

# 2023 Judicial Campaign Training

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Judicial Investigation Commission

# Judicial Investigation Commission

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# Judicial Investigation Commission

We answer questions.

We give Advisory Opinions.

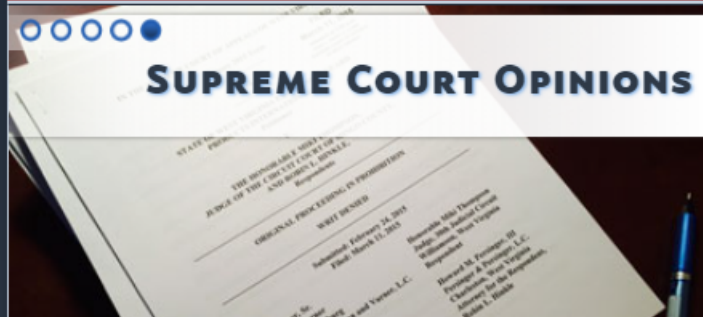
We have a website: [past advisory opinions and Campaign Handbook.](#)



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## 2024 Judicial Campaign Ethics

### So You Want to be a Judge - Running for Judicial Office

Judicial Campaign  
CLE

**UPDATED**

2024 West Virginia  
Campaign Handbook

**New:**

SOS Guidance on  
Circuit Court  
Realignment

## CONTACT INFORMATION

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Office hours are Monday through Friday from 8 a.m. to 5 p.m.

## FILING A COMPLAINT



# Freedom of speech

Speech about the qualifications of candidates for public office is at the core of our First Amendment freedoms. Any restriction must survive strict scrutiny.

*Republican Party of Minn. V. White*, 536 U.S. 765 (2002).

Must be a government interest compelling enough to justify restriction.



# Freedom of speech

The State has a compelling interest in maintaining the integrity, independence and impartiality of the judicial system.



# Code of Judicial Conduct

Rules apply only to Judicial Candidates.

Separate from other rules that *also* apply to Judicial Candidates.





# Code of Judicial Conduct

State Court Rules book

MICHIE'S  
WEST VIRGINIA  
CODE ANNOTATED

STATE COURT RULES  
2023



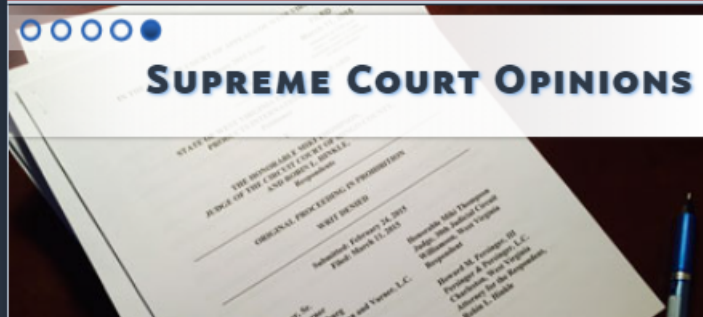
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### FILING A COMPLAINT

# Social Media

How does this apply to social media?

CJC Rule 3.1, Comment 6:

The same Rules of the Code of Judicial Conduct that govern a judicial officer's ability to socialize and communicate in person, on paper, or over the telephone also apply to the Internet and social networking sites like Facebook.



# Code of Judicial Conduct Cannon 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.

When does these rules apply to me?

# Rule 4.1

Comment 2: When a person becomes a judicial candidate, this Canon becomes applicable to his or her conduct.

When do I become a judicial candidate?





# Judicial Candidate

"Judicial candidate" means any person, including a sitting judge, who is seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election or appointment authority, authorizes or, where permitted, engages in solicitation or acceptance of contributions or support, or is nominated for election or appointment to office.

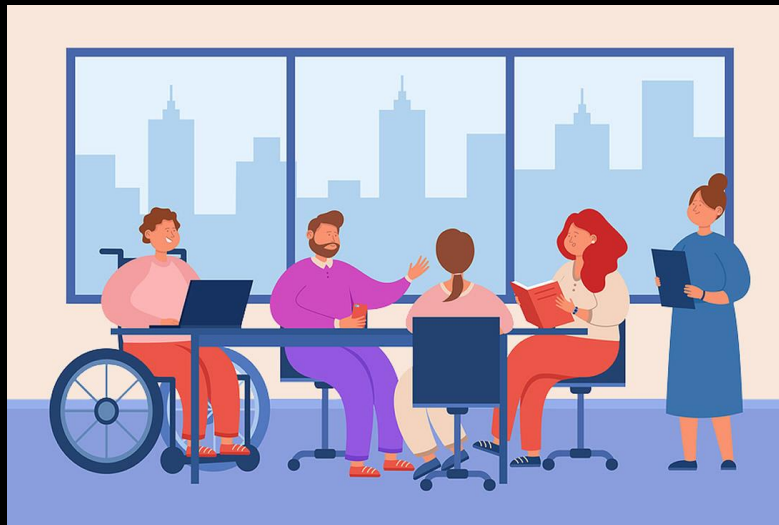
# Money

1. Do not ask for it or take it, for you or anyone.
2. Do not donate it to another CANDIDATE.



# Rule 4.4 Campaign Committees

A judicial candidate subject to public election may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The candidate is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable law.



# Rule 4.4 Campaign Committees

What can campaign committees do?

Comment 2: Campaign committees may solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct campaigns. Candidates are responsible for compliance with the requirements of election law and other applicable law, and for the activities of their campaign committees.



# Rule 4.4 Campaign Committees

Do you have to have a campaign committee?

JIC Advisory Opinion 2012-01: If a judicial candidate does not accept any contributions from anyone, but 100% funds the campaign himself/herself, then he/she does not have to have a campaign committee.

# How does this apply to social media?

As a candidate, you may have a campaign website(s).

Your campaign committee may have a separate campaign website.

**ONLY** your campaign committee's websites may accept donations.





# Rule 4.4 Campaign Committees

Can you know who donates to your campaign?

JIC Advisory Opinion 2017-19: Judicial candidates should refrain from learning who contributed to their campaigns in order to avoid disqualification/disclosure issues.



Who can be the campaign chair, treasurer and/or on my campaign committee?

JIC Advisory Opinion 1999-19: A judicial candidate's wife could not serve as his campaign treasurer.

JIC Advisory Opinion 1999-17: A judge's adult stepdaughter can serve as his/her campaign treasurer since the daughter did not reside in the same household as the judge.

JIC Advisory Opinion 2018-02: A candidate for the House of Delegates could not concurrently serve as a campaign treasurer for a judicial candidate. The JIC stated that judges and judicial candidates "have an obligation not to be or perceived to be involved in other peoples' elections. The public might conceivably believe that the judge or judicial candidate is endorsing the particular House of Delegate candidate's/treasurer's philosophy concerning given statutes or proposed laws. Therefore, the nonjudicial candidate cannot serve as treasurer for a judicial candidate's campaign.

JIC Advisory Opinion 2019-02: The JIC told a Supreme Court candidate that an elected Circuit Clerk, who was a good friend of the candidate, could serve as his/her campaign treasurer since the Circuit Clerk will not be running in that election. The Commission stated: Unlike the situation in JIC Advisory Opinion 2018-02, the Circuit Clerk is not running in the 2020 campaign. Therefore, there is no chance the public could misconstrue that you are endorsing him for Circuit Clerk since he will not be running for any office at that time.

What about after you win the election?

JIC Advisory Opinion 2008-01: The Judicial Investigation Commission answered a question from a family court judge who was running for circuit court judge. The campaign manager was an attorney who regularly appeared before the judge in family court. The attorney's law partner also regularly appeared before the judge. The JIC stated that the judge must disclose the relationship in every case involving the campaign manager and his law partner and if anyone objected the judge must follow recusal procedures.

JIC Advisory Opinion 1995-34: The JIC was asked by a circuit judge whether attorneys who appear before him/her could serve on his/her campaign committee. The Commission advised that the attorneys could serve on his/her campaign committee but that the judge should disclose the relationship whenever the attorneys appear before him/her "so that all parties and their attorneys can make an informed decision about whether to seek [the judge's] recusal from that particular case.

JIC Advisory Opinion 2022-07: For the first time, the JIC has set the limit for a judge's obligation to disclose when a lawyer serves on the judge's campaign committee to one year after the judicial candidate takes office or one year after the dissolution of the campaign committee, whichever is longer.



## Funding questions

JIC Advisory Opinion 2012-04: A judicial candidate may make a loan to his/her campaign committee for the purpose of financing his/her campaign. It is also possible for the candidate to seek repayment of the loan using campaign contributions when they become available. However, it is up to the campaign committee to determine the manner, method, means and timeframe for the loan repayment.

JIC Advisory Opinion 1995-01: A judicial officer or candidate is not permitted to be named on the checking account signature card for purposes of signing checks for his/her campaign committee.

## Campaign Committee Activities

JIC Advisory Opinion 2016-11: A judicial candidate's campaign committee may solicit contributions and give out door prizes at a fundraiser provided that the donations fall within the legal range for contributions and each door prize/donation is properly accounted for and reported.

JIC Advisory Opinion 2016-08: A circuit judge candidate cannot allow a group of friends to pay for a "meet and greet" event since he chose to finance his campaign on his own and not have a campaign committee or treasurer.

JIC Advisory Opinion 2000-33: A judicial campaign committee can sponsor a roast and a golf tournament for its candidate.

JIC Advisory Opinion 2000-01: A judicial candidate's campaign committee could not hold a fundraiser in the judicial candidate's home. The JIC stated: "While you state that you would not personally solicit or personally accept campaign contributions at this fundraiser, the fact that funds were being raised in your home, would at a minimum, create an appearance of your personal involvement."

# Rule 4.2

## Political and Campaign Activities of Judicial Candidates in Public Elections



# Rule 4.2 (A)

A judge or candidate subject to public election shall:



# A judge or candidate subject to public election **SHALL**:

(1) act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary;





# How does this apply to social media?

This rule applies to limit all social media posts, reposts, shares, likes, etc., on every social media platform—public or private, to ones that are consistent with the independence, integrity and impartiality of the judiciary.



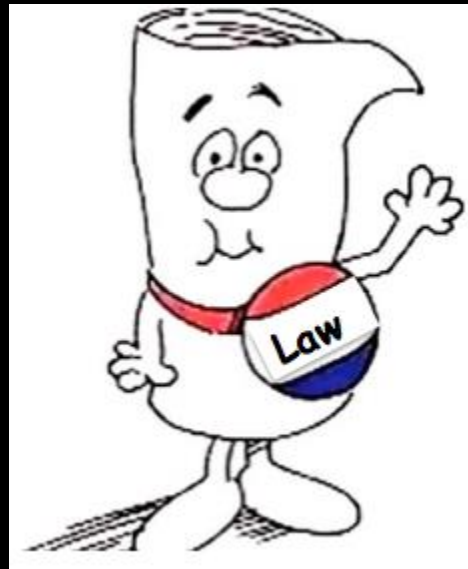
**ALL**

*In the Matter of Kohout*, Supreme Court No. 15-1190 (W. Va. Oct. 9, 2016), a circuit judge candidate was charged by the JIC with personally soliciting campaign contributions on his personal Facebook page, improperly setting up his campaign bank account to personally accept campaign contributions and engaging in conduct unbecoming a judicial candidate. With respect to the latter, Respondent publicly posted comments in which he: (1) described government receptionists as "dumbass colored women;" (2) stated that there were "[t]oo many women taking men's jobs trying to be men when they oughta be home taking care of the kids;" (3) characterized people of Middle Eastern descent as "Ahab," "Arab," "camel bangers" and "ragheads;" and ( 4) said that "many black men beat their women" and "so many run off" leaving "single white women and their white parents to raise the babies and that "white women who date black men are trash and ruined." The Court censured the former candidate for violations of the Code of Judicial Conduct and permanently enjoined him from seeking judicial office by election or appointment in West Virginia.

JIC Advisory Opinion 2019-23: A misdemeanor conviction for domestic assault involves a crime of moral turpitude which precludes a candidate from running for magistrate.

# A judge or candidate subject to public election **SHALL**:

(2) comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations of this jurisdiction;



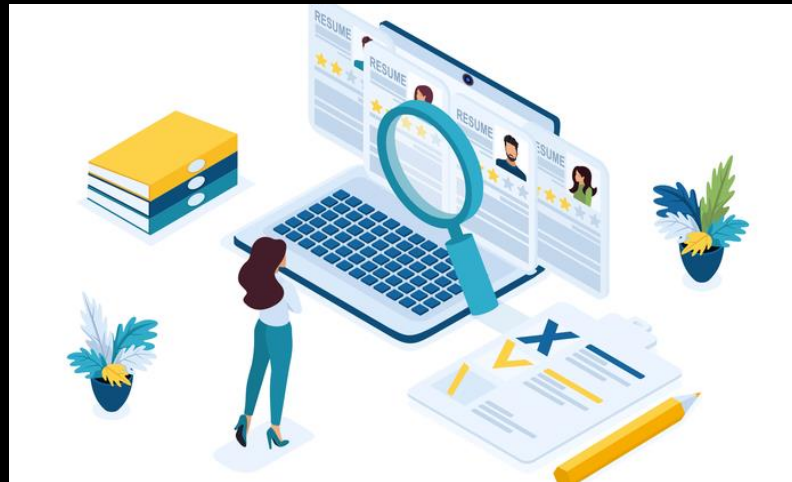
# A judge or candidate subject to public election **SHALL**:

(3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, before their dissemination;



# How does this apply to social media?

This rule makes the candidate responsible for all content produced and disseminated via social media by him/her or their committees.



# A judge or candidate subject to public election **SHALL**:

(4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities, (other than a campaign committee) that the candidate is prohibited from doing;



# How does this apply to social media?

This rule makes the candidate responsible to remove an inappropriate post by someone else, on one of the candidate's social media pages and also to request someone remove an inappropriate post on page not controlled by the candidate.





# A judge or candidate subject to public election SHALL:

(5) take corrective action if he or she learns of any misrepresentations made in his or her campaign statements or materials.



# Rule 4.2 (B)

A judge or candidate subject to public election may, except as prohibited by law:



# A judge or candidate subject to public election MAY:

(1) establish a campaign committee pursuant to the provisions of Rule 4.4;



# A judge or candidate subject to public election MAY:

(2) speak on behalf of his or her candidacy through any medium, including but not limited to advertisements, websites, or other campaign literature;



# How does this apply to social media?

This rule allows candidates to advertise and campaign online.



A judge or candidate subject to public election MAY:

(3) attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for public office;



JIC Advisory Opinion 2000-03: A judicial officer or candidate may attend a fundraiser referred to as an "elimination dinner" which raises funds in a lottery fashion for a nonprofit group. However, the judicial officer or candidate must not solicit funds for the organization or for himself/herself. Furthermore, the judge or judicial candidate should not attend the function if the sponsor is an organization which regularly appears before the judge or any court.

JIC Advisory Opinion 1995-17: A judicial officer/candidate may attend public fundraising events for judicial and non-judicial candidates. However, the judicial officer/candidate could not give an unsolicited financial contribution to another candidate.

JIC Advisory Opinion 1990-10: A judicial officer, whether currently a candidate or not, may buy a ticket and attend a fundraiser for a candidate without violating the ethical prohibition against public endorsement of candidates.



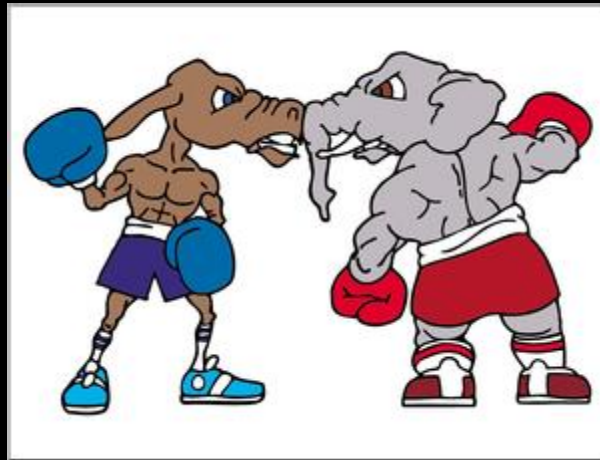
A judge or candidate subject to public election MAY:

(4) seek, accept, or use endorsements from any person or organization;



# A judge or candidate subject to public election MAY:

(5) communicate—in person or in advertising—membership in, affiliation with, or endorsement by a political party;



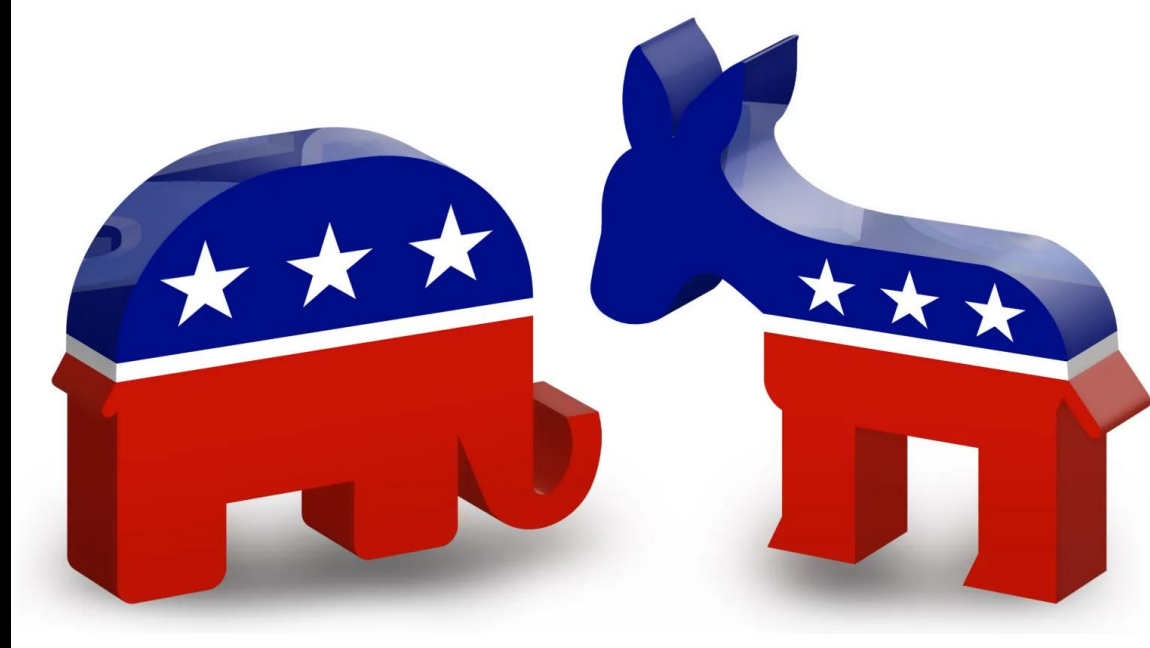
# A judge or candidate subject to public election **MAY**:

Comment 3: A judge or candidate may be a member of a political party, and that affiliation is and has been a matter of public record in West Virginia. A judge or candidate may be endorsed by or otherwise publicly identified or associated with a political party by a person or entity not affiliated with the judicial campaign. Therefore, a judge or candidate may maintain his or her party affiliation through a judicial election, and he or she may include political party affiliation or similar designation in campaign communications and literature.

JIC Advisory Opinion 2023-20: A judicial candidate may use his/her party affiliation in campaign materials as long as he/she states: "(insert political party affiliation) running for the nonpartisan position of judge."

A judge or candidate subject to public  
election MAY:

(6) contribute to a political organization.



# Rule 4.1

Political and Campaign Activities of Judges and Judicial  
Candidates in General

# Rule 4.1 (A)

(A) Except as permitted by law, or by Rules 4.2, 4.3, and 4.4, a judge or a judicial candidate shall not:



# Judge or a judicial candidate shall NOT:

(1) act as a leader in, or hold an office in, a political organization;

Comment 3: Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. Although judges and judicial candidates may register to vote as members of a political party, they are prohibited by paragraph (A)(1) from assuming leadership roles in political organizations.



*In the Matter of Slater*, JIC Complaint No. 165-2011 (WVJIC Dec. 27, 2011), an unsuccessful magistrate candidate was admonished, in part, for accepting a position as Parliamentarian of the County Democratic Women's Club immediately after publicly announcing her run for judicial office.

*In the Matter of Eplin*, JIC Complaint No. 179-1996 (WVJIC Nov. 21, 1996), a magistrate candidate was admonished for appearing at a Democratic Executive Committee meeting as a proxy for a Committee member and voting his/her proxy.

Judge or a judicial candidate shall **NOT**:

(2) make speeches on behalf of a political organization.

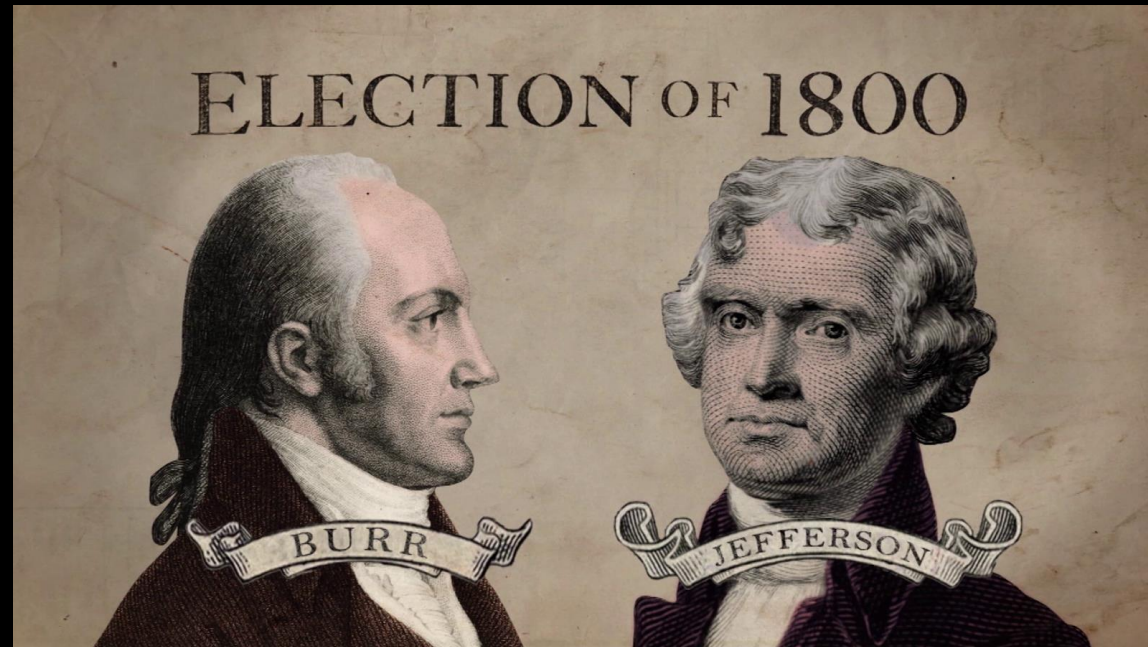
Comment 4: Paragraphs (A)(2) and (A)(3) prohibit judges and judicial candidates from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office, respectively, to prevent them from abusing the prestige of judicial office to advance the interests of others. See Rule 1.3. These Rules do not prohibit candidates from campaigning on their own behalf.

# How does this apply to social media?

This rule would apply to a candidate's comments on social media as well on behalf of a political organization.

Judge or a judicial candidate shall **NOT**:

(3) publicly endorse or oppose a candidate for any public office.

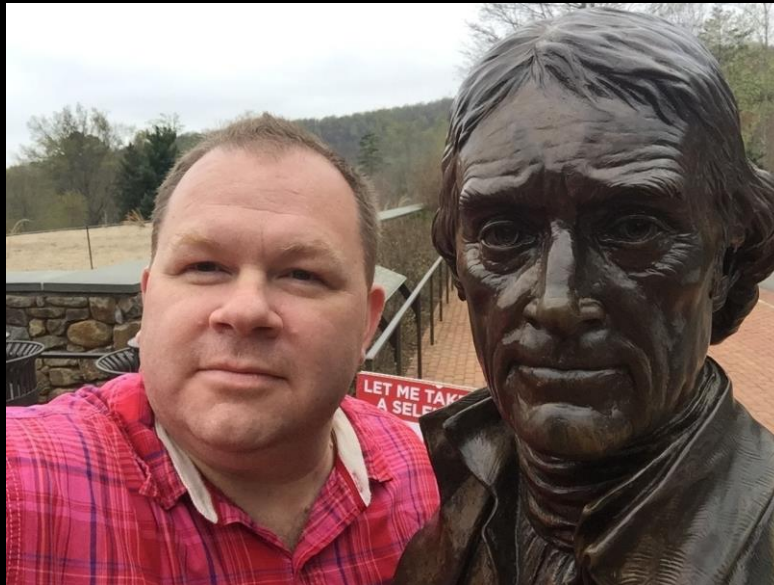


*In the Matter of Campbell*, JIC Complaint No. 72-2016 (WVJIC July 7, 2016), a senior status magistrate was admonished by the JIC for publicly endorsing a candidate for Circuit Judge. The magistrate authorized the use of a favorable quote attributed to her to be used in the candidate's campaign brochure. Approximately one month after the brochures were printed, the candidate asked the senior status magistrate to use the same quote and attribution in newspaper advertisements. The senior status magistrate said that she would prefer not to have her quote in the paper because an ethics complaint had been filed against her. When the candidate asked her toward the end of the campaign if she wanted him to cut off the quote at the top of the brochure, the senior status magistrate replied that she did not but that the JIC might make him cut it off. The JIC noted that the senior status magistrate "improperly" endorsed the candidate in violation of the Code and that "[k]nowing that her conduct was inappropriate, [the magistrate] failed to take any steps to correct the situation .... "

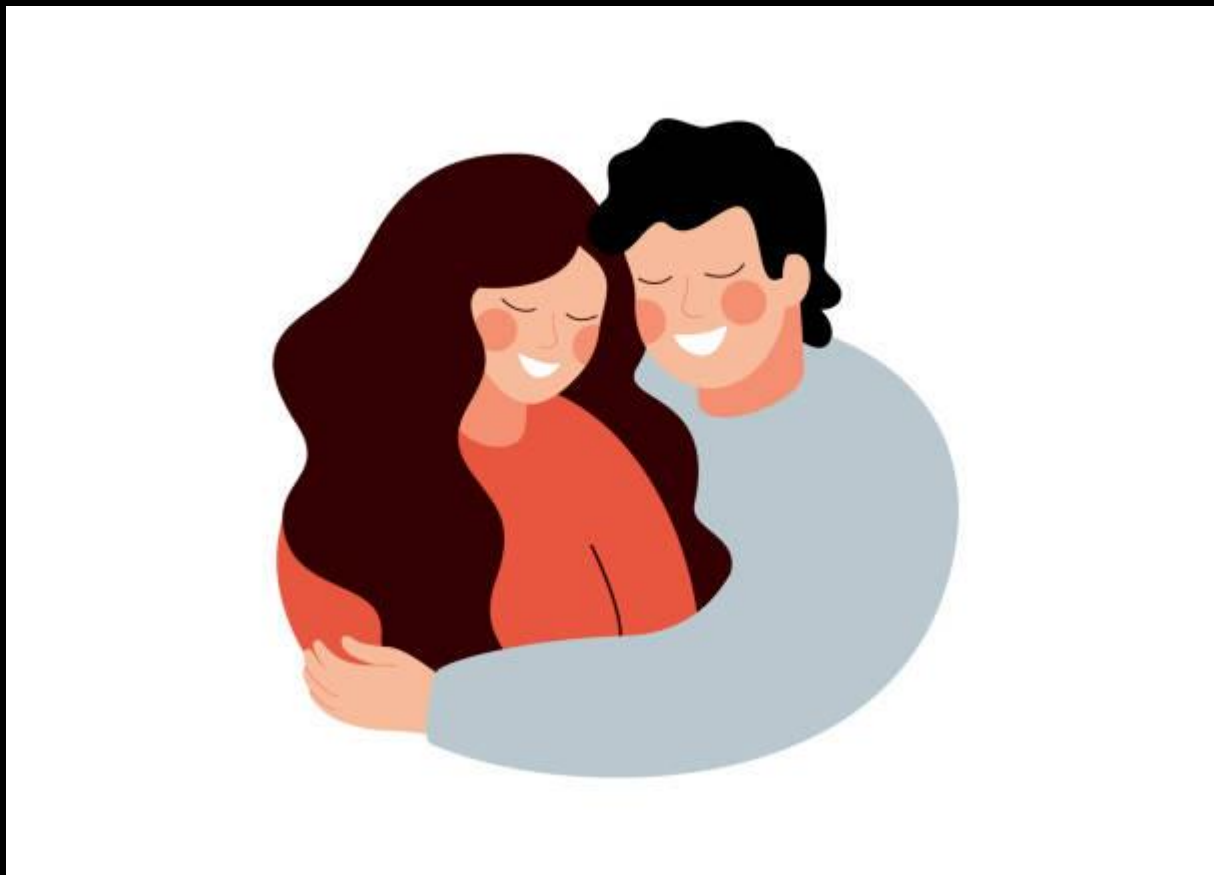
*In re Matter of Boggs*, JIC Complaint No. 213-2004 (WVJIC Dec. 14, 2004) and *In the Matter of Propst*, JIC Complaint No. 214-2004 (WVJIC Dec. 14, 2004), two magistrates who were running for re-election were admonished by the Judicial Investigation Commission for publicly endorsing each other as candidates for office. They had signs publicly displayed throughout the county that said, "Reelect Boggs and Propst Magistrates." The disclaimer at the bottom of the sign said, "Paid for by the candidate." They both ultimately admitted that they jointly purchased and placed the campaign signs.

# How does this apply to social media?

This rule prohibits a candidate from endorsing or opposing any candidates, AND from *appearing* to endorse or oppose other candidates. Social media activities prohibited: Pictures of or with other candidates. Comments, follows, likes, shares, etc. of other candidates.



But what if my spouse is running for office?





Comment 5: Although members of the families of judges and judicial candidates are free to engage in their own political activity, including running for public office, **there is no "family exception"** to the prohibition in paragraph (A)(3) against a judge or candidate publicly endorsing candidates for public office. A judge or judicial candidate must not become involved in, or publicly associated with a family member's political activity or campaign for public office. To avoid public misunderstanding, judges and judicial candidates should take, and should urge members of their families to take reasonable steps to avoid any implication that they endorse any family member's candidacy or other political activity.

JIC Advisory Opinion 2022-13: Neither a magistrate or his/her assistant may place a campaign sign in his/her yard for a family member who is running for office even though both candidate and judicial officer reside in same household.

JIC Advisory Opinion 2022-12: A magistrate's spouse cannot post a campaign sign in his/her yard for the spouse's friend who is running for city council.

JIC Advisory Opinion 2016-12: A judicial candidate cannot campaign with the wife of a county commission candidate because the public may interpret the situation as a judicial candidate publicly endorsing the county commission candidate.

JIC Advisory Opinion 2016-06: A magistrate candidate cannot campaign door to door with a circuit clerk candidate since it would violate the prohibition against a judicial candidate endorsing another candidate for public office.

JIC Advisory Opinion 2016-07: A member of a judge's staff is not permitted to have a bumper sticker on his/her car that says "Hillary [Clinton] for prison" since it would constitute public opposition of a candidate for office.

JIC Advisory Opinion 1991-08: A circuit judge candidate cannot publicly support or oppose another candidate for judicial office even if he/she believes the election of the former would "promote the proper administration of justice" while the election of the latter would be "detrimental to the proper administration of justice."

JIC Advisory Opinion 2019-22: A judge whose spouse is running for governor may attend fundraisers for the spouse outside the marital home. A judge may not attend fundraisers put on by the spouse or his/her campaign committee inside the marital home as the public may misconstrue that as an endorsement or the solicitation of funds on his/her behalf. The judge also cannot appear in a parade with the candidate spouse or introduce the candidate or speak about the campaign. The judge's name and photograph may appear on campaign literature for the spouse as long as the judge is not identified as such in any of the materials.

JIC Advisory Opinion 2002-30: A circuit Judge's wife was running for reelection as City Municipal Judge. She wanted to use a family photo with a caption that simply referred to her husband as her spouse and made no reference to him serving as a circuit judge. The JIC told the judge that under those caveats it would be permissible for him to appear in his wife's campaign photo.

JIC Advisory Opinion 2002-10: A judicial candidate's posters can be placed publicly with posters from other candidates. However, the JIC stated that a judicial candidate could not go campaigning, traveling with, or visiting potential voters with a non-judicial candidate.

Judge or a judicial candidate shall **NOT**:

(4) solicit funds for a political organization or a candidate for public office;





Judge or a judicial candidate shall **NOT**:

(5) make a contribution to a candidate for public office;



*In the Matter of Martin*, JIC Complaint No. 227-1996 (WVJIC Feb. 10, 1997), a magistrate candidate was admonished by the Judicial Investigation Commission for endorsing another judicial candidate for office by making a monetary contribution to that individual's campaign.

JIC Advisory Opinion 2000-23: A former judge's campaign committee could not contribute all or a portion of the excess balance raised in the judicial campaign to a state candidate for nonjudicial office.

JIC Advisory Opinion 1995-23: A judge/judicial candidate could not contribute money to a fellow judge's campaign. The JIC also stated that a judge/judicial candidate cannot contribute money to a political party executive committee and restrict its use to a fellow judge's campaign. However, the JIC stated that the judge's spouse or other member of the family could contribute to a fellow judge's campaign as long as the contribution was made from an individual account belonging to the spouse/family member and not from any joint account.

Judge or a judicial candidate shall **NOT**:

(6) personally solicit or accept campaign contributions other than through a campaign committee authorized by Rule 4.4;



*In the Matter of Tennant*, 205 W. Va. 92, 516 S.E.2d 496 (1999), a magistrate candidate was admonished for personally soliciting campaign contributions. The magistrate candidate held a fundraiser. After it was over, he went to a local bar to continue campaigning and ran into two lawyers. The magistrate candidate asked the lawyers why they were not at his fundraiser event though they had been invited to attend the function. Both men indicated that it was because they had been in trial. At hearing, both lawyers testified that the magistrate candidate also asked them why they had not contributed to his campaign. According to one of the lawyers, the magistrate candidate said the going rate for attorney contributions was \$500.00 and that he would receive adverse rulings if the candidate were elected and the lawyer failed to contribute.

JIC Advisory Opinion 2020-09: A magistrate candidate cannot purchase a gun on his/her own to raffle off at a campaign fundraiser as the public may think he/she is personally soliciting funds.

JIC Advisory Opinion 1998-03: An advertisement in which a judicial candidate speaks in the first person describing his/her experiences and career history may not include at the bottom of the advertisement the statement "Contributions May be Made to Treasurer at Above Address." The JIC found that the statement gives the appearance that the judicial candidate is personally soliciting campaign contributions.

# Judge or a judicial candidate shall NOT:

(7) use or permit the use of campaign contributions for the private benefit of the judge, the candidate, or others;





JIC Advisory Opinion 2023-19: A judge's/judicial candidate's campaign committee cannot sponsor a fundraising event for a charitable organization.

Judge or a judicial candidate shall **NOT**:

(8) require court staff to participate in a campaign for judicial office, or use court resources in a campaign for judicial office;



*In the Matter of Albright*, JIC Complaint No. 70-1996 (WVJIC Sept. 23, 1996), a Supreme Court Justice was admonished by the Judicial Investigation Commission for sending out a campaign letter on facsimile letterhead used by the Justice in his official judicial capacity. The letter contained a disclaimer at the bottom of the page that it was paid for by the Albright for Supreme Court Committee.

In *In the Matter of Hull*, JIC Complaint No. 171-1996 (WVJIC Nov. 21, 1996), a magistrate was admonished by the Judicial Investigation Commission for using an office copy machine to make copies for the Democratic Executive Committee announcing a picnic.

JIC Advisory Opinion 2016-05: A judge running for re-election can use his/her staff in campaign ads so as long as their participation is voluntary and occurs after normal work hours. However, the judge and his/her staff cannot state that they are running as a "team" since it must be clear that only the candidate judge is running for office.

Judge or a judicial candidate shall **NOT**:

(9) knowingly, or with reckless disregard for the truth, make any false or misleading statement;



JIC Advisory Opinion 2007-27: An incumbent judge, when running for a different judicial office, should not use the term "Judge" in campaign materials without clearly indicating that he/she is a judge of a court different from the one that is the subject of the political campaign.

JIC Advisory Opinion 2018-22: A judicial candidate may seek, accept and use campaign endorsements from a political action committee ("PAC") or third parties. The JIC also stated that the Code of Judicial Conduct does not preclude PACs or third parties from running campaign ads for or against a judicial candidate. The JIC found that the Code does not limit the content of PAC/third-party advertisements. However, the duty is on the judge or judicial candidate to disavow any ads or comments made by a PAC or a third-party that are false or misleading, fail to accurately reflect the duties and role of a judge, or indicate that a judge is not neutral and detached but would be biased in favor of or against an individual, group or legal issue. The judge should request the PAC or third-party to immediately cease and desist from making such statements. The JIC found that "to refrain from taking such action would give the public the impression that the judge or judicial candidate endorses the improper statements in violation of the Code of Judicial Conduct.

JIC Advisory Opinion 2019-15, the JIC clarified Opinion 2018-22 with respect to false or misleading statements. The JIC stated that the obligation to disavow is not triggered until the following criteria are met: (a) the statement must involve a fact and not an opinion; (b) the fact must be substantive and significant; (c) the misstatement must actually be false or a material misrepresentation; and the judicial candidate has knowledge of the third-party or PAC's factual statement and its falsity. Once the obligation to disavow is initiated, the JIC finds that the situation is resolved through the timely issuance of a press release to all area news media and a prompt letter to the third-party or PAC notifying it to immediately stop running the false statement in question.



# Judge or a judicial candidate shall NOT:

(10) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court;



JIC Advisory Opinion 2008-04: The JIC analyzed *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002) concerning campaign statements as it relates to our Code of Judicial Conduct. The JIC said that pursuant to the United States Supreme Court case candidates for judicial office cannot be prohibited from "announcing their views on disputed legal or political issues." However, the Commission noted that the State Supreme Court has not changed any of the existing rules of the Code of Judicial Conduct. As a result, the JIC will continue to enforce the rules set out in Canon 4 which require judicial candidates to (a) maintain the dignity appropriate to the office; (b) not make pledges and promises of conduct in office concerning issues or cases; and (c) not make statements which commit, or appear to commit, the candidate with respect to cases likely to come before the court.

# Judge or a judicial candidate shall NOT:

(11) in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.



*In the Matter of Tighe*, JIC Complaint No. 225-1996 (WVJIC Feb. 10, 1997), the JIC admonished a magistrate candidate for stating in a campaign advertisement that he would require mandatory incarceration for violent crimes and drug dealers and mandatory incarceration and treatment for hard drug addicts.

# What if someone says something false about me?

Comment 8: Judicial candidates are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. For example, false or misleading statements might be made regarding the identity, present position, experience, qualifications, or judicial rulings of a candidate. In other situations, false or misleading allegations may be made that bear upon a candidate's integrity or fitness for judicial office. As long as the candidate does not violate paragraphs (A)(9), (A)(10), or (A)(11), the candidate may make a factually accurate public response. In addition, when an independent third party has made unwarranted attacks on a candidate's opponent, the candidate may disavow the attacks, and request the third party to cease and desist.

What if someone wants me to interview me?

Comment 15: Judicial candidates may receive questionnaires or requests for interviews from the media and from issue advocacy or other community organizations that seek to learn their views on disputed or controversial legal or political issues. Paragraph (A)(11) does not specifically address judicial responses to such inquiries. Depending upon the wording and format of such questionnaires, candidates' responses might be viewed as pledges, promises, or commitments to perform the adjudicative duties of office other than in an impartial way. To avoid violating paragraph (A)(11), therefore, candidates who respond to media and other inquiries should also give assurances that they will keep an open mind and will carry out their adjudicative duties faithfully and impartially if elected. Candidates who do not respond may state their reasons for not responding, such as the danger that answering might be perceived by a reasonable person as undermining a successful candidate's independence or impartiality, or that it might lead to frequent disqualification.

# Rule 4.1 (B)

A judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A).



## Disclosure

JIC Advisory Opinion 2023-05: A judge must disclose that he is running against a lawyer appearing in his/her courtroom representing a litigant. The judge should also disclose if the opposing candidate's campaign manager/treasurer appears before him or a member of the candidate's firm appears before the judge. The judge should continue to appoint an opposing candidate, his/her partner or his/her campaign manager to abuse and neglect cases in the same manner as when the candidate was not running for office.

JIC Advisory Opinion 2015-11: An incumbent judge running against an assistant prosecutor for reelection does not need to disclose or disqualify since the assistant prosecutor represents the state.



## Advertising

*In the Matter of Jeffries*, Complaint No. 67-2022 (WV Aug. 16, 2022): A magistrate candidate was admonished for wearing a law enforcement uniform in campaign advertisements/social media postings 28 and creating the appearance that he/she was publicly supporting other candidates for non-judicial office.

JIC Advisory Opinion 2000-10: A judicial candidate may not use the state seal on any campaign materials.

JIC Advisory Opinion 2016-01: A judicial candidate cannot place videos on his/her campaign website or Facebook page in which he/she answers questions about family law issues since that would constitute the impermissible practice of law.

# Misc. raising money

JIC Advisory Opinion 2016-04: The campaign committee for a circuit judge candidate could hold a dinner/dance fundraiser. The candidate could attend and "meet and greet" individuals as long as he/she is not involved in soliciting money and does not attempt to learn who actually made contributions to his/her campaign.

JIC Advisory Opinion 2012-17: A judicial candidate cannot personally solicit campaign contributions in connection with a planned golf outing fundraiser. However, he/she may establish a 23 campaign committee to solicit and accept reasonable campaign contributions. The judicial candidate may attend the golf fundraiser if the sale of tickets and/ or entry fees are handled without the candidate's knowledge or input. A campaign committee can allow an individual sponsor for each of the 18 holes but the candidate would then be unable to attend the outing since it would be likely that the candidate would learn the identity of the sponsors.

JIC Advisory Opinion 2012-12: A magistrate's campaign committee can donate money to a civic or charitable organization. If the magistrate does not have a campaign committee, he/she may donate money as an individual, but not as a candidate. A campaign committee can donate a basket to the civic or charitable organization to be used as a door prize and it may contain campaign material. However, the basket may not be raffled off because to do so would constitute the solicitation of funds. A magistrate candidate may not sell raffle tickets or food, collect money for a 50-50 drawing or call numbers at a civic or charitable event. The JIC also stated that the magistrate candidate may purchase a ticket and participate in a 50-50 drawing or bid on a silent auction.

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