

NATIONAL CONFERENCE OF APPELLATE COURT CLERKS CODE OF PROFESSIONAL CONDUCT

Preface

This Code of Professional Conduct was adopted by the National Conference of Appellate Court Clerks on August 11, 1983, at its annual meeting in New Orleans, Louisiana, and amended on August 6, 1992, at the twentieth annual meeting in Washington, D.C., and on August 5, 1993, at the twenty-first annual meeting in Nashville, Tennessee.

Preamble

The National Conference of Appellate Court Clerks, mindful that the character and conduct of an appellate court clerk should never be objects of indifference, and that declared ethical standards should become habits of life, adopts these principles which should govern the personal practice of appellate court clerks. The administration of justice requires appellate court clerks to adhere to the highest ideals of personal and official conduct.

The office of appellate court clerk casts upon the incumbent duties concerning the clerk's relationship to the state, its inhabitants, and all who come in contact with him or her. The National Conference of Appellate Court Clerks adopts this Code of Professional Conduct as a guide of appropriate professional conduct for appellate court clerks in the United States. The provisions of this code should be construed and applied to further these objectives.

Where any state or federal statutory requirements or court rules and policies address the same areas, they will take precedence over this code.

Adopted effective August 11, 1983. Amended effective August 6, 1992; amended effective August 5, 1993.

CANON I

An Appellate Court Clerk Should Maintain the Highest Standard Of Professional Conduct in the Performance of Duties

An independent and honorable judiciary is indispensable to justice in our society. Appellate court clerks participate in establishing, maintaining, and enforcing the law, and should themselves observe high standards of conduct so that the integrity, impartiality and independence of the judiciary are advanced.

Adopted effective August 11, 1983. Amended effective August 6, 1992; amended effective August 5, 1993.

CANON II

An Appellate Court Clerk Should Avoid Impropriety and the Appearance of Impropriety in all Activities

(A) An appellate court clerk should respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(B) An appellate court clerk should not allow family, social, or other relationships to influence his or her official conduct or the conduct of his or her office. A clerk should not lend the prestige of the office to advance the private interests of others; nor should a clerk convey or permit others to convey the impression that they are in a special position to exert such influence.

(C) An appellate court clerk may accept a gift donated to a group of employees. e.g. all the employees of an office or unit of the court system, provided that the value and circumstances of the gift are such that it could not be reasonably inferred that the gift would influence the employees in the performance of their official duties or that such influence was the purpose of the donor, and provided that any employee accepting such a gift promptly reports the gift to the supervisor, who shall be responsible for its proper distribution. Gifts received with the understanding that they will influence employees' official actions, decisions, or judgments are prohibited.

Adopted effective August 11, 1983. Amended effective August 6, 1992; amended effective August 5, 1993.

CANON III

An Appellate Court Clerk Should Perform the Duties of Office Impartially and Diligently

(A) An appellate court clerk should be patient, dignified and courteous to litigants, lawyers, and others with whom the clerk deals in an official capacity, and should require similar conduct by staff and others subject to the clerk's direction and control.

(B) An appellate court clerk should exercise great care and discretion in initiating or considering ex parte or other communications concerning a pending or impending proceeding. However, an appellate court clerk may be called upon in the course of his or her duties to explain to litigants and their counsel the rules, operating

procedures, and other practices of the court. Such explanations should always be rendered in an impartial manner, so as not to advantage or disadvantage any litigant. A clerk should never offer explanations to one party that the clerk would not share with the opposing party.

(C) An appellate court clerk should not disclose to any unauthorized person or persons any confidential information concerning authorship of pending opinions, internal calendar memos, internal discussions relating to pending decisions, content of proposed opinions, or any other information designated by the court as confidential.

(D) An appellate court clerk should abstain from public comment on the merits of a pending or impending proceeding in any court, and should require similar abstention on the part of all court personnel subject to the clerk's direction and control. This subsection does not prohibit clerks from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

(E) An appellate court clerk should support the reputation and integrity of the judicial system and, because statements of an appellate court clerk may carry considerable weight with the public, should not make derogatory comments that would undermine public confidence in or promote disrespect for the judicial system.

(F) An appellate court clerk should maintain the files and other records of the court in a conscientious and accurate manner and continue to develop policies and procedures for reducing time delay and improving efficiency of the appellate process.

(G) An appellate court clerk should diligently discharge responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the responsibilities of other courts and court officials.

(H) An appellate court clerk should require staff and other personnel subject to the clerk's direction and control to observe the standards of fidelity and diligence that apply to the clerk.

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CANON IV

**An appellate Court Clerk Should Engage in Activities to Improve the Law,
the Legal System and the Administration of Justice**

(A) An appellate court clerk should encourage dialogue between the clerk's office and bar associations, legal secretary associations, trial court clerk associations and court reporters in an effort to promote better understanding of the court's processes. The

clerk may participate in or conduct educational seminars for the benefit of those doing business with the office.

(B) An appellate court clerk should be alert to the need for improvements in the rules, court procedures and administrative functions of the court and offer suggestions for appropriate changes and improvements of the appellate process.

Adopted effective August 11, 1983. Amended effective August 6, 1992.

CANON V

An Appellate Court Clerk Should Regulate Outside Activities to Minimize Risk of Conflict With Court Related Duties

(A) Avocational Activities. An appellate court clerk may write, lecture, teach, and speak on any subject, and engage in the arts, sports and other social and recreational activities, provided such avocational activities do not take undue advantage of the position as clerk, detract from the dignity of the office or interfere with the performance of the clerk's official duties.

(B) Civic and Charitable Activities. An appellate court clerk may participate in civic and charitable activities that do not reflect adversely upon the clerk's impartiality or interfere with the performance of the clerk's duties. A clerk may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization except that an appellate court clerk should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the clerk's court or will be regularly engaged in adversary proceedings in any court.

(C) Financial Activities.

(1) An appellate court clerk should refrain from financial and business dealings that tend to reflect adversely on the clerk's impartiality, interfere with the proper performance of the clerk's administrative duties, or exploit the clerk's position.

(2) Subject to the requirements of subsection (1), an appellate court clerk may hold and manage investments, including real estate, and engage in other remunerative activities, but should not participate in nor permit his or her name to be used in connection with any business venture or commercial advertising program, with or without compensation, in such a way as would justify a reasonable inference that the power or prestige of the clerk's office is being utilized to promote business or commercial product.

(3) An appellate court clerk should not request or accept any remuneration, gift, bequest, favor, or loan that is made with the intent to influence or that creates an appearance of influencing the clerk in the exercise of court related duties.

(4) Acceptance by elected clerks of campaign contributions should be governed by any applicable state laws or court rules.

Adopted effective August 11, 1983. Amended effective August 6, 1992; amended effective August 5, 1993.

CANON VI

An Appellate Court Clerk Should Avoid Political Activities Which May Give the Appearance of Bias or Impropriety

An appellate court clerk is entitled to entertain personal views on political questions and is not required to surrender rights or opinions as a citizen. A clerk should avoid political activity which may give rise to a suspicion of bias or impropriety in any matter pending or impending before his or her court.

Adopted effective August 11, 1983. Amended effective August 6, 1992.

CANON VII

An Appellate Court Clerk Should Seek To Improve His or Her Professional Competence and That of the Clerk's Staff

(A) An appellate court clerk should seek to improve his or her professional competence and that of the clerk's staff by participating in educational programs and seminars such as those provided by the Conference, reading profession-related materials, and attending and participating in other activities likely to enhance the level of competence of the clerk and staff.

(B) An appellate court clerk should participate actively in the exchange of ideas for rule change and improvement in appellate court programs and procedures with clerks of other appellate courts in the United States.

Adopted effective August 11, 1983. Amended effective August 6, 1992.

CANON VIII

An Appellate Court Clerk Should Not Engage in Discrimination Based on Race, Sex, Religion or Political Affiliation

(A) An appellate court clerk should not discriminate based on race, sex, religion or political affiliation in dealing with attorneys, secretaries, paralegals, court reporters, or others doing business with the court or in hiring practices.

(B) An appellate court clerk should not discriminate in hiring or promotion of personnel based on sexual or other favors.

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