

ETHICAL GUIDELINES FOR JUDICIAL CAMPAIGNING

Louisiana Supreme Court
Judicial Campaign Oversight Committee

http://www.lasc.org/judicial_campaign_oversight.asp

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RULES APPLICABLE TO JUDICIAL CANDIDATES

- CAMPAIGN FINANCE RESTRICTIONS AND REPORTING
 - Campaign finance law is governed by the Board of Ethics
 - <http://www.ethics.la.gov/>
 - (225) 219-5600
- CANON 7 OF THE CODE OF JUDICIAL CONDUCT
 - Judicial candidates are subject to all of the Board of Ethics requirements, plus the additional restrictions found in Canon 7 of the Code of Judicial Conduct (“the Code”)
 - The Code is available on the Supreme Court’s website at:
<http://www.lasc.org/rules/supreme/cjc.asp>

RULES APPLICABLE TO JUDICIAL CANDIDATES

RULE XL OF THE LOUISIANA SUPREME COURT- PERSONAL FINANCIAL DISCLOSURE STATEMENTS

- Due within 10 calendar days of the date the candidate qualifies
- Judicial candidates receive a packet of information regarding this required filing when they qualify
- A candidate can be subject to serious penalties by not complying with this requirement
- http://www.lasc.org/rules/supreme/Personal_Financial_Disclosure_Form.pdf

Forms

[District Court *Ad Hoc* Judicial Assignment Reporting Form](#) (fill out e
[District Court *Ad Hoc* Judicial Assignment Reporting Form](#) (print, fi

[State of Louisiana Uniform Commitment Order](#) (effective April 25, 20
(fill out electronically)

[Memo from Chief Justice Johnson regarding the revised UCO](#)

Financial Disclosure Rule for Judges

Personal Financial Disclosure Statement for Judges

- [Fill in online and print](#)
- [Print blank form](#)

[Instruction Guide for Judges](#)

RULES APPLICABLE TO JUDICIAL CANDIDATES

Pursuant to the Code, a person becomes a candidate when:

- s/he makes a public announcement of candidacy,
- s/he declares or files as a candidate with the election or appointment authority, or
- s/he authorizes solicitation or acceptance of contributions or support

WHICHEVER OCCURS FIRST.

The Judicial Campaign Oversight Committee (“JCOC”) helps to enforce certain restrictions in Canon 7 of the Code.

JUDICIAL CAMPAIGN OVERSIGHT COMMITTEE

- Consists of 15 members appointed by the Court, including retired judges, lawyers, and citizens
- Serves as a resource for judges and judicial candidates
- Assists in educating judges and judicial candidates regarding ethical campaign conduct
- Helps deter unethical campaign conduct

JCOC CAN

- Accept complaints regarding alleged violations of certain provisions of Canon 7
- Current elections (not after the election is over)
- Issue a public statement
- Negotiate an informal resolution
- Assign a subcommittee to review campaign materials and give non-binding advice

JCOC CANNOT

- Compel a candidate to change his or her behavior or advertising materials
- It has no subpoena, disciplinary, or enforcement power
- The Committee has authority to the extent it does not conflict with the First Amendment.

OTHER RELEVANT ENTITIES TO KNOW

Judiciary Commission of Louisiana

- Investigates complaints concerning misconduct or disability of a judge
- May subpoena witnesses, compel attendance, examine under oath, and require production of relevant evidence
- May recommend judicial discipline to the Louisiana Supreme Court

Supreme Court Committee on Judicial Ethics

- Accepts from judges inquiries related to the proper interpretation of the Code Of Judicial Conduct and from judicial candidates inquiries related to the proper interpretation of Canon 7 of the Code Of Judicial Conduct
- Issues non-binding written ethics advisory opinions



IMPORTANT RESTRICTIONS IN CANON 7

CANON 7

A Judge Or Judicial Candidate Shall Refrain From Inappropriate Political and Campaign Activity

A. A Judge or Judicial Candidate Shall Not, Except to the Extent Permitted By These Canons:

- (1) act as a leader or hold any office in a political organization;
- (2) publicly endorse or publicly oppose another candidate for public office;
- (3) make speeches on behalf of a political organization or a candidate for public office;
- (4) solicit funds for, pay an assessment to, or make a contribution to a political organization or candidate for public office;
- (5) purchase tickets for campaign functions;
- (6) personally solicit or personally accept campaign contributions;
- (7) use or permit the use of campaign contributions for the sole or exclusive benefit of the judge, the candidate, or others;
- (8) use court staff, facilities, or other court resources in a campaign for judicial office, except to the extent that such use is de minimis in nature;
- (9) knowingly make, or cause to be made, a false statement concerning the identity, qualifications, present position, or other fact concerning the candidate or an opponent;
- (10) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending in any Louisiana state court; or
- (11) in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

IMPORTANT RESTRICTIONS IN CANON 7

- A judicial candidate shall not personally solicit or accept campaign contributions - 7A(6)
 - This is why judicial candidates form campaign committees pursuant to Canon 7D
 - Any and all correspondence regarding the solicitation and acceptance of campaign contributions should be made through the committee
- As such, campaign contributions should not be sent to a candidate's law office or PO Box.
- A judicial candidate should not endorse the back of a check. *In Re Cannizzaro*, No. 05-524 (La. 5 /6/05), 901 So.2d 1035.
- Fundraiser invitations must come from the campaign committee and not from the judge or judicial candidate.

IMPORTANT RESTRICTIONS IN CANON 7

- A judicial candidate shall not personally solicit or accept campaign contributions - 7A(6)
 - Who can be on the campaign committee?
 - Spouse?
 - Parents?
 - Employees?
 - Canon 7B(3)- “a judicial candidate shall...take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under this Canon”

Comment 1 to Canon 7: “With respect to 7B(3), the ‘reasonableness’ of the measures taken will vary depending on whether the prohibited conduct was carried out by an employee serving at the pleasure of the candidate (whose conduct can be prohibited), others under the direction and control of the candidate (whose conduct can be discouraged), and family members (whose conduct can be encouraged to assist the candidate in complying with the Canons).”

IMPORTANT RESTRICTIONS IN CANON 7

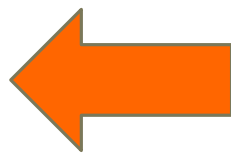
- A judicial candidate shall not personally solicit or accept campaign contributions - 7A(6)
 - A candidate's committee may solicit and accept contributions no earlier than two years before the primary election
 - How do you know when the two years starts for special elections?
 - It is permissible to establish a campaign committee more than two years before the primary election and then immediately open a bank account- Opinion 236.

It is ethically permissible for a judicial candidate who is not the incumbent judge to transfer excess campaign funds from a prior non-judicial race to the campaign fund for the current judicial race as long as not done to circumvent the Code. Opinion 141.

IMPORTANT RESTRICTIONS IN CANON 7

- A judicial candidate shall not personally solicit or accept campaign contributions - 7A(6)
 - This is important to remember when using social media/websites
 - The Committee on Judicial Ethics has issued two ethics advisory opinions on the use of social media in judicial campaigns

- Opinion 271
- Opinion 272



It is important for you to review these opinions closely!

HIGHLIGHTS FROM OPINIONS 271 AND 272

- A judicial candidate's campaign committee may maintain social media/website through which funds are solicited
 - Be sure no first person statement of the candidate appears on these pages with a fund solicitation
- A judicial candidate may provide a link on her personal website/social media account to that of her campaign committee
 - Not to a fund solicitation page!
 - Very specific language for the link is provided in Opinion 272

Always remember a judicial candidate may, during or in preparation for her candidacy, solicit publicly stated support (Canon 7C(2)(a)).

IMPORTANT RESTRICTIONS IN CANON 7

- A judicial candidate shall not personally solicit or accept campaign contributions - 7A(6)
 - A judge or judicial candidate is not prohibited from knowing the identities of his or her campaign contributors. A judge or judicial candidate's campaign committee, but not the judge or judicial candidate, may send thank you notes to the judge or judicial candidate's campaign contributors. Comment 2 to Canon 7
 - A judge or candidate may contribute to his or her own campaign for office, but not to that of any other candidate. Opinion 44 .



IMPORTANT RESTRICTIONS IN CANON 7

- A judicial candidate shall not knowingly make, or cause to be made, a false statement concerning the identity, qualifications, present position, or other fact concerning the candidate or an opponent- 7A(9)
 - The majority of complaints received by the JCOC involve this Canon
 - If egregious enough, a 10 member majority of the JCOC can vote to refer to the Judiciary Commission
 - Referral may also be made to the Louisiana Attorney Disciplinary Board



IMPORTANT RESTRICTIONS IN CANON 7

- A judicial candidate shall not knowingly make, or cause to be made, a false statement concerning the identity, qualifications, present position, or other fact concerning the candidate or an opponent- 7A(9)
 - Careful when using the word “judge” in campaign materials- Opinions 84 and 104; *In re Cascio*, No. 96-2105 (La. 11/25/96), 683 So.2d 1202

IMPORTANT RESTRICTIONS IN CANON 7

- A judicial candidate shall not publicly endorse or publicly oppose another candidate for public office-7A(2)
 - Posting pictures of other individuals who are currently candidates for public office?
 - Posting pictures of sitting judges?

IMPORTANT RESTRICTIONS IN CANON 7

- A judicial candidate shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office. 7A(11)
 - *Republican Party Of Minn. v. White*, 536 U.S. 765 (2002)
 - It is permissible for a judicial candidate to respond to a questionnaire from the Louisiana Right to Life Project which asks for opinions on disputed legal and political issues, provided certain conditions are met. Opinion 249.



PLEASE THOROUGHLY REVIEW CANON 7

The information provided in this presentation is just a small sampling of the most common issues the JCOC sees over the course of a judicial election. Please thoroughly review Canon 7 when deciding whether to take a course of action or engage in a certain activity.



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The rules, procedures, complaint form, press releases, and other information concerning the JCOC can be accessed at:

http://www.lasc.org/judicial_campaign_oversight.asp