

# JUDICIAL ELECTIONS IN ARKANSAS

## 2021-2022

Administrative Office of the Courts  
Justice Building  
625 Marshall Street  
Little Rock, AR 72201  
(501) 682-9400  
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## HELPFUL ADDRESSES AND PHONE NUMBERS

*Questions on candidate qualifications, filing procedures, or to obtain reporting forms:*

John Thurston  
Secretary of State  
Elections Division  
State Capitol  
500 Woodlane Street, Suite 256  
Little Rock, AR 72201  
1-800-482-1127; (501) 682-5070  
[www.sos.arkansas.gov/elections](http://www.sos.arkansas.gov/elections)

*Questions on campaign financing and disclosure requirements:*

Arkansas Ethics Commission  
501 Woodlane Street, Suite 301 N  
Little Rock, AR 72201  
1-800-422-7773; (501) 324-9600  
[www.arkansasethics.com](http://www.arkansasethics.com)

*Questions on filing fees:*

State Board of Election Commissioners  
501 Woodlane Street, Suite 122 South  
Little Rock, AR 72201  
1-800-411-6996; (501) 682-1834  
[www.arkansas.gov/sbec](http://www.arkansas.gov/sbec)

*Questions on Arkansas Code of Judicial Conduct:*

Judicial Discipline and Disability Commission  
David Sachar, Executive Director  
323 Center Street, Suite 1060  
Little Rock, AR 72201  
(501) 682-1050  
<https://jddc.arkansas.gov/>

## NONPARTISAN ELECTION OF JUDGES AND JUSTICES

Ark. Code Ann. § 7-10-102

### Terms of Judicial Offices

Supreme Court: 8 - Year Term -- Amendment 80, §16

Court of Appeals: 8 - Year Term -- Amendment 80, §16

Circuit: 6 - Year Term -- Amendment 80, §16

District: 4 - Year Term -- Amendment 80, §16; Ark. Code Ann. § 16-17-209 (b)

### Qualifications for Judicial Offices

- **Supreme Court Justice and Court of Appeals Judge**

Must be a U. S. citizen..... Art. 3 § 1

Must be an Arkansas resident..... Art. 3 § 1

Must be a minimum of eighteen years of age..... Art. 3 § 1

Must be lawfully registered to vote..... Art. 3 § 1

Must have been a licensed attorney of the state for at least eight years immediately preceding the date of assuming office..... Amend. 80 § 16

Must be qualified elector within the geographical area from which chosen..... Amend. 80 § 16

Must never have been convicted of embezzlement of public money, bribery, forgery, or other infamous crime..... Art. 5 § 9

Must never have pleaded guilty or nolo contendere to or been found guilty of a public trust crime regardless of whether the conviction was sealed or expunged..... Ark. Code Ann. § 21-8-305

Must not file as a candidate for non-judicial governmental office while holding judicial office..... Amend. 80 § 15; Ark. Code Ann. § 16-10-118

Shall not be allowed any fees or perquisites of office and shall not hold any other office of trust or profit under this state or the U.S., except as authorized by law..... Amend. 80 § 16

Shall not practice law during their terms of office..... Amend. 80 § 14

- **Circuit Judge**

- Must be a U. S. citizen..... Art. 3 § 1
- Must be an Arkansas resident ..... Art. 3 § 1
- Must be a minimum of eighteen years of age ..... Art. 3 § 1
- Must be lawfully registered to vote ..... Art. 3 § 1
- Must have been a licensed attorney of the state for at least six years immediately preceding the date of assuming office..... Amend. 80 § 16
- Must be qualified elector within the geographical area from which chosen ..... Amend. 80 § 16
- Must reside within that geographical area at the time of election and during period of service. The geographical area may include any county contiguous to the county to be served when there are no qualified candidates available in the county to be served..... Amend. 80 § 16
- Must never have been convicted of embezzlement of public money, bribery, forgery, or other infamous crime..... Art. 5 § 9
- Must never have pleaded guilty or nolo contendere to or been found guilty of a public trust crime regardless of whether the conviction was sealed or expunged..... Ark. Code Ann. § 21-8-305
- Must not file as a candidate for non-judicial governmental office while holding judicial office..... Amend. 80 § 15; Ark. Code Ann. § 16-10-118
- Shall not be allowed any fees or perquisites of office and shall not hold any other office of trust or profit under this state or the U.S., except as authorized by law..... Amend. 80 § 16
- Shall not practice law during their terms of office..... Amend. 80 § 14

- **District Judge**

- Must be a U. S. citizen..... Art. 3 § 1
- Must be an Arkansas resident ..... Art. 3 § 1
- Must be a minimum of eighteen years of age ..... Art. 3 § 1

Must be lawfully registered to vote ..... Art. 3 § 1

Must have been a licensed attorney of the state for at least four years immediately preceding the date of assuming office..... Amend. 80 § 15; Ark. Code Ann. § 16-17-104; Ark. Code Ann. § 16-17-209

Must not file as a candidate for non-judicial governmental office while holding judicial office..... Amend. 80 § 15; Ark. Code Ann. § 16-10-118

Must be qualified elector within the geographical area from which chosen ..... Amend. 80 § 16; Ark. Code Ann. § 16-17-103; Ark. Code Ann. § 16-17-209

Must reside within that geographical area at the time of election and during period of service. The geographical area may include any county contiguous to the county to be served when there are no qualified candidates available in the county to be served..... Amend. 80 § 16; Ark. Code Ann. § 16-17-103; Ark. Code Ann. § 16-17-209

Must never have been convicted of embezzlement of public money, bribery, forgery, or other infamous crime..... Art. 5 § 9

Must never have pleaded guilty or nolo contendere to or been found guilty of a public trust crime regardless of whether the conviction was sealed or expunged..... Ark. Code Ann. § 21-8-305

Shall not be allowed any fees or perquisites of office and shall not hold any other office of trust or profit under this state or the U.S., except as authorized by law..... Amend. 80 § 16

## **FILING PROCEDURES**

### **Nonpartisan Judicial Candidates -- Traditional Method**

- Pay filing fee to the Secretary of State.
- File the Political Practices Pledge with the Secretary of State's Office at the same time as paying filing fee.
- The first day for nonpartisan candidates to pay a filing fee and file a Political Practices Pledge with the Secretary of State is February 22, 2022, at 3:00 p.m.
- The last day for nonpartisan candidates to pay a filing fee and file a Political Practices Pledge with the Secretary of State is March 1, 2022, at 3:00 p.m.

Ark. Code Ann. § 7-6-102; Ark. Code Ann. § 7-10-103

### **Alternative Ballot Access -- Petition**

- First day for nonpartisan judicial candidates to begin circulating petitions for ballot access without paying a filing fee is November 8, 2021.
- First day to file petitions for ballot access without paying a filing fee for a nonpartisan judicial office is noon on December 31, 2021.
- Last day to file petitions for ballot access without paying a filing fee for a nonpartisan judicial office is noon on January 7, 2022.
- Petitions shall be filed with the Secretary of State.
- The Secretary of State shall have forty-five days after the filing of the petition to determine whether the petition contains the names of a sufficient number of qualified electors and to verify the sufficiency of the petition.
- The total number of votes cast for Governor in 2018 in the state, in any court of appeals district, in any circuit court district, or in any district court district, as the case may be, shall determine the applicable number of qualified electors for petition signature purposes.

Ark. Code Ann. § 7-6-102; Ark. Code Ann. § 7-10-103

### **Supreme Court Justice Alternative Ballot Access:**

- A petition for Justice of the Supreme Court shall be signed by at least 3% of the qualified electors residing within the state, but in no event shall more than 10,000 signatures be required.
- Supreme Court candidates file the Political Practices Pledge with the Secretary of State at time of filing petition.

### **Court of Appeals Judge Alternative Ballot Access:**

- A petition for Judge of the Court of Appeals shall be signed by 3% of the qualified electors residing within the court of appeals district for which the candidate seeks office, but in no event shall more than 2,000 signatures be required.
- Court of Appeals candidates file the Political Practices Pledge with the Secretary of State at time of filing petition.

### **Circuit Judge Alternative Ballot Access:**

- A petition for circuit judge shall be signed by 3% of the qualified electors residing within the circuit for which the candidate seeks office, but in no event shall more than 2,000 signatures be required.



- Circuit Judge candidates file the Political Practices Pledge with the Secretary of State at time of filing petition.

**District Court Judge Alternative Ballot Access:**

- A petition for district judge shall be signed by at least 1% of the qualified electors residing within the district for which the candidate seeks office, but in no event shall more than 2,000 be required.
- District Judge candidates file the Political Practices Pledge at the time of filing petition.

**Write-in Candidates**

- File written notice of intention to be write-in candidate to all county boards of election commissioners in the judicial district and to the Secretary of State no later than March 7, 2022.
- File the Political Practices Pledge at the same time and place as filing the notice of intention

Ark. Code Ann. §§ 7-5-205; 7-10-103

**Filing Fees**

Filing fees are established by the State Board of Election Commissioners.

Ark. Code Ann. § 7-10-103 (b)(1)

**Current Filing Fee Schedule for Nonpartisan Office**

| <b><u>Nonpartisan Office</u></b> | <b><u>Percentage of Salary</u></b> |
|----------------------------------|------------------------------------|
| Supreme Court Chief Justice      | 6% of Annual Salary                |
| Supreme Court Associate Justices | 6% of Annual Salary                |
| Court of Appeals Judges          | 5% of Annual Salary                |
| Circuit Judges                   | 4% of Annual Salary                |
| State District Judges            | 3% of Annual Salary                |
| Local District Judges            | 3% of Annual Salary                |

*The State Board of Election Commissioners Rules for Nonpartisan Office Filing Fees §105*

### **Names Used on Ballot**

A nonpartisan candidate shall not use more than three (3) given names, one (1) of which may be a nickname, or another word used to identify the candidate to the voters. A nonpartisan candidate may add as a prefix to his or her the name, the title, or an abbreviation of an elective public office the candidate currently holds. Ark. Code Ann. § 7-10-103 (f)

A person may use as the prefix the title of a nonpartisan judicial office in an election for a nonpartisan judicial office only if:

- 1) The person is currently serving in a nonpartisan judicial office to which the person has been elected in the last election for the office; **or**
- 2) The person is a candidate for the office of circuit judge or district judge, is currently serving in the office of circuit or district judge as an appointee and has been serving in that position for at least twelve months.

Ark. Code Ann. § 7-7-305 (c)(1)(B)

### **POLITICAL PRACTICES ACT & PLEDGE**

Under Ark. Code Ann. § 7-6-102, all candidates are required to file a Political Practices Pledge stating that they are familiar with the requirements of §§ 7-1-103, 7-1-104, 7-3-108, 7-6-101, 7-6-103, 7-6-104, and this section and will comply in good faith with their terms. The name of any candidate who fails to sign and file the pledge shall not appear on the ballot.

The pledge must contain the following language:

*I hereby certify that I have never been convicted of a felony in Arkansas or in any other jurisdiction outside of Arkansas.*

A candidate whose record has been expunged may certify that he or she was never convicted if that candidate presents a certificate of expungement from the court in which the candidate was convicted.

The Political Practices Pledge may be obtained from the Secretary of State's Office.

Ark. Code Ann. § 7-6-102

### **WHERE TO FILE:**

- Candidates for Supreme Court Justice, Court of Appeals Judge, Circuit Judge, and District Judge must file the pledge with the Secretary of State.

### **WHEN TO FILE:**

- Nonpartisan judicial candidates paying filing fees must file the pledge at the same time the filing fee is paid.

- Alternative ballot access candidates must file the pledge at the same time that petitions for nomination are filed.
- Write-in candidates must file the pledge at the time of filing the written notice of intention to be a write-in candidate.

See Ark. Code Ann. §7-6-102

## **CANDIDATE EXPLORATORY COMMITTEE**

An “Exploratory Committee” means a person that receives contributions which are held to be transferred to the campaign of single candidate in an election. It is not an organized political party or the candidate's own campaign committee.

The Exploratory Committee must file Registration and Contribution Reports. These reports are discussed in more detail in the section below entitled “Campaign Finance and Disclosure Requirements.” Reporting forms are available at the Office of the Secretary of State. With limited exceptions, the required reporting must be filed in electronic format through the Secretary of State’s Office.

Ark. Code Ann. §§ 7-6-201; 7-6-216; 7-6-230

## **CAMPAIGN FINANCE AND DISCLOSURE REQUIREMENTS**

### **General Requirements**

Generally, Arkansas laws governing campaign finance can be found at Ark. Code Ann. § 7-6-201 *et seq.*. The following requirements are imposed:

- Campaign contributions, including a candidate's personal funds, are subject to disclosure.
- All contributions must be made either to the candidate or the candidate's committee.

*See* Arkansas Judicial Code of Conduct Canon 4.1 (A)(8) which states that a judicial candidate shall not personally accept campaign contributions.

- Candidates are prohibited from accepting a cash contribution in excess of \$100.00 or making an expenditure in cash in excess of \$50.00 except that the filing fee may be paid in cash, if properly received and reported as a campaign expenditure.

Ark. Code Ann. § 7-6-204

- The maximum allowable contribution from an individual, except for the candidate himself, a political party that meets the definition of a political party

under Ark. Code Ann. § 7-1-101, a political party that meets the requirements of Ark. Code Ann. § 7-7-205, a county political party committee, a legislative caucus committee, or an approved political action committee, is \*\$2,900 per candidate per election.

\*The contribution limits shall be adjusted at the beginning of each odd-numbered year in an amount equal to the percentage certified to the Federal Election Commission by the Bureau of Labor Statistics of the United States Department of Labor under 52 U.S.C. § 30116(c) as existing on January 1, 2015. The Arkansas Ethics Commission shall promulgate rules identifying the adjusted contribution limits.

Ark. Code Ann. § 7-6-203 and §§ 101 and 102 of the Ark. Ethics Commission Rules on Campaign Contribution Limit

-- The general election and run-off election are each considered separate elections.

Ark. Code Ann. § 7-6-201 (7)

-- These limitations apply also to any person acting in the candidate's behalf.

Ark. Code Ann. § 7-6-203 (a)(1)(A)

*See State Campaign Finance Contribution Limits on page 18.*

- No candidate may accept contributions from non-registered and non-approved political action committees (“PACs”), and it is the candidate's responsibility to determine eligibility prior to accepting any contribution.
- Anonymous contributions cannot exceed \$50.00 in a calendar year, and any anonymous contributions in excess of this amount must be turned over to the Secretary of State for deposit in the State Treasury.

Ark. Code Ann. §§ 7-6-203 and 7-6-205

- A candidate shall not take any campaign fund as personal income or as income for his or her spouse or dependent children.
  - However, a candidate who has an opponent is not prohibited from employing his or her spouse or dependent children as campaign workers.
  - However, a candidate who has an opponent and who, during the campaign and before the election, takes a leave of absence without pay from his or her primary employment shall be authorized to take campaign funds during the campaign and before the election as

personal income up to the amount of employment income lost as a result of such leave of absence.

- A candidate may use campaign funds to pay the candidate's childcare expenses for the time that the candidate is engaged in campaign activities if the childcare expenses would not have existed in the absence of the campaign.
  - A candidate who uses campaign funds as income during a leave of absence may elect to treat the campaign funds as a loan from the campaign fund to the candidate to be paid back to the campaign fund by the candidate.
  - The use of campaign funds to purchase a cake or other perishable item of food at a fund-raising event held by a volunteer agency is not considered taking of campaign funds as personal income.
  - The use of campaign funds to purchase advertising prior to the date the final report is due to be filed thanking voters for their support shall not be considered taking of campaign funds as personal income.
- A candidate or officeholder, who uses campaign funds or carryover funds to fulfill any commitment, obligation, or expense that would exist regardless of the candidate's campaign or officeholder activity, shall be deemed to have taken campaign funds as personal income.
  - Candidates or officeholders may use campaign funds or carryover funds to fulfill any commitment, obligation, or expense authorized by law, or permitted by an Arkansas Ethics Commission rule or opinion at the time of the expenditure, or reasonably and legitimately related to a campaign or officeholder activity.
  - If a candidate or officeholder is assessed a fine by the Ethics Commission for the use of campaign funds a personal income, the candidate or officeholder shall not use campaign funds or carryover funds to pay the fine.

Ark. Code Ann. § 7-6-203

### **Requirements for Judicial Candidates**

In addition to the general requirements, candidates for judicial offices must also comply with the Arkansas Code of Judicial Conduct which, in some instances, imposes more stringent requirements. Canon 4.1 (A)(8) states that a candidate shall not personally solicit or accept campaign contributions, and in the event any funds are personally received, they shall be promptly turned over to the campaign committee. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate. Financial support is to be solicited by the campaign committee. The purpose of the committee is to isolate the candidate from involvement in fund-raising. The candidate at the outset of the campaign is required

to instruct the committee to solicit or accept contributions that are permitted by law and reasonable under the circumstances.

The committee can solicit funds no earlier than 180 days before an election, and all committee solicitations must cease no later than 45 days after the last contested election in which the candidate appears.

The earliest date a committee can solicit funds is November 25, 2021.

All committee solicitations must cease no later than July 8, 2022.

Ark. Code of Judicial Conduct Canon 4.4. *See page 27 for the full text of Canon 4.*

Contributors must be given notice if funds are solicited to retire a campaign debt.

Ark. Code Ann. § 7-6-219(b)

### **Who Must File Financial Reports**

Any candidate running for elective office must file certain reports, and a candidate's exploratory committee must make a separate filing.

Ark. Code Ann. §§ 7-6-207, 208, 209, and 210; §§ 7-6-213, 214, 215, and 216

### **What Financial Reports to File**

***Campaign Contribution and Expenditure Reports.*** Any candidate with contributions or expenditures over \$500.00 in any election must file Campaign Contribution and Expenditure Reports (“CCE”). In calculating the amount of contributions or expenditures, the amount of the filing fee from the candidate's personal funds is not considered. Once the \$500.00 threshold has been met, the candidate who used his or her personal funds to pay the filing fee is required to report same. Such a candidate would report the funds used to pay the filing fee as either a loan or a contribution to the campaign from the candidate and also a campaign expenditure. The Campaign Contribution and Expenditure Report records the names of the individuals or businesses that financially support the candidate, and accounts for campaign expenditures.

Ark. Code Ann. § 7-6-207

Campaign contributions and expenditure reports filed with the Secretary of State are required to be filed in electronic form through the official website of the Secretary of State.

Ark. Code Ann. § 7-6-207

***Statement of Financial Interest.*** The Statement of Financial Interest (“SFI”) requires candidates to disclose personal income information about themselves and their spouses.

Ark. Code Ann. § 21-8-701

**Registration and Contribution Reports.** The Candidate Exploratory Committee must file these reports. These reports disclose information about the committee and list contributions received.

Ark. Code Ann. § 7-6-216

### **Where to File Financial Reports**

| <b><u>Office</u></b> | <b><u>CCE</u></b>  | <b><u>SFI</u></b>  |
|----------------------|--------------------|--------------------|
| Supreme Court        | Secretary of State | Secretary of State |
| Court of Appeals     | Secretary of State | Secretary of State |
| Circuit Court        | Secretary of State | Secretary of State |
| District Court       | Secretary of State | Secretary of State |

Exploratory Committee's Registration and Contribution Reports for all offices must be filed with the Secretary of State.

Ark. Code Ann. § 7-6-207 -- Campaign Contribution and Expenditure Reports

Ark. Code Ann. § 21-8-703 -- Statement of Financial Interest

### **When to File Financial Reports**

Supreme Court, Court of Appeals, Circuit Court, and District Court

See Ark. Code Ann. § 7-6-207

See also the *Filing and Financial Reporting Calendar on page 20 for specific filing dates.*

**Registration and Contribution Reports.** The Exploratory Committee must file the Registration Form within 15 days after accepting contributions exceeding \$500.00 during a calendar year. Contribution and Expenditure Reports are filed monthly within 30 days of the end of each month. The final monthly report must be filed within 30 days after the end of the month in which the committee either transfers its contributions to a candidate's campaign or no longer accepts contributions. The committee shall not accept contributions after the filing of a final report.

Ark. Code Ann. § 7-6-216

**Statement of Financial Interest.** The Statement of Financial Interest must be filed by January 31 of each year except that a candidate for elective office shall file the statement of financial interest for the previous year on the first Monday following the close of the period to file as a candidate for the elective office.

Ark. Code Ann. § 21-8-701

**Monthly Campaign Contribution and Expenditure Reports.** The initial Campaign Contribution and Expenditure Report must be filed within 15 days after the end of the quarter in which the total contributions or expenditures exceed \$500.00. Beginning with the month of January in the calendar year of the election, the candidates who have exceeded the \$500.00 threshold must file a monthly report within 15 days of the end of each month until the election.

Ark. Code Ann. § 7-6-207

**Pre-election Reports.** No later than 7 days before any election, candidates must file a pre-election report covering all contributions received and expenditures made between the period covered by the previous report and the 10-day period before the election. No monthly report is required to cover months in which a pre-election report is filed, but those days should be carried forward and included in the next monthly report or the final monthly report. Unopposed candidates are not required to file the 10-day pre-election report.

Ark. Code Ann. § 7-6-207

**Final Monthly Reports.** The Final Monthly Report is due no later than 30 days after the end of the month in which the candidate's name has appeared on the ballot or when only one candidate qualifies for a particular office or position and no position or name of an unopposed candidate shall appear on a ballot, in any election, covering all contributions received and expenditures made that have not been disclosed on reports previously required to be filed. A final report is required regardless of whether a candidate has received contributions or made expenditures in excess of \$500.00. The final report shall also indicate which option was used to dispose of any surplus of campaign funds, the amount of funds disposed of by the candidate, and the amount of funds retained by the candidate. In the case of a primary or run-off election, days occurring after the date of such election shall be carried forward and included in the next monthly report.

Ark. Code Ann. § 7-6-207

**Quarterly Reports.** If contributions or expenditures continue after the final monthly report, this information must be included in a quarterly report due April 15, July 15, October 15, and/or January 15. These reports continue in years in which the person's name does not appear on the ballot.

Ark. Code Ann. § 7-6-207

**Reports Not Required Under the Following Circumstances.**

- A candidate who has not received or made expenditures in excess of \$500 shall not be required to file any reports other than the final report.
- A candidate who is unopposed is not required to file the 10-day pre-election report.



Ark. Code Ann. § 7-6-207

***Withdrawal as Candidate.*** A final report of all contributions received, and expenditures made that have not been disclosed on reports previously required to be filed is due no later than thirty days after the end of the month in which a candidate withdraws from a campaign.

- If a candidate withdraws from the campaign, the candidate shall notify the Secretary of State in writing of the withdrawal.

Ark. Code Ann. § 7-6-207

***Reporting of Financial Institutions.*** For each financial institution the candidate and committee working on the candidate's behalf use for the purposes of receiving contributions or making expenditures within this state, the following information must be provided to the Secretary of State with the filing of the initial campaign contribution and expenditure report:

- The full name of the financial institution; and
- The full address of the financial institution.

The foregoing financial institution information is not a public record or subject to disclosure under the Freedom of Information Act but may be made available to the Ethics Commission upon request.

Ark. Code Ann. § 7-6-207(f)

### **Filing Facts**

A report is timely filed if it is filed in electronic form through the Secretary of State's website on or before the date that the report is due.

Ark. Code Ann. § 7-6-207

When a due date falls on a Saturday, Sunday, or legal holiday, the report shall be due the next business day.

Ark. Code Ann. § 7-6-225

A candidate required to file campaign contribution and expenditure reports in electronic form under Ark. Code Ann. § 7-6-207 may file reports in paper form if the provisions of Ark. Code Ann. § 7-6-230 are met. The statute requires that a candidate submit a notarized affidavit on a form prepared by the Secretary of State's Office with the submission of the first paper report in an election cycle.

A report submitted in paper form other than a preelection report is timely filed if it is either hand delivered or mailed to the Secretary of State, properly addressed, and postage prepaid, bearing a postmark indicating that it was received by the post office or common carrier on the date that the report is due.

A preelection report submitted in paper form is timely filed if it is received by the Secretary of State no later than seven days before the election for which it is filed.

Ark. Code Ann. § 7-6-230

### **Retirement of Campaign Debt**

If candidates have a debt remaining, they may solicit funds and hold fund-raisers to retire the debt. All contributions are attributed to the previous campaign and all campaign contribution limits apply. All potential contributors must be notified that funds are being solicited for the purpose of retiring the campaign debt.

A person shall file a campaign contribution and expenditure report concerning a campaign debt if, since the last report concerning the debt, the person has received cumulative contributions in excess of \$500.00. The report shall be filed no later than fifteen days after a calendar quarter in which a report becomes required. No report is required in any calendar quarter in which the cumulative contribution or cumulative expenditure limit has not been exceeded since the person's last report.

Ark. Code Ann. § 7-6-219

Nonpartisan judicial candidates are subject to the limitations of Canon 4. *See page 27 for full text of Canon 4.*

### **Surplus**

Canon 4.4 (C) of the Arkansas Code of Judicial Conduct provides that with respect to a campaign surplus any campaign fund surplus shall be returned to the contributors or turned over to the State Treasurer as provided by law.

### **Retention of Financial Records**

Records of contributions and expenditures must be kept for a period of four years.

Ark. Code Ann. § 7-6-206

## **STATE CAMPAIGN FINANCE CONTRIBUTION LIMITS**

### **Contributor**

### **Contribution Limitations**

An Individual

\*\$2,900 per Candidate per Election

A Political Party

A County Political Party Committee,

A Legislative Caucus Committee, or

An Approved Political Action Committee

The maximum allowable contribution from an individual, except for the candidate himself, a political party that meets the definition of a political party under Ark. Code Ann. § 7-1-101, a

political party that meets the requirements of Ark. Code Ann. § 7-7-205, a county political party committee, a legislative caucus committee, or an approved political action committee, is \*\$2,900 per candidate per election.

\*The contribution limits shall be adjusted at the beginning of each odd-numbered year in an amount equal to the percentage certified to the Federal Election Commission by the Bureau of Labor Statistics of the United States Department of Labor under 52 U.S.C. § 30116(c) as existing on January 1, 2015. The Arkansas Ethics Commission shall promulgate rules identifying the adjusted contribution limits.

Ark. Code Ann. § 7-6-203 and §§ 101 and 102 of the Ark. Ethics Commission Rules on Campaign Contribution Limit

## 2021-2022 FILING AND FINANCIAL REPORTING CALENDAR

Please note that all dates, which are outlined in the following calendar, have been provided by the Arkansas Secretary of State's Office, the Arkansas Ethics Commission, and the Arkansas Judicial Discipline and Disability Commission.

Reporting requirements are triggered upon the receipt or expenditure of more than \$500. Receipts over \$50 and expenditures over \$100 must be itemized.

A candidate is not required to file quarterly, monthly or pre-election reports until the candidate has either received contributions in excess of five hundred dollars (\$500) or made expenditures in excess of five hundred dollars (\$500). Final reports are required regardless of whether a candidate has received contributions or made expenditures in excess of five hundred dollars (\$500).

### NOVEMBER 2021

**November 8, 2021**

First day a nonpartisan judicial candidate seeking election and running by means of filing petitions may circulate petitions

**November 25, 2021**

The earliest date a nonpartisan judicial candidate's campaign committee may solicit or accept contributions.  
Ark. Code of Judicial Conduct Canon 4.4

### DECEMBER 2021

**December 31, 2021**

First day for a nonpartisan judicial candidate seeking election and running by means of the petition process to file petitions. Filing begins at noon

### JANUARY 2022

**January 7, 2022**

Last day for a nonpartisan judicial candidate seeking election and running by means of the petition process to file petitions. Filing ends at noon

**January 18, 2022**

Quarterly report for 4th quarter due. Covers period October 1 – December 31, 2021

**January 31, 2022**

Statement of Financial Interest for calendar year 2021 due for incumbent office holders

**FEBRUARY 2022**

**February 15, 2022**

January monthly report due. Covers period January 1-31, 2022

**February 22, 2022**

The filing period for nonpartisan judicial candidates seeking election and running by means of paying a filing fee begins at 3:00 p.m.

**MARCH 2022**

**March 1, 2022**

The filing period for nonpartisan judicial candidates seeking election and running by means of paying a filing fee ends at 3:00 p.m.

**March 7, 2022**

Last day for a nonpartisan judicial candidate seeking election and running by means of the write-in process to file notice of intention to run as a write-in candidate

Statement of Financial Interest for calendar year 2021 due for non-incumbent candidates

**March 15, 2022**

February monthly report due. Covers period February 1-28, 2022

**APRIL 2022**

**April 15, 2022**

March monthly report due. Covers period March 1-31, 2022

**MAY 2022**

**May 9, 2022**

Early voting begins

**May 16, 2022**

April monthly report due. Covers period April 1-30, 2022

**May 17, 2022**

If opposed in general election, preelection report due for primary election. Covers period May 1-14, 2022

**May 23, 2022**

Early voting ends at 5:00 p.m.

**May 24, 2022**

**Nonpartisan General Election**

**JUNE 2022**

**June 30, 2022**

Final report for general election due  
from all candidates

If the candidate was opposed and filed a preelection report for the general election and the candidate is not involved in a general election runoff, final report for general election covers period May 15, 2022, through the date the report is filed.

If the candidate was opposed and filed a preelection report for the general election and the candidate is involved in a general election runoff, final report for the general election covers period May 15-24, 2022.

If the candidate was opposed and did not file a preelection report for the general election and the candidate is not involved in a general election runoff, final report for general election covers all campaign activity which has not been disclosed on reports previously required to be filed through the date the report is filed.

If the candidate was opposed and did not file a preelection report for the general election and the candidate is involved in a general election runoff, final report for general election covers all campaign activity through May 24, 2022.

If the candidate was unopposed and filed a February monthly report, final report for general election covers period March 1 through the date the report is filed.

If the candidate was unopposed and did not file a February monthly report (i.e., this is candidate's first report), final report for general election covers all campaign activity through the date the report is filed.

**JULY 2022**

**July 8, 2022**

The last day a nonpartisan judicial candidate's campaign committee may solicit or accept contributions. If the candidate is involved in a run-off election, this date would not apply, and the applicable date should be calculated from the end of the run-off election. Canon 4.4 B (2) of the Arkansas Code of Judicial Conduct

**July 15, 2022**

June monthly report due. Covers period June 1-30, 2022

**AUGUST 2022**

**August 15, 2022**

July monthly report due. Covers period July 1-31, 2022

**SEPTEMBER 2022**

**September 15, 2022**

August monthly report due. Covers period August 1-31, 2022

**OCTOBER 2022**

**October 17, 2022**

September monthly report due. Covers period September 1-30, 2022

**October 24, 2022**

Early voting begins

**NOVEMBER 2022**

**November 1, 2022**

Preelection report due for general election runoff. Covers period October 1-29, 2022

**November 7, 2022**

Early voting ends at 5:00 p.m.

**November 8, 2022**

**Nonpartisan Runoff Election**

**DECEMBER 2022**

**December 30, 2022**

Final report due for general election runoff. Report covers period October 30, 2022, through the date the report is filed

## CAMPAIGN ETHICS

The Arkansas Ethics Commission has jurisdiction over Arkansas's Disclosure Act for Lobbyists and State and Local Officials and the Arkansas Standards of Conduct and Disclosure Act for Candidates and Political Campaigns. It has the authority to issue advisory opinions and investigate alleged violations of campaign financing. Penalties for violating these acts include a public letter of caution or warning and fines up to \$3,500. Ark. Code Ann. §§ 7-6-217, 7-6-218

The Arkansas Code of Judicial Conduct serves as a guide for the conduct of judges. Although judges should consider all provisions of the Code when dealing with campaign issues, Canon 4 specifically addresses political activities. Canon 4.1 (A) (13), states that:

“A judge, judicial candidate, and a judge-elect 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.”

Other campaign issues addressed by Canon 4 include the candidate's relationship to and activity in a political party and the candidate's responsibility to oversee and limit the campaign practices of employees. Judge-candidates involved in contested elections must also be especially sensitive to the rules of disqualification found in Canon 2.11.

Arkansas Code Annotated § 7-7-305 addresses the issue of the use of nicknames and titles on the ballot.

The Judicial Ethics Advisory Committee was created to give advisory opinions to elected officials, judicial officers, and candidates for judicial office concerning the compliance of their future conduct with the Arkansas Code of Judicial Conduct. Requests for advisory opinions must be made in compliance with the Procedural Rules for the Arkansas Judicial Ethics Advisory Committee.

The Judicial Ethics Advisory Committee has issued advisory opinions under the Code of Judicial Conduct, as it existed prior to July 1, 2009, regarding appropriate conduct during judicial campaigns.

**Advisory Opinion #93-04** stated that it is a violation of Canon 5C (2) of the Arkansas Code of Judicial Conduct for judicial campaign surplus funds to exist.

**Advisory Opinion #93-07** clarified Opinion #93-04 by stating that all campaign surplus funds "without exception or exclusion, including the time of its accumulation, or variance with legislative acts, or other rule of law" must be returned to the contributor or turned over to the State Treasurer.

**Advisory Opinion #94-02** advised a municipal judge that he should recuse whenever an attorney who is opposing the judge for re-election appears before the judge.



**Advisory Opinion #94-05** concluded that a judge must act *sua sponte* on the issue of disqualification and is not permitted to preside until a party objects.

**Advisory Opinion #94-06** stated that a retired judge can participate in judicial campaigns to the same extent, and with the same limitations, as any other attorney.

**Advisory Opinion #94-07** addressed whether a judge who is seeking re-election must disqualify himself when a party in a contested proceeding is represented by a declared candidate for the judge's position. The Committee cited the doctrine of necessity which provides that, despite compelling reasons for disqualification, recusal is not required if no mechanism exists for transfer of the matter to another court or appointment of a substitute judicial officer. The doctrine does not necessarily mean that a judge may preside in every instance in which the judicial challenger appears before him/her. Such matters, though, are left to the evaluation of the judge.

**Advisory Opinion #95-04** stated that a candidate may not ask a landowner for permission to place a campaign sign on his property. It said that a candidate may write letters to members of the electorate giving information about the candidate's background, the reasons for seeking the office, and the candidate's plan for judicial office. The letters may ask for suggestions, advice, and the encouragement, vote, and support of the recipient. They may not request publicly stated support.

**Advisory Opinion #96-02** stated that a campaign committee of a candidate for judicial office who is unopposed in the primary election may solicit contributions for 45 days after the filing deadline for party candidates or independent candidates, whichever is later.

**Advisory Opinion #99-08** stated that a Court of Appeals judge could send a letter to selected residents of the district that elected him to inform them that there are two positions from the district. While the letter comes very close to being a political letter, its primary purpose is informative, and it does not fall within the prohibited political activity addressed in Canon 5.

**Advisory Opinion #2000-11** stated that neither Arkansas law nor the Code of Judicial Conduct prohibits a person who practices law as an assistant city attorney from one city from being a part-time municipal judge in another city. That person, however, should be very sensitive to the fact that conflicts can and will occur and should be mindful of numerous provisions of the Code that would be applicable. A continuing part-time municipal judge must make the judicial office first in service and priority.

**Advisory Opinion #2001-05** stated that Canon 5C (2) is applicable to nonpartisan judicial elections and, therefore, fund raising may not begin until 180 days prior to the May 2002 election.

**Advisory Opinion #2002-03** stated that a judicial candidate who has served for six years as part-time city court judge may refer to self in campaign materials as "judge."

**Advisory Opinion #2005-08** stated that a former judge may not refer to himself or herself as “judge” in a campaign logo or sign or other campaign material.

**Advisory Opinion #2006-01** stated that the Arkansas District Judges Council should not make contributions to a candidate for political office.

**Advisory Opinion #2006-03** stated that a judge may not allow a political advertisement to be displayed on property owned by the judge and his wife.

**Advisory Opinion #2006-04** stated that a judicial candidate who is a former judge may not be pictured in a judge's robe or seated at a judge's bench in campaign materials.

**Advisory Opinion #2007-02** stated that a judicial candidate may not honor a commitment to chair a fundraising event for a non-judicial candidate made prior to announcing his or her candidacy.

**Advisory Opinion #2007-03** stated that a judge may not support candidates for political office.

**Advisory Opinion #2008-02** stated that a circuit judge must resign if he or she becomes a candidate for county judge.

**Advisory Opinion #2008-05** stated that a judge may not issue a press announcement or distribute cards until 365 days before election.

**Advisory Opinion #2009-03** stated that a judicial candidate may purchase a ticket to and attend an event of a political organization if the event does not occur more than 365 days before election.

**Advisory Opinion #2009-04** addresses various issues surrounding judicial campaigns pursuant to the new Arkansas Code of Judicial Conduct, effective July 1, 2009.

**Advisory Opinion #2014-02** stated that a judicial candidate, who was previously an appointed judge, could use the phrase “former judge” in his political campaign.

**Advisory Opinion #2015-03** determined that the committee working on behalf of a judicial candidate may accept a contribution from partisan political organizations or a PAC of such an organization.

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**CANON 4. A JUDGE, CANDIDATE FOR JUDICIAL OFFICE, OR JUDGE-ELECT SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.**

**Rule 4.1 - Political and Campaign Activities of Judges, Judicial Candidates, and a Judge-Elect in General**

(A) Except as permitted by law, or by Rules 4.2, 4.3, and 4.4, a judge, a judicial candidate, and a judge-elect 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; (3) publicly endorse or 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) solicit the efforts of any individual, committee, or organization to expend money outside of the judge's campaign when such expenses will not be reported by the campaign if the purpose of the expenditure is to influence the outcome of the judge's election. (6) publicly identify himself or herself as a candidate of a political organization; (7) seek, accept, or use endorsements from a political organization or an elected official who was elected in a partisan election; however, nothing prevents a judicial candidate from speaking to a political organization or elected official concerning the judicial candidate's election; (8) personally solicit or accept campaign contributions other than through a campaign committee authorized by Rule 4.4; (9) use or permit the use of campaign contributions for the private benefit of the judge, the candidate, or others; (10) use court staff, facilities, or other court resources in a campaign for judicial office; (11) knowingly, or with reckless disregard for the truth, make any false or misleading statement; (12) 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; or (13) 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; (14) use the term "re-elect" unless the judge was previously elected to that same position. (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). (C) For purposes of this Rule, a judge may use the title "Judge" if the judge is currently serving as a judge on the district court, circuit court, or court of appeals. A judge may use the title "Justice" if currently serving on the Arkansas Supreme Court. A judge who previously has held one of these positions, may use the appropriate title as long as it is preceded by the term "former."

**COMMENT GENERAL CONSIDERATIONS** [1] Even when subject to public election, a judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based upon the expressed views or preferences of the electorate, a judge makes decisions based upon the law and the facts of every case. Therefore, in furtherance of this interest, judges, judicial candidates, and a judge-elect must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. This Canon imposes narrowly tailored restrictions upon the political and campaign activities of all judges, judicial candidates, and a judge-elect taking into account the various methods of selecting judges. [2] When a person becomes a judge, judicial candidate, or judge-elect, this Canon becomes applicable to his or her conduct. In addition, Arkansas Rule of Professional

Conduct 8.2(b) provides that a "lawyer who is candidate for judicial office shall comply with the applicable provisions of the Code of Judicial Conduct." PARTICIPATION IN POLITICAL ACTIVITIES [3] Public confidence in the independence and impartiality of the judiciary is eroded if judges, judicial candidates, and a judge-elect are perceived to be subject to political influence. Although judges, judicial candidates, and a judge-elect may register to vote as members of a political party, they are prohibited by paragraph (A)(1) from assuming leadership roles in political organizations. [4] Paragraphs (A)(2) and (A)(3) prohibit judges, judicial candidates, and a judge-elect from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office, respectively, to prevent them from abusing the prestige of judicial office to advance the interests of others. See Rule 1.3. These Rules do not prohibit candidates from campaigning on their own behalf, or from endorsing or opposing candidates for the same judicial office for which they are running. [5] Although members of the families of judges, judicial candidates, and a judge-elect are free to engage in their own political activity, including running for public office, there is no "family exception" to the prohibition in paragraph (A)(3) against a judge, candidate, and a judge-elect publicly endorsing candidates for public office. A judge, judicial candidate, and a judge-elect must not become involved in, or publicly associated with, a family member's political activity or campaign for public office. [6] Judges, judicial candidates, and a judge-elect retain the right to participate in the political process as voters in both primary and general elections. Judges are permitted to request a ballot in a party's primary without violating this Code. [6A] Judges, judicial candidates, and a judge-elect are permitted to attend or purchase tickets for dinners or other events sponsored by a political organization. STATEMENTS AND COMMENTS MADE BY JUDGES, JUDICIAL CANDIDATES, AND A JUDGE-ELECT [7] Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign committees. Paragraph (A)(11) obligates candidates and their committees to refrain from making statements that are false or misleading, or that omit facts necessary to make the communication considered as a whole not materially misleading. As an example, "judicial experience" is misleading unless referring to the person's service on a district court, circuit court, court of appeals, or supreme court. [8] Judges, judicial candidates, and a judge-elect are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. For example, false or misleading statements might be made regarding the identity, present position, experience, qualifications, or judicial rulings of a candidate. In other situations, false or misleading allegations may be made that bear upon a judge, judicial candidate, or judge-elect's integrity or fitness for judicial office. As long as the judge, judicial candidate, or judge-elect does not violate these Rules, the candidate may make a factually accurate public response. In addition, when an independent third party has made unwarranted attacks on a candidate's opponent, the candidate may disavow the attacks, and request the third party to cease and desist. [9] Subject to paragraph (A)(12), a judge, judicial candidate, and judge-elect is permitted to respond directly to false, misleading, or unfair allegations made against him or her during a campaign, although it is preferable for someone else to respond if the allegations relate to a pending case. [10] Paragraph (A)(12) prohibits judges, judicial candidates, and judge-elect from making comments that might impair the fairness of pending or impending judicial proceedings. This provision does not restrict arguments or statements to the court or jury by a lawyer who is a judicial candidate or judge-elect, or rulings, statements, or instructions by a judge that may appropriately affect the outcome of a matter. PLEDGES, PROMISES, OR COMMITMENTS INCONSISTENT WITH IMPARTIAL PERFORMANCE OF THE ADJUDICATIVE DUTIES OF JUDICIAL OFFICE [11] The role of a judge is different from that of a legislator or executive branch official, even when the judge is subject to public election. Campaigns for judicial

office must be conducted differently from campaigns for other offices. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in Canon 4 allow candidates to conduct campaigns that provide voters with sufficient information to permit them to distinguish between candidates and make informed electoral choices. [12] Paragraph (A)(13) makes applicable to judges, judicial candidates, and a judge-elect the prohibition that applies to judges in Rule 2.10(B), relating to pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office. [13] The making of a pledge, promise, or commitment is not dependent upon, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result. [13A] Before speaking or announcing personal views on social or political topics in a judicial campaign, candidates should consider the impact of their statements. Such statements may suggest that the judge lacks impartiality. See Rule 1.2. They may create the impression that a judge has or manifests bias or prejudice toward individuals with contrary social or political views. See Rule 2.3. Public comments may require the judge to disqualify himself or herself when litigation involving those issues come before the judge. See Rule 2.11. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal views. [14] A judicial candidate may make campaign promises related to judicial organization, administration, and court management, such as a promise to dispose of a backlog of cases, start court sessions on time, or avoid favoritism in appointments and hiring. A candidate may also pledge to take action outside the courtroom, such as working toward an improved jury selection system, or advocating for more funds to improve the physical plant and amenities of the courthouse. [15] Judicial candidates may receive questionnaires or requests for interviews from the media and from issue advocacy or other community organizations that seek to learn their views on disputed or controversial legal or political issues. Paragraph (A)(13) does not specifically address judicial responses to such inquiries. Depending upon the wording and format of such questionnaires, candidates' responses might be viewed as pledges, promises, or commitments to perform the adjudicative duties of office other than in an impartial way. To avoid violating paragraph (A)(13), therefore, candidates who respond to media and other inquiries should also give assurances that they will keep an open mind and will carry out their adjudicative duties faithfully and impartially if elected. Candidates who do not respond may state their reasons for not responding, such as the danger that answering might be perceived by a reasonable person as undermining a successful candidate's independence or impartiality, or that it might lead to frequent disqualification. See Rule 2.11.

#### **Rule 4.2 - Political and Campaign Activities of Judicial Candidates in Public Elections**

(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 fund-raising 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 Rule 4.1. (B) A judicial candidate in a public election may, unless prohibited by law, and not earlier than 365 days before the first applicable election: (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)[Reserved] (4) attend or purchase tickets for dinners or other events sponsored by a political organization; (5) seek, accept, or use endorsements from any person or organization other than a partisan political organization or partisan elected official; and (6) [Reserved]. (C) [Reserved].

**COMMENT** [1] Paragraph (B) permits judicial candidates in public elections to engage in some political and campaign activities otherwise prohibited by Rule 4.1. Candidates may not engage in these activities earlier than 365 days before the first applicable election. See definition of “judicial candidate,” which provides that 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 election authority, or authorizes or engages in solicitation or acceptance of contributions or support. This rule does not prohibit private conversations with potential supporters by a potential candidate as part of an effort to “test the waters” for a future candidacy. It does prohibit establishing a campaign committee earlier than 365 days before the election date. [2] Despite paragraph (B), judicial candidates for public election remain subject to many of the provisions of Rule 4.1. For example, a candidate continues to be prohibited from soliciting funds for a political organization, knowingly making false or misleading statements during a campaign, or making certain promises, pledges, or commitments related to future adjudicative duties. See Rule 4.1(A), paragraphs (4), (11), and (13). [3] [Reserved] [4] In nonpartisan elections, paragraph (B)(5) prohibits a candidate from seeking, accepting, or using nominations or endorsements from a partisan political organization or partisan elected official. [5] Subject to the 365-day limitation, judicial candidates are permitted to attend or purchase tickets for dinners and other events sponsored by political organizations. (Cf. Rule 4.1, Comment 6A, Judges are permitted to attend or purchase tickets for dinners or other events sponsored by a political organization.) [6] [Reserved] [7] [Reserved]

### **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 other than a partisan political organization.

**COMMENT** [1] 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)(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, subject to the provisions of this Code. The candidate is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable law. (B) A judicial candidate subject to public election shall direct his or her campaign committee: (1) to solicit and accept only such campaign contributions as are permitted by state law. (2) not to solicit or accept contributions for a candidate’s current campaign more than 180 days before the applicable election, nor

more than 45 days after the last election in which the candidate participated; and (3) to comply with all applicable statutory requirements for disclosure and divestiture of campaign contributions. (C) Any campaign fund surplus shall be returned to the contributors, contributed to a nonprofit organization which is exempt from taxation under Section 501(c)(3), or turned over to the State Treasurer as provided by law.

**COMMENT** [1] Judicial candidates are prohibited from personally soliciting campaign contributions or personally accepting campaign contributions. See Rule 4.1(A)(8). This Rule recognizes that in many jurisdictions, judicial candidates must raise campaign funds to support their candidacies, and permits candidates, other than candidates for appointive judicial office, to establish campaign committees to solicit and accept reasonable financial contributions or in-kind contributions. [2] Campaign committees may solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct campaigns. Candidates are responsible for compliance with the requirements of election law and other applicable law, and for the activities of their campaign committees. [2A] The forty-five-day post-election restriction applies both to contested and non-contested elections. Once a candidate's campaign has ended, the candidate should only raise funds for 45 more days. For example, if three candidates participate in a judicial election, the candidate who is eliminated may raise funds for only an additional 45 days. However, the two remaining candidates may continue to raise funds through the runoff election and 45 days thereafter. [3] At the start of a campaign, the candidate must instruct the campaign committee to solicit or accept only such contributions as are reasonable in amount, appropriate under the circumstances, and in conformity with applicable law.

#### **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.

**COMMENT** [1] In campaigns for nonjudicial elective public office, candidates may make pledges, promises, or commitments related to positions they would take and ways they would act if elected to office. Although appropriate in nonjudicial campaigns, this manner of campaigning is inconsistent with the role of a judge, who must remain fair and impartial to all who come before him or her. The potential for misuse of the judicial office, and the political promises that the judge would be compelled to make in the course of campaigning for nonjudicial elective office, together dictate that a judge who wishes to run for such an office must resign upon becoming a candidate. [2] The "resign to run" rule set forth in paragraph (A) ensures that a judge cannot use the judicial office to promote his or her candidacy and prevents post-campaign retaliation from the judge in the event the judge is defeated in the election. When a judge is seeking appointive nonjudicial office, however, the dangers are not sufficient to warrant imposing the "resign to run" rule.