

Code Of Conduct For Judiciary Employees

Adopted Effective December 7, 1993

Includes all amendments through those effective September 9, 2014.

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SCOPE

The following Canons govern the professional and outside activities of judiciary employees. Guidelines herein that offer examples are intended to be not exhaustive but merely illustrative of conduct that would conform to or violate a Canon. When in doubt, an employee should refer to the explicit language of the Canon, and direct any questions to the appropriate judiciary supervisor. If necessary, the supervisor or the employee may make written application to the Advisory Committee on Outside Activities of Judiciary Employees for an opinion on matters that do not appear to be resolved readily by the Canons.

Note: Scope section adopted December 7, 1993, to be effective immediately.

APPLICABILITY

- A. This Code applies to all non-judge employees performing judicial branch functions, including temporary employees. It takes precedence, to the extent it is more restrictive, over any professional code of ethics to which the employee is subject.
- B. The Code does not apply to those employees of county sheriffs who provide only security services.
- C. This Code shall not limit union activities by members of labor organizations that are matters of right under the Constitution of the United States, the Constitution of New Jersey, or statutes applicable to and accepted by the judiciary, or that have been approved by the Supreme Court of New Jersey.

Note: Applicability section adopted December 7, 1993, to be effective immediately.

CANON 1 -- PERFORMANCE OF DUTIES

- A. A court employee shall uphold the Constitutions and laws of the United States and the State of New Jersey, and shall faithfully carry out all duties assigned to the employee's judicial function.

Comment: Judiciary employees shall put loyalty to the principles embodied in this Code above loyalty to persons or parties.

B. Every court employee shall endeavor at all times to perform official duties properly, courteously, and with diligence.

C. Every court employee shall maintain or obtain current licenses or certificates as may be required by law or court rule for their employment.

D. No court employee shall intentionally alter, falsify, destroy, mutilate, backdate, or fail to make required entries on any records within the employee's control. This provision does not prohibit alteration or expungement of records or documents pursuant to a court order.

E. No court employee shall in the conduct of official duties discriminate or harass on the basis of, or manifest by words or conduct, bias or prejudice based on race, creed, color, national origin/nationality, ancestry, language, religion/religious practices or observances, age, sex, pregnancy, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, socioeconomic status, disability or perceived disability, atypical hereditary cellular or blood trait, genetic information, or status as a veteran of, or liability for service in, the Armed Forces of the United States.

The Judiciary prohibits all forms of unlawful bias, harassment, and discrimination in all of its operations, including humiliating or degrading jokes, insults or comments about one's race, creed, color, national origin/nationality, ancestry, religion, age, disability or perceived disability, sex, pregnancy, gender identity or expression, affectional or sexual orientation, or any other unlawful criteria. Harassment, coercion, or intimidation of any individual based on these or other unlawful criteria is strictly forbidden.

F. No court employee shall give legal advice outside the scope of his or her judiciary employment, or as provided in Canon 5.B.5., nor recommend the names of private attorneys.

Comment: A court employee may respond to questions regarding court procedures within the scope of the employee's duties.

G. No court employee shall refuse to enforce or otherwise carry out any properly issued rule or order of court, nor shall court employees exceed that authority.

H. Court employees who are attorneys, law students, or members of other professional groups are also bound by the appropriate professional duties of those roles.

Note: Canon 1 adopted December 7, 1993, to be effective immediately; section E amended May 3, 1994, to be effective September 1, 1994; section E amended October 16, 2008 to be effective immediately; section E amended September 9, 2014 to be effective immediately.

CANON 2 -- PROTECTION OF CONFIDENTIAL INFORMATION

A. A court employee may not disclose to any unauthorized person for any purpose any confidential information acquired in the course of employment, or knowingly acquired through unauthorized disclosure by another.

Comment: "Confidential information" includes information about pending matters that is not already a matter of public record and information concerning the work product of any judge, law clerk, staff attorney, or other employee including, but not limited to, notes, papers, discussions, and memoranda. Employees should note that Canon 5.B.5 specifically addresses restrictions on the disclosure to an outside employer of any information obtained in the course of judiciary employment, whether or not confidential.

B. Every court employee shall report confidential information to an appropriate authority within the judicial system when the employee reasonably believes that that information is or may be evidence of a violation of law or of this Code. This obligation does not preclude reporting to a law enforcement or other appropriate authority. No court employee shall be adversely affected for disclosing such confidential information to an appropriate authority.

C. A court employee, after termination of employment, shall not disclose confidential information obtained in the course of employment.

Note: Canon 2 adopted December 7, 1993, to be effective immediately.

CANON 3 -- AVOIDING ACTUAL OR APPARENT IMPROPRIETY

A court employee shall observe high standards of conduct so that the integrity and independence of the courts may be preserved, and shall avoid impropriety or the appearance of impropriety.

Comment: The holding of public employment in the court system is a public trust. That trust is sustained by conduct that maintains the confidence of the citizenry in the integrity of officers and employees of the judicial branch.

Guideline: In light of the injunction to "avoid impropriety or the appearance of impropriety" judiciary employees must not risk: (1) subjecting themselves to improper influences; (2) participating in activities or allowing themselves to be used in such manner as to impair the dignity and esteem in which the court should be held.

Specifically a judiciary employee shall not:

a. Use or attempt to use the official position or the prestige of judicial affiliation to secure special privileges or exemptions for the employee or for others. For example, an employee shall not use official letterhead for private business correspondence, write letters of recommendation on official letterhead (other than when requested to give a reference on current or former co-workers or subordinates seeking new employment), nor carry a judiciary business card unless authorized by the appointing authority.

b. Solicit, accept, or agree to accept any gifts, loans, gratuities, discounts, favors, hospitality, or services directly or indirectly from any attorney or other person who has had or is likely to have any professional or official transaction with such employee or with the employee's court or office.

c. Solicit, accept or agree to accept any gifts, loans, gratuities, discounts, favors, hospitality, or services from anyone:

1) based on any understanding, whether explicit or implicit, that the official actions, decisions, or judgment of any employee would be influenced thereby;

2) under circumstances from which one reasonably could infer that the purpose of the donor is to influence the court employee in the performance of official duties.

d. Dispense special favors to anyone, whether or not for remuneration, nor be or appear to be unduly affected by favoritism, cronyism, kinship, rank, position, or influence of any person in the discharge of official duties.

e. Request or accept any outside fee or additional compensation for advice or assistance given in the course of the employment.

Guideline: Each employee shall use the resources, property, and funds under the employee's official control solely for official purposes.

Note: Canon 3 adopted December 7, 1993, to be effective immediately.

CANON 4 -- AVOIDING ACTUAL OR APPARENT CONFLICTS OF INTEREST

Court employees shall regulate outside activities to minimize the risk of conflict with court-related duties. Generally a conflict of interest exists when the court employee's objective ability or independence of judgment in the performance of his or her job is impaired or reasonably may appear to be impaired. Outside employment or other activities, whether related to judicial administration or not, must not involve the court employee in conflict of interest nor appear to do so, nor encroach on or conflict with judiciary-related duties.

Comment: A conflict of interest involving a court employee can seriously undermine the community's confidence and trust in the court system. Therefore, every court employee is required to exercise diligence in becoming aware of his or her own conflicts of interest, and in ending them when they arise. Care must be taken that outside interests are not so extensive or of such a nature as to impair the ability to perform court-related duties.

Guideline:

a. A conflict of interest exists when the court employee, or the employee's immediate family, as defined below, or the employee's business would derive advantage as a result of official action taken by the employee. No conflict of interest exists if any benefit accrues to the employee or the employee's immediate family as a member of a profession, business, or group to the same extent as any other member of the profession, business, or group who does not hold a position within the court system.

b. For the purposes of this Code, "immediate family" shall include all members of the employee's household, as well as the following, whether related by marriage or by adoption: spouse or the substantial equivalent; child; foster child; brother; sister; parent; grandparent; grandchild; father-in-law; mother-in-law; sister-in-law; brother-in-law; son-in-law; daughter-in-law; stepfather; stepmother; stepson; stepdaughter; stepbrother; stepsister; half-brother; half-sister; nephew; niece; aunt; uncle; children of an aunt or uncle.

c. Prohibited activities under this Canon include, but are not limited to, the following:

1) Entering into any contract with the court system apart from the employment contract relating to the employee's position, or using that

position to assist any member of his or her immediate family in securing a contract with the court system in a manner not available to any other interested party.

2) Receiving any unauthorized compensation for assisting or consulting with parties engaged in transactions or involved in proceedings with the court system.

3) Participating in any official decision involving an entity or person outside the court system with whom either the court employee or any member of the employee's immediate family is negotiating for future employment.

4) Engaging in official transactions with any former employee for one year after the former employee's termination of employment: (a) with regard to any matter in which the former employee had been substantially involved; or (b) with regard to any financial matter if the former employee had held a position in the same office.

d. Nothing in this section shall prohibit an employee from accepting a public award presented in recognition of public service.

e. Nothing in this section shall prohibit an employee from receiving a reasonable commercial loan made as part of the ordinary transaction of the lender's business.

Note: Canon 4 adopted December 7, 1993, to be effective immediately; text of Canon 4D deleted June 4, 2002 to be effective immediately..

CANON 5 -- OUTSIDE EMPLOYMENT AND OTHER OUTSIDE ACTIVITIES

The court-related duties of a judiciary employee shall take precedence over all outside activities.

A. Each full-time court employee's position with the court system must be the employee's primary employment.>

Comment: Outside employment or non-paying activities must be capable of being fulfilled regularly outside of normal working hours.

B. To avoid impropriety and/or conflict of interest or the appearance thereof, the following provisions shall apply to the holding of outside employment by judiciary employees.

Comment: Although the propriety of holding outside employment is determined by this Code, particularly by the provisions of Canon 5.B., employees are advised that to hold other employment while working for the judiciary, they must meet certain procedural requirements, as detailed in Section 15 below.

The term "Outside Employment" refers to positions of gainful pursuit, including (a) additional employment with the judiciary or (b) self-employment.

1a. Subject to this Code, as interpreted by the Advisory Committee on Outside Activities of Judiciary Employees and by the Supreme Court, and except as set forth below, all non-judge judiciary employees may hold outside employment.

Comment: Outside employment is presumptively permissible and may be held if not prohibited, restricted, or in conflict with the principles, goals, or standards of the Code.

2. Subject to the notice requirements of 5.B.15, any court employee may teach, lecture, or write on any subject, so long as:

- a. any compensation is commensurate with the prevailing rate;
- b. any presentation or document clearly states that the employee is not speaking on behalf of the Supreme Court or the court system, unless the employee has expressly been authorized to do so; and
- c. no confidential information is disclosed.

3. Subject to the notice requirements of 5.B.15, all judiciary employees are presumptively permitted to hold outside employment, with the following exceptions:

- a. judiciary employees shall obtain the written permission of the Administrative Director prior to undertaking outside consulting work;
- b. the Administrative Director shall obtain the written permission of the Supreme Court prior to undertaking outside consulting work;
- c. Superior Court or Tax Court law clerks shall obtain written permission of (a) their judge, and (b) the Assignment Judge, the Appellate Division Presiding Judge for Administration, or the Tax Court Presiding Judge prior to taking outside employment; Supreme Court law clerks shall obtain written permission of (a) their justice, and (b) the Chief Justice.

4. No judiciary employee shall engage in outside employment that involves the use of judiciary equipment, materials, supplies, telephone services, office space, computer time, or facilities.

- **Comment:** To use judiciary resources for outside employment is improper. Included within this prohibition are resources used by judiciary employees for publications for profit. However, when the publication is not for profit and it advances the interests of the judiciary, judiciary resources may be used with the advance written approval of the Chief Justice for employees of the Supreme Court, the Presiding Judge for Administration of the Appellate Division for Appellate Division employees (including official court reporters), the Assignment Judges for employees in their respective vicinages, the Assignment Judges and Municipal Court Judges for municipal court employees, the Presiding Judge of the Tax Court for Tax Court employees, and the Administrative Director of the Courts for employees of the Administrative Office of the Courts. All such advance written approvals shall be filed with the Administrative Director.

5. No judiciary employee shall engage in outside employment that requires, induces, or encourages the employee to disclose information acquired in the course of the judiciary employment. Information obtained during employment with the judiciary shall not be used for the benefit of the outside employment.

Comment: This non-disclosure requirement imposes two separate restrictions on judiciary employees. It requires that judiciary employees be prohibited from outside employment when the employee is placed in the position of having to disclose information obtained in the course of performance of official duties. It further prohibits the disclosure of such information for the benefit of the outside employment even when the employee is not required or induced to disclose it. Thus, the non-disclosure requirement is to be construed broadly and is not limited only to confidential information.

6. No judiciary employee shall engage in the practice of law, except as permitted by Court Rule.

Comment: This Canon will, for example, continue the current provisions in Court Rule 1:15 governing the practice of law by Surrogates and deputy surrogates.

7. No judiciary employee shall engage in outside employment that regularly requires the employee's appearance in court, or before an arbitrator, mediator, or hearing officer.

Comment: This Canon shall not be construed as limiting judiciary employees from engaging in legitimate union activity, either when an employee is acting on behalf of his or her union, or is working for the union on an approved leave of absence from judiciary employment.

8. No judiciary employee shall accept court appointment as an appraiser, receiver, commissioner, guardian ad litem, administrator, or other title for which a fee may be allowed in any matter pending in any court unless the employee agrees in advance to waive such fee.

Comment: This prohibition applies to situations in which the appointment is made by a court; it is not intended to apply where an employee may be named outside of court to serve for a fee in one of these capacities, e.g., an employee named in a will to execute a decedent's estate; in that event the employee may accept an executor's commission.

9. No judiciary employee shall engage in outside employment with attorneys, persons, or business entities who regularly appear in court.

Comment: To avoid any impropriety, outside employment is prohibited when the employer regularly appears in court. The phrase "regularly appear in court" applies to those entities that reasonably can be expected to make court appearances, such as debt-collection services, law enforcement and private security agencies, and political organizations. However, official court reporters are not restricted from engaging in the reporting of hearings before municipal governing bodies, local boards and agencies, and such other activities that have been permitted by the Administrative Regulations Governing Court Reporters.

10. No judiciary employee shall engage in outside employment with any person or business entity regularly providing goods or services to the judiciary.

11. No judiciary employee shall engage in outside employment that involves any kind of supervisory relationship with another judiciary employee when a supervisory relationship exists in their judiciary employment.

Comment: This prohibition is necessary to preclude the creation of management difficulties that could arise from outside-employment relationships that reflect, or reverse, supervisory roles held in the judiciary. The prohibition does not extend to situations that do not present the opportunity for such conflicts (for example, two employees who have a supervisory relationship in the judiciary also serving as salesclerks in different departments of the same retail store).

12. No judiciary employee shall engage in outside employment with or as a bail bondsman.

13. No judiciary employee shall engage in outside employment that in any way reflects adversely, or gives the appearance of reflecting adversely, on the integrity, independence, and dignity of the judicial system. The following areas of employment, although acceptable for non-judiciary employees, if engaged in by judiciary employees are deemed so susceptible of adversely reflecting on the judicial system as to warrant specific prohibition:

- a. Engaging in outside employment as a paid lobbyist.
- b. Engaging in outside employment soliciting funds as a paid fund-raiser.
- c. Engaging in outside employment when the position is gaming related and requires the employee to hold a casino employee license.

Comment: Judiciary employees are prohibited from outside employment in the casino industry when the employment is in a gaming-related position requiring the holding of a casino employee license pursuant to N.J.S.A. 5:12-90. The restriction does not apply to an employee whose duties are limited to the hotel operations of a casino, even though such employment may require registration under N.J.S.A. 5:12-91.

- d. Engaging in outside employment when the primary function of such employment is dispensing alcohol by the drink.

Comment: Certain types of outside employment involving the serving of alcoholic beverages are prohibited. The restriction is imposed when the primary function of the employment is dispensing alcohol by the drink, such as in bartending or being a cocktail waiter/waitress. It is not meant to apply to other types of food-service employment where dispensing alcohol by the drink is incidental to the position's primary function. The restriction also does not apply to retail-liquor-store employment.

14. All judiciary employees holding occupational or professional licenses shall be permitted to maintain such licenses. No judiciary employee shall use an occupational or professional license in contravention of the provisions of this Code.

15. *Procedure.*

a. **Written Notification.** Pursuant to the policy of Canon 5.B, and subject to its limitations, the holding of outside employment is presumptively permissible and, subject to the limitation of Canon 5.B.15.d, does not require approval by the immediate supervisor for the employee seeking such employment. However, any judiciary employee wishing to hold outside employment shall provide written notice ten days prior to the commencement of that employment.

(1) **Contents of Notification.** Written notification of outside employment shall contain the following information regarding the outside employment:

- (a) employer's name and address;
- (b) duties and responsibilities;
- (c) total hours per day;
- (d) total hours per week;
- (e) scheduled work hours each day; and
- (f) whether a license is required.

(2) **Filing of Notification.** Each judiciary employee, at least ten days prior to the commencement of outside employment, shall file the written notification specified above with his or her immediate supervisor and shall provide a copy of such notification to the following:

- (a) for employees of the Supreme Court, including the Supreme Court Clerk's Office, to the Chief Justice and the Administrative Director;
- (b) for employees of the Appellate Division, including the Appellate Division Clerk's Office and all Official Court Reporters, to the Presiding Judge for Administration of the Appellate Division and the Administrative Director;
- (c) for vicinage employees, to the Assignment Judge and the Administrative Director;
- (d) for municipal court employees, to the Assignment Judge, the municipal court judge, and the Administrative Director;
- (e) for employees of the Tax Court, including the Tax Court Clerk's Office, to the Presiding Judge of the Tax Court and the Administrative Director;

(f) for employees of the Administrative Office of the Courts and the Superior Court Clerk's Office, to the Administrative Director.

b. Annual Notification. All judiciary employees holding outside employment shall file an annual report with their immediate supervisors regarding the current status of such employment, and shall provide a copy of that report to those persons required to be provided a copy of the original notification. The judiciary shall annually provide for use by all employees an appropriate reporting form promulgated by the Administrative Director with the approval of the Supreme Court. For the sake of conformity, such notice shall be filed on or before January 15 of each year, regardless of the date of commencement of the outside employment.

c. Change in Employment Status. All judiciary employees holding outside employment shall promptly notify their immediate supervisor in writing when a change in employment status occurs, and shall provide a copy of that notice to those other persons required to be copied on the original and annual notifications. The employee must demonstrate that no conflict results from changes in employment status either in the work for the judiciary or for the outside employment. Written notification of a change in employment status shall be made when any of the following has occurred:

- (1) change in the identity of the outside employer;
- (2) change in the duties or responsibilities of the judiciary employment;
- (3) change in the duties or responsibilities of the outside employment;
- (4) change in the work hours of the judiciary employment;
- (5) change in the work hours of the outside employment;
- (6) the employee has reason to believe that an actual or potential conflict of interest, as specified in Canon 4, has developed; or
- (7) the employee has reason to believe that the employment may reflect adversely on the judiciary, as specified in Canon 5.B.13.

d. Multiple Public Employment. Notwithstanding the provisions of Canon 5.B.15.a, when a court employee seeks outside employment, other than military service, with another public agency or governmental unit, whether federal, state, county, or municipal, or within another area of the judiciary, the written consent of both employers is required.

e. Review. In instances when, on the filing of the initial written notification of outside employment, the annual notification, or the notice of change in employment status, an employee's immediate supervisor or the person entitled to notice under Canon 5.B.15.a(2)(a)-(f) determines that the outside employment violates, contravenes, or conflicts with specific provisions of the Code or with the principles, goals, or standards of the

Code, the employee may seek a determination from the Advisory Committee on the Outside Activities of Judiciary Employees regarding the propriety of the outside employment. The supervisor or other person named in Canon 5.B.15.a(2)(a)-(f) above shall inform the court employee, within five days of receipt of the employee's written notification of employment status, of any adverse decision prohibiting acceptance of such employment. Upon a written appeal of an adverse decision by an employee, the Advisory Committee shall render its decision within thirty days of its receipt of that written appeal.

C. In order to avoid impropriety and/or conflict of interest or the appearance thereof the following provisions shall apply to appointment to public positions and the pursuit of community activities by judiciary employees.

1. Law clerks, judges' secretaries, and employees in high-level managerial or policy-making positions shall be subject to the same limitations imposed on judges by the Guidelines for Extrajudicial Activities for New Jersey Judges, which are incorporated by reference herein. Employees subject to this Canon may apply for permission on a case-by-case basis to undertake activities otherwise precluded that could not reasonably be perceived by the public as impairing the appearance of impartiality of the judiciary. Such application shall be made in writing to the Advisory Committee on Outside Activities of Judiciary Employees. Employees subject to this Canon are also subject to the provisions concerning fundraising which are contained in Canons 5.D.1 and 5.D.2.

Comment: This Canon is intended to apply to high-level court personnel, including the Administrative Director, Deputy Director, AOC Assistant Directors, AOC chiefs, trial court administrators, vicinage chief probation officers, and division managers, as well as the judge's secretary, law clerk, and other immediate office staff. These are the same employees subject to the restrictions in Canon 6.C below.

2. All other employees who are or appear to be close to the judge or the judicial decision-making process, whether by reason of influence or physical proximity, may accept any public appointment, subject to the notice and other requirements of Canon 5.C.2.e below, or engage in any community activity, except the following:

a. Such employees of the Superior Court at the trial level may not sit on quasi-judicial boards, such as planning boards or boards of adjustment, of any governmental unit in the county in which they work, and such employees of appellate courts may not sit on any quasi-judicial boards whatsoever.>

b. Employees subject to this Canon may not be officers of any organization that practices invidious discrimination on the basis of race, religion, national origin, gender, or sexual orientation.

Comment: Organizations dedicated to the preservation of religious, spiritual, charitable, civic, or cultural values, and which do not stigmatize any excluded persons as inferior and therefore unworthy of membership, are not considered to discriminate invidiously.

c. Employees subject to this Canon shall disclose on an on-going, confidential basis to the appropriate designated supervisor all permitted public appointments, and such information shall be made available to all judges of the court in which the employee works.

d. Employees subject to this Canon are subject to the provisions concerning fundraising, as contained in Canons 5.D.1 and 5.D.2.

Comment: This Canon is designed to apply to employees who by reason of their high visibility to the public in the courtroom or court offices play or may reasonably be perceived to play a substantial role in the processing or disposing of court matters. This provision is intended to apply to those who actually or may be perceived to play a substantial role in the judicial decision-making process, regardless of the position held. These are the same employees who are subject to the restrictions in Canon 6.D.

e. Such employees wishing to accept appointment to a public position shall provide written notice ten days prior to the commencement of service in that position.

(1) Contents of Notification. Written notification of such position shall contain the following information:

- (a) the name of the public entity; its statutory functions, if
- (b) the duties and responsibilities of the judiciary employee as a member of the public entity;
- (c) the total amount of time expected to be devoted to such a position;
- (d) the duration of the membership;
- (e) any circumstances that would help determine whether the standards of Canon 5.C.2.e(5) below are met.

(2) Filing of Notification. Each judiciary employee shall file, at least ten days prior to the commencement of the holding of such public position, the written notification specified above with his or her immediate supervisor and shall provide a copy of such notification to the following:

- (a) for employees of the Supreme Court including the Supreme Court Clerk's Office, to the Chief Justice and the Administrative Director;
- (b) for employees of the Appellate Division, including the Appellate Division Clerk's Office and all Official Court Reporters, to the Presiding Judge for Administration of the Appellate Division and the Administrative Director;

(c) for vicinage employees, to the Assignment Judge and the Administrative Director;

(d) for municipal court employees, to the Assignment Judge, the municipal court judge, and the Administrative Director;

(e) for employees of the Tax Court, including the Tax Court Clerk's Office, to the Presiding Judge of the Tax Court and the Administrative Director;

(f) for employees of the Administrative Office of the Courts and the Superior Court Clerk's Office, to the Administrative Director of the Courts.

(3) Annual Notification. All judiciary employees holding public positions shall file an annual report with their immediate supervisors regarding the current status of such public position, and shall provide a copy of the annual report to those persons required to be provided a copy of the original notification. The judiciary shall annually provide for use by all employees an appropriate reporting form promulgated by the Administrative Director with the approval of the Supreme Court. For the sake of conformity, such notice shall be filed on or before January 15 of each year, regardless of the date of commencement of the public position.

(4) Change in Status of Public Position. All judiciary employees holding public positions shall promptly notify their immediate supervisor in writing when a change in the status of that public position occurs, and shall provide a copy of that notice to those persons required to be copied on the original and annual notifications. The employee must demonstrate that any such change does not result in a violation of the standard applicable to all public positions set forth in Canon 5.C.2.e(5) below. Written notification of a change in public position status shall be made when any of the following has occurred:

(a) change in the identity of the public agency;

(b) change in the duties or responsibilities of the judiciary employee if it affects the applicability of that standard;

(c) change in the duties or responsibilities of the public position;

(d) any change that the employee has reason to believe might result in a violation of the standard of Canon 5.C.2.e(5) below.

(5) Review. The court employee may not accept the public appointment in instances when, on the filing of the initial written notification of public position, the annual notification, or the notice

of change in public position status, an employee's immediate supervisor or the person entitled to notice under Canon 5.C.2.e(2) above determines that the public position will involve the employee in recurring political issues that are the subject of political controversies and the employee is or appears to be so close to the judge or the judicial decision-making process as to pose a realistic likelihood that the judiciary or a reasonable citizen would be concerned that the judiciary might not be able to render impartial decisions on matters relating to the public position or the activities connected to the public position. The employee may seek a determination from the Advisory Committee on the Outside Activities of Judiciary Employees regarding the propriety of the public position. The supervisor or other person named in Canon 5.C.2.e(2) above shall inform the employee within five days of receipt of the employee's written notification of public position of any adverse decision prohibiting acceptance of such appointment. Upon written appeal of an adverse decision by an employee, the Advisory Committee shall render its decision within thirty days of its receipt of that written appeal.

3. Professional judiciary employees not in high-level managerial or policy-making positions and remote from the judge and the judicial decision-making process are not limited with regard to any public appointment or community activity, subject to the following:

a. Such employees may not perform any official functions with regard to matters before the court involving an entity with which they are connected.

b. The restrictions contained in Canons 5.D.1 and 5.D.2 apply.

Comment: These are the same employees who are subject to the restrictions in Canon 6.E.

4. Non-professional judiciary employees who are remote from the judge and the judicial decision-making process are subject only to the limitations on fundraising in Canon 5.D.1 in connection with any public appointment or community activity.

Comment: These are the same employees who are subject to the restrictions in Canon 6.F.

D. The following restrictions shall apply to fundraising efforts by court employees on behalf of public entities, civic organizations, or charitable organizations.

1. No court employee may solicit funds for any entity while at the courthouse or while engaged in official functions, nor target solicitations to lawyers or litigants at any time.

Comment: The current practice of allowing employees to accept small donations from co-workers for such things as scout cookies or walkathons is not intended to be restricted hereby.

2. Employees subject to Canons 5.C.1, 5.C.2, and 5.C.3 may not solicit funds at any time from persons known to them as lawyers or litigants.

E. Nothing herein shall prohibit any court employee from receiving public service awards or comparable awards.

Note: Canon 5 adopted December 7, 1993, to be effective immediately; Canon 5.B, 5.B.1a Comments amended, 5.B.1b deleted, 5.B.2 text added, 5.B.3 new text adopted, former paragraphs 5.B.3, 5.B.4, 5.B.5, 5.B.6, 5.B.7, 5.B.8, 5.B.9, 5.B.10, 5.B.11, 5.B.12, 5.B.13, and 5.B.14 redesignated as 5.B.4, 5.B.5, 5.B.6, 5.B.7, 5.B.8, 5.B.9, 5.B.10, 5.B.11, 5.B.12, 5.B.13, 5.B.14, and 5.B.15 and 5.B.15.c7, d., and e. amended February 3, 1997 to be effective March 6, 1997; Canons 5.B.2 and 5.B.3 amended February 2, 2004 to be effective immediately.

CANON 6 -- POLITICAL ACTIVITIES

A. The prohibition against judiciary employees engaging in partisan political activity shall continue (see Court Rule 1:17-1). In particular a judiciary employee shall not:

1. hold an elective governmental office or position, except for the office of Surrogate.
2. be a candidate for such office or position, except that Surrogates may be candidates for re-election to the office of Surrogate. A judiciary employee may not run for an initial term as Surrogate without first resigning his or her judicial employment. As an exception to the general prohibition that employees may not run for political office, the deputy surrogate in a county is permitted to run for an initial term as Surrogate where: (a) the deputy surrogate is the acting surrogate; or (b) the Surrogate is not running for re-election to office.
3. hold an office or position of leadership in or serve as spokesperson for a political party, organization, or club supporting partisan political activity.

B. A judiciary employee shall not engage in non-partisan political activities that would put into question the propriety of the employee's conduct in carrying out the duties of employment. Therefore, no judiciary employee shall:

1. use or refer to the employee's employment, position, or title in connection with any such non-partisan political activity.
2. conduct such non-partisan political activity in or about a courthouse or other judicial building.
3. participate in non-partisan political activities during working hours.

Comment: For purposes of this Canon, partisan political activity is defined as activity that is primarily aimed at electing candidates. An organization or club whose primary purpose is engaging in nonpartisan political activity, but that may also endorse political candidates, is considered to be an organization or club that supports partisan political activity.

4. use government supplies and vehicles in connection with any non-partisan political activity, or, for Surrogates, in connection with any permitted partisan political activity.

Comment: Except as noted above regarding Surrogates the above provisions apply to every judiciary employee. Provisions concerning Surrogates are contained in Canon 6.G. Nothing in this section shall prohibit a judiciary employee from exercising the right to vote in any election.

C. Law clerks, judges' secretaries, and employees in high-level managerial or policy-making positions shall be subject to Canon 7 of the Code of Judicial Conduct ("A Judge Should Refrain from Political Activity").

Comment: This Canon is intended to apply to high-level court personnel, including the Administrative Director, Deputy Director, AOC Assistant Directors, AOC chiefs, trial court administrators, vicinage chief probation officers and division managers, as well as the judge's secretary, law clerk, and other immediate office staff. These are the same employees who are subject to the restrictions in Canon 5.C.1. This section conforms with and supplements Canon 6.A. and 6.B.

D. All other employees who are or appear to be close to the judge or the judicial

decision-making process, whether by reason of influence or physical proximity, may, with prior written permission pursuant to Canon 6.H, engage in non-partisan political activity.

Comment: This Canon is designed to apply to employees who by reason of their high visibility to the public in the courtroom or court offices may play or reasonably be perceived to play a substantial role in the processing or disposing of court matters. This provision is intended to apply to those who actually play or who may be perceived to play a substantial role in the judicial decision-making process, regardless of the position held. These are the same employees who are subject to the restrictions in Canon 5.C.2.

Permission to engage in non-partisan political activity under Canons 6.D and 6.E may be obtained only on written request to the approving authority. Procedures for requesting permission to engage in such political activity are specified in Canon 6.H.

E. With prior written permission pursuant to Canon 6.H, and subject to the provisions of Canon 6.A, professional judiciary employees not in high-level managerial or policy-making positions and remote from the judge and the judicial decision-making process may engage in non-partisan political activity otherwise prohibited by Canon 7 of the Code of Judicial Conduct ("A Judge Should Refrain from Political Activity").

Comment: These are the same employees subject to the restrictions in Canon 5.C.3.

F. Non-professional judiciary employees who are remote from the judge and the judicial decision-making process may engage in non-partisan political activity without prior written permission.

Comment: These are the same employees who are subject to the restrictions in Canon 5.C.4.

G. All Surrogates are subject to Canons 6.A.1, 6.A.2, 6.A.3, 6.B.2, 6.B.3, and 6.B.4. Subject to these specific restrictions (and for this purpose those restrictions apply both to

partisan and to non-partisan political activity), Surrogates may participate in partisan and non-partisan political activities.

Comment: On implementation of P.L. 1989, c.296, the Deputy Clerk of the Superior Court in each county (formerly the County Clerk) will be subject to the restrictions placed on professional judiciary employees who are in high-level managerial or policy-making positions. See Canon 6.C. above.

H. The following procedures shall apply to all requests by judiciary employees for permission to engage in non-partisan political activity.

1. Application

In making application for permission to engage in non-partisan political activity subject to the restrictions contained in this Code, the following procedures shall be followed:

a. Prior to undertaking such political activity court employees shall make written requests to the supervisory persons designated in Canon 6.H.2. Such requests shall set forth:

(1) the nature of the political activity to be performed by the court employee;

(2) the nature of the group, club, organization, or association affiliated with the political activity (if applicable); or attaching the constitution, by-laws, or statement of purpose of the group, club, organization, or association;

(3) any compensation to be awarded (so that the guidelines on outside employment can also be applied);

(4) the duration of the activity/membership;

(5) any special circumstances that will help explain the request;

(6) and such other information as may be requested by the approving authority.

b. Requests shall also include a certification that the activity requested will not violate the restrictions applicable to the employee as contained in this Code, and that the activity will not conflict with job responsibilities that might include after-hour duties.

2. Submission

The court employee shall submit requests for approval or recommendation as follows:

(a) for employees of the Supreme Court, including the Supreme Court Clerk's Office, to the Chief Justice;

(b) for employees of the Appellate Division, including the Appellate Division Clerk's Office and all Official Court Reporters, to the Presiding Judge for Administration of the Appellate Division;

(c) for vicinage employees, to the Assignment Judge;

(d) for municipal court employees, to the Assignment Judge and the municipal court judge;

(e) for employees of the Tax Court, including the Tax Court Clerk's Office, to the Presiding Judge of the Tax Court;

(f) for employees of the Administrative Office of the Courts and the Superior Court Clerk's Office, to the Administrative Director of the Courts.

Requests submitted by eligible employees shall be decided by the above authorities, who at their option may defer in any case to the Advisory Committee. If the above authorities deny the employee's request, the employee shall have the right to file a written appeal with the Advisory Committee. Any right of appeal to the Supreme Court shall be in accordance with any Court Rule adopted by the Supreme Court.

3. Approval Procedure

In acting on a request, the approving authority shall consider all material supplied by the court employee and, if appropriate, shall request clarifying information. The request shall be considered in light of (a) the provisions of this Code and (b) a determination of whether the activity will interfere with the performance of the court employee's official duties or will involve the employee in recurring political issues that are the subject of political controversy, and, if that is the case, whether the employee is or appears to be so close to the judge or the judicial decision-making process as to pose a realistic likelihood that the judiciary, or a reasonable citizen, would be concerned that the judiciary might not be able to render impartial decisions on matters relating to the activity in question. All decisions shall be in writing and shall include a supporting rationale. The court employee shall receive a copy of the decision. All applications and decisions shall be filed with the Administrative Director.

Note: Canon 6 adopted December 7, 1993, to be effective immediately; section A-2 amended February 28, 1994, to be effective immediately.

CANON 7 -- NEPOTISM

A. All personnel transactions, including but not limited to selection, appointment, promotion, transfer, and assignment of judiciary employees, shall be based on bona

fide work-related factors and shall not be based on personal relationships or on any form of favoritism.

Comment: The same standards that apply to the hiring of employees, as they relate to conflicts of interest or to appearances of conflict, apply to personnel actions other than hiring. Although hiring is of prime importance, this Canon is

universal in application to all personnel transactions, e.g., appointment, promotion, and transfer. The use of the term "personal relationships" is intentional, so as to encompass relationships outside the commonly used definition of family.

B. This Canon shall apply to personnel actions taken by all State, county, and municipal judiciary employees.

Comment: This Canon applies to all judiciary employees. When an issue of conflict or appearance of conflict arises, restrictions cannot be limited to situations involving only appointing authorities or managers. However, the application of this Canon must be tempered by appropriate standards of flexibility so that the judiciary insures that it can find the most qualified person for the position. Additionally, local governing bodies are encouraged not to appoint court personnel who are relatives of members of the local governing body.

C. A judiciary employee shall not be appointed by or assigned to a person who is a member of the employee's immediate family, nor shall there be any assignments as supervisor and subordinate between employees engaged in a dating relationship.

Comment: A judiciary employee should not serve under a member of that employee's immediate family nor where a dating relationship exists between supervisor and subordinate. This restriction may result in a qualified candidate being summarily rejected for a position; it may also present a hardship to smaller counties. However, when balanced by the need for actions free of the taint of nepotism both in appearance and in fact, this restriction is necessary. Regardless of the fact that situations may arise in which the persons involved may be personally free from conflict, some employment decisions will remain susceptible to prejudices that occur simply because of the relationship.

D. Persons shall not be appointed as court employees when their relatives are employees of a law-enforcement agency within the same unit of government and when that appointment creates an appearance that the law-enforcement agency may have an improper influence over court matters. Nothing contained herein shall diminish the restrictions imposed by the various court directives following the decision in *Hughes v. Lipscher*, 720 F. Supp. 454 (D.N.J. 1989), vacated 906 F.2d 961 (3rd Cir. 1990), which shall remain in full force and effect.

Comment: Employees are referred to Directive #1-92, "Supreme Court Policy Governing Municipal Court Administrators and Deputy Administrators Who Are Married to or Are the Parents or Children of Police Officers," and any subsequent Directives on this or related topics.

E. Selection, appointment, promotion, or other personnel actions shall not be influenced by the criminal record of a relative of the person being considered.

Comment: Unless a conflict in fact is created by a judiciary employee's having substantive review or custodial review of records relating to criminal activities of a relative, employment opportunities for a judiciary employee shall not be affected based on a relative's criminal record. When an actual or apparent conflict arises, the employee may be transferred or assigned to different tasks.

F. Law clerks may be employed within the same vicinage as a related judiciary employee, provided that no direct supervisory relationship exists between the law clerk and the related employee.

Comment: This permits intra-vicinage employment of law clerks with relatives employed in the vicinage. As long as no direct supervision by related persons is involved the intra-vicinage employment would not be expected to cause an apparent impropriety, particularly because the law clerk's tenure is limited to one year in duration.

Note: Canon 7 adopted December 7, 1993, to be effective immediately; Canon 7C and Comment to Canon 7C amended March 1, 1999 to be effective immediately.

CANON 8 - TESTIMONIALS, AWARDS AND OTHER HONORS

1. Subject to the general guidelines, a judiciary employee may accept an offered award, honor or tribute in special recognition of the employee's achievement or service, as follows:

a. An honorary degree or other award or honor from a university, college, or other educational institution or from its alumni or alumnae association;

b. An award, honor or tribute for special achievement in judicial administration from a national or state general membership professional association, or any committee or section thereof; an institute or society devoted to judicial administration, or a judiciary employees' association;

c. An award, honor or tribute in recognition of a judiciary employee's years of service, assignment to another vicinage, or impending retirement, from persons or an organization closely associated with the judiciary, such as a court administrators' association; a judiciary employees' association; or any general membership professional association; or any limited membership professional association based upon gender, race or national or ethnic origin, or whose membership is all-inclusive;

d. An award, honor or tribute from a public or non-profit or non-political organization for activity in a non-professional-related capacity directly related to that organization; provided, however, that the presentation shall not be at a fundraising event.

2. A judiciary employee shall not accept an award, honor or tribute for any law-related activity where the recipient is selected through a nomination or election process and in no event shall such award, honor or tribute be accepted where the selection process is for the purpose of designating the recipient as "Employee of the Year," "Man of the Year," "Woman of the Year," or the equivalent.

3. A judiciary employee shall not accept an award, honor, or tribute from interest groups that might be involved in litigation in the court system, including from a bar association.

4. The judiciary employee receiving an honor, award or tribute may accept a modestly priced gift, such as a trophy, plaque, book, picture, or briefcase.

Note: Canon 8 adopted June 4, 2002 to be effective immediately.

