

OUR COURTS ARIZONA

ETHICS GUIDANCE FOR JUDGES

CODE OF JUDICIAL CONDUCT

Our Courts Arizona recognizes that judges and justices must abide by the Code of Judicial Conduct and applicable statutes when speaking to the public, and it wants all judicial speakers to do so. To this end, here is some guidance regarding those requirements.

1. Judges and justices must maintain high standards of conduct to preserve the integrity and independence of the courts.

Canon 1: A judge should uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

2. Judges and justices must conduct themselves in ways that promote public confidence in the integrity and impartiality of the courts.

Rule 1.1: A judge shall comply with the law, including the Code of Judicial Conduct.

Rule 1.2: 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.

Comment 6: A judge should initiate and participate in activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judge must act in a manner consistent with this code.

3. Judges and justices must give priority to their official judicial duties.

Rule 2.1: One's judicial duties take precedence over all of a judge's other activities.

Comment 2 (2009): Judicial duties are those prescribed by law. In addition, judges are encouraged to participate in activities that promote public understanding of and confidence in the legal system.

4. Judges and justices must not make public comments about pending or impending cases.

Rule 2.10(A): 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, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.

5. Extrajudicial Activities.

Judges and justices, with certain qualifications set forth in Canon 3, are permitted and encouraged to engage in extrajudicial activities, but, when doing so, must comply with the Code and not compromise their ability to make impartial decisions on any issues. Extrajudicial activities include activities that relate to the law, the legal system, the administration of justice, and the role of the courts.

Judges and justices generally are encouraged to speak, write, lecture, teach, and participate in activities regarding the law, the legal system, the administration of justice, and the role of the courts.

The following are excerpts of pertinent portions of the Code; they are not the complete texts of the Canons, rules, or comments.

Canon 3: A judge shall conduct the judge's extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.

Rule 3.1: A judge may engage in extrajudicial activities, except as prohibited by law or this code. . . .

Comment 1: 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, teaching, or participating in scholarly research projects. . . .

Comment 2: Participation in both law-related and other extrajudicial activities helps integrate judges into their communities and furthers public understanding of and respect for courts and the judicial system.

With certain qualifications, judges and justices are also permitted and encouraged to participate in other types of extrajudicial activity unrelated to the law or courts. Canon 3 addresses such activities, which may be educational, religious, charitable, fraternal, or civic.

***Our Courts Arizona* does not intend to ask speakers to participate in such extrajudicial activities. If you would like more information about those types of non-legal activities, you should read Canon 3 in its entirety. Our Courts Arizona presentations, however, may be made in the context of educational, religious, charitable, fraternal, or civic organizations or activities.**

Rule 3.7(A): A judge may not directly solicit funds for an organization. However, subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit

6. Judges and justices generally must not engage in political activity except on behalf of measures to improve the law, the legal system, the administration of justice, or the role of the judiciary as an independent branch of government.

Canon 4: A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.

Rule 4.1(C)(1): Except as prohibited by this code, a judge may engage in activities, including political activities, to improve the law, the legal system and the administration of justice.

7. Judicial Ethics Advisory Committee Opinions

Several opinions issued by Arizona's Judicial Ethics Advisory Committee reinforce the notion that, within the bounds of any legal and ethical constraints, judicial officers are permitted and encouraged to engage with their communities and speak on topics related to the law, the legal system, and the administration of justice. Indeed, judges are uniquely qualified and positioned to do so. A sampling of such opinions is as follows:

Advisory Op. 94-16 (Dec. 15, 1994) (Participation in Educational Activities Conducted by Lawyers' Committee)

Advisory Op. 96-08 (Aug. 15, 1996) (Participation in Activities Relating to Judicial Reform Proposals)

Advisory Op. 97-05 (May 12, 1997) (Participating in Educational Seminars where Opinions may be solicited from Candidates for Judicial Office)

