

The Good, the Bad, and the Ugly: Getting Involved Without Getting in Trouble

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Shelby County Circuit Court

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TN Judicial Conference
Oct. 17, 2023

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Where Can I Get Ethics Assistance?

Judicial Ethics Committee

**Consists of seven judges
appointed by the Supreme
Court.**

**May issue formal ethics
opinions on proper
professional conduct
when requested
by a judge.**



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Where Can I Get Ethics Assistance?

Judicial Ethics Committee

“A Formal Ethics Opinion shall constitute a body of principles and objectives upon which judges can rely for guidance.”

Tenn. Sup. Ct. R. 10A.6

“An opinion may not be issued in a matter that is the subject of a pending disciplinary proceeding.”

Tenn. Sup. Ct. R. 10A.4



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Where Can I Get Ethics Assistance?

Judicial Ethics Committee

- Judge Ross Dyer, Chair
(901) 537-2978



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What Is the Board of Judicial Conduct?

Authority of BJC:

- Exercises “broad powers to investigate, hear, and determine charges sufficient to warrant sanctions or removal” from office.
- Possesses “powers normally exercised by courts of record.”

Tenn. Code Ann. § 17-5-301(a)-(b).

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What Is the Board of Judicial Conduct?

Composition

Sixteen members -

- Eight current or former judges
- Six non-lawyer/non-judge members
- Two lawyers

Selection: judicial conferences (5 appointments), Speakers of House and Senate (8 appointments), Governor (2 appointments), and Supreme Court (1 appointment).

Tenn. Code Ann. § 17-5-201

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What Is the Board of Judicial Conduct?

Divided into:

- Investigative panels of three members each (at least one current or former judge)
- Hearing panels of five members each (at least two current or former judges).



Tenn. Code Ann. § 17-5-201

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What Is the Board of Judicial Conduct?

Responding to a Complaint

- usually unnecessary and not requested
- “The ethical standards are clear that judges are required to cooperate with judicial disciplinary agencies . . . and the statutory duty to respond is not discretionary. Failing to respond to an investigation is inconsistent with a judge’s proper performance of the judge’s duties and undermines public confidence in the judiciary.” Public Reprimand – TN (2023).
- responses typically not provided to complaining party

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What Is the Board of Judicial Conduct?

Jurisdiction

- trial judges (including general sessions, probate, juvenile, municipal judges, magistrates, court commissioners)
- appellate judges and justices
- senior judges
- claims commissioners

Tenn. Code Ann. § 17-5-102

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What Is the Board of Judicial Conduct?

Jurisdiction

- sitting by special appointment
- candidates for judicial office
- anyone else presiding over a court created by the legislature

Tenn. Code Ann. § 17-5-102

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What Is the Board of Judicial Conduct?

No Jurisdiction

- federal judges
- administrative law judges
- workers' compensation judges

Tenn. Code Ann. § 17-5-102

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What Is the Board of Judicial Conduct?

Jurisdiction

Judicial behavior, not judicial decision-making.



*"Don't spread it around, but on the really tough ones,
I just go with 'eenie, meenie, minie, moe.'"*

Tenn. Code Ann. § 17-5-102(c)

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What Is the Board of Judicial Conduct?

Jurisdiction

- Judge suffering from a physical or mental disability “that would substantially interfere with the prompt, orderly, and efficient performance of the judge’s duties.”
- BJC can take “appropriate action, including recommendation of removal from office.”

Tenn. Code Ann. § 17-5-302(a)

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What Is the Board of Judicial Conduct?

Range of outcomes (any one or any combination):

- dismissal of complaint (no jurisdiction, no merit, legal issues, untimely, repetitive);
- warning/reminder;
- private reprimand;
- public reprimand;
- deferred discipline agreement;

Tenn. Code Ann. § 17-5-301(f)(1)

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What Is the Board of Judicial Conduct?

Range of outcomes (any one or any combination):

- impose limits/conditions on performance of duties, including cease and desist order;
- suspension (with pay);
- recommend removal from office;
- immediate suspension upon being charged with a felony.

Tenn. Code Ann. §§ 17-5-301(f)(1), 303(g).

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The Four Canons/Code of Judicial Conduct

1. "A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."
2. "A judge shall perform the duties of judicial office impartially, competently, and diligently."
3. "A judge shall conduct the judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office."
4. "A judge . . . shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary."

Tenn. Sup. Ct. R. 10 (Code of Judicial Conduct)

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Extrajudicial/Personal Activities

A judge may not participate in personal or extrajudicial activities that:

- interfere with the proper performance of the judge's duties
- lead to frequent disqualification
- appear to a reasonable person to undermine the judge's independence, integrity, or impartiality
- appear to a reasonable person to be coercive

RJC 3.1

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Do the Ethics Rules Apply to *Personal Activities?*

"Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives." Preamble, Tenn. Sup. Ct. R. 10.



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May I write a letter of recommendation on judicial letterhead for a job applicant?



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May I write a letter on judicial stationary seeking grant money for a court program, i.e, drug court, veterans court, mental health court, etc.?

20

**May I write a letter of recommendation on
judicial letterhead for a law school applicant?**



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**May I write a letter on judicial letterhead
and/or testify for a defendant seeking parole?**

22

**May I raise money to fund a law school scholarship
in the name of a deceased colleague?**



23

May I serve on my HOA board of directors?

24

**May I accept an appointment to the TN
Monuments and Memorials Commission?**



25

**May I, as a part-time judge, have my law
office in the courthouse?**

26

May I serve on the capital campaign committee at my church?



27

May I judge my former law firm's chili cook-off contest?

A good idea?

28

**May I solicit donations of money/resources
for a school on social media?**



29

May I serve of the board of directors of CASA?

30

May I use social media to help the local high school sell tickets to musical/band events?



31

May I represent a family member who is charged with a crime in a different court?

32

**May I teach a law-related class at a local college?
At a law school? At the police academy?**



33

May I help raise money for Legal Aid?



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May I post on social media my “legal tip of the day?”

35

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36

May I endorse/promote the real estate business of a close friend on social media?



37

May I repost on Facebook fundraising information for a disabled veteran who is a friend of mine?



38

May I use “judge” in my profile information on social media? What about a picture in my judicial robe?

**CAUTION
PROCEED
CAREFULLY**

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Use of Social Media

**“Lawyers who choose to post on social media must realize they are handling live ammunition.”
In Re Sitton, 618 S.W.3d 288 (Tenn. 2021).**



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May I talk on the radio about interesting cases in my court?



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May I talk on the radio about interesting cases in my court?



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May I research media accounts of an event the parties are litigating before me to assist in making the most informed decision possible?



43

May I speak/write about the history and interpretation of the state constitution?

44

**May I speak at an event honoring law enforcement?
At an event protesting law enforcement?**

**CAUTION
PROCEED
CAREFULLY**

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**May I appear before my county legislative
body to advocate for a new courthouse?**

46

May I testify as a fact witness in a case in which I saw the car accident?

47

May I represent the estate of a close friend?

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**May I serve on the board of directors of
my local bank?**

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REMAIN VIGILANT

“Willful misconduct in office of necessity is conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

“However, a judge may also, through negligence or ignorance not amounting to bad faith behave in a manner prejudicial to the administration of justice so as to bring the judicial office into disrepute.”

- Commission on Judicial Performance v. Dodds, 680 So. 2d 180, 190-91 (Mississippi 1996).

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