

2026 Judicial Elections Webinar

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[4] Avoiding Ethical Mistakes in Campaign Activities

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Session Materials

- › PowerPoint Presentation2
- › [Michigan Code of Judicial Conduct](#)
- › [SBM Ethics Opinion Repository](#)
- › [MJI Benchbook - Michigan Code of Judicial Conduct- Annotated](#)
- › [SBM Ethics Helpline](#)

AVOIDING ETHICAL MISTAKES IN CAMPAIGN ACTIVITIES

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POLITICS

(WHETHER OR NOT YOU ARE RUNNING FOR OFFICE)



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POLL 1

It's the campaign season. Judge Starr's good friend, Publius, is running for a nonpartisan position on the city council. Judge Starr thinks Publius will do a great job, so hits the stump for her.

Judge Starr:

- A. Is on solid ethical ground, because she has a First Amendment right to support the candidate of her choice.
- B. Is on solid ethical ground, because the position for which she is stumping is nonpartisan.
- C. Is on solid *un*ethical ground, because the position for which she is stumping is non-judicial.



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CANON 7(A)(1)

A judge should *not*:

- Hold office in a political party [\[Canon 7\(A\)\(1\)\(a\)\]](#)
- Make speeches on behalf of
 - A political party [\[Canon 7\(A\)\(1\)\(b\)\]](#)
 - A non-judicial candidate [\[Canon 7\(A\)\(1\)\(b\)\]](#)
- Publicly endorse a non-judicial candidate [\[Canon 7\(A\)\(1\)\(b\)\]](#)

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Judge Ready hates the work it takes to host a fundraiser for himself. He is excited when he is invited to join a fundraiser being hosted by a popular candidate for city council.

What could possibly be wrong with this?

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POLL 2

Judge Genial is seeking reelection to her circuit court seat. While speaking at a public event, a member of the audience asks her opinion of the lawlessness of the current Michigan Supreme Court, as well as of certain ethical complaints about justices of the United States Supreme Court.

Judge Genial:

- A. Should speak her mind freely. She still has First Amendment rights even though she's a judge.
- B. Should avoid taking a position on any controversial issue outside her own campaign.

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CANON 7(A)(2)

A judge *may*:

- Attend political gatherings and non-judicial campaign events [[Canon 7\(A\)\(2\)\(a\)](#); [JI-030](#)]
- Speak to such gatherings
 - On his/her own behalf [[Canon 7\(A\)\(2\)\(b\)](#)]
 - On behalf of other *judicial* candidates [[Canon 7\(A\)\(2\)\(b\)](#)]
- Contribute to a political party [[Canon 7\(A\)\(2\)\(c\)](#)]

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MORE POLITICS

- May participate in debates and forums [[JI-027](#)]
- May support bond issues [[JI-116](#)]
- May criticize legal opinions [[C-227](#)]
- All advertising must be truthful; no misrepresentations [[JI-120](#)]
- *In re Chmura (On Remand)*, 464 Mich 58 (2001)

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PUBLIC STATEMENTS

Just because you *can* say it doesn't mean you *should*.
The First Amendment is NOT the standard!

“A judge must . . . accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.” [\[Canon 2\(A\)\]](#)

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TIMING ISN'T “EVERYTHING,” BUT IT’S REALLY
IMPORTANT!

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POLL 3

Judge Ready plans to run for reelection. Before February 15 of the election year, he puts \$5000 of his own money into his campaign, then uses the money to buy yard signs and radio spots.

Judge Ready:

- A. Violated the campaign laws by spending money and campaigning before February 15.
- B. Did not violate any laws so long as he only spent his own money and campaigned himself.

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CONTRIBUTION TIMELINE

First day for accepting contributions

- From candidate, anytime [JI-074]
- Unsolicited, anytime until election [JI-074]
- Solicited, Feb. 15 and later [Canon 7(B)(2)(d)]
- But not before seat legally exists [JI-016]



Last day for accepting contributions

- Election Day (November 3) [Canon 7(B)(2)(d)]

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PRE-FEBRUARY 15

- May form a planning committee [JI-081]
- May form a candidate committee [JI-074]
- *Candidate* may engage in campaign activities [JI-081]

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WHAT IS THE ROLE OF THE CAMPAIGN COMMITTEE?

- Secure and manage expenditures of funds for the campaign
- Obtain public statements of support (including support from lawyers) for the candidacy
- Solicit and accept campaign contribution from the public, including lawyers, as permitted by law

Canon 7(B)(2)(b)(c)

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PRE-FEBRUARY 15 - continued

- *Candidate* may contribute and spend own money [JI-074]
- May **NOT** send out invitations to a fundraiser [JI-078]
- Committee can *accept* **unsolicited** funds, but not spend them until February 15th [JI-074]

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FUND RAISING
FUND SPENDING

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CAMPAIGN COMMITTEE ISSUES

- **NO** judges on the committee [JI-014]
- **NO** judge as committee treasurer [JI-014]
- **NO** family members as treasurer [JI-090]
 - However, family members may be on committee

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POLL 4

Judge Starr faces a tough opponent in this election and knows it is going to be expensive to finance the campaign. She considers herself fortunate, because she has a number of wealthy lawyer friends. She asks her campaign treasurer to ask those lawyers to contribute \$1000 each to her campaign. Her campaign manager does so and raises \$20,000 that is instrumental to beating off the challenger.

Judge Starr:

- A. Violated the canons by having her campaign solicit more than \$100 from each lawyer.
- B. Complied with the canons even though she had her campaign solicit more than \$100 from each lawyer.
- C. Complied with the canons' rule with respect to soliciting from lawyers, but still may have created an appearance of impropriety by her campaign's solicitation.

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FUNDRAISING

- Maximum donations
 - Candidate, unlimited
 - Candidate's immediate family, unlimited
 - All others, per statute MCL 169.252

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FUNDRAISING

- Limit on solicitation of maximum of \$100 from lawyers removed. Canon 7(B)(2)(c):
- Such committees may solicit and accept campaign contributions from the public, including lawyers, as permitted by law.



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FUNDRAISING DON'TS

- Judges may **NOT** personally solicit or accept funds [Canon 7(B)(2)(a)]
 - Court personnel also may not solicit or accept contributions, for judge or any other candidate
- Judges may send thank you note to contributors [Canon 7(B)(2)(a)]
- Judges may **NOT** sell fund-raiser tickets [Canon 7(B)(3)]
 - Court personnel also may not do so
- No cash contributions greater than \$20 [MCL 169.241]
- Do **NOT** accept money after the election [Canon 7(B)(2)(d)]
 - Check mailed before the election but received after is OK [JI-005]

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POLL 5

Judge Popula had a successful fundraising event and raised more money than she plans to use in her campaign. It occurs to her that she can make good use of the excess money and further enhance her public image if she donates the money to a shelter for battered women.

Judge Popula:

- A. Violated the Michigan election law.
- B. Made a campaign expenditure that is permitted by the Michigan election law.

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SPENDING DON'TS (& ONE DO)

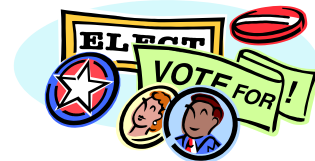
- **NO** private benefit from campaign funds [Canon 7(B)(2)(e)]
- **NO** campaign funds to pay for election parties [JI-060]
- **NO** paying for endorsements [Canon7(B)(2)(g)]
- **DO** repay creditors before yourself [JI-007]



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CAMPAIGN ACTIVITIES

WHO, WHAT, WHEN AND WHERE
(WE KNOW WHY!)



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JUDGE = JUDICIAL SYSTEM

Michigan Code of Judicial Conduct, Canon 1:

A judge should participate in establishing, maintaining, and enforcing, and should personally observe, **high standards of conduct** so that the integrity and independence of the judiciary may be preserved.



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POLL 6

Judge Genial is up for reelection. She has a great reputation around the courthouse and courthouse employees would like to see her be reelected. To that end they volunteer to help Judge Genial with her campaign by speaking highly of her to people who come to the courthouse, helping her prepare and distribute flyers, and staffing her fundraisers.

Judge Genial:

- A. Should gratefully accept these offers of help.
- B. Should tread carefully even though this help has been volunteered to her.

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POLL 7

Out of gratitude for the court staff's desire to help her, Judge Genial gives staff free tickets to her most lavish fundraiser. She ensures that each staff member has enough tickets to bring family and friends if they like.

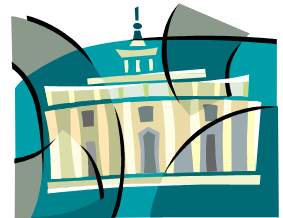
This is:

- A. A generous act and exactly the sort of thing that cause court staff to think so highly of Judge Genial.
- B. Impermissibly, though perhaps unintentionally, coercive.

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AT COURT

- Staff
 - Can't solicit them or coerce them to assist
- Staff
 - Can't use court resources for campaign purposes
- Jurors
 - Can't feed them personally – must feed from court funds
 - **NO** use of jury records for campaign [\[JI-104\]](#)



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AT HOME



- Cannot have your family or friends do that which you would be prohibited from doing
- Remember, as the candidate you are responsible for many of the things done and said in your name
 - Your children need to understand this as well as your spouse, parents, friends and others

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POLL 8

There's nothing Judge Ready likes more during campaign season than going to political events, talking with like-minded people, shaking a few hands, and getting his picture taken.

At one event, Judge Ready shook the hand of the candidate for mayor, to wish him well. Someone took a picture just at that moment. Later, the mayor used that picture in one of his campaign flyers. Judge Ready first learned about the picture when a constituent asked him whether the picture meant he supported the candidate for mayor.

Judge Ready:

- A. Need not worry about the picture, because he had nothing to do with its being taken or used.
- B. Should alert the candidate for mayor that Judge Ready may not endorse a non-judicial candidate, and ask that the candidate pull the flyer and not use the picture any further.

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PHOTO OPS



- Try to ensure that you know who is taking your photo – and why
 - These days *everything* is a photo op
 - Do not allow your photo to be used to endorse a candidate
- Let other local candidates know the rules that apply to you
 - They don't necessarily have the same rules

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CAMPAIGN STAFF/SOCIAL MEDIA

Campaign material formulated by political consultant, placed on a link to a YouTube campaign video, asked voters to “reelect” Florida judge.

- Judge had been appointed, not elected.
- Judge received a public reprimand for ethical violations related to misrepresentation.
- “This case stands as a warning to all judicial candidates . . . You will be held responsible and accountable for the actions of your campaign consultants including the way they choose to use new technology like the social media.”

Browning, *Why Can't We Be Friends? Judges' Use of Social Media*, 68 U Miami L Rev 487, 497 (2014) (quotation marks omitted)

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CAMPAIGN STATEMENTS – THE GUIDING PRINCIPLE

A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments about conduct in office that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

[Canon 7(B)(1)(c)]

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LITERATURE

- Hyperbole v Exaggeration

“Hardest working judge in the State”

v

“My opponent has been grieved more times than any other lawyer in the state”

- If you say it, you’d better be able to back it up



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WORDS, WORDS, WORDS . . .

“Strict sentencing”

v

“I will throw every drunk driver behind bars”

- Discretion is the greater part of valor . . .

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BUT YOUR CHALLENGER CROSSES THE LINE

- Provide truthful, fact-based response
- Avoid getting into a slugfest in the press
 - Consider a well-reasoned letter to the editor rather than relying on a reporter to communicate your response
- Don't get roped into “retrying” a judicial decision you've made



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MISCELLANEOUS

THE DEVIL IS IN THE DETAILS



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MISCELLANEOUS CAMPAIGN ISSUES

- Judge is not automatically disqualified because his/her campaign manager or opposition candidate is attorney of record in a case [JI-079]
 - But at a minimum, disclose!
- Judge is not per se disqualified from presiding over the case in which one of the advocates is an announced candidate for that judge's seat. [JI-138]
- **NO** distribution of non-judicial materials at campaign events [JI-093]

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AFTER A SUCCESSFUL CAMPAIGN

Reelected incumbents must file
a new oath of office



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AFTER ALL CAMPAIGNS

- Not later than January 1 following the election –
 - Return all excess contributions to donors thereof, or
 - Donate all excess contributions to State Bar client security fund

[Canon 7(B)(2)(f)]

and

- Close campaign account

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WHEN IN DOUBT – STAY ON THE HIGH ROAD

“The law often permits
what honor forbids.”

Spartacus, 1760

Bernard Joseph Saurin



Questions?