

## Excerpts from the Oregon Code of Judicial Conduct

### RULE 2 MAINTAINING THE INTEGRITY OF THE JUDICIAL SYSTEM

#### **Rule 2.1 *Promoting Confidence in the Judiciary***

(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.

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

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

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

#### **Rule 2.2 *Avoiding Misuse of the Prestige of Office***

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.

### RULE 3 IMPARTIAL AND DILIGENT PERFORMANCE OF JUDICIAL DUTIES

#### **Rule 3.1 *Giving Precedence to the Duties of Judicial Office***

The duties of judicial office, as prescribed by law, shall take precedence over a judge's other professional activities.

#### **Rule 3.2 *Ensuring the Right to be Heard***

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.

#### **Rule 3.3 *Impartiality and Fairness***

(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.

(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.

(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.

### **Rule 3.4 *External Influences on Judicial Conduct***

(A) A judge shall not be swayed by public clamor or fear of criticism.

(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.

(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.

### **Rule 3.5 *Competence, Diligence, and Cooperation***

(A) A judge shall perform judicial and administrative duties competently and diligently.

(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.

(C) In making administrative appointments, a judge shall exercise the power of appointment impartially and on the basis of merit.

(D) A judge shall cooperate with other judges and court officials in the administration of court business.

### **Rule 3.6 *Responsibility to Decide***

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.

### **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 3.9 *Ex Parte Communications***

(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:

(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:

(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

(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.

(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.

(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.

(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 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.

(5) The judge:

(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;

(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

(c) Was a material witness concerning the matter.

(B) The disqualification requirement under subsection (A) of this Rule does not apply if the rule of necessity applies.

(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.

(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 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.

**RULE 4**  
**MINIMIZING THE RISK OF CONFLICT BETWEEN A JUDGE'S ACTIVITIES AND**  
**THE OBLIGATIONS OF JUDICIAL OFFICE**

**Rule 4.1 *Activities in General***

A judge shall not participate in activities when the judge's conduct would:

- (A) interfere with the performance of judicial duties;
- (B) lead to frequent disqualification of the judge; or
- (C) reasonably be expected to compromise the judge's independence, integrity, or impartiality.

**Rule 4.2 *Appearances Before Governmental Bodies***

(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.

(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.

(C) A judge may belong to an organization of judges that hires and pays lobbyists to advance judicial interests.

**Rule 4.3 *Use of Nonpublic Information***

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.

**Rule 4.4 *Affiliation With Discriminatory Organizations***

(A) A judge shall not hold membership in an organization that the judge knows or should know is a discriminatory organization.

(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.

***Rule 4.5 Participation in Legal, Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities***

(A) Except as provided in Subsection (B), a judge may not personally solicit funds for an organization or entity.

(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.

(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 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 4.9 Compensation for Activities***

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.