

Judicial Canon 2

A Judge Must Uphold Public Trust

- a) Judges are placed in a position of public trust and their public and private behavior must ensure the greatest public confidence in the judge's independence, impartiality, integrity, and competence.
- b) A judge may participate in the process of judicial selection by cooperating with and responding to members of appointing authorities.
- c) A judge may vote in general, primary, and special elections; and it will not constitute participation in a political activity. Voting in special and primary elections is the discharge of an honorable civic duty and an obligation of responsible citizenship.
- d) A judge is required to refrain from political activity on behalf of a candidate or organization. For additional detail, *see also* Judicial Canon 2D.
- e) A Judge must refrain from publicly commenting on a pending or impending case. For additional detail, *see also* Judicial Canon 2E.
- f) A Judge must not disclose or use nonpublic information acquired in a judicial capacity.
- g) A judge may serve as an executor, administrator, or other personal representative for a family member or non-family that lives with the judge that the Judge has an existing relationship with as caregiver or caretaker. For additional details, *see also* Judicial Canon 2G.
- h) A Judge may serve in a prominent role of an organization devoted to the improvement of the law or the administration of justice so long as the organization is not for profit. For additional details, *see also* Judicial Canon 2H.
- i) A Judge is permitted to participate in religious activities and services and read sacred texts from the Judge's religious tradition.
- j) A Judge may not hold membership in any organization that practices invidious discrimination against any protected class of individuals. For additional information, *see also* Judicial Canon 2J.
- k) A Judge may not commend or criticize jurors for their verdict outside a court order or opinion.
- l) A complete separation of a Judge from their extrajudicial activities is neither possible nor wise and a Judge should never become isolated from their community. For additional detail, *see also* Judicial Canon 2I.
- m) A Judge may promote broader access to justice by encouraging lawyers to participate in pro bono publico legal services.

Judicial Canon 3

A Judge Must Promote The Efficient and Effective Delivery of Justice

- a) The judicial duties of a Judge take precedence over all the Judge's other activities.
- b) A Judge is required to promptly hear and decide matters assigned to the Judge unless otherwise requested by all parties or expressly permitted by statute.
- c) A Judge is required to be faithful to the law and maintain professional competence in it.
- d) A Judge should require order, decorum, and civility in proceedings.
- e) A Judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the Judge deals in an official capacity.
- f) A Judge is required to diligently discharge the Judge's administrative responsibilities without bias or prejudice.
- g) A Judge must not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity.
- h) A Judge must refrain from speech, gestures, or other conduct that could reasonably be perceived as sexual harassment.
- i) A Judge may receive compensation and reimbursement of expenses for the extrajudicial activities permitted by these Judicial Canons and standards, if the source of such payments does not give the appearance of influencing the Judge's performance of judicial duties.

VSJ BBRC Website



Questions?

Visit the VSJ Bench-Bar Relations Committee website, or email committees@vsb.org.

Guide to Informal Communications Between Judges and Lawyers



Who is a “Judge?”

Section III. Canons of Judicial Conduct for the Commonwealth of Virginia, Preamble

*The Judicial Canons do not apply to magistrates.**

The Judicial Canons apply to all active Justices of the Supreme Court of Virginia; Judges of the Court of Appeals of Virginia, Circuit Courts, General District Courts, and Juvenile and Domestic Relations District Courts; and Members of the State Corporation Commission and Virginia Workers' Compensation Commission.

The Judicial Canons also apply (with specific exceptions) to retired Justices, Judges and Members eligible for recall to judicial service, substitute judges, special justices and (while so acting) judges pro tempore.

While the Judicial Canons do not apply to federal judges, similar principles do apply. Lawyers appearing before Article III judges should familiarize themselves with the Code of Conduct for United States Judges, available at <http://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges>. Lawyers appearing before Executive Branch administrative law judges should seek out policies and procedures of the specific court.

**Magistrates are governed by the Canons of Conduct for Virginia Magistrates.*

For full Judicial Canons, scan here:



What You Need to Know...

Judges may engage with lawyers outside of court as allowed by their ethical code of conduct, **The Canons of Judicial Conduct for the Commonwealth of Virginia** (the “Judicial Canons”).

The Judicial Canons provide guidance and assist judges in maintaining the highest standards of judicial conduct. They provide a basis for regulating judicial conduct and promote an independent and fair judiciary. Most lawyers think the Judicial Canons are only relevant to judges and litigators, but they also impact lawyers who:

- ◆ provide legal services to a judge (e.g., real estate transactions);
- ◆ own assets jointly with a judge;
- ◆ participate in any type of substantial financial activities with a judge;
- ◆ interact with a judge in matters related to the improvement of the legal system or administration of justice (e.g., bar association or nonprofit); or
- ◆ have a social relationship with a judge.

Whether at a bar association educational or social event, it is important for lawyers to understand what they can or cannot do when interacting with judges outside of the courtroom.

The purpose of this document is to provide ethical guidance, as outlined by Judicial Canons, for day-to-day interactions with judges.

This document neither includes the exact text of the Judicial Canons nor is it intended to be a substitute for a thorough review of them. It highlights provisions in certain Judicial Canons, in pertinent part, that may be implicated when lawyers have out-of-court interaction with members of the judiciary.

Judicial Canon 1

A Judge Must Be Impartial

- a) Outside relationships (familial, friendship, romantic) cannot influence a judge's decisions.
- b) A judge must keep their online activity to a minimum and cannot allow for their online activity to cause their judgment to be called into question.
- c) A judge cannot use the prestige of their position for personal gain.
- d) A judge must recuse/disqualify themselves should they think that their personal bias or prejudice would cause them to forgo their impartiality.
- e) A judge may not testify as a character witness.
- f) While a judge may provide letters of recommendation, they must clearly state they are the personal opinions of the Judge themselves and not of the court.
- g) A judge may provide information for the record only in response to a formal request.
- h) A judge must perform their duties without bias.
- i) A judge is required to provide all parties with a legal interest in a proceeding with a fair opportunity to provide their argument.
- j) A judge may explain the duties of their judicial office so long as they do so without prejudice or bias.
- k) A judge may consult with their law clerks and the Legal Research Department of the Office of Executive Secretary of the Supreme Court of Virginia before giving their opinion on a case. Such communications are not deemed to be ex parte communications.
- l) A judge may not independently investigate the facts of a case; their decision must stem from the facts and evidence they are presented.
- m) A judge may participate in extrajudicial activities and participate in moot courts. A judge may also express their disagreement (orally or in written form) with an existing precedent so long as they are respectful and acknowledge their duty to still uphold said precedent.
- n) A judge may not engage in a financial or business dealing that would take precedence over their duties as a judicial official.
- o) A judge may not accept gifts, favors, or loans that may influence their decision. *See also* Judicial Canon 10.
- p) A judge must not be influenced or swayed by partisan interests, public clamor, or fear of criticism.