

**21-401. Political activity and elections for judges generally, and who are not currently running in either a partisan, non-partisan, or retention election.**

A. A judge may engage in political activity on behalf of the legal system, the administration of justice, measures to improve the law and as expressly authorized by the law or by this Code.

B. A judge may, unless prohibited by law, attend non-fundraising political gatherings.

C. A judge shall not, except as permitted by Rule 21-402 NMRA,  
(1) act as a leader or hold office in a political organization;  
(2) publicly endorse or publicly oppose  
(a) a candidate for public office, or  
(b) a ballot issue unrelated to the administration of justice or the legal system;  
(3) make speeches on behalf of a political organization;  
(4) solicit funds for, pay an assessment to, or make a contribution to a political organization or candidate;  
(5) knowingly, or with reckless disregard for the truth, make any false or misleading statement;  
(6) 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  
(7) 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.

D. A metropolitan, district, or appellate court judge shall not  
(1) purchase tickets for or attend dinners or other fundraising events sponsored by a political organization or a candidate for public office; or  
(2) publicly identify himself or herself as a candidate of a political organization.

E. A judge shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge, any activities prohibited under this Code.

[Adopted by Supreme Court Order No. 11-8300-045, effective January 1, 2012; as amended by Supreme Court Order No. 15-8300-013, effective December 31, 2015.]

**Committee commentary. —**

**Participation in Political Activities**

[1] Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. Although judges and judicial candidates may register to vote as members of a political party, they are prohibited from assuming leadership roles in political organizations, such as ward chair or delegate to a party convention. *See* Subparagraph (C)(1) of this rule pertaining to judges and Rule 402(A)(2)(b) NMRA pertaining to judicial candidates. Non-candidates may attend political events, but must be conscious that a judge may abuse the prestige of judicial office by being present at the event and should consider whether the interests of the judiciary would best be served by not attending. A judge should not attend events organized for the sole purpose of raising money for a political campaign.

[2] Judges under Subparagraphs (C)(2) and (C)(3) of this rule, and judicial candidates

as provided under Rule 402(A)(2)(b), are prohibited from publicly endorsing or opposing candidates for public office or making speeches on behalf of political organizations, to prevent them from lending the prestige of judicial office to advance the interests of others. *See* Rule 21-103 NMRA. These rules do not prohibit candidates from campaigning on their own behalf. *See* Rule 21-402(C)(1) NMRA.

[3] Although members of the families of judges and judicial candidates are free to engage in their own political activity, including running for public office, there is no "family exception" to the prohibition in Subparagraph (C)(2)(a) of this rule or Rule 402(A)(2)(b) NMRA, against a judge or judicial candidate publicly endorsing candidates for public office. A judge or judicial candidate must not become involved in, or publicly associated with, a family member's political activity or campaign for public office. To avoid public misunderstanding, judges and judicial candidates should take, and should urge members of their families to take, reasonable steps to avoid any implication that the judge or judicial candidate endorse any family member's candidacy or other political activity.

[4] Judges and judicial candidates retain the right to participate in the political process as voters in all local, state, and government elections.

[5] Subparagraph (C)(7) of this rule and Rule 21-402(A)(2)(b) make applicable to both judges and judicial candidates the prohibition relating to pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

[6] 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. Pledges, promises, or commitments must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a judge or judicial candidate should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal views.

[7] The Code does not prohibit a judge in the exercise of administrative functions from engaging in planning and other official activities with members of the executive and legislative branches of government. *See* Rule 21-302 NMRA.

[8] A judge is prohibited from publicly endorsing a judicial candidate or candidate for public office, e.g., adding the judge's name to a list of supporters or publicly recommending the judge's election or appointment. Private endorsements, however, are permitted. A judge or judicial candidate is not prohibited from privately expressing the judge's or judicial candidate's views on judicial candidates or other candidates for public office.

[9] Paragraph D of this rule exempts magistrate, municipal, and probate judges from the prohibitions identified in this paragraph.

[Adopted by Supreme Court Order No. 11-8300-045, effective January 1, 2012; as amended by Supreme Court Order No. 15-8300-013, effective December 31, 2015.]