

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted Part II of its One Hundred Seventy-Eighth Report to the Court of Appeals, recommending recission of Title 16 of the Maryland Rules of Procedure and replacement of it by new Title 16 (Court Administration), Title 18 (Judges and Judicial Appointees), and Title 19 (Attorneys), and transmitting by Part II proposed new Title 18.

The Committee's Part II of its One Hundred Seventy-Eighth Report and the proposed new rules are set forth below.

Interested persons are asked to consider Part II of the Committee's Report and proposed rules changes and to forward on or before August 12, 2013 any written comments they may wish to make to:

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adopted by the Court in 2010. The only textual changes are ones of style. The word "attorney" has been substituted for "lawyer" and, when appropriate, "individual" has been substituted for "person," to conform with the terminology in other Rules, and cross-references have been modified to conform with style and renumbering changes.

With some modifications, the current Code of Judicial Conduct follows the format of the 2007 version of the American Bar Association (ABA) Model Code which, in contrast to earlier versions, states the enforceable ethical commands in the form of rules rather than canons supplemented by comments. The entire Code, with its 36 internal rules, was adopted as Maryland Rule 16-813, which creates the anomaly of one Rule adopting 36 other Rules.

Because each of the internal rules is a self-contained command that has the force of law, the Rules Committee believes that each should be stated as a separate Maryland Rule but that, for convenience, the numbering of those Rules should be generally consistent with the numbering system of the ABA Model Code. To that end, the Code comprises a Chapter of Title 18 rather than just one Rule, but each Rule in the Chapter matches the rule number of the ABA Model Code. Thus, for example, ABA Model Code Rule 1.1 (Compliance with the Law) appears as Maryland Rule 18-101.1 (Compliance with the Law) and, in its caption, refers to ABA Rule 1.1, and ABA Model Code Rule 2.2 (Impartiality and Fairness) appears as Maryland Rule 18-102.2 (Impartiality and Fairness) and, in its caption, refers to ABA Rule 2.2. The Chairs of the Judicial Ethics Committee and the Commission on Judicial Disabilities have concurred in that approach.

Chapter 200: Maryland Code of Conduct for Judicial Appointees

Chapter 200 consists of the current Code of Conduct for Judicial Appointees adopted by the Court in 2010 as Maryland Rule 16-814. It is patterned on the Code of Judicial Conduct. As with the Code of Judicial Conduct, the Rules Committee proposes to put this Code in a separate chapter and make each of the internal rules separate Maryland Rules, using a numbering system that parallels that of the Code of Judicial Conduct. The only changes are ones of style and adjusting cross-references.

Chapter 300: Judicial Ethics Committee

The structure, duties, and operations of the Judicial Ethics Committee are currently found in Rule 16-812.1. The Rules Committee proposes to separate those provisions into eight Rules

that comprise Chapter 300. The structure and duties of the Committee are unchanged. Proposed Rule 18-307, dealing with opinions and letters of advice, modifies the current Rule to reflect more clearly what the Judicial Ethics Committee actually does. Chapter 300 has been reviewed by the former and present Chairs of that Committee, who have approved the changes.

Chapter 400: Judicial Discipline

Chapter 400 reorganizes the Rules dealing with the Commission on Judicial Disabilities, now found in Rules 16-803 through 16-810. Most of the changes are either ones of style or are intended to clarify ambiguities in the current Rules and conform the Rules to actual practice.

New language in Rule 18-404, dealing with complaints and initial review by Investigative Counsel, reflect more clearly how complaints actually are handled. The current Rules refer to complaints and formal complaints, the latter being under oath, but provide that, unless Investigative Counsel decides to act on his or her own initiative, only formal complaints will be considered. Rule 18-404 eliminates the notion of formal complaints and provides instead that, in order to be considered, a complaint must be under oath and that, if a written allegation of misconduct or disability not under oath is filed, Investigative Counsel must inform the complainant of the requirement of an oath and give the complainant an opportunity to correct the omission.

In conformance with amendments made to other Rules on the same subject, Rule 18-406 (b) (3) permits any person named or depicted in an item specified in a subpoena, rather than just the person named in or served with the subpoena, to seek a protective order.

Also in conformance with changes made to other Rules, Rule 18-408 (d) eliminates the requirement of publishing notices of hearings in the *Maryland Register* but requires, instead, posting of notice on the Judiciary website, and subsection (i) (1) of that Rule clarifies that the judge has the right to have witnesses subpoenaed.

The Chapter 400 Rules have been reviewed and approved by the Chair of the Judicial Disabilities Commission and Investigative Counsel.

Chapter 500: Marriage Ceremonies

The Rules in Chapter 500 are derived from current Rules 16-821 through 16-824. With one exception, the changes are ones of style. In Rule 18-502, dealing with the scheduling of marriage ceremonies, the Rules Committee proposes to add that a ceremony may not be performed in a courthouse on a court holiday or when the courthouse is otherwise closed without the approval of the administrative judge.

Chapter 600: Judicial Education

Chapter 600 places into the Maryland Rules provisions dealing with educational programs for judges and masters that are now scattered in a number of Administrative Orders. Those provisions have been reorganized and updated and reflect the policy that programs of judicial education, even if conducted by other units of the Judiciary, should be coordinated and centered in the Maryland Judicial Institute. The Rules were drafted in collaboration with the Chair of the Judicial Institute Board of Directors and the Executive Director of the Institute.

Rule 18-601 provides for the Judicial Institute and its structure and duties. It is derived from an Administrative Order dated June 30, 2011. Rule 18-602 states the requirement that incumbent and retired judges approved for recall attend a minimum of 12 hours of judicial education courses annually, either as a student or as an instructor. Rule 18-603 requires the Judicial Institute to develop and conduct the annual education program. Rule 18-604 directs the Institute to develop and conduct additional specialized judicial education programs - the new trial judge orientation program, the family law education program, the business and technology program, and the ASTAR science program.

Chapter 700: Miscellaneous Provisions

Rule 18-701 updates current Rule 16-104 dealing with judicial leave by eliminating an obsolete provision and makes style changes. Rule 18-702 is derived from current Rule 16-105 dealing with annual reports required by circuit court judges. Rule 18-703 makes style changes to current Rule 16-815 dealing with annual financial statements required of judges. It clarifies some ambiguities in the current Rule concerning what happens when a judge fails to file timely a required statement. Rule 18-704 makes similar changes to current Rule 16-816 dealing with annual financial statements required of judicial appointees.

For the further guidance of the Court and the public, following each proposed new Rule and proposed amendment to an

existing Rule is a Reporter's note describing in further detail the reasons for the proposal. *We caution that the Reporter's notes are not part of the Rules, have not been debated or approved by the Committee, and are not to be regarded as any kind of official comment or interpretation.* They are included solely to assist the Court in understanding some of the reasons for the proposed changes.

Respectfully submitted,

Alan M. Wilner
Chair

AMW:cdc

cc: Hon. Robert A. Zarnoch
Bessie M. Decker, Clerk

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

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TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

GENERAL PROVISIONS, SCOPE, DEFINITIONS, AND PREAMBLE OF THE CODE

Rule 18-100.1. GENERAL PROVISIONS

(a) Source and Structure of the Code

The substantive provisions and much of the structure of this Code are based in large part on the 2007 Model Code of Judicial Conduct proposed by the American Bar Association (ABA Model Code), although some of those provisions and some of the style and organization of this Code differ from the ABA Model Code. Most of the differences are necessary for consistency with the Maryland Constitution, Maryland statutes, and other Maryland Rules.

Committee note: This Code is divided into five parts: an introductory part consisting of Rules 18-100.1 through 18-100.4; a part consisting of Rules 18-101.1 through 18-101.3 that deal with judicial integrity and the avoidance of impropriety; a part consisting of Rules 18-102.1 through 18-102.16 that deal with the performance of judicial duties; a part consisting of Rules 18-103.1 through 18-103.15 that deal generally with extrajudicial activities; and a part consisting of Rules 18-104.1 through 18-104.6 that deal with political activity.

This structure conforms generally to that of the ABA Model Code but differs from the ABA Model Code in the following principal respects:

(1) This Code assigns each Rule of Judicial Conduct a Maryland Rule number but, so that the parallel will be obvious, the Maryland Rule numbering conforms to that of the ABA Model Code. Thus, for example, ABA Rule 1.1 (Compliance with the Law) is Maryland Rule 18-101.1, which is also captioned "Compliance with the Law."

(2) This Code consolidates and reorganizes the Preamble, Scope, Application, and Terminology provisions of the ABA Model Code into Rules 18-100.1 through 18-100.4. Although the Preamble is aspirational in nature, the Scope, Application, and Terminology provisions are more substantive and should be in the form of Rules.

(3) The 2007 ABA Code proposed a new and much different structure and format. The enforceable ethical commands in previous Codes were stated in the form of specific Canons, to which were appended interpretative Comments. The enforceable ethical commands in the 2007 ABA Code are stated in the form of Rules that are supplemented by interpretative Comments and headed by very brief and general statements denominated as Canons.

The 2007 ABA Code acknowledges that a judge may be disciplined only for violating a Rule, but it regards the Canons as providing guidance in interpreting the Rules. That guidance, however, is more precisely the function of the Comments under each Rule. The Canons themselves appear to be merely descriptive of the subject matter of the Rules. To avoid any ambiguity over the significance of the Canons and to make clear that attention must be focused on the Rules and the Comments, this Code eliminates the Canons and uses instead a descriptive statement of the Rules in each part.

(4) The 2007 ABA Code contains provisions regarding political activity and financial disclosure by judges. This Code reorganizes those provisions and conforms them to the different methods by which judges in Maryland are selected and retained and to requirements enacted by the Maryland General Assembly or adopted by the Court of Appeals. The intent is to make more clear to each judge and candidate for judicial office what is allowed and what is not allowed.

(b) Interpretive Provisions

(1) Discipline

(A) A judge may be disciplined only for violating a Rule.

If a Rule contains a permissive term, such as "may" or "should" the conduct being addressed is committed to the personal and professional discretion of the judge or candidate in question, and no disciplinary action should be taken for action or inaction within the bounds of that discretion.

(B) Although the text of the Rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. Whether discipline should be imposed should be determined through a reasonable and reasoned application of the Rules and should depend upon factors such as the seriousness of the transgression, the facts and circumstances at the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the judicial system or others.

(2) Accompanying Comments

(A) The Comments that accompany the Rules contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct.

(B) Comments neither add to nor subtract from the binding obligations set forth in the Rules. Therefore, when a Comment contains the term "must," it does not mean that the Comment itself is binding or enforceable but merely signifies that the Rule in question, properly understood, is obligatory as to the conduct at issue.

(C) The Comments also may identify aspirational goals for judges. To implement fully the principles of this Code, judges should hold themselves to the highest ethical standards and seek to achieve those aspirational goals, thereby enhancing the dignity of the judicial office.

(3) Rules of Reason

The Rules in this Code are rules of reason that should be applied in a manner that is consistent with Constitutional requirements, statutes, other Court Rules, and decisional law and that gives due regard for all relevant circumstances. The Rules should not be interpreted to impinge upon the essential independence of judges in making judicial decisions.

(4) Collateral Effect

This Code is not designed or intended as a basis for civil or criminal liability. It is also not intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

(5) Judicial Ethics Committee Opinion

In interpreting this Code, attention should be given to the opinions of the Judicial Ethics Committee and, if appropriate, that Committee should be asked for a written letter of advice or a binding opinion.

Cross reference: See Rule 18-308, protecting a judge from a charge of violating an ethics provision in this Code if the judge has requested and received an opinion or advice letter from the Committee and is in compliance with that opinion or advice letter.

Source: This Rule is new but is derived from paragraphs A-101 through A-108 of former Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-100.1 is derived from paragraphs A-101 through A-108 of former Rule 16-813 without substantive change.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

GENERAL PROVISIONS, SCOPE, DEFINITIONS, AND PREAMBLE OF THE CODE

Rule 18-100.2. SCOPE

The Rules in this Chapter apply to:

(a) Incumbent judges of the Court of Appeals, the Court of Special Appeals, the Circuit Courts, and the District Court;

(b) Except as otherwise expressly provided in specific Rules, incumbent judges of the Orphans' Courts;

(c) Except as otherwise expressly provided in specific Rules, retired judges who are approved for recall for temporary service pursuant to Code, Courts Article, §1-302; and

(d) Candidates and applicants for judicial office as defined in Rule 18-104.1, to the extent that a Rule expressly applies to such candidates or applicants.

Source: This Rule is derived from paragraph A-109 of former Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-100.2 is derived from paragraph A-109 of former Rule 16-813. The Rules Committee recommends replacing a reference to "Maryland Constitution, Article IV, §3A" with a reference to "Code, Courts Article, §1-302," because the procedure for recall and assignment of former judges is set out in the statutory provision.

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GENERAL PROVISIONS, SCOPE, DEFINITIONS, AND PREAMBLE OF THE CODE

Rule 18-100.3. DEFINITIONS

In the Rules in this Chapter, the following definitions apply except as otherwise expressly provided or as necessary implication requires:

(a) Domestic Partner

"Domestic partner" means an individual with whom another individual maintains a household and an intimate relationship, other than an individual to whom he or she is legally married.

(b) Fiduciary

"Fiduciary" includes relationships such as administrator, attorney-in-fact by power of attorney, personal representative, and trustee.

(c) Gift

(1) Except as provided in subsection (c)(2) of this Rule, "gift" means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration.

(2) "Gift" does not include the solicitation, acceptance, receipt, or regulation of a political contribution that is regulated in accordance with:

(A) the Election Law Article of the Maryland Code; or

(B) any other Maryland law regulating the conduct of elections or the receipt of political contributions.

(d) Impartial

"Impartial," "impartiality," and "impartially" mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge.

(e) Impending Matter

"Impending matter" means a matter that is imminent or expected to occur in the near future.

(f) Independence

"Independence" means a judge's freedom from influence or controls other than those established by law.

(g) Knowingly

"Knowingly," "knowledge," "known," and "knows" mean actual knowledge of the fact in question. An individual's knowledge may be inferred from circumstances.

(h) Member of Judge's or Candidate's Family

"Member of a [judge's] [candidate's] family" means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or individual with whom the judge or candidate maintains a close familial relationship.

(i) Member of Judge's or Candidate's Household

"Member of [judge's] [candidate's] household" means:

- (1) if sharing the judge's or candidate's legal residence,

the judge's or candidate's spouse, domestic partner, child, ward, financially dependent parent, or other financially dependent relative; or

(2) the judge's or candidate's spouse, child, ward, parent, or other relative, over whose financial affairs the judge or candidate has legal or actual control.

(j) Pending Matter

"Pending matter" means a matter that has commenced. A matter continues to be pending through any appellate process until final disposition.

(k) Significant Financial Interest

(1) "Significant financial interest" means ownership of:

(A) an interest as the result of which the owner has received within the past three years, is currently receiving, or in the future is entitled to receive, more than \$1,000 per year;

(B) more than 3% of a business entity; or

(C) a security of any kind that represents, or is convertible into, more than 3% of a business entity.

(2) In applying this definition:

(A) ownership of an interest in a mutual or common investment fund that holds a security is not ownership of the security unless:

(i) the judge participates in the management of the fund;

or

(ii) there is before the judge a pending matter or an

impending matter that could substantially affect the value of the interest;

(B) ownership of a government security is not a significant financial interest in the issuer unless there is before the judge a pending matter or an impending matter that could substantially affect the value of the security;

(C) neither a deposit in a financial institution nor a proprietary interest such as or similar to that of a depositor in a mutual savings association, member of a credit union, or policy holder in a mutual insurance company is a significant financial interest in the entity unless there is before the judge a pending matter or an impending matter that could substantially affect the value of the deposit or interest; and

(D) an ownership interest in a security held by a charitable, civic, educational, fraternal, sororal, or religious organization will not be imputed to a judge merely because the judge or the judge's child, parent, or spouse is an adviser to or director or officer of, or otherwise actively participates in, the organization.

(1) Third Degree of Relationship

"Third degree of relationship" includes the following individuals: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece.

Source: This Rule is derived from paragraphs B-101 through B-112 of former Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-100.3 is derived from paragraphs B-101 through B-112 of former Rule 16-813 without substantive change.

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GENERAL PROVISIONS, SCOPE, DEFINITIONS, AND PREAMBLE OF THE CODE

Rule 18-100.4. PREAMBLE

(a) Importance of Independent, Fair, Competent, Impartial
Judiciary

An independent, fair, competent, and impartial judiciary composed of men and women of integrity who will interpret and apply the law that governs our society is indispensable to our system of justice. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law.

Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

(b) Dignity of Judicial Office

Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

(c) Function of Code of Judicial Conduct

This Code of Judicial Conduct establishes standards for the ethical conduct of judges and judicial candidates. It is not intended as an exhaustive guide for the conduct of judges and judicial candidates, who are governed in their judicial and personal conduct by general ethical standards as well as by this Code. This Code is intended, however, to provide guidance and assist judges in maintaining the highest standards of judicial and personal conduct, and to provide a basis for regulating their conduct through disciplinary agencies.

Source: This Rule is derived from paragraphs C-101 through C-103 of former Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-100.4 is derived from paragraphs C-101 through C-103 of former Rule 16-813 without substantive change.

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PART 1 - RULES GOVERNING JUDICIAL INTEGRITY AND
THE AVOIDANCE OF IMPROPRIETY

Rule 18-101.1. COMPLIANCE WITH THE LAW (ABA RULE 1.1)

A judge shall comply with the law, including this Code of
Judicial Conduct.

Source: This Rule is derived from former Rule 1.1 of Rule 16-813
(2013).

REPORTER'S NOTE

Rule 18-101.1 is taken verbatim from former Rule 1.1 of Rule
16-813. The overall structure of the revised Rules is to give
each a separate number rather than number them as Rules within
one large Rule, which is the structure of the former Rules.

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Rule 18-101.2. PROMOTING CONFIDENCE IN THE JUDICIARY (ABA RULE 1.2)

(a) Promoting Public Confidence

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.

(b) Avoiding Perception of Impropriety

A judge shall avoid conduct that would create in reasonable minds a perception of impropriety.

COMMENT

[1] Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.

[2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other individuals and must accept the restrictions imposed by this Code.

[3] Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the Rule is necessarily cast in general terms.

[4] Judges should participate in activities that promote ethical conduct among judges and attorneys, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

[5] Actual improprieties include violations of law, court rules, and this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with competence, impartiality, and integrity is impaired.

[6] A judge should initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judge must act in a manner consistent with this Code.

Source: This Rule is derived from former Rule 1.2 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-101.2 is derived from former Rule 1.2 of Rule 16-813 with style changes in the Comment.

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THE AVOIDANCE OF IMPROPRIETY

Rule 18-101.3. AVOIDING LENDING THE PRESTIGE OF JUDICIAL OFFICE
(ABA RULE 1.3)

A judge shall not lend the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

COMMENT

[1] It is improper for a judge to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to his or her judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use a judicial letterhead to gain an advantage in conducting his or her personal business.

[2] A judge may provide a reference or recommendation for an individual based upon the judge's personal knowledge. The judge may use an official letterhead if the judge indicates that the reference is personal and if there is no likelihood that the use of the letterhead would reasonably be perceived as an attempt to exert pressure by reason of the judicial office.

[3] Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees and by responding to inquiries from such entities concerning the professional qualifications of an individual being considered for judicial office.

Cross reference: See Rule 18-104.3.

[4] Special considerations arise when judges write or contribute to publications of for-profit entities, whether related or unrelated to the law. A judge should not permit

anyone associated with the publication of such materials to exploit the judge's office in a manner that violates this Rule or other applicable law. In contracts for publication of a judge's writing, the judge should retain sufficient control over the advertising to avoid such exploitation.

Source: This Rule is derived from former Rule 1.3 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-101.3 is derived from former Rule 1.3 of Rule 16-813 with style changes in the Comment.

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PART 2 - RULES GOVERNING THE PERFORMANCE OF JUDICIAL DUTIES

Rule 18-102.1. GIVING PRECEDENCE TO THE DUTIES OF JUDICIAL OFFICE (ABA RULE 2.1)

The duties of judicial office, as prescribed by law, shall take precedence over a judge's personal and extrajudicial activities.

COMMENT

[1] To ensure that judges are available to fulfill their judicial duties, judges must conduct their personal and extrajudicial activities to minimize the risk of conflicts that would result in frequent disqualification.

[2] Although it is not a duty of judicial office unless prescribed by law, judges are encouraged to participate in activities that promote public understanding of and confidence in the justice system.

[3] With respect to time devoted to personal and extrajudicial activities, this Rule must be construed in a reasonable manner. Family obligations, illnesses, emergencies, and permissible extrajudicial activities may require a judge's immediate attention. Attending to those obligations and situations, temporary in nature, is not prohibited by this Rule and should be dealt with in accordance with applicable vacation, sick leave, and administrative leave policies.

Source: This Rule is derived from former Rule 2.1 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.1 is taken verbatim from former Rule 2.1 of Rule 16-813.

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Rule 18-102.2. IMPARTIALITY AND FAIRNESS (ABA RULE 2.2)

(a) A judge shall uphold and apply the law and shall perform all duties of judicial office impartially and fairly.

(b) A judge may make reasonable efforts, consistent with the Maryland Rules and other law, to facilitate the ability of all litigants, including self-represented litigants, to be fairly heard.

COMMENT

[1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

[3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.

Cross reference: See Rule 18-102.6 Comment [2].

Source: This Rule is derived in part from former Rule 2.2 of Rule 16-813 (2013) and is in part new.

REPORTER'S NOTE

Section (a) of Rule 18-102.2 is taken verbatim from former Rule 2.2 of Rule 16-813.

Section (b) is new. Its addition, together with the deletion of Comment [4] [pertaining to self-represented litigants], is based upon a recommendation made by the Access to Justice Commission.

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Rule 18-102.3. BIAS, PREJUDICE, AND HARASSMENT (ABA RULE 2.3)

(a) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(b) A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation. A judge shall require attorneys in proceedings before the court and court staff, court officials, and others subject to the judge's direction and control to refrain from similar conduct.

(c) The restrictions of section (b) of this Rule do not preclude judges or attorneys from making legitimate references to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

COMMENT

[1] A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

[2] A judge must avoid conduct that may reasonably be perceived as prejudiced or biased. Examples of manifestations of bias or prejudice include epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes;

threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and attorneys in the proceeding, jurors, the media, and others an appearance of bias or prejudice.

[3] Harassment, as referred to in section (b) of this Rule, is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

[4] Sexual harassment includes sexual advances, requests for sexual favors, conduct of a sexual nature through the use of electronic communication that alarms or seriously annoys another, and other verbal or physical conduct of a sexual nature that is unwelcome.

Source: This Rule is derived from former Rule 2.3 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.3 is derived from former Rule 2.3 of Rule 16-813 with style changes. The Rules Committee proposes expanding Comment [4] to include conduct of a sexual nature through the use of electronic communication under the heading of sexual harassment.

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Rule 18-102.4. EXTERNAL INFLUENCES ON JUDICIAL CONDUCT (ABA RULE 2.4)

(a) A judge shall not be swayed by public clamor or fear of criticism.

(b) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.

(c) A judge shall not convey or permit others to convey the impression that any person is in a position to influence the judge.

COMMENT

[1] An independent judiciary requires that judges decide cases according to the law and facts, without regard to whether particular laws or litigants are popular or unpopular with the public, the media, government officials, or the judge's friends or family. Confidence in the judiciary is eroded if judicial decision-making is perceived to be subject to inappropriate outside influences.

Source: This Rule is derived from former Rule 2.4 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.4 is derived from former Rule 2.4 of 16-813. The Rules Committee eliminated the words "or organization," because a "person" is defined in the Maryland Rules to include an organization.

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Rule 18-102.5. COMPETENCE, DILIGENCE, AND COOPERATION (ABA RULE 2.5)

(a) A judge shall perform judicial and administrative duties competently, diligently, promptly, and without favoritism or nepotism.

(b) A judge shall cooperate with other judges and court officials in the administration of court business.

(c) A judge shall not wilfully fail to comply with administrative rules or reasonable directives of a judge with supervisory authority.

COMMENT

[1] Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office.

[2] A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.

[3] Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to take reasonable measures to ensure that court officials, litigants, and their attorneys cooperate with the judge to that end.

[4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that

reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

Source: This Rule is derived from former Rule 2.5 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.5 is derived from former Rule 2.5 of Rule 16-813 with style changes.

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Rule 18-102.6. ENSURING THE RIGHT TO BE HEARD (ABA RULE 2.6)

(a) A judge shall accord to every person who has a legal interest in a proceeding, or that person's attorney, the right to be heard according to law.

(b) A judge may encourage parties to a proceeding and their attorneys to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

COMMENT

[1] The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.

[2] Increasingly, judges have before them self-represented litigants whose lack of knowledge about the law and about judicial procedures and requirements may inhibit their ability to be heard effectively. A judge's obligation under Rule 18-102.2 to remain fair and impartial does not preclude the judge from making reasonable accommodations to protect a self-represented litigant's right to be heard, so long as those accommodations do not give the self-represented litigant an unfair advantage. This Rule does not require a judge to make any particular accommodation.

[3] Settlement conferences and referrals to alternative dispute resolution may play an important role in the administration of justice. The judge plays an important role in overseeing the settlement of disputes, but should be careful that efforts to further settlement do not undermine any party's right to be heard according to law. Among the factors that a judge should consider when deciding upon an appropriate settlement practice for a case are (a) whether the parties have requested or

voluntarily consented to a certain level of participation by the judge in settlement discussions, (b) whether the parties and their attorneys are relatively sophisticated in legal matters, (c) whether the case will be tried by the judge or a jury, (d) whether the parties participate with their attorneys in settlement discussions, (e) whether any parties are self-represented, and (f) the nature of the proceeding.

[4] Judges must be mindful of the effect settlement discussions can have, not only on their objectivity and impartiality, but also on the appearance of their objectivity and impartiality. A judge should keep in mind the effect that the judge's participation in settlement discussions may have on both the judge's own views of the case and the perceptions of the attorneys and the parties if the case remains with the judge after settlement efforts are unsuccessful. Despite a judge's best efforts, there may be instances when information obtained during settlement discussions could influence a judge's decision making during trial, and, in such instances, the judge should consider whether disqualification may be appropriate. See Rule 18-102.11 (a) (1).

Source: This Rule is derived from former Rule 2.6 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.6 is derived from former Rule 2.6 of Rule 16-813 with style changes.

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Rule 18-102.7. RESPONSIBILITY TO DECIDE (ABA RULE 2.7)

A judge shall hear and decide matters assigned to the judge unless recusal is appropriate.

COMMENT

[1] Although there are times when disqualification is necessary or appropriate to protect the rights of litigants and preserve public confidence in the independence, integrity, and impartiality of the judiciary, judges must be available to decide matters that come before the courts. The dignity of the court, the judge's respect for fulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge's colleagues require that a judge not use disqualification to avoid cases that present difficult, controversial, or unpopular issues.

Source: This Rule is derived from former Rule 2.7 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.7 is taken verbatim from former Rule 2.7 of Rule 16-813.

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Rule 18-102.8. DECORUM, Demeanor, AND COMMUNICATION WITH JURORS
(ABA RULE 2.8)

(a) A judge shall require order and decorum in proceedings before the court.

(b) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, attorneys, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of attorneys, court staff, court officials, and others subject to the judge's direction and control.

(c) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding.

COMMENT

[1] The duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 18-102.5 to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

[2] Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case.

[3] A judge who is not otherwise prohibited by law from doing so may meet with jurors who choose to remain after trial but should be careful not to discuss the merits of the case.

Source: This Rule is derived from former Rule 2.8 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.8 is derived from former Rule 2.8 of Rule 16-813 with style changes.

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Rule 18-102.9. EX PARTE COMMUNICATIONS (ABA RULE 2.9)

(a) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge out of the presence of the parties or their attorneys, concerning a pending or impending matter, except as follows:

(1) A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law to do so.

(2) When circumstances require, ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided:

(A) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and

(B) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond.

(3) A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding if the judge (A) makes provision promptly to notify all of the parties as to the expert consulted and the substance of the advice, and (B) affords the

parties a reasonable opportunity to respond.

(4) A judge may consult with court staff and court officials whose functions are to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges, provided the judge does not decide a case based on adjudicative facts that are not made part of the record, and does not abrogate the responsibility personally to decide the matter.

Cross reference: See Comment [1] to Rule 18-103.9, permitting a judge to engage in settlement conferences.

(5) A judge may, with the consent of the parties, confer separately with the parties and their attorneys as part of a settlement conference conducted pursuant to Rules 17-102 (1) and 17-105 (b).

(6) When serving in a problem-solving court program of a Circuit Court or the District Court pursuant to Rule 16-207, a judge may initiate, permit, and consider ex parte communications in conformance with the established protocols for the operation of the program if the parties have expressly consented to those protocols.

(b) If a judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judge shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.

(c) A judge shall not investigate adjudicative facts in a matter independently, and shall consider only the evidence in the

record and any facts that may properly be judicially noticed.

(d) A judge shall make reasonable efforts, including providing appropriate supervision, to ensure that this Rule is not violated by court staff, court officials, and others subject to the judge's direction and control.

COMMENT

[1] To the extent reasonably possible, all parties or their attorneys shall be included in communications with a judge.

[2] Whenever the presence of a party or notice to a party is required by this Rule, it is the party's attorney, or if the party is self-represented, the party, who is to be present or to whom notice is to be given.

[3] The proscription against communications concerning a proceeding includes communications with attorneys, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted by this Rule.

[4] A judge may consult with other judges on pending matters, including a retired judge approved for recall, but must avoid ex parte discussions of a case with judges who have previously been disqualified from hearing the matter, and with judges who have appellate jurisdiction over the matter.

[5] The prohibition against a judge investigating adjudicative facts in a matter extends to information available in all mediums, including electronic.

[6] A judge may consult ethics advisory committees, outside counsel, or legal experts concerning the judge's compliance with this Code. Such consultations are not subject to the restrictions of subsection (a)(2) of this Rule.

Committee note: This Rule does not regulate judicial notice of so-called "legislative facts" (facts pertaining to social policy and their ramifications) or of law.

Cross reference: See Rule 5-201.

Source: This Rule is derived from former Rule 2.9 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.9 is derived from former Rule 2.9 of Rule 16-813 with style changes and the addition of a Committee note and cross reference at the end of the Rule.

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Rule 18-102.10. JUDICIAL STATEMENTS ON PENDING AND IMPENDING
CASES (ABA RULE 2.10)

(a) A judge shall abstain from public comment that relates to a proceeding pending or impending in any court and that might reasonably be expected to affect the outcome or impair the fairness of that proceeding and shall require similar abstention on the part of court personnel subject to the judge's direction and control. This Rule does not prohibit a judge from making public statements in the course of official duties or from explaining for public information the procedures of the court.

(b) With respect to a case, controversy, or issue that is likely to come before the court, a judge shall not make a commitment, pledge, or promise that is inconsistent with the impartial performance of the adjudicative duties of the office.

(c) Notwithstanding the restrictions in sections (a) and (b) of this Rule, a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a non-judicial capacity.

COMMENT

[1] This Rule's restrictions on judicial speech are essential to the maintenance of the independence, integrity, and impartiality of the judiciary.

[2] This Rule does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity. In cases in which the judge is a litigant in an official capacity, such as a writ of mandamus, the judge must not comment publicly.

[3] "Court personnel," as used in section (a) of this Rule does not include the attorneys in a proceeding before the judge. The comment of attorneys in this regard is governed by Rule 19-303.6 of the Maryland Attorneys' Rules of Professional Conduct.

Source: This Rule is derived from former Rule 2.10 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.10 is derived from former Rule 2.10 of Rule 16-813 with style changes.

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TITLE 18 - JUDGES AND JUDICIAL OFFICERS

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

PART 2 - RULES GOVERNING THE PERFORMANCE OF JUDICIAL DUTIES

Rule 18-102.11. DISQUALIFICATION (ABA RULE 2.11)

(a) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's attorney, or personal knowledge of facts that are in dispute in the proceeding.

(2) The judge knows that the judge, the judge's spouse or domestic partner, or an individual within the third degree of relationship to either of them, or the spouse or domestic partner of such an individual:

(A) is a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(B) is acting as an attorney in the proceeding;

(C) is an individual who has more than a de minimis interest that could be substantially affected by the proceeding;
or

(D) is likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary, or any of the following individuals has a significant

financial interest in the subject matter in controversy or in a party to the proceeding:

(A) the judge's spouse or domestic partner;

(B) an individual within the third degree of relationship to the judge; or

(C) any other member of the judge's family residing in the judge's household.

(4) The judge, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

(5) The judge:

(A) served as an attorney in the matter in controversy, or was associated with an attorney who participated substantially as an attorney in the matter during such association;

(B) served in governmental employment, and in such capacity participated personally and substantially as an attorney or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy;

(C) previously presided as a judge over the matter in another court; or

(D) is a retired judge who is subject to recusal under Rule 18-103.9.

(b) A judge shall keep informed about the judge's personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and minor children residing in the judge's household.

(c) A judge subject to disqualification under this Rule, other than for bias or prejudice under subsection (a)(1) of this Rule, may disclose on the record the basis of the judge's disqualification and may ask the parties and their attorneys to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and attorneys agree, without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

COMMENT

[1] Under this Rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of subsections (a)(1) through (5) apply. In this Rule, "disqualification" has the same meaning as "recusal."

[2] A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

[3] By decisional law, the rule of necessity may override the rule of recusal. For example, a judge might be required to participate in judicial review of a judicial salary statute or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. When the rule of necessity does override the rule of recusal, the judge must disclose on the record the basis for possible disqualification and, if

practicable, use reasonable efforts to transfer the matter to another judge.

[4] A judge should disclose on the record information that the judge believes the parties or their attorneys might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.

[5] This procedure gives the parties an opportunity to waive the recusal if the judge agrees. The judge may comment on possible waiver but must ensure that consideration of the question of waiver is made independently of the judge. A party may act through an attorney if the attorney represents on the record that the party has been consulted and consents. As a practical matter, a judge may request that all parties and their attorneys sign a waiver agreement.

Source: This Rule is derived from former Rule 2.11 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.11 is derived from former Rule 2.11 of Rule 16-813 with style changes.

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Rule 18-102.12. SUPERVISORY DUTIES (ABA RULE 2.12)

(a) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code.

(b) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.

COMMENT

[1] A judge is responsible for his or her own conduct and for the conduct of others, such as staff, when those individuals are acting at the judge's direction or control. A judge may not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate this Code if undertaken by the judge.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judge with supervisory authority must take the steps needed to ensure that judges under his or her supervision administer their workloads promptly.

Source: This Rule is derived from former Rule 2.12 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.12 is derived from former Rule 2.12 of Rule 16-813 with a style change in the Comment.

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Rule 18-102.13. ADMINISTRATIVE APPOINTMENTS (ABA RULE 2.13)

(a) In making administrative appointments, a judge:

(1) shall exercise the power of appointment impartially and on the basis of merit; and

(2) shall avoid nepotism, favoritism, and unnecessary appointments.

(b) A judge shall not approve compensation of appointees beyond the fair value of services rendered.

COMMENT

[1] Appointees of a judge include assigned attorneys, officials such as commissioners, special masters, receivers, and guardians, and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by section (a) of this Rule.

[2] Unless otherwise defined by law, nepotism is the appointment or hiring of any relative within the third degree of relationship to either the judge or the judge's spouse or domestic partner, or the spouse or domestic partner of such relative.

Cross reference: See Rule 16-804.

Source: This Rule is derived from former Rule 2.13 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.13 is derived from former Rule 2.13 of Rule 16-813 with style changes in the Comment. The Rules Committee recommends adding a cross reference to Rule 16-804, Anti-Nepotism Policy.

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Rule 18-102.14. DISABILITY AND IMPAIRMENT OF OTHERS (ABA RULE 2.14)

A judge having a reasonable belief that the performance of an attorney or another judge is impaired by drugs or alcohol or by a mental, emotional, or physical condition, shall take appropriate action, which may include a confidential referral to an attorney or judicial assistance program.

COMMENT

[1] "Appropriate action" means action intended and reasonably likely to help the judge or attorney in question to address the problem and prevent harm to the justice system. Depending upon the circumstances, appropriate action may include speaking directly to the impaired individual, notifying an individual with supervisory responsibility over the impaired individual, or making a referral to an assistance program.

[2] Taking or initiating corrective action by way of referral to an assistance program may satisfy a judge's responsibility under this Rule. Assistance programs have many approaches for offering help to impaired judges and attorneys, such as intervention, counseling, or referral to appropriate health care professionals. Depending upon the gravity of the conduct that has come to the judge's attention, however, the judge may be required to take other action, such as reporting the impaired judge or attorney to the appropriate authority, agency, or body. See Rule 18-102.15.

Source: This Rule is derived from former Rule 2.14 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.14 is derived from former Rule 2.14 of Rule 16-813 with style changes.

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Rule 18-102.15. RESPONDING TO JUDICIAL AND ATTORNEY MISCONDUCT
(ABA RULE 2.15)

(a) A judge shall take or initiate appropriate corrective measures with respect to the unprofessional conduct of another judge or an attorney.

(b) If other corrective measures are not appropriate or, if attempted, were not successful, a judge shall inform the Commission on Judicial Disabilities of facts known to that judge that raise a substantial question as to another judge's fitness for office.

(c) If other corrective measures are not appropriate or, if attempted, were not successful, a judge shall inform the Attorney Grievance Commission of facts known to the judge that raise a substantial question as to an attorney's honesty, trustworthiness, or fitness as an attorney in other respects.

(d) Acts of a judge required or permitted by sections (a), (b), and (c) of this Rule shall be absolutely privileged.

COMMENT

[1] Permitting a judge to take "corrective" measures gives the judge a wide range of options to deal with unprofessional conduct. Appropriate corrective measures may include direct

communication with the judge or attorney who is believed to have committed the violation or other direct action if available. There may be instances of professional misconduct that would warrant a private admonition or referral to a bar association counseling service.

Source: This Rule is derived from former Rule 2.15 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.15 is derived from former Rule 2.15 of Rule 16-813 with style changes.

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Rule 18-102.16. COOPERATION WITH DISCIPLINARY AUTHORITIES

(ABA RULE 2.16)

(a) A judge shall cooperate and be candid and honest with judicial and attorney disciplinary agencies.

(b) A judge shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a judge or an attorney.

COMMENT

[1] Cooperation with investigations and proceedings of judicial and attorney discipline agencies, as required in section (a) of this Rule, instills confidence in judges' commitment to the integrity of the judicial system and the protection of the public.

Source: This Rule is derived from former Rule 2.16 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-102.16 is derived from former Rule 2.16 of Rule 16.813 with style changes.

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PART 3 - RULES GOVERNING EXTRAJUDICIAL ACTIVITY

Rule 18-103.1. EXTRA-OFFICIAL ACTIVITIES IN GENERAL (ABA RULE 3.1)

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. When engaging in extrajudicial activities, a judge shall not:

(a) participate in activities that will interfere with the proper performance of the judge's judicial duties;

(b) participate in activities that will lead to frequent disqualification of the judge;

(c) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;

(d) engage in conduct that would appear to a reasonable person to be coercive; or

(e) make inappropriate use of court premises, staff, stationery, equipment, or other resources.

COMMENT

[1] To the extent that time permits, and judicial independence and impartiality are not compromised, judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing, teaching, or participating in scholarly research projects. In

addition, judges are permitted and encouraged to engage in educational, religious, charitable, fraternal, or civic extrajudicial activities not conducted for profit, even when the activities do not involve the law. See Rule 18-103.7.

[2] Participation in both law-related and other extrajudicial activities helps integrate judges into their communities and furthers public understanding of and respect for courts and the judicial system.

[3] Discriminatory actions and expressions of bias or prejudice by a judge, even outside the judge's official or judicial actions, are likely to appear to a reasonable person to call into question the judge's integrity and impartiality. Examples include jokes or other remarks that demean individuals based upon their race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status. For the same reason, a judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination. See Rule 18-103.6.

[4] While engaged in permitted extrajudicial activities, judges must not coerce others or take action that would reasonably be perceived as coercive. For example, depending upon the circumstances, a judge's solicitation of contributions or memberships for an organization, even as permitted by Rule 18-103.7 (a), might create the risk that the person solicited would feel obligated to respond favorably, or would do so to curry favor with the judge.

Source: This Rule is derived from former Rule 3.1 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.1 is derived from former Rule 3.1 of Rule 16-813 with style changes.

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Rule 18-103.2. APPEARANCES BEFORE GOVERNMENTAL BODIES AND
CONSULTATION WITH GOVERNMENT OFFICIALS (ABA RULE 3.2)

A judge shall not appear voluntarily at a public hearing before, or otherwise consult with, an executive or a legislative body or official, except:

(a) in connection with matters concerning the law, the legal system, or the administration of justice;

(b) in connection with matters about which the judge acquired knowledge or expertise in the course of the judge's judicial duties; or

(c) when the judge is acting self-represented in a matter involving the judge's legal or economic interests, or when the judge is acting in a fiduciary capacity.

COMMENT

[1] Judges possess special expertise in matters of law, the legal system, and the administration of justice, and may properly share that expertise with governmental bodies and officials in the executive or legislative branch.

[2] In appearing before governmental bodies or consulting with government officials, judges must be mindful that they remain subject to other provisions of this Code, such as Rule 18-101.3, prohibiting judges from using the prestige of office to advance their own or others' interests, Rule 18-102.10, governing public comment on pending and impending matters, and Rule 18-103.1 (c), prohibiting judges from engaging in extrajudicial

activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

[3] In general, it would be an unnecessary and unfair burden to prohibit judges from appearing before governmental bodies or consulting with government officials on matters that are likely to affect them as private individuals, such as zoning proposals affecting their real property. In engaging in such activities, however, judges must not refer to their judicial positions, and must otherwise exercise caution to avoid using the prestige of judicial office.

Source: This Rule is derived from former Rule 3.2 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.2 is derived from former Rule 3.2 of Rule 16-813 with style changes in the Comment.

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Rule 18-103.3. TESTIFYING AS A CHARACTER WITNESS (ABA RULE 3.3)

A judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly subpoenaed.

COMMENT

[1] A judge who, without being subpoenaed, testifies as a character witness abuses the prestige of judicial office to advance the interests of another. See Rule 18-101.3. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.

Source: This Rule is derived from former Rule 3.3 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.3 is taken verbatim from former Rule 3.3 of Rule 16-813, except for an updated reference to a Rule in the Comment and changing the word "summoned" to "subpoenaed" to conform to Maryland terminology. See Rule 1-202 (aa) and (bb).

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Rule 18-103.4. APPOINTMENT TO GOVERNMENTAL POSITIONS (ABA RULE 3.4)

A judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice.

COMMENT

[1] Rule 18-103.4 implicitly acknowledges the value of judges accepting appointments to entities that concern the law, the legal system, or the administration of justice. Even in such instances, however, a judge should assess the appropriateness of accepting an appointment, paying particular attention to the subject matter of the appointment and the availability and allocation of judicial resources, including the judge's time commitments, and giving due regard to the requirements of the independence and impartiality of the judiciary.

[2] A judge may not accept a governmental appointment that could interfere with the effectiveness and independence of the judiciary, assume or discharge an executive or legislative power, or hold another "office" under the Constitution or laws of the United States or the State of Maryland. See Maryland Declaration of Rights, Articles 8, 33, and 35.

[3] A judge may represent his or her country, State, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. Such representation does not constitute acceptance of a government position.

Committee note: Although the Judicial Ethics Committee has concluded that the Supremacy Clause of the U.S. Constitution may allow service in reserve components of the armed forces that otherwise might be precluded under this Code, such as service as a judge advocate or military judge, the Attorney General, rather

than the Judicial Ethics Committee, traditionally has rendered opinions with regard to issues of dual or incompatible offices.

Source: This Rule is derived from former Rule 3.4 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.4 is taken verbatim from former Rule 3.4 of Rule 16-813, except for an updated reference to a Rule in the Comment.

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Rule 18-103.5. USE OF NONPUBLIC INFORMATION (ABA RULE 3.5)

A judge shall not intentionally disclose or use nonpublic information acquired in a judicial capacity for any purpose unrelated to the judge's judicial duties. Nonpublic information means information that is not available to the public. It may include information that is (a) sealed or shielded pursuant to the Maryland Rules, other law, or court order, (b) impounded, (c) communicated in camera, or (d) offered in grand jury proceedings, pre-sentencing reports, dependency cases, or psychiatric reports.

COMMENT

[1] In the course of performing judicial duties, a judge may acquire information of commercial or other value that is unavailable to the public. The judge must not reveal or use such information for personal gain or for any purpose unrelated to his or her judicial duties.

[2] This Rule is not intended, however, to affect a judge's ability to act on information as necessary to protect the health or safety of the judge or a member of a judge's family, court personnel, or other judicial officers.

Source: This Rule is derived from former Rule 3.5 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.5 is derived from former Rule 3.5 of Rule 16-813. The Rules Committee recommends adding language referring to the "Maryland Rules" or "other law" in the content of shielding and sealing information.

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Rule 18-103.6. AFFILIATION WITH DISCRIMINATORY ORGANIZATIONS
(ABA RULE 3.6)

(a) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation.

(b) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination on one or more of the bases identified in section (a) of this Rule. A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

COMMENT

[1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired.

[2] An organization is generally said to discriminate

invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation individuals who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited.

[3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization.

[4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule.

[5] This Rule does not apply to national or state military service.

Source: This Rule is derived from former Rule 3.6 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.6 is derived from former Rule 3.6 of Rule 16-813 with style changes.

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Rule 18-103.7. PARTICIPATION IN EDUCATIONAL, RELIGIOUS,
CHARITABLE, FRATERNAL, OR CIVIC ORGANIZATIONS AND ACTIVITIES
(ABA RULE 3.7)

(a) Subject to the requirements of Rules 18-103.1 and 18-103.6, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including the following activities:

(1) assisting such an organization or entity in planning related to fund-raising, and participating in the management and investment of the organization's or entity's funds;

(2) soliciting contributions for such an organization or entity, but only from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority;

(3) soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity, but only if

the organization or entity is concerned with the law, the legal system, or the administration of justice;

(4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, or the administration of justice;

(5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice; and

(6) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:

(A) will be engaged in proceedings that would ordinarily come before the judge; or

(B) will frequently be engaged in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

(b) A judge may encourage but not coerce attorneys to provide pro bono publico legal services.

COMMENT

[1] The activities permitted by section (a) of this Rule generally include those sponsored by or undertaken on behalf of public or private not-for-profit educational institutions, and other not-for-profit organizations, including law-related, charitable, and other organizations.

[2] Even for law-related organizations, a judge should consider whether the membership and purposes of the organization or the nature of the judge's participation in or association with the organization would conflict with the judge's obligation to refrain from activities that reflect adversely upon a judge's independence, integrity, and impartiality.

[3] Mere attendance at an event, whether or not the event serves a fund-raising purpose, does not constitute a violation of subsection (a)(4) of this Rule. It is also generally permissible for a judge to serve as an usher or a food server or preparer, or to perform similar functions, at fund-raising events sponsored by educational, religious, charitable, fraternal, or civic organizations. Such activities are not solicitation and do not present an element of coercion or abuse the prestige of judicial office.

[4] Identification of a judge's position in educational, religious, charitable, fraternal, or civic organizations on letterhead used for fund-raising or membership solicitation does not violate this Rule. The letterhead may list the judge's title or judicial office if comparable designations are used for other individuals.

[5] In addition to appointing attorneys to serve as counsel for indigent parties in individual cases, a judge may promote broader access to justice by encouraging attorneys to participate in pro bono publico legal services, if in doing so the judge does not employ coercion, or abuse the prestige of judicial office. Such encouragement may take many forms, including providing lists of available programs, training attorneys to do pro bono publico legal work, and participating in events recognizing attorneys who have done pro bono publico work.

Source: This Rule is derived from former Rule 3.7 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.7 is derived from former Rule 3.7 of Rule 16-813 with style changes.

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Rule 18-103.8. APPOINTMENTS TO FIDUCIARY POSITIONS (ABA RULE 3.8)

(a) A judge shall not accept appointment to serve in a fiduciary position, such as executor, administrator, trustee, guardian, attorney in fact, or other personal representative, except for an estate or trust for a member of the judge's family or an individual who is a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties.

(b) A judge shall not serve in a fiduciary position if the judge as fiduciary will likely be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves, or one under its appellate jurisdiction.

(c) A judge acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to a judge personally.

(d) If an individual who is serving in a fiduciary position becomes a judge, he or she must comply with this Rule as soon as reasonably practicable, but in no event later than one year after becoming a judge.

(e) Section (a) of this Rule does not apply to retired judges approved for recall under Code, Courts Article, §1-302.

COMMENT

[1] A judge should recognize that other restrictions imposed by this Code may conflict with a judge's obligations as a fiduciary; in such circumstances, a judge should resign as fiduciary. For example, serving as a fiduciary might require frequent disqualification of a judge under Rule 18-102.11 because a judge is deemed to have an economic interest in shares of stock held by a trust if the amount of stock held is more than de minimis.

Source: This Rule is derived from former Rule 3.8 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.8 is derived from former Rule 3.8 of Rule 16-813 with style changes.

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Rule 18-103.9. SERVICE AS ARBITRATOR OR MEDIATOR (ABA RULE 3.9)

(a) A judge shall not act as an arbitrator or a mediator or perform other judicial functions apart from the judge's official duties unless expressly authorized by law.

(b) A retired judge who is approved for recall for temporary service under Code, Courts Article, §1-302 may conduct alternative dispute resolution (ADR) proceedings in a private capacity only if the judge:

(1) conducts no ADR proceedings in a private capacity relating to a case in which the judge currently is sitting;

(2) is not affiliated with a law firm, regardless of whether the law firm also offers ADR services;

(3) discloses to the parties in each judicial proceeding in which the judge sits:

(A) the judge's professional association with any entity that is engaged in offering ADR services;

(B) whether the judge is conducting, or has conducted within the previous 12 months, an ADR proceeding involving any party, attorney, or law firm involved in the judicial proceeding pending before the judge; and

(C) any negotiations or agreements for future ADR services involving the judge and any of the parties or attorneys to the case; and

(4) except when there is no disqualification by agreement as permitted by Rule 18-102.11 (c), does not sit in a judicial proceeding in which the judge's impartiality might reasonably be questioned because of ADR services engaged in or offered by the judge.

Committee note: A retired judge approved for recall may affiliate with an entity that is engaged exclusively in offering ADR services but may not affiliate with any entity that also is engaged in the practice of law.

COMMENT

[1] Except as provided in section (b), this Rule does not prohibit a judge from participating in arbitration, mediation, or settlement conferences performed as part of assigned judicial duties. Rendering dispute resolution services apart from those duties, whether or not for economic gain, is prohibited unless it is expressly authorized by law.

Source: This Rule is derived from former Rule 3.9 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.9 is derived from former Rule 3.9 of Rule 16-813 with style changes. The Rules Committee recommends adding the reference to "Code, Courts Article, §1-302" when the Rules discuss retired judges who are approved for recall, because it sets out the procedure for recalling judges. It also recommends adding the words "or sitting" after the word "presiding" to more fully describe the actions of a judge.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

PART 3 - RULES GOVERNING EXTRAJUDICIAL ACTIVITY

Rule 18-103.10. PRACTICE OF LAW (ABA RULE 3.10)

(a) In General

Except as expressly allowed by this Rule, a judge shall not practice law.

(b) Exceptions

(1) A judge may act self-represented in a matter involving the judge or the judge's interest and, if without compensation, may give legal advice to and draft or review documents for a member of the judge's family.

(2) To the extent expressly allowed by law and subject to other applicable provisions of this Code, a part-time judge of an orphans' court who is an attorney may practice law, provided that:

(A) the judge shall not use the judge's judicial office to further the judge's success in the practice of law; and

(B) the judge shall not practice or appear in the court on which the judge serves, as an individual in a matter involving the judge or the judge's interest even if another judge is presiding or sitting.

Cross reference: See Code, Estates and Trusts Article, §2-109 for restrictions on the practice of law by a part-time judge of an orphans' court.

COMMENT

[1] A judge may act self-represented in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. A judge must not use the prestige of office to advance the judge's personal or family interests. See Rule 18-101.3.

[2] Section (a) and subsection (b)(1) of this Rule limit the practice of law in a representative capacity but not in a self-represented capacity. A judge may act for himself or herself in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. In so doing, however, a judge must not abuse the prestige of office for any reason, including advancement of an interest of the judge or the judge's family. See Rules 18-102.4 (b) and 18-103.2 (c).

[3] This Rule allows a judge to give legal advice to, and draft legal documents for, a member of the judge's family. Except for a part-time orphans' court judge allowed to practice law, however, a judge must not receive any compensation from, or act as an advocate or negotiator for, a member of the judge's family in a legal matter.

Source: This Rule is derived from former Rule 3.10 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.10 is derived from former Rule 3.10 of Rule 16-813 with style changes.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

PART 3 - RULES GOVERNING EXTRAJUDICIAL ACTIVITY

Rule 18-103.11. FINANCIAL, BUSINESS, OR REMUNERATIVE ACTIVITIES
(ABA RULE 3.11)

(a) A judge may hold and manage investments of the judge and members of the judge's family.

(b) Except as permitted by Rule 18-103.7, a judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may manage or participate in:

(1) a business closely held by the judge or members of the judge's family; or

(2) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

(c) A judge shall not engage in financial activities permitted under sections (a) or (b) of this Rule if they will:

(1) interfere with the proper performance of judicial duties;

(2) lead to frequent disqualification of the judge;

(3) involve the judge in frequent transactions or continuing business relationships with attorneys or other persons likely to come before the court on which the judge serves; or

(4) result in violation of other provisions of this Code.

(d) This Rule does not apply to retired judges approved for recall under Code, Courts Article, §1-302.

COMMENT

[1] Judges are generally permitted to engage in financial activities, including managing real estate and other investments for themselves or for members of their families. Participation in these activities, like participation in other extrajudicial activities, is subject to the requirements of this Code. For example, it would be improper for a judge to spend so much time on business activities that it interferes with the performance of judicial duties. See Rule 18-102.1. Similarly, it would be improper for a judge to use his or her official title or appear in judicial robes in business advertising, or to conduct his or her business or financial affairs in such a way that disqualification is frequently required. See Rules 18-101.3 and 18-102.11.

[2] As soon as practicable without serious financial detriment, the judge must divest himself or herself of investments and other financial interests that might require frequent disqualification or otherwise violate this Rule.

Source: This Rule is derived from former Rule 3.11 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.11 is derived from former Rule 3.11 of Rule 16-813 with style changes.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

PART 3 - RULES GOVERNING EXTRAJUDICIAL ACTIVITY

Rule 18-103.12. COMPENSATION FOR EXTRA-JUDICIAL ACTIVITIES

(ABA RULE 3.12)

A judge may accept reasonable compensation for extrajudicial activities permitted by this Code or other law unless such acceptance would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

Cross reference: See Rule 18-103.9 requiring certain disclosures and action by retired judges approved for recall who provide alternative dispute resolution services.

COMMENT

[1] A judge is permitted to accept honoraria, stipends, fees, wages, salaries, royalties, or other compensation for speaking, teaching, writing, and other extrajudicial activities, provided the compensation is reasonable and commensurate with the task performed. The judge should be mindful, however, that judicial duties must take precedence over other activities. See Rule 18-102.1, Code, Family Law Article, §§2-406 and 2-410, and Md. Rules 18-501 through 18-504.

[2] Compensation derived from extrajudicial activities may be subject to public reporting. See Rule 18-103.15.

Source: This Rule is derived from former Rule 3.12 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.12 is derived from former Rule 3.12 of Rule 16-813 with style changes in the cross reference and the Comment.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

PART 3 - RULES GOVERNING EXTRAJUDICIAL ACTIVITY

Rule 18-103.13. ACCEPTANCE OF GIFTS, LOANS, BEQUESTS, BENEFITS,
OR OTHER THINGS OF VALUE (ABA RULE 3.13)

(a) A judge shall not accept any gifts, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

(b) Unless otherwise prohibited by law, or by section (a) of this Rule, a judge may accept the following:

(1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;

(2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including attorneys, whose appearance or interest in a proceeding pending or impending before the judge would in any event require disqualification of the judge under Rule 18-102.11;

(3) ordinary social hospitality;

(4) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the

same terms to similarly situated persons who are not judges;

(5) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not judges;

(6) scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated individuals who are not judges, based upon the same terms and criteria;

(7) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use;

(8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner, or other family member of a judge residing in the judge's household, but that incidentally benefit the judge;

(9) gifts incident to a public testimonial; or

(10) invitations to the judge and the judge's spouse, domestic partner, or guest to attend without charge:

(A) an event associated with a bar-related function or other activity relating to the law, the legal system, or the administration of justice; or

(B) an event associated with any of the judge's educational, religious, charitable, fraternal or civic activities permitted by this Code, if the same invitation is offered to nonjudges who are engaged in similar ways in the activity as is the judge.

COMMENT

[1] Whenever a judge accepts a gift or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as intended to influence the judge's decision in a case. Rule 18-103.13 imposes restrictions upon the acceptance of such benefits, according to the magnitude of the risk. Section (b) of this Rule identifies circumstances in which the risk that the acceptance would appear to undermine the judge's independence, integrity, or impartiality is low. As the value of the benefit or the likelihood that the source of the benefit will appear before the judge increases, the judge is prohibited under section (a) of this Rule from accepting the gift.

[2] Gift-giving between friends and relatives is a common occurrence, and ordinarily does not create an appearance of impropriety or cause reasonable persons to believe that the judge's independence, integrity, or impartiality has been compromised. In addition, when the appearance of friends or relatives in a case would require the judge's disqualification under Rule 18-102.11, there would be no opportunity for a gift to influence the judge's decision-making. Subsection (b)(2) of this Rule places no restrictions upon the ability of a judge to accept gifts or other things of value from friends or relatives under these circumstances.

[3] Businesses and financial institutions frequently make available special pricing, discounts, and other benefits, either in connection with a temporary promotion or for preferred customers, based upon longevity of the relationship, volume of business transacted, and other factors. A judge may freely accept such benefits if they are available to the general public, or if the judge qualifies for the special price or discount according to the same criteria as are applied to persons who are not judges. As an example, loans provided at generally prevailing interest rates are not gifts, but a judge could not accept a loan from a financial institution at below-market interest rates unless the same rate was being made available to the general public for a certain period of time or only to borrowers with specified qualifications that the judge also possesses.

[4] Rule 18-103.13 applies only to acceptance of gifts or other things of value by a judge. Nonetheless, if a gift or other benefit is given to the judge's spouse, domestic partner, or member of the judge's family residing in the judge's household, it may be viewed as an attempt to evade Rule 18-103.13 and influence the judge indirectly. Where the gift or benefit is being made primarily to such other individuals, and the judge is

merely an incidental beneficiary, this concern is reduced. A judge should, however, remind family and household members of the restrictions imposed upon judges and urge them to take these restrictions into account when making decisions about accepting such gifts or benefits.

[5] Rule 18-103.13 does not apply to contributions to a judge's campaign for judicial office.

Source: This Rule is derived from former Rule 3.13 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.13 is derived from former Rule 3.13 of Rule 16-813 with style changes.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

PART 3 - RULES GOVERNING EXTRAJUDICIAL ACTIVITY

Rule 18-103.14. REIMBURSEMENT OF EXPENSES AND WAIVERS OF FEES OR CHARGES (ABA RULE 3.14)

(a) Unless otherwise prohibited by Rule 18-103.1, Rule 18-103.13 (a), or other law, a judge may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the judge's employing entity, if the expenses or charges are associated with the judge's participation in extrajudicial activities permitted by this Code.

(b) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the judge and, when appropriate to the occasion, by the judge's spouse, domestic partner, or guest.

COMMENT

[1] Educational, civic, religious, fraternal, and charitable organizations often sponsor meetings, seminars, symposia, dinners, awards ceremonies, and similar events. Judges are encouraged to attend educational programs, as both teachers and participants, in law-related and academic disciplines, in furtherance of their duty to remain competent in the law. Participation in a variety of other extrajudicial activities is also permitted and encouraged by this Code.

[2] Not infrequently, sponsoring organizations invite certain judges to attend seminars or other events on a fee-waived or partial-fee-waived basis, and sometimes include reimbursement for necessary travel, food, lodging, or other incidental expenses. A judge's decision whether to accept reimbursement of expenses or a waiver or partial waiver of fees or charges in connection with these or other extrajudicial activities must be based upon an assessment of all the circumstances. The judge must undertake a reasonable inquiry to obtain the information necessary to make an informed judgment about whether acceptance would be consistent with the requirements of this Code.

[3] A judge must assure himself or herself that acceptance of reimbursement or fee waivers would not appear to a reasonable person to undermine the judge's independence, integrity, or impartiality. The factors that a judge should consider when deciding whether to accept reimbursement or a fee waiver for attendance at a particular activity include:

(a) whether the sponsor is an accredited educational institution or bar association rather than a trade association or a for-profit entity;

(b) whether the funding comes largely from numerous contributors rather than from a single entity and is earmarked for programs with specific content;

(c) whether the content is related or unrelated to the subject matter of litigation pending or impending before the judge, or to matters that are likely to come before the judge;

(d) whether the activity is primarily educational rather than recreational, and whether the costs of the event are reasonable and comparable to those associated with similar events sponsored by the judiciary, bar associations, or similar groups;

(e) whether information concerning the activity and its funding sources is available upon inquiry;

(f) whether the sponsor or source of funding is generally associated with particular parties or interests currently appearing or likely to appear in the judge's court, thus possibly requiring disqualification of the judge under Rule 18-102.11;

(g) whether differing viewpoints are presented; and

(h) whether a broad range of judicial and nonjudicial participants are invited, whether a large number of participants are invited, and whether the program is designed specifically for

judges.

Source: This Rule is derived from former Rule 3.14 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.14 is derived from former Rule 3.14 of Rule 16-813 with style changes.

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TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

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PART 3 - RULES GOVERNING EXTRAJUDICIAL ACTIVITY

Rule 18-103.15. REPORTING REQUIREMENTS (ABA RULE 3.15)

A judge must accurately complete and timely file an annual Financial Disclosure Statement on the form and as otherwise prescribed by the Court of Appeals pursuant to Md. Rule 18-703.

Source: This Rule is derived from former Rule 3.15 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-103.15 is derived from former Rule 3.15 of Rule 16-813 with a style change.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

PART 4 - RULES GOVERNING POLITICAL ACTIVITY

Rule 18-104.1. DEFINITIONS (ABA RULE 4.1)

(a) Applicant

(1) "Applicant" means an individual who has applied for appointment by the Governor to a judicial office.

(2) The individual becomes an applicant when the individual files an application with a judicial nominating commission and remains an applicant until the Governor makes an appointment to that judicial office unless, prior to that time, the individual formally withdraws the application.

(3) If the individual is not appointed but, pursuant to an Executive Order of the Governor or other law, remains eligible for appointment to another judicial office without a further application to or recommendation from the judicial nominating commission, the individual remains an applicant until the Governor makes an appointment to that other judicial office, unless, prior to that time, the individual formally withdraws the application.

Cross reference: Executive Order 01.01.2008.04.

(b) Candidate

"Candidate" means a candidate for election or a District

Court candidate for retention.

(c) Candidate for Election

(1) "Candidate for election" means an individual who:

(A) seeks initial election to a Circuit Court or an Orphans' Court;

(B) is an incumbent judge of a Circuit Court or Orphans' Court and seeks to retain that office through an election conducted pursuant to Art. IV, §3, 5, or 40 of the Maryland Constitution; or

(C) is an incumbent judge of the Court of Appeals or Court of Special Appeals and seeks to retain that office through a retention election conducted pursuant to Art. IV, §5A of the Maryland Constitution.

(2) An individual becomes a candidate for election:

(A) if the individual is a newly appointed judge, from the date the judge takes the oath of office;

(B) if the individual is any other incumbent judge, from the earlier of:

(i) the date two years prior to the general election pertaining to that judge's re-election or subsequent retention; or

(ii) the date on which a newly appointed judge to that court becomes a candidate in the same general election.

(C) if the individual is a judge who seeks election to another judicial office, the earlier of:

(i) the date on which the judge files a certificate of candidacy in accordance with Maryland election laws, but no earlier than two years prior to the general election for that office; or

(ii) the date on which a newly appointed judge to that court becomes a candidate in the same general election; and

(D) if the individual is an attorney who seeks a judicial office, the date on which the attorney files a certificate of candidacy in accordance with Maryland election laws, but no earlier than two years prior to the general election for the office.

(3) An individual who becomes a candidate under section (c) of this Rule remains a candidate until the general election for the office unless, prior to that time, the individual files a formal withdrawal of candidacy in accordance with Maryland election laws.

(d) District Court Candidate for Retention

"District Court candidate for retention" means an incumbent judge of the District Court who seeks retention for an additional term pursuant to Art. IV, §41D of the Maryland Constitution. A District Court judge becomes a candidate for retention from the date one year prior to the expiration of the judge's current term.

(e) Political Organization

"Political organization" includes a political party, a

political committee, and a partisan organization, as those terms are defined in Maryland Code, Election Article, §1-101.

COMMENT

[1] This Rule is new. It is intended to reflect and focus on the different ways in which judges in Maryland are selected and retained. See Maryland Constitution, Art. IV, §5A (appellate judges), §§3 and 5 (Circuit Court judges), §41D (District Court judges), and §40 (Orphans' Court judges).

(a) In all cases, a vacancy is filled by appointment by the Governor. The appointment of appellate, District Court, and Orphans' Court judges requires the advice and consent of the Senate; the appointment of Circuit Court judges does not.

(b) Appellate judges then face an uncontested plebiscite election (yes or no for continuance in office) for an additional 10-year term, following which they face another such election for a succeeding term.

(c) Circuit Court judges face a potentially contested primary and general election for a 15-year term, at the end of which, in order to remain in office, they must be appointed by the Governor for a "bridge" term until the next election and then prevail in that election.

(d) District Court judges do not face election but receive a 10-year term, at the end of which, they must be reappointed by the Governor subject to confirmation by the Senate.

(e) Orphans' Court judges face a potentially contested primary and general election every four years.

[2] The first context, applicable to all appellate, Circuit Court, and District Court judges and many Orphans' Court judges, is initial appointment by the Governor to fill a vacancy. Except for Orphans' Court judges, that requires an application to and consideration by a judicial nominating commission, which normally interviews the applicants, receives information and recommendations from Bar Associations, other interested groups, and members of the public, and sends to the Governor a list of recommended applicants. The Governors have agreed, expressly or tacitly, to appoint from the list of applicants recommended by the applicable nominating commission. The applicants may be attorneys seeking initial appointment to the Bench, incumbent Circuit Court judges seeking reappointment, upon the expiration

of their 15-year term, for a "bridge" period until the next election, or other judges seeking appointment to a different court. Rule 18-104.1 (a) defines those individuals as "applicants."

[3] An individual seeking election, either through a potentially contested election (Circuit Court and Orphans' Court) or through a plebiscite-type retention election (appellate judges), is defined in Rule 18-104.1 (c) as a "candidate for election." A District Court judge, at the end of the 10-year term, faces confirmation by the Senate for an additional term. That judge is not a candidate for election but is defined in Rule 18-104.1 (d) as a "District Court candidate for retention."

[4] The remaining Rules in Part 4 specify the political activity allowed or not allowed to individuals falling within those categories, as well as to incumbent judges who are not within any of them.

[5] Even when subject to election, a judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based on the expressed views or preferences of the electorate, a judge makes decisions based on the law and the facts of each case. In furtherance of that interest, judges and candidates for judicial office must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. The Rules in Part 4 impose narrowly tailored restrictions on the political and campaign activities of all judges and candidates for judicial office.

Source: This Rule is derived from former Rule 4.1 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-104.1 is derived from former Rule 4.1 of Rule 16-813 with style changes.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

PART 4 - RULES GOVERNING POLITICAL ACTIVITY

Rule 18-104.2. POLITICAL CONDUCT OF JUDGE WHO IS NOT A CANDIDATE
(ABA RULE 4.2)

(a) A judge who is not a candidate shall not engage in any partisan political activity.

(b) A judge shall resign when the judge becomes a candidate for a non-judicial office, except that a judge may continue to hold judicial office while a candidate for election as a delegate to a Maryland Constitutional Convention.

Source: This Rule is derived from former Rule 4.2 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-104.2 is taken verbatim from former Rule 4.2 of Rule 16-813.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

PART 4 - RULES GOVERNING POLITICAL ACTIVITY

Rule 18-104.3. POLITICAL CONDUCT OF APPLICANT (ABA RULE 4.3)

An applicant for judicial office may initiate communications or contact with a judicial nominating commission or its members and may seek endorsements for the appointment from any other person, other than a political organization.

COMMENT

[1] Rule 18-104.3 is derived in part from Rule 4.3 of the 2007 ABA Code but departs from it in one important respect. Under Rule 18-104.3, an applicant may initiate communications or contact with a judicial nominating commission or its members, but neither the Commission nor its members are obliged to respond to such communications or contact. Applicants may appear for interviews before the commission and may respond to questions or inquiries from commission members, and they may solicit endorsements from other persons (other than a political organization). If they have a question regarding the procedure or their application, they may contact the Administrative Office of the Courts.

Source: This Rule is derived from former Rule 4.3 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-104.3 is derived from former Rule 4.3 of Rule 16-813 with style changes. As in Rule 18-102.4, the Rules Committee has deleted the words "or organization," which had followed the word "person."

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

PART 4 - RULES GOVERNING POLITICAL ACTIVITY

Rule 18-104.4. POLITICAL CONDUCT OF CANDIDATE FOR ELECTION

(ABA RULE 4.4)

A candidate for election:

(a) shall comply with all applicable election laws and regulations;

(b) shall act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary and maintain the dignity appropriate to judicial office;

(c) subject to the other provisions of this Rule, may engage in partisan political activity allowed by law with respect to such candidacy, and, in that regard:

(1) may publicly endorse or oppose candidates for the same judicial office;

(2) may attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for public office; and

(3) may seek, accept, and use endorsements from any person; but

(4) shall not act as a leader in or hold office in a political organization, make a speech for a candidate or

political organization, or publicly endorse a candidate for non-judicial office.

(d) As to statements and materials made or produced during a campaign:

(1) shall review, approve, and be responsible for the content of all campaign statements and materials produced by the candidate or by the candidate's campaign committee or other authorized agents;

(2) shall take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities that the candidate is prohibited from doing by this Rule;

(3) with respect to a case, controversy, or issue that is likely to come before the court, shall not make a commitment, pledge, or promise that is inconsistent with the impartial performance of the adjudicative duties of the office;

(4) shall not 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;

(5) shall not knowingly, or with reckless disregard for the truth, misrepresent the candidate's identity or qualifications, the identity or qualifications of an opponent, or any other fact, or make any false or misleading statement;

(6) may speak or write on behalf of the candidate's candidacy through any medium, including advertisements, websites, or other campaign literature; and

(7) subject to section (b) of this Rule, may respond to a personal attack or an attack on the candidate's record.

COMMENT

[1] This Rule is derived in part from former Md. Code of Judicial Conduct Canon 5B and from the 2007 ABA Code, but it has been substantially reorganized into three basic segments: general requirements (sections (a) and (b)); the extent to which candidates for election may engage in partisan political conduct (section (c)); and the rules governing campaign statements (section (d)).

[2] Rule 18-104.4 (a) requires candidates for election to comply with all election laws and regulations. The Election Law Article of the Maryland Code contains laws governing candidates, campaign contributions, finance, expenditures, and reporting. Those requirements are supplemented by regulations adopted by the State Board of Elections. Candidates for election must become familiar with applicable laws and regulations and comply with them.

[3] Public confidence in the independence and impartiality of the judiciary is eroded if judges or candidates for judicial office are perceived to be subject to political influence. Although they may register to vote as members of a political party, they are prohibited by Rule 18-104.4 (c)(4) from assuming leadership roles in political organizations.

[4] Rule 18-104.4 (c)(4) also prohibits candidates for election from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office, to prevent them from abusing the prestige of judicial office to advance the interests of others. See Rule 18-101.3. Rule 18-104.4 does not prohibit candidates for election from (a) campaigning on their own behalf, (b) endorsing or opposing candidates for election to the same judicial office for which they are running, or (c) from having their name on the same sample ballot as a candidate for another public office.

[5] Although members of the families of candidates for election are free to engage in their own political activity, including running for public office, there is no "family exception" to the prohibition in Rule 18-104.4 (c)(4) against publicly endorsing candidates for public office. A candidate for election must not become involved in, or be publicly associated with, a family member's political activity or campaign for public office. To avoid public misunderstanding, candidates for election should take, and should urge members of their families

to take, reasonable steps to avoid any implication that they endorse any family member's candidacy or other political activity.

[6] Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign committees. Rule 18-104.4 (d) (5) obligates them 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. Rule 18-104.4 (d) (1) requires the candidate to review and approve the content of statements made by the candidate's campaign committee or other authorized agents and makes the candidate responsible for those statements.

[7] Candidates for election are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. As long as the candidate for election does not violate Rule 18-104.4 (d), he or she may make a factually accurate public response, although it is preferable for someone else to respond if the allegations relate to a pending case. If an independent third party has made unwarranted attacks on a candidate for election's opponent, the candidate for election may disavow the attacks and request the third party to cease and desist.

[8] Rule 18-104.4 (d) (3) prohibits candidates for election, with regard to cases or issues likely to come before the court, from making a commitment, promise, or pledge that is inconsistent with the impartial performance of the adjudicative duties of the office. The making of a commitment, promise, or pledge is not dependent on, or limited to, the use of any specific words or phrases. The totality of the statement must be examined to determine if a reasonable person would believe that the candidate has specifically undertaken to reach a particular result. Commitments, promises, and pledges 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 should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal views.

Source: This Rule is derived from former Rule 4.4 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-104.4 is derived from former Rule 4.4 of Rule 16-813. As in Rule 18-102.4, the Rules Committee has deleted the

words "or organization," which had followed the word "person."

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

PART 4 - RULES GOVERNING POLITICAL ACTIVITY

Rule 18-104.5. POLITICAL CONDUCT OF DISTRICT COURT CANDIDATE FOR RETENTION (ABA RULE 4.5)

A District Court candidate for retention:

(a) may contact and communicate with the Governor and members of the State Senate regarding the candidate's reconfirmation;

(b) may seek, accept, and use endorsements from any person;

(c) shall act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary and maintain the dignity appropriate to judicial office;

(d) subject to section (c) of this Rule, may respond to a personal attack or an attack on the candidate's record;

(e) with respect to a case, controversy, or issue that is likely to come before the court, shall not make a commitment, pledge, or promise that is inconsistent with the impartial performance of the adjudicative duties of the office; and

(f) shall not knowingly or with reckless disregard for the truth misrepresent the candidate's identity or qualifications or any other fact.

COMMENT

[1] Because a District Court candidate for retention does not face an election, the political activity allowed is much more

limited. It is reasonable to permit the judge to contact the Governor, who must transmit the judge's name to the Senate, and members of the Senate, regarding the judge's reconfirmation, and to seek endorsements that may be helpful to the judge in that regard. The constraints in sections (c) through (f) of this Rule, which are taken from Rule 18-104.4, are applicable as well to even this political activity.

Source: This Rule is derived from former Rule 4.5 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-104.5 is derived from former Rule 4.5 of Rule 16-813 with style changes. As in Rule 18-102.4, the Rules Committee has deleted the words "or organization," which had followed the word "person."

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CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT
PART 4 - RULES GOVERNING POLITICAL ACTIVITY

Rule 18-104.6. APPLICABILITY AND DISCIPLINE (ABA RULE 4.6)

(a) A candidate who is a judge shall comply with the Rules in this Part 4. A candidate who is an attorney shall comply with Rule 19-308.2 of the Maryland Attorneys' Rules of Professional Conduct.

(b) A successful candidate and a judge who unsuccessfully sought a different judicial office are subject to judicial discipline for campaign conduct. An unsuccessful candidate who is an attorney is subject to attorney discipline for campaign conduct

Source: This Rule is derived from former Rule 4.6 of Rule 16-813 (2013).

REPORTER'S NOTE

Rule 18-104.6 is derived from former Rule 4.6 of Rule 16-813 with style changes.

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GENERAL PROVISIONS, SCOPE, AND DEFINITIONS

Rule 18-200.1. GENERAL PROVISIONS

This Code of Conduct for Judicial Appointees governs the conduct of judicial appointees. It is patterned after the Maryland Code of Judicial Conduct (MCJC) set forth in Title 18, Chapter 100, and the provisions of this Code should be read in a consistent manner with parallel provisions in the MCJC.

This Code sets forth minimum standards and is not intended as a limitation on an appointing authority's power to impose additional requirements.

Source: This Rule is derived from the Preamble Section of former Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-200.1 is derived from the Preamble Section of former Rule 16-814 with style changes.

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GENERAL PROVISIONS, SCOPE, AND DEFINITIONS

Rule 18-200.2. SCOPE

(a) District Court Commissioners and Full-time Standing Masters, Examiners, and Auditors

This Code applies in its entirety to District Court Commissioners and full-time standing masters, examiners, and auditors.

(b) Part-time Standing Masters, Examiners, and Auditors

Except as otherwise provided in a specific Rule, this Code applies in its entirety to part-time standing masters, examiners, and auditors.

(c) Special Masters, Examiners, and Auditors

During the period of their serving in that capacity, special masters, examiners, and auditors are subject only to the Rules in Parts 1 and 2, to Rule 18-203.5, and to such of the Comments to those Rules as are relevant, given the limited duration of the service. Special masters, examiners, and auditors shall, however, on request of a party or the appointing authority, disclose any extra-official activity or interests covered by the other Rules in this Code that may be grounds for a motion to recuse under Rule 18-202.11.

Committee note: District Court Commissioners, despite the number of hours they may actually be on duty, are regarded as full-time judicial appointees. Auditors, examiners, and masters may fall into several categories.

Under Code, Courts Article, §2-102, all courts may appoint a master, examiner, or auditor in "a specific proceeding." Under Code, Courts Article, §2-501, the judges of the circuit courts have more general authority to employ masters, examiners, and auditors. That authority is extended and made more specific in Rules 2-541 (Masters), 2-542 (Examiners), and 2-543 (Auditors).

Rules 2-541, 2-542, and 2-543 create two categories of masters, examiners, and auditors - standing and special. Standing masters, examiners, and auditors are employed to deal with whatever cases are referred to them on an on-going basis, but their employment by the court may be full-time or part-time. Special masters, examiners, and auditors are appointed "for a particular action," and thus, like appointments made under Code, Courts Article, §2-102, their service is limited to the particular action or proceeding. During that period of service, however, it is possible that they may work full-time or part-time, as necessary or as directed by the court. A master, examiner, or auditor may therefore be standing full-time, standing part-time, special full-time, or special part-time.

This Code, in its entirety, applies to District Court Commissioners and full-time standing masters, examiners, and auditors. Because their employment by the court is full-time and more-or-less permanent, it is appropriate to limit some of their extra-official activities in the same manner as judges. Standing masters, examiners, and auditors who work only part-time but whose employment is also more-or-less permanent and who handle whatever cases are referred to them also need to be subject to most of the requirements and limitations in the Code, but it is impractical to preclude them from engaging in other lawful remunerative activities, such as practicing law or accounting or providing ADR services. They are subject to the entire Code, except as provided in specific Rules. Special masters, examiners, and auditors, appointed for only one proceeding, are subject to those Rules governing such things as fairness, impartiality, integrity, and diligence during the period of their service, but it is impractical and unnecessary to subject them across-the-board to the Rules in Part 4 or most of the Rules in Part 3 (political and extra-official activities), provided that, upon request of a party or the appointing authority, they disclose any activity or interest that may be cause for recusal.

Source: This Rule is derived from the Application Section of former Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-200.2 is derived from the Application Section of former Rule 16-814 with style changes.

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GENERAL PROVISIONS, SCOPE, AND DEFINITIONS

Rule 18-200.3. DEFINITIONS

(a) Judicial Appointee

"Judicial appointee" means:

(1) an auditor, examiner, or master appointed by a court of this State; and

Cross reference: See Rules 2-541, 2-542, and 2-543.

(2) a District Court commissioner appointed pursuant to Article IV, §41G of the Maryland Constitution.

Cross reference: For the definition of "judicial appointee" for purposes of filing a financial disclosure statement, see Rule 18-604.

(b) Member of Judicial Appointee's Family

"Member of judicial appointee's family" means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or individual with whom the judicial appointee maintains a close familial relationship.

(c) Member of Judicial Appointee's Household

"Member of judicial appointee's household" means:

(1) if sharing the judicial appointee's legal residence, the judicial appointee's spouse, domestic partner, child, ward, financially dependent parent, or other financially dependent

relative; or

(2) the judicial appointee's spouse, domestic partner, child, ward, parent, or other relative over whose financial affairs the judicial appointee has legal or actual control.

(d) Other Definitions

As to a judicial appointee, "domestic partner," "fiduciary," "gift," "impartial, impartiality, and impartially," "impending matter," "independence," "knowingly, knowledge, known, and knows," "pending matter," "significant financial interest," and "third degree of relationship" have the meanings set forth, respectively, in Rule 18-100.3 (a), (b), (c), (d), (e), (f), (g), (j), (k), and (l) of the Maryland Code of Judicial Conduct.

Source: This Rule is derived from the Definitions Section of former Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-200.3 is derived from the Definitions Section of Rule 16-814 with a style change.

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THE AVOIDANCE OF IMPROPRIETY

Rule 18-201.1. COMPLIANCE WITH THE LAW

A judicial appointee shall comply with the law, including the Rules in this Code of Conduct for Judicial Appointees that are applicable.

Source: This Rule is derived from former Rule 1.1 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-201.1 is taken verbatim from former Rule 1.1 of Rule 16-814.

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Rule 18-201.2. PROMOTING CONFIDENCE IN THE JUDICIARY

(a) A judicial appointee shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.

(b) A judicial appointee shall avoid conduct that would create in reasonable minds a perception of impropriety.

COMMENT

[1] Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judicial appointee.

[2] A judicial appointee should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by this Code.

[3] Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judicial appointee undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the Rule is necessarily cast in general terms.

[4] Judicial appointees should participate in activities that promote ethical conduct among judicial appointees and attorneys support professionalism within the judiciary and the legal profession, and promote access to justice for all.

[5] Actual improprieties include violations of law, court rules, and this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception

that the judicial appointee's ability to carry out the responsibilities of the judicial appointee's position with competence, impartiality, and integrity is impaired.

[6] A judicial appointee should, where appropriate, initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judicial appointee must act in a manner consistent with this Code.

Source: This Rule is derived from former Rule 1.2 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-201.2 is derived from former Rule 1.2 of Rule 16-814 with a style change in the Comment.

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Rule 18-201.3. AVOIDING LENDING THE PRESTIGE OF THE POSITION

A judicial appointee shall not lend the prestige of the judicial appointee's position to advance the personal or economic interests of the judicial appointee or others, or allow others to do so.

COMMENT

[1] It is improper for a judicial appointee to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judicial appointee to allude to his or her official status to gain favorable treatment in encounters with traffic officials. Similarly, a judicial appointee must not use an official letterhead to gain an advantage in conducting his or her personal business.

[2] A judicial appointee may provide a reference or recommendation for an individual based upon the judicial appointee's personal knowledge. The judicial appointee may use an official letterhead if the judicial appointee indicates that the reference is personal and if there is no likelihood that the use of the letterhead would reasonably be perceived as an attempt to exert pressure by reason of the judicial appointee's position.

[3] Judicial appointees may participate in the process of judicial selection by cooperating with appointing authorities and screening committees and by responding to inquiries from such entities concerning the professional qualifications of an individual being considered for judicial office.

[4] Special considerations arise when judicial appointees write or contribute to publications of for-profit entities,

whether related or unrelated to the law. A judicial appointee should not permit anyone associated with the publication of such materials to exploit the judicial appointee's position in a manner that violates this Rule or other applicable law. In contracts for publication of a judicial appointee's writing, the judicial appointee should retain sufficient control over the advertising to avoid such exploitation.

Source: This Rule is derived from former Rule 1.3 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-201.3 is derived from former Rule 1.3 of Rule 16-814 with a style change in the Comment.

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Rule 18-202.1. GIVING PRECEDENCE TO THE DUTIES OF POSITION

The duties of the judicial appointee's position, as prescribed by law and by the conditions and requirements imposed by the appointing authority, shall take precedence over a judicial appointee's personal and extra-official activities.

COMMENT

[1] To ensure that judicial appointees are available to fulfill their official duties, judicial appointees must conduct their personal and extra-official activities to minimize the risk of conflicts that would result in frequent disqualification.

[2] Although it is not a duty of a judicial appointee's position unless prescribed by law, judicial appointees are encouraged to participate in activities that promote public understanding of and confidence in the justice system.

[3] With respect to time devoted to personal and extra-official activities, this Rule must be construed in a reasonable manner. Family obligations, illnesses, emergencies, and other permissible extra-official activities may require a judicial appointee's immediate attention. Attending to those obligations and situations, temporary in nature, is not prohibited by this Rule and should be dealt with in accordance with applicable vacation, sick leave, and administrative leave policies. Judicial appointees must not permit their other activities to interfere with their ability to perform the duties of their public position.

Source: This Rule is derived from former Rule 2.1 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-202.1 is taken verbatim from former Rule 2.1 of Rule 16-814 (2013).

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Rule 18-202.2. IMPARTIALITY AND FAIRNESS

(a) A judicial appointee shall uphold and apply the law and shall perform all duties of the position impartially and fairly.

(b) A judicial appointee may make reasonable efforts, consistent with the Maryland Rules and other law, to facilitate the ability of all litigants, including self-represented litigants, to be fairly heard.

COMMENT

[1] To ensure impartiality and fairness to all parties, a judicial appointee must be objective and open-minded.

[2] Although each judicial appointee comes to the position with a unique background and personal philosophy, a judicial appointee must interpret and apply the law without regard to whether the judicial appointee approves or disapproves of the law in question.

[3] When applying and interpreting the law, a judicial appointee sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.

Cross reference: See Rule 18-202.6 Comment [2].

Source: This Rule is derived in part from former Rule 2.2 of Rule 16-814 (2013) and is in part new.

REPORTER'S NOTE

Section (a) of Rule 18-202.2 is taken verbatim from former

Rule 2.2 of Rule 16-814.

Section (b) is new. Its addition, together with the deletion of Comment [4] [pertaining to self-represented litigants], is based upon a recommendation of the Access to Justice Commission.

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Rule 18-202.3. BIAS, PREJUDICE, AND HARASSMENT

(a) A judicial appointee shall perform the duties of the position, including administrative duties, without bias or prejudice.

(b) A judicial appointee shall not, in the performance of the judicial appointee's duties, by words or conduct, manifest bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation. A judicial appointee shall require attorneys in proceedings before the judicial appointee and court staff, court officials, and others subject to the judicial appointee's direction and control to refrain from similar conduct.

(c) The restrictions of section (b) of this Rule do not preclude judicial appointees or attorneys from making legitimate references to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

COMMENT

[1] A judicial appointee who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings

the judiciary into disrepute.

[2] A judicial appointee must avoid conduct that may reasonably be perceived as prejudiced or biased. Examples of manifestations of bias or prejudice include epithets, slurs, demeaning nicknames, negative stereotyping, attempted humor based upon stereotypes, threatening, intimidating, or hostile acts, suggestions of connections between race, ethnicity, or nationality and crime, and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and attorneys in the proceeding, the media, and others an appearance of bias or prejudice.

[3] Harassment, as referred to in section (b) of this Rule, is verbal or physical conduct that denigrates or shows hostility or aversion toward a individual on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

[4] Sexual harassment includes sexual advances, requests for sexual favors, conduct of a sexual nature through the use of electronic communication that alarms or seriously annoys another, and other verbal or physical conduct of a sexual nature that is unwelcome.

Source: This Rule is derived from former Rule 2.3 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-202.3 is derived from former Rule 2.3 of Rule 16-814. As in Rule 18-102.3, the Rules Committee recommends expanding the Comment pertaining to sexual harassment to include conduct through the use of electronic communication.

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Rule 18-202.4. EXTERNAL INFLUENCES ON PROFESSIONAL CONDUCT

(a) A judicial appointee shall not be swayed by public clamor or fear of criticism.

(b) A judicial appointee shall not permit family, social, political, financial, or other interests or relationships to influence the judicial appointee's official conduct or judgment.

(c) A judicial appointee shall not convey or permit others to convey the impression that any person is in a position to influence the judicial appointee.

COMMENT

[1] An independent judiciary requires that judicial appointees decide matters according to the law and facts, without regard to whether particular laws or litigants are popular or unpopular with the public, the media, government officials, or the judicial appointee's friends or family. Confidence in the judiciary is eroded if a judicial appointee's decision-making is perceived to be subject to inappropriate outside influences.

Source: This Rule is derived from former Rule 2.4 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-202.4 is derived from former Rule 2.4 of Rule 16-814. As in Rule 18-102.4, the Rules Committee recommends deleting the words "or organization" after the word "person."

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Rule 18-202.5. COMPETENCE, DILIGENCE, AND COOPERATION

(a) A judicial appointee shall perform the duties of the position competently, diligently, promptly, and without favoritism or nepotism.

(b) A judicial appointee shall cooperate with judges, other judicial appointees of the court, and court officials in the administration of court business.

(c) A judicial appointee shall not wilfully fail to comply with administrative rules or reasonable directives of a judge or other judicial appointee with supervisory authority.

COMMENT

[1] Competence in the performance of a judicial appointee's duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform the responsibilities of the position.

[2] A judicial appointee should seek the necessary docket time, court staff, expertise, and resources to discharge the judicial appointee's responsibilities.

[3] Prompt disposition of the court's business requires a judicial appointee to devote adequate time to the position in accordance with the requirements imposed by the appointing authority, to be punctual in attendance and expeditious in determining matters under submission, and to take reasonable measures to ensure that court officials, litigants, and their attorneys cooperate with the judicial appointee to that end.

[4] In disposing of matters promptly and efficiently, a judicial appointee must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judicial appointee should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

Source: This Rule is derived from former Rule 2.5 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-202.5 is derived from former Rule 2.5 of Rule 16-814 with a style change in the Comment.

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Rule 18-202.6. ENSURING THE RIGHT TO BE HEARD

(a) A judicial appointee shall accord to every person who has a legal interest in a proceeding, or that person's attorney, the right to be heard according to law.

(b) A judicial appointee may encourage parties to a proceeding and their attorneys to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

COMMENT

[1] The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.

[2] Increasingly, judicial appointees have before them self-represented litigants whose lack of knowledge about the law and about judicial procedures and requirements may inhibit their ability to be heard effectively. A judicial appointee's obligation under Rule 18-202.2 to remain fair and impartial does not preclude the judicial appointee from making reasonable accommodations to protect a self-represented litigant's right to be heard, so long as those accommodations do not give the self-represented litigant an unfair advantage. This Rule does not require a judicial appointee to make any particular accommodation.

[3] Settlement conferences and referrals to alternative dispute resolution may play an important role in the administration of justice. A judicial appointee may play an important role in overseeing the settlement of disputes, but should be careful that efforts to further settlement do not

undermine any party's right to be heard according to law. Among the factors that a judicial appointee should consider when deciding upon an appropriate settlement practice for a case are (a) whether the parties have requested or voluntarily consented to a certain level of participation by the judicial appointee in settlement discussions, (b) whether the parties and their attorneys are relatively sophisticated in legal matters, (c) whether the case will be tried by a judge or a jury, (d) whether the parties participate with their attorneys in settlement discussions, (e) whether any parties are self-represented, and (f) the nature of the proceeding.

[4] Judicial appointees must be mindful of the effect settlement discussions can have, not only on their objectivity and impartiality, but also on the appearance of their objectivity and impartiality. A judicial appointee should keep in mind the effect that the judicial appointee's participation in settlement discussions may have on both the judicial appointee's own views of the case and the perceptions of the attorneys and the parties if the case remains with the judicial appointee after settlement efforts are unsuccessful. Despite a judicial appointee's best efforts, there may be instances when information obtained during settlement discussions could influence a judicial appointee's decision making during proceedings, and, in such instances, the judicial appointee should consider whether disqualification may be appropriate. See Rule 18-202.11 (a) (1).

Source: This Rule is derived from former Rule 2.6 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-202.6 is derived from former Rule 2.6 of Rule 16-814 with style changes.

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Rule 18-202.7. RESPONSIBILITY TO DECIDE

A judicial appointee shall hear and decide matters assigned to the judicial appointee unless recusal is appropriate.

COMMENT

[1] Although there are times when disqualification is necessary or appropriate to protect the rights of litigants and preserve public confidence in the independence, integrity, and impartiality of the judiciary, judicial appointees must be available to decide matters that come before them. The dignity of the court, the judicial appointee's respect for fulfillment of the duties of the position, and a proper concern for the burdens that may be imposed upon the judges and the judicial appointee's colleagues require that a judicial appointee not use disqualification to avoid cases that present difficult, controversial, or unpopular issues.

Source: This Rule is derived from former Rule 2.7 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-202.7 is taken verbatim from former Rule 2.7 of Rule 16-814.

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Rule 18-202.8. DECORUM AND DEMEANOR

(a) A judicial appointee shall require order and decorum in proceedings before the judicial appointee.

(b) A judicial appointee shall be patient, dignified, and courteous to litigants, witnesses, attorneys, court staff, court officials, and others with whom the judicial appointee deals in an official capacity, and shall require similar conduct of attorneys, court staff, court officials, and others subject to the judicial appointee's direction and control.

COMMENT

[1] The duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 18-202.5 to dispose promptly of the business of the court. Judicial appointees can be efficient and businesslike while being patient and deliberate.

Source: This Rule is derived from former Rule 2.8 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-202.8 is derived from former Rule 2.8 of Rule 16-814 with style changes.

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Rule 18-202.9. EX PARTE COMMUNICATIONS

(a) A judicial appointee shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judicial appointee out of the presence of the parties or their attorneys, concerning a pending or impending matter, except as follows:

(1) A judicial appointee may initiate, permit, or consider any ex parte communication when expressly authorized by law to do so.

(2) When circumstances require, ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided:

(A) the judicial appointee reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and

(B) the judicial appointee makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond.

(3) A judicial appointee may obtain the advice of a

disinterested expert on the law applicable to a proceeding if the judicial appointee (A) makes provision promptly to notify all of the parties as to the expert consulted and the substance of the advice, and (B) affords the parties a reasonable opportunity to respond.

(4) A judicial appointee may consult with court staff and court officials whose functions are to aid the judicial appointee in carrying out the judicial appointee's adjudicative responsibilities, or with a judge, provided the judicial appointee does not make a decision based on adjudicative facts that are not made part of the record, and does not abrogate the responsibility personally to decide the matter.

(5) A judicial appointee may, with the consent of the parties, confer separately with the parties and their attorneys as part of a settlement conference conducted pursuant to Rules 17-102 (1) and 17-105 (b).

(6) When serving in a problem-solving court program of a Circuit Court or the District Court pursuant to Rule 16-207, a judicial appointee may initiate, permit, and consider ex parte communications in conformance with the established protocols for the operation of the program if the parties have expressly consented to those protocols.

(b) If a judicial appointee inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judicial appointee shall make provision promptly to

notify the parties of the substance of the communication and provide the parties with an opportunity to respond.

(c) Unless expressly authorized by law, a judicial appointee shall not investigate adjudicative facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.

Cross reference: See Code, Courts Article, §2-607 (c)(2) authorizing District Court Commissioners to conduct investigations and inquiries into the circumstances of matters presented to determine if probable cause exists for the issuance of a charging document, warrant, or criminal summons.

(d) A judicial appointee shall make reasonable efforts, including providing appropriate supervision, to ensure that this Rule is not violated by court staff, court officials, and others subject to the judicial appointee's direction and control.

COMMENT

[1] To the extent reasonably possible, all parties or their attorneys shall be included in communications with a judicial appointee.

[2] Whenever the presence of a party or notice to a party is required by this Rule, it is the party's attorney, or if the party is self-represented, the party, who is to be present or to whom notice is to be given.

[3] The proscription against communications concerning a proceeding includes communications with attorneys, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted by this Rule.

[4] A judicial appointee may consult with judges or other judicial appointees on pending matters, including a retired judge approved for recall, but must avoid ex parte discussions of a case with judges or judicial appointees who have previously been disqualified from hearing the matter or with a judge whom the judicial appointee knows has been assigned to hear exceptions to the judicial appointee's recommendation in the matter.

[5] The prohibition against a judicial appointee investigating adjudicative facts in a matter extends to information available in all mediums, including electronic.

[6] A judicial appointee may consult ethics advisory committees, outside counsel, or legal experts concerning the judicial appointee's compliance with this Code. Such consultations are not subject to the restrictions of subsection (a)(2) of this Rule.

Committee note: This Rule does not regulate judicial notice of so-called "legislative facts" (facts pertaining to social policy and their ramifications) or of law.

Cross reference: See Rule 5-201.

Source: This Rule is derived from former Rule 2.9 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-202.9 is derived from former Rule 2.9 of Rule 16-814 with style changes and the addition of a Committee note and cross reference at the end of the Rule.

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Rule 18-202.10. STATEMENTS ON PENDING AND IMPENDING CASES

(a) A judicial appointee shall abstain from public comment that relates to a proceeding pending or impending in any court and that might reasonably be expected to affect the outcome or impair the fairness of that proceeding and shall require similar abstention on the part of court personnel subject to the judicial appointee's direction and control. This Rule does not prohibit a judicial appointee from making public statements in the course of official duties or from explaining for public information the procedures of the court.

(b) With respect to a case, controversy, or issue that is likely to come before the court, a judicial appointee shall not make a commitment, pledge, or promise that is inconsistent with the impartial performance of the adjudicative duties of the office.

(c) Notwithstanding the restrictions in sections (a) and (b) of this Rule, a judicial appointee may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judicial appointee is

a litigant in a non-official capacity.

COMMENT

[1] This Rule's restrictions are essential to the maintenance of the independence, integrity, and impartiality of the judiciary.

[2] This Rule does not prohibit a judicial appointee from commenting on proceedings in which the judicial appointee is a litigant in a personal capacity. In cases in which the judicial appointee is a litigant in an official capacity, such as a writ of mandamus, the judicial appointee must not comment publicly.

[3] "Court personnel," as used in section (a) of this Rule does not include the attorneys in a proceeding before the judicial appointee. The comment of attorneys in this regard is governed by Rule 19-303.6 of the Maryland Attorneys' Rules of Professional Conduct.

Source: This Rule is derived from former Rule 2.10 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-202.10 is derived from former Rule 2.10 of Rule 16-814 with style changes.

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Rule 18-202.11. DISQUALIFICATION

(a) A judicial appointee shall disqualify himself or herself in any proceeding in which the judicial appointee's impartiality might reasonably be questioned, including the following circumstances:

(1) The judicial appointee has a personal bias or prejudice concerning a party or a party's attorney, or personal knowledge of facts that are in dispute in the proceeding.

(2) The judicial appointee knows that the judicial appointee, the judicial appointee's spouse or domestic partner, or a individual within the third degree of relationship to either of them, or the spouse or domestic partner of such a individual:

(A) is a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(B) is acting as a attorney in the proceeding;

(C) is an individual who has more than a de minimis interest that could be substantially affected by the proceeding;
or

(D) is likely to be a material witness in the proceeding.

(3) The judicial appointee knows that he or she, individually or as a fiduciary, or any of the following individuals has a significant financial interest in the subject matter in controversy or in a party to the proceeding:

(A) the judicial appointee's spouse or domestic partner;

(B) an individual within the third degree of relationship to the judicial appointee; or

(C) any other member of the judicial appointee's family residing in the judicial appointee's household.

(4) The judicial appointee, while a judicial appointee or as an applicant for the position, has made a public statement, other than in a court proceeding, decision, or opinion, that commits or appears to commit the judicial appointee to reach a particular result or rule in a particular way in the proceeding or controversy.

(5) The judicial appointee:

(A) served as a attorney in the matter in controversy, or was associated with a attorney who participated substantially as a attorney in the matter during such association; or

(B) served in governmental employment, and in such capacity participated personally and substantially as a attorney or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy.

(6) If the judicial appointee is part-time, the judicial

appointee or any attorney with whom the judicial appointee is associated represents a party or otherwise has an interest in the proceeding.

(b) A judicial appointee shall keep informed about the judicial appointee's personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal economic interests of the judicial appointee's spouse and minor children residing in the judicial appointee's household.

(c) A judicial appointee subject to disqualification under this Rule, other than for bias or prejudice under subsection (a)(1) of this Rule, may disclose on the record the basis of the judicial appointee's disqualification and may ask the parties and their attorneys to consider, outside the presence of the judicial appointee and court personnel, whether to waive disqualification. If, following the disclosure, the parties and attorneys agree, without participation by the judicial appointee or court personnel, that the judicial appointee should not be disqualified, the judicial appointee may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

COMMENT

[1] Under this Rule, a judicial appointee is disqualified whenever the judicial appointee's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of subsections (a)(1) through (5) apply. In this Rule, "disqualification" has the same meaning as "recusal."

[2] A judicial appointee's obligation not to hear or decide matters in which disqualification is required applies regardless

of whether a motion to disqualify is filed.

[3] A judicial appointee should disclose on the record information that the judicial appointee believes the parties or their attorneys might reasonably consider relevant to a possible motion for disqualification, even if the judicial appointee believes there is no basis for disqualification.

[4] This procedure gives the parties an opportunity to waive the recusal if the judicial appointee agrees. The judicial appointee may comment on possible waiver but must ensure that consideration of the question of waiver is made independently of the judicial appointee. A party may act through an attorney if the attorney represents on the record that the party has been consulted and consents. As a practical matter, a judicial appointee may request that all parties and their attorneys sign a waiver agreement.

Source: This Rule is derived from former Rule 2.11 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-202.11 is derived from former Rule 2.11 of Rule 16-814 with style changes.

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Rule 18-202.12. SUPERVISORY DUTIES

(a) A judicial appointee shall require court staff, court officials, and others subject to the judicial appointee's direction and control to act in a manner consistent with the judicial appointee's obligations under this Code.

(b) A judicial appointee with supervisory authority for the performance of other judicial appointees shall take reasonable measures to ensure that those judicial appointees properly discharge their official responsibilities, including the prompt disposition of matters before them.

COMMENT

[1] A judicial appointee is responsible for his or her own conduct and for the conduct of others, such as staff, when those individuals are acting at the judicial appointee's direction or control. A judicial appointee may not direct court personnel to engage in conduct on the judicial appointee's behalf or as the judicial appointee's representative when such conduct would violate this Code if undertaken by the judicial appointee.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judicial appointee with supervisory authority must take the steps needed to ensure that judicial appointees under his or her supervision administer their workloads promptly.

Source: This Rule is derived from former Rule 2.12 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-202.12 is derived from former Rule 2.12 of Rule 16-814 with a style change in the Comment.

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Rule 18-202.13. ADMINISTRATIVE APPOINTMENTS

(a) In making official administrative appointments, a judicial appointee:

(1) shall exercise the power of appointment impartially and on the basis of merit; and

(2) shall avoid nepotism, favoritism, personal benefit, and unnecessary appointments.

(b) A judicial appointee shall not approve compensation of appointees beyond the fair value of services rendered.

COMMENT

[1] Consent by the parties to an appointment or an award of compensation does not relieve the judicial appointee of the obligation prescribed by section (a) of this Rule.

[2] Unless otherwise defined by law, nepotism is the appointment or hiring of any relative within the third degree of relationship to either the judicial appointee or the judicial appointee's spouse or domestic partner, or the spouse or domestic partner of such relative.

[3] Rule 18-202.13 does not apply to the appointment or compensation of an employee in the private office of a part-time judicial appointee.

Cross reference: See Rule 16-804.

Source: This Rule is derived from former Rule 2.13 of Rule 16-

814 (2013).

REPORTER'S NOTE

Rule 18-202.13 is derived from former Rule 2.13 of Rule 16-814 with style changes in the Comment. As in Rule 18-102.13, the Rules Committee recommends adding a cross reference to Rule 16-804, Anti-Nepotism Policy.

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Rule 18-202.14. DISABILITY AND IMPAIRMENT OF OTHERS

A judicial appointee having a reasonable belief that the performance of a attorney, a judge, or another judicial appointee is impaired by drugs or alcohol or by a mental, emotional, or physical condition, shall take appropriate action, which may include a confidential referral to a attorney or judicial assistance program.

COMMENT

[1] "Appropriate action" means action intended and reasonably likely to help the judge, judicial appointee, or attorney in question to address the problem and prevent harm to the justice system. Depending upon the circumstances, appropriate action may include speaking directly to the impaired individual, notifying an individual with supervisory responsibility over the impaired individual, or making a referral to an assistance program.

[2] Taking or initiating corrective action by way of referral to an assistance program may satisfy a judicial appointee's responsibility under this Rule. Assistance programs have many approaches for offering help to impaired judges and attorneys, such as intervention, counseling, or referral to appropriate health care professionals. Depending upon the gravity of the conduct that has come to the judicial appointee's attention, however, the judicial appointee may be required to take other action, such as reporting the impaired judge, judicial appointee, or attorney to the appropriate authority, agency, or body. See Rule 18-202.15.

Source: This Rule is derived from former Rule 2.14 of Rule 16-

814 (2013).

REPORTER'S NOTE

Rule 18-202.14 is derived from former Rule 2.14 of Rule 16-814 with style changes.

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Rule 18-202.15. RESPONDING TO JUDICIAL AND ATTORNEY MISCONDUCT

(a) A judicial appointee shall take or initiate appropriate corrective measures with respect to the unprofessional conduct of a judge, another judicial appointee, or a attorney.

(b) If other corrective measures are not appropriate or, if attempted, were not successful, a judicial appointee:

(1) shall inform the Commission on Judicial Disabilities of facts known to the judicial appointee that raise a substantial question as to a judge's fitness for office;

(2) shall inform the Attorney Grievance Commission of facts known to the judicial appointee that raise a substantial question as to a attorney's honesty, trustworthiness, or fitness as a attorney in other respects; and

(3) shall inform the appointing authority of facts known to the judicial appointee that raise a substantial question as to another judicial appointee's fitness for the position.

(c) Acts of a judicial appointee required or permitted by sections (a) or (b) of this Rule shall be absolutely privileged.

COMMENT

[1] Permitting a judicial appointee to take "corrective" measures gives the judicial appointee a wide range of options to deal with unprofessional conduct. Appropriate corrective measures may include direct communication with the judge, attorney, or other judicial appointee who is believed to have committed the violation or other direct action if available. There may be instances of professional misconduct that would warrant a private admonition or referral to a bar association counseling service.

Source: This Rule is derived from former Rule 2.15 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-202.15 is derived from former Rule 2.15 of Rule 16-814 with style changes.

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Rule 18-202.16. COOPERATION WITH DISCIPLINARY AUTHORITIES

(a) A judicial appointee shall cooperate and be candid and honest with judicial and attorney disciplinary agencies.

(b) A judicial appointee shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a judge, another judicial appointee, or an attorney.

COMMENT

[1] Cooperation with investigations and proceedings of judicial and attorney discipline agencies, as required in section (a) of this Rule, instills confidence in judicial appointees' commitment to the integrity of the judicial system and the protection of the public.

Source: This Rule is derived from former Rule 2.16 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-202.16 is derived from former Rule 2.16 of Rule 16-814 with style changes.

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Rule 18-203.1. EXTRA-OFFICIAL ACTIVITIES IN GENERAL

A judicial appointee may engage in extra-official activities, except as prohibited by law or this Code. When engaging in extra-official activities, a judicial appointee shall not:

(a) participate in activities that will interfere with the proper performance of the judicial appointee's official duties;

(b) participate in activities that will lead to frequent disqualification of the judicial appointee;

(c) participate in activities that would appear to a reasonable person to undermine the judicial appointee's independence, integrity, or impartiality;

(d) engage in conduct that would appear to a reasonable person to be coercive; or

(e) make inappropriate use of court premises, staff, stationery, equipment, or other resources.

COMMENT

[1] To the extent that time permits, and independence and impartiality are not compromised, judicial appointees are encouraged to engage in appropriate extra-official activities. Judicial appointees are uniquely qualified to engage in extra-official activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing,

teaching, or participating in scholarly research projects. In addition, judicial appointees are permitted and encouraged to engage in educational, religious, charitable, fraternal, or civic extra-official activities not conducted for profit, even when the activities do not involve the law. See Rule 18-203.7.

[2] Participation in both law-related and other extra-official activities helps integrate judicial appointees into their communities and furthers public understanding of and respect for courts and the judicial system.

[3] Discriminatory actions and expressions of bias or prejudice by a judicial appointee, even outside the judicial appointee's official actions, are likely to appear to a reasonable person to call into question the judicial appointee's integrity and impartiality. Examples include jokes or other remarks that demean individuals based upon their race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status. For the same reason, a judicial appointee's extra-official activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination. See Rule 18-203.6.

[4] While engaged in permitted extra-official activities, judicial appointees must not coerce others or take action that would reasonably be perceived as coercive. For example, depending upon the circumstances, a judicial appointee's solicitation of contributions or memberships for an organization, even as permitted by Rule 18-203.7 (a), might create the risk that the person solicited would feel obligated to respond favorably, or would do so to curry favor with the judicial appointee.

Source: This Rule is derived from former Rule 3.1 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.1 is derived from former Rule 3.1 of Rule 16-814 with style changes in the Comment.

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Rule 18-203.2. APPEARANCES BEFORE GOVERNMENTAL BODIES AND
CONSULTATION WITH GOVERNMENT OFFICIALS

A judicial appointee shall not appear voluntarily at a public hearing before, or otherwise consult with, an executive or a legislative body or official, except:

(a) in connection with matters concerning the law, the legal system, or the administration of justice;

(b) in connection with matters about which the judicial appointee acquired knowledge or expertise in the course of the judicial appointee's official duties;

(c) when the judicial appointee is acting self-represented in a matter involving the judicial appointee's legal or economic interests, or when the judicial appointee is acting in a fiduciary capacity; or

(d) as permitted by Rule 18-203.10.

COMMENT

[1] Judicial appointees possess special expertise in matters of law, the legal system, and the administration of justice, and may properly share that expertise with governmental bodies and official in the executive or legislative branch.

[2] In appearing before governmental bodies or consulting with government officials, judicial appointees must be mindful that they remain subject to other provisions of this Code, such

as Rule 18-201.3, prohibiting them from using the prestige of office to advance their own or others' interests, Rule 18-202.10, governing public comment on pending and impending matters, and Rule 18-203.1 (c), prohibiting judicial appointees from engaging in extra-official activities that would appear to a reasonable person to undermine the judicial appointee's independence, integrity, or impartiality.

[3] In general, it would be an unnecessary and unfair burden to prohibit judicial appointees from appearing before governmental bodies or consulting with government officials on matters that are likely to affect them as private citizens, such as zoning proposals affecting their real property. In engaging in such activities, however, judicial appointees must not refer to their official positions, and must otherwise exercise caution to avoid using the prestige of their position.

Source: This Rule is derived from former Rule 3.2 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.2 is derived from former Rule 3.2 of Rule 16-814 with style changes.

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Rule 18-203.3. TESTIFYING AS A CHARACTER WITNESS

A judicial appointee shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly subpoenaed.

COMMENT

[1] A judicial appointee who, without being subpoenaed, testifies as a character witness abuses the prestige of the position to advance the interests of another. See Rule 18-201.3. Except in unusual circumstances where the demands of justice require, a judicial appointee should discourage a party from requiring the judicial appointee to testify as a character witness.

Source: This Rule is derived from former Rule 3.3 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.3 is derived from former Rule 3.3 of Rule 16-814, except for an updated reference to a Rule in the Comment and changing the word "summoned" to "subpoenaed" to conform to Maryland terminology. See Rule 1-202 (aa) and (bb).

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Rule 18-203.4. APPOINTMENT TO GOVERNMENTAL POSITIONS

A judicial appointee shall not accept appointment to: (a) a Judicial Nominating Commission or (b) any other governmental committee, board, commission, or position, unless it is one that concerns the law, the legal system, or the administration of justice.

COMMENT

[1] Rule 18-203.4 implicitly acknowledges the value of judicial appointees accepting appointments to entities that concern the law, the legal system, or the administration of justice. Even in such instances, however, a judicial appointee should assess the appropriateness of accepting an appointment, paying particular attention to the subject matter of the appointment and the availability and allocation of judicial resources, including the judicial appointee's time commitments, and giving due regard to the requirements of the independence and impartiality of the judiciary.

[2] A judicial appointee may not accept a governmental appointment that could interfere with the effectiveness and independence of the judiciary, assume or discharge an executive or legislative power, or hold another "office" under the Constitution or laws of the United States or the State of Maryland. See Maryland Declaration of Rights, Articles 8, 33, and 35.

[3] A judicial appointee may represent his or her country, State, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. Such representation does not constitute acceptance of a government position.

Committee note: Although the Judicial Ethics Committee has concluded that the Supremacy Clause of the U.S. Constitution may allow service in reserve components of the armed forces that otherwise might be precluded under this Code, such as service as a judge advocate or military judge, the Attorney General, rather than the Judicial Ethics Committee, traditionally has rendered opinions with regard to issues of dual or incompatible offices.

Source: This Rule is derived from former Rule 3.4 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.4 is derived from former Rule 3.4 of Rule 16-814 with a style change in the Comment.

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Rule 18-203.5. USE OF NONPUBLIC INFORMATION

A judicial appointee shall not intentionally disclose or use nonpublic information acquired in an official capacity for any purpose unrelated to the judicial appointee's official duties. Nonpublic information means information that is not available to the public. It may include information that is (a) sealed or shielded pursuant to the Maryland Rules, other law, or court order, (b) impounded, (c) communicated in camera, or (d) offered in grand jury proceedings, pre-sentencing reports, dependency cases, or psychiatric reports.

COMMENT

[1] In the course of performing official duties, a judicial appointee may acquire information of commercial or other value that is unavailable to the public. The judicial appointee must not reveal or use such information for personal gain or for any purpose unrelated to his or her official duties.

[2] This Rule is not intended, however, to affect a judicial appointee's ability to act on information as necessary to protect the health or safety of the judicial appointee or a member of a judicial appointee's family, court personnel, or other judicial officers.

Source: This Rule is derived from former Rule 3.5 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.5 is derived from former Rule 3.5 of Rule 16-814. As in Rule 18-103.5, the Rules Committee recommends adding language referring to the "Maryland Rules" or "other law" in the context of sealing and shielding information.

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Rule 18-203.6. AFFILIATION WITH DISCRIMINATORY ORGANIZATIONS

(a) A judicial appointee shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation.

(b) A judicial appointee shall not use the benefits or facilities of an organization if the judicial appointee knows or should know that the organization practices invidious discrimination on one or more of the bases identified in section (a) of this Rule. A judicial appointee's attendance at an event in a facility of an organization that the judicial appointee is not permitted to join is not a violation of this Rule when the judicial appointee's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

COMMENT

[1] A judicial appointee's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judicial appointee's membership in an organization that practices invidious discrimination creates the perception that the judicial appointee's impartiality is impaired.

[2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation individuals who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judicial appointees should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited.

[3] When a judicial appointee learns that an organization to which the judicial appointee belongs engages in invidious discrimination, the judicial appointee must resign immediately from the organization.

[4] A judicial appointee's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule.

[5] This Rule does not apply to national or state military service.

Source: This Rule is derived from former Rule 3.6 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.6 is derived from former Rule 3.6 of Rule 16-814 with style changes.

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Rule 18-203.7. PARTICIPATION IN EDUCATIONAL, RELIGIOUS,
CHARITABLE, FRATERNAL, OR CIVIC ORGANIZATIONS AND ACTIVITIES

(a) Subject to the requirements of Rules 18-203.1 and 18-203.6, a judicial appointee may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including the following activities:

(1) assisting such an organization or entity in planning related to fund-raising, and participating in the management and investment of the organization's or entity's funds;

(2) soliciting contributions for such an organization or entity, but only from members of the judicial appointee's family, judges, or other judicial appointees over whom the judicial appointee does not exercise supervisory authority;

(3) soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity, but only if the organization or entity is concerned with the law, the legal

system, or the administration of justice;

(4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judicial appointee may participate only if the event concerns the law, the legal system, or the administration of justice;

(5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice; and

(6) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:

(A) will be engaged in proceedings that would ordinarily come before the judicial appointee; or

(B) will frequently be engaged in adversary proceedings in the appointing court.

(b) A judicial appointee may encourage but not coerce attorneys to provide pro bono publico legal services.

COMMENT

[1] The activities permitted by section (a) of this Rule generally include those sponsored by or undertaken on behalf of public or private not-for-profit educational institutions, and other not-for-profit organizations, including law-related,

charitable, and other organizations.

[2] Even for law-related organizations, a judicial appointee should consider whether the membership and purposes of the organization or the nature of the judicial appointee's participation in or association with the organization would conflict with the judicial appointee's obligation to refrain from activities that reflect adversely upon a judicial appointee's independence, integrity, and impartiality.

[3] Mere attendance at an event, whether or not the event serves a fund-raising purpose, does not constitute a violation of subsection (a)(4) of this Rule. It is also generally permissible for a judicial appointee to serve as an usher or a food server or preparer, or to perform similar functions, at fund-raising events sponsored by educational, religious, charitable, fraternal, or civic organizations. Such activities are not solicitation and do not present an element of coercion or abuse the prestige of the judicial appointee's position.

[4] Identification of a judicial appointee's position in educational, religious, charitable, fraternal, or civic organizations on letterhead used for fund-raising or membership solicitation does not violate this Rule. The letterhead may list the judicial appointee's title or position if comparable designations are used for other individuals.

[5] A judicial appointee may promote access to justice by encouraging attorneys to participate in pro bono publico legal services, if in doing so the judicial appointee does not employ coercion, or abuse the prestige of the judicial appointee's position. Such encouragement may take many forms, including providing lists of available programs, training attorneys to do pro bono publico legal work, and participating in events recognizing attorneys who have done pro bono publico work.

Source: This Rule is derived from former Rule 3.7 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.7 is derived from former Rule 3.7 of Rule 16-814 with style changes.

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Rule 18-203.8. APPOINTMENTS TO FIDUCIARY POSITIONS

(a) Except as provided in section (b) of this Rule, a judicial appointee may hold a fiduciary position, such as executor, administrator, trustee, guardian, attorney in fact, or other personal representative.

(b) A judicial appointee shall not hold a fiduciary position if:

(1) doing so would interfere with the proper performance of the judicial appointee's official duties; or

(2) the fiduciary will likely be engaged in proceedings that would ordinarily come before the judicial appointee, or if the estate, trust, or ward becomes involved in adversary proceedings in the appointing court.

(c) A judicial appointee acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to a judicial appointee personally.

(d) If an individual who is serving in a fiduciary position becomes a judicial appointee, he or she must comply with this Rule as soon as reasonably practicable, but in no event later than one year after becoming a judicial appointee.

COMMENT

[1] A judicial appointee should recognize that other restrictions imposed by this Code may conflict with the judicial appointee's obligations as a fiduciary; in such circumstances, a judicial appointee should resign as fiduciary. For example, serving as a fiduciary might require frequent disqualification of a judicial appointee under Rule 18-202.11 because a judicial appointee is deemed to have an economic interest in shares of stock held by a trust if the amount of stock held is more than de minimis.

Source: This Rule is derived from former Rule 3.8 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.8 is derived from former Rule 3.8 of Rule 16-814 with style changes.

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Rule 18-203.9. SERVICE AS ARBITRATOR OR MEDIATOR

(a) A full-time judicial appointee shall not act as an arbitrator or a mediator or perform other alternative dispute resolution functions apart from the judicial appointee's official duties unless expressly authorized by law.

(b) A part-time judicial appointee may conduct alternative dispute resolution (ADR) proceedings in a private capacity only if the judicial appointee:

(1) conducts no ADR proceedings in a private capacity relating to a matter currently assigned to the judicial appointee;

(2) discloses to the parties in each matter assigned to the judicial appointee:

(A) the judicial appointee's professional association with any entity that is engaged in offering ADR services;

(B) whether the judicial appointee is conducting, or has conducted within the previous 12 months, an ADR proceeding involving any party, attorney, or law firm involved in the matter assigned to the judicial appointee; and

(C) any negotiations or agreements for future ADR services

involving the judicial appointee and any of the parties or attorneys to the case; and

(3) except when there is no disqualification by agreement as permitted by Rule 18-202.11 (c), does not participate in a matter in which the judicial appointee's impartiality might reasonably be questioned because of ADR services engaged in or offered by the judicial appointee.

COMMENT

[1] This Rule does not prohibit a part-time judicial appointee from participating in arbitration, mediation, or other alternative dispute resolution services in a private capacity. See, however, Rule 18-203.1.

[2] Masters may conduct settlement conferences pursuant to Rules 17-102 (1) and 17-105 (b) as part of assigned official duties. Full-time judicial appointees shall not otherwise render dispute resolution services, whether or not for economic gain, unless expressly authorized by law.

Source: This Rule is derived from former Rule 3.9 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.9 is derived from former Rule 3.9 of Rule 16-814 with style changes.

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Rule 18-203.10. PRACTICE OF LAW

(a) In General

Except as expressly allowed by this Rule, a judicial appointee shall not practice law.

(b) Exceptions

(1) A judicial appointee may act self-represented in a matter involving the judicial appointee or the judicial appointee's interest and, if without compensation, may give legal advice to and draft or review documents for a member of the judicial appointee's family.

(2) To the extent not expressly prohibited by law or by the appointing authority and subject to other applicable provisions of this Code, a part-time judicial appointee who is an attorney may practice law, provided that:

(A) the judicial appointee shall not use his or her position to further the judicial appointee's success in the practice of law; and

(B) the judicial appointee shall not practice or appear in the appointing court, as an individual in a matter involving the judicial appointee or the judicial appointee's interest.

(c) Prior to assuming official duties, a full-time judicial appointee shall enter into an agreement for payments relating to the judicial appointee's former law practice. A payment period limited to a maximum of five years is presumptively reasonable.

COMMENT

[1] A judicial appointee may act self-represented in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. A judicial appointee must not use the prestige of office to advance the judicial appointee's personal or family interests. See Rule 18-201.3.

Source: This Rule is derived from former Rule 3.10 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.10 is derived from former Rule 3.10 of Rule 16-814 with style changes.

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Rule 18-203.11. FINANCIAL, BUSINESS, OR REMUNERATIVE ACTIVITIES

(a) A judicial appointee may hold and manage investments of the judicial appointee and members of the judicial appointee's family.

(b) Except as permitted by Rule 18-203.7, a full-time judicial appointee shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judicial appointee may manage or participate in:

(1) a business closely held by the judicial appointee or members of the judicial appointee's family; or

(2) a business entity primarily engaged in investment of the financial resources of the judicial appointee or members of the judicial appointee's family.

(c) A judicial appointee shall not engage in financial activities permitted under sections (a) or (b) of this Rule if they will:

(1) interfere with the proper performance of the judicial appointee's official duties;

(2) lead to frequent disqualification of the judicial appointee;

(3) involve the judicial appointee in frequent transactions or continuing business relationships with attorneys or other persons likely to come before the appointing court; or

(4) result in violation of other provisions of this Code.

COMMENT

[1] Judicial appointees are generally permitted to engage in financial activities, including managing real estate and other investments for themselves or for members of their families. Participation in these activities, like participation in other extra-official activities, is subject to the requirements of this Code. For example, it would be improper for a judicial appointee to spend so much time on business activities that it interferes with the performance of the judicial appointee's official duties. See Rule 18-202.1. Similarly, it would be improper for a judicial appointee to use his or her official title or conduct his or her business or financial affairs in such a way that disqualification is frequently required. See Rules 18-201.3 and 18-202.11.

[2] As soon as practicable without serious financial detriment, the judicial appointee must divest himself or herself of investments and other financial interests that might require frequent disqualification or otherwise violate this Rule.

Source: This Rule is derived from former Rule 3.11 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.11 is derived from former Rule 3.11 of Rule 16-814 with style changes.

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Rule 18-203.12. COMPENSATION FOR EXTRA-OFFICIAL ACTIVITIES

A judicial appointee may accept reasonable compensation for extra-official activities permitted by this Code or other law unless such acceptance would appear to a reasonable person to undermine the judicial appointee's independence, integrity, or impartiality.

COMMENT

[1] A judicial appointee is permitted to accept honoraria, stipends, fees, wages, salaries, royalties, or other compensation for speaking, teaching, writing, and other extrajudicial activities, provided the compensation is reasonable and commensurate with the task performed. The judicial appointee should be mindful, however, that official duties must take precedence over other activities.

[2] Compensation derived from extra-official activities may be subject to public reporting. See Rule 18-203.15.

Source: This Rule is derived from former Rule 3.12 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.12 is derived from former Rule 3.12 of Rule 16-814 with a style change in the Comment.

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Rule 18-203.13. ACCEPTANCE OF GIFTS, LOANS, BEQUESTS, BENEFITS,
OR OTHER THINGS OF VALUE

(a) A judicial appointee shall not accept any gifts, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the judicial appointee's independence, integrity, or impartiality.

(b) Unless otherwise prohibited by law, or by section (a) of this Rule, a judicial appointee may accept the following:

(1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;

(2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including attorneys, whose appearance or interest in a proceeding pending or impending before the judicial appointee would in any event require disqualification of the judicial appointee under Rule 18-202.11;

(3) ordinary social hospitality;

(4) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending

institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not judicial appointees;

(5) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not judicial appointees;

(6) scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated individuals who are not judicial appointees, based upon the same terms and criteria;

(7) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use; or

(8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner, or other family member of a judicial appointee residing in the judicial appointee's household, but that incidentally benefit the judicial appointee.

(9) gifts incident to a public testimonial;

(10) invitations to the judicial appointee and the judicial appointee's spouse, domestic partner, or guest to attend without charge:

(A) an event associated with a bar-related function or other activity relating to the law, the legal system, or the

administration of justice; or

(B) an event associated with any of the judicial appointee's educational, religious, charitable, fraternal or civic activities permitted by this Code, if the same invitation is offered to persons who are not judicial appointees who are engaged in similar ways in the activity as is the judicial appointee.

COMMENT

[1] Whenever a judicial appointee accepts a gift or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as intended to influence the judicial appointee's decision in a case. Rule 18-203.13 imposes restrictions upon the acceptance of such benefits, according to the magnitude of the risk. Section (b) of this Rule identifies circumstances in which the risk that the acceptance would appear to undermine the judicial appointee's independence, integrity, or impartiality is low. As the value of the benefit or the likelihood that the source of the benefit will appear before the judicial appointee increases, the judicial appointee is prohibited under section (a) of this Rule from accepting the gift.

[2] Gift - giving between friends and relatives is a common occurrence, and ordinarily does not create an appearance of impropriety or cause reasonable persons to believe that the judicial appointee's independence, integrity, or impartiality has been compromised. In addition, when the appearance of friends or relatives in a case would require the judicial appointee's disqualification under Rule 18-202.11, there would be no opportunity for a gift to influence the judicial appointee's decision-making. Subsection (b)(2) of this Rule places no restrictions upon the ability of a judicial appointee to accept gifts or other things of value from friends or relatives under these circumstances.

[3] Businesses and financial institutions frequently make available special pricing, discounts, and other benefits, either in connection with a temporary promotion or for preferred customers, based upon longevity of the relationship, volume of business transacted, and other factors. A judicial appointee may freely accept such benefits if they are available to the general public, or if the judicial appointee qualifies for the

special price or discount according to the same criteria as are applied to persons who are not judicial appointees. As an example, loans provided at generally prevailing interest rates are not gifts, but a judicial appointee could not accept a loan from a financial institution at below-market interest rates unless the same rate was being made available to the general public for a certain period of time or only to borrowers with specified qualifications that the judicial appointee also possesses.

[4] Rule 18-203.13 applies only to acceptance of gifts or other things of value by a judicial appointee. Nonetheless, if a gift or other benefit is given to the judicial appointee's spouse, domestic partner, or member of the judicial appointee's family residing in the judicial appointee's household, it may be viewed as an attempt to evade Rule 18-203.13 and influence the judicial appointee indirectly. Where the gift or benefit is being made primarily to such other persons, and the judicial appointee is merely an incidental beneficiary, this concern is reduced. A judicial appointee should, however, remind family and household members of the restrictions imposed upon judicial appointees and urge them to take these restrictions into account when making decisions about accepting such gifts or benefits.

[5] Rule 18-203.13 does not apply to contributions to a judicial appointee's campaign for judicial office.

Source: This Rule is derived from former Rule 3.13 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.13 is derived from former Rule 3.13 of Rule 16-814 with style changes.

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Rule 18-203.14. REIMBURSEMENT OF EXPENSES AND WAIVERS OF FEES OR CHARGES

(a) Unless otherwise prohibited by Rule 18-203.1, Rule 18-203.13 (a), or other law, a judicial appointee may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the judicial appointee's employing entity, if the expenses or charges are associated with the judicial appointee's participation in extra-official activities permitted by this Code.

(b) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the judicial appointee and, when appropriate to the occasion, by the judicial appointee's spouse, domestic partner, or guest.

COMMENT

[1] Educational, civic, religious, fraternal, and charitable organizations often sponsor meetings, seminars, symposia, dinners, awards ceremonies, and similar events. Judicial appointees are encouraged to attend educational programs, as both teachers and participants, in law-related and academic disciplines, in furtherance of their duty to remain

competent in the law. Participation in a variety of other extra-official activities is also permitted and encouraged by this Code.

[2] Not infrequently, sponsoring organizations invite certain judicial appointees to attend seminars or other events on a fee-waived or partial-fee-waived basis, and sometimes include reimbursement for necessary travel, food, lodging, or other incidental expenses. A judicial appointee's decision whether to accept reimbursement of expenses or a waiver or partial waiver of fees or charges in connection with these or other extra-official activities must be based upon an assessment of all the circumstances. The judicial appointee must undertake a reasonable inquiry to obtain the information necessary to make an informed judgment about whether acceptance would be consistent with the requirements of this Code.

[3] A judicial appointee must assure himself or herself that acceptance of reimbursement or fee waivers would not appear to a reasonable person to undermine the judicial appointee's independence, integrity, or impartiality. The factors that a judicial appointee should consider when deciding whether to accept reimbursement or a fee waiver for attendance at a particular activity include:

(a) whether the sponsor is an accredited educational institution or bar association rather than a trade association or a for-profit entity;

(b) whether the funding comes largely from numerous contributors rather than from a single entity and is earmarked for programs with specific content;

(c) whether the content is related or unrelated to the subject matter of litigation pending or impending before the judicial appointee, or to matters that are likely to come before the judicial appointee;

(d) whether the activity is primarily educational rather than recreational, and whether the costs of the event are reasonable and comparable to those associated with similar events sponsored by the judiciary, bar associations, or similar groups;

(e) whether information concerning the activity and its funding sources is available upon inquiry;

(f) whether the sponsor or source of funding is generally associated with particular parties or interests currently appearing or likely to appear in the judicial appointee's court, thus possibly requiring disqualification of

the judicial appointee under Rule 18-202.11;

(g) whether differing viewpoints are presented; and

(h) whether a broad range of judicial and nonjudicial participants are invited, whether a large number of participants are invited, and whether the program is designed specifically for judges or judicial appointees.

Source: This Rule is derived from former Rule 3.14 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.14 is derived from former Rule 3.14 of Rule 16-814 with style changes.

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Rule 18-203.15. REPORTING REQUIREMENTS

A judicial appointee must accurately complete and timely file an annual Financial Disclosure Statement on the form and as otherwise prescribed by the Court of Appeals pursuant to Md. Rule 18-704.

Source: This Rule is derived from former Rule 3.15 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-203.15 is derived from former Rule 3.15 of Rule 16-814 with a style change.

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PART 4 - RULES GOVERNING POLITICAL ACTIVITY

Rule 18-204.1. DEFINITIONS

(a) Applicant

(1) "Applicant" means a judicial appointee who has applied for appointment by the Governor to a judicial office.

(2) A judicial appointee becomes an applicant when the judicial appointee files an application with a judicial nominating commission and remains an applicant until the Governor makes an appointment to that judicial office unless, prior to that time, the judicial appointee formally withdraws the application.

(3) If the judicial appointee is not appointed but, pursuant to an Executive Order of the Governor or other law, remains eligible for appointment to another judicial office without a further application to or recommendation from the judicial nominating commission, the judicial appointee remains an applicant until the Governor makes an appointment to that other judicial office, unless, prior to that time, the judicial appointee formally withdraws the application.

Cross reference: Executive Order 01.01.2008.04.

(b) Candidate for Election

(1) "Candidate for election" means a judicial appointee who seeks initial election to a Circuit Court or an Orphans' Court.

(2) A judicial appointee becomes a candidate for election on the date on which the judicial appointee files a certificate of candidacy in accordance with Maryland election laws, but no earlier than two years prior to the general election for that office.

(3) A judicial appointee who becomes a candidate for election under section (c) of this Rule remains a candidate for election until the general election for the office unless, prior to that time, the judicial appointee files a formal withdrawal of candidacy in accordance with Maryland election laws.

(c) Political Organization

"Political organization" includes a political party, a political committee, and a partisan organization, as those terms are defined in Maryland Code, Election Article, §1-101.

Source: This Rule is derived from former Rule 4.1 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-204.1 is derived from former Rule 4.1 of Rule 16-814 with a style change.

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Rule 18-204.2. POLITICAL CONDUCT OF JUDICIAL APPOINTEE WHO IS
NOT A CANDIDATE

(a) A judicial appointee who is not a candidate for election shall not engage in any partisan political activity.

(b) A judicial appointee shall resign when the judicial appointee becomes a candidate for a non-judicial office, except that a judicial appointee may continue to hold the appointed position while a candidate for election as a delegate to a Maryland Constitutional Convention.

Source: This Rule is derived from former Rule 4.2 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-204.2 is taken verbatim from former Rule 4.2 of Rule 16-814.

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Rule 18-204.3. POLITICAL CONDUCT OF APPLICANT

An applicant for judicial office may initiate communications or contact with a judicial nominating commission or its members and may seek endorsements for the appointment from any other person, other than a political organization.

COMMENT

[1] An applicant may initiate communications or contact with a judicial nominating commission or its members, but neither the commission nor its members are obliged to respond to such communications or contact. Applicants may appear for interviews before the commission and may respond to questions or inquiries from commission members, and they may solicit endorsements from other persons (other than a political organization). If they have a question regarding the procedure or their application, they may contact the Administrative Office of the Courts.

Source: This Rule is derived from former Rule 4.3 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-204.3 is derived from former Rule 4.3 of Rule 16-814 with style changes. As in Rule 18-102.4, the Rules Committee recommends deleting the words "or organization" after the word "person."

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Rule 18-204.4. POLITICAL CONDUCT OF CANDIDATE FOR ELECTION

A candidate for election:

(a) shall comply with all applicable election laws and regulations;

(b) shall act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary and maintain the dignity appropriate to judicial office;

(c) subject to the other provisions of this Rule, may engage in partisan political activity allowed by law with respect to such candidacy, and, in that regard:

(1) may publicly endorse or oppose candidates for the same judicial office;

(2) may attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for public office; and

(3) may seek, accept, and use endorsements from any person; but

(4) shall not act as a leader in or hold office in a political organization, make a speech for a candidate or political organization, or publicly endorse a candidate for

non-judicial office.

(d) As to statements and materials made or produced during a campaign:

(1) shall review, approve, and be responsible for the content of all campaign statements and materials produced by the candidate or by the candidate's campaign committee or other authorized agents;

(2) shall take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities that the candidate is prohibited from doing by this Rule;

(3) with respect to a case, controversy, or issue that is likely to come before the judicial appointee, shall not make a commitment, pledge, or promise that is inconsistent with the impartial performance of the adjudicative duties of the office;

(4) shall not 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;

(5) shall not knowingly, or with reckless disregard for the truth, misrepresent the candidate's identity or qualifications, the identity or qualifications of an opponent, or any other fact, or make any false or misleading statement;

(6) may speak or write on behalf of the candidate's candidacy through any medium, including advertisements, websites, or other campaign literature; and

(7) subject to section (b) of this Rule, may respond to a

personal attack or an attack on the candidate's record.

COMMENT

[1] This Rule is derived from former Rule 4.4 of Rule 16-814.

[2] Rule 18-204.4 (a) requires candidates for election to comply with all election laws and regulations. The Election Law Article of the Maryland Code contains laws governing candidates, campaign contributions, finance, expenditures, and reporting. Those requirements are supplemented by regulations adopted by the State Board of Elections. Candidates for election must become familiar with applicable laws and regulations and comply with them.

[3] Public confidence in the independence and impartiality of the judiciary is eroded if judicial appointees, as candidates for judicial office, are perceived to be subject to political influence. Although they may register to vote as members of a political party, they are prohibited by Rule 18-204.4 (c) (4) from assuming leadership roles in political organizations.

[4] Rule 18-204.4 (c) (4) also prohibits candidates for election from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office, to prevent them from abusing the prestige of judicial office to advance the interests of others. See Rule 18-201.3. Rule 18-204.4 does not prohibit candidates for election from (a) campaigning on their own behalf, (b) endorsing or opposing candidates for election to the same judicial office for which they are running, or (c) from having their name on the same sample ballot as a candidate for another public office.

[5] Although members of the families of candidates for election are free to engage in their own political activity, including running for public office, there is no "family exception" to the prohibition in Rule 18-204.4 (c) (4) against publicly endorsing candidates for public office. A candidate for election must not become involved in, or be publicly associated with, a family member's political activity or campaign for public office. To avoid public misunderstanding, candidates for election should take, and should urge members of their families to take, reasonable steps to avoid any implication that they endorse any family member's candidacy or other political activity.

[6] Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign

committees. Rule 18-204.4 (d) (5) obligates them 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. Rule 18-204.4 (d) (1) requires the candidate to review and approve the content of statements made by the candidate's campaign committee or other authorized agents and makes the candidate responsible for those statements.

[7] Candidates for election are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. As long as the candidate for election does not violate Rule 18-204.4 (d), he or she may make a factually accurate public response, although it is preferable for someone else to respond if the allegations relate to a pending case. If an independent third party has made unwarranted attacks on a candidate for election's opponent, the candidate for election may disavow the attacks and request the third party to cease and desist.

[8] Rule 18-204.4 (d) (3) prohibits candidates for election, with regard to cases or issues likely to come before the court, from making a commitment, promise, or pledge that is inconsistent with the impartial performance of the duties of the office. The making of a commitment, promise, or pledge is not dependent on, or limited to, the use of any specific words or phrases. The totality of the statement must be examined to determine if a reasonable person would believe that the candidate has specifically undertaken to reach a particular result. Commitments, promises, and pledges 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 candidate for election should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal views.

Source: This Rule is derived from former Rule 4.4 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-204.4 is derived from former Rule 4.4 of Rule 16-814 with style changes.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 - MARYLAND CODE OF CONDUCT FOR JUDICIAL APPOINTEES

PART 4 - RULES GOVERNING POLITICAL ACTIVITY

Rule 18-204.5. APPLICABILITY AND DISCIPLINE

A judicial appointee shall comply with the Rules in this Part 4 and with Rule 19-308.2 of the Maryland Attorneys' Rules of Professional Conduct. If successful as a candidate for election, the judicial appointee is subject to judicial discipline for campaign conduct. If unsuccessful, the judicial appointee is subject to attorney discipline for campaign conduct.

Source: This Rule is derived from former Rule 4.5 of Rule 16-814 (2013).

REPORTER'S NOTE

Rule 18-204.5 is derived from former Rule 4.5 of Rule 16-814 with style changes.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
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MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 300 - JUDICIAL ETHICS COMMITTEE

Rule 18-301. DEFINITIONS

In this Chapter the following definitions apply except as otherwise expressly provided or as necessary implication requires:

(a) Committee

"Committee" means the Judicial Ethics Committee.

(b) Ethics Provision

"Ethics provision" means:

(1) a provision of Code, State Government Article, Title 15, Subtitle 5 or 6;

(2) as to a judge, also a provision of the Maryland Code of Judicial Conduct; and

(3) as to a judicial appointee as defined in Rule 18-200.3, also a provision of the Maryland Code of Conduct for Judicial Appointees.

(c) State Official in Judicial Branch

"State official in the Judicial Branch" means an individual who is in the Judicial Branch and is a State official, as defined in Code, State Government Article, §15-102.

Source: This Rule is derived from section (a) of former Rule 16-812.1 (2013).

REPORTER'S NOTE

Rule 18-301 is derived from section (a) of former Rule 16-812.1 with a style change.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 300 - JUDICIAL ETHICS COMMITTEE

Rule 18-302. EXISTENCE; MEMBERSHIP; TERMS

(a) Creation

There is a Judicial Ethics Committee.

(b) Membership

The Committee consists of 11 members appointed by the Chief Judge of the Court of Appeals. Of the 11 members:

- (1) one shall be a judge of the Court of Special Appeals;
- (2) two shall be circuit court judges;
- (3) two shall be judges of the District Court;
- (4) one shall be a judge of an orphans' court;
- (5) one shall be a former judge who is approved for recall for temporary service under Code, Courts Article, §1-302;
- (6) one shall be a clerk of a circuit court;
- (7) one shall be a judicial appointee as defined in Rule 18-200.3; and
- (8) two shall not be a judge or other officer or employee of the Judicial Branch of the State government or an attorney.

(c) Terms

- (1) The term of a member is three years and begins on July 1, except that the former judge appointed pursuant to subsection (b) (5) of this Rule shall not have a term and shall serve at the

pleasure of the Chief Judge of the Court of Appeals.

(2) The terms of the members shall be staggered so that the terms of not more than four members expire each year.

(3) At the end of a term, a member continues to serve until a successor is appointed.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

(5) A member appointed on or after July 1, 2005, may not serve more than two consecutive three-year terms.

Source: This Rule is derived from sections (b), (c), and (d) of former Rule 16-812.1 (2013).

REPORTER'S NOTE

Rule 18-302 is derived from sections (b), (c), and (d) of former Rule 16-812.1 with style changes.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 300 - JUDICIAL ETHICS COMMITTEE

Rule 18-303. CHAIR; VICE CHAIR; STAFF

(a) Chair; Vice Chair

The Chief Judge of the Court of Appeals shall designate one judicial member as the Chair of the Committee and one judicial member as the Vice Chair. In the absence or disability of the Chair or upon an express delegation of authority by the Chair, the Vice Chair shall have the authority and perform the duties of the Chair.

(b) Staff

The Committee shall have staff as the State Court Administrator directs.

Source: This Rule is derived from sections (e) and (h) of former Rule 16-812.1 (2013).

REPORTER'S NOTE

Rule 18-303 is taken verbatim from sections (e) and (h) of former Rule 16-812.1.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
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Rule 18-304. MEETINGS; QUORUM

(a) Meetings

The Committee shall meet at the times and places that the Chair directs.

(b) Quorum

The presence of a majority of the members then serving constitutes a quorum for the transaction of all business other than adjournment of a meeting for lack of a quorum.

Source: This Rule is derived from sections (f) and (g) of former Rule 16-812.1 (2013).

REPORTER'S NOTE

Rule 18-304 is taken verbatim from sections (f) and (g) of former Rule 16-812.1.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 300 - JUDICIAL ETHICS COMMITTEE

Rule 18-305. DUTIES

In addition to its other duties imposed by law, the Committee:

(a) shall give advice, as provided in this Rule, with respect to the application or interpretation of the Maryland Code of Judicial Conduct and the Maryland Code of Conduct for Judicial Appointees;

(b) is designated as the body to give advice with respect to the application or interpretation of any provision of Code, State Government Article, Title 15, Subtitles 5 and 6, to a State official in the Judicial Branch;

(c) shall review timely appeals from the State Court Administrator's decision not to extend, under Rule 18-703 or 18-704, the period for filing a financial disclosure statement;

(d) shall determine, under Rule 18-703 (e) or Rule 18-704 (e), whether to allow a judge or judicial appointee to correct a deficiency as to a financial disclosure statement or to refer the matter, as to a judge, to the Commission on Judicial Disabilities or, as to a judicial appointee, to the State Ethics Commission; and

(e) shall submit to the Court of Appeals recommendations for

necessary or desirable changes in any ethics provision.

Source: This Rule is derived from section (i) of former Rule 16-812.1 (2013).

REPORTER'S NOTE

Rule 18-305 is derived from section (i) of former Rule 16-812.1 with style changes.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 300 - JUDICIAL ETHICS COMMITTEE

Rule 18-306. REQUEST FOR OPINION

(a) Who May Request

A request for the opinion of the Committee may be made only by:

(1) a State official in the Judicial Branch, as to the proper interpretation of an ethics provision as applied to that State official; or

(2) the Chief Judge of the Court of Appeals, as to the proper interpretation of an ethics provision.

(b) Form and Content

Each request for an opinion of the Committee shall:

(1) be in writing;

(2) describe the act or activity about which the opinion is requested;

(3) include all documentation or other information necessary for the Committee to perform its function, which may include citation to rules, statutes, and published opinions of the Committee that the requester believes to be relevant to the request; and

(4) include an address to which the Committee shall direct correspondence.

Source: This Rule is derived from subsections (j) (1) and (2) of former Rule 16-812.1 (2013).

REPORTER'S NOTE

Rule 18-306 is taken verbatim from subsections (j) (1) and (2) of former Rule 16-812.1.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 300 - JUDICIAL ETHICS COMMITTEE

Rule 18-307. OPINION; LETTER OF ADVICE

(a) Opinion

Except as provided in section (b) of this Rule, the Committee shall render a written opinion in response to each request properly made under Rule 18-306 and decide whether the opinion is to be published or unpublished.

(b) Letter of Advice

If the Chair determines that the full Committee cannot provide a timely opinion or that prior published opinions of the Committee render full Committee review unnecessary, the Chair shall appoint a panel of not less than three members of the Committee to issue a written letter of advice, which shall not be published and shall have no precedential effect.

Committee note: The Committee is not obliged to issue an opinion or a letter of advice to an individual who is not qualified under Rule 18-306 to request one, who does not seek an opinion limited to an interpretation of the Maryland Code of Judicial Conduct or the Maryland Code of Conduct for Judicial Appointees, or whose request does not state sufficient facts.

(c) Redaction of Opinions Designated for Publication

If an opinion is designated for publication, the Chair, on behalf of the Committee, shall cause to be prepared a redacted version of the opinion in which the identities of (1) the individual who requested the opinion, (2) other individuals

mentioned in the opinion, and (3) the specific court and geographic location of the individual who requested the opinion, are deleted. Unless the Court of Appeals orders otherwise, only the redacted version shall be published.

(d) Filing With State Court Administrator

The Chair shall file with the State Court Administrator every opinion and letter of advice issued by the Committee, including both the redacted and un-redacted versions of opinions designated for publication.

(e) Confidentiality

The following material is confidential and, unless ordered otherwise by the Court of Appeals or required by law, does not constitute public information:

- (1) a request for an opinion;
- (2) an opinion of the Committee not designated for publication;
- (3) an un-redacted version of an opinion designated for publication pursuant to section (c) of this Rule; and
- (4) a letter of advice issued by the Committee.

Source: This Rule is derived in part from subsections (j) (3), (j) (4), and (j) (6) of former Rule 16-812.1 (2013) and in part new.

REPORTER'S NOTE

Rule 18-307 is derived in part from subsections (j) (3), (j) (4), and (j) (6) of former Rule 16-812.1 and in part new. The Rules Committee has added a Committee note clarifying when the Judicial Ethics Committee does not have to issue an opinion or a letter of advice.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 300 - JUDICIAL ETHICS COMMITTEE

Rule 18-308. PROTECTION FROM CHARGE OF VIOLATION

A State official in the Judicial Branch who requests an opinion as to application of an ethics provision and is in compliance with an opinion of, or letter of advice issued for, the Committee is protected from a charge of violation of that ethics provision.

Source: This Rule is derived from subsection (j)(5) of former Rule 16-812.1 (2013).

REPORTER'S NOTE

Rule 18-308 is derived from subsection (j)(5) of former Rule 16-812.1. The Rules Committee recommends deleting the Committee note as it is unnecessary.

MARYLAND RULES OF PROCEDURE
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CHAPTER 400 - JUDICIAL DISCIPLINE

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MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 400 - JUDICIAL DISCIPLINE

Rule 18-401. DEFINITIONS

The following definitions apply in this Chapter except as otherwise expressly provided or as necessary implication requires:

(a) Address of Record

"Address of record" means a judge's current home address or another address designated by the judge.

Cross reference: See Rule 18-410 (a) concerning confidentiality of a judge's home address.

(b) Board

"Board" means the Judicial Inquiry Board appointed pursuant to Rule 18-403.

(c) Charges

"Charges" means the charges filed with the Commission by Investigative Counsel pursuant to Rule 18-408.

(d) Commission

"Commission" means the Commission on Judicial Disabilities created by Art. IV, §4A of the Maryland Constitution.

(e) Commission Record

"Commission record" means all documents pertaining to the judge who is the subject of charges that are filed with the Commission or made available to any member of the Commission.

(f) Complainant

"Complainant" means a person who has filed a complaint, and in Rule 18-404 (a) (1), (a) (3), and (a) (4), "complainant" also includes a person who has filed a written allegation of misconduct by or disability of a judge that is not under oath or supported by an affidavit.

(g) Complaint

"Complaint" means a written communication under oath or supported by an affidavit alleging that a judge has a disability or has committed sanctionable conduct.

(h) Disability

"Disability" means a mental or physical disability that seriously interferes with the performance of a judge's duties and is, or is likely to become, permanent.

(i) Judge

"Judge" means a judge of the Court of Appeals, the Court of Special Appeals, a circuit court, the District Court, or an orphans' court, and a retired judge during any period that the retired judge has been approved for recall.

Cross reference: See Md. Const., Art. 4, §3A and Code, Courts Article, §1-302.

(j) Sanctionable Conduct

(1) "Sanctionable conduct" means misconduct while in office, the persistent failure by a judge to perform the duties of the judge's office, or conduct prejudicial to the proper administration of justice. A judge's violation of any of the

provisions of the Maryland Code of Judicial Conduct promulgated by Title 18, Chapter 100 may constitute sanctionable conduct.

(2) Unless the conduct is occasioned by fraud or corrupt motive or raises a substantial question as to the judge's fitness for office, "sanctionable conduct" does not include:

(A) making an erroneous finding of fact, reaching an incorrect legal conclusion, or misapplying the law; or

(B) failure to decide matters in a timely fashion unless such failure is habitual.

Committee note: Sanctionable conduct does not include a judge's making wrong decisions - even very wrong decisions - in particular cases.

Cross reference: Md. Const., Art. IV, §4B (b) (1).

For powers of the Commission in regard to any investigation or proceeding under §4B of Article IV of the Constitution, see Code, Courts Article, §§13-401 to 13-403.

Source: This Rule is derived from former Rule 16-803 (2013).

REPORTER'S NOTE

Rule 18-401 is derived from former Rule 16-803 with style changes. In section (g), Complaint, the Rules Committee has added a requirement that the complaint to the Commission has to be written to conform to the actual practice of the Commission. Additionally, section (f) is amended to conform to the usage of the word "complainant" in Rule 18-404 (a) (1), (3), and (4).

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 400 - JUDICIAL DISCIPLINE

Rule 18-402. COMMISSION

(a) Chair and Vice Chair

The Commission shall select one of its members to serve as Chair and another to serve as Vice Chair for such terms as the Commission shall determine. The Vice Chair shall perform the duties of the Chair whenever the Chair is disqualified or otherwise unable to act.

(b) Recusal

A member of the Commission shall not participate as a member in any proceeding in which (1) the member is a complainant, (2) the member's disability or sanctionable conduct is in issue, (3) the member's impartiality reasonably might be questioned, (4) the member has personal knowledge of disputed material evidentiary facts involved in the proceeding, or (5) the recusal of a judicial member otherwise would be required by the Maryland Code of Judicial Conduct.

Cross reference: See Md. Const., Article IV, §4B (a), providing that the Governor shall appoint a substitute member of the Commission for the purpose of a proceeding against a member of the Commission.

(c) Executive Secretary

The Commission may select an attorney as Executive Secretary. The Executive Secretary shall serve at the pleasure

of the Commission, advise and assist the Commission, have other administrative powers and duties assigned by the Commission, and receive the compensation set forth in the budget of the Commission.

(d) Investigative Counsel; Assistants

(1) Appointment; Compensation

The Commission shall appoint an attorney as Investigative Counsel. Before appointing Investigative Counsel, the Commission shall notify bar associations and the general public of the vacancy and shall consider any recommendations that are timely submitted. Investigative Counsel shall serve at the pleasure of the Commission and shall receive the compensation set forth in the budget of the Commission.

(2) Duties

Investigative Counsel shall have the powers and duties set forth in the Rules in this Chapter and shall report and make recommendations to the Commission as directed by the Commission.

(3) Additional Attorneys and Staff

As the need arises and to the extent funds are available in the Commission's budget, the Commission may appoint additional attorneys or other persons to assist Investigative Counsel. Investigative Counsel shall keep an accurate record of the time and expenses of additional persons employed and ensure that the cost does not exceed the amount allocated by the Commission.

(e) Quorum

The presence of a majority of the members of the Commission constitutes a quorum for the transaction of business, provided that at least one judge, one attorney, and one public member are present. At a hearing on charges held pursuant to Rule 18-408 (i), a Commission member is present only if the member is physically present. Under all other circumstances, a member may be physically present or present by telephone or video conferencing. Other than adjournment of a meeting for lack of a quorum, no action may be taken by the Commission without the concurrence of a majority of members of the Commission.

(f) Record

The Commission shall keep a record of all proceedings concerning a judge.

(g) Annual Report

Not later than September 1 of each year, the Commission shall submit an annual report to the Court of Appeals, regarding its operations and including statistical data with respect to complaints received and processed, subject to the provisions of Rule 18-410.

(h) Request for Home Address

Upon request by the Commission or the Chair of the Commission, the Administrative Office of the Courts shall supply to the Commission the current home address of each judge.

Cross reference: See Rules 18-401 (a) and 18-410 (a).

Source: This Rule is derived from former Rule 16-804 (2013).

REPORTER'S NOTE

Rule 18-402 is derived from former Rule 16-804 with style changes.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 400 - JUDICIAL DISCIPLINE

Rule 18-403. JUDICIAL INQUIRY BOARD

(a) Creation and Composition

The Commission shall appoint a Judicial Inquiry Board consisting of two judges, two attorneys, and three public members who are not attorneys or judges. No member of the Commission may serve on the Board.

(b) Compensation

A member of the Board may not receive compensation for serving in that capacity but is entitled to reimbursement for expenses reasonably incurred in the performance of official duties in accordance with standard State travel regulations.

(c) Chair

The Chair of the Commission shall designate a member of the Board who is an attorney or judge to serve as Chair of the Board.

(d) Removal

The Commission by majority vote may remove or replace members of the Board at any time.

(e) Quorum

The presence of a majority of the members of the Board constitutes a quorum for the transaction of business, so long as

at least one judge, one attorney, and one public member are present. A member of the Board may be physically present or present by telephone or video conferencing. Other than adjournment of a meeting for lack of a quorum, no action may be taken by the Board without the concurrence of a majority of members of the Board.

(f) Record

The Executive Secretary of the Commission shall attend the Board meetings and keep a record in the form that the Commission requires.

Source: This Rule is derived from former Rule 16-804.1 (2013).

REPORTER'S NOTE

Rule 18-403 is derived from former Rule 16-804.1 with style changes.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 400 - JUDICIAL DISCIPLINE

Rule 18-404. COMPLAINTS; INITIAL REVIEW BY INVESTIGATIVE COUNSEL

(a) Procedure on Receipt of Complaint

(1) Referral to Investigative Counsel

The Commission shall refer all complaints and other written allegations of misconduct or disability against a judge to Investigative Counsel.

(2) Complaint that Fails to Allege Disability or Sanctionable Conduct

If Investigative Counsel concludes that a complaint which, liberally construed, fails to allege facts which, if true, would constitute a disability or sanctionable conduct, Investigative Counsel shall (A) dismiss the complaint, and (B) notify the Complainant and the Board, in writing, that the complaint was filed and dismissed and the reasons for the dismissal.

Committee note: Subsection (a)(2) of this Rule does not preclude Investigative Counsel from communicating with the complainant or making an inquiry under Rule 18-405 in order to clarify general or ambiguous allegations that may suggest a disability or sanctionable conduct. Outright dismissal is warranted when the complaint, on its face, complains only of conduct that clearly does not constitute a disability or sanctionable conduct.

(3) Written Allegation of Disability or Sanctionable Conduct not Under Oath or Supported by Affidavit

Except as provided by section (c) of this Rule, the Commission may not act upon a written allegation of misconduct or disability unless it is a complaint. If a written allegation, liberally construed, alleges facts indicating that a judge may have a disability or may have committed sanctionable conduct but is not under oath or supported by an affidavit, Investigative Counsel, if possible, shall (A) inform the complainant that the Commission acts only upon complaints under oath or supported by an affidavit, (B) provide the complainant with an appropriate form of affidavit, and (C) inform the complainant that unless a complaint under oath or supported by an affidavit is filed within 30 days after the date of the notice, the matter may be dismissed.

(4) Failure to File Complaint Under Oath or Supported by Affidavit

If, after Investigative Counsel has given the notice provided for in subsection (a) (3) of this Rule or has been unable to do so, the complainant fails to file a timely complaint under oath or supported by an affidavit, Investigative Counsel may dismiss the matter and notify the complainant and the Board, in writing, that a written allegation of misconduct or disability was filed and dismissed and the reasons for the dismissal.

(b) Opening File on Receipt of Complaint

Investigative Counsel shall open a numbered file on each properly filed complaint and promptly in writing (1) acknowledge

receipt of the complaint and (2) explain to the complainant the procedure for investigating and processing the complaint.

(c) Inquiry

Upon receiving information from any source indicating that a judge may have a disability or may have committed sanctionable conduct, Investigative Counsel may open a file and make an inquiry. An inquiry may include obtaining additional information from a complainant and any potential witnesses, reviewing public records, obtaining transcripts of court proceedings, and communicating informally with the judge. Following the inquiry, Investigative Counsel shall (1) close the file and dismiss any complaint in conformity with subsection (a)(2) of this Rule or (2) proceed as if a complaint had been properly filed and undertake a preliminary investigation in accordance with section (a) of Rule 18-405.

Source: This Rule is derived from former Rule 16-805 (2013).

REPORTER'S NOTE

Rule 18-404 is derived from former Rule 16-805. The Rule has been reorganized. The Rules Committee recommends the addition of a Committee note clarifying that when a complaint that fails to allege facts that would constitute a disability or sanctionable conduct, Investigative Counsel is not precluded from communicating with the complainant or making an inquiry under Rule 18-405 to clarify general or ambiguous allegations that may suggest a disability or sanctionable conduct. This conforms to the current practice of the Commission.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 400 - JUDICIAL DISCIPLINE

Rule 18-405. PRELIMINARY INVESTIGATION

(a) Conduct of Investigation

(1) Duty to Conduct; Notice to Board or Commission

If a complaint is not dismissed in accordance with Rule 18-404, Investigative Counsel shall conduct a preliminary investigation to determine whether there are reasonable grounds to believe that the judge may have a disability or may have committed sanctionable conduct. Investigative Counsel shall promptly inform the Board or Commission that the preliminary investigation is being undertaken.

(2) Subpoena

Upon application by Investigative Counsel and for good cause, the Chair of the Commission may authorize Investigative Counsel to issue a subpoena to obtain evidence during a preliminary investigation.

(3) Dismissal Prior to Conclusion of Preliminary Investigation

During a preliminary investigation, Investigative Counsel may recommend to the Board or Commission that the complaint be dismissed without notifying the judge that a preliminary investigation has been undertaken. If the Board or Commission

accepts the recommendation, no notice need be given to the judge that a preliminary investigation had been undertaken.

(4) Notice to Judge

Unless the Board or Commission otherwise directs for good cause, Investigative Counsel, before the conclusion of the preliminary investigation, shall provide the following information to the judge: (A) that Investigative Counsel has undertaken a preliminary investigation into whether the judge has a disability or has committed sanctionable conduct; (B) whether the preliminary investigation was undertaken on Investigative Counsel's initiative or on a complaint; (C) if the investigation was undertaken on a complaint, the name of the person who filed the complaint and the contents of the complaint; (D) the nature of the disability or sanctionable conduct under investigation; and (E) the judge's rights under subsection (a)(5) of this Rule. The information shall be given by first class mail or by certified mail requesting "Restricted Delivery - show to whom, date, address of delivery" and shall be addressed to the judge at the judge's address of record.

(5) Opportunity of Judge to Respond

Except when Investigative Counsel has recommended that the complaint be dismissed without notifying the judge and the Board or Commission has accepted the recommendation, before the conclusion of the preliminary investigation, Investigative Counsel shall afford the judge a reasonable opportunity to

present such information as the judge chooses.

(6) Time for Completion

Investigative Counsel shall complete a preliminary investigation within 90 days after the investigation is commenced. Upon application by Investigative Counsel within the 90-day period and for good cause, the Board shall extend the time for completing the preliminary investigation for an additional 30-day period. For failure to comply with the time requirements of this section, the Commission may dismiss any complaint and terminate the investigation.

(b) Report and Recommendation by Investigative Counsel

Upon completion of a preliminary investigation, Investigative Counsel shall report to the Board the results of the investigation in the form that the Commission requires. The report shall include one of the following recommendations: (1) dismissal of any complaint and termination of the investigation, with or without a warning, (2) entering into a private reprimand or a deferred discipline agreement, (3) authorization of a further investigation, or (4) the filing of charges.

(c) Monitoring and Review by Board

The Board shall monitor investigations by, and review the reports and recommendations of, Investigative Counsel.

(d) Authorization of Further Investigation

The Board may authorize a further investigation to be conducted pursuant to Rule 18-406.

(e) Informal Meeting with Judge

The Board may meet informally with the judge to discuss an appropriate disposition.

(f) Board's Report to Commission

(1) Contents

After considering Investigative Counsel's report and recommendation and subject to subsection (f)(2) of this Rule, the Board shall submit a report to the Commission that includes one of the following recommendations:

(A) dismissal of the complaint and termination of any investigation, with or without a warning;

(B) entering into a private reprimand or deferred discipline agreement; or

(C) unless the Board determines that there is a basis for a disposition under the standards of Rule 18-407 and upon a determination of probable cause, the filing of charges under Rule 18-408 (a).

(2) Condition and Limitation

(A) The Board may not recommend a dismissal with a warning, a private reprimand, or a deferred discipline agreement unless the judge has consented to that remedy.

(B) The information transmitted by the Board to the Commission shall be limited to a proffer of evidence that the Board has determined would likely be admitted at a plenary hearing before the Commission. The Chair of the Board may

consult with the Chair of the Commission in determining the information to be transmitted to the Commission.

(3) Time for Submission of Report

(A) Generally

Unless the time is extended by the Chair of the Commission, the Board shall transmit the report within 45 days after the date the Board received Investigative Counsel's report and recommendation.

(B) Extension

Upon a written request by the Chair of the Board, the Chair of the Commission may grant one 30-day extension of time for transmission of the report.

(C) Failure to File Timely Report

If the Board fails to issue its report within the time allowed, the Chair of the Commission and Investigative Counsel shall conform the report and recommendation of Investigative Counsel to the requirements of section (f) of this Rule and refer the matter to the Commission, which may proceed, using the report and recommendation of Investigative Counsel.

(4) Copy to Investigative Counsel and Judge

Upon receiving the report and recommendation, the Commission promptly shall transmit a copy of it to Investigative Counsel and the judge.

(g) Filing of Objections

Investigative Counsel and the judge may file with the

Commission objections to the report and recommendation. Unless the Chair of the Commission, Investigative Counsel, and the judge agree to an extension, objections must be filed within 15 days after the date the Commission transmitted copies of the report and recommendation to Investigative Counsel and the judge.

(h) Action by Commission

(1) Review

The Commission shall review the report and recommendation and any timely filed objections.

(2) Appearance by Judge

Upon written request by the judge, with a copy to Investigative Counsel, the Commission may permit the judge to appear before the Commission on terms and conditions established by the Commission.

(3) Disposition

Upon its review of the report and recommendation and any timely filed objections and consideration of any evidence or statement by the judge pursuant to subsection (h)(2) of this Rule, the Commission shall (A) authorize a further investigation pursuant to Rule 18-406, (B) enter a disposition pursuant to Rule 18-407, or (C) direct Investigative Counsel to file charges pursuant to Rule 18-408 (a).

Source: This Rule is derived from former Rule 16-805 (2013).

REPORTER'S NOTE

Rule 18-405 is derived from sections (e) through (l) of former Rule 16-805 with style changes.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 400 - JUDICIAL DISCIPLINE

Rule 18-406. FURTHER INVESTIGATION

(a) Notice to Judge of Investigation

(1) Content

Upon approval of a further investigation by the Board pursuant to Rule 18-405 (d) or by the Commission pursuant to Rule 18-405 (h) (3), Investigative Counsel shall promptly notify the judge (A) that the Board or Commission has authorized a further investigation, (B) of the specific nature of the alleged disability or sanctionable conduct under investigation, and (C) that the judge may file a written response within 30 days after the date on the notice.

(2) Method

The notice shall be given by first class mail to the judge's address of record, or if previously authorized by the judge, by first class mail to an attorney designated by the judge.

(3) Deferral of Notice

For good cause, the Board or Commission may defer the giving of notice, but notice must be given not less than 30 days before Investigative Counsel makes a recommendation as to disposition, other than dismissal.

(b) Subpoenas

(1) Issuance

Upon application by Investigative Counsel and for good cause, the Chair of the Commission may authorize Investigative Counsel to issue a subpoena to compel the attendance of witnesses and the production of documents or other tangible things at a time and place specified in the subpoena.

(2) Notice to Judge

Promptly after service of the subpoena and in addition to any other notice required by law, Investigative Counsel shall provide to the judge under investigation notice of the service of the subpoena. The notice to the judge shall be sent by first class mail to the judge's address of record or, if previously authorized by the judge, by first class mail to an attorney designated by the judge.

(3) Motion for Protective Order

The judge, a person named in the subpoena, or a person named or depicted in an item specified in the subpoena may file a motion for a protective order pursuant to Rule 2-510 (e). The motion shall be filed in the circuit court for the county in which the subpoena was served or, if the judge under investigation serves on that court, another circuit court designated by the Commission. The court may enter any order permitted by Rule 2-510 (e).

(4) Failure to Comply

Upon a failure to comply with a subpoena issued pursuant to this Rule, the court, on motion of Investigative Counsel, may compel compliance with the subpoena.

(5) Confidentiality

(A) Subpoena

To the extent practicable, a subpoena shall not divulge the name of the judge under investigation.

(B) Court Files and Records

Files and records of the court pertaining to any motion filed with respect to a subpoena shall be sealed and shall be open to inspection only upon order of the Court of Appeals.

(C) Hearings

Hearings before the circuit court on any motion filed with respect to a subpoena shall be on the record and shall be conducted out of the presence of all individuals except those whose presence is necessary.

Cross reference: See Code, Courts Article, §§13-401 - 403.

(c) Time for Completion of Investigation

Investigative Counsel shall complete a further investigation within 60 days after it is authorized by the Board or Commission. Upon application by Investigative Counsel made within the 60-day period and served by first class mail upon the judge or the judge's attorney of record, the Commission, for good cause, may extend the time for completing the further investigation for a specified reasonable time. The Commission

may dismiss the complaint and terminate the investigation for failure to complete the investigation within the time allowed.

(d) Report and Recommendation

Within the time allowed for completing the further investigation, Investigative Counsel shall report the results of the investigation to the Board or Commission in the form the Commission requires. The report shall include one of the following recommendations: (1) dismissal of any complaint and termination of the investigation, with or without a warning, (2) entering into a private reprimand or a deferred discipline agreement, or (3) the filing of charges.

Cross reference: As to recommended dispositions, see Rule 18-407.

Source: This Rule is derived from former Rule 16-806 (2013).

REPORTER'S NOTE

Rule 18-406 is derived from former Rule 16-806 with style changes.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 400 - JUDICIAL DISCIPLINE

Rule 18-407. DISPOSITION WITHOUT PROCEEDINGS ON CHARGES

(a) Dismissal of Complaint

(1) Without Warning

The Commission shall dismiss a complaint if, after an investigation, it concludes that the evidence fails to show that the judge has a disability or has committed sanctionable conduct. The Commission shall notify the judge and each complainant of the dismissal.

(2) With Warning

(A) When Appropriate

If the Commission determines that any sanctionable conduct that may have been committed by the judge will be sufficiently addressed by the issuance of a warning, the Commission may accompany a dismissal with a warning against future sanctionable conduct.

(B) Notice to Judge

At least 30 days before a dismissal with a warning is issued, the Commission shall mail to the judge a notice that states (i) the date on which it intends to issue the warning, (ii) the content of the warning, and (iii) whether the complainant is to be notified of the warning.

(C) Rejection by Judge

Before the intended date of issuance of the warning, the judge may reject the warning by filing a written rejection with the Commission. If the warning is not rejected, the Commission shall issue the dismissal with a warning on or after the date stated in the initial notice to the judge. If the warning is rejected, it shall not be issued, the proceeding shall resume as if no dismissal with a warning had been proposed, and the fact that a dismissal with a warning was proposed or rejected may not be admitted into evidence.

(D) Confidentiality of Content of Warning

The contents of the warning are private and confidential, except that the Commission may notify the complainant that a warning was given to the judge.

Committee note: A warning by the Commission under this subsection is not a reprimand and does not constitute discipline.

(b) Private Reprimand

(1) When Appropriate

The Commission may issue a private reprimand to the judge if, after an investigation:

(A) the Commission concludes that the judge has committed sanctionable conduct that warrants some form of discipline;

(B) the Commission further concludes that the sanctionable conduct was not so serious, offensive, or repeated as to warrant formal proceedings and that a private reprimand is the appropriate disposition under the circumstances; and

(C) the judge, in writing on a copy of the reprimand retained by the Commission, (i) waives the right to a hearing before the Commission and subsequent proceedings before the Court of Appeals and the right to challenge the findings that serve as the basis for the private reprimand, and (ii) agrees that the reprimand may be admitted in any subsequent disciplinary proceeding against the judge to the extent that it is relevant to the charges at issue or the sanction to be imposed.

(2) Notice to Complainant

Upon the issuance of a private reprimand, the Commission shall notify the complainant of that disposition.

(c) Deferred Discipline Agreement

(1) The Commission and the judge may enter into a deferred discipline agreement if, after an investigation:

(A) The Commission concludes that the alleged sanctionable conduct was not so serious, offensive, or repeated as to warrant formal proceedings and that the appropriate disposition is for the judge to undergo specific treatment, participate in one or more specified educational programs, issue an apology to the complainant, or take other specific corrective or remedial action; and

(B) The judge, in the agreement, (i) agrees to the specified conditions, (ii) waives the right to a hearing before the Commission and subsequent proceedings before the Court of Appeals, and (iii) agrees that the deferred discipline agreement

may be revoked for noncompliance in accordance with the provisions of subsection (c)(2) of this Rule.

(2) The Commission shall direct Investigative Counsel to monitor compliance with the conditions of the agreement and may direct the judge to document compliance. Investigative Counsel shall give written notice to the judge of the nature of any alleged failure to comply with a condition of the agreement. If after affording the judge at least 15 days to respond to the notice, the Commission finds that the judge has failed to satisfy a material condition of the agreement, the Commission may revoke the agreement and proceed with any other disposition authorized by these rules.

(3) The Commission shall notify the complainant that the complaint has resulted in an agreement with the judge for corrective or remedial action. Unless the judge consents in writing, the terms of the agreement shall remain confidential and not be disclosed to the complainant or any other person. An agreement under this section does not constitute discipline or a finding that sanctionable conduct was committed.

(4) Upon notification by Investigative Counsel that the judge has satisfied all conditions of the agreement, the Commission shall terminate the proceedings.

Source: This Rule is derived from former Rule 16-807 (2013).

REPORTER'S NOTE

Rule 18-407 is derived from former Rule 16-807 with style changes.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 400 - JUDICIAL DISCIPLINE

Rule 18-408. FILING OF CHARGES; PROCEEDINGS BEFORE COMMISSION

(a) Filing of Charges

(1) Direction by Commission

After considering the report and recommendation of the Board or Investigative Counsel submitted pursuant to Rule 18-405 (f), and upon a finding by the Commission of probable cause to believe that a judge has a disability or has committed sanctionable conduct, the Commission may direct Investigative Counsel to initiate proceedings against the judge by filing with the Commission charges that the judge has a disability or has committed sanctionable conduct.

(2) Content of Charges

The charges shall (A) state the nature of the alleged disability or sanctionable conduct, including each Rule of the Maryland Code of Judicial Conduct allegedly violated by the judge, (B) allege the specific facts upon which the charges are based, and (C) state that the judge has the right to file a written response to the charges within 30 days after service of the charges.

(b) Service; Notice

The charges may be served upon the judge by any means

reasonably calculated to give actual notice. A return of service of the charges shall be filed with the Commission pursuant to Rule 2-126. Upon service, the Commission shall notify any complainant that charges have been filed against the judge.

Cross reference: See Md. Const., Article IV, §4B (a).

(c) Response

Within 30 days after service of the charges, the judge may file with the Commission an original and 11 copies of a response.

(d) Notice of Hearing

Upon the filing of a response or, if no response is filed, upon expiration of the time for filing it, the Commission shall notify the judge of the date, time, and place of a hearing. Unless the judge has agreed to an earlier hearing date, the notice shall be mailed at least 60 days before the date set for the hearing. If the hearing is on a charge of sanctionable conduct, the Commission shall also notify the complainant and post notice on the Judiciary website that is limited to (1) the name of the judge, (2) the date, time, and place of the hearing, and (3) a statement that the charges and any response by the judge are available for inspection at the office of the Commission.

Cross reference: See Rule 18-410.

(e) Extension of Time

The Commission may extend the time for filing a response and for the commencement of a hearing.

(f) Procedural Rights of Judge

The judge has the right (1) to inspect and copy the Commission Record, (2) to a prompt hearing on the charges, (3) to be represented by an attorney, (4) to the issuance of subpoenas for the attendance of witnesses and for the production of designated non-privileged documents and other tangible things, (5) to present evidence and argument, and (6) to examine and cross-examine witnesses.

(g) Exchange of Information

(1) Generally

Upon request of the judge at any time after service of charges upon the judge, Investigative Counsel shall promptly (A) allow the judge to inspect the Commission Record and to copy all evidence accumulated during the investigation and all statements as defined in Rule 2-402 (f) and (B) provide to the judge summaries or reports of all oral statements for which contemporaneously recorded substantially verbatim recitals do not exist, and

(2) List of Witnesses; Documents

Not later than 30 days before the date set for the hearing, Investigative Counsel and the judge shall provide each other with a list of the names, addresses, and telephone numbers of the witnesses that each intends to call and copies of the documents that each intends to introduce in evidence at the hearing.

(3) Scope of Discovery

Discovery is governed by the Rules in Title 2, Chapter 400, except that the Chair of the Commission, rather than the court, may limit the scope of discovery, enter protective orders permitted by Rule 2-403, and resolve other discovery issues.

(4) Mental or Physical Examination

When disability of the judge is an issue, on its own initiative or on motion for good cause, the Chair of the Commission may order the judge to submit to a mental or physical examination in accordance with Rule 2-423.

(h) Amendments

At any time before the hearing, the Commission on motion may allow amendments to the charges or the response. If an amendment to the charges is made less than 30 days before the hearing, the judge, upon request, shall be given a reasonable time to respond to the amendment and to prepare and present any defense.

(i) Hearing on Charges

The hearing on charges shall be conducted in the following manner:

(1) Upon application by Investigative Counsel or the judge, the Commission shall issue subpoenas to compel the attendance of witnesses and the production of documents or other tangible things at the hearing. To the extent otherwise relevant, the provisions of Rule 2-510 (c), (d), (e), (g), (h), (i), (j), and

(k) shall apply.

(2) The Commission may proceed with the hearing whether or not the judge has filed a response or appears at the hearing.

(3) Except for good cause shown, a motion for recusal of a member of the Commission shall be filed at least 30 days before the hearing.

(4) At the hearing, Investigative Counsel shall present evidence in support of the charges.

(5) Title 5 of the Maryland Rules shall apply.

(6) The proceeding shall be recorded verbatim, either by electronic means or stenographically, as directed by the Chair of the Commission. Except as provided in section (k) of this Rule, the Commission is not required to have a transcript prepared. The judge may, at the judge's expense, have the record of the proceeding transcribed.

(7) with the approval of the Chair of the Commission, the judge and Investigative Counsel may each submit proposed findings of fact and conclusions of law within the time period set by the Chair.

(j) Commission Findings and Action

(1) Finding of Disability

If the Commission finds by clear and convincing evidence that the judge has a disability, it shall refer the matter to the Court of Appeals.

(2) Finding of Sanctionable Conduct

If the Commission finds by clear and convincing evidence that the judge has committed sanctionable conduct, it shall either issue a public reprimand to the judge or refer the matter to the Court of Appeals.

(3) Finding of No Disability or Sanctionable Conduct

If the Commission does not find that the judge has a disability and does not find that the judge committed sanctionable conduct, it shall dismiss the charges and terminate the proceeding.

(k) Record

If the Commission refers the case to the Court of Appeals, the Commission shall:

(1) make written findings of fact and conclusions of law with respect to the issues of fact and law in the proceeding, state its recommendations, and enter those findings and recommendations in the record;

(2) cause a transcript of all proceedings at the hearing to be prepared and included in the record;

(3) make the transcript available for review by the judge and the judge's attorney or, at the judge's request, provide a copy to the judge at the judge's expense;

(4) file with the Court of Appeals the entire hearing record which shall be certified by the Chair of the Commission and shall include the transcript of the proceedings, all exhibits and other papers filed or marked for identification in the proceeding, and

all dissenting or concurring statements by Commission members;
and

(5) promptly mail to the judge at the judge's address of record notice of the filing of the record and a copy of the findings, conclusions, and recommendations and all dissenting or concurring statements by Commission members.

(1) Discipline by Consent

(1) Agreement

After the filing of charges alleging sanctionable conduct and before a decision by the Commission, the judge and Investigative Counsel may enter into an agreement in which the judge (A) admits to all or part of the charges; (B) as to the charges admitted, admits the truth of all facts constituting sanctionable conduct as set forth in the agreement; (C) agrees to take any corrective or remedial action provided for in the agreement; (D) consents to the stated sanction; (E) states that the consent is freely and voluntarily given; and (F) waives the right to further proceedings before the Commission and subsequent proceedings before the Court of Appeals.

(2) Submission to Court of Appeals

The agreement shall be submitted to the Court of Appeals, which shall either approve or reject the agreement. Until approved by the Court of Appeals, the agreement is confidential and privileged. If the Court approves the agreement and imposes the stated sanction, the agreement shall be made public. If the

Court rejects the stated sanction, the proceeding shall resume as if no consent had been given, and all admissions and waivers contained in the agreement are withdrawn and may not be admitted into evidence.

Source: This Rule is derived from former Rule 16-808 (2013).

REPORTER'S NOTE

Rule 18-408 is derived from former Rule 16-808 with style changes. In section (d) the Rules Committee recommends deleting the requirement to publish a notice in the Maryland Register and putting, in its place, a requirement to post notice on the Judiciary website. The Maryland Register is published online, every two weeks, and it costs money to access. The Judiciary website is free and is updated frequently. Because judges have subpoena rights, the Committee proposes adding language to section (i), which would provide that a judge has the right to request subpoenas. In subsection (i)(6), the Committee has added a reference to recording proceedings electronically, which is currently the system in many jurisdictions.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 400 - JUDICIAL DISCIPLINE

Rule 18-409. PROCEEDINGS IN COURT OF APPEALS

(a) Expedited Consideration

Upon receiving the hearing record file pursuant to Rule 18-408 (k), the Clerk of the Court of Appeals shall docket the case for expedited consideration.

(b) Exceptions

The judge may except to the findings, conclusions, or recommendation of the Commission by filing with the Court of Appeals eight copies of exceptions within 30 days after service of the notice of filing of the record. The exceptions shall set forth with particularity all errors allegedly committed by the Commission and the disposition sought. A copy of the exceptions shall be served on the Commission in accordance with Rules 1-321 and 1-323.

(c) Response

The Commission shall file eight copies of a response within 15 days after service of the exceptions. The Commission shall be represented in the Court of Appeals by its Executive Secretary or such other attorney as the Commission may appoint. A copy of the response shall be served on the judge in accordance with Rules 1-321 and 1-323.

(d) Hearing

If exceptions are filed, upon the filing of a response or, if no response is filed, upon the expiration of the time for filing it, the Court shall set a schedule for filing memoranda in support of the exceptions and response and a date for a hearing. The hearing on exceptions shall be conducted in accordance with Rule 8-522. If no exceptions are filed or if the judge files with the Court a written waiver of the judge's right to a hearing, the Court may decide the matter without a hearing.

(e) Disposition

The Court of Appeals may (1) impose the sanction recommended by the Commission or any other sanction permitted by law; (2) dismiss the proceeding; or (3) remand for further proceedings as specified in the order of remand.

Cross reference: For rights and privileges of the judge after disposition, see Md. Const., Article IV, §4B (b).

(f) Decision

The decision shall be evidenced by the order of the Court of Appeals, which shall be certified under the seal of the Court by the Clerk and shall be accompanied by an opinion. Unless the case is remanded to the Commission, the record shall be retained by the Clerk of the Court of Appeals.

Source: This Rule is derived from former Rule 16-809 (2013).

REPORTER'S NOTE

Rule 18-409 is derived from former Rule 16-809 with a style change.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 400 - JUDICIAL DISCIPLINE

Rule 18-410. PUBLIC ACCESS

(a) Generally

Except as otherwise expressly provided by these rules, proceedings and information relating to a complaint or charges shall be either open to the public or confidential and not open to the public, as follows:

(1) Address of Record

The judge's current home address shall remain confidential at all stages of proceedings under these rules. Any other address of record shall be open to the public if the charges and proceedings are open to the public.

(2) Complaints and Investigations

All proceedings under Rules 18-405 and 18-406 shall be confidential.

(3) Upon Filing of a Response or Expiration of the Time for Filing a Response

After the filing of a response to charges alleging sanctionable conduct, whether or not joined with charges of disability, or, if no response is filed, upon expiration of the time for filing a response, the charges and all subsequent proceedings before the Commission on them shall be open to the

public. If the charges allege only that the judge has a disability, the charges and all proceedings before the Commission on them shall be confidential.

(4) Work Product and Deliberations

Investigative Counsel's work product and records not admitted into evidence before the Commission, the Commission's deliberations, and records of the Commission's deliberations shall be confidential.

(5) Proceedings in the Court of Appeals

Unless otherwise ordered by the Court of Appeals, the record of Commission proceedings filed with that Court and any proceedings before that Court shall be open to the public.

(b) Permitted Release of Information by Commission

(1) Written Waiver

The Commission may release confidential information upon a written waiver by the judge.

(2) Explanatory Statement

The Commission may issue a brief explanatory statement necessary to correct any public misperception about actual or possible proceedings before the Commission.

(3) Nominations; Appointments; Approvals

(A) Permitted Disclosures

Upon a written application made by a judicial nominating commission, a Bar Admission authority, the President of the United States, the Governor of a state, territory,

district, or possession of the United States, or a committee of the General Assembly of Maryland or of the United States Senate which asserts that the applicant is considering the nomination, appointment, confirmation, or approval of a judge or former judge, the Commission shall disclose to the applicant:

(i) Information about any completed proceedings that did not result in dismissal, including reprimands and deferred discipline agreements; and

(ii) The mere fact that a complaint is pending.

(B) Restrictions

Unless the judge waives the restrictions set forth in this subsection, when the Commission furnishes information to an applicant under this section, the Commission shall furnish only one copy of the material, which shall be furnished under seal. As a condition to receiving the material, the applicant shall agree that (i) the applicant will not copy the material or permit it to be copied; (ii) when inspection of the material has been completed, the applicant shall seal and return the material to the Commission; and (iii) the applicant will not disclose the contents of the material or any information contained in it to anyone other than another member of the applicant.

(C) Copy to Judge

The Commission shall send the judge a copy of all documents disclosed under this subsection.

Cross reference: For the powers of the Commission in an investigation or proceeding under Md. Const., Article IV, §4B,

see Code, Courts Article, §§13-401, 402, and 403.

Source: This Rule is derived from former Rule 16-810 (2013).

REPORTER'S NOTE

Rule 18-410 is derived from former Rule 16-810 with style changes.

MARYLAND RULES OF PROCEDURE
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MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
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Rule 18-501. SCOPE OF CHAPTER

The Rules in this Chapter apply to:

(a) judges of the District Court, a circuit court, the Court of Special Appeals, and the Court of Appeals; and

(b) retired judges approved for recall pursuant to Code, Courts Article, §1-302.

Cross reference: Code, Family Law Article, §2-406, which also contains a list of other officials authorized to perform marriage ceremonies.

Source: This Rule is derived from former Rule 16-821 (2013).

REPORTER'S NOTE

Rule 18-501 is derived from former Rule 16-821 with style changes.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 500 - MARRIAGE CEREMONIES

Rule 18-502. SCHEDULING

(a) Notice to Clerk; Responsibilities of Clerk and Parties

A judge who has agreed to perform a marriage ceremony shall notify the clerk of the circuit court for the county in which the ceremony is to take place. The clerk is responsible for recording and reporting the marriage. The parties are responsible for making all other arrangements.

Committee note: Except for communications necessary to determine a judge's willingness and availability to perform the ceremony, a judge's staff should not be used to make arrangements for a marriage ceremony.

(b) Non-interference with Court Functions

Ceremonies shall be scheduled so as not to interfere with the prompt disposition of cases and other judicial and administrative duties of the judge. The use of public resources shall be reasonable and consistent with the security of the courthouse.

(c) Place of Ceremony

A judge may perform a marriage ceremony at a location other than in a courthouse.

(d) Time of Ceremony

A judge may perform a marriage ceremony at any time, including on a court holiday or after regular court hours.

Without the approval of the administrative judge, the ceremony may not be performed in the courthouse on a court holiday or when the courthouse is otherwise closed.

Source: This Rule is derived from former Rule 16-822 (2013).

REPORTER'S NOTE

Rule 18-502 is derived from former Rule 16-822. The Rule has style changes, and the Rules Committee has also added a provision clarifying that without the approval of the administrative judge, a marriage ceremony may not be performed when the courthouse is closed.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 500 - MARRIAGE CEREMONIES

Rule 18-503. CONDITIONS AND REQUIREMENTS

(a) Performance of Ceremony

(1) Use of Clerk's Form

A judge who performs a marriage ceremony shall include substantially the form of ceremony used by the clerk of the circuit court for the county where the ceremony is performed. If the parties request and the judge agrees, the ceremony may include reference to matters not typically found in the clerk's ceremony.

(2) Joint Conduct of Ceremony

A judge may participate in performing a marriage ceremony with another individual authorized under Maryland law to perform marriage ceremonies.

(b) License

(1) Required

A judge may not perform a marriage ceremony unless a marriage license has been issued by the clerk of the circuit court in the county where the ceremony is performed.

(2) Duty of Judge

A judge who performs a marriage ceremony shall (A) complete the certificate of marriage, (B) provide a copy of the

certificate to the parties, and (C) return the completed certificate to the issuing clerk of court for recordation and reporting of the marriage.

(3) Judge Not Disqualified

A judge who granted a request for the issuance of a marriage license under Code, Family Law Article, §2-405 (d) may perform the ceremony.

(c) Refusal to Perform Ceremony

A judge may decline to perform a marriage ceremony.

Source: This Rule is derived from former Rule 16-823 (2013).

REPORTER'S NOTE

Rule 18-503 is derived from former Rule 16-823 with style changes.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 500 - MARRIAGE CEREMONIES

Rule 18-504. RESTRICTIONS

(a) Judge's Own Ceremony

A judge may not perform his or her own marriage ceremony.

(b) Compensation

A judge may receive no compensation, remuneration, or gift for performing a marriage ceremony.

Committee note: See Code, Family Law Article, §2-410, as to the fees a clerk or deputy clerk shall collect for performing a marriage ceremony.

(c) Advertising; Other Solicitations

A judge may not give or offer to give any reward to any person as an inducement to have the judge perform a marriage ceremony. A judge may not advertise or otherwise solicit individuals contemplating marriage to choose the judge to perform the ceremony.

Source: This Rule is derived from former Rule 16-824 (2013).

REPORTER'S NOTE

Rule 18-504 is taken verbatim from former Rule 16-824.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
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MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 600 - JUDICIAL EDUCATION

Rule 18-601. JUDICIAL INSTITUTE OF MARYLAND

(a) Existence

There is a Judicial Institute of Maryland, which is a unit of the Maryland Judiciary.

(b) Duties

(1) Generally

The Judicial Institute is responsible for the development, coordination, implementation, and evaluation of educational programs for Maryland judges, both active and approved for recall pursuant to Code, Courts Article, §1-302. The Institute also may provide continuing education programs for masters in accordance with the Rules in this Chapter and the directives of the Institute's Board of Directors.

(2) Judicial Education Programs Offered by Other Judicial Units

From and after _____, 2014, each other unit of the Maryland Judiciary that proposes to offer an educational program for Maryland judges or masters shall promptly inform the Executive Director of the Judicial Institute of the date, time, and location of the program and provide the Executive Director with a proposed syllabus. The Executive Director shall review

the proposed program and consult with the Chair of the Board of Directors, and may make appropriate recommendations with respect to the proposed program. The program may not require the participation of judges without the approval of (A) the Chief Judge of the Court of Appeals, or (B) the Executive Director and the Chair of the Board.

Committee note: The purpose of subsection (b)(2) of this Rule is to centralize in the Judicial Institute oversight of judicial education programs, in order to avoid duplication, unnecessary expense, and undue burdens on judges and to assure the quality and consistency of judicial education programs.

(3) Calendar of Upcoming Programs

From and after _____, 2014, the Judicial Institute shall maintain on the Judiciary intranet website a current master calendar of all upcoming educational programs offered by the Institute and upcoming educational programs and courses for judges or masters offered by other units of the Maryland Judiciary.

(4) Digital Library Website

The Judicial Institute may maintain a digital library website on the Judiciary intranet that will allow Maryland judges, including retired judges approved for recall pursuant to Code, Courts Article, §1-302, and masters to access and download Judicial Institute course materials and such other information as determined by the Board of Directors.

(5) Bench Books

The Judicial Institute is responsible for the development

and updating of all bench books for the trial judges of the State. Bench books shall be prepared and periodically updated in areas of law selected by the Board of Directors. They shall be maintained on the Judiciary intranet and may be made available to judges in paper form.

(c) Course Materials, Bench Books, and Recordings

All course materials and bench books, whether in written or electronic form, that are prepared by or for the Judicial Institute and all recordings of Judicial Institute education programs are solely for the information and education of judges and masters.

Cross reference: See Rules 16-901 (a) and 16-904 (e). See also Code, State Government Article, §10-615 (2)(iii), which requires that a custodian deny inspection of a public record if inspection is contrary to the Rules adopted by the Court of Appeals.

(d) Board of Directors

(1) Appointment; Membership

The Chief Judge of the Court of Appeals shall appoint a Board of Directors. The Board shall consist of 16 members, as follows: (A) one judge of the Court of Appeals, who shall serve as Chair; (B) one judge of the Court of Special Appeals; (C) five judges from the circuit courts, one of whom shall be a judge who is or has served as a program judge assigned to the Business and Technology Case Management Program pursuant to Rule 16-308; (D) four judges of the District Court; (E) a judge who has been certified as an ASTAR Fellow or who is otherwise knowledgeable about science and technology matters; (F) one judge of an

orphans' court; (G) one retired judge approved for recall pursuant to Code, Courts Article, §1-302; (H) one representative from the University of Maryland School of Law; and (I) one representative from the University of Baltimore School of Law. The appointment of the law school representatives shall be made after consultation with the Deans of the respective law schools. Committee note: "ASTAR" is an acronym for "Advanced Science and Technology Adjudication Resource."

(2) Terms

(A) The Chair and the retired judge shall serve at the pleasure of the Chief Judge. Subject to subsection (d) (2) (B) of this Rule, the terms of the other members shall be three years or during the member's incumbency as a judge of the court upon which the member was serving at the time of appointment or during the member's continuing affiliation with the school of law that the member represents, whichever is shorter. Those members may be reappointed but may not serve more than two consecutive full terms, except that, if a member was appointed to fill the unexpired term of a former member, the period of consecutive service also may include the remainder of that unexpired term.

(B) Incumbent members of the Board as of _____, 201_ are subject to appointment under subsection (d) (2) (A) of this Rule, but their initial terms shall be staggered as follows:

(i) the initial term of the judge from the Court of Special Appeals, two judges from the circuit courts, and one

judge from the District Court shall be three years or during the judge's continued incumbency as a member of those respective courts, whichever is shorter;

(ii) the initial term of two judges from the circuit courts and one judge from the District Court shall be two years or during the judge's continued incumbency as a member of those respective courts, whichever is shorter;

(iii) the initial term of one judge of the circuit court and two judges of the District Court shall be one year or during the judge's continued incumbency as a member of those respective courts;

(iv) the initial term of the judge whose appointment is based on being knowledgeable about science and technology matters shall be one year or during the judge's continued incumbency as a member of the court on which the judge was serving at the time of appointment, whichever is shorter;

(v) the initial term of the judge of the orphans' court shall be three years; and

(vi) the initial term of one law school representative shall be three years, and the initial term of the other law school representative shall be two years, or during their continued affiliation with the respective law school, whichever is shorter.

(3) Compensation; Expenses

The members shall serve without compensation but shall be

reimbursed for reasonable expenses related to the work of the Judicial Institute in accordance with the approved budget of the Institute.

(4) Meetings

The Board shall meet at least twice a year upon call of the Chair.

(5) Quorum

Nine members of the Board shall constitute a quorum for the transaction of business.

(6) Duties of Board

(A) The Board shall generally supervise the development, implementation, and evaluation of the educational programs provided by the Judicial Institute and perform the other duties set forth in this Chapter.

(B) Subject to the approval of the Chief Judge of the Court of Appeals and in accordance with applicable judicial personnel policies and procedures, the Board shall appoint an Executive Director and a Deputy Director.

(e) Executive Director; Deputy Director; Other Staff

The Executive Director, with the assistance of the Deputy Director and other staff of the Institute, shall implement the policies of the Board of Directors and oversee the operations of the Judicial Institute. The Executive Director, Deputy Director, and other staff of the Judicial Institute shall be employees of the Court of Appeals.

(f) Funding

Basic funding for the operation of the Judicial Institute shall be provided in the annual budget for the Court of Appeals. Other funding sources may be developed to support special programs.

Source: This Rule is new. It is derived in part from an Administrative Order of the Chief Judge of the Court of Appeals dated June 30, 2011.

REPORTER'S NOTE

Rules 18-601 through 18-604 are new. They are derived in part from an Administrative Order of the Chief Judge of the Court of Appeals dated June 30, 2011, with changes suggested by the Chair of the Institute's Board of Directors and the Institute's Executive Director. Stylistic changes also are made.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 600 - JUDICIAL EDUCATION

Rule 18-602. ATTENDANCE AT EDUCATION PROGRAMS

(a) Judges

(1) Personal Attendance Requirement

Unless excused by the Chief Judge of the Court of Appeals for good cause or otherwise permitted by the Rules in this Chapter, each incumbent judge of the Court of Appeals, the Court of Special Appeals, a circuit court, the District Court, or an orphans' court and each retired Maryland judge who has been approved for recall to sit on one or more of those courts pursuant to Code, Courts Article, §1-302 shall register for and personally attend, each year, one or more courses with an aggregate scheduled length of twelve hours. A judge may satisfy this requirement by personal attendance at courses offered under Rule 18-603, by personal attendance at courses offered under Rule 18-604 or by acting as an instructor for a course under Rule 18-603, Rule 18-604, or a webinar program.

Committee note: Subject to subsection (a)(2) of this Rule, judges must select their required personal attendance courses so as not to be absent from their judicial duties for more than two days - one or more courses aggregating six hours on one day and one or more courses aggregating six hours on another day.

(2) Additional Courses

(A) Judges may be required to attend or may be requested to

serve as an instructor for one or more specialized education courses offered under Rule 18-604. If a judge satisfies the twelve-hour requirement of subsection (a) (1) of this Rule by attending or serving as an instructor at a specialized course offered under Rule 18-604 but desires to attend one or more courses offered under Rule 18-603, the judge may request administrative leave to do so. If the administrative judge having administrative supervision over the court on which the judge serves finds that attendance at such courses would benefit the judge in carrying out the judge's judicial duties and would not delay the timely execution of the judge's adjudicative or administrative duties, the administrative judge may grant the administrative leave.

(B) If a judge has registered for twelve hours of courses offered under Rule 18-603 or 18-604, as a student or as an instructor, and desires to participate in additional courses provided by the Institute and the administrative judge having administrative supervision over the court on which the judge serves finds that such participation would benefit the judge in carrying out the judge's judicial duties and would not delay the timely execution of the judge's adjudicative or administrative duties, the administrative judge may grant a reasonable amount of additional administrative leave.

(b) Masters

(1) Generally

Masters may be required to attend education programs offered under Rule 18-604 specifically designed for them. They are not required but may be permitted to attend education programs offered under Rule 18-603.

(2) Attendance at Programs under Rule 18-603

Education programs offered under Rule 18-603 are primarily for judges. A master may register for and attend a program offered under Rule 18-603 if the administrative judge having administrative supervision over the court on which the master serves approves the attendance and notifies the Executive Director in writing of the approval.

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 18-601.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 600 - JUDICIAL EDUCATION

Rule 18-603. GENERAL ANNUAL EDUCATION PROGRAM

(a) Development of Curriculum

By July 1 of each year, the Board of Directors, with the advice and assistance of the Executive Director:

(1) shall develop a comprehensive curriculum of three-hour and six-hour courses to be given during the following calendar year and may develop courses of longer duration;

(2) shall recruit, approve, and assign qualified instructors, in accordance with the Rules in this Chapter, to present the courses;

(3) shall prepare and distribute to all Maryland judges and masters, in print form or on-line, a catalog that (A) describes the courses, (B) states, to the extent determined, the names of the instructors, (C) states the dates, times, and places where the courses will be offered, and (D) provides instructions for how to register for the courses; and

(4) may include in the catalog or supplement it at a later time with an offering of webinar courses that are offered by the Institute.

(b) Content of Curriculum

The curriculum may vary from year to year but shall include

courses in aspects of general civil law and procedure; criminal law and procedure; family law; estate, property, or trust law; evidence; judicial ethics; issues affecting the conduct of judicial proceedings; and recent relevant legislation, Rules changes, and court decisions.

(c) Faculty

(1) Selection

The Board or the Executive Director under the direction of the Board shall recruit, approve, and assign one or more instructors for each course. To the extent possible, instructors shall be selected from among active and retired Maryland judges, but members of the Federal judiciary, law school faculty, attorneys, or other individuals having specialized knowledge and experience in the subject matter of a course may be recruited as instructors or co-instructors. The Judicial Institute may not offer or pay compensation or other than normal in-State travel expenses to instructors unless approved in advance by the Chief Judge of the Court of Appeals.

(2) Notice to Administrative Judge; Administrative Leave

When an incumbent judge has accepted an instructional assignment, the judge shall promptly notify the administrative judge having administrative supervision over the court on which the judge serves. The administrative judge shall approve any necessary administrative leave for the instructor, including administrative leave not exceeding one day for course

development.

(3) Assistance by Judicial Institute Staff

The Executive Director and other designated Judicial Institute staff shall offer support and assistance to the designated instructors in setting course objectives, the selection and use of instructional techniques and materials, research, developing a course outline, preparatory services, and the evaluation of the presentation.

(d) Offering of Courses

(1) No Charge

All courses offered by the Judicial Institute shall be without charge to the judge or master.

(2) Place of Offering

Unless otherwise directed by the Board of Directors or the Executive Director, all personal attendance courses shall be offered at the Judicial Education and Conference Center in Annapolis.

(3) Webinar Courses

To the extent practicable, webinar courses offered by the Institute shall be in one-hour segments and shall be offered before or after normal court hours or during lunch breaks.

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 18-601.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 600 - JUDICIAL EDUCATION

Rule 18-604. SPECIALIZED EDUCATION PROGRAMS

(a) Generally

In addition to the general annual education program provided for in Rule 18-603, the Judicial Institute shall develop, provide, and monitor the specialized education programs provided for in this Rule.

(b) New Trial Judge Orientation Program

(1) Duty of Institute

At least once every two years, and more often as needed, the Judicial Institute shall present a six-day residential judicial orientation program for judges newly appointed to the District Court, newly appointed or elected to a circuit court, or newly appointed to the Court of Special Appeals or the Court of Appeals. The program, including the curriculum and format, shall be determined by the Board of Directors with the advice of the Executive Director, but, in addition to discussion of significant aspects of civil and criminal law and procedure applicable in the District and circuit courts, shall include discussion of domestic violence, judicial ethics and professionalism, and best practices in presiding over judicial proceedings.

(2) Duty of Judges

Unless excused by the Chief Judge of the Court of Appeals, each judge newly appointed to the District Court or newly appointed or elected to a circuit court shall attend the orientation program next occurring after the judge's appointment or election. Attendance is optional for judges newly appointed to the Court of Special Appeals or Court of Appeals.

(c) Family Law Education Program

(1) Duty of Institute

Once every other year, the Judicial Institute shall present a three-day, 18-hour comprehensive program on family law, including practice and procedure in the trial of family law cases. The curriculum and format shall be determined by the Board of Directors, with the advice of the Executive Director.

(2) Duty of Judges and Masters

Each judge, and each master who will be assigned to hear family law cases, shall attend the three-day family law education program next occurring after the judge's appointment or election or the master's appointment or assignment to hear family law cases. Each judge and master who has attended the three-day family law education program and who continues to hear family law cases shall register for and attend a three-day family law education program every three to five years. A judge who is reassigned to a family law rotation and who has not take the three-day family law education program within three years shall register for and attend the next offered three-day family law

education program.

(d) Business and Technology Education Program

(1) Duty of Institute

The Judicial Institute shall develop and periodically update a curriculum for the Business and Technology Case Management Program provided for in Rule 16-308. The curriculum and the format shall be determined by the Board of Directors with the advice of the Executive Director and in consultation with the Business and Technology judges.

(2) Duty of Business and Technology Program Judges

Judges assigned to the Business and Technology Case Management Program shall make every reasonable effort to register for and attend courses offered under this section in order to achieve and maintain their designation as Program Judges. The Administrative judge having administrative supervision over the court on which a Program Judge serves may and is encouraged to grant educational leave to allow the Program Judge to attend the courses.

(e) ASTAR Program

(1) Role of Institute

The Judicial Institute may participate in national science and technology programs, which may include participation in the national Advanced Science and Technology Adjudication Resource ("ASTAR") program by hosting or co-hosting conferences and workshops and developing and offering courses in the

bioscience training regimen prescribed by the ASTAR Program for ASTAR Fellows and prospective ASTAR Fellows.

(2) Administrative Judges

The administrative judge having administrative supervision over the court on which a judge who is an ASTAR Fellow or prospective ASTAR Fellow serves may and is encouraged to grant educational leave to the judge for completion of ASTAR requirements.

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 18-601.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 700 - MISCELLANEOUS PROVISIONS

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MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 700 - MISCELLANEOUS PROVISIONS

Rule 18-701. JUDICIAL LEAVE

(a) Scope of Rule

This Rule applies to judges of the Court of Appeals, the Court of Special Appeals, a circuit court and the District Court.

(b) Annual Leave

(1) Generally

Subject to section (f) of this Rule, a judge is entitled to annual leave of not more than 27 working days. The leave accrues as of the first day of the calendar year, except that:

(A) during the first year of a judge's initial term of office, annual leave accrues at the rate of 2.25 days per month accounting from the date the judge qualifies for office, and

(B) during the calendar year in which the judge retires, annual leave accrues at the rate of 2.25 days per month to the date the judge retires.

(2) Accumulation

(A) Generally

Subject to subsection (b) (2) (B) of this Rule, if, in any year, a judge takes less than the full amount of annual leave the judge has accrued in that year, the judge may accumulate, within any consecutive three-year period, the difference between

the leave accrued and the annual leave actually taken by the judge in any year during the period.

(B) Limitation

A judge may not accumulate more than ten working days of annual leave in any one year or more than 20 working days annual leave in the aggregate.

(C) Consecutive Appointment

A judge who is appointed or elected as a judge of another Maryland court, and whose term on the second court begins immediately following service on the first court has the same leave status as though the judge had remained on the first court.

(c) Personal Leave

(1) Generally

In addition to the annual leave provided in section (b) of this Rule, a judge is entitled to six days of personal leave in each calendar year. Personal leave accrues on the first day of each calendar year. Any personal leave unused at the end of the calendar year is forfeited.

(2) First Calendar Year of Initial Term

During the first calendar year of a judge's initial term, the judge is entitled to:

(A) six days of personal leave if the judge qualified for office in January or February;

(B) five days of personal leave if the judge qualified for office in March or April;

(C) four days of personal leave if the judge qualified for office in May or June; or

(D) three days of personal leave if the judge qualified for office on or after July 1.

(d) Sick Leave

(1) Generally

In addition to the annual leave and personal leave as provided for in this Rule, a judge:

(A) is entitled to unlimited sick leave for any period of the judge's illness or disability that precludes the judge from performing judicial duties; and

(B) may take a reasonable amount of sick leave (i) for the judge's medical appointments; (ii) due to the illness or disability of family members; or (iii) due to the birth, adoption, or foster care placement of a child with the judge, all subject to the definitions, conditions, limitations, and procedures in an Administrative Order issued by the Chief Judge of the Court of Appeals.

(2) Limitation

Sick leave used for the purposes allowed by subsection (d) (1) (B) of this Rule, together with annual leave and personal leave taken for purposes of subsection (d) (1) (B) of this Rule may not exceed an aggregate total of 12 weeks for the calendar year.

(3) Administrative Order

The Chief Judge of the Court of Appeals shall issue an

Administrative Order implementing this section. The Order shall be posted on the Judiciary's website and otherwise made publicly available.

Committee note: The authority of the Commission on Judicial Disabilities with respect to a disability as defined in Rule 18-401 (h) is not affected by this Rule.

(e) Termination of Judicial Service

A judge whose judicial service is terminated for any reason and who is not elected or appointed to another Maryland court without a break in service loses any annual or personal leave unused as of the date of termination of service.

(f) When Leave May be Taken; Discretion of Chief Judge or Administrative Judge

(1) When Leave Annual or Personal May be Taken

A judge's annual leave and personal leave shall be taken at the time or times prescribed or permitted:

(A) if the judge is a judge of an appellate court, by the chief judge of that court;

(B) if the judge is a judge of a circuit court, by the Circuit Administrative Judge of the judge's judicial circuit; or

(C) if the judge is a judge of the District Court, by the Chief Judge of that court.

(2) Standard for Exercise of Discretion

In determining when a judge may take annual leave and for what period of time, the judge exercising supervisory authority under this Rule shall be mindful of the necessity of retention of

sufficient judicial staffing in the court or courts under the judge's supervision to permit at all times the prompt and effective disposition of the business that court or those courts. A request for leave at a certain time or for a certain period of time may be rejected by the supervising judge if the granting of the requested leave would prevent the prompt and effective disposition of business of that court or those courts, but personal leave requested for observance of a religious holiday may not be denied.

(g) Supervision by Chief Judge of the Court of Appeals

The operation of this Rule is at all times subject to the supervision and control of the Chief Judge of the Court of Appeals.

Source: This Rule is derived from former Rule 16-104 (2013).

REPORTER'S NOTE

Rule 18-701 is derived from former Rule 16-104 with style changes. The Rules Committee suggests deleting subsection b. 2., which is no longer applicable.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 700 - MISCELLANEOUS PROVISIONS

Rule 18-702. REPORTS BY CIRCUIT COURT JUDGES

(a) Reports to County Administrative Judge

Each judge of a circuit court shall submit to the County Administrative Judge of that judge's court such reports as the Chief Judge of the Court of Appeals may require, on forms prescribed and supplied by the State Court Administrator and approved by the Chief Judge of the Court of Appeals.

(b) Reports by County Administrative Judge

Each Circuit and County Administrative Judge shall furnish such other reports required by the Chief Judge of the Court of Appeals.

Source: This Rule is derived from former Rule 16-105 (2013).

REPORTER'S NOTE

Rule 18-702 is derived from former Rule 16-105 with style changes.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 700 - MISCELLANEOUS PROVISIONS

Rule 18-703. FINANCIAL DISCLOSURE STATEMENT BY JUDGES

(a) Definitions

In this Rule, the following definitions apply:

(1) Former Judge

"Former judge" means an individual who previously served as a judge and has been approved for recall for temporary service under Code, Courts Article, §1-302.

(2) Judge

"Judge" means (A) an incumbent judge of the Court of Appeals, the Court of Special Appeals, a circuit court, the District Court, or an orphans' court and (B) an individual who, in the preceding calendar year, served as an incumbent judge of one of those courts or was a former judge.

(b) Requirement

Each judge and each former judge shall file with the State Court Administrator a financial disclosure statement in the form prescribed by the Court of Appeals. When filed, a financial disclosure statement is a public record.

(c) When Due; Period Covered

(1) Generally

Except as provided in subsection (c)(2) of this Rule, the

statement shall be filed on or before April 15 of each year and shall cover the preceding calendar year or that portion of the preceding calendar year during which the individual was a judge or a former judge.

(2) Exception

If a judge or other individual who files a certificate of candidacy for nomination for an election to an elected judgeship has filed a statement pursuant to Code, State Government Article, §15-610 (b), the individual need not file a financial disclosure statement under this Rule for the same period of time. The State Court Administrator is designated as the individual to receive statements from the State Administrative Board of Election Laws pursuant to Code, State Government Article, §15-610 (b).

(3) Presumption of Filing

A judge's or former judge's financial disclosure statement is presumed to have been filed unless the State Court Administrator, on April 16, notifies the judge or former judge that the statement for the preceding calendar year or portion thereof was not received.

(d) Extension of Time for Filing

(1) Application

Except when required to file a statement pursuant to Code, State Government Article, §15-610 (b), a judge or former judge may apply to the State Court Administrator for an extension of time for filing the statement. The application shall be

submitted prior to the deadline for filing the statement and shall set forth in detail the reasons an extension is requested and the date when a completed statement will be filed.

(2) Decision

For good cause, the State Court Administrator may grant a reasonable extension of time for filing the statement. Whether the request is granted or denied, the State Court Administrator shall furnish the judge or former judge and the Judicial Ethics Committee with a written statement of the reasons for the decision and the facts upon which the decision was based.

(3) Review by Judicial Ethics Committee

A judge or former judge may seek review of the State Court Administrator's decision by the Judicial Ethics Committee by filing with the Committee, within ten days after the date of the decision a statement of reasons for the judge's or former judge's dissatisfaction with the decision. The Committee may take the action it deems appropriate with or without a hearing or the consideration of additional documents.

(e) Failure to File Statement; Incomplete Statement

(1) Notice; Referral to Judicial Ethics Committee

The State Court Administrator shall (A) give written notice to each judge or former judge who fails to file a timely statement or who files an incomplete statement and (B) in the notice set a reasonable time, not to exceed ten days, for the judge or former judge to file or supplement the statement. If

the judge or former judge fails to correct the deficiency within the time allowed, the State Court Administrator shall report the deficiency to the Judicial Ethics Committee.

(2) Duties of Committee

(A) After an inquiry, the Committee shall determine whether (i) the judge or former judge was required to file the statement or the omitted information was required to be disclosed, and (ii) if so, whether the failure to file or the omission of the required information was inadvertent or in a good faith belief that the judge or former judge was not required to file the statement or to disclose the omitted information.

(B) If the Committee determines that the judge or former judge was not required to file the statement or disclose the omitted information, it shall notify the State Court Administrator and the judge or former judge and terminate the inquiry.

(C) If the Committee determines that the statement was required to be filed or that the omitted information was required to be disclosed but that the failure to do so was inadvertent or in a good faith belief that the filing or disclosure was not required, the Committee shall send notice of that determination to the State Court Administrator and the judge or former judge and, in the notice, set a reasonable time, not to exceed 15 days, within which the judge or former judge shall correct the deficiency.

(D) If the Committee (i) finds that the statement was required to be filed or that the omitted information was required to be disclosed and that failure to file or disclose the omitted information was not inadvertent or in a good faith belief, or (ii) after notice was given pursuant to subsection (e)(2)(C) of this Rule, the judge or former judge failed to correct the deficiency within the time allowed, the Committee shall report the matter to the Commission on Judicial Disabilities and notify the State Court Administrator and the judge or former judge that it has done so.

(f) Public Record

When filed, a financial disclosure statement is a public record.

Source: This Rule is derived from former Rule 16-815 (2013).

REPORTER'S NOTE

Rule 18-703 is derived from former Rule 16-815. The Rules Committee recommends adding a definition of the term "judge." The definition in the former Rule of the term "former judge" excluded judges who have left office and have not been approved for recall. Those judges must file a disclosure statement for the part of the preceding calendar year in which they served as a judge. Unlike other Rules in this Chapter, this Rule also applies to judges of the orphans' court. The additional definition of the term "judge" clarifies both of these situations.

Because former Rule 16-815 g. does not take into account the possibility that after a case has been referred to the Judicial Ethics Committee for lack of compliance with the Rule by a judge, the Committee may find that the financial disclosure statement did not have to be filed or that the omitted information did not have to be disclosed. The Committee proposes adding language to the Rule, so that if the Committee makes these findings, the case would not have to automatically be referred to the Commission on

Judicial Disabilities, which is the way that the former rule reads.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 700 - MISCELLANEOUS PROVISIONS

Rule 18-704. FINANCIAL DISCLOSURE STATEMENT BY JUDICIAL
APPOINTEES

(a) Definition

In this Rule, "judicial appointee" means:

- (1) a full-time or part-time master;
- (2) a commissioner appointed by a District Administrative Judge with the approval of the Chief Judge of the District Court, and
- (3) an auditor or examiner who is full-time or who earns in any calendar year, by reason of the judicial appointee's official position, compensation at least equal to the pay provided for the base step of State Pay Grade 16, as in effect on July 1 of that calendar year. If an auditor or examiner has served as such for only a portion of a calendar year, a pro rate determination of compensation shall be applied.

Cross reference: For the definition of judicial appointee for purposes of applying the Maryland Code of Conduct for Judicial Appointees, see Rule 18-200.3.

(b) Requirement

Each judicial appointee shall file with the State Court Administrator a financial statement in the form prescribed by the Court of Appeals.

(c) When Due; Period Covered

(1) Generally

Except as provided in subsection (d) (2) of this Rule, the statement shall be filed on or before April 15 of each year, and shall cover the preceding calendar year or that portion of the preceding calendar year during which the individual was a judicial appointee.

(2) Exception

If a judicial appointee who files a certificate of candidacy for nomination for an election to an elected judgeship has filed a statement pursuant to Code, State Government Article, §15-610 (b), the judicial appointee need not file for the same period of time the statement required by this Rule. The State Court Administrator is designated as the individual to receive statements from the State Administrative Board of Election Laws pursuant to Code, State Government Article, §15-610 (b).

(3) Presumption of Filing

A judicial appointee's financial disclosure statement is presumed to have been filed unless the State Court Administrator, on April 16, notifies the judicial appointee, that the statement for the preceding calendar year or portion thereof was not received.

(d) Extension of Time for Filing

(1) Application

Except when the judicial appointee is required to file a

statement pursuant to Code, State Government Article, §15-605 or §15-610 (b), a judicial appointee may apply to the State Court Administrator for an extension of time for filing the statement. The application shall be submitted prior to the deadline for filing the statement and shall set forth in detail the reasons an extension is requested and the date when a completed statement will be filed.

(2) Decision

For good cause, the State Court Administrator may grant a reasonable extension of time for filing the statement. Whether the request is denied or approved, the State Court Administrator shall furnish the judicial appointee and the Judicial Ethics Committee with a written statement of the reasons for the decision and the facts upon which the decision was based.

(3) Review by Judicial Ethics Committee

A judicial appointee may seek review of the State Court Administrator's decision by the Judicial Ethics Committee by filing with the Committee, within ten days after the date of the decision, a statement of reasons for the judicial appointee's dissatisfaction with the decision. The Committee may take the action it deems appropriate with or without a hearing or consideration of additional documents.

(e) Failure to File Statement; Incomplete Statement

(1) Notice Referral to Judicial Ethics Committee

The State Court Administrator shall (A) give written

notice to each judicial appointee who fails to file a timely statement or who files an incomplete statement, and (B) in the notice set a reasonable time, not to exceed ten days, for the judicial appointee to file or supplement the statement. If the judicial appointee fails to correct the deficiency within the time allowed, the State Court Administrator shall report the deficiency to the Judicial Ethics Committee.

(2) Duties of Committee

(A) After an inquiry, the Committee shall determine whether (i) the judicial appointee was required to file the statement or the omitted information was required to be disclosed, and (ii) if so, whether the failure to file or the omission of the required information was inadvertent or in a good faith belief that the judicial appointee was not required to file the statement or disclose the omitted information.

(B) If the Committee determines that the judicial appointee was not required to file the statement or disclose the omitted information, it shall notify the State Court Administrator and the judicial appointee and terminate the inquiry.

(C) If the Committee determines that the statement was required to be filed or that the omitted information was required to be disclosed but that their failure to do so was inadvertent or in a good faith belief that the filing or disclosure was not required, the Committee shall send notice of that fact to the State Court Administrator and the judicial appointee and, in the

notice, set a reasonable time, not to exceed 15 days, within which to correct the deficiency.

(D) If the Committee (i) finds that the statement was required to be filed or that the omitted information was required to be disclosed and that failure to file or disclose the omitted information was not inadvertent or in a good faith belief, or (ii) after notice was given pursuant to subsection (e)(2)(C) of this Rule, the judicial appointee fails to correct the deficiency within the time allowed, the Committee shall report the matter to the State Ethics Commission and notify the State Court Administrator and the judicial appointee that it has done so.

(3) Disciplinary Action

A violation of this Rule is grounds for disciplinary action, including removal, by the appointing authority.

(f) Public Record

When filed, a financial disclosure statement is a public record.

Source: This Rule is derived from former Rule 16-816 (2013).

REPORTER'S NOTE

Rule 18-704 is derived from former Rule 16-816. See the Reporter's note to Rule 18-703 to explain the changes to section (e).