

REVISED OREGON CODE OF JUDICIAL CONDUCT

(1996 Revision and subsequent amendments through Supreme Court Order No. 02-088)

See amendment history of current revision in note at end of code.

Judicial Rule 1: Maintaining the Integrity of the Judicial System

JR 1-101(A) A judge shall observe high standards of conduct so that the integrity, impartiality and independence of the judiciary are preserved and shall act at all times in a manner that promotes public confidence in the judiciary and the judicial system.

(B) A judge shall not commit a criminal act.

(C) A judge shall not engage in conduct that reflects adversely on the judge's character, competence, temperament or fitness to serve as a judge.

(D) A judge shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

(E) A judge shall not allow family, social or other relationship to influence judicial conduct or judgment.

(F) A judge shall not use the position to advance the private interests of the judge or any person, nor shall a judge convey or permit anyone to convey the impression that anyone has a special influence with the judge, but a judge may provide a character or ability reference for a person about whom the judge has personal knowledge.

(G) A judge shall not testify as a character witness except pursuant to subpoena.

(H) A judge shall not hold membership in any organization that the judge knows is a discriminatory organization. For purposes of this rule, "discriminatory organization" means an organization that, as a policy or practice and contrary to applicable federal or state law, treats persons less favorably in granting membership privileges, allowing participation or providing services on the basis of sex, race, national origin, religion, sexual orientation, marital status, disability or age.

Judicial Rule 2: Impartial and Diligent Performance of Judicial Duties

JR 2-101 A judge's performance of judicial duties shall take precedence over all other activities, and a judge shall not neglect the business of the court.

JR 2-102(A) A judge shall provide to every person who has a legal interest in a proceeding, and to that person's lawyer, the right to be heard according to law.

(B) A judge shall not communicate or permit or cause another to communicate with a lawyer or party about any matter in an adversary proceeding outside the course of the proceeding, except with the consent of the parties or as expressly authorized by law or permitted by this rule.

(C) A judge may communicate ex parte when circumstances require for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits, provided that:

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

(2) the judge makes provision by delegation or otherwise promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(D) Except as provided in subsection (E) of this rule, a judge shall promptly disclose to the parties any communication not otherwise prohibited by this rule that will or reasonably may influence the outcome of any adversary proceeding. The disclosure shall identify the person with whom the communication occurred and the substance of the communication, and the judge shall give the parties a reasonable opportunity to respond to the information disclosed.

(E) Subsection (D) of this rule does not limit, or require disclosure to a party of, any discussions about legal or administrative matters or other matters in the record related to a case that occur between a judge and any of the following: another judge of the same level; employees of the court; employees of the judicial branch of government.

JR 2-103 A judge shall not, while a proceeding is pending in any court within the judge's jurisdiction, make any public comment that might reasonably be expected to affect the outcome or impair the fairness of the proceeding. The judge shall require similar abstention on the part of court personnel who are subject to the judge's direction or control. This rule shall not prohibit a judge from making public statements in the course of official duties, from explaining for public information the procedures of the courts, from establishing a defense to a criminal charge or civil claim against the judge or from otherwise responding to allegations concerning the judge's conduct in the proceeding.

JR 2-104(A) A judge possessing knowledge that another judge or a lawyer has committed a violation of the rules of judicial or professional conduct or law that raises a substantial question as to that individual's honesty, trustworthiness or fitness as a judge or lawyer shall inform the Commission on Judicial Fitness and Disability or the Oregon State Bar Disciplinary Counsel.

(B) A judge possessing knowledge or evidence concerning another judge or lawyer shall reveal that knowledge or evidence on request by a tribunal or other authority empowered to investigate or act upon the conduct.

JR 2-105 A judge shall make any appointment only on the basis of merit.

JR 2-106(A) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality reasonably may be questioned, including but not limited to instances when

(1) the judge has a bias or prejudice concerning a party or has personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously was associated served during the association as a lawyer in the matter, or the judge or the lawyer has been a material witness in the matter;

(3) the judge knows that the judge, individually or as a fiduciary, or the judge's spouse, parent or child, wherever residing, or any other person residing in the judge's household has a financial interest in the subject matter in controversy, is a party to the proceeding or has any other interest that could be substantially affected by the outcome of the proceeding;

(4) the judge, the judge's spouse, parent or child wherever residing, or any other person residing in the judge's household

(a) is a party to the proceeding, or an officer, director, partner or trustee of a party;

(b) is acting as a lawyer in the proceeding;

(c) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or

(d) is, to the judge's knowledge, likely to be a material witness in the proceeding.

(B) A judge shall be responsible for knowing about the judge's financial interests, including such interests relating to service as a fiduciary, and shall make reasonable efforts to be informed about the financial interests of the judge's spouse, domestic partner, parents and children, wherever residing.

(C) For purposes of this rule

(1) "fiduciary" includes relationships such as personal representative, trustee, conservator and guardian;

(2) "financial interest" means a more than de minimis ownership of a legal or equitable interest or a relationship as director, advisor or other active participant in the affairs of a party, except that

(a) ownership in a mutual or common investment fund that owns securities is not a "financial interest" unless the judge participates in the management of the fund;

(b) holding an office in an educational, religious, charitable, fraternal or civic organization is not a "financial interest" in property of the organization;

(c) the proprietary interest of a policyholder in a mutual insurance company, a depositor in mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest; and

(d) ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(D) A judge who is disqualified under this rule may, rather than withdraw from the proceeding, disclose on the record the basis of the disqualification. If, after such disclosure, the parties all agree in writing or on the record that the judge's relationship is immaterial or that the judge's financial interest is insubstantial, the judge may participate in the proceeding. Any writing, signed by or on behalf of all parties, shall be incorporated in the record of the proceeding.

JR 2-107 A judge shall be faithful to the law and shall decide matters on the basis of the facts and applicable law.

JR 2-108 A judge shall not be swayed by partisan interests, public clamor or fear of criticism.

JR 2-109 A judge shall maintain order and decorum in proceedings before the judge.

JR 2-110(A) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers, court personnel and members of the public.

(B) A judge shall not act in a way that the judge knows, or reasonably should know, would be perceived by a reasonable person as biased or prejudiced toward any of the litigants, jurors, witnesses, lawyers or members of the public.

(C) A judge shall require lawyers and court personnel who are subject to the judge's direction or control to act in accord with the principles embodied in paragraphs (A) and (B) of this rule.

(D) Paragraphs (B) and (C) of this rule do not preclude consideration or advocacy of any issue relevant to the proceeding.

Judicial Rule 3: Extra-Judicial Activities; Minimizing the Risk of Conflict with Judicial Obligations

JR 3-101 A judge shall not serve as an officer, director, trustee or advisor of a private or public corporation or of an educational, religious, charitable, fraternal, political or civic organization if the corporation or organization regularly engages in proceedings that would ordinarily come before the judge or in adversary proceedings in any court in Oregon.

JR 3-102(A) A judge shall not personally solicit funds for any private or public entity or for any educational, religious, charitable, fraternal, political, or civic organization, or use or permit the use of the prestige of the judicial office, including a reference to the judge's official position, for that purpose. Except as provided in JR 3-101, a judge may serve as an officer, director, or trustee of such an organization.

(B) Notwithstanding subsection (A), a judge may:

(1) Assist a private or public entity devoted to improvement of the law, legal education, the legal system, or the administration of justice in raising, managing, or investing funds;

(2) Personally solicit funds from or make recommendations to private and public granting agencies with respect to private or public entities devoted to the improvement of the law, legal education, the legal system, or the administration of justice;

(3) Permit the judge's name and position to be identified in stationery or other materials listing officers, directors, trustees, or committee members of a private or public entity devoted to the improvement of the law, legal education, the legal system, or the administration of justice;

(4) Appear at, participate in, or permit the judge's name or title to be used in connection with, fundraising events for private or public entities devoted to the improvement of the law, legal education, the legal system, or the administration of justice.

(5) Assist a not-for-profit private or public educational, religious, charitable, fraternal, or civic organization in raising, managing, or investing funds. Such assistance may not include making a direct request for financial support for the entity as part of the judge's involvement or permitting the judge's title to be used in connection with such a request.

(C) "Personally solicit funds," as used in this rule, means: A direct request for financial support in person, by letter, by telephone, or by any other means of communication but does not include receiving and handling funds or goods donated or offered in exchange for goods or services sold to raise funds.

(D) "Assist . . . in raising, managing, or investing funds," as used in this rule, means: any fundraising activity other than personally soliciting funds.

JR 3-103 A judge shall not directly or indirectly accept gifts, bequests, favors or loans from anyone, except that a judge may accept

(A) gifts incident to a public testimonial to the judge, publications supplied by publishers or organizations on a complimentary basis for official use or invitations to the judge to attend law-related functions or activities related to the improvement of law, legal education, the legal system, or the administration of justice;

(B) ordinary social hospitality; gifts, bequests, favors or loans from relatives; gifts from friends for wedding, birthday or other personal occasions; loans from lending institutions in the regular course of business on terms generally available to persons who are not judges; or scholarships, fellowships or grants awarded on terms applied to other applicants;

(C) any other gift, bequest, favor or loan only if the donor is not a party or other person whose interests have come or are likely to come before the judge.

JR 3-104 Nonpublic information acquired by a judge in a judicial capacity shall not be used or disclosed for any purpose not related to judicial duties.

JR 3-105(A) A judge other than a judge described in JR 5-102 shall not serve as a fiduciary as defined in JR 2-106(C) except for the benefit of a member of the judge's family. "Member of the judge's family" includes a spouse, domestic partner or their children, siblings or their children, child, grandchild, parent or grandparent, aunt or uncle, or first cousin wherever residing.

(B) Nothing in subsection (A) of this section allows a judge to serve as a fiduciary when service is otherwise prohibited by law.

JR 3-106 A judge shall not act as a private arbitrator or private mediator for remuneration or anything of value, except as otherwise provided in JR 5-102.

JR 3-107 A judge shall not engage in the private practice of law, except as otherwise provided in JR 5-102.

Judicial Rule 4: Political Activity by a Judge

JR 4-101 A judge shall not knowingly

(1) make a public statement in support of the election or defeat of any candidate for a nonjudicial public office or to promote or influence the passage or defeat of laws or regulations at any level of government, or

(2) contribute or solicit funds, services or property to elect or defeat any candidate for a nonjudicial public office or to promote or influence the passage or defeat of laws or regulations at any level of government, or

(3) lend the judge's name in support of an action, by any person or group, to elect or defeat any candidate for a nonjudicial public office or to promote or influence the passage or defeat of laws or regulations at any level of government,

if, in doing (1), (2) or (3) above, the judge:

(A) Creates a reasonable doubt about the judge's impartiality toward persons, organizations or factual issues that would likely come before the court on which the judge serves, including, but not limited to, circumstances that require the judge's disqualification under JR 2-106.

(B) Supports in the judge's official capacity, a cause other than one pertaining to the legal system, legal education, the improvement of the law, the integrity of the judicial process, the administration of justice, or court administration, including judicial benefits. This subsection does not limit the ability of a judge to join, pay dues to, and participate in activities of any professional association or organization, which activities may include lobbying for judicial benefits such as salary and retirement.

(C) Represents that the judge making the public statement speaks on behalf of the judicial branch of government unless the judge has been authorized to do so.

JR 4-102 With respect to any election or appointment for judicial public office, a judicial candidate shall not knowingly:

(A) Misrepresent a judicial candidate's identity, qualifications, present position, education, experience or other fact.

(B) Make pledges or promises of conduct in office that could inhibit or compromise the faithful, impartial and diligent performance of the duties of the office.

(C) Publicly identify the judicial candidate, for the purpose of election, as a member of a political party other than by registering to vote or as allowed by ORS 249.015.

(D) Personally solicit campaign contributions in money or in kind, but a judicial candidate may establish one or more committees to obtain and manage finances, including contributions, and pay expenses to promote the judicial candidate's election.

(E) Use or permit the use of campaign contributions for the private benefit of the judicial candidate except as may be specifically authorized by law.

JR 4-103 With respect to JR 4-101 through 4-103, a judge shall not authorize or direct any public official or employee or other person who is subject to the judge's direction or control to do anything on behalf of the judge that a judge may not do under the rules.

JR 4-104 The provisions of JR 4-101 through JR 4-103 also apply to:

(1) Any person who becomes a candidate for an elective judicial office, when that person either publicly announces the candidacy or makes any filing with the Secretary of State's office regarding the candidacy, whichever occurs first; and

(2) Any person who becomes a candidate for appointive judicial office when that person files an application for appointment with the Governor's office and for as long as the position for which appointment is sought remains unfilled.

JR 4-105 A judge shall resign the judicial office before becoming a candidate for an elective public nonjudicial office, which occurs when the judge either publicly announces the judge's candidacy for nonjudicial office or makes any filing with the Secretary of State's office regarding the candidacy, whichever occurs first.

JR 4-106 Nothing contained in this or any other Rule of this Code shall limit the ability of a judge to personally solicit campaign or other types of contributions from other judges over whom the judge does not exercise supervisory or appellate authority.

Judicial Rule 5: Application of Judicial Rules

JR 5-101 Anyone, whether or not a lawyer, who is an officer of a judicial system performing judicial functions is a judge for the purposes of this Code. All judges shall comply with this Code except as provided otherwise in this rule.

JR 5-102 A person who serves as a judge, other than as a judge duly elected or appointed by the Governor to a position on an appellate court, the tax court or a district or circuit court,

(A) is not required to comply with JR 3-105 (judge as fiduciary), JR 3-106 (judge as arbitrator or mediator) and JR 3-107 (judge engaging in practice of law), but must comply with all other provisions of this Code while serving; a county judge is also not required to comply with the other provisions of JR 3 (extra-judicial activities) or with JR 4 (political activity);

(B) shall not, except with the express consent of the parties and lawyers, accept a judicial assignment involving a lawyer or law firm that the person is then opposing, as a lawyer or a party, in any legal proceeding.

JR 5-103 A senior judge under ORS 1.300 is subject to JR 5-102 when serving by appointment of the Supreme Court.

Judicial Rule 6: Advisory Opinions on Judicial Conduct; Consideration Given in Judicial Conduct Proceedings

JR 6-101 The Judicial Conduct Committee of the Oregon Judicial Conference may give persons subject to this code advice in the form of informal oral advisory opinions or issue formal written advisory opinions, or both, on questions under this code. The committee shall:

(A) Maintain a log of its informal opinions and copies of its formal opinions, which the chair of the committee shall make available to the Oregon Supreme Court or the Oregon Commission on Judicial Fitness and Disability on request.

(B) Disseminate its advisory opinions or opinion logs or both as it determines appropriate to its role in giving advice on judicial ethics and educating judges about this code.

JR 6-102 (A) In considering alleged violations of this code, the Oregon Supreme Court or the Oregon Commission on Judicial Fitness and Disability may consider any judge's good faith effort to comply with a formal written opinion issued under JR 6-101 or a requesting judge's good faith effort to comply with an informal oral opinion given under JR 6-101 as:

(1) A showing of the judge's good faith effort to comply with this code; and

(2) A basis for mitigation of any sanction that may be imposed or recommended if the judge is found to be in violation of this code.

(B) This rule is not intended to preclude the Oregon Supreme Court or the Oregon Commission on Judicial Fitness and Disability from considering any other evidence of good faith or basis for mitigation.

Editor's Note. History of 1996 Revision and subsequent amendments:

This revision of the Oregon Code of Judicial Conduct was first recommended to the Supreme Court by the Oregon Judicial Conference on April 26, 1994. Additional amendments were recommended for the proposed revision by the Supreme Court's Committee on the Code of Judicial Conduct on January 31, 1995, and were approved by the Oregon Judicial Conference on April 25, 1995. A further amendment to the proposed revision was approved by the Supreme Court at a public meeting on November 14, 1995. The Supreme Court adopted the 1996 Revision by Order No. 95-095 issued November 22, 1995. The 1996 Revision was first effective January 1, 1996, and has subsequently been amended by the Supreme Court as follows, as indicated by Judicial Rule (JR):

1. JR 3-102 and JR 6 on June 18, 1997, by Order No. 97-054, effective September 1, 1997.
2. JR 4 on May 11, 1999, by Order No. 99-053, effective September 1, 1999.
3. JR 2-102 (D)(E) and JR 3-105 on May 19, 1999, by Order No. 99-057, effective September 1, 1999.
4. JR 2-106 (C)(2), 3-103 (A), and 4-102 (A)(C)(D) and (E), on May 22, 2002, by Order No. 02-060, effective July 1, 2002.

5. JR 3-102 (B)(5) and (C) on August 28, 2002, by Order No. 02-088, effective September 1, 2002.

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