

APPLICATION

The Application section establishes when the various Rules apply to a judge or judicial candidate.

I. Applicability of this Code

(A) All judges shall comply with this Code, except as provided below.

(B) Anyone, whether or not a lawyer, who is an officer of the judicial system, is a judge within the meaning of this Code. Judge is defined as: any judicial officer who performs the functions of a judge in the courts of this state including Kansas Supreme Court Justices, Court of Appeals Judges, District Judges, District Magistrate Judges, Senior Judges, Retired Judges who accept judicial assignments, and Municipal Court Judges.

(C) The term “judge” also includes Masters, Referees, Judicial Hearing Officers, Temporary Judges, Pro Tempore Judges, Part-time Judges, and Commissioners if they perform any functions of a judge in any court of this state.

(D) The term “judge” also includes a judicial candidate. Canon 4 applies to judicial candidates.

II. Full-time Judge

All provisions of this Code apply to judges serving full-time in a judicial capacity.

III. Retired Judge

(A) A retired judge under contract to the senior judge program shall be deemed a part-time judge.

(B) A retired judge not under contract to the senior judge program but who is recalled for specific cases or specific periods of service shall be deemed a part-time or occasional part-time judge, depending on the repeated or occasional nature of the service.

(C) A retired judge who does not accept judicial assignments is not required to comply with this Code.

IV. Part-time Judge

(A) A part-time judge is a judge who serves or expects to serve repeatedly on a part-time basis whether by election or under an appointment for a period of time or for each case heard.

(B) A part-time judge shall not practice law of the type which the judge is assigned to hear in the court on which the judge serves and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any proceeding related thereto.

(C) The following provisions of the Code are not applicable to part-time judges at any time:

- Rule 3.4 Appointments to Governmental Positions
- Rule 3.7 Participation in Educational, Religious, Charitable, Fraternal or Civic Organizations and Activities
- Rule 3.8 Appointments to Fiduciary Positions
- Rule 3.9 Service as Arbitrator or Mediator
- Rule 3.10 Practice of Law [unless specifically prohibited by the terms of an appointment]
- Rule 3.11 Financial, Business or Remunerative Activities
- Rule 3.15 Reporting Requirements [unless the judge derives at least \$15,000 of his or her annual income from the performance of judicial duties]
- Rule 4.1 Political and Campaign Activities of Judges and Judicial Candidates in General
- Rule 4.2 Political and Campaign Activities of Judicial Candidates in Public Elections
- Rule 4.3 Activities of Candidates for Appointment to Judicial Office
- Rule 4.4 Campaign Committees
- Rule 4.5 Activities of Judges Who Become Candidates for Non-judicial Office

(D) The following additional provisions of the Code are not applicable to part-time judges, except when serving as a judge:

- Rule 2.10(A) Judicial Statements on Pending and Impending Cases [no statements that would impair fair hearing]
- Rule 2.10(B) Judicial Statements on Pending and Impending Cases [no pledges, promises, or commitments inconsistent with the impartial performance of adjudicative duties]

V. Occasional Part-time Judge

(A) An occasional part-time judge is a judge who serves or expects to serve once or only sporadically [occasionally] under a separate appointment for each period of service or for each case heard.

(B) An occasional part-time judge shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

(C) In addition to the provisions of the Code not applicable to part-time judges at any time, the following additional provision of the Code is not applicable to an occasional part-time judge at any time:

- Rule 3.13 Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value

(D) The following additional provisions of the Code are not applicable to occasional part-time judges, except when serving as a judge:

- Rule 1.2 Promoting Confidence in the Judiciary
- Rule 2.4 External Influences on Judicial Conduct
- Rule 2.10 Judicial Statements on Pending and Impending Cases
- Rule 3.2 Appearances Before Governmental Bodies and Consultation with Government Officials

VI. Time for Compliance

A person to whom this Code becomes applicable shall comply immediately with its provisions except for Rule 3.8 (Appointments to Fiduciary Positions) and Rule 3.11 (Financial, Business or Remunerative Activities). These Rules shall be complied with as soon as reasonably possible. Compliance must occur within the period of one year.

[History: New rule effective March 1, 2009; Am. I(C) effective February 8, 2010.]

COMMENT

[1] The three categories of judicial service in other than a full-time capacity are necessarily defined in general terms because of the widely varying forms of judicial service. The determination of which category and, accordingly, which specific Code provisions apply to an individual judicial officer, depend upon the facts of the particular judicial service.

[2] When a person who has been a part-time judge is no longer a part-time judge (no longer accepts appointments) or whose service as an occasional part-time judge in a proceeding has concluded, that person may act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding related thereto only with the express consent of all parties pursuant to Rule 1.12(a) of the Kansas Rules of Professional Conduct (KRPC 1.12[a] [2008 Kan. Ct. R. Annot. 487]).

[3] If serving as a fiduciary when selected as judge, a new judge may, notwithstanding the prohibitions in Rule 3.8, continue to serve as fiduciary but only for that period of time necessary to avoid serious adverse consequences to the beneficiary of the fiduciary relationship and in no event longer than one year. Similarly, if engaged at the time of judicial selection in a business activity, a new judge may, notwithstanding the prohibitions in Rule 3.11, continue in that activity for a reasonable period but in no event longer than one year.