

**CODE OF JUDICIAL CONDUCT
FOR THE
COMMONWEALTH JUDICIARY
AND
PROCEDURE FOR FILING GRIEVANCES
INVOLVING MEMBERS OF THE JUDICIARY**

(EFFECTIVE DATE: DECEMBER 3, 1989)

I. AUTHORITY

Pursuant to Article 4, section 8, of the Constitution of the Commonwealth of the Northern Mariana Islands and 1 CMC § 3403(a) as enacted by the Commonwealth Judicial Reorganization Act of 1989 (P. L. 6-25), the following Code of Judicial Conduct is hereby promulgated.

The rules promulgated hereunder shall apply to and govern the conduct of the Justices and Judges of the Commonwealth Judiciary; except that for Special Judges appointed pursuant to 1 CMC § 3305 certain provisions herein, as specified, shall not apply.

For the sake of brevity, the term "Judges" when used hereafter shall include all Justices and Judges of the Commonwealth Judiciary. The use of a male gender term includes the female gender.

This Code shall become effective sixty days after submission to the Commonwealth Legislature, unless disapproved by a majority of either house of the Legislature.

II. THE CANONS.

Canon 1

**A Judge Should Uphold the Integrity
and Independence of the Judiciary.**

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

Canon 2

A Judge Should Avoid Impropriety and the Appearance of Impropriety in All His Activities.

A. A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge should not allow his family, social, or other relationships to influence his judicial conduct or judgment. He should not lend the prestige of his office to advance the private interests of others; nor should he convey or permit others to convey the impression that they are in a special position to influence him. He should not testify voluntarily as a character witness.

Canon 3

A Judge Should Perform the Duties of His Office Impartially and Diligently.

The judicial duties of a judge take precedence over all his other activities. His judicial duties include all the duties of his office prescribed by law. In the performance of these duties, the following standards apply.

A. Adjudicative Responsibilities.

(1) A judge should be faithful to the law and maintain professional competence in it. He should be unswayed by partisan interests, public clamor, or fear of criticism.

(2) A judge should maintain order and decorum in proceedings before him.

(3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom he deals in his official capacity, and should require similar conduct of lawyers, and of his staff, court officials, and others subject to his direction and control.

(4) A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding. A judge, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before him if he gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.

(5) A judge should dispose promptly of the business of the court.

(6) A judge should abstain from public comment about a pending or impending proceeding in any court, and should require similar abstention on the part of court personnel subject to his direction and control. This subsection does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

B. Administrative Responsibilities.

(1) A judge having administrative responsibilities should diligently discharge his administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

(2) A judge should require his staff and court officials subject to his direction and control to observe the standards of fidelity and diligence that apply to him.

(3) A judge should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware.

(4) A judge should not make unnecessary appointments. He should exercise his power of appointment only on the basis of merit, avoiding nepotism and favoritism. He should not approve compensation of appointees beyond the fair value of services rendered.

(C) Disqualification Provisions Pursuant to 1 CMC § 3308.

(a) A justice or judge of the Commonwealth shall disqualify himself or herself in any proceeding in which his or her impartiality might reasonably be questioned.

(b) A justice or judge shall also disqualify himself or herself in the following circumstances:

(1) Where he or she has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he or she served as a lawyer in the matter in controversy, or a lawyer with whom he or she previously practiced law served during that association as a lawyer concerning the matter, or the judge or such lawyer was or is a material witness concerning that matter;

(3) Where he or she has served in governmental employment and in that capacity participated as counsel, adviser or

material witness concerning the proceeding or expressed an opinion regarding the merit of the particular case in controversy.

(4) He or she, individually or as a fiduciary, or his or her spouse or minor child residing in the household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(5) He or she, or his or her spouse, or a person within the second degree of relationship to either of them, or the spouse of such person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Is known by the judge or justice to have an interest that could be substantially affected by the outcome of the proceeding; or

(iv) To the knowledge of the judge or justice is likely to be a material witness in the proceeding.

(c) A judge or justice should inform himself or herself about his or her personal and fiduciary financial interests, and make a reasonable effort to inform himself or herself about the personal financial interests of his or her spouse and minor children residing in the household.

(d) For the purposes of this Section the following words or phrases shall have the meaning indicated:

(1) "proceeding" includes pretrial, trial, appellate review, or other stages of litigation;

(2) the degree of relationship is calculated according to the civil law system;

(3) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(4) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

(i) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge or justice participates in the management of the fund;

(ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(e) No justice or judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b) of this Section. Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.

D. Disqualification Procedure Pursuant to 1 CMC § 3308(e).

(a) Whenever a justice or judge of the Commonwealth believes that there are grounds for his or her disqualification, he or she shall, on his or her own initiative, recuse himself or herself and enter a written order of recusal in the record of the proceeding. If the parties are not present in court when the order is entered, the clerk shall immediately transmit a copy of the order to each party or attorney who has appeared in the action or proceeding.

(b) Whenever a party to any proceeding in a court of the Commonwealth believes that there are grounds for disqualification of the justice or judge before whom the matter is pending, that party may move for disqualification of the justice or judge, stating specifically the grounds for such disqualification.

(c) If the ground for disqualification is that the justice or judge has a personal bias or prejudice against or in favor of any party, an affidavit shall accompany the motion. Such justice or judge shall proceed no further therein, but another justice or judge shall be assigned to hear such motion.

The affidavit shall state the facts and reasons for the belief that bias or prejudice exists, and the motion and affidavit shall be filed in sufficient time not to delay any proceedings unless the moving party can show he or she had no reason to previously question the justice's or judge's bias or prejudice or the proceeding was just recently assigned the justice or judge.

A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating it is made in good faith.

Canon 4

A Judge May Engage in Activities to Improve the Law, the Legal System, and the Administration of Justice.

A judge, subject to the proper performance of his judicial duties, may engage in the following quasi-judicial activities, if in doing so he does not cast doubt on his capacity to decide impartially any issue that may come before him:

(A) He may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.

(B) He may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and he may otherwise consult with an executive or legislative body or official, but only on matters concerning the administration of justice.

(C) He may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. He may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising activities. He may make recommendation to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

Canon 5

A Judge Should Regulate His Extra- Judicial Activities to Minimize the Risk of Conflict with His Judicial Duties.

A. Avocational Activities. A judge may write, lecture, teach, and speak on nonlegal subjects, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of his office or interfere with the performance of his judicial duties.

B. Civic and Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties. A judge may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

(1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before him or will be regularly engaged in adversary proceedings in any court.

(2) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of his office for that purpose, but he may be listed as an officer, director, or trustee of such an organization. He should not be a speaker or the guest of honor at an organization's fund raising events, but he may attend such events.

(3) A judge should not give investment advice to such an organization, but he may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

C. Financial Activities.

(1) A judge should refrain from financial and business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, exploit his judicial position, or involve him in frequent transactions with lawyers or persons likely to come before the court on which he serves.

(2) Subject to the requirements of subsection (1), a judge may hold and manage investments, including real estate, and engage in other remunerative activity, but should not serve as an officer, director, manager, advisor, or employee of any business.

(3) A judge should manage his investments and other financial interests to minimize the number of cases in which he is disqualified. As soon as he can do so without serious financial detriment, he should divest himself of investments and other financial interests that might require frequent disqualification.

(4) Neither a judge nor a member of his family residing in his household should accept a gift, bequest, favor, or loan from anyone except as follows:

(a) a judge may accept a gift incident to a public testimonial to him; books supplied by publishers on a complimentary basis for official use; or an invitation to the judge and his spouse to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice.

(b) a judge or a member of his family residing in his household may accept ordinary social hospitality; a gift, bequest, favor, or loan from a relative, a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; or a scholarship or fellowship awarded on the same terms applied to other applicants.

(c) a judge or a member of his family residing in his household may accept any other gift, bequest, favor, or loan only if the donor is not a party or other persons whose interests have come or are likely to come before him, and, if its value exceeds \$500, the judge reports it in the same manner as he reports compensation in Canon 6C.

(5) For the purposes of this section "member of his family residing in his household" means any relative of a judge by blood or marriage, or a person treated by a judge as a member of his family, who resides in his household.

(6) A judge is not required by this Code to disclose his income, debts, or investments, except as provided in this Canon and Canons 3 and 6, or as required by law.

(7) Information acquired by a judge in his judicial capacity should not be used or disclosed by him in financial dealings or for any other purpose not related to his judicial activities.

D. Fiduciary Activities. A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of his family, and then only if such service will not interfere with the proper performance of his judicial duties. "Members of his family" includes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a

close familial relationship. As a family fiduciary, a judge is subject to the following restrictions:

(1) He should not serve if it is likely that as a fiduciary he will be engaged in proceedings that would ordinarily come before him, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which he serves or one under its appellate jurisdiction.

(2) While acting as a fiduciary a judge is subject to the same restrictions on financial activities that apply to him in his personal capacity.

E. Arbitration. A judge should not act as an arbitrator or mediator in the Commonwealth of the Northern Mariana Islands.

F. Practice of Law. A judge should not practice law.

G. Extra-judicial Appointments. A judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. A judge, however, may represent his country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

Canon 6

A Judge Should Regularly File Reports of Compensation Received for Quasi-Judicial and Extra-Judicial Activities.

A judge may receive compensation and reimbursement of expenses for the quasi-judicial and extra-judicial activities permitted by this Code, if the source of such payments does not give the appearance of

influencing the judge in his judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions.

A. Compensation. Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.

B. Expense Reimbursement. Expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by his spouse. Any payment in excess of such an amount is compensation.

C. Public Reports. A judge should report the date, place, and nature of any activity for which he received compensation, and the name of the payor and the amount of compensation so received. Compensation or income of a spouse attributed to the judge by operation of a community property law is not extra-judicial compensation to the judge. His report should be made at least annually and should be filed as a public document in the Office of the Clerk of the Supreme Court, no later than January 31st of the year following the calendar year being reported on.

Canon 7

A Judge Should Refrain from Political Activity Inappropriate to His Judicial Office.

A. Limitations On Political Activity Pursuant to the Constitution and 1 CMC § 3307. A judge or justice of the Commonwealth may not:

(a) Make a direct or indirect financial contribution to a political organization or candidate;

(b) Hold an executive office in a political organization;

(c) Participate in a political campaign;

(d) Become a candidate for elective public office without resigning judicial office at least six months before becoming a candidate;
or

(e) Hold another compensated government position.

B. Political Conduct in General.

(1) A judge or justice should not:

(a) act as a leader or hold any office in a political organization;

(b) make speeches for a political organization or candidate or publicly endorse a candidate for public office; and

(c) solicit funds for or pay an assessment or make a contribution to a political organization or candidate, attend political gathering, or purchase tickets for political party dinners, or other functions.

(2) A judge should not engage in any political activity except on behalf of measures to improve the law, the legal system, or the administration of justice.

III.

COMPLIANCE WITH THE CODE OF JUDICIAL CONDUCT

A. All full-time justices and judges of the Commonwealth Judiciary are bound by and should comply with this Code.

B. All special judges appointed pursuant to 1 CMC § 3305 shall also be bound by and comply with this Code, except that such special judges are not required to comply with Canon 5C(2), D, E, F and G, and Canon 6C.

C. All special judges should not act as a lawyer in a proceeding in which he has served as a judge or in any other proceeding related thereto.

D. The term "special judges" in the absence of any express definition by the Legislature shall, pursuant to 1 CMC § 3305(b) and for purposes of this Code, be deemed part-time and/or pro tem judges.

IV.

PROCEDURE FOR FILING GRIEVANCES INVOLVING A MEMBER OF THE JUDICIARY.

A. Any person who believes that a member of the Commonwealth Judiciary has violated any Canon of this Code of Judicial Conduct may file a grievance in writing with the Attorney General for the Commonwealth who will promptly transmit the same, in confidence to the Chairperson or, if the chairperson is unavailable, to any member of the Advisory Commission on the Judiciary.

B. The Advisory Commission on the Judiciary, upon receipt of a filed grievance shall then review the same and may then proceed to investigate the grievance, conduct hearings as may be necessary, or proceed in a manner provided by its By-laws and procedural rules.

V.

EFFECTIVE DATE FOR COMPLIANCE.

A person who becomes a member of the Commonwealth Judiciary should, within a reasonable time after ascending the bench, arrange his personal affairs in order to comply with this Code. A "reasonable time" shall be construed to mean a period of not more than six (6) months.

Where that is not practical, the Chief Justice may extend the time to comply for not more than three (3) months.