

COURT NOTICES

Amendment of Rule

Chief Administrator's Rules Governing Judicial Conduct

Pursuant to the authority vested in me, and upon consultation with the Administrative Board of the Courts, and with the approval of the Court of Appeals of the State of New York, I hereby amend, effective immediately, Part 100 of the Chief Administrator's Rules Governing Judicial Conduct, relating to judicial campaign conduct and other judicial conduct, to read as follows:

PART 100. JUDICIAL CONDUCT

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§ 100.0 Terminology

The following terms used in this Part are defined as follows:

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(R) "*Impartiality*" denotes absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintaining an open mind in considering issues that may come before the judge.

(S) An "*independent*" judiciary is one free of outside influences or control.

(T) "*Integrity*" denotes probity, fairness, honesty, uprightness and soundness of character. "*Integrity*" also includes a firm adherence to this Part or its standard of values.

(U) A "*pending proceeding*" is one that has begun but not yet reached its final disposition.

(V) An "*impending proceeding*" is one that is reasonably foreseeable but has not yet been commenced.

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§ 100.3 A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently

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(B) Adjudicative Responsibilities

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(9) A judge shall not:

(a) make pledges or promises of conduct in office that are inconsistent with the impartial performance of the adjudicative duties of the office;

(b) with respect to cases, controversies or issues that are likely to come before the court, make commitments that are inconsistent with the impartial performance of the adjudicative duties of the office.

[(9)](10) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.

[(10)](11) A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information acquired in a judicial capacity.

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(E) Disqualification

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

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(f) the judge, while a judge or while a candidate for judicial office, has made a pledge or promise of conduct in office that is inconsistent with the impartial performance of the adjudicative duties of the office or has made a public statement not in the judge's adjudicative capacity that commits the judge with respect to

(i) an issue in the proceeding; or

(ii) the parties or controversy in the proceeding.

[(f)](g) notwithstanding the provisions of subparagraphs (c) and (d) above, if a judge would be disqualified because of the appearance or discovery, after the matter was assigned to the judge, that the judge individually or as fiduciary, the judge's spouse, or a minor child residing in his or her household has an economic interest in a party to the proceeding, disqualification is not required if the judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

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§ 100.5 A Judge or Candidate for Elective Judicial Office Shall Refrain from Inappropriate Political Activity

(A) Incumbent Judges and Others Remaining for Public Election To Judicial Office.

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(2) A judge or non-judge who is a candidate for public election to judicial office may participate in his or her own campaign for judicial office as provided in this section and may contribute to his or her own campaign as permitted under the Election Law. During the Window Period as defined in subdivision (Q) of section 100.0 of this Part, a judge or non-judge who is a candidate for public election to judicial office, except as prohibited by law, may:

* * *

(v) purchase two tickets to, and attend, politically sponsored dinners and other functions, [even where the cost of the ticket to such dinner or other function exceeds the proportionate cost of the dinner or function.] provided that the cost of the ticket to such dinner or other function shall not exceed the proportionate cost of the dinner or function. The cost of the ticket shall be deemed to constitute the proportionate cost of the dinner or function if the cost of the ticket is \$250 or less. A candidate may not pay more than \$250 for a ticket unless he or she obtains a statement from the sponsor of the dinner or function that the amount paid represents the proportionate cost of the dinner or function.

* * *

(4) A judge or a non-judge who is a candidate for public election to judicial office:

(a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the *impartiality*, integrity and independence of the judiciary, and shall encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;

* * *

(d) shall not:

(i) make pledges or promises of conduct in office [other than] *that are inconsistent with* the [faithful and] impartial performance of the *adjudicative* duties of the office;

(ii) [make statements that commit or appear to commit the candidate] with respect to cases, controversies or issues that are likely to come before the court, *make commitments that are inconsistent with the impartial performance of the adjudicative duties of the office;*

* * *

(f) shall complete an education program, either in person or by videotape or by internet correspondence course, developed or approved by the Chief Administrator or his or her designee within 30 days after receiving the nomination or 90 days prior to receiving the nomination for judicial office. *The date of nomination for candidates running in a primary election shall be the date upon which the candidate files a designating petition with the Board of Elections. This provision shall apply to all candidates for elective judicial office in the Unified Court System except for town and village justices.*

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(6) A judge or a non-judge who is a candidate for public election to judicial office may not permit the use of campaign contributions or personal funds to pay for campaign-related goods or services for which fair value was not received.

(7) *Independent Judicial Election Qualifications Commissions, created pursuant to Part 150 of the Rules of the Chief Administrator of the Courts, shall evaluate candidates for elected judicial office, other than justice of a town or village court.*

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§ 100.6 Application of the Rules of Judicial Conduct

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(E) Relationship to Code of Judicial Conduct. To the extent that any provision of the Code of Judicial Conduct as adopted by the New York State Bar Association is inconsistent with any of these rules, these rules shall prevail [, except that these rules shall apply to a non-judge candidate for elective judicial office only to the extent that they are adopted by the New York State Bar Association in the Code of Judicial Conduct].

Amendment of Rule

Rules of the Chief Administrator of the Courts

Pursuant to the authority vested in me, and upon consultation with the Administrative Board of the Courts, I hereby amend, effective immediately, section 123.2 of the Rules of the Chief Administrator of the Courts, relating to filing requirements for materials submitted to Supreme Court law libraries, to read as follows:

§123.2 General Filing Requirements

No material submitted to a Supreme Court Law Library pursuant to section 102(4)(c) of the Executive Law will be accepted for filing therewith unless the following requirements are met:

(a) All material submitted must be (i) in *electronic form* or (ii) in the form of microfiche or ultrafiche cards, and must comply with the provisions of [subdivision (b) of this section] *subdivisions (b-1) and (b-2) of this section, respectively*, unless the submitting agency shall certify that such material cannot be obtained commercially in [such] either form, in which event the material shall be in the form prescribed by subdivision (c) of this section.

(b-1) *Form for materials submitted in electronic form. Materials submitted in electronic form shall be in such form as approved by the Chief Administrator of the Courts, which may include electronic disks or transmissions between computers or other machines. There also shall be included within each submission the information set forth in subdivision (b-2) of this section.*

[(b)] (b-2) Form for Material Submitted in Microfiche or Ultrafiche.

(1) Material submitted in the form of microfiche or ultrafiche cards shall display the full text of the code, manual, volume or publication of which it is a part.

(2) There shall be included with such cards a separate written index of the material displayed thereon, including the following information for each entry:

(i) the name of the publication, including the volume number and volume title if applicable;

(ii) the name of the publisher or the name of the organization responsible for writing the material, whichever is more useful for identification purposes;

(iii) the date of publication;

(iv) the name of the State agency adopting the publication; and

(v) cross-reference to the NYCRR sections which reference the publication pursuant to section 102(1)(c) of the Executive Law.

(c) Form for Material Submitted When *Electronic Form, Microfiche [or] and Ultrafiche* Are Unavailable.

(1)(i) If the material were published in a permanently bound volume, the bound volume itself must be submitted for filing. Neither photocopies nor pages from bound volumes will be accepted.

(ii) If a soft-bound publication contains [less] fewer than 100 pages, it must be placed in a rigid-cover binder.

(iii) If the publication is self-covering, i.e., the cover and the inside pages are made of the same or similar stock, the publication must be placed in a rigid-cover binder.

(2) Loose-leaf publications must be bound in the loose-leaf binder specially manufactured and imprinted by the publisher for storing the pages.

(3) The following information must appear on an adhesive label placed in the upper left-hand corner of the front cover of each publication or, if the publication is enclosed in a binder, in the upper left-hand corner of the front cover of the binder.

(i) the name of the publication, including the volume number and volume title if applicable;

(ii) the name of the publisher or the name of the organization responsible for writing the material, whichever is more useful for identification purposes;

(iii) the date of the publication;

(iv) the name of the State agency adopting publication; and

(v) cross-reference to the NYCRR sections which reference the publication pursuant to section 102(1)(c) of the Executive Law.

(4) A rigid-cover binder may not contain more than one publication nor more than one edition of a periodical or series publication.

(d) If for any reason the nature of the material makes it impractical for a State agency to comply with any of the provisions of this section, the agency may request the Chief Administrator of the Courts to grant an exemption therefrom.

(e) No material which is a United States statute or a code, rule or regulation published in the Code of Federal Regulations or in the Federal Register shall be submitted.

Amendment of Rule Rules of the Chief Administrator

Pursuant to the powers vested in me, and with the approval of the Administrative Board of the Courts, I hereby add, effective immediately, Part 150 of the Rules of the Chief Administrator, relating to the establishment of Independent Judicial Election Qualifications Commissions, to read as follows:

PART 150

Independent Judicial Election Qualification Commissions

§ 150.0 Preamble

It is essential to the effectiveness of an elected judiciary that well qualified candidates obtain judicial office. Yet the public frequently is unaware of the qualifications of candidates who run for judicial office, because the candidate-designation process often is not conducted in public view. The public will have greater confidence in the judicial election process if they know that those judicial candidates who appear on the ballot were screened by independent screening panels and found to possess the qualities necessary for effective judicial performance.

§ 150.1 Establishment

There shall be an Independent Judicial Election Qualification Commission established in each judicial district which shall review the qualifications of candidates for public election to the Supreme Court, County Court, Surrogate's Court, Family Court, New York City Civil Court, District Courts and City Courts.

§ 150.2 Membership

(a) Each qualification commission shall have 15 members appointed as follows:

- (1) The Chief Judge of the State of New York shall select five members, two of whom shall be non-lawyers;
- (2) The Presiding Justice of the Appellate Division encompassing the appropriate district commission shall select five members, two of whom shall be non-lawyers;
- (3) The President of the New York State Bar Association shall select one member;
- (4) Four local bar associations, located within the appropriate judicial district and designated by the Presiding Justice of the Appellate Division of the appropriate district, shall each select one member.

(b) The Chief Judge of the State of New York shall designate the chair of each commission from the above membership.

(c) Commissioners must be residents of or have a place of business in the judicial district in which they serve.

(d) In making appointments to the commissions, each appointing authority shall give consideration to achieving broad representation of the community, including geographic, racial, ethnic and gender diversity.

§ 150.3 Terms of Office

(a) Except as set forth below, each member shall serve at the pleasure of the appointing authority for a term of three years, and shall be eligible to serve for one additional three-year term.

(b) Initial terms of commissioners shall be staggered so that five commissioners will serve for an initial term of one year, five for an initial term of two years, and five for an initial term of three years.

(c) If a commissioner does not complete the appointed term, the appointing authority shall appoint someone to serve on an interim basis for the remainder of the term.

(d) If a vacancy is not filled by an appointing authority within 30 days after written notification to the appointing authority of its creation, the Chief Judge may fill the vacancy for the remainder of the term.

§ 150.4 Quorum

Two-thirds of the members of the full commission shall constitute a quorum for the purpose of conducting any business.

§ 150.5 Evaluation of Candidates

(a) The qualifications commissions shall evaluate candidates for elected public office for the courts set forth in section 150.1 to determine whether they are qualified for the office to which they seek election.

(b) The criteria for evaluation shall include professional ability; character, independence and integrity; reputation for fairness and lack of bias; and temperament, including courtesy and patience.

(c) Two-thirds of the quorum's vote shall be required to find a candidate qualified for judicial office.

(d) All votes on whether a candidate is qualified shall be by secret ballot.

(e) Each commission shall publish an alphabetical listing of the names of all candidates that it has found qualified for election to judicial office, and of all candidates who failed to fully participate in the commission evaluation process.

§ 150.6 Procedures

(a) The Chief Administrator of the Courts shall establish, with the approval of the Administrative Board of the Courts, uniform procedures for the operation of the commissions. These procedures shall include:

- (1) Wide dissemination by the commission of notice wherever an open judicial position is to be filled by election;
- (2) Use of written application forms;
- (3) Investigation of the background and qualifications of applicants;
- (4) A personal interview with each applicant;
- (5) A process for re-hearing upon application of an applicant.

(b) A commission may designate subcommittees to investigate the background and qualifications of applicants and to report to the full committee.

§ 150.7 Compensation

Commission members shall serve without compensation, but shall be entitled to reimbursement for any necessary expenses incurred by them in connection with the performance of their duties.

§ 150.8 Confidentiality

Except as provided in section 150.5(e), all papers filed with or generated by the commission and all proceedings of the commission shall be confidential.

§ 150.9 Conflicts of Interest

(a) No member of a qualifications commission shall be a candidate for judicial office or shall support or act on behalf of any candidate for judicial office.

(b) A member shall recuse himself or herself from participating in a commission proceeding where the member has a relationship with the candidate, or with another candidate competing for the same judicial office, which could reasonably render the member's participation unfair to the public or any candidate, or which might cause others to perceive that such participation is inappropriate or unfair.