ADVISORY COMMITTEE COMMENTARY: Canon 4D(6)(g)

Although Canon 4D(6)(g) does not preclude ordinary social hospitality, a judge should carefully weigh acceptance of such hospitality to avoid any appearance of impropriety or bias or any appearance that the judge is misusing the prestige of judicial office. See Canons 2 and 2B. A judge should also consider whether acceptance would affect the integrity,* impartiality,* or independence* of the judiciary. See Canon 2A.*

➤ **CJEO Historical Note:**

Commentary following Canon 4D(6)(g) amended effective January 1, 2013; adopted effective January 15, 1996.

➤ **CJEO Annotations:**

Determining whether a gift is acceptable under the ordinary social hospitality exception requires considering whether it is ordinary by community standards, consistent with social traditions, and hospitable in nature. [CJEO Formal Opinion 2014-005](#), *Accepting Gifts of Little or Nominal Value Under the Ordinary Social Hospitality Exception*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 12.

Gifts with a business purpose or that advance the business interests of the person offering the gift are not ordinary social hospitality. [CJEO Formal Opinion 2014-005](#), *Accepting Gifts of Little or Nominal Value Under the Ordinary Social Hospitality Exception*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 13.

(h) an invitation to the judge and the judge's spouse, registered domestic partner,* or guest to attend an event sponsored by an educational, religious, charitable, service,* or civic organization with which the judge is associated or involved, if the same invitation is offered to persons who are not judges and who are similarly engaged with the organization.

(i) a nominal gift,* provide the gift* is not from a lawyer, law firm, or other person likely to appear before the court on which the judge serves, unless one or more of the exceptions in this canon applies.

ADVISORY COMMITTEE COMMENTARY: Canon 4D(6)(i)

For example, nominal gifts include snacks or a token memento from jurors, keychains or pends provided by vendors at legal conferences, or handicrafts or art projects from students.*

A judge should carefully weigh acceptance of any nominal gift to avoid any appearance of impropriety or bias or any appearance that the judge is misusing the prestige of judicial office. See Canons 2 and 2B. A judge should also consider whether acceptance would affect the integrity, * impartiality, * or independence* of the judiciary. See Canon 2A.*

➤ **CJEO Historical Note:**

Commentary following Canon 4D(6)(i) adopted effective October 10, 2018.

➤ **CJEO Annotation:**

A judge may not accept reimbursement of incidental costs or nominal expenses from parties, as the code prohibits all gifts from parties with no exceptions for gifts of nominal value. [CJEO Oral Advice Summary 2020-033](#), *Party Reimbursement of Judicial Expenses*, Cal. Supreme Ct., Com. on Jud. Ethics Opns., pp. 3-4.

(7) A judge may accept the following, provided that doing so would neither influence nor reasonably be perceived as intended to influence the judge in the performance of judicial duties:

(a) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants;

(b) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not judges.

ADVISORY COMMITTEE COMMENTARY: Canons 4D(6) and 4D(7)

The references to such scholarships, fellowships, rewards, and prizes were moved from Canon 4D(6) to Canon 4D(7) because they are not considered to be gifts under this code, and a judge may accept them.*

➤ **CJEO Historical Notes:**

Commentary following canons 4D(6) and 4D(7) adopted effective January 21, 2015.

Canon 4D amended effective July 1, 2020; previously amended effective October 10, 2018, August 19, 2015, January 1, 2013, January 1, 2007; adopted effective January 15, 1996.

E. Fiduciary* Activities

(1) A judge shall not serve as executor, administrator, or other personal representative, trustee, guardian, attorney in fact, or other fiduciary,* except for the estate, trust, or person of a member of the judge's family,* and then only if such service will not interfere with the proper performance of judicial duties. A judge may, however, act as a health care representative pursuant to an advance health care directive for a person whose preexisting relationship with the judge would prevent the judge from hearing a case involving that person under Canon 3E(1).

(2) A judge shall not serve as a fiduciary* if it is likely that the judge as a fiduciary* will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or minor or conservatee will be engaged in contested proceedings in the court on which the judge serves or one under its appellate jurisdiction.

(3) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary* capacity.

ADVISORY COMMITTEE COMMENTARY: Canon 4E

The Time for Compliance provision of this code (Canon 6F) postpones the time for compliance with certain provisions of this canon in some cases.

The restrictions imposed by this canon may conflict with the judge's obligation as a fiduciary. For example, a judge shall resign as trustee if detriment to the trust would result from divestiture of trust holdings the retention of which would place the judge in violation of Canon 4D(4).*

➤ **CJEO Historical Notes:**

Commentary following canon 4E adopted effective January 15, 1996.

Canon 4E amended effective July 1, 2020; previously amended effective August 19, 2015, January 1, 2013; adopted effective January 15, 1996.

➤ **CJEO Annotation:**

A judge may serve as an executor, administrator, trustee, guardian, attorney in fact, or other fiduciary or personal representative of a family member, so long as such service (i) will not interfere with the proper performance of judicial duties, (ii) is not likely to come before the judge, or (iii) is not likely to come before the judge's court or appellate district. [CJEO Formal Opinion 2021-017](#), *Providing Close Family Members with Advice that Implicates Legal Issues*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 11 at footnote 6.

F. Service as Arbitrator or Mediator

A judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law.*

ADVISORY COMMITTEE COMMENTARY: Canon 4F

Canon 4F does not prohibit a judge from participating in arbitration, mediation, or settlement conferences performed as part of his or her judicial duties.

➤ **CJEO Historical Notes:**

Commentary following canon 4F adopted effective January 15, 1996.

Canon 4F adopted effective January 15, 1996.

G. Practice of Law

A judge shall not practice law.

ADVISORY COMMITTEE COMMENTARY: Canon 4G

This prohibition refers to the practice of law in a representative capacity and not in a pro se capacity. A judge may act for himself or herself in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. However, in so doing, a judge must not abuse the prestige of office to advance the interests of the judge or member of the judge's family. See Canon 2B.*

This prohibition applies to subordinate judicial officers, magistrates, special masters, and judges of the State Bar Court.*

➤ **CJEO Historical Notes:**

Commentary following canon 4G amended effective January 1, 2005; adopted effective January 15, 1996.

Canon 4G amended effective January 1, 2005; adopted effective January 15, 1996.

➤ **CJEO Annotations:**

Judges are not permitted to advise close family members in law-related matters if the advice would undermine the dual purposes behind the prohibition against the practice of law, which are to ensure the performance of official judicial duties and to maintain the integrity of the judiciary by avoiding conflicts of interest. A judge may, however, advise a close family member in connection with a matter in which the judge is personally involved or the judge's personal interests are implicated. In providing a close family member with support in a nonlegal matter, a judge must avoid the risk of practicing law by offering advice on legal issues in the case, providing or offering to provide research on any legal issues in the case, or in any way acting or appearing to act as an advocate

arguing on behalf of the family member. [CJEO Formal Opinion 2021-017](#), *Providing Close Family Members with Advice that Implicates Legal Issues*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 1, 9-11, 13.

When volunteering in a civics organization, a judge may not accept a position that monitors changes in, or advises the organization about, the law, which would constitute the practice of law. [CJEO Oral Advice Summary 2019-031](#), *Extrajudicial Service as a Rotary District Youth Protection Officer*, Cal. Supreme Ct., Com. Jud. Ethics Adv. Opns., pp. 4-5.

H. Compensation, Reimbursement, and Honoraria

A judge may receive compensation and reimbursement of expenses as provided by law* for the extrajudicial activities permitted by this code, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety.*

(1) Compensation shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same activity.

(2) Expense reimbursement shall be limited to the actual cost of travel, food, lodging, and other costs reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse, registered domestic partner,* or guest. Any payment in excess of such an amount is compensation.

(3) No judge shall accept any honorarium. "Honorarium" means any payment made in consideration for a speech given, an article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. "Honorarium" does not include earned income for personal services that are customarily provided in connection with the practice of a bona fide business, trade, or profession, such as teaching or writing for a publisher, and does not include fees or other things of value received pursuant to Penal Code section 94.5 for performance of a marriage. For purposes of this canon, "teaching" includes presentations to impart educational information to lawyers in events qualifying for credit under Minimum Continuing Legal Education, to students in bona fide educational institutions, and to associations or groups of judges.

ADVISORY COMMITTEE COMMENTARY: Canon 4H

*Judges should not accept compensation or reimbursement of expenses if acceptance would appear to a reasonable person to undermine the judge's integrity, * impartiality, * or independence.**

*A judge must assure himself or herself that acceptance of reimbursement or fee waivers would not appear to a reasonable person to undermine the judge's independence, * integrity, * or impartiality.* The factors a judge should consider when deciding whether to accept reimbursement or a fee waiver for attendance at a particular activity include whether:*

(a) the sponsor is an accredited educational institution or bar association rather than a trade association or a for-profit entity;

(b) the funding comes largely from numerous contributors rather than from a single entity, and whether the funding is earmarked for programs with specific content;

(c) the content is related or unrelated to the subject matter of a pending or impending* proceeding before the judge, or to matters that are likely to come before the judge;*

(d) the activity is primarily educational rather than recreational, and whether the costs of the event are reasonable and comparable to those associated with similar events sponsored by the judiciary, bar associations, or similar groups;

(e) information concerning the activity and its funding sources is available upon inquiry;

(f) the sponsor or source of funding is generally associated with particular parties or interests currently appearing or likely to appear in the judge's court, thus possibly requiring disqualification of the judge;

(g) differing viewpoints are presented;

(h) a broad range of judicial and nonjudicial participants are invited; or

(i) the program is designed specifically for judges.

*Judges should be aware of the statutory limitations on accepting gifts.**

➤ **CJEO Historical Notes:**

Commentary following canon 4H amended effective January 1, 2013; previously amended effective March 4, 1999; adopted effective January 15, 1996.

Canon 4H amended effective October 10, 2018; previously amended effective August 19, 2015, January 1, 2013 and January 1, 2007; adopted effective January 15, 1996.

➤ **CJEO Annotation:**

Effective July 10, 2017, judges may again accept compensation for performing marriages on weekends or holidays. The inconsistency with the Code of Judicial Ethics and Penal Code section 94.5, as discussed in this oral advice summary, was eliminated. [CJEO Oral Advice Summary 2016-019](#), *Accepting Compensation for Performing a Marriage After January 1, 2017*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

CANON 5

A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE* SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE,* INTEGRITY,* OR IMPARTIALITY* OF THE JUDICIARY

Judges and candidates for judicial office* are entitled to entertain their personal views on political questions. They are not required to surrender their rights or opinions as citizens. They shall, however, not engage in political activity that may create the appearance of political bias or impropriety.* Judicial independence,* impartiality,* and integrity* shall dictate the conduct of judges and candidates for judicial office.*

Judges and candidates for judicial office* shall comply with all applicable election, election campaign, and election campaign fundraising laws* and regulations.

ADVISORY COMMITTEE COMMENTARY: Canon 5

The term “political activity” should not be construed so narrowly as to prevent private comment.

➤ **CJEO Historical Notes:**

Commentary following canon 5 amended effective August 19, 2015; adopted effective January 15, 1996.

Canon 5 amended effective January 1, 2013; adopted effective January 15, 1996.

➤ **CJEO Annotation:**

Judges are entitled to personal views on political issues and not required to surrender their rights or opinions as citizens. However, judges must be mindful of how the public may perceive social media activity and refrain from online communications that call into question the impartiality of the judiciary. [CJEO Expedited Opinion 2021-042](#), *Social Media Posts About the Law, the Legal System, or the Administration of Justice*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 4.

A. Political Organizations*

Judges and candidates for judicial office* shall not

(1) act as leaders or hold any office in a political organization;*

(2) make speeches for a political organization* or candidate for nonjudicial office, or publicly endorse or publicly oppose a candidate for nonjudicial office; or

(3) personally solicit funds for a political organization* or nonjudicial candidate; or make contributions to a political party or political organization* or to a nonjudicial candidate in excess of \$500 in any calendar year per political party or political organization* or candidate, or in excess of an aggregate of \$1,000 in any calendar year for all political parties or political organizations* or nonjudicial candidates.

➤ **CJEO Annotation:**

Although attendance at political gatherings is not prohibited, attendance should be restricted so that it would not constitute an express public endorsement of, or lend the prestige of office to, a nonjudicial candidate or a political measure not affecting the law, the legal system, or the administration of justice otherwise prohibited by the code. Judges should avoid engaging in symbolic gestures or wearing apparel likely to be seen as one-sided statements that may call impartiality into question. [CJEO Formal Opinion 2020-014](#), *Judicial Participation in Public Demonstrations and Rallies*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 9-11.

A judge may speak to a political gathering provided the circumstances do not create a perception that judge is speaking on behalf of the organization and the topic is strictly concerning the law and the administration of justice. [CJEO Formal Opinion 2016-008](#), *Attending Political Fundraising or Endorsement Events*, Cal. Supreme Ct. Com. Jud. Ethics Opns., p. 14.

ADVISORY COMMITTEE COMMENTARY: Canon 5A

This provision does not prohibit a judge or a candidate for judicial office from signing a petition to qualify a measure for the ballot, provided the judge does not use his or her official title.*

Although attendance at political gatherings is not prohibited, any such attendance should be restricted so that it would not constitute an express public endorsement of a nonjudicial candidate or a measure not affecting the law, the legal system, or the administration of justice otherwise prohibited by this canon.*

Subject to the monetary limitation herein to political contributions, a judge or a candidate for judicial office may purchase tickets for political dinners or other similar dinner functions. Any admission price to such a political dinner or function in excess of the actual cost of the meal will be considered a political contribution. The prohibition in Canon 5A(3) does not preclude judges from contributing to a campaign fund for distribution among judges who are candidates for reelection or retention, nor does it apply to contributions to any judge or candidate for judicial office.**

Under this canon, a judge may publicly endorse or oppose a candidate for judicial office. Such positions are permitted because judicial officers have a special obligation to*

*uphold the integrity, * impartiality, * and independence* of the judiciary and are in a unique position to know the qualifications necessary to serve as a competent judicial officer.*

Although family members of the judge or candidate for judicial office are not subject to the provisions of this code, a judge or candidate for judicial office* shall not avoid compliance with this code by making contributions through a spouse or registered domestic partner* or other family member.*

➤ **CJEO Historical Notes:**

Commentary following canon 5A amended effective July 1, 2020; previously amended effective October 10, 2018, August 19, 2015, January 21, 2015, January 1, 2013, July 1, 2006, March 4, 1999; adopted effective January 15, 1996.

Canon 5A amended effective August 19, 2015; previously amended effective January 1, 2007; adopted effective January 15, 1996.

➤ **CJEO Annotations:**

Attendance at a political fundraising or endorsement event is prohibited if the judge's presence could be reasonably be construed as a public endorsement or a personal solicitation of funds, or would otherwise create the appearance of political bias. [CJEO Formal Opinion 2016-008](#), *Attending Political Fundraising or Endorsement Events*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 10.

A judge standing next to someone who is soliciting a small number of individuals for donations to a nonjudicial campaign or political organization could reasonably be interpreted as joining in the solicitation. [CJEO Formal Opinion 2016-008](#), *Attending Political Fundraising or Endorsement Events*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 12.

A judge's silent presence in a small group could create an appearance of a prohibited endorsement of a nonjudicial candidate or political organization. [CJEO Formal Opinion 2016-008](#), *Attending Political Fundraising or Endorsement Events*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 12.

A non-candidate judge's presence at a partisan political event where many in attendance are likely to know the judge may create an appearance of a prohibited endorsement or political bias. [CJEO Formal Opinion 2016-008](#), *Attending Political Fundraising or Endorsement Events*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 12.

A non-candidate judge's presence to receive an otherwise permissible award may create an appearance of prohibited fundraising or endorsement of a political organization or nonjudicial candidate. [CJEO Formal Opinion 2016-008](#), *Attending Political Fundraising or Endorsement Events*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 16.

B. Conduct During Judicial Campaigns and Appointment Process

(1) A candidate for judicial office* or an applicant seeking appointment to judicial office shall not:

(a) make statements to the electorate or the appointing authority that commit the candidate or the applicant with respect to cases, controversies, or issues that are likely to come before the courts, or

(b) knowingly,* or with reckless disregard for the truth, make false or misleading statements about the identity, qualifications, present position, or any other fact concerning himself or herself or his or her opponent or other applicants.

(2) A candidate for judicial office* shall review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee before its dissemination. A candidate shall take appropriate corrective action if the candidate learns of any misrepresentations made in his or her campaign statements or materials. A candidate shall take reasonable measures to prevent any misrepresentations being made in his or her support by third parties. A candidate shall take reasonable measures to ensure that appropriate corrective action is taken if the candidate learns of any misrepresentations being made in his or her support by third parties.

➤ **CJEO Annotation:**

A non-candidate judge should make reasonable efforts to ensure judicial title is not used to promote attendance, solicit funds, or otherwise advance political interests. [CJEO Formal Opinion 2016-008](#), *Attending Political Fundraising or Endorsement Events*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 18-19.

(3) Every candidate for judicial office* shall complete a judicial campaign ethics course approved by the Supreme Court no earlier than one year before or no later than 60 days after the filing of a declaration of intention by the candidate, the formation of a campaign committee, or the receipt of any campaign contribution, whichever is earliest. If a judge appears on the ballot as a result of a petition indicating that a write-in campaign will be conducted for the office, the judge shall complete the course no later than 60 days after receiving notice of the filing of the petition, the formation of a campaign committee, or the receipt of any campaign contribution, whichever is earliest.

Unless a judge forms a campaign committee or solicits or receives campaign contributions, this requirement does not apply to judges who are unopposed for election and will not appear on the ballot.

Unless an appellate justice forms a campaign committee or solicits or receives campaign contributions, this requirement does not apply to appellate justices.

ADVISORY COMMITTEE COMMENTARY: Canon 5B

The purpose of Canon 5B is to preserve the integrity of the appointive and elective process for judicial office and to ensure that the public has accurate information about candidates for judicial office.* Compliance with these provisions will enhance the integrity,* impartiality,* and independence* of the judiciary and better inform the public about qualifications of candidates for judicial office.**

This code does not contain the “announce clause” that was the subject of the United States Supreme Court’s decision in Republican Party of Minnesota v. White (2002) 536 U.S. 765. That opinion did not address the “commit clause,” which is contained in Canon 5B(1)(a). The phrase “appear to commit” has been deleted because, although candidates for judicial office cannot promise to take a particular position on cases, controversies, or issues prior to taking the bench and presiding over individual cases, the phrase may have been overinclusive.*

Canon 5B(1)(b) prohibits knowingly making false or misleading statements, during an election campaign because doing so would violate Canons 1 and 2A, and may violate other canons.

The time limit for completing a judicial campaign ethics course in Canon 5B(3) is triggered by the earliest of one of the following: the filing of a declaration of intention, the formation of a campaign committee, or the receipt of any campaign contribution. If a judge’s name appears on the ballot as a result of a petition indicating that a write-in campaign will be conducted, the time limit for completing the course is triggered by the earliest of one of the following: the notice of the filing of the petition, the formation of a campaign committee, or the receipt of any campaign contribution. A financial contribution by a candidate for judicial office to his or her own campaign constitutes receipt of a campaign contribution.*

➤ **CJEO Historical Note:**

Commentary following canon 5A amended effective October 10, 2018; previously amended effective December 1, 2016, August 19, 2015, January 21, 2015 and January 1, 2013; adopted effective January 15, 1996.

(4) In judicial elections, judges may solicit campaign contributions or endorsements for their own campaigns or for other judges and attorneys who are candidates for judicial office.* Judges are permitted to solicit such contributions and endorsements from anyone, including attorneys and other judges, except that a judge shall not solicit campaign contributions or endorsements from California state court commissioners, referees, court-appointed arbitrators, hearing officers, and retired judges serving in the Assigned Judges Program, or from California state court personnel. In soliciting campaign contributions or endorsements, a judge shall not use the prestige of judicial office in a manner that would reasonably be perceived as coercive. See Canons 1, 2, 2A, and 2B.

ADVISORY COMMITTEE COMMENTARY: Canon 5B(4)

Regarding campaign contributions for a judge's own campaign, see Canon 3E(2)(b) and accompanying Commentary addressing disclosure of campaign contributions. See also Code of Civil Procedure section 170.1, subdivision (a)(9), which provides that a judge is disqualified if the judge has received a campaign contribution exceeding \$1,500 from a party or an attorney in the proceeding. Although it is improper for a judge to receive a gift from an attorney subject to exceptions noted in Canon 4D(6), a judge's campaign may receive attorney contributions. See also Government Code section 8314, which prohibits any elected state or local officer from using public resources, including buildings, telephones, and state-compensated time, for a campaign activity. Under section 8314, subdivision (b)(2), "campaign activity" does not include "the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls, and visitors to private political entities."*

Even though it is permissible for a judge to solicit endorsements and campaign funds for attorneys who are candidates for judicial office, the judge must be cautious. Such solicitation may raise issues of disqualification and disclosure under Code of Civil Procedure section 170.1, subdivision (a), and Canon 3E. Even if the judge is not disqualified, disclosure may be required under Canon 3E(2)(a). For example, a judge who has solicited campaign funds or endorsements for a candidate who is an attorney must consider disclosing that solicitation in all cases in which the attorney candidate appears before the judge. The judge should also consider Canon 4A(1) and Canon 4A(4), which require a judge to conduct extrajudicial activities so they do not cast reasonable doubt on the judge's capacity to act impartially* or lead to frequent disqualification.*

"Judicial elections" includes recall elections.

➤ **CJEO Historical Notes:**

Commentary following canon 5B(4) amended effective July 1, 2020; adopted effective October 10, 2018.

Canon 5B amended effective October 10, 2018; previously amended effective December 1, 2016, August 19, 2015, January 1, 2013, and December 22, 2003; adopted effective January 15, 1996.

➤ **CJEO Annotation:**

Judges are prohibited from soliciting judicial campaign contributions from court personnel, either directly, or indirectly to third parties such as a political action committee organized and funded by court employees. Judges may not use the prestige of judicial office in a manner that is, or that would reasonably be perceived to be, coercive. [CJEO Expedited Opinion 2021-040](#), *Acceptance of Campaign Contributions Donated by a Court Employee Political Action Committee to a Judicial Political Action Committee*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.

An appellate justice may solicit campaign endorsements from trial court judges on the justice's own behalf or on behalf of another candidate for judicial office if the solicitation does not create a perception of coercion or cause doubts about judicial independence,

integrity, or impartiality. A mass solicitation by a presiding justice to every trial court presiding judge in the presiding justice's district on behalf of other appellate justices facing retention elections that also asks the trial court presiding judges to solicit all other judges on their courts to endorse the justices creates a perception of coercion and concerns regarding judicial independence, integrity, and impartiality that is impermissible based on the solicitation itself and the presiding judge's leadership role and supervisory authority, [CJEO Oral Advice Summary 2018-026](#), *Soliciting Endorsements from Trial Court Judges for Other Appellate Court Justices Subject to Retention Elections*, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 4-5.

C. Speaking at Political Gatherings

Candidates for judicial office* may speak to political gatherings only on their own behalf or on behalf of another candidate for judicial office.*

➤ **CJEO Historical Note:**

Canon 5C adopted effective January 15, 1996.

D. Measures to Improve the Law

A judge or candidate for judicial office* may engage in activity in relation to measures concerning improvement of the law, the legal system, or the administration of justice,* only if the conduct is consistent with this code.

➤ **CJEO Annotation:**

It is permissible for judges to use social media to comment on legislation affecting the judiciary or legal system, so long as the commentary would not violate other canons or rules. [CJEO Expedited Opinion 2021-042](#), *Social Media Posts About the Law, the Legal System, or the Administration of Justice*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 6.

Judges may invite and meet with attorneys to provide information about budget cuts and potential impacts on the administration of justice. [CJEO Formal Opinion 2013-001](#), *Requesting Assistance from Attorneys*, Cal. Supreme Ct., Com. Jud. Ethics Opns., p. 5.

ADVISORY COMMITTEE COMMENTARY: Canon 5D

When deciding whether to engage in activity relating to measures concerning the law, the legal system, or the administration of justice, such as commenting publicly on ballot measures, a judge must consider whether the conduct would violate any other provisions of this code. See the explanation of “law, the legal system, or the administration of justice” in the Terminology section.*

➤ **CJEO Historical Notes:**

Commentary following canon 5D adopted effective January 1, 2013.

Canon 5D amended effective January 1, 2013; adopted effective January 15, 1996.

CANON 6

COMPLIANCE WITH THE CODE OF JUDICIAL ETHICS

A. Judges

Anyone who is an officer of the state judicial system and who performs judicial functions including, but not limited to, a subordinate judicial officer,* a magistrate, a court-appointed arbitrator, a judge of the State Bar Court, a temporary judge,* or a special master, is a judge within the meaning of this code. All judges shall comply with this code except as provided below.

ADVISORY COMMITTEE COMMENTARY: Canon 6A

For the purposes of this canon, if a retired judge is serving in the Assigned Judges Program, the judge is considered to “perform judicial functions.” Because retired judges who are privately retained may perform judicial functions, their conduct while performing those functions should be guided by this code.

➤ **CJEO Historical Notes:**

Commentary following canon 6A adopted effective January 15, 1996.

Canon 6A amended effective August 19, 2015; previously amended effective January 1, 2013 and January 1, 2005; adopted effective January 15, 1996.

B. Retired Judge Serving in the Assigned Judges Program

A retired judge who has filed an application to serve on assignment, meets the eligibility requirements set by the Chief Justice for service, and has received an acknowledgment of participation in the Assigned Judges Program shall comply with all provisions of this code, except for the following:

4C(2)--Appointment to governmental positions

4E--Fiduciary* activities

➤ **CJEO Historical Note:**

Canon 6B amended effective January 1, 2013; previously amended effective January 1, 2005; adopted effective January 15, 1996.

C. Retired Judge as Arbitrator or Mediator

A retired judge serving in the Assigned Judges Program is not required to comply with Canon 4F of this code relating to serving as an arbitrator or mediator, or performing judicial functions in a private capacity, except as otherwise provided in the Standards and Guidelines for Judicial Assignments promulgated by the Chief Justice.

ADVISORY COMMITTEE COMMENTARY: Canon 6C

Article VI, section 6 of the California Constitution provides that a “retired judge who consents may be assigned to any court” by the Chief Justice. Retired judges who are serving in the Assigned Judges Program pursuant to the above provision are bound by Canon 6B, including the requirement of Canon 4G barring the practice of law. Other provisions of California law, and standards and guidelines for eligibility and service set by the Chief Justice, further define the limitations on who may serve on assignment.*

➤ **CJEO Historical Notes:**

Commentary following canon 6C adopted effective January 15, 1996.

Canon 6C amended effective January 1, 2013; adopted effective January 15, 1996.

➤ **CJEO Annotation:**

A retired judge who serves in the Assigned Judges Program may not serve as a legal advisor to a nonprofit organization. [CJEO Oral Advice Summary 2019-031](#), *Extrajudicial Service as a Rotary District Youth Protection Officer*, Cal. Supreme Ct., Com. Jud. Ethics Adv. Opns., p.3.

D. Temporary Judge,* Referee, or Court-Appointed Arbitrator¹

A temporary judge,* a person serving as a referee pursuant to Code of Civil Procedure section 638 or 639, or a court-appointed arbitrator shall comply only with the following code provisions:

(1) A temporary judge,* a referee, or a court-appointed arbitrator shall comply with Canons 1 [integrity* and independence* of the judiciary], 2A [promoting public confidence], 3B(3) [order and decorum], 3B(4) [patient, dignified, and courteous treatment], 3B(6) [require* lawyers to refrain from manifestations of any form of bias or prejudice], 3D(1) [action regarding misconduct by another judge], and 3D(2) [action regarding misconduct by a lawyer], when the temporary judge,* referee, or court-appointed arbitrator is actually presiding in a proceeding or

¹ Reference should be made to relevant commentary to analogous or individual canons cited or described in this canon and appearing elsewhere in this code.

communicating with the parties, counsel, or staff or court personnel while serving in the capacity of a temporary judge,* referee, or court-appointed arbitrator in the case.

(2) A temporary judge,* referee, or court-appointed arbitrator shall, from the time of notice and acceptance of appointment until termination of the appointment:

(a) Comply with Canons 2B(1) [not allow family or other relationships to influence judicial conduct], 3B(1) [hear and decide all matters unless disqualified], 3B(2) [be faithful to and maintain competence in the law*], 3B(5) [perform judicial duties without bias or prejudice], 3B(7) [accord full right to be heard to those entitled; avoid ex parte communications, except as specified], 3B(8) [dispose of matters fairly and promptly], 3B(12) [remain impartial* and not engage in coercive conduct during efforts to resolve disputes], 3C(1) [discharge administrative responsibilities without bias and with competence and cooperatively], 3C(3) [require* staff and court personnel to observe standards of conduct and refrain from bias and prejudice], and 3C(5) [make only fair, necessary, and appropriate appointments];

(b) Not personally solicit memberships or donations for religious, service,* educational, civic, or charitable organizations from the parties and lawyers appearing before the temporary judge,* referee, or court-appointed arbitrator;

(c) Under no circumstance accept a gift,* bequest, or favor if the donor is a party, person, or entity whose interests are reasonably likely to come before the temporary judge,* referee, or court-appointed arbitrator. A temporary judge,* referee, or court-appointed arbitrator shall discourage members of the judge's family residing in the judge's household* from accepting benefits from parties who are reasonably likely to come before the temporary judge,* referee, or court-appointed arbitrator.

(3) A temporary judge* shall, from the time of notice and acceptance of appointment until termination of the appointment, disqualify himself or herself in any proceeding as follows:

(a) A temporary judge*--other than a temporary judge solely conducting settlement conferences--is disqualified to serve in a proceeding if any one or more of the following are true:

(i) the temporary judge* has personal knowledge* (as defined in Code of Civil Procedure section 170.1, subdivision (a)(1)) of disputed evidentiary facts concerning the proceeding;

(ii) the temporary judge* has served as a lawyer (as defined in Code of Civil Procedure section 170.1, subdivision (a)(2)) in the proceeding;

(iii) the temporary judge,* within the past five years, has given legal advice to, or served as a lawyer (as defined in Code of Civil Procedure section 170.1, subdivision (a)(2)), except that this provision requires disqualification if the temporary judge* represented a party in the past five years rather than the two-year period specified in section 170.1, subdivision (a)(2)) for a party in the present proceeding;

ADVISORY COMMITTEE COMMENTARY: Canon 6D(3)(a)(iii)

The application of Canon 6D(3)(a)(iii), providing that a temporary judge is disqualified if he or she has given legal advice or served as a lawyer for a party to the proceeding in the past five years, may depend on the type of assignment and the amount of time available to investigate whether the temporary judge* has previously represented a party. If time permits, the temporary judge* must conduct such an investigation. Thus, if a temporary judge* is privately compensated by the parties or is presiding over a particular matter known* in advance of the hearing, the temporary judge* is presumed to have adequate time to investigate. If, however, a temporary judge* is assigned to a high volume calendar, such as traffic or small claims, and has not been provided with the names of the parties prior to the assignment, the temporary judge* may rely on his or her memory to determine whether he or she has previously represented a party.*

➤ **CJEO Historical Note:**

Commentary following canon 6D(3)(a)(iii) adopted effective January 21, 2015.

(iv) the temporary judge* has a financial interest (as defined in Code of Civil Procedure sections 170.1, subdivision (a)(3) and 170.5) in the subject matter in the proceeding or in a party to the proceeding;

(v) the temporary judge,* or the spouse or registered domestic partner* of the temporary judge,* or a person within the third degree of relationship* to either of them, or the spouse or registered domestic partner* of such a person is a party to the proceeding or is an officer, director, or trustee of a party;

(vi) a lawyer or a spouse or registered domestic partner* of a lawyer in the proceeding is the spouse, former spouse, registered domestic partner,* former registered domestic partner,* child, sibling, or parent of the temporary judge* or the temporary judge's spouse or registered domestic partner,* or if such a person is associated in the private practice of law with a lawyer in the proceeding;

(vii) for any reason:

(A) the temporary judge* believes his or her recusal would further the interests of justice;

(B) the temporary judge* believes there is a substantial doubt as to his or her capacity to be impartial;* or

(C) a person aware of the facts might reasonably entertain a doubt that the temporary judge* would be able to be impartial.* Bias or prejudice toward an attorney in the proceeding may be grounds for disqualification; or

(viii) the temporary judge* has received a campaign contribution of \$1,500 or more from a party or lawyer in a matter that is before the court and the contribution was received in anticipation of an upcoming election.

(b) A temporary judge* before whom a proceeding was tried or heard is disqualified from participating in any appellate review of that proceeding.

(c) If the temporary judge* has a current arrangement concerning prospective employment or other compensated service as a dispute resolution neutral or is participating in, or, within the last two years has participated in, discussions regarding prospective employment or service as a dispute resolution neutral, or has been engaged in such employment or service, and any of the following applies:

(i) The arrangement or current employment is, or the prior employment or discussion was, with a party to the proceeding;

(ii) The temporary judge* directs the parties to participate in an alternative dispute resolution process in which the dispute resolution neutral will be an individual or entity with whom the temporary judge* has the arrangement, is currently employed or serves, has previously been employed or served, or is discussing or has discussed the employment or service; or

(iii) The temporary judge* will select a dispute resolution neutral or entity to conduct an alternative dispute resolution process in the matter before the temporary judge,* and among those available for selection is an individual or entity with whom the temporary judge* has the arrangement, is currently employed or serves, has previously been employed or served, or is discussing or has discussed the employment or service.

For the purposes of Canon 6D(3)(c), the definitions of “participating in discussions,” “has participated in discussions,” “party,” and “dispute resolution neutral” are set forth in Code of Civil Procedure section 170.1, subdivision (a)(8), except that the words “temporary judge” shall be substituted for the word “judge” in such definitions.

(d) A lawyer is disqualified from serving as a temporary judge* in a family law or unlawful detainer proceeding if in the same type of proceeding:

(i) the lawyer holds himself or herself out to the public as representing exclusively one side; or

(ii) the lawyer represents one side in 90 percent or more of the cases in which he or she appears.

ADVISORY COMMITTEE COMMENTARY: Canon 6D(3)(d)

Under Canon 6D(3)(d), “one side” means a category of persons such as landlords, tenants, or litigants exclusively of one gender.

➤ **CJEO Historical Note:**

Commentary following canon 6D(3)(d) adopted effective July 1, 2006.

(4) After a temporary judge* who has determined himself or herself to be disqualified from serving under Canon 6D(3)(a)-(d) has disclosed the basis for his or her disqualification on the record, the parties and their lawyers may agree to waive the disqualification and the temporary judge* may accept the waiver. The temporary judge* shall not seek to induce a waiver and shall avoid any effort to discover which lawyers or parties favored or opposed a waiver.

ADVISORY COMMITTEE COMMENTARY: Canon 6D(4)

Provisions addressing waiver of mandatory disqualifications or limitations, late discovery of grounds for disqualification or limitation, notification of the court when a disqualification or limitation applies, and requests for disqualification by the parties are located in rule 2.818 of the California Rules of Court. Rule 2.818 states that the waiver must be in writing, must recite the basis for the disqualification or limitation, and must state that it was knowingly made. It also states that the waiver is effective only when signed by all parties and their attorneys and filed in the record.*

➤ **CJEO Historical Note:**

Commentary following canon 6D(4) adopted effective July 1, 2006.

(5) A temporary judge,* referee, or court-appointed arbitrator shall, from the time of notice and acceptance of appointment until termination of the appointment:

(a) In all proceedings, disclose in writing or on the record information as required by law,* or information that is reasonably relevant to the question of disqualification under Canon 6D(3), including personal or professional relationships known* to the temporary judge,* referee, or court-appointed arbitrator, that he or she or his or her law firm has had with a party, lawyer, or law firm in the current proceeding, even though the temporary judge,* referee, or court-appointed arbitrator concludes that there is no actual basis for disqualification; and

(b) In all proceedings, disclose in writing or on the record membership of the temporary judge,* referee, or court-appointed arbitrator in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation, except for membership in a religious organization.

(6) A temporary judge,* referee, or court-appointed arbitrator, from the time of notice and acceptance of appointment until the case is no longer pending in any court, shall not make any public comment about a pending* or impending* proceeding in which the temporary judge,* referee, or court-appointed arbitrator has been engaged, and shall not make any nonpublic comment that might substantially interfere with such proceeding. The temporary judge,* referee, or court-appointed arbitrator shall require* similar abstention on the part of staff and court personnel subject to his or her control. This canon does not prohibit the following:

(a) Statements made in the course of the official duties of the temporary judge,* referee, or court-appointed arbitrator; and

(b) Explanations about the procedures of the court.

(7) From the time of appointment and continuing for two years after the case is no longer pending* in any court, a temporary judge,* referee, or court-appointed arbitrator shall under no circumstances accept a gift,* bequest, or favor from a party, person, or entity whose interests have come before the temporary judge,* referee, or court-appointed arbitrator in the matter. The temporary judge,* referee, or court-appointed arbitrator shall discourage family members residing in the household of the temporary judge,* referee, or court-appointed arbitrator from accepting any benefits from such parties, persons or entities during the time period stated in this subdivision. The demand for or receipt by a temporary judge,* referee, or court-appointed arbitrator of a fee for his or her services rendered or to be rendered would not be a violation of this canon.

(8) A temporary judge,* referee, or court-appointed arbitrator shall, from the time of notice and acceptance of appointment and continuing indefinitely after the termination of the appointment:

(a) Comply with Canon 3B(11) [no disclosure of nonpublic information* acquired in a judicial capacity] (except as required by law*);

(b) Not commend or criticize jurors sitting in a proceeding before the temporary judge,* referee, or court-appointed arbitrator for their verdict other than in a court order or opinion in such proceeding, but may express appreciation to jurors for their service to the judicial system and the community; and

(c) Not lend the prestige of judicial office to advance his, her, or another person's pecuniary or personal interests and not use his or her judicial title in any written communication intended to advance his, her, or another person's pecuniary or personal interests, except to show his, her, or another person's qualifications.

(9) (a) A temporary judge* appointed under rule 2.810 of the California Rules of Court, from the time of the appointment and continuing indefinitely after the termination of the appointment, shall not use his or her title or service as a temporary judge* (1) as a description of the lawyer's current or former principal profession, vocation, or occupation on a ballot designation for judicial or other elected office, (2) in an advertisement about the lawyer's law firm or business, or (3) on a letterhead, business card, or other document that is distributed to the public identifying the lawyer or the lawyer's law firm.

(b) This canon does not prohibit a temporary judge* appointed under rule 2.810 of the California Rules of Court from using his or her title or service as a temporary judge* on an application to serve as a temporary judge,* including an application in other courts, on an application for employment or for an appointment to a judicial position, on an individual resume or a descriptive statement submitted in connection with an application for employment or for appointment or election to a judicial position, or in response to a request for information about the public service in which the lawyer has engaged.

(10) A temporary judge,* referee, or court-appointed arbitrator shall comply with Canon 6D(2) until the appointment has been terminated formally or until there is no reasonable probability that the temporary judge,* referee, or court-appointed arbitrator will further participate in the matter. A rebuttable presumption that the appointment has been formally terminated will arise if, within one year from the appointment or from the date of the last hearing scheduled in the matter, whichever is later, neither the appointing court nor counsel for any party in the matter has informed the temporary judge,* referee, or court-appointed arbitrator that the appointment remains in effect.

(11) A lawyer who has been a temporary judge,* referee, or court-appointed arbitrator in a matter shall not accept any representation relating to the matter without the informed written consent of all parties.

(12) When by reason of serving as a temporary judge,* referee, or court-appointed arbitrator in a matter, he or she has received confidential information from a party, the person shall not, without the informed written consent of the party, accept employment in another matter in which the confidential information is material.

ADVISORY COMMITTEE COMMENTARY: Canon 6D

Any exceptions to the canons do not excuse a judicial officer's separate statutory duty to disclose information that may result in the judicial officer's recusal or disqualification.

➤ **CJEO Historical Notes:**

Commentary following canon 6D adopted effective March 4, 1999.

Canon 6D amended effective January 21, 2016; previously amended effective August 19, 2015, January 1, 2013, January 1, 2008, January 1, 2007, July 1, 2006, March 4, 1999, and April 15, 1996; adopted effective January 15, 1996.

E. Judicial Candidate

A candidate for judicial office* shall comply with the provisions of Canon 5.

➤ **CJEO Historical Note:**

Canon 6E adopted effective January 15, 1996.

F. Time for Compliance

A person to whom this code becomes applicable shall comply immediately with all provisions of this code except Canons 4D(4) and 4E and shall comply with Canons 4D(4) and 4E as soon as reasonably possible and in any event within a period of one year.

ADVISORY COMMITTEE COMMENTARY: Canon 6F

If serving as a fiduciary when selected as a judge, a new judge may, notwithstanding the prohibitions in Canon 4E, continue to serve as a fiduciary* but only for that period of time necessary to avoid adverse consequences to the beneficiary of the fiduciary* relationship and in no event longer than one year.*

➤ **CJEO Historical Notes:**

Commentary following canon 6F amended effective January 1, 2013; adopted effective January 15, 1996.

Canon 6F amended effective August 19, 2015; previously amended effective January 1, 2013; adopted effective January 15, 1996.

G. (Canon 6G repealed effective June 1, 2005; adopted December 30, 2002.)

H. Judges on Leave Running for Other Public Office

A judge who is on leave while running for other public office pursuant to article VI, section 17 of the California Constitution shall comply with all provisions of this code, except for the following, insofar as the conduct relates to the campaign for public office for which the judge is on leave:

2B(2)--Lending the prestige of judicial office to advance the judge's personal interest

4C(1)--Appearing at public hearings

5--Engaging in political activity (including soliciting and accepting campaign contributions for the other public office).

ADVISORY COMMITTEE COMMENTARY: Canon 6H

These exceptions are applicable only during the time the judge is on leave while running for other public office. All of the provisions of this code will become applicable at the time a judge resumes his or her position as a judge. Conduct during elections for judicial office is governed by Canon 5.

➤ **CJEO Historical Notes:**

Commentary following canon 6H adopted effective January 15, 1996.

Canon 6H amended effective January 1, 2013; previously amended effective January 1, 2005; adopted effective January 15, 1996.

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