# CJC APPLICATION

The Application section establishes when the various Rules apply to a judge, court commissioner, or judge pro tempore.

# I. [Unchanged.]

# II. PART-TIME JUDGE

(A) – (B) [Unchanged.]

(C) When a person who has been a part-time judge is no longer a part-time judge, that person may act as a lawyer in a proceeding in which ~~he or she~~ they served as a judge or in any other proceeding related thereto only with the express consent of all parties pursuant to the Rules of Professional Conduct.

# Comments

[1] – [2] [Unchanged.]

# JUDGE PRO TEMPORE

A judge pro tempore is not required to comply:

 (A) – (C) [Unchanged.]

 (D) When a person who has been a judge pro tempore is no longer a judge pro tempore, that person may act as a lawyer in a proceeding in which ~~he or she~~ they served as a judge or in any other proceeding related thereto only with the express consent of all parties pursuant to the Rules of Professional Conduct.

# IV. [Unchanged.]

# CJC

# TERMINOLOGY

The first time any term listed below is used in a Rule in its defined sense, it is followed by an asterisk (\*).

“Aggregate,” in relation to contributions for a candidate, means not only contributions in cash or in-kind made directly to a candidate’s campaign committee, but also all contributions made indirectly with the understanding that they will be used to support the election of a candidate or to oppose the election of the candidate’s opponent. See Rules 2.11 and 4.4.

“Appropriate authority” means the authority having responsibility for initiation of disciplinary process in connection with the violation to be reported. See Rules 2.14 and 2.15.

“Contribution” means both financial and in-kind contributions, such as goods, professional or volunteer services, advertising, and other types of assistance, which, if obtained by the recipient otherwise, would require a financial expenditure. See Rules 2.11, 2.13, 3.7, 4.1, and 4.4.

“De minimis,” in the context of interests pertaining to disqualification of a judge, means an insignificant interest that could not raise a reasonable question regarding the judge’s impartiality. See Rule 2.11.

“Domestic partner” means a person with whom another person maintains a household and an intimate relationship, other than a person to whom ~~he or she is~~ they are legally married. See Rules 2.11, 2.13, 3.13, and 3.14.

“Economic interest” means ownership of more than a de minimis legal or equitable interest. Except for situations in which the judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

(1) – (4) [Unchanged.]

“Fiduciary” includes relationships such as executor, administrator, trustee, or guardian.

See Rules 2.11, 3.2, and 3.8.

“Financial support” shall mean the total of contributions to the judge’s campaign and independent expenditures in support of the judge’s campaign or against the judge’s opponent as defined by RCW 42.17.020. See Rule 2.11.

“Impartial,” “impartiality,” and “impartially” mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge. See Canons 1, 2, and 4, and Rules 1.2, 2.2, 2.10, 2.11, 2.13, 3.1, 3.12, 3.13, 4.1, and 4.2.

“Impending matter” is a matter that is imminent or expected to occur in the near future.

See Rules 2.9, 2.10, 3.13, and 4.1.

“Impropriety” includes conduct that violates the law, court rules, or provisions of this Code, and conduct that undermines a judge’s independence, integrity, or impartiality. See Canon 1 and Rule 1.2.

“Independence” means a judge’s freedom from influence or controls other than those established by law. See Canons 1 and 4, and Rules 1.2, 3.1, 3.12, 3.13, and 4.2.

“Integrity” means probity, fairness, honesty, uprightness, and soundness of character. See Canon 1 and Rule 1.2.

“Invidious discrimination” is a classification which is arbitrary, irrational, and not reasonably related to a legitimate purpose. Differing treatment of individuals based upon race, sex, gender, religion, national origin, ethnicity, sexual orientation, age, or other classification protected by law, are situations where invidious discrimination may exist. See Rules 3.1 and 3.6.

“Judicial candidate” means any person, including a sitting judge, who is seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as ~~he or she makes~~ they make a public announcement of candidacy, declare~~s~~ or file~~s~~ as a candidate with the election or appointment authority, authorize~~s~~ or, where permitted, engage~~s~~ in solicitation or acceptance of contributions or support, or ~~is~~ are nominated for election or appointment to office. See Rules 2.11, 4.1, 4.2, and 4.4.

“Knowingly,” “knowledge,” “known,” and “knows” mean actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances. See Rules 2.11, 2.13, 2.15, 2.16, 3.6, and 4.1.

“Law” encompasses court rules as well as statutes, constitutional provisions, and decisional law. See Rules 1.1, 2.1, 2.2, 2.6, 2.7, 2.9, 3.1, 3.4, 3.9, 3.12, 3.13, 3.14, 3.15, 4.1, 4.2,

4.4, and 4.5.

“Member of the candidate’s family” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the candidate maintains a close familial relationship.

“Member of the judge’s family” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Rules 3.7, 3.8, 3.10, and 3.11.

“Member of a judge’s family residing in the judge’s household” means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge’s family, who resides in the judge’s household. See Rules 2.11 and 3.13.

“Nonpublic information” means information that is not available to the public.

Nonpublic information may include, but is not limited to, information that is sealed by statute or court order or impounded or communicated in camera, and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports. See Rule 3.5.

“Part-time judge” ~~Part-time judges are~~ means a judge~~s~~ who serves on a continuing or periodic basis, but ~~are~~ who is permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than a full-time judge. A person who serves part-time as a judge on a regular or periodic basis in excess of eleven cases or eleven dockets annually, counted cumulatively without regard to each jurisdiction in which that person serves as a judge, is a part-time judge.

“Pending matter” is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition. See Rules 2.9, 2.10, 3.13, and 4.1.

“Personally solicit” means a direct request made by a judge or a judicial candidate for financial support or in-kind services, whether made by letter, telephone, or any other means of communication. See Rule 4.1.

“Political organization” means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office. For purposes of this Code, the term does not include a judicial candidate’s campaign committee created as authorized by Rule 4.4. See Rules 4.1 and 4.2.

“Pro tempore judge” Without regard to statutory or other definitions of a pro tempore judge, within the meaning of this Code a pro tempore judge is a person who serves only once or at most sporadically under a separate appointment for a case or docket. Pro tempore judges are excused from compliance with certain provisions of this Code because of their infrequent service as judges. A person who serves or expects to serve part-time as a judge on a regular or periodic basis in fewer than ~~twelve~~ 12 cases or ~~twelve~~ 12 dockets annually, counted cumulatively without regard to each jurisdiction in which that person serves as a judge, is a pro tempore judge.

“Public election” includes primary and general elections, partisan elections, nonpartisan elections, and retention elections. See Rules 4.2 and 4.4.

“Third degree of relationship” includes the following persons: great-grandparent, sibling, brother, sister, child, grandchild, great-grandchild, nephew, and niece. See Rule 2.11.

**RULE 1.3.**

# AVOIDING ABUSE OF THE PRESTIGE OF JUDICIAL OFFICE

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests\* of the judge or others, or allow others to do so.

# Comments

# [1] It is improper for a judge to use or attempt to use ~~his or her~~ their position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to ~~his or her~~ their judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use judicial letterhead to gain an advantage in conducting ~~his or her~~ their personal business.

# [2] – [4] [Unchanged.]

# RULE 2.11

# DISQUALIFICATION

(A) A judge shall self-disqualify ~~himself or herself~~ in any proceeding in which the judge’s impartiality\* might reasonably be questioned, including but not limited to the following circumstances:

 (1) – (2) [Unchanged.]

 (3) The judge knows that ~~he or she~~ they, individually or as a fiduciary,\* or the judge’s spouse, domestic partner, parent, or child, or any other member of the judge’s family residing in the judge’s household,\* ~~has~~ have an economic interest\* in the subject matter in controversy or in a party to the proceeding.

 (4) – (6) [Unchanged.]

 (B) – (C) [Unchanged.]

 (D) A judge may self-disqualify ~~himself or herself~~ if the judge learns by means of a timely motion by a party that an adverse party has provided financial support for any of the judge’s judicial election campaigns within the last six years in an amount that causes the judge to conclude that ~~his or her~~ their impartiality might reasonably be questioned. In making this determination the judge should consider:

 (1) – (3) [Unchanged.]

# Comments

[1] – [8] [Unchanged.]

# RULE 2.12

# SUPERVISORY DUTIES

1. – (B) [Unchanged.]

# Comments

[1] A judge is responsible for ~~his or her~~ their own conduct and for the conduct of others, such as staff, when those persons are acting at the judge’s direction or control. A judge may not direct court personnel to engage in conduct on the judge’s behalf or as the judge’s representative when such conduct would violate the Code if undertaken by the judge.

[2] [Unchanged.]

# RULE 3.4

# APPOINTMENTS TO GOVERNMENTAL POSITIONS

A judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice. A judge may represent ~~his or her~~ their country, state, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities.

**Comment**

 [1] [Unchanged.]

# RULE 3.7

# PARTICIPATION IN EDUCATIONAL, RELIGIOUS, CHARITABLE, FRATERNAL, OR CIVIC ORGANIZATIONS AND ACTIVITIES

Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

(A) – (B) [Unchanged.]

(C) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting ~~his or her~~ their title to be used in connection with an event of such an organization or entity, but if the event serves a fundraising purpose, the judge may do so only if the event concerns the law, the legal system, or the administration of justice;

(D) [Unchanged.]

# Comments

[1] – [8] [Unchanged.]

**RULE 3.8**

**APPOINTMENTS TO FIDUCIARY POSITIONS**

1. – (C) [Unchanged.]

(D) If a person who is serving in a fiduciary position becomes a judge, ~~he or she~~ they must comply with this Rule as soon as reasonably practicable, but in no event later than one year after becoming a judge.

**Comment**

[1] [Unchanged.]

**CJC 3.10**

**PRACTICE OF LAW**

(A) A judge shall not practice law. A judge may act pro se or on behalf of his or her their marital community or domes­tic partnership and may, without compensation, give legal advice to and draft or review documents for a member of the judge’s family,\* but is prohibited from serving as the family member’s lawyer in any adjudicative forum.

(B) [Unchanged.]

Comment

[1] A judge may act pro se or on behalf of his or her their marital com­munity or domestic partnership in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. A judge must not use the prestige of office to advance the judge’s personal or family interests. See Rule 1.3.

**CJC 3.11**

**FINANCIAL, BUSINESS, OR REMUNERATIVE ACTIVITIES**

(A)-(C) [Unchanged.]

(D) As soon as practicable without serious financial det­riment, the judge must self-divest himself or herself of in­vestments and other financial interests that might require frequent disqualification or otherwise violate this Rule.

Comments

[1] Judges are generally permitted to engage in financial activities, subject to the requirements of this Rule and other provisions of this Code. For example, it would be improper for a judge to spend so much time on business activities that it interferes with the performance of judicial du­ties. See Rule 2.1. Similarly, it would be improper for a judge to use his or her their official title or appear in judicial robes in business advertising, or to conduct his or her their business or financial affairs in such a way that disqualification is frequently required. See Rules 1.3 and 2.11.

[2] [Unchanged.]

**CJC 3.14**

**REIMBURSEMENT OF EXPENSES AND WAIVERS OF FEES OR CHARGES**

(A)-(B) [Unchanged.]

**Comments**

[1]-[2] [Unchanged.]

[3] A judge must assure ~~himself or herself~~ themself 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 that a judge should consider when deciding whether to accept reim­bursement or a fee waiver for attendance at a particular activity include:

(a)-(h) [Unchanged.]

**CJC 4.1**

**POLITICAL AND CAMPAIGN ACTIVITIES OF JUDGES AND JUDICIAL CANDIDATES IN GENERAL**

(A) Except as permitted by law,\* or by Rules 4.2 (Political and Campaign Activities of Judicial Candidates in Public Elections), 4.3 (Activities of Candidates for Appointive Ju­dicial Office), and 4.4 (Campaign Committees), a judge or a judicial candidate\* shall not:

(1)-(4) [Unchanged.]

(5) publicly self-identify ~~himself or herself~~ as a member or a candidate of a political organization, except

(a)-(b) [Unchanged.]

(6)-(12) [Unchanged.]

(B) [Unchanged.]

**Comments**

*General Considerations*

[1] [Unchanged.]

[2] When a person becomes a judicial candidate, this Canon becomes applicable to ~~his or her~~ their conduct.

*Participation in Political Activities*

[3]-[6] [Unchanged.]

*Statements and Comments Made During a Campaign for Judicial Office*

[7]-[8] [Unchanged.]

[9] Subject to paragraph (A)(11), a judicial candidate is permitted to respond directly to false, misleading, or unfair allegations made against ~~him or her~~ them during a campaign, although it is preferable for someone else to respond if the allegations relate to a pending case.

[10] [Unchanged.]

*Pledges, Promises, or Commitments Inconsistent with Impartial Perfor­mance of the Adjudicative Duties of Judicial Office*

[11]-[12] [Unchanged.]

[13] The making of a pledge, promise, or commitment is not dependent ~~up~~on, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result. Pledges, promises, or commit­ments must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to ~~his or her~~ their personal views.

[14]-[15] [Unchanged.]

*Personal Solicitation of Campaign Funds*

[16] [Unchanged.]

**CJC 4.2**

**POLITICAL AND CAMPAIGN ACTIVITIES OF JUDICIAL CANDIDATES IN PUBLIC ELECTIONS**

(A) A judicial candidate\* in a nonpartisan, public elec­tion\* shall:

(1)-(2) [Unchanged.]

(3) review and approve the content of all campaign state­ments and materials produced by the candidate or ~~his or her~~ the judicial candidate’s campaign committee, as autho­rized by Rule 4.4, before their dissemination; and

(4) [Unchanged.]

(B) A candidate for elective judicial office may:

(1) [Unchanged.]

(2) speak on behalf of ~~his or her~~ their candidacy through any medium, including but not limited to advertisements, ~~web sites~~ websites, or other campaign literature;

(3) [Unchanged.]

**Comments**

[1]-[5] [Unchanged.]

**CJC 4.4**

**CAMPAIGN COMMITTEES**

(A) A judicial candidate\* subject to public election\* may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The candidate is responsible for ensuring that ~~his or her~~ their campaign committee complies with applicable provisions of this Code and other applicable law.\*

(B) A judicial candidate subject to public election shall direct ~~his or her~~ their campaign committee:

(1)-(3) [Unchanged.]

**Comments**

[1]-[2] [Unchanged.]

**CJC 4.5**

**ACTIVITIES OF JUDGES WHO BECOME CANDIDATES FOR NONJUDICIAL OFFICE**

(A)-(B) [Unchanged.]

**Comments**

[1] [Unchanged.]

[2] The “resign to run” rule set forth in paragraph (A) ensures that a judge cannot use the judicial office to promote ~~his or her~~ their candidacy~~,~~ and prevents postcampaign retaliation from the judge in the event the judge is defeated in the election. When a judge is seeking appointive non­judicial office, however, the dangers are not sufficient to warrant impos­ing the “resign to run” rule.