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GENERAL GUIDANCE

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General Ethics Guidance No. 2-2026

ATTENDANCE AT POLITICAL OR CAMPAIGN RELATED ACTIVITIES OR EVENTS FOR JUDICIAL OFFICERS AND JUDICIAL CANDIDATES

The Supreme Court of Pennsylvania has designated the Judicial Ethics Advisory Board (JEAB or Board) as the approved body to render Advisory Opinions and General Guidance regarding ethical concerns involving persons subject to the Code of Judicial Conduct and the Rules Governing Standards of Conduct of Magisterial District Judges (Codes). The Rules of the JEAB provide that, when a Judicial Officer complies with General Guidance of the JEAB, such compliance may be taken into account in determining whether discipline should be recommended or imposed. PA.J.E.A.B. RULE 206(c). This document qualifies as “General Guidance” of the JEAB.

In addition to reviewing the JEAB’s General Guidance, Judicial Officers and candidates for judicial office may request an Advisory Opinion from the JEAB. *See* PA.J.E.A.B. RULE 201.

Where a Judicial Officer complies with an Advisory Opinion of the JEAB, such compliance shall be entitled to substantial weight in determining whether discipline should be recommended or imposed. *See* PA.J.E.A.B. RULE 206. The “Rules of Reliance” provide greater protection to a Judicial Officer or judicial candidate who obtains an Advisory Opinion of the Board than that offered by only reviewing a General Guidance.

Introduction

Advisories are often requested of the Judicial Ethics Advisory Board (“JEAB”) regarding the extent to which justices, judges, senior judges, judicial candidates, judicial retention candidates, magisterial district judges, senior magisterial district judges, or magisterial district judge candidates may attend political or campaign related activities. In 2023, the JEAB issued General Guidance that addressed “Frequently Asked Questions Regarding Magisterial District Judge Elections” and “Frequently Asked Questions Regarding Elections.”¹ This General Guidance focuses on attendance at political or campaign-related activities or events by judges and judicial candidates.

Two “judicial ethics” codes apply: the Code of Judicial Conduct (Code)² and the Rules Governing Standards of Conduct of Magisterial District Judges (Conduct Rules).³ Both codes

¹ General Guidance, No. 1-2023 and General Guidance, No. 2-2023. A separate “Retention Election Manual” is available for those judges standing for retention.

² The Code of Judicial Conduct, effective July 1, 2014, applies to Justices, Judges, and Judicial Candidates. Application (sections (1), (2) and (3)). The terms “judge,” “senior judges,” and “judicial candidate” are defined in the Application as follows:

- (2) A judge within the meaning of this Code is any one of the following judicial officers who perform judicial functions, whether or not a lawyer: all Supreme Court Justices; all Superior Court Judges; all Commonwealth Court Judges; all Common Pleas Court Judges; all judges of the Philadelphia Municipal Court, except for Traffic Division; and all senior judges as set forth in (3) *infra*.
- (3) All senior judges, active or eligible for recall to judicial service, shall comply with the provisions of this Code; provided however, a senior judge may accept extra-judicial appointments which are otherwise prohibited by Rule 3.4 (Appointments to Governmental Positions and Other Organizations); and incident to such appointments a senior judge is not required to comply with Rule 3.2 (Appearances Before Governmental Bodies and Consultation with Government Officials). However, during the period of such extrajudicial appointment the senior judge shall refrain from judicial service.

A “judicial candidate” is defined in the Code’s “Terminology” as follows:

Any person, including a judge, who is seeking appointment, election or retention to judicial office. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the appointment or election authority, or where permitted, engages in solicitation or acceptance of contributions or support, or is nominated for appointment or election to office.

A “senior judge” one who is either eligible for recall to judicial service, or on current judicial assignment, is subject to the disciplinary authority provisions of the Pennsylvania Constitution. *See, In re Miller*, 171 A.3d 367, 371 (Pa. Ct. Jud. Disc. 2016).

³ The Rules Governing Standards of Conduct of Magisterial District Judges, effective December 1, 2014, apply to Magisterial District Judges, Magisterial District Judge Candidates, Senior Magisterial District Judges, and judges/judge candidates of the Philadelphia Municipal Court, Traffic Division Application (sections (1) (2) and (3)).

- (2) A magisterial district judge within the meaning of these Conduct Rules is a magisterial district judge, whether or not a lawyer; a judge of the Philadelphia Municipal Court, Traffic Division; and all senior judges as set forth (3).
- (3) All senior magisterial district judges, active or eligible for recall to judicial service, shall comply with the provisions of these Conduct Rules; provided however, a senior magisterial judge may accept extra-judicial appointments which are otherwise prohibited by Rule 3.4 (Appointments to Governmental

(continued...)

have five rather identical rules, each focused on specific topics. And, both codes provide that Canon 4 applies to all judicial candidates.⁴ (This Guidance refers to a provision of both codes as “Code”).

This General Guidance provides select guidance respective attendance at political or campaign related activities or events by judges and judicial candidates and, therefore does not encompass all aspects of Canon 4. The Guidance is divided into two parts. Part One addresses “to whom, how and when” does Canon 4 apply? Part Two addresses “what political or campaign related activities or events may the relevant judicial officer or judicial candidate attend?”

PART ONE: TO WHOM, HOW AND WHEN DOES CANON 4 APPLY?

Canon 4 states: “A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.” Thus, Canon 4 applies to all commissioned judges, all senior judges, and to all “candidates for judicial office.”

Three questions typically arise in analyzing who is a “judicial candidate.” *How* does a person become a candidate for public elective judicial office? *When* does judicial candidacy occur? And *what may* a judge do to assess the viability of a retention campaign or a campaign for another elective judicial office, *i.e.*, “to test the waters.” Each question is addressed below:

Positions and Other Organizations); and incident to such appointments a senior magisterial judge is not required to comply with Rule 3.2 (Appearances Before Governmental Bodies and Consultation with Government Officials). However, during the period of such extrajudicial appointment the senior magisterial judge shall refrain from judicial service.

A “judicial candidate” is defined in the Conduct Rules Terminology as follows:

Any person, including a sitting magisterial district judge, who is seeking appointment, election or retention to judicial office. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the appointment or election authority, or where permitted, engages in solicitation or acceptance of contributions or support, or is nominated for appointment or election to office.

⁴ In short, under both Codes, the following are included:

- Commissioned judges (including Justices).
- Commissioned judges (including Justices) who are judicial candidates in a public election.
- Commissioned judges (including Justices) who seek retention in a general public election.
- Commissioned judges (including Justices) who seek a gubernatorial appointment to another judicial position
- Senior judges, active or eligible for recall to judicial service.
- Commissioned magisterial district judges.
- Commissioned magisterial district judges who are judicial candidates in a public election.
- Commissioned magisterial district judges who seek reelection in a public election.
- Commissioned magisterial district judges who seek a gubernatorial appointment to another judicial position
- Senior magisterial district judges, active or eligible for recall to judicial service.
- Judicial candidates who are not commissioned judges (or justices), but who are lawyers.
- Judicial officers who perform judicial functions, whether a lawyer.
- Judicial candidates who are not commissioned magisterial district judges.

- “*How*” a person becomes a candidate for judicial office is addressed in the Code’s Terminology defining “judicial candidate” and occurs when the person:
 - makes a public announcement of candidacy,
 - declares or files as a candidate with the appointment or election authority, or
 - when permitted, engages in solicitation or acceptance of contributions or support, or
 - is nominated for appointment or election to office.

- “*When*” a person becomes a *candidate* for judicial office in a *public election*, including retention elections and reelections” is addressed in the Code’s Rule 4.2(B).⁵ A person can become a such a *candidate*, “unless prohibited by law, not earlier than immediately after the General Election in the year prior to the calendar year in which a person may become a candidate for such office.” *See*, Board Opinion No. 123 JEAB 2023, which specifically addresses retention candidacy.

- “*What*” a judge may do to “test the waters” is limited. The purpose of the meetings/conversations (with party officials across the Commonwealth, labor leaders, political advocacy groups, and elected officials) is to be to assess the viability of a possible candidacy. Such meetings/conversation are to be *private* to avoid creating the appearance of a “public announcement.”⁶ And, during this “testing” time, endorsements should not be sought or accepted from any person or organization as such are appropriate only when one is a “candidate for judicial office by public election.”⁷

Summarizing, the judge becomes a judicial candidate, as stated above, as soon as he or she makes a *public announcement of candidacy*, declares or files as a candidate with the appointment or election authority, or where permitted, engages in solicitation or acceptance of contributions or support, or is nominated for appointment or election to office.”⁸

⁵ *See*, note 11. Code Rule 4.2(B) also sets eight types of activities in which such a candidate may engage.

⁶ The larger the audience, the greater the possibility is that the audience could conclude the conduct constitute a public announcement. *See In re LeFever*, 2020 Pa. Jud. Disc. LEXIS 31 (posting announcement of candidacy on Facebook constituted public announcement.)

⁷ *See*, note 11. Code Rule 4.2 triggers *after* a person become a “candidate for elective judicial office.”

⁸ Upon a public announcement of candidacy, the person must comply with all applicable rules, laws, and restrictions pertaining to elections, including but not limited to the laws relating to general, municipal, special, and primary elections, the nomination of candidates, primary and election expenses, and election contests. *See* 25 Pa. Stat. Ann. § 2600 *et seq.* *See also* General Ethics Guidance No. 2-2023 (January 23, 2023).

Frequently Asked Questions under Part One

1. Is a judicial candidate who loses in a primary election subject to the Code after the loss?

When a judicial candidate (who is not also then a commissioned judge) loses in a primary election, is not running as an independent candidate, and is not otherwise seeking appointment, election or retention to judicial office, such candidate is no longer subject to the Code after the primary election results are certified.⁹

2. Is a retired Judge subject to the Code?

Retired judges – as distinguished from commissioned judges and from senior judges (who may be active, eligible for recall to judicial service or on current judicial assignment) – are not subject to the Code.

3. Must a commissioned judge resign when the judge becomes a candidate for nonjudicial elective office or nonjudicial appointive office?

Upon becoming a candidate for a nonjudicial *elective* office, a commissioned judge shall resign from judicial office, unless permitted by law to continue to hold judicial office. Code Rule 4.5(A). Yet, on becoming a candidate for a nonjudicial *appointive* office, a commissioned judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code. Rule 4.5(B). Finally, a commissioned judge *may continue to hold* a judicial office while being a candidate for election to serve or while serving as a delegate to a state constitutional convention if the judge is otherwise permitted by law to do so. Rule 4.5(C).

PART TWO: WHAT POLITICAL OR CAMPAIGN RELATED ACTIVITIES OR EVENTS MAY THE RELEVANT JUDICIAL OFFICER OR JUDICIAL CANDIDATE ATTEND?

As stated above, Canon 4 of the Code provides that judges and candidates for judicial office “shall not engage in political or campaign activity that is inconsistent with the independence, integrity or impartiality, of the judiciary.” Rules 4.1, 4.2, and 4.4 address what commissioned judges, senior judges and judicial candidates in *public elections* are permitted or are forbidden to do. Rule 4.3 governs candidates for appointive judicial office, and Rule 4.5 addresses activities of judges who become candidates for nonjudicial office. (Each rule is addressed below.)

⁹ *Id.*

- **Rule 4.1 Political and Campaign Activities of Judges and Judicial Candidates in General.**¹⁰
Rule 4.1 addresses what is prohibited under the Code, except as permitted by Rules 4.2, 4.3, 4.4. and 4.5.
- **4.2 Political and Campaign Activities of Judicial Candidates in Public Elections.**¹¹
Rule 4.2 addresses what judicial candidates (including commissioned judges) can and cannot do in a public election.

¹⁰ **Rule 4.1 “Political and Campaign Activities of Judges and Judicial Candidates in General”** provides:

- (A) Except as permitted by Rules 4.2, 4.3, and 4.4, a judge or a judicial candidate shall not:
- (1) act as a leader in, or hold an office in, a political organization;
 - (2) make speeches on behalf of a political organization or a candidate for any public office;
 - (3) publicly endorse or publicly oppose a candidate for any public office;
 - (4) solicit funds for, pay an assessment to, or make a contribution to a political organization or a candidate for public office;
 - (5) attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for public office;
 - (6) use or permit the use of campaign contributions for the private benefit of the judge or others;
 - (7) personally solicit or accept campaign contributions other than through a campaign committee authorized by Rule 4.4;
 - (8) use court staff, facilities, or other court resources in a campaign for judicial office;
 - (9) knowingly or with reckless disregard for the truth make any false or misleading statement;
 - (10) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending in any court;
 - (11) engage in any political activity on behalf of a political organization or candidate for public office except on behalf of measures to improve the law, the legal system, or the administration of justice; or
 - (12) 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.

(B) A judge or 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 paragraph (A).

Comments that accompany the text of Rule 4.1 address these categories: General Considerations; Participation in Political Activities; and, Pledges, Promises, or Commitments Inconsistent with Impartial Performance of the Adjudicative Duties of Judicial Office.

While **Comments** were not adopted as part of the Code and Rules, they are a useful aid in the application of both.

¹¹ **Rule 4.2 “Political and Campaign Activities of Judicial Candidates in Public Elections”** provides:

- (A) A judicial candidate in a public election shall:
- (1) act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary;
 - (2) comply with all applicable election, election campaign, and election campaign fundraising laws and regulations of this jurisdiction;
 - (3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by Rule 4.4, before their dissemination; and
 - (4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities, other than those described in Rule 4.4, that the candidate is prohibited from doing by this Rule.

(continued...)

- **4.3 Activities of Candidates of Appointive Judicial Office.**¹² Rule 4.3 provides guidance on what candidates for appointive judicial office may do.
- **4.4 Campaign Committees.**¹³

(B) A candidate for elective judicial office may, unless prohibited by law, and not earlier than immediately after the General Election in the year prior to the calendar year in which a person may become a candidate for such office:

- (1) establish a campaign committee pursuant to the provisions of Rule 4.4;
- (2) speak on behalf of his or her candidacy through any medium, including but not limited to advertisements, websites, or other campaign literature;
- (3) publicly endorse or speak on behalf of, or publicly oppose or speak in opposition to, candidates for the same judicial office for which he or she is a judicial candidate, or publicly endorse or speak on behalf of candidates for any other elective judicial office appearing on the same ballot;
- (4) attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for public office;
- (5) seek, accept, or use endorsements from any person or organization;
- (6) contribute to a political organization or candidate for public office;
- (7) identify himself or herself as a member or candidate of a political organization; and
- (8) use court facilities for the purpose of taking photographs, videos, or other visuals for campaign purposes to the extent such facilities are available on an equal basis to other candidates for such office.

(C) A judge who is a candidate for elective judicial office shall not:

- (1) use or permit the use of campaign contributions for the private benefit of the candidate or others;
- (2) use court staff, facilities, or other court resources in a campaign for judicial office except that a judge may use court facilities for the purpose of taking photographs, videos, or other visuals for campaign purposes to the extent such facilities are available on an equal basis for other candidates for such office;
- (3) knowingly or with reckless disregard for the truth, make, or permit or encourage his or her campaign committee to make, any false or misleading statement; or
- (4) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court.

Comments that accompany the text of Rule 4.2 address the following categories: General Considerations; and Statements and Comments Made During a Campaign for Judicial Office.

¹² **Rule 4.3. Activities of Candidates for Appointive Judicial Office.**

A candidate for appointment to judicial office may:

- (A) communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar agency; and
- (B) seek endorsements for the appointment from any person or organization.

One comment accompanies the text of Rule 4: “When seeking support or endorsement, or when communicating directly with an appointing or confirming authority, a candidate for appointive judicial office must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. *See* Rule 4.1(A)(12).”

¹³ **Rule 4.4. Campaign Committees.**

- (A) A judicial candidate subject to public election may establish a campaign committee to manage and conduct a campaign for the candidate, including seeking, accepting, and using endorsements from any person or organization, subject to the provisions of this Code. The candidate shall take reasonable steps

(continued...)

- **4.5 Activities of Judges Who Become Candidates for Nonjudicial Office.**¹⁴

Frequently Asked Questions for Part Two

1. May judicial candidates in public elections (including commissioned judges seeking retention or reelection or election to other elective judicial office) attend and offer public comments or seek support at events sponsored by political organizations or a candidate for public office?

Judicial candidates in public elections (including commissioned judges seeking retention or reelection or election to other elective judicial office) may attend and offer public comments or seek support at events sponsored by political organizations or a candidate for public office in accordance with the provisions of Canon 4 and its rules. Rule 4.2 addresses “Political and Campaign Activities of Judicial Candidates in Public Elections.” Rule 4.2(B) provides, among other things, that judicial candidates for elective judicial office may offer public comments, seek

to cause his or her campaign committee to comply with applicable provisions of this Code and other applicable law.

- (B) A judicial candidate subject to public election shall take reasonable steps to cause the judge’s campaign committee:
- (1) to solicit and accept only such campaign contributions as are permitted by law or Rule;
 - (2) not to solicit or accept contributions earlier than immediately after the General Election in the year prior to the calendar year in which a person may become a candidate for such office, and all fundraising activities in connection with such judicial campaign shall terminate no later than the last calendar day of the year in which the judicial election is held; and
 - (3) to comply with all applicable statutory requirements for disclosure and divestiture of campaign contributions, and to file with the Secretary of the Commonwealth a report stating the name, address, occupation, and employer of each person who has made campaign contributions to the committee in an aggregate value exceeding \$250 and the name and address of each person who has made campaign contributions to the committee in an aggregate value exceeding \$50. The report must be filed not later than thirty days following an election, or within such other period as is provided by law.

Comments that accompany Rule 4.4 emphasize that judicial candidates are prohibited from personally soliciting campaign contributions or personally accepting campaign contributions, the role of a campaign committee, and a general caution that, at the start of a campaign the judicial candidate should instruct the campaign committee about a number of things, including solicitation and acceptance of contributions.

¹⁴ **Rule 4.5. Activities of Judges Who Become Candidates for Nonjudicial Office.**

- (A) Upon becoming a candidate for a nonjudicial elective office, a judge shall resign from judicial office, unless permitted by law to continue to hold judicial office.
- (B) Upon becoming a candidate for a nonjudicial appointive office, a judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code.
- (C) Notwithstanding Rule 4.5(A) and (B) a judge may continue to hold a judicial office while being a candidate for election to serve or while serving as a delegate to a state constitutional convention if the judge is otherwise permitted by law to do so.

Comments that accompany Rule 4.5 address campaigns by judges for nonjudicial elective public office and Rule 4.5(A)’s “resign to run” rule, a rule that reflects Article V, Section 18(d)(4) of the Pennsylvania Constitution.

support and endorsement from any person or organization, contribute to a political organization or candidate for public office, and attend or purchase tickets for dinners or other events sponsored by a political organization.

Yet, even when Rule 4.2 is triggered, certain provisions of Rule 4.1 prevail, particularly the rules regarding personal solicitation or personal use of financial support other than through a Rule 4.4 campaign committee. *See*, Rules 4.1 and 4.2 generally.¹⁵ Judges and senior judges who are *not* judicial candidates in public elections are subject to the prohibitions of Canon 4 and its Rules on political and campaign-related activities for as long as they hold judicial office or are eligible to serve as senior judges, *see* Rule 4.1. The Code prohibits judges who are not judicial candidates in a public election from making *any* contribution to a political organization or candidate for public office. *See* Rule 4.1(A)(4) and Rule 4.1 generally.

2. May judicial candidates *in public elections (including commissioned judges seeking retention, reelection, or another elective judicial office)* endorse or oppose other candidates for judicial office?

Judicial candidates in public elections who attend political events are often given the opportunity to offer public comments or to seek support. These judicial candidates are to be careful about the content of support given to others and careful to comply with the requirements of Rule 4.2(B)(3).

Rule 4.2(B)(3) sets out specific rules about endorsements or opposing comments. Judicial candidates are:

- *prohibited* from publicly endorsing or opposing a candidate for *any non-judicial office*;
- *permitted* to publicly endorse or speak on behalf of, or oppose or speak in opposition to, judicial candidates for the *same* judicial office for which he or she is a judicial candidate; and,
- *only permitted* to publicly endorse or speak *on behalf of candidates* for any other elective judicial office appearing on the same *ballot*.¹⁶

¹⁵ *See*, note 11, Rule 4.2 Comment, General Considerations (2) where other items are addressed. *i.e.*, compliance with other Rule 4.1 prohibitions about making false or misleading statements during a campaign, or making certain promises, pledges, or commitments related to future adjudicative duties. Rule 4.1(A)(4) and (12) and Rule 4.2(C)(3).

¹⁶ Comment 5 to Rule 4.2(B)(3), *supra* at note 11, provides, in part:
(5) ... Additionally, the phrase “candidates for any other elective judicial office appearing on the same ballot” means candidates who appear together on the paper ballot or, in the case of electronic voting terminals, appear together on the electronic ballot.

Thus, judicial candidates:

- can both endorse and oppose those seeking the same judicial office
- can only endorse and speak *on behalf of* other judicial candidates on the *same ballot*.

3. In what activities may a candidate for appointment to judicial office engage?

Rule 4.3, Activities of Candidates for Appointive Judicial Office, governs “candidates for appointment to judicial office.” Accordingly, Rule 4.3 embraces candidates who are both judges and non-judges.” Rule 4.3 provides that candidates for *appointment* to judicial office may communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar agency. Rule 4.3(A). Also, a candidate for judicial appointment may seek endorsements for the appointment from any person or organization. Rule 4.3(B). Such candidate, though, “must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office.”¹⁷

4. In what activities may commissioned judges for election to a nonjudicial office engage?

Rule 4.5 provides that commissioned judges who become candidates for election to nonjudicial office are to resign from judicial office unless permitted by law to continue to hold judicial office.¹⁸ Commissioned judges who become candidates for nonjudicial *appointive* office are not required to resign from judicial office, provided the judge complies with the other provisions of the Code. Also, a judge may continue to hold judicial office while being a candidate for election to serve or while serving as a delegate to a state constitutional convention if the judge is otherwise permitted by law to do so.

5. May commissioned judges who are not candidates for elective judicial office and/or may senior judges attend election-related and election night parties sponsored by political organizations or a candidate for public office?

Rule 4.1 governs and, therefore, commissioned judges who are not “candidates for elective judicial office” and senior judges *are not permitted* to attend partisan events *before* an election. Similarly, they are not permitted to attend election night parties sponsored by a political organization or a candidate for public office. Both types of events are viewed as partisan and a judge’s attendance could lead to the unintended impression that the judge is offering his or her public endorsement to the candidate, which is conduct prohibited under the Code. *See* Rule 4.1(A)(3).

¹⁷ *See* note 12.

¹⁸ *See*, note 14.

Commissioned judges and senior judges who are not “candidates for elective judicial office” may, however, attend an election night party that is *not sponsored* by a “political organization” or a “candidate for public office.” Such party may be a non-partisan election night party sponsored/hosted by family or a friend. Attendance at such a party may be viewed quite differently from one in which many of the guests are heavily partisan or are elected representatives of a political party (creating the appearance of an event that is partisan.)

Commissioned judges who are not candidates for elective judicial office, and senior judges, should also address the serious question about the “appearance of impropriety” that may be viewed as inconsistent with the independence, integrity, and impartiality of the judiciary. *See* Rule 1.2. Attending such an event may have the potential to compromise the appearance of impartiality and integrity so crucial to maintaining the public’s confidence in the judiciary. Under these circumstances, the JEAB *cautions against* attendance.

6. May a commissioned judge who is also a candidate for elective judicial office attend election night parties sponsored by political organizations or a candidate for public office?

A commissioned judge who is *also* a candidate for elective judicial office (as a judicial candidate in a retention election, a reelection, or an election to another judicial position) is a “candidate for elective judicial office” on election night. A judicial candidate is permitted to attend election night parties that are sponsored by a political organization or candidates for public office. *See*, Rules 4.1(A)(5) and 4.2(B)(4).

7. To what extent are judicial candidates in a public election responsible for ensuring that other persons do not undertake, on behalf of the judicial candidate, any activities prohibited under Rule 4.2.

A judicial candidate “shall take” reasonable measures to ensure that other persons do not undertake activities, other than those permitted by Rule 4.4 (Campaign Committees), that the candidate is prohibited from doing so under the Rules. *See* Rule 4.1(B), Rule 4.2(A)(4) and Rule 4.4(B).

8. May a commissioned judge or senior judge attend inaugural events and swearing in ceremonies?

The prohibition against judges or senior judges attending dinners or other events pertains only to those events sponsored by a “political organization” or a “candidate for political office.” *See* Rule 4.1(A)(5).

Attendance at swearing-in ceremonies and inaugural ceremonies that are open to the public and are not sponsored by a political organization or candidate is, therefore, permitted. Attendance at either ceremony is not a political activity; rather, it is a governmental activity in which every citizen should be allowed to participate. When a judge attends an inauguration ceremony, the judge

participates as a spectator in a time-honored tradition of government that symbolizes and celebrates the orderly and legal transition of elected officials. In such a case, the restrictions on political activity of Canon 4 do not apply and a judge may attend the swearing in or inauguration ceremonies of a public official.

When the question is attendance at an inaugural celebration, the analysis may be different. When accepting an invitation to attend an inaugural celebration, a judge must make sure that no part of the cost to attend will be used to fund a political organization or a candidate for public office. Invitations to inaugural events usually contain pertinent disclosures. (In fact, “inaugural celebrations” are usually sponsored by a committee separately formed for that purpose. This eliminates “sponsorship by a political organization or candidate for public office.”) Once it is determined that no part of the cost to attend will fund a political organization or a candidate for public office, a judge may tender the cost and attend the inaugural celebration.

9. How long does a judge or judicial candidate remain a “judicial candidate for elective office” after *winning* in a November general election so that the judge can continue to engage in political or campaign-related activities?

How long after the election does the elected/retained judge remain a “judicial candidate”? Is it:

- until the first day that judicial duties pursuant to the new term begins? (*i.e.*, the first Monday in January following a successful election in the prior November) and following receipt of the governor’s commission and the taking of the oath? or
- the final day of the election year, (*i.e.*, 12/31 of that year) and following receipt of the governor’s commission and the taking of the oath? or
- the day on which the oath or the affirmation required by 42 Pa. C.S. §3151 is taken?

The following provides some guidance:

- The Pennsylvania Constitution addresses gubernatorial appointment of judges. Article V, §13(e) provides:
Each justice or judge appointed by the Governor under section 13(d) shall hold office for an initial term ending the first Monday of January following the next municipal election more than 24 months following the appointment.”
- 25 P.S. §3165 addresses certifications of *elections* and gubernatorial issuance of commissions to the elected persons, and provides, in part:
... The Secretary of the Commonwealth shall immediately after tabulating and computing the returns of each election of Judge of every court, certify

the result thereof to the Governor, who shall immediately issue a commission to such person.

- After the governor has issued the commission, 42 Pa C.S.A. §3151 provides that the oath of office prescribed by Pennsylvania Constitution, Pa. Const. art. VI, § 3, is to be administered to the judicial candidate by a “qualified person.”
- The Supreme Court’s procedure requires the elected/retained judge (who has received the gubernatorial commission) to take the oath before the end of the election year to assure the judge receives timely payment of salary after official judicial duties begin for the relevant term.

In Pennsylvania, elected judges do not begin official judicial duties until the first Monday of January. Yet, the date that “judicial candidacy” concludes for both sitting judges and newly elected is reasonably a different day, such as the 31st day of the election year, or the day on which the oath or the affirmation required by 42 Pa. C.S § 3151 is taken.

The Code is silent as to when a judicial candidate must stop engaging in political and campaign action permitted by Rule 4.2.¹⁹ The Board has opined that judicial candidates certified to having received the most votes who are sitting judges may continue to engage in appropriate political and campaign activity (*e.g.*, fundraising, endorsements, political event attendance, *etc.*) until taking and subscribing the oath or affirmation required by 42 Pa. C.S § 3151.²⁰

The open issue is whether the same rule applies to a judicial candidate certified to having received the most votes, but who is not a then-sitting judge. Such judicial candidates are cautioned to follow the same ruling and, thus, may continue to engage in appropriate political and campaign

¹⁹ In Board Opinion No. 21 JEAB 2024, the Board opined:

“Judicial Candidates who are sitting as judges and are certified to have received the most votes may continue to engage in appropriate political and campaign activity (*e.g.*, fundraising, endorsements, political event attendance, *etc.*) until taking and subscribing the oath or affirmation required by 42 Pa. C.S § 3151.”

In so determining, the Board noted that both the Rules and the Code are silent as to *when* a “Judicial Candidate” must stop engaging in political and campaign activity permitted by Rule 4.2.

The Board then reasoned that a “Judicial Candidate” ceases to be a “Judicial Candidate” when a “Judicial Candidate” takes the oath or affirmation of office. Once a “Judicial Candidate” takes or affirms the oath, the “Judicial Candidate” is a judge rather than a “Judicial Candidate” and must refrain from any further political and campaign activity authorized by the Code or the Rules. *See* 42 Pa. C.S § 3151

On the other hand, the Board opined, the judge’s campaign committee may continue fundraising activities aimed at retiring any debt through December 31, “the last calendar day of the year in which the judicial election is held.” *See* Rule 4.4(B)(2).

²⁰ *Id.*

activity (*e.g.*, fundraising, endorsements, political event attendance, *etc.*) “until taking and subscribing the oath or affirmation required by 42 Pa. C.S § 3151.”

END OF GENERAL ETHICS GUIDANCE NO. 2-2026