



Illinois Judicial Ethics Committee

JUDICIAL ELECTION/CAMPAIGN FAQs

The Illinois Judicial Ethics Committee (IJEC), a joint committee of the Illinois State Bar Association, the Chicago Bar Association, and the Illinois Judges Association, provides the following responses to Frequently Asked Questions (FAQs) as a service to candidates seeking election to judicial office in Illinois. These FAQs are intended to provide general guidance on common questions faced by judicial candidates. The FAQs are not intended to offer legal advice, provide a comprehensive analysis applicable to specific factual scenarios, or constitute a substitute for a candidate's own legal research and judgment.

Issues faced by candidates for judicial election in Illinois are generally governed by the Illinois Code of Judicial Conduct of 2023 ("Code") or the Illinois Election Code (10 ILCS 5/1-1 *et seq.*). Additional guidance regarding those issues is contained in the IJEC's published opinions. See <https://www.ija.org/opinion-list>. Note that IJEC's opinions published prior to January 1, 2023, do not consider or address whether the 2023 Code affects their analysis or conclusion. The views of the IJEC expressed in these FAQs and its published opinions are not binding on the Judicial Inquiry Board, the Illinois Courts Commission, the Attorney Registration & Disciplinary Commission, or the courts.

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1. What activities may I engage in prior to declaring as a candidate?

You may make inquiries to, and seek support from, elected officials and others to determine the viability of candidacy. You may ask people to join your committee or campaign team. You may not engage in any fundraising activities.

2. When do I become a candidate?

As defined in the Code of Judicial Conduct, a "judicial candidate" means "any person, including a sitting judge, who is seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as they make a public announcement of candidacy; declare or file as a candidate with the election or appointment authority; authorize or, where permitted, engage in solicitation or acceptance of contributions or support; or are nominated for election or appointment to office. See Rules 4.1, 4.3, and 4.4.

3. May I personally circulate my nominating petitions?

Yes. Rule 4.1(D)(2)(b) allows judicial candidates to distribute campaign materials supporting their candidacy.

4. May I personally circulate or sign other candidates' nominating petitions?

Yes, you may sign any candidate's petitions for election. As to other candidates seeking a judicial office in the same election, you may also circulate their petitions. You cannot circulate petitions for candidates for non-judicial office. Rule 4.1(D)(2). *See* IJEC Opinion 1998-02 (A judge may circulate and sign the nominating petitions of a judicial candidate when that judge is also a candidate in the same election).

5. May I raise money for my campaign?

No, you may not personally solicit campaign funds. All fundraising must be conducted by your campaign committee. Rule 4.4(B)(2) limits soliciting contributions no earlier than one year before an election and no later than 90 days after the last election in which the candidate participates during the election year. *See also* IJEC Opinion 1995-08 (judge may send a personally signed "thank you" note to campaign contributors).

6. Is it necessary to form a campaign committee?

Yes, it is necessary to form a campaign committee if your campaign intends to solicit funds from others. Rule 4.4. The primary functions of the campaign committee are to (a) raise money and (b) track and report funds received and expenses paid. To remain compliant with the Code of Judicial Conduct, it is advisable to form a campaign committee. However, it is not necessary to form a campaign committee if your campaign is self-funded and expenditures do not exceed the statutory threshold established by the Election Code.

7. How do I form and organize a campaign committee?

Rule 4.4 states that a candidate may establish a campaign committee, but it is silent on the organization of a committee. The Illinois Election Code only requires that a Chairman and Treasurer be named. *See* 10 ILCS 5/9-2(f).

8. How does my campaign committee get registered?

Registration is governed by the Election Code.

9. What authority does my campaign committee have?

Comment [2] to Rule 4.4 states a campaign committee "may solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct campaigns." Comment [3] provides that the campaign committee may also "solicit and accept campaign contributions from lawyers and others who might appear before the candidate," but that the "candidate should instruct the campaign committee to be cautious in connection with such contributions so it does not create grounds for disqualification. See Rule 2.11."

10. May I serve as chair or treasurer of my campaign committee?

No. Rule 4.1(E) states a judicial candidate shall not personally solicit contributions. These activities are reserved for the candidate's campaign committee. The chair or treasurer of a campaign committee is inherently associated with any solicitation of funds by the committee. Because a candidate is prohibited from soliciting funds personally it follows that the candidate cannot do so on behalf of the candidate's committee.

11. May a spouse or other family member serve as treasurer of my campaign committee?

The Illinois Code of Judicial Conduct does not prohibit a spouse or family member from serving on the committee. Rule 4.1(C)(3) states that a "judicial candidate... except to the extent permitted by Paragraph (E) [concerning personal solicitation of funds], shall not authorize, encourage, or knowingly permit members of the judicial candidate's family[] or other persons to do for the candidate what the candidate is prohibited from doing under the provisions of this Rule." The exception stated at the beginning of the rule is important; the exception references Rule 4(E), which contains the prohibition against a judge "personally" soliciting or receiving funds. Because Rule 4.(C)(3) excepts Rule 4(E) from the prohibitions extending to "family or other persons," it suggests that family and other persons can actively participate in campaign committees, including solicitation or receipt of contributions. *See also* IJEC Opinion 1996-01 (a candidate for judge or a member of the candidate's family is not prohibited from signing campaign fund checks to pay campaign expenses).

12. May I personally seek endorsements of my campaign?

Yes. There is no prohibition against a candidate personally seeking endorsements.

13. May my campaign committee seek endorsements of my campaign?

Yes. Rule 4.4(A) allows a campaign committee "to manage and conduct a campaign for the candidate," and there is no specific prohibition against seeking endorsements.

14. May I endorse other candidates?

Yes, as to other candidates for judicial office in a public election in which the judicial candidate is running. Rule 4.1(D)(2)(d). The permission granted by the Rule does not extend to candidates for non-judicial office. Note that a judge who is not a candidate is prohibited from publicly endorsing or opposing candidates for any office. Rule 4.1(A)(2).

As to what actions constitute a public endorsement, wearing the emblem or logo of a candidate has been found to constitute a public endorsement of that candidate. *In Re Klein*, No. 05-CC-2 (June 16, 2005). Beyond this example, it may be challenging to determine when campaign activities with a non-judicial candidate cross the line into a prohibited public endorsement of that candidate. Keep in mind that the "Rules of the Code are rules of reason" and should be applied "with due regard for all relevant circumstances." Code, Preamble and Scope, paragraph [9]. For context, the same Code that prohibits public endorsements of non-judicial candidates permits all judges—not just candidates—to attend fundraisers, identify as a member of a political party, or make political contributions. Rule 4.1(D)(1). All these permitted actions could be viewed as an implicit public endorsement; the fact that they are permitted leads to the likely inference that the type of public

endorsement prohibited by the Code would tend to be fairly explicit.

15. May I campaign with other judicial candidates?

Yes. There is no specific prohibition against a judicial candidate (whether the candidate is a judge or lawyer) campaigning with other judicial candidates. Furthermore, the Code specifically allows judicial candidates to speak to gatherings on their own behalf, and publicly endorse or publicly oppose other candidates for judicial office in the same election. Rule 4.1(D)(2)(a), (d). These types of allowed activities may be undertaken with other judicial candidates.

16. May I campaign with non-judicial candidates?

Yes. Campaigns do not occur in a vacuum, as there is generally a large number of candidates running in the same election. Some may be of the same party as the judge. It is not unusual that candidates might campaign together. It is important to remember, however, that a judge's campaign activities with non-judicial candidates should not rise to the level of an endorsement of a candidate for a non-judicial office. Rule 4.1(D)(2)(d); see also question 14, above.

17. May I jointly advertise with other judicial candidates?

Yes. There is no specific prohibition against a judicial candidate (whether the candidate is a judge or lawyer) jointly advertising with other judicial candidates. Nevertheless, a candidate should be mindful that a judicial candidate is individually responsible to maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary. Rule 4.1(C)(1).

18. May I jointly advertise with non-judicial candidates?

Yes. There is no specific prohibition against a judicial candidate (whether the candidate is a judge or lawyer) jointly advertising with other non-judicial candidates. The joint advertising should not rise to the level of an endorsement of a candidate for non-judicial office. Rule 4.1(D)(2)(d). For example, an advertisement featuring only the judge and one other non-judicial candidate might reasonably be construed as an endorsement, whereas a joint advertisement with multiple candidates would be less likely to do so. Furthermore, be mindful that a judicial candidate is individually responsible to maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary. Rule 4.1(C)(1).

19. May I wear a robe in any of my advertisements?

Yes. An incumbent judge may wear a robe in political advertisements as long as doing so is consistent with the dignity, integrity, and independence of the judicial office. *Cf.* IJEC Opinion 1994-03 (judge may wear his or her robe in civic parade).

20. What if I have a question about a specific advertisement?

The IJEC does not ordinarily comment on specific campaign advertisements. A candidate is responsible for any ads published by his or her campaign committee.

21. May I be on a slate card that lists all candidates of my party?

Yes. Rule 4.1(F) allows candidates for judicial office to permit their “name or image to be included in campaign materials along with other candidates for elective public office.”

22. May I personally solicit campaign contributions?

No. Neither a judge nor a judicial candidate shall personally solicit or accept campaign contributions. Rule 4.1(E)(1). *See also Williams-Yulee v. Florida Bar*, 575 U.S. 1656 (2015) (upholding constitutionality of prohibition against solicitation of campaign contributions by judicial candidates).

23. May I purchase tickets to political events?

Yes. A judge or judicial candidate may purchase tickets for and attend political gatherings. Rule 4.1(D)(1)(a).

24. May I hold a fundraiser for my candidacy at my house?

Yes. There is no specific prohibition against a judicial candidate (whether the candidate is a judge or lawyer) holding a campaign fundraiser for their own candidacy at his or her residence. Be mindful that you may not personally solicit or accept campaign funds, nor may you solicit individuals to attend the function. However, your campaign committee may engage in these activities. Rule 4.1(E)(1).

25. May I accept donations from attorneys?

No, you may not personally, but your campaign committee may. *See* Rule 4.4, Comment [3]. In accepting campaign contributions all candidates should keep in mind that if the total amount of the contributions from any one source is disproportionately large, that may provide the basis for a disqualification or recusal motion pursuant to the United States Supreme Court’s analysis in *Caperton v. A.T. Massey Coal Co., Inc.*, 556 U.S. 868, 129 S. Ct. 2252 (2009).

If a party, a party’s lawyer, or the law firm of a party’s lawyer has made a direct or indirect contribution to the judge’s campaign in an amount that would raise a reasonable concern about the fairness or impartiality of the judge’s consideration of a case involving the party, the party’s lawyer, or the law firm of the party’s lawyer, the judge should consider whether recusal would be appropriate. Rules 2.11(A), Rule 4.4, Comment [3].

Additionally, the IJEC has opined that a judge is disqualified from hearing any matters during an election campaign in which one of the parties is personally represented by the judge’s campaign chairman. However, this is limited to the chair and does not apply to other lawyers associated with the chair. *See* IJEC Opinion 1996-20. Moreover, a judge is usually not disqualified simply because a lawyer or a party was a contributor to the judge’s campaign. *See* IJEC Opinion 1993-11.

26. What can individuals and family members do to help my campaign?

Individuals may do anything within the election laws to help your campaign—such as raise money, solicit support, hand out literature, etc., unless they are judges, court employees or Hatch Act employees, subject to the same or similar restrictions as you.

Rule 4.1(C)(3) provides: “except to the extent permitted by Paragraph (E), [judicial candidates] shall not authorize, encourage, or knowingly permit members of the judicial candidate’s family or other persons to do for the candidate what the candidate is prohibited from doing under the provisions of this Rule.” As discussed in question 11, family members and other persons are not prohibited from participating in campaign committees or from personally soliciting or receiving funds.

27. What can my family members do to help another person’s campaign?

IJEC Opinion 2006-02 notes that a judge’s family members may engage in independent campaign activities in support of a candidate for public office including: (1) soliciting funds for the candidate; (2) publicly endorsing the candidate; (3) displaying a bumper sticker on a vehicle jointly owned by the spouse and judge and driven by the spouse; and (4) displaying a campaign sign in the yard of the home jointly owned by the spouse and judge.

28. May I contribute to the party organization or candidate?

Yes. Any judge or judicial candidate may contribute to a political party or organization or candidate for public office; a judge is, however, prohibited from paying an “assessment” to a political organization or candidate. *See* Rule 4.1(D)(1), 4.1(A)(4), and IJEC Opinions 1994-06 and 1996-12.

29. May I loan money to my campaign?

Yes. You may loan money to your campaign. You must disclose this on your campaign finance report filings.

30. What am I allowed to say, or prohibited from saying, during my campaign?

Pursuant to *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002), a candidate for judicial office may state personal views on legal, political or other issues but may not make pledges or promises other than the faithful and impartial performance of the duties of office. Rule 4.1(C)(4)(a). A candidate also shall not knowingly or with reckless disregard for the truth, make, or permit or encourage others, including, his or her campaign committee, to make any false or misleading statement (Rule 4.1(C)(4)(b)) or any public statement about a matter pending or impending in any court (Rule 2.10(A)). *See* also Rule 4.1, comments [7] through [10].

31. May I make any promises or pledges regarding how I will conduct myself if elected?

Rule 4.1(C)(4)(a) prohibits a judge from making “pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office with respect to cases, controversies, or issues that are likely to come before the court.” General statements, such as a pledge to follow the law, are usually permissible.

32. May I respond to questionnaires?

Yes. Candidates for judicial election or retention may respond to questionnaires from media sources, public interest groups or advocacy groups that ask for candidates’ views on controversial moral, legal or political issues so long as they refrain from making statements that commit or appear to commit the candidate with respect to cases, controversies or issues within cases that are likely to

come before the court. See IJEC Opinion No. 2021-3.

33. Is there a time limit on ending my campaign activities once the election is over?

Yes. Pursuant to Rule 4.4(B)(2), a judge's candidate committee may not solicit contributions "more than 90 days after the last election in which the candidate participated."

34. When are written thank you letters to contributors permitted?

Your committee may thank your contributors at any time. A judicial officer may sign thank you notes to contributors before and after the election. The IJEC has opined that a judge may send a personally signed "thank-you" note to campaign contributors. See IJEC Opinion 95-8.

35. What may I do if my campaign committee has a debt (or a surplus) after the election?

This is governed by the provision of the Illinois Election Code, 10 ILCS 5/9-5, regarding disposition of surplus funds of an inactive committee.

36. May I keep working as an attorney after the election?

A judge-elect is permitted to continue practicing law until sworn in as a judge. Thereafter, like all judges, the new judge is prohibited from practicing law. See Rule 3.10.

37. Must a judge's name be removed from the firm name, and listing of lawyers, of the judge's former firm once the judge takes office?

Yes. Several jurisdictions and authorities have concluded that a newly elected judge is required to remove promptly the judge's name from a law firm. See Gray, "Ethical Issues for New Judges," American Judicature Society (1996)

<https://www.ncsc.org/~media/Files/PDF/Topics/Center%20for%20Judicial%20Ethics/Publications/EthicalIssuesforNewJudges.ashx>.

Some limited relief from this requirement was referenced in IJEC Opinion 1998-08 ("A judge need not require his former firm to remove his or her surname from the name of the firm if the judge's foreseeable tenure on the bench does not constitute a substantial period of time"). See also Illinois Rule of Professional Conduct 7.5(c) ("The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.").