

KENTUCKY SUPREME COURT

CANON 5(B)(1)(C)

CANON 5: A JUDGE OR JUDICIAL CANDIDATE SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITY

B. Campaign Conduct.

(1) A judge or candidate for election to judicial office:

(a) shall maintain the dignity appropriate to judicial office, and shall encourage members of the candidate's family to adhere to the same standards of political conduct;

(b) shall prohibit public officials or employees subject to the candidate's direction and control from doing for the candidate what the candidate is prohibited from doing under this Canon; and except to the extent authorized under subsection B(2), the candidate should not allow any other person to do for the candidate what the candidate is prohibited from doing under this Canon;

(c) A judge or candidate for election to judicial office shall not intentionally or recklessly make a statement that a reasonable person would perceive as committing the judge or candidate to rule a certain way on a case, controversy, or issue that is likely to come before the court; and shall not misrepresent any candidate's identity, qualifications, present position, or other facts.

This brochure was adapted with permission from the New York State Bar Association publication, "The High Road—Rules for Conducting a Judicial Campaign in New York."

Developed by the LBA Committee on Judicial Integrity & Independence

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The High Ground

A Guide to Conducting a Judicial Campaign in Jefferson County



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Judges are not political candidates in the traditional sense. They do not represent constituents; they represent the law. Their decisions must be based on an informed and good faith interpretation of the law and the Constitution, not popular opinion or special interests. They should not support any political or ideological agenda. Because of the unique role of judges in our democratic system, candidates for judicial office must be held to higher standards than candidates for other elective offices. Judicial candidates not only must be unbiased and impartial, they also must avoid any appearance of bias or partiality.

In Jefferson County, the conduct of candidates for judicial office is governed by the Judicial Canon adopted by the Kentucky Supreme Court on September 15, 2005, SCR 4.300 Kentucky Code of Judicial Conduct—Canon 5(B)(1)(c).

These rules ensure that judicial candidates conduct campaigns that are consistent with the dignity and integrity of the legal profession and the judicial system.

In reviewing the following guidelines for judicial campaign conduct, the candidate should be guided by the overriding principle that all campaign conduct is to be compatible with and in furtherance of professional and judicial dignity and integrity.

CAMPAIGN THEMES: Avoiding the Pitfalls

1. Qualifications: Campaign material may include a discussion of the candidate's qualifications as well as those of an opponent. Any such discussion must be truthful and dignified. Campaign material should not include statements as to positions on contested legal or political issues, appeals to passion, fear or prejudice, or any other topic inappropriate for judicial campaign material.

2. Endorsements: Campaign material may include references to endorsements the candidate has received. However, care should be taken to avoid soliciting improper endorsements.

3. Issues that may come before the court; views on disputed legal or political issues: We believe that responsible judicial candidates should not take positions on highly divisive, "hot button" social and political issues. We acknowledge the Kentucky Supreme Court has set forth a minimum standard in its Commentary to Canon 5(B) (1) (C) of the Kentucky Code of Judicial Conduct. The Canon permits candidates to "inform the electorate of judicial and political philosophies and their thinking on points of law so long as the candidates make clear that they will decide matters on the facts and law as presented and developed in the cases that come before them." It is the position of the Louisville Bar Association that candidates for judicial offices should not make pronouncements that would give the impression that the candidate as judge would not keep an open mind.

Realistically, voters are not likely to appear before a particular judge whom they have supported in the course of an election. The integrity of the judicial system, therefore, depends upon all voters trusting each judge in the system will be fair and independent and that each will respectfully consider all arguments of the parties before making a decision.

4. Appeals to passion, fear, prejudice or other improper basis for voter action: The only basis on which a candidate should seek voter support is whether the candidate will be a capable and impartial judge. A candidate should not, either directly or indirectly, appeal to voters' fears, passions or prejudices. The candidate should not use appeals for or against any particular race, ethnic group, gender, religion, or similar group.

5. Incumbent judges: An incumbent judge should not give the impression that he or she is using the judicial office improperly to promote his or her candidacy. The judge should not take any judicial action designed to gain support for his or her campaign. At the same time, the judge is expected to discharge fully his or her judicial responsibilities, without interference by his or her campaign.

6. Misrepresentation: None of a judicial candidate's campaign material should knowingly make false statements concerning either the candidate or an opponent.

CAMPAIGN BOUNDARIES: Media and Appearances

1. Presentation of campaign material: Any media, including television and radio, newspaper and other publications, posters, signs and handbills, may be used in a campaign. The presentation of campaign materials should comport with the dignity and integrity of judicial office, and should not be done in a sensational or dramatic manner. Particular care should be taken in preparing campaign material for television, in light of the potential impact of that medium.

2. Appearances by the candidate; endorsements: A judicial candidate may appear before political, civic or other organizations, either alone or in the company

of other candidates. However, while merely appearing with other candidates is not improper, a judicial candidate may not endorse other candidates for either judicial or non-judicial office.

3. Appearances or support by others: Any person may appear in support of a judicial candidate, except the following: (a) another judicial candidate; (b) a judge in the Kentucky Court of Justice; (c) a non-lawyer who is a party to litigation which is or reasonably may be expected to come before the candidate so recently as to give the appearance of impropriety; and (d) a lawyer involved in such litigation.