

# Code of Judicial Conduct Annotated

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**Annotations to Applicability Section**

1. Judicial Council

The Code of Judicial Conduct does not apply to the institutional conduct of the Judicial Council, a constitutionally created body. Informal Opinion 98-17

2. Part-time Judge

It is a rebuttable presumption that a judge of a full-time justice court is a full-time judge prohibited from the practice of law. Informal Opinion 96-1

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**CANON 1: A Judge Shall Uphold and Promote the Independence, Integrity, and Impartiality of the Judiciary and Shall Avoid Impropriety and the Appearance of Impropriety.**

**RULE 1.1: Compliance with the Law**

A judge may execute an agreement with a private probation provider as long as the judge’s legal advisors determine that the agreement is legally permissible. Informal Opinion 99-5

A trial court judge must follow an appellate court directive even if it appears that the directive conflicts with statutes or rules. Informal Opinion 98-10

## **RULE 1.2: Promoting Confidence in the Judiciary**

### 1. Appearance of Impropriety

Juvenile court judge has responsibility to ensure that probation officers adhere to appropriate ethical standards. Informal Opinion 88-1

Judge may participate in seminar in foreign country, purpose of which is to improve relations between the United States and foreign country, if neither issues discussed nor sponsoring organization are likely to be involved in matters before the court. Informal Opinion 88-10

Judge serving as officer of state bar may participate in discussion, debate and vote on bar's litigation matters unless those matters are likely to come before the court on which the judge sits or unless appearance of impropriety exists. Informal Opinion 89-1

Judge serving as officer of state bar must abstain from discussion, debate and vote on bar admission and attorney discipline matters. Informal Opinion 89-1

Part-time commissioner who serves as justice of peace in neighboring state should not continue dual service if appearance of impropriety exists. Informal Opinion 90-4

Judges may not participate in a special banking program offered by a bank which has a contractual relationship with the judiciary. Formal Opinion 96-1

Judge may not attend an administrative checkpoint or a law enforcement "ride along" as an observer or a participant, because this is professional interaction with a single component of the criminal justice system creating an appearance of impropriety. Informal Opinion 97-5

### 2. Integrity of the Judiciary

Judges and court personnel may not participate in soliciting donations from jurors for the CASA program. The possible coercive effect of the donation program undermines the integrity of the judiciary. Informal Opinion 97-9

A judge is not required to report criminal conduct of which the judge becomes aware, even if the conduct is admitted in testimony before the judge. The judge is not prohibited from reporting the conduct. Informal Opinion 00-3

## **RULE 1.3: Avoiding Abuse of the Prestige of Judicial Office**

### 1. Lending Prestige of the Judicial Office

Judge may not teach CLE seminar sponsored by for-profit entity. Informal Opinion 88-6

Justice court judge who is joint owner of business may not use any form of publicity or advertisement which refers to judicial office. Informal Opinion 89-12

Judge may write foreword to legal publication, but should take appropriate steps to ensure that neither content of foreword nor advertising or marketing of publication will exploit the judicial office or advance private interests of others. Informal Opinion 90-8

Judge's letter commending magazine's editor may not be published. Informal Opinion 91-1

Active senior judge's photograph and biographical sketch may be included in brochure promoting American Arbitration Association's Judicial Panel so long as the brochure does not distinguish active senior judges from former judges. Informal Opinion 92-1

An agreement with a private probation provider does not advance the private interests of a third party, but is a necessary part of doing business. Informal Opinion 99-5

A judge may refer victims to the Utah Crime Victims Legal Clinic provided the referral does not involve an assessment of the victim's case or the quality of the representation that the victim will receive. Informal Opinion 05-5

Judge may not recommend a specific mediator when asked by parties to provide such a recommendation. Informal Opinion 10-2

## 2. Letters of Recommendation

Judge may write letter of recommendation on behalf of candidate for employment who judge knows in business capacity. Letter may include both judge's observations and opinions based on those observations. Informal Opinion 91-2

Judge may not write letter of recommendation for individual seeking commercial loan to finance business which will receive referrals from the courts. Informal Opinion 91-2

In response to an inquiry from the Judicial Nominating Commission, a judge may provide a letter of recommendation based on the judge's personal knowledge of the judicial candidate honestly assessing the candidate's qualification. Informal Opinion 94-5

Judge may not write a letter of recommendation in support of a private counseling service seeking a federal grant. A judge may be listed as a reference in the grant application. Informal Opinion 98-13

Judge may initiate with members of Judicial Nominating Commission and provide an honest assessment of an applications qualifications. Informal Opinion 99-8

## 3. Special Position of Influence

Judge may not participate in community college or POST moot court program, in which participants are prospective law enforcement officers or certified peace officers, because such participation may convey impression that participants are in a special position of influence.

## Informal Opinion 90-2

Judge who hears cases brought by collection agency on behalf of state should not permit collection agency to convey impression that it is in a special position of influence. Informal Opinion 90-5

Judge may not attend an administrative checkpoint or a law enforcement "ride along" as an observer or a participant, because this would convey the impression that law enforcement is in a special position of influence. Informal Opinion 97-5

Judges and court personnel may not participate in soliciting donations from jurors for the CASA program. Participation would create the appearance that the CASA program is in a special position of influence. Informal Opinion 97-9

A juvenile court judge may not make referrals to a counseling center when the judge's spouse serves on the center's board of trustees. Informal Opinion 99-1

A plaque identifying a "trial lawyer of the year" may not be displayed in a courthouse. Informal Opinion 99-2

A judge's participation in the annual conference of the Attorney General's Office does not convey the impression that the attorneys are in a special position of influence. Informal Opinion 99-6

A judge may not accept an invitation to be recognized as a judicial fellow by the Association of Trial Lawyers of America. A judicial fellow is considered a member of ATLA. Informal Opinion 01-4

A judge may maintain membership in a cycling club that is sponsored, in part, by a law firm. Informal Opinion 03-1

A part-time justice court judge may accept a membership to the Association of Trial Lawyers of America. Informal Opinion 05-4

A juvenile court judge may make presentations to certain groups, such as a parenting class for DCFS, a CASA awards program, and the Foster Parents Association. Informal Opinion 06-6

## **CANON 2: A Judge Shall Perform the Duties of Judicial Office Impartially, Competently, and Diligently.**

### **RULE 2.1: Giving Precedence to the Duties of Judicial Office**

Judge's participation in quasi-judicial and extra-judicial organizations must not necessitate undue absence from performance of judicial duties. Informal Opinion 89-1

Judge may teach a business law class at a local university during the judge's lunch break, even

though the judge will need to extend the lunch time 20 minutes. Informal Opinion 08-1

Part-time commissioner who holds office of justice of peace in neighboring state should not continue to serve in both capacities if dual service interferes with diligent performance of duties as commissioner. Informal Opinion 90-4

A judge may serve as a commissioner for the Navajo Nation courts provided the service does not interfere with the judge's state duties. Informal Opinion 99-11

**RULE 2.2: Impartiality and Fairness**

Judge may not refer parties to a specific mediator as this may appear to undermine the judge's impartiality if the mediator's cases come before the judge. Informal Opinion 10-2

**RULE 2.3: Bias, Prejudice, and Harassment**

**RULE 2.4: External Influences on Judicial Conduct**

**RULE 2.5: Competence, Diligence, and Cooperation**

Part-time commissioner who holds office of justice of peace in neighboring state should not continue to serve in both capacities if dual service interferes with the performance of duties as commissioner. Informal Opinion 90-4

**RULE 2.6: Ensuring the Right to Be Heard**

**RULE 2.7: Responsibility to Decide**

**RULE 2.8: Decorum, Demeanor, and Communication with Jurors**

**RULE 2.9: Ex Parte Communications**

1. Communication with an Appellate Court

A trial court judge may not initiate communications with an appellate court concerning a pending case, unless the communication is solicited by the appellate court and the communication is placed on the record and provided to the parties. Informal Opinion 98-9

2. Communications with Court Employees

Juvenile court judges may receive ex parte communications from juvenile court probation officers requesting warrants to detain juveniles. In that situation, juvenile court probation officers are court employees who aid the judge with adjudicative responsibilities. Informal Opinion 97-4

A juvenile court judge may review a previous case file of a minor who files a petition for

permission to bypass parental consent for an abortion, provided that the judge makes all of this information a part of the record in the abortion case. A judge may also discuss the case with other judges who have presided over the minor's cases. Informal Opinion 07-3

### 3. Communications Authorized by Law

The committee does not have authority to construe statutes to determine whether they expressly authorize ex parte communications. Informal Opinion 10-1

## **RULE 2.10: Judicial Statements on Pending and Impending Cases**

Judge may respond to written inquiry regarding sentencing in criminal case which is neither pending nor impending, provided response does not subject sentence to collateral attack, does not exploit judge's position and does not allow others to do so, does not detract from dignity of judicial office, does not discourage public confidence in judiciary, does not result in confusion or misunderstanding of judicial function, and does not contain confidential information. Informal Opinion 89-3

Ethics Advisory Committee will not review, edit, approve or disapprove specific content of judge's public comments. Content is left to discretion of judge. Informal Opinion 89-3

Judge may not comment on a case pending before U.S. Circuit Court of Appeals or U.S. Supreme Court. Canon prohibits all public comment on pending cases, regardless of court before which case is pending. Informal Opinion 90-2

Trial judge may not comment about any aspect of recently concluded trial until post-trial motions are resolved and appeal period has expired without appeal. Informal Opinion 90-7

## **RULE 2.11: Disqualification**

### 1. Affiliation with Lawyer

Judge who previously worked as attorney in legal defender's office may not hear case in which legal defender attorney appears if representation in the matter was undertaken at time when judge was employed by legal defender. Informal Opinion 88-3

Judge must disqualify when former partner or firm appears as counsel in a civil case and 1) judge was formerly involved in matter, 2) judge will financially benefit from outcome of matter, or 3) representation in matter was undertaken at time when judge was associated with former partner or firm. Judge should also examine length of time since judge has been affiliated with counsel, whether judge has maintained close relationship with counsel, whether judge has continuing financial interest in the practice, and whether judge has other business interests with counsel. Informal Opinion 89-2

When judge's former partner is affiliated with county attorney's office but does not appear as counsel, disqualification from county attorney's office cases is not automatically required.

## Informal Opinion 89-2

Judge who has previously represented criminal defendant in unrelated matter is not per se disqualified, though disqualification may be the better course. *State v. Neeley*, 748 P.2d 1091 (Utah 1988); *State v. Petersen*, 810 P.2d 421 (Utah 1991).

A guardian ad litem, who shared office space with a judge prior to the judge's appointment to the bench, may appear in the judge's court on cases other than those which the guardian had at the time the guardian and the judge shared office space. Informal Opinion 94-4

Judge was not required to enter disqualification even though judge's former law firm represented a party to the proceeding in a different transaction. *American Rural Cellular, Inc. v. Systems Communications Corp.*, 939 P.2d 185 (Utah App. 1997).

Simply because judge's former firm represents one of the parties does not create a reasonable inference of bias. Other factors must be present, such as the judge having a financial interest in the firm, or a close personal relationship with members of the firm. *In re Affidavit of Bias*, 947 P.2d 1152 (Utah 1997).

A judge is not required to enter disqualification in cases involving the county that previously employed the judge as a county attorney, as long as the issues in the litigation arose after the judge left the county's employment. Informal Opinion 98-16

A part-time justice court judge may not preside in cases in which the prosecuting attorney is in the same law firm as the judge's personal attorney. Disqualification may be remitted. Informal Opinion 99-9

A judge must enter disqualification in proceedings involving the attorney that represents the judge in a Judicial Conduct proceeding. The disqualification requirement continues for six months after the representation ends. Informal Opinion 00-4

### 2. Comment on Allegations in Affidavit

A judge may comment on allegations in an affidavit of bias when the judge agrees to disqualification. The comments must reflect the appropriate demeanor, integrity, and impartiality of the judiciary. Informal Opinion 04-1

### 3. Court Employee Involvement

A judge should not hear cases involving an employee of the judge's district and should not hear cases involving an employee's immediate family or household. Informal Opinion 96-2 (Modified by Informal Opinion 98-14)

A judge is required to enter disqualification in cases involving an employee of the judge's district, excepting employees of different court levels if the court is not co-located. A judge must

enter disqualification in cases involving family or household members of an employee that has a close working relationship with the judge. Informal Opinion 98-14

A judge is not required to enter disqualification in a proceeding in which the judge's clerk files an affidavit which recites only facts regarding the court's record of a defendant's compliance with the court's sentence. Informal Opinion 99-4

A judge is not required to enter disqualification when reviewing and deciding a motion and affidavit for disqualification of a judge from the same district. Informal Opinion 01-2

The judges of a district must enter disqualification in all cases in which a part-time referee of the district appears as counsel. Informal Opinion 07-2

#### 4. Family Member Involvement

Judge may not hear case in which spouse appears as counsel. Informal Opinion 88-3

Judge whose spouse is attorney in legal defender's office may not hear case in which legal defender attorney appears. Informal Opinion 88-3

Judge may hear case brought by county attorney who employs judge's emancipated daughter as secretary, provided daughter's income is not affected by outcome of case and daughter will not appear or participate in the case in a substantive manner. Informal Opinion 89-2

Judge is not automatically disqualified in criminal case in which cousin participates as affiant or complainant. Informal Opinion 89-5

Although judge may not preside over case in which relative within third degree of relationship appears as counsel, automatic disqualification does not extend to situation in which relative is only affiliated with law firm which appears as counsel. In latter situation, the judge must be disqualified only if relative has interest which could be substantially affected by outcome of proceeding. Partners in law firm have such an interest while associates in law firm may not have such an interest. Salary of associate is not such an interest. Informal Opinion 90-3 (Modified by Informal Opinion 97-2)

Under Canon 3, a relative of the requisite degree of relationship has an interest that might be sufficiently affected by the outcome of a case in every situation in which the judge's relative is a partner or otherwise an equity participant in a firm that represents a party to the case. *Regional Sales Agency, Inc., v. Reichert*, 830 P.2d 252 (Utah 1992).

A judge need not disqualify, but must disclose to the parties that the law firm that employs the judge's father in an "of counsel" capacity represents a party to the case. Informal Opinion 92-3

A judge whose spouse serves as an assistant attorney general must disclose the spouse's employment, and any other relevant facts and circumstances, and allow the parties to take any action they deem appropriate. Informal Opinion 94-6

The fact that the judge's nephew was an incorporator and director of plaintiff did not require disqualification, absent evidence that nephew had anything to gain from the outcome of the case. *Gardner v. Madsen*, 949 P.2d 285 (Utah App. 1997).

A judge must enter disqualification when a relative within the third degree is employed as an associate or law clerk of the firm appearing before the judge. Informal Opinion 97-2

A judge must enter disqualification when the spouse of the judge's front office and in-court clerk appears as counsel in a proceeding. Informal Opinion 06-1

A judge must enter disqualification in proceedings involving the employer of the judge's spouse. Informal Opinion 06-2

Judge must enter disqualification or obtain remittal from parties when a party contests or fails to appear on a citation issued by the judge's son-in-law who is the chief of the police department in the judge's jurisdiction. Informal Opinion 10-3

#### 5. Financial Interest

Judge who is merely "potential" member of an alleged but uncertified class in a class action does not own a financial interest that would require disqualification. *Madsen v. Prudential Federal Savings and Loan*, 767 P.2d 538 (Utah 1988).

Even assuming judge owns interest in state money by right to receive retirement or salary, judge is not precluded from hearing bad check case where state is payee, because outcome of case would not likely substantially affect judge's interest in state funds. Informal Opinion 90-5

A judge must enter disqualification in proceedings involving the employer of the judge's spouse. Informal Opinion 06-2

#### 6. Impartiality Might Reasonably be Questioned

Test is whether a person of ordinary presence knowing all the facts known to judge would find reasonable basis for questioning impartiality. Informal Opinions 88-3 and 89-2

Although first cousin is not person within third degree of relationship, the relationship requires disqualification if judge and cousin maintain such close relationship that judge's impartiality might reasonably be questioned. Informal Opinion 89-5

Although automatic disqualification does not extend to situation in which related attorney is only affiliated with law firm which appears as counsel, judge must still be disqualified if impartiality might reasonably be questioned because of relationship. Informal Opinion 90-3

Code may require disqualification even where actual bias or prejudice does not exist. *State v. Neeley*, 748 P.2d 1091 (Utah 1988); *State v. Petersen*, 810 P.2d 421 (Utah 1991).

A part-time justice court judge must enter disqualification in all proceedings involving the county department that employs the judge in a nonjudicial capacity. Informal Opinion 98-1

Judges who sit on a Judicial Council task force that has received donations from attorneys should disclose the circumstances of the donations in cases involving those attorneys. Informal Opinion 98-3

A judge is not required to enter disqualification simply because the judge has increased court security in response to information that a defendant might be a security risk. Informal Opinion 98-12

A commissioner must disclose the fact that the commissioner serves on a Utah Legal Services committee in all cases in which Utah Legal Services attorneys appears. Informal Opinion 00-1

A judge is not required to enter disqualification based solely on the fact that a litigant has filed a Judicial Conduct Commission complaint against the judge. Informal Opinion 05-3

#### 7. Other Interest That Could be Substantially Affected

Judge who is merely "potential" member of an alleged but uncertified class in a class action suit does not have an interest that could be substantially affected by the outcome of the proceeding. *Madsen v. Prudential Federal Savings and Loan*, 767 P.2d 538 (Utah 1988).

In situation where judge's former firm had advised one of the parties concerning a remotely related transaction, judge did not have sufficient interest to require disqualification. *American Rural Cellular, Inc. v. Systems Communication Corp.*, 939 P.2d 185 (Utah App. 1997).

#### 8. Party's Right to a Fair Trial

Criminal defendants' rights to fair trial are governed by constitution and statutes, not by this Code. *State v. Neeley*, 748 P.2d 1091 (Utah 1988); *State v. Gardner*, 789 P.2d 273 (Utah 1989).

#### 9. Personal Bias or Prejudice

Code does not require that judges, upon taking the bench, set aside the biases and prejudices acquired through life's experiences. Disqualification is only required when those biases and prejudices interfere with the judge's ability to impartially decide the issues before the court. *Madsen v. Prudential Federal Savings and Loan*, 767 P.2d 538 (Utah 1988).

Disqualification is not automatically required when an attorney appearing before the judge has previously been involved in an adversary proceeding against the judge. Circumstances of the adversary proceeding must be considered before determining whether disqualification is necessary. Informal Opinion 96-3

A judge is not automatically required to enter disqualification when a party sues the judge in the judge's judicial capacity. Disqualifying facts must be extra-judicial. Informal Opinion 97-8

A judge is not automatically required to enter disqualification in a proceeding in a case involving litigants who had previously appeared before the judge. In re M.L., 965 P.2d 551 (Utah App. 1998).

A judge is not automatically required to enter disqualification in a proceeding in which the judge has previously sanctioned one of the attorneys, held one of the attorney in contempt, or referred one of the attorneys to the Office of Professional Conduct. Informal Opinion 05-2

#### 10. Remittal

Judge may disclose facts on the record and allow attorneys to decide if conflict warrants disqualification. Informal Opinions 89-2, 89-5 and 90-3

#### 11. Extra-Judicial Source Rule

A judge is not required to enter disqualification when litigant has sued judge in judicial capacity. Disqualifying factors must be extrajudicial. Informal Opinion 97-8

Disqualifying bias or prejudice must normally be rooted in an extrajudicial source. Bias or prejudice does not arise simply based on the occurrences in a court proceeding. Informal Opinion 98-12

A judge is not automatically required to enter disqualification in a proceeding in which the judge has previously sanctioned one of the attorneys, held the attorney in contempt, or referred one of the attorneys to the Office of Professional Conduct as these occurrences are not extra-judicial. Informal Opinion 05-2

### **RULE 2.12: Supervisory Duties**

Juvenile court probation officer must be disqualified if spouse appears as attorney in proceeding. Informal Opinion 88-1

Code's absolute ban against acceptance of gifts does not apply to court clerks, court reporters and other court employees. Court employees may receive gifts of nominal value during holidays. Informal Opinion 89-6

Court employees are required to comply with those code provisions which require diligence and fidelity. Service on governmental commission or committee involves an obligation of fidelity. Informal Opinion 97-6

An assistant court administrator may coordinate the State Charitable Fund Drive because judges and the prestige of the judiciary are not directly involved. Informal Opinion 98-2

The executive director of a Judicial Council task force may solicit funds for task force research activities as long as judges' names and titles are not used in the efforts. Informal Opinion 98-3

Justice court clerk may not participate in city mobile watch program because the purpose of the program is to directly assist law enforcement agencies. Informal Opinion 98-5

A court employee sitting on a court building committee may not authorize display in a courthouse of a plaque identifying a "trial lawyer of the year." Informal Opinion 99-2

A part-time court referee may not practice criminal law. The referee also may not practice civil law at any of the court sites which the referee serves. Informal Opinion 07-2

**RULE 2.13: Administrative Appointments**

**RULE 2.14: Impairment**

**RULE 2.15: Responding to Judicial and Lawyer Misconduct**

**RULE 2.16: Cooperation with Disciplinary Authorities**

**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: Extrajudicial Activities in General**

1. Casting Doubt on Impartiality

Judge should not teach course on courtroom demeanor if enrollment in course is limited to single adversarial component of legal system, students are likely to appear regularly in judge's court, or course is designed to teach students how to appear more credible in court. Informal Opinions 88-5, 89-9 and 90-2

Judge serving as officer of state bar association may participate in discussion, debate and vote on bar's litigation matters unless those matters are likely to come before the court on which judge sits or unless appearance of impropriety exists. Formal Opinion 89-1

Judge may not participate in community college or POST moot court program in which participants are prospective law enforcement officers or certified peace officers, because such participation may convey impression that participants are in a special position of influence. Informal Opinion 90-2

Generally, judge may teach for public and for non-profit entities. However, judge may not make comments that would cast doubt on judge's ability to decide impartially any issue likely to come before the court. Informal Opinion 90-7

Judge may write foreword to legal publication on issues that may occasionally come before the judge, provided foreword does not take an advocacy position on those issues. Informal Opinion 90-8

Although judge may serve as member of bar sponsored fee arbitration panel, judge should not serve if service interferes with impartial performance of judicial duties. Informal Opinion 91-3

A state court judge may serve as a mediator in the federal court's annexed alternative dispute resolution pilot program, provided that such service does not interfere with the judge's judicial duties and does not cast doubt on the judge's ability to impartially decide matters that may come before the judge's court. Informal Opinion 94-1

A justice court judge cannot simultaneously serve as an administrative law judge, because the judge would be handling similar types of cases in both areas. Informal Opinion 01-5

## 2. Interference with Performance of Judicial Duties

Generally, judge is only person who can ultimately decide if activities interfere with performance of judicial duties. Informal Opinions 89-11 and 89-14

Full-time justice court judge may not serve as volunteer for Special Olympics if service would require judge to be absent from court one day per week. Informal Opinion 89-11

Judge's participation in quasi-judicial and extra-judicial organizations should not require undue absence from performance of judicial duties. Formal Opinion 89-1

Performance of judicial duties not only requires judge to conduct scheduled hearings, but also to be available during regular court hours to deal with other legal issues that may arise. Informal Opinion 90-1

Judge may participate in non-profit musical education and performance organization as long as participation does not interfere with judicial duties. Informal Opinion 97-3

## 3. Appearance of Impropriety

Part-time justice court judge who is full-time social worker may not provide alcohol assessment and education services to defendants who have appeared in the judge's court. Informal Opinion 92-2

Judges may not participate in a special banking program offered by a bank which has a contractual relationship with the judiciary. Formal Opinion 96-1

Commissioner may not issue title insurance through a financial arrangement with the commissioner's former partner. Informal Opinion 98-7

A county justice court judge may not serve as president of a company which markets technology to correction facilities. A judge may not engage in frequent financial dealings with other components of the criminal justice system. Informal Opinion 05-1

## 4. Exploiting the Judicial Position

Part-time justice court judge who is full-time social worker may not solicit alcohol assessment and education referrals from other judges because solicitation would exploit the judge's judicial position. Informal Opinion 92-2

A judge may communicate with the judge's insurance carrier, advocating coverage for a judge's family member, provided the judge does not use the judge's title in the communications. Informal Opinion 99-3

#### 5. Interference with Impartiality

Justice court judge may jointly own small business that occasionally seeks relief in small claims court if cases are not filed in court where judge presides and co-owner appears on behalf of business. Informal Opinion 89-12

#### 6. Teaching

Judge should not teach course on courtroom demeanor if enrollment in course is limited to single adversarial component of legal system, students are likely to appear regularly in judge's court, or course is designed to teach students how to appear more credible in court. Informal Opinion 88-5 and 89-9

Judge may not teach CLE seminar for for-profit entity. Informal Opinion 88-6

Judge may teach overseas CLE seminar for for-profit entity if seminar is not primary reason that individuals elect to participate. Informal Opinion 89-4

Judge may teach night courses on general legal topics at community college. Informal Opinion 89-9

Judge may not teach law enforcement course to peace officers. Informal Opinion 89-9

Judge may not teach class at university if teaching would require full-time judge to be away from the courthouse during regular business hours for six hours per week. Informal Opinion 90-1

Generally, judge may teach for public and non-profit entities. However, judge may not comment on any aspect of recently concluded trial until post-trial motions are resolved and appeal period has expired without appeal, and may not make general comments that would cast doubt on judge's ability to decide impartially any issue likely to come before the court. Informal Opinion 90-7

Judicial writing is governed by same principles as judicial teaching. Informal Opinion 90-8

A judge may teach a session at the annual conference of the Attorney General's Office provided the judge is willing and available to accept invitations from opposing groups of attorneys, and the judge does not give legal advice, comment on pending cases, or offer opinions that would indicate biases. Informal Opinion 99-6

A judge may participate on a Division of Child and Family Services panel designed to train foster parents. Informal Opinion 06-4

A juvenile court judge may make presentations to certain groups, such as a parenting class for DCFS, a CASA award program and the Foster Parents Association. Informal Opinion 06-6

Judge may teach a business law class at a local university during the judge's lunch break, even though the judge will need to extend the lunch time 20 minutes. A judge must enter disqualification in proceedings involving the employer of the judge's spouse. Informal Opinion 08-1

**RULE 3.2: Appearances before Governmental Bodies and Consultation with Government Officials.**

Judge must limit remarks to legislative and executive bodies to issues concerning the law, the legal system and the administration of justice. Formal Opinion 89-1

A judge may contact legislators on bills and issues that directly and primarily involve the law, the legal system, and the administration of justice. Informal Opinion 01-1

**RULE 3.3: Testifying as a Character Witness**

Senior judge may not testify as paid expert witness in support of settlement agreement. Informal Opinion 88-8

Judge should not testify as character witness unless served with subpoena. Informal Opinion 88-9

**RULE 3.4: Appointments to Governmental Positions**

**RULE 3.5: Use of Nonpublic Information**

**RULE 3.6: Affiliation with Discriminatory Organizations**

**RULE 3.7: Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities**

1. Fund-Raising

Service as member of United Way's Board of Directors does not violate Code provided judge neither solicits funds nor allows the use of judicial office for that purpose. Informal Opinion 88-4

Judge may not participate in dunking booth at bar convention to help raise money for drug prevention program in public schools. Informal Opinion 89-8

Judge may not assist in fund raising for quasi-judicial organization comprised mostly of attorney members. Formal Opinion 89-1 and Informal Opinions 90-6 and 90-9

Judge's name and organizational title may be used on organization's letterhead even if the letterhead is used for fund raising purposes. However, judge's name should not be selectively emphasized and judicial title should not be used. Informal Opinion 90-6

Judge who serves as officer or director of extra-judicial organization may perform perfunctory tasks at organization's fund-raising events, but should not take active part. Informal Opinion 90-6

"Fund-raising activity" includes seminar sponsored by law school alumni association if excess proceeds are used to fund association's other activities, even though those activities are educational or charitable in nature. Informal Opinion 90-9

Judges on Judicial Council task force may not participate in task force fund-raising. Informal Opinion 98-3

A judge may contribute a picture to a national campaign by the American Indian College Fund. The campaign is not solely for fund-raising and there is no direct solicitation involved. Informal Opinion 01-3

## 2. Service as Officer, Director or Trustee

Entity's stated purpose may be indicative of its classification as quasi-judicial or extra-judicial organization, but its actions should be regularly re-examined by participating judge to determine whether continued association is proper. Informal Opinions 88-2, 88-4, 89-1 and 90-6

Former Canon 5B, which affects judge's service as officer, director, trustee or non-legal advisor in civic and charitable organizations also applies to judge's membership in such organizations. Informal Opinion 89-1

Judge may serve as officer of state bar. Formal Opinion 89-1

Judge serving as officer of state bar may participate in internal discussion, debate and vote on bar's litigation matters unless those matters are likely to come before the court on which judge sits or unless appearance of impropriety exists. Formal Opinion 89-1

Judge serving as officer of state bar must abstain from discussion, debate and vote on bar administration and attorney discipline matters. Formal Opinion 89-1

Judge's participation in quasi-judicial and extra-judicial organizations should not necessitate undue absence from performance of judicial duties. Formal Opinion 89-1, and Informal Opinion 91-3

Judge may serve as president of local bar association. Informal Opinion 89-14

Judge may serve as officer of law school alumni association. Informal Opinion 90-6

Judge may serve as member of a bar sponsored fee arbitration panel. Informal Opinion 91-3

Active senior judge may serve as member of American Arbitration Association "Judicial Panel" consisting of active senior judges and former judges. Informal Opinion 92-1

A judge may not maintain membership in an organization that endorses candidates for partisan political office. Informal Opinion 93-1

Service on a local domestic violence coalition is permitted as long as the coalition is not an advocacy group, the membership is diverse, and individual cases are not discussed. Informal Opinion 98-6

A commissioner may serve on a Utah Legal Services committee, but must disclose the service in all cases involving Utah Legal Services attorneys. Informal Opinion 00-1

Judge may maintain membership in a cycling club that is sponsored, in part, by a law firm. Informal Opinion 03-1

A judge may serve as a trustee on the board of the Utah Certified Development Company, a non-profit entity. Informal Opinion 06-5

A judge may not serve on the Board of the National Alliance for the Mentally Ill, because representatives of the Alliance frequently appear in the judge's court. Informal Opinion 07-4

### 3. Government Boards and Commissions

A judge may not participate on the Salt Lake County Child Abuse Coordinating committee because the activities of the committee have gone beyond purposes permitted under the Code. Informal Opinion 88-2

Justice court judge may serve as member or chairman of county planning commission. Informal Opinion 89-10

A state court judge may serve as a mediator in the federal court's annexed alternative dispute resolution pilot program, provided that such service does not interfere with the judge's judicial duties and does not cast doubt on the judge's ability to impartially decide matters that may come before the judge's court. Informal Opinion 94-1

A judge should not serve on a subcommittee to the Utah Substance Abuse and Anti-Violence Coordinating Council because that subcommittee is concerned with matters of fact or policy other than improvement of the law, the legal system or the administration of justice. Informal Opinion 94-2

An active senior judge may serve on the Board of Child and Family Services. Informal Opinion 95-1

A judge may not serve on the Board of Regents because such service constitutes an appointment to a governmental position that is concerned with matters of fact or policy other than the improvement of the law, the legal system or the administration of justice. Informal Opinion 95-3

An active senior judge may serve as a hearing officer, on a contract basis, for the Board of Pardons and Parole, but may not then preside as a senior judge over criminal or habeas corpus cases. Informal Opinion 97-1

Appellate court employee may serve on the Grievance Council of the Utah Division of Child and Family Services because the Council is devoted to improving the law and the administration of justice. Informal Opinion 97-6

Judge may serve on Children's Justice Center Advisory Board but may not participate in discussions which focus on prosecutorial tactics or other discussions that do not benefit the system as a whole. Informal Opinion 98-4

An active senior judge may not accept an appointment to the Utah Antidiscrimination Advisory Council because it does not have a direct nexus to the administration of justice. Informal Opinion 98-11

A member of the Judicial Council may propose and vote on a Council resolution to file an amicus brief in a Utah Supreme Court case involving separation of powers. Informal Opinion 98-18

A judge may accept an appointment to serve as a commissioner for the Navajo Nation courts as this will improve the administration of justice. Informal Opinion 99-11

A part-time justice court judge may accept an appointment to the local school district board of education. Informal Opinion 00-2

A justice court judge cannot simultaneously serve as an administrative law judge, because the judge would be handling similar types of cases in both areas. Informal Opinion 01-5  
A judge may not serve on a county ad hoc citizen's advisory committee that will address zoning issues. Informal Opinion 06-3

A part-time justice court judge may serve on a traffic safety committee appointed by a local school board. Informal Opinion 07-1

**RULE 3.8: Appointments to Fiduciary Positions**

**RULE 3.9: Service as Arbitrator or Mediator**

**RULE 3.10: Practice of Law**

It is a rebuttable presumption that a judge of a full-time justice court is a full-time judge

prohibited from the practice of law. Informal Opinion 96-1

Commissioner may not continue to issue insurance through Attorneys' Title. Informal Opinion 98-7

A part-time referee may not practice law at the court sites which the referee serves. The part-time referee may not practice criminal law in any district. Informal Opinion 07-2

**RULE 3.11: Financial, Business, or Remunerative Activities**

**RULE 3.12: Compensation for Extrajudicial Activities**

Reasonable compensation is that compensation which a non-judge would receive for the same services. Informal Opinions 89-4 and 89-10

Part-time justice court judge who is a full-time social worker may not receive compensation for providing alcohol assessment and education services to defendants who have appeared in the judge's court because receipt of compensation creates appearance of impropriety. Informal Opinion 92-2

It is inappropriate for a judge to receive compensation for performing a marriage ceremony during regular court hours, regardless of where the ceremony is located. Moreover, a judge should not receive compensation for the performance of a marriage ceremony held at the court, regardless of whether the ceremony is performed during regular court hours. Informal Opinion 94-3 (Modified by Informal Opinion 98-8)

A judge may not charge a fee for marriage ceremonies performed during business hours. A fee may be charged for ceremonies performed during off hours if the ceremony is performed at an off-court location or a portion of the court site set aside for such ceremonies. Informal Opinion 98-8

**RULE 3.13: Acceptance of Gifts, Loans, Bequests, Benefits, or Other Things of Value**

Even assuming that reimbursement for travel, lodging and meals incident to judge's participation in overseas seminar is gift, judge may accept such reimbursement from sponsoring organization whose interests have not come and are not likely to come before the court. Informal Opinion 88-10

Judge may not accept Christmas gift from lawyer or other person who is likely to come before the court. Value of gift is immaterial. Informal Opinion 89-6

Except on actual trial days a judge may engage in private social interactions with attorneys who have cases pending before the judge,. Judges may attend larger social gatherings at which attorneys are present. A judge may accept a free meal from an attorney. Formal Opinion 98-1

**RULE 3.14: Reimbursement of Expenses and Waivers of Fees or Charges**

Reimbursement for travel, food and lodging incident to judge's attendance at and participation in overseas seminar should be limited to actual costs. Informal Opinion 88-10

**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: Political and Campaign Activities of Judges and Judicial Candidates in General**

Judge should neither host nor attend mass meeting (party caucus). Informal Opinion 88-7

Judge may not provide non-financial campaign assistance to school board candidate in privacy of judge's home. Informal Opinion 89-7

Judge may not attend public gatherings where spouse is campaigning for public office and may not accompany spouse while spouse campaigns. Informal Opinion 89-15

Because this Canon does not apply to pro-tem judges, pro-tem judge may campaign for political office. Informal Opinion 89-16

"Political gathering" means any gathering of two or more people for political purposes. Informal Opinions 89-7 and 91-1

Judge may not participate in former law partner's campaign for out-of-state elective office. Informal Opinion 90-2

Part-time commissioner may campaign for and hold office of justice of peace in neighboring state provided campaign activities are in compliance with Canon. Informal Opinion 90-4

Non-partisan political activity is also prohibited by Code. Informal Opinion 91-1

A judge may not maintain membership in an organization that endorses candidates for partisan political office. Informal Opinion 93-1

An applicant for judicial office may participate in planning, and thereafter attend, a political fund-raising dinner. Informal Opinion 95-2

An active senior judge may not serve as master of ceremonies for a PTA "meet the candidates" night, because the meeting is a political gathering. Informal Opinion 98-15

A judge may not attend a political party caucus. A judge may vote in a primary election, even when participation is conditioned on party affiliation. Informal Opinion 02-1

**RULE 4.2: Political and Campaign Activities of Judges in Retention Elections**

Although judge may not request or encourage family member to do anything judge is prohibited

from doing under this Canon, independent political involvement by member of judge's family is not prohibited. Informal Opinion 88-7

Judge may not attend public gatherings where spouse is campaigning for public office and may not accompany spouse while spouse campaigns. Informal Opinion 89-15

Although member of judge's family has legal right to be involved in politics, judge has affirmative duty to try to dissuade family member from seeking political office and participating in political campaign. Informal Opinion 89-15

A judge who is not certified for retention by the Judicial Council may operate a campaign for election. Informal Opinion 00-5

A judge who has been certified for retention by the Judicial Council, but receives public opposition in the form of negative news articles or editorials, letters to the editor, lawn signs, etc., may operate a campaign for election. Informal Opinion 00-5

A judge who has been certified for retention by the Judicial Council, but is the subject of informal negative public discussions, may not operate a campaign for election in response to those discussions. Informal Opinion 00-5

**RULE 4.3: Activities of Judges Who Become Candidates for Nonjudicial Office**