

**Notes on Sources of
the 2013 Oregon Code of Judicial Conduct**

RULE	NOTES ON SOURCES
<p>RULE 1 SCOPE AND APPLICATION OF THIS CODE; DEFINITIONS; FUNDAMENTAL PRINCIPLES</p>	
<p>Rule 1.1 <i>Scope</i></p> <p>These rules shall be known as the Oregon Code of Judicial Conduct. The Oregon Code of Judicial Conduct establishes standards for the ethical conduct of judges and judicial candidates. A judge or judicial candidate shall comply with the provisions of this Code and may be disciplined for violation of the Code.</p> <p>Because a judge or judicial candidate may be disciplined for violations of this Code, the provisions are limited to addressing specific circumstances where certain conduct is either prohibited or required. Of course, for many reasons, judges should aspire to a professional and personal standard of conduct that goes beyond mere compliance with this code and promotes access to justice and public confidence in the integrity and impartiality of the judiciary.</p>	<p>This provision is new to the Oregon Code of Judicial Conduct ("the Code"). It is based, in part, on the Scope section of the 2007 edition of the American Bar Association's Model Code of Judicial Conduct (the "Model Code").</p>
<p>Rule 1.2 <i>Application</i></p> <p>(A) Persons who perform the functions of a judge and who have been (1) duly elected, (2) appointed by the Governor, or (3) employed full-time to perform the functions of a judge on an appellate court, the tax court, or a circuit court shall comply with this Code at all times.</p> <p>(B) Persons who perform the functions of a judge as senior judges under ORS 1.300</p> <p style="padding-left: 40px;">(1) are not required to comply with Rule 4.5, (Participation in Legal, Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), Rule 4.6, (Appointments to Fiduciary Positions), Rule 4.7</p>	<p>Rule 1.2 is similar in subject matter to current JR 5-101, 5-102, and 5-103, and also is based in part on the Application section of the Model Code.</p>

(Service as Arbitrator or Mediator), or Rule 4.8 (Practice of Law), but shall comply with all other provisions of this Code during any period when they are designated by the Supreme Court or other governing authority to perform the functions of a judge; and

(2) 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 representing or opposing, as a lawyer or a party, in any legal proceeding;

(C) Persons other than those described in Paragraphs (A) or (B) of this rule, who perform the functions of a judge, including but not limited to judges pro tempore on a court described in paragraph (A) of this Rule, judges of a county court, and judges of a justice court

(1) are not required to comply with Rule 4.5, (Participation in Legal, Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), Rule 4.6, (Appointments to Fiduciary Positions), Rule 4.7 (Service as Arbitrator or Mediator), Rule 4.8 (Practice of Law), or Rule 5.1 (Political Activities of Judges and Judicial Candidates in General), but shall comply with all other provisions of this Code during any period when they are designated by the Supreme Court or other governing authority to perform the functions of a judge; and

(2) 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 representing or opposing, as a lawyer or a party, in any legal proceeding;

(D) Municipal court judges are not required to comply with this Code.

Rule 1.3 *Definitions*

For the purposes of this Code, the following definitions apply:

Appropriate authority: The authority responsible for initiating disciplinary proceedings in connection with a violation of this Code.

Assist in fundraising: Any fundraising activity, including raising, managing, or investing funds, other than personally soliciting funds.

Discriminatory organization: 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, gender identity, race, national origin, ethnicity, religion, sexual orientation, marital status, disability, or age.

Domestic partner: A registered domestic partner or a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married.

Economic interest: Ownership of more than a de minimis 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 an "economic 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 an "economic interest" in property of the organization;

(c) the proprietary interest of a policyholder in a mutual insurance company, a depositor in a mutual savings association, or a similar proprietary interest, is an "economic

The definitions are new to the Oregon Code of Judicial Conduct; the concept was inspired by the Model Code. In general, the court chose to define terms whose meanings were specific to the Code.

The definition of "Assist in fundraising" is adapted from current JR 3-102(D).

The definition of "Economic interest" is adapted from the definition of "financial interest" in current JR 2-106(C)(2).

The definitions of "Appropriate authority," "Domestic partner," "Impending Matter," "Judicial candidate," "Pending matter," "Personally solicit funds," and "Third Degree of Relationship" are taken directly from or adapted from definitions in the Model Code.

The definition of "matter" conforms to Oregon Rule of Professional Conduct 1.0(i).

The definition of "on the merits," was taken from *In re Smith*, 295 Or 755, 760, 670 P2d 1018 (1983), an attorney discipline case involving *ex parte* communication.

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 an "economic interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

Ex parte communication: A communication between a judge and fewer than all parties or their lawyers, concerning a pending or impending matter.

Impending matter: A matter that is imminent or expected to occur in the near future.

Judge: An officer of a judicial system performing judicial functions.

Judge's family member: The judge's spouse or domestic partner or a person within the third degree of relationship to them.

Judicial candidate: Any person, including a sitting judge, who is seeking to be selected for judicial office by election or appointment. A person becomes a candidate for judicial office as soon as the person makes a public announcement of candidacy, declares or files as a candidate with the Secretary of State or files an application for appointment with the Governor, and for as long as the position for which election or appointment is sought remains unfilled.

Judicial office: A judicial function or position that is performed or occupied by a judge.

Knowingly: Characterized by actual awareness of a fact or circumstance.

Matter: Includes any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other

particular matter involving a specific party or parties; and any other matter covered by the conflict of interest rules of a government agency.

On the merits: Affecting any legal right or duty of the parties in a matter.

Pending matter: A matter that has commenced. A matter continues to be pending through any appellate process until final disposition.

Personally solicit funds: Directly requesting financial support or in-kind services, 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 and services sold to raise funds.

Settlement judge: A judge who participates in settlement discussions.

Sexual harassment: Includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome.

Third degree of relationship: A relationship that includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece.

RULE	NOTES ON SOURCES
<p>RULE 2 MAINTAINING THE INTEGRITY OF THE JUDICIAL SYSTEM</p>	
<p>Rule 2.1 <i>Promoting Confidence in the Judiciary</i></p> <p>(A) A judge shall observe high standards of conduct so that the integrity, impartiality and independence of the judiciary and access to justice are preserved and shall act at all times in a manner that promotes public confidence in the judiciary and the judicial system.</p> <p>(B) A judge shall not commit a criminal act.</p> <p>(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.</p> <p>(D) A judge shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.</p>	<p>Formerly the heading for current JR 1.</p> <p>Rules 2.1(A)-(D) are taken verbatim from current JR 1-101(A) through (D).</p>
<p>Rule 2.2 <i>Avoiding Misuse of the Prestige of Office</i></p> <p>A judge shall not use the judicial position to gain personal advantage of any kind for the judge or any other person. However, a judge may provide a character or ability reference for a person about whom the judge has personal knowledge.</p>	<p>Rule 2.2 is based on current JR 1-101(F), except that the second clause of the current rule ("nor shall a judge convey or permit anyone to convey the impression that anyone has a special influence with the judge but") has been removed. The prohibition against improper influence now appears in Rule 3.4(C).</p>
<p>Rule 2.3 <i>Testifying as a Character Witness</i></p> <p>Except pursuant to a subpoena, a judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding.</p>	<p>Rule 2.3 is similar to current JR 1-101(G).</p>

RULE	NOTES ON SOURCES
<p style="text-align: center;">RULE 3 IMPARTIAL AND DILIGENT PERFORMANCE OF JUDICIAL DUTIES</p>	<p>Taken from the title of current JR 2.</p>
<p>Rule 3.1 <i>Giving Precedence to the Duties of Judicial Office</i></p> <p>The duties of judicial office, as prescribed by law, shall take precedence over a judge's other professional activities.</p>	<p>Rule 3.1 is similar to current JR 2-101.</p>
<p>Rule 3.2 <i>Ensuring the Right to be Heard</i></p> <p>A judge shall accord to every person who has a legal interest in a proceeding, or to that person's lawyer, the right to be heard according to law.</p>	<p>Rule 3.2 is adapted from Model Code Rule 2.6(a).</p>
<p>Rule 3.3 <i>Impartiality and Fairness</i></p> <p>(A) A judge shall uphold and apply the law and perform all duties of judicial office, including administrative duties, fairly, impartially, and without bias or prejudice.</p> <p>(B) A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice, or engage in harassment, against parties, witnesses, lawyers, or others based on attributes including but not limited to, sex, gender identity, race, national origin, ethnicity, religion, sexual orientation, marital status, disability, age, socioeconomic status, or political affiliation and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.</p> <p>(C) A judge shall not take any action or make any comment that a reasonable person would expect to impair the fairness of a matter pending or impending in any Oregon court.</p>	<p>Rule 3.3(A) combines rules Rule 2.2 and 2.3(A) of the Model Code. The closest counterpart provision in the current code is JR 2-107.</p> <p>Rule 3.3(B) is adapted from Model Code Rule 2.3(B); the closest counterparts in the current code are JR 1-101(H) (prohibiting membership in discriminatory organizations) and JR 2-110(B) ("A judge shall not act in a way that * * * would be perceived as biased or prejudiced toward any of the litigants, jurors, witnesses, lawyers or members of the public.").</p> <p>Rule 3.3(C) is adapted from current JR 2-103.</p>

<p>Rule 3.4 <i>External Influences on Judicial Conduct</i></p> <p>(A) A judge shall not be swayed by public clamor or fear of criticism.</p> <p>(B) A judge shall not permit family, social, political, financial, or other interests or relationships to improperly influence the judge's judicial conduct or judgment.</p> <p>(C) A judge shall not convey or permit others to convey the impression that any person or organization is in a position to improperly influence a judge.</p>	<p>Rule 3.4(A) is identical to Rule 2.4(A) of the Model Code; it is similar to current JR 2-108, with the phrase "partisan interests" omitted.</p> <p>Rule 3.4(B) is adapted from Rule 2.4(B) of the Model Code; it is similar to current JR 1-101(E).</p> <p>Rule 3.4 (C) is adapted from Rule 2.4(C) of the Model Code; it is similar to the second clause of current JR 1-101(F).</p>
<p>Rule 3.5 <i>Competence, Diligence, and Cooperation</i></p> <p>(A) A judge shall perform judicial and administrative duties competently and diligently.</p> <p>(B) A judge shall require court staff, court officials, and others subject to the judge's direction and control to perform their employment duties in a manner consistent with the judge's obligations under this Code.</p> <p>(C) In making administrative appointments, a judge shall exercise the power of appointment impartially and on the basis of merit.</p> <p>(D) A judge shall cooperate with other judges and court officials in the administration of court business.</p>	<p>Rule 3.5(A) is identical to Rule 2.5(A) of the Model Code. Its closest current counterpart is JR 2-101.</p> <p>Rule 3.5(B) is identical to Rule 2.12(A) of the Model Code; it is similar to current JR 2-110(C).</p> <p>Rule 3.5(C) is identical to Rule 2.13(A)(1) of the Model Code; it is similar to JR 2-105.</p> <p>Rule 3.5(D) is identical to Rule 2.5(B) of the Model Code. There is no counterpart provision in the current rules.</p>
<p>Rule 3.6 <i>Responsibility to Decide</i></p> <p>A judge shall hear and decide matters assigned to the judge, except when the judge permissibly disqualifies himself or herself or disqualification is required by Rule 3.10 or other law.</p>	<p>Rule 3.6 is adapted from Rule 2.7 of the Model Code. There is no direct counterpart provision in the current rules, but it is similar in subject matter to current JR. 2-101 ("a judge shall not neglect the business of the court.").</p>

Rule 3.7 *Decorum, Demeanor, and Communication with Jurors*

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

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

(C) A judge shall not praise or criticize jurors for their verdict other than in a ruling in a proceeding, but a judge may thank and commend jurors for their service. A judge who is not otherwise prohibited by law from doing so may meet with jurors who choose to remain after trial but should be careful not to discuss the merits of the case.

Rule 3.7(A) is identical to Rule 2.8(A) of the Model Code; it is similar to current JR 2-109.

Rule 3.7(B) is identical to Rule 2.8(B) of the Model Code; it is a combined form of current JR 2-110(A) and (C).

Rule 3.7(C) is adapted from Rule 2.8(C) of the Model Code, with the clause "but a judge may thank and commend jurors for their service" and the second sentence added. It is similar in subject matter to current JR 2-110(A).

Rule 3.8 *Encouraging Settlement and Serving as a Settlement Judge*

(A) A judge may encourage parties to a proceeding and their lawyers to consider settling matters in dispute but shall not act in a manner that coerces any party into settlement. To avoid coercing a party into settlement, a judge who encourages settlement or who serves as a settlement judge should consider, among any other pertinent factors, whether (1) the parties or their counsel are relatively sophisticated in legal matters, (2) the case will be tried by a judge or a jury, (3) the parties participate with their counsel in settlement discussions, (4) any parties are self-represented, and (5) the matter is civil or criminal.

(B) Nothing in this rule precludes a court from requiring parties to attend a meeting to consider whether they are willing to participate in settlement discussions. If the parties agree to participate in settlement discussions, the settlement judge may confer separately with each party or each party's lawyer on the merits of a matter in an effort to settle matters before the court.

(C) Except with the consent of the parties, a

This provision undertakes to compile settlement activity rules in a single rule. There is no counterpart provision in the current code. Rule 3.8(A) is based, in part, on Rule 2.6(B) of the Model Code. Rule 3.8(B) is based, in part, on Rule 2.9(A)(4) of the Model Code.

<p>judge who will rule on the merits of a pending case shall not participate in the case as a settlement judge.</p>	
<p>Rule 3.9 <i>Ex Parte Communications</i></p> <p>(A) Unless expressly authorized by law or with the consent of the parties, a judge shall not initiate, permit, or consider ex parte communications. The following exceptions apply:</p> <p>(1) When circumstances require it, ex parte communication for scheduling, administrative, or emergency purposes, that does not address the merits of a matter, is permitted, provided:</p> <p>(a) the judge reasonably believes that no party will gain a procedural, tactical, or other advantage on the merits, as a result of the ex parte communication; and</p> <p>(b) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties a reasonable opportunity to respond.</p> <p>(2) A judge may consult with court staff, court officials, and employees of the judicial branch of government whose functions are to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges at the same level, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility personally to decide the matter.</p> <p>(3) A settlement judge may, with the consent of the parties, confer separately with the parties or their lawyers in an effort to settle matters before the court.</p> <p>(B) If a judge receives an unauthorized ex parte communication bearing upon the merits of a matter, the judge shall promptly notify the parties of the substance of the communication and provide them with a reasonable</p>	<p>Rule 3.9(A) is adapted from Rule 2.9(A) of the Model Code. It is similar in subject matter to current JR 2-102(B).</p> <p>Rule 3.9(A)(1) is based on Rules 2.9(A)(1)(a) and (b) of the Model Code; it is similar to current JR 2-102(C).</p> <p>Rule 3.9(A)(2) is based on Rule 2.9(A)(3) of the Model Code; it is similar to current JR 2-102(E).</p> <p>Rule 3.9(A)(3) is adapted from Rule 2.9(A)(4) of the Model Code.</p> <p>Rule 3.9(B) is adapted from Rule 2.9(B) of the Model Code; it is similar to current JR 2-102(D).</p>

opportunity to respond.

Rule 3.10 Disqualification

(A) A judge shall disqualify himself or herself in any proceeding in which a reasonable person would question the judge's impartiality, including but not limited to the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

(2) The judge knows that the judge, the judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is:

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

(b) acting as a lawyer in the proceeding;

(c) a person who has an interest that could be substantially affected by the proceeding; or

(d) likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary, or the judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person has an economic interest in the subject matter in controversy or is a party to the proceeding.

(4) The judge, while a judge or judicial candidate, has made a statement, other than in a court proceeding, judicial decision, or opinion, that commits or reasonably appears to commit the judge to reach a particular result or rule in a particular way in the proceeding.

Rule 3.10(A)(1) is adapted from Rule 2.11(A)(1) of the Model Code. It is similar to current JR 2-106(A)(1).

Rule 3.10(A)(2) is identical to Rule 2.11(A)(2) of the Model Code. It is similar to current JR 2.106(A)(3) and (4).

Rule 3.10(A)(3) is adapted from Rule 2.11(A)(3) of the Model Code. It is similar to current JR 2-106(A)(3).

Rule 3.10(A)(4) is adapted from Rule 2.11(A)(5) of the Model Code; there is no counterpart provision in the current code, except JR 2-103 which, unlike Rule 3.10(A)(4), is prohibitive, not retrospective.

<p>(5) The judge:</p> <p>(a) Served as a lawyer in the matter in controversy, or, unless paragraph (5)(b) applies, was associated with a lawyer who participated substantially as a lawyer in the matter during such association;</p> <p>(b) Served in governmental employment and, in such capacity, participated personally either as a lawyer or as a supervising lawyer in the matter in controversy, or participated personally as a public official concerning the matter, or has publicly expressed in such capacity an opinion concerning the merits of the matter; or</p> <p>(c) Was a material witness concerning the matter.</p> <p>(B) The disqualification requirement under subsection (A) of this Rule does not apply if the rule of necessity applies.</p> <p>(C) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or domestic partner and minor children residing in the judge's household.</p> <p>(D) A judge subject to disqualification under this Rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the judge's disqualification. If, following the disclosure and a reasonable opportunity to discuss the matter outside the presence of the judge, the parties and their lawyers agree that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.</p>	<p>Rule 3.10(A)(5)(a) is adapted from Rule 2.11(A)(6)(a) of the Model Code; it is similar to current JR 2-106(A)(2).</p> <p>Rule 3.10(A)(5)(b) is adapted from Rule 2.11(A)(6)(b) of the Model Code. There is no counterpart provision in the current code (JR 2-106(A)(2) is the current governing provision for associational disqualification, and it makes no separate provision for former governmental lawyers as a cohort).</p> <p>Rule 3.10(A)(5)(c) is based on Rule 2.11(A)(6)(c) of the Model Code; it is similar to the last clause of current JR 2-106(A)(2).</p> <p>Rule 3.10(B) is a new provision.</p> <p>Rule 3.10(C) is identical to Rule 2.11(B) of the Model Code; it is similar in substance to current JR 2-106(B).</p> <p>Rule 3.10(D) is adapted from Rule 2.11(C) of the Model Code; it is similar to current JR 2-106(D); <i>see also</i> ORS 14.210(2).</p>
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<p>Rule 3.11 <i>Responding to Judicial and Lawyer Misconduct</i></p> <p>(A) A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question regarding the judge's honesty, trustworthiness, or fitness as a judge in other respects, shall inform the appropriate authority.</p> <p>(B) A judge having knowledge that a lawyer has committed a violation of the Oregon Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, shall inform the appropriate authority.</p> <p>(C) This rule does not apply to judges who obtain such knowledge while participating in a loss prevention program of the Professional Liability Fund, such as the Oregon Attorney Assistance Program.</p>	<p>Rules 3.11(A) and (B) are identical to Rules 2.15(A) and (B) of the Model Code; they are similar to current JR 2-104(A).</p>
<p>Rule 3.12 <i>Cooperation with Disciplinary Authorities</i></p> <p>(A) A judge shall cooperate and be candid with judicial and lawyer discipline agencies.</p> <p>(B) A judge shall not retaliate, directly or indirectly, against a person whom the judge knows or suspects has assisted or cooperated with an investigation of a judge or lawyer.</p>	<p>Rule 3.12(A) is parallel in substance to current JR 2-104(A) and (B); there is no counterpart provision to Rule 3.12(B) in the current code.</p>

RULE	NOTES ON SOURCES
<p style="text-align: center;">RULE 4 MINIMIZING THE RISK OF CONFLICT BETWEEN A JUDGE'S ACTIVITIES AND THE OBLIGATIONS OF JUDICIAL OFFICE</p>	
<p>Rule 4.1 <i>Activities in General</i></p> <p>A judge shall not participate in activities when the judge's conduct would:</p> <p style="padding-left: 40px;">(A) interfere with the performance of judicial duties;</p> <p style="padding-left: 40px;">(B) lead to frequent disqualification of the judge; or</p> <p style="padding-left: 40px;">(C) reasonably be expected to compromise the judge's independence, integrity, or impartiality.</p>	<p>Rules 4.1(A), (B), and (C) are adapted in part from Rule from Rule 3.1 of the Model Code. There are no precise counterpart provisions in the existing code; current JR 3-101 has partially overlapping subject-matter.</p>
<p>Rule 4.2 <i>Appearances Before Governmental Bodies</i></p> <p style="padding-left: 40px;">(A) A judge shall not appear voluntarily to speak or testify at a public hearing before a governmental body, in the judge's official capacity, except in connection with matters concerning the law, legal education, the legal system, the administration of justice, or judicial interests such as salary and health and retirement benefits.</p> <p style="padding-left: 40px;">(B) Subject to Rule 2, a judge may appear voluntarily to speak at a public hearing before a governmental body in the judge's personal capacity, or when the judge is acting in a fiduciary capacity.</p> <p style="padding-left: 40px;">(C) A judge may belong to an organization of judges that hires and pays lobbyists to advance judicial interests.</p>	<p>Rule 4.2.(A) is adapted from Rule 3.2(A) of the Model Code. Rule 4.2(B) is based, in part, on Rule 3.2(C) of the Model Code. There are no counterpart provisions to 4.2(A) - (C) in the current code.</p>

<p>Rule 4.3 <i>Use of Nonpublic Information</i></p> <p>A judge shall not intentionally disclose or use nonpublic information acquired in a judicial capacity for any purpose unrelated to the judge's judicial duties except as required by law, or except as necessary to protect the health and safety of the public, the judge or a member of the judge's family, court personnel, or other judicial officers.</p>	<p>Rule 4.3 is adapted from Rule 3.5 of the Model Code. It is similar in subject matter to current JR 3-104.</p>
<p>Rule 4.4 <i>Affiliation With Discriminatory Organizations</i></p> <p>(A) A judge shall not hold membership in an organization that the judge knows or should know is a discriminatory organization.</p> <p>(B) A judge shall not use the benefits or facilities of a discriminatory organization if the judge knows or should know that the organization is a discriminatory organization. A judge's attendance at an event of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's discriminatory practices.</p>	<p>Rule 4.4 is adapted from current JR 1-101(H) and is similar to Rule 3.6 of the Model Code.</p>
<p>Rule 4.5 <i>Participation in Legal, Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities</i></p> <p>(A) Except as provided in Subsection (B), a judge may not personally solicit funds for an organization or entity.</p> <p>(B) So long as the procedures employed are not coercive, a judge may personally solicit funds for an organization or entity from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority, and the judge may assist the judge's minor children with fundraising.</p> <p>(C) Subject to Subsection (A) and Subsection (D), and so long as the procedures employed are not coercive, a judge may participate in activities sponsored by organizations or entities devoted to the law, legal education, the legal system, or the administration of justice, and those sponsored</p>	<p>Rule 4.5 is based in part on Rule 3.7 of the Model Code and on current JR 3-102.</p>

by or on behalf of not for profit, public or private, legal, educational, religious, charitable, fraternal, or civic organizations, including but not limited to the following activities:

(1) assisting such an organization or entity in fundraising, management, and investment of the organization's or entity's funds;

(2) speaking at, receiving an award or other recognition at, or being featured on the program of such an organization or entity;

(3) serving as an officer, director, trustee, or nonlegal advisor of, and soliciting membership for, such an organization or entity;

(D) A judge may not engage in activities described in Subsection (C) if it is likely that the organization or entity will frequently be engaged in adversary proceedings in the state courts of Oregon.

(E) So long as the procedures employed are not coercive, a judge may personally encourage or solicit lawyers to provide publicly available pro bono legal services.

Rule 4.6 *Appointments to Fiduciary Positions*

(A) A judge shall not serve in a fiduciary position, such as executor, administrator, trustee, guardian, attorney in fact, or other personal representative, 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 performance of judicial duties. If a person who is serving in a fiduciary position becomes a judge, the judge shall comply with this Rule as soon as reasonably practicable, but in no event later than one year after becoming a judge.

(B) Notwithstanding subsection (A), a judge shall not serve in any fiduciary position if the judge as fiduciary will likely become engaged in adversary proceedings that would ordinarily come before the court on which the judge serves or where

Rule 4.6(A) is a combination of Rules 3.8(A) and 3.8(D) of the Model Code. Current JR 3-105 covers similar subject-matter.

Rule 4.6(B) is adapted from Rule 3.8(B) of the Model Code.

<p>such service would violate any other provisions of these rules.</p>	
<p>Rule 4.7 <i>Service as an Arbitrator or Mediator</i></p> <p>A judge shall not act as an arbitrator or a mediator or perform other judicial functions for remuneration or anything of value, apart from the judge's official duties, unless expressly authorized by law or by other provisions of these Rules.</p>	<p>Rule 4.7 is adapted from Rule 3.9 of the Model Code. It is similar in substance to current JR 3-106.</p>
<p>Rule 4.8 <i>Practice of Law</i></p> <p>(A) A judge described in Rule 1.2(A) shall not practice law, unless:</p> <ol style="list-style-type: none"> (1) acting <i>pro se</i>; (2) giving legal advice to, and drafting and reviewing documents for, a member of the judge's family; or (3) acting pursuant to military service. <p>(B) A judge described in Rule 1.2(A) shall not receive compensation for legal services provided to the judge's family member and shall not appear as a lawyer for the judge's family members in any matter.</p>	<p>Rules 4.8(A) and (B) are adapted from Rule 3.10 of the Model Code. JR 3-107 is the current counterpart provision.</p>
<p>Rule 4.9 <i>Compensation for Activities</i></p> <p>A judge may not accept compensation or honoraria for activities related to the judicial office, including speaking, teaching, or writing, if acceptance would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.</p>	<p>Rule 4.9 is adapted from Rule 3.12 of the Model Code. No precise counterpart provision on compensation exists in the current code; related subject matter is covered in current JR 3-103 ("gifts, favors, loans, etc).</p>
<p>Rule 4.10 <i>Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value</i></p> <p>(A) A judge shall not accept gifts, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law, or if the donor is a party, lawyer, or other person whose interests have come or are likely to come before the judge.</p>	<p>Rule 4.10(A) is similar to Rule 3.13(A) of the Model Code; it is similar in subject matter to current JR 3-103.</p>

(B) Notwithstanding subsection (A), or unless prohibited by these rules or other law, a judge may accept the following:

(1) items of appreciation, such as plaques, certificates, trophies, greeting cards, and other gifts incidental to a public testimonial;

(2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending or impending before the judge would, in any event, require disqualification of the judge under Rule 3.10;

(3) ordinary social hospitality;

(4) 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;

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

(6) scholarships, fellowships, and similar benefits or awards, if they are made available on the same terms to similarly situated persons;

(7) books, magazines, journals, audiovisual materials, and other resource materials in any form supplied by publishers on a complimentary basis for official use;

(8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner, or other family member of a judge residing in the judge's household, but that

Rules 4.10(B)(1) to (8) are adapted from Rules 3.13(B)(1) to (8) of the Model Code; they are similar in subject matter to, but more exhaustive than, current JR 3-103(A)-(C).

incidentally benefit the judge;

(9) invitations to the judge and the judge's spouse, domestic partner, or guest to attend without charge:

(a) an event associated with a bar-related function or other activity relating to the law, legal education, the legal system, or the administration of justice; or

(b) an event associated with any of the judge's education, religious, charitable, fraternal, or civic activities permitted by this Code, if the same invitation is offered to nonjudges who are engaged in similar ways in the activity.

(10) For activities permitted by this Code, and unless otherwise prohibited by this Code, a judge may accept from sources other than the judge's employing entity, reimbursement of necessary and reasonable expenses or charges associated with the judge's participation in those activities. Reimbursement is limited to the actual costs reasonably incurred by the judge and, when appropriate to the occasion, by the judge's spouse, domestic partner, or guest, for travel, food, lodging, or other incidental expenses or a waiver or partial waiver of fees or charges for those or similar items, including registration and tuition.

Rule 4.10(B)(9) is based on Rule 3.13(C)(2) of the Model Code.

Rule 4.10(B)(10) is adapted from Rules 3.14(A) and (B) of the Model Code; no counterpart provision exists in the current Code

RULE	NOTES ON SOURCES
<p>RULE 5 ENGAGING IN POLITICAL ACTIVITY AND JUDICIAL CAMPAIGN ACTIVITY</p>	
<p>Rule 5.1 <i>Political Activities of Judges and Judicial Candidates in General</i></p> <p>Except as permitted by law, a judge or a judicial candidate shall not:</p> <p>(A) knowingly use or attempt to use the judicial office to:</p> <p style="padding-left: 40px;">(1) publicly endorse or oppose a candidate for any public office other than judicial office; or</p> <p style="padding-left: 40px;">(2) personally solicit funds, services, or property for a political organization or any other organization promoting or opposing the passage of a law, or for any candidate for public office.</p> <p>(B) knowingly use or permit the use of campaign contributions for the private benefit of the judge, the candidate, or others;</p> <p>(C) knowingly use court staff, facilities, or other court resources in a campaign for judicial office;</p> <p>(D) knowingly or with reckless disregard for the truth, make any false statement concerning a judicial candidate's identity, qualifications, present position, education, experience, or other material fact that relates to the judicial campaign of the judge or any judicial candidate;</p> <p>(E) personally solicit or accept campaign contributions other than through a lawfully established campaign committee except, so long as the procedures employed are not coercive, a judge or judicial candidate may personally solicit or accept campaign contributions from members of the judge's family and judges over whom the judge does not exercise supervisory or appellate authority;</p> <p>(F) in connection with cases, controversies, or</p>	<p>Current JRs 4-101 and 4-102 cover similar subject-matter to Rule 5.1, but the substance of the rules is considerably different.</p> <p>Rule 5.1(A)(1) is adapted from Rule 4.1(A)(3) of the Model Code; it is similar to current JR 4-101(1).</p> <p>Rule 5.1(A)(2) is adapted from Rule 4.1(A)(4) of the Model Code; it is similar in subject matter to JR 4-101(2).</p> <p>Rule 5.1(B) is adapted from Rule 4.1(A)(9) of the Model Code (with "knowingly" added); it is similar in subject matter to current JR 4-102(E).</p> <p>Rule 5.1(C) is adapted from Rule 4.1(A)(10) of the Model Code (added "knowingly"); no counterpart provision exists in the current code.</p> <p>Rule 5.1(D) is adapted in part from Rule 4.10(A)(11) of the Model Code; it is similar in subject matter to current JR 4-102(A).</p> <p>Rule 5.1(E) is adapted from Rule 4.1(A)(8) of the Model Code; it is similar to current JR 4-102(D).</p> <p>Rule 5.1(F) is adapted from Rule</p>

<p>issues that are likely to come before the court on which the judge or judicial candidate sits or may sit, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.</p> <p>(G) act as a leader in, or hold office in, a partisan political organization.</p>	<p>4.1(A)(13) of the Model Code; it is similar in subject matter to current JR 4-102(B).</p> <p>Rule 5.1(G) is adapted from Rule 4.1(A)(1) of the Model Code. The only current rule that expressly addresses political affiliation is JR 4-102(C), which is substantively different from Rule 5.1(G).</p>
<p>Rule 5.2 <i>Actions of Other Persons and Organizations</i></p> <p>A judge or judicial candidate shall take reasonable measures to ensure that other persons and organizations, including the candidate's campaign committee, do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under this Rule.</p>	<p>Rule 5.2 is adapted from Rule 4.1(B) of the Model Code. It is similar in substance to current JR 4-103.</p>
<p>Rule 5.3 <i>Activities of Judges Who Become Candidates For Nonjudicial Public Office</i></p> <p>(A) 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.</p> <p>(B) Upon becoming a candidate for a nonjudicial appointive public office, a judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code.</p>	<p>Rule 5.3(A) is identical to current JR 4-105 and is similar to Rule 4.5(A) of the Model Code.</p> <p>Rule 5.3(B) is adapted from Rule 4.5(B) of the Model Code.</p>

RULE	NOTES ON SOURCES
<p style="text-align: center;">RULE 6 PROCEDURE FOR ADVISORY OPINIONS AND CONSIDERATION OF GOOD FAITH COMPLIANCE</p>	
<p>Rule 6.1 <i>Advisory Opinions on Judicial Conduct</i></p> <p>The Judicial Conduct Committee of the Oregon Judicial Conference or any similarly constituted successor body may give persons subject to this code advice in the form of informal advisory opinions or issue formal written advisory opinions, or both, on questions under this Code. The committee shall:</p> <p style="padding-left: 40px;">(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; and</p> <p style="padding-left: 40px;">(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.</p>	<p>Rule 6.1 is adapted from current JR 6-101.</p>
<p>Rule 6.2 <i>Consideration Given in Judicial Conduct Proceedings</i></p> <p>In considering alleged violations of this Code, the Oregon Supreme Court or the Oregon Commission on Judicial Fitness and Disability may consider, in addition to any other evidence of good faith or basis for mitigation, any judge's effort to comply with a formal written opinion issued under Rule 6.1 or a requesting judge's effort to comply with an informal opinion given under Rule 6.1 as:</p> <p style="padding-left: 40px;">(A) a showing of the judge's good faith effort to comply with this code; and</p> <p style="padding-left: 40px;">(B) 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.</p>	<p>Rule 6.2 is adapted from current JR 6-102.</p>