

## Judicial Ethics: Inquiring Minds Want to Know

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Chair, TN Board of Judicial Conduct

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Disciplinary Counsel  
TN Board of Judicial Conduct

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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-judges
- Two lawyers

Selection: Speakers of House and Senate (8 appointments), judicial conferences (5 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." TN Public Reprimand (2023).
- responses generally not provided to the 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.



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*, including substance abuse, "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 (i.e., no jurisdiction, no merit, raises legal issues, untimely, repetitive, etc.);
- 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 (only legislature can remove);
- 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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### The Four Canons/Code of Judicial Conduct

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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 and timely 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?

Yes, within limits.

"A judge may provide a reference or recommendation for an individual based upon the judge's **personal knowledge**. The judge may use official letterhead if the judge indicates that the reference is personal **and** if there is no likelihood that the use of the letterhead would reasonably be perceived as an attempt to exert pressure by reason of the judicial office."

RJC 1.3, cmt. 2.



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

Yes.

"Judges may appear before governmental bodies to endorse projects and programs directly related to the law, the legal system, the administration of justice and the provision of services to those coming before the courts, **and may actively support the need for funding of such projects or programs**. This support can occur by **personal appearance or by writing**, such as a letter to be submitted with a request for funding by an entity that provides services to those coming before the courts."

RJC 3.2, cmt. 4.

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

Yes.

"A judge may use official letterhead if the judge's professional knowledge is germane to the purpose of the letter, such as writing a letter of recommendation for a former or current law clerk or a letter of recommendation for admission to law school."

RJC 1.3, cmt. 2.




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

Not recommended.

"A judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly subpoenaed." RJC 3.3.

"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." RJC 1.3.

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**May I write a letter on judicial letterhead in support of a family friend with pending criminal matters in another court?**

No.

"A judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly subpoenaed." RJC 3.3.

"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." RJC 1.3.

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

Yes, but . . .

"A judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly subpoenaed." RJC 3.3.

"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." RJC 1.3.

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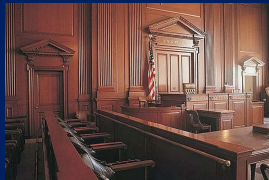
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### May I grant "special access" to a lawyer who wants to have a photographer take pictures of my courtroom to use on his firm's website?

A good idea?

- "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." RJC 1.3.
- "[A] judge shall not . . . make inappropriate use of court premises, staff, stationery, equipment, or other resources." RJC 3.1(E).



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### May I order that fines be paid to a charity of my choice?

Not recommended.

- "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." RJC 1.3.



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**May I go to dinner with a friend convicted of multiple felonies in federal court before he reports to prison for several years?**

Not recommended.

- A judge shall act at all times in a manner that promotes public confidence in the integrity of the judiciary and avoid impropriety and the appearance of impropriety. RJC 1.2.
- A judge may not engage in personal activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality. RJC 3.1(C).

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

Yes, but only from a select group of people.

A judge may solicit contributions "but **only** from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority."

RJC 3.7 (A)(2).



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

No.

"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."

RJC 3.4.



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

No.

- A judge may not "make inappropriate use of court premises, staff, stationary, equipment, or other resources." RJC 3.1 (E).
- "A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge." RJC 1.3.
- "A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety." RJC 1.2.

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

Yes.

- A judge may participate in activities sponsored by or on behalf of religious organizations, including assisting "in planning related to fundraising and participating in the management and investment of the organization's or entity's funds."
- Be mindful of the limit on soliciting contributions, i.e., "only from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority."

RJC 3.7 (A)(1)-(2).



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### May I accept a holiday gift basket from a law firm doing business in my court?

Yes, but put it in the clerk's office to avoid optics issues.

"A judge shall not accept any gifts . . . if acceptance would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality." RJC 3.13.

"A judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge." RJC 2.4 (C).



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### May I accept office décor given to my assistant from a lawyer who does business in my court?

No.

"A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety." RJC 1.2.

"A judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge." RJC 2.4 (C).

"A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code." RJC 2.12.



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### May I charge a fee or accept a gratuity for performing a wedding ceremony?

No.

"No officer is allowed to demand or receive fees or other compensation for any service further than is expressly provided by law." Tenn. Code Ann. § 8-21-101. See also AG opn 84-286.

"A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge." RJC 1.3.



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

A good idea?

- Guiding principle – judges are prohibited from engaging in *personal* activities that would appear to a reasonable person to undermine the judge's independence, integrity, and impartiality or lead to frequent disqualification. RJC 3.1.
- Use good judgment when attending holiday parties, birthday parties, lake outings, sports events, lunches, trips/vacations with attorneys.
- Disclose personal and business relationships with parties, witnesses, and lawyers.

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

No.

"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." RJC 1.3.

"[C]onflating judicial office with promoting the private interests of others is prohibited."  
Reprimand - TN (2023)




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

No.

"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." RJC 1.3.

"[C]onflating judicial office with promoting the private interests of others is prohibited."  
Reprimand - TN (2023)




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### May I serve on the board of directors of CASA?

It depends.

A judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, including serving as an officer, director, trustee, or nonlegal advisor unless it is likely that the organization or entity:

- will be engaged in proceedings that would ordinarily come before the judge or
- will frequently be engaged 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.

RJC 3.7 (A)(6).

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

Yes, within limits.

"To the extent that time permits, **and judicial independence and impartiality are not compromised**, judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing, and **teaching**."

RJC 3.1, cmt. 1.



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### May I help raise money for Legal Aid?

Yes, with restrictions.

A judge may solicit contributions for organizations that concern the law, the legal system, or the administration of justice **but only from members of the judge's family or from judges over whom the judge does not exercise supervisory or appellate authority**.

RJC 3.7 (A)(2).



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### May I post on social media (or local paper) my "legal tip of the day?"

No.

- A judge shall act at all times in a manner that promotes public confidence in the integrity of the judiciary and avoid impropriety and the appearance of impropriety. RJC 1.2.
- A judge may not engage in personal activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality. RJC 3.1 (C).

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### May I post on social media (or local paper) my "legal tip of the day?"

"Judges choosing to participate in inherently public platforms must exercise caution and carefully evaluate whether their social media communications foster public confidence in the integrity, independence, and impartiality of the judiciary."

Reprimand – TN (2021)

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

No.

A judge cannot lend the prestige of judicial office to advance the personal or economic interests of the judge or others.

RJC 1.3.



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

- Not a specific rule against it, but proceed with caution, as it can draw unwelcome attention.
- Judges are prohibited from engaging in *personal* activities that would appear to a reasonable person to undermine the judge's independence, integrity, and impartiality. RJC 3.1.

**CAUTION  
PROCEED  
CAREFULLY**

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### A disgruntled litigant is bashing me on social media - may I respond?

Not recommended.

A judge must be patient, dignified, and courteous to litigants. RJC 2.8(B).

A judge shall act at all times in a manner that promotes public confidence in the integrity of the judiciary and avoid impropriety and the appearance of impropriety. RJC 1.2.




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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 Sifton, 618 S.W.3d 288, 304 (Tenn. 2021).




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

No.

Public comments on matters pending or impending in **any** court which might reasonably be expected to affect the outcome or impair its fairness are prohibited.

RJC 2.10 (A).




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

"Any reasonable jurist would know that using a case pending before him or her for their own extra-judicial purposes on social media or elsewhere runs a significant risk of undermining the administration of justice, public confidence in the individual judge, and violating the Code of Judicial Conduct."

Suspension Order - TN (2022)



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### May I contact a reporter or hold a press conference to "set the record straight?"

Not recommended.

A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court.

However, a judge may publicly comment to explain court procedures.

RJC 2.10.



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### May I research media accounts of the event the parties are litigating to assist me in making a more informed decision?

No.

"A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed." RJC 2.9 (C).

This extends to information in all mediums, including electronic.  
RJC 2.9, cmt. 6.



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

It depends.

- A full-time judge "shall not practice law. A judge may act pro se 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 forum." RJC 3.10.
- A part-time judge "shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any proceeding related thereto." Rule 10 III (B).

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

Not recommended.

A judge may not participate in extrajudicial activities that:

- can lead to frequent disqualification
- appear to a reasonable person to undermine the judge's independence, integrity, or impartiality

RJC 3.1(B) and (C).

**CAUTION  
PROCEED  
CAREFULLY**

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### May I appear before my county's legislative body to advocate for a new courthouse?

Yes.

Judges may appear at a public hearing or otherwise consult with executive or legislative officials -

- in connection with matters concerning the law, legal system, or the administration of justice
- regarding matters about which the judge acquired knowledge or expertise in the course of the judge's duties

RJC 3.2.

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

Yes.

"To the extent that time permits, **and judicial independence and impartiality are not compromised**, judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by **speaking, writing, and teaching.**"

RJC 3.1, cmt. 1.

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### A fellow judge has a problem with alcohol. Must I report "my friend" to the BJC?

Not necessarily - but do *something*.

- "A judge having a reasonable belief that the performance of a lawyer or another judge is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, **shall take appropriate action**, which may include a confidential referral to a lawyer or judicial assistance program." RJC 2.14.
- "Depending upon the circumstances, appropriate action may include but is not limited to speaking directly to the impaired person, notifying an individual with supervisory responsibility over the impaired person, or making a referral to an assistance program." RJC 2.14, cmt 1.



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### Am I required to recuse if a party files an ethics complaint against me?

No.

"Recusal is not required simply because a party has filed a complaint against a judge." *Denney v. Rather*, No. M2022-01743-COA-T10B-CV, 2023 WL 316012, at \*4 (Tenn. Ct. App. Jan. 19, 2023).

"It is the opinion of this committee that [a] complaint filed with the [BJC] does not ethically disqualify the judge . . . [as] the filing of a complaint is not in itself a grounds for recusal." Judicial Ethics Opinion 99-3.

A contrary rule would invite abuse in the form of judge shopping.



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### May I speak in support of a lawyer at a Trial Court Vacancy Commission hearing?

Yes, provided the information is based on the judge's personal knowledge.

But consider the potential implications.

"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." RJC 1.3.



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### May I serve as a sponsor for a newly licensed attorney at his/her admission ceremony?

Yes.

This is commonly done.



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### May I serve on my HOA board of directors?

Yes.

"A judge may participate in activities . . . 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:

(6) Serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, **unless** it is likely that the organization or entity:

(a) will be engaged in proceedings that would ordinarily come before the judge; or

(b) will frequently be engaged 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."

RJC 3.7 (A)(6).

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### May I start and operate a business matching lawyers with paralegals?

Not recommended.

- "A judge shall not engage in financial activities . . . if they will (1) interfere with the proper performance of judicial duties, (2) lead to frequent disqualification, (3) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves, or (4) result in violation of other provisions of this Code." RJC 3.11(C).
- "A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety." RJC 1.2.
- A judge cannot lend the prestige of judicial office to advance the personal or economic interests of the judge or others. RJC 1.3.



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### May I represent the estate of a close friend?

No.

- A judge cannot accept appointment to serve in a fiduciary position, such as executor, administrator, trustee, guardian, conservator, attorney in fact, or other personal representative.
- A judge may, however, serve in one of these capacities for a member of the judge's family but only if such service will not interfere with the proper performance of judicial duties.

RJC 3.8 (A)

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

Not recommended.

"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:

(6) Serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:

(a) will be engaged in proceedings that would ordinarily come before the judge; or

(b) will frequently be engaged 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." RJC 3.7 (A)(6).

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