

Title	Conflicts of Interest for Judges With Administrative Responsibilities (amend Cal. Code Jud. Ethics, canon 3C(1))
Summary	This proposed amendment would require judges to discharge their administrative responsibilities on the basis of merit, without bias and prejudice, and in a manner that promotes public confidence in the integrity of the judiciary.
Source	Supreme Court Advisory Committee on the Code of Judicial Ethics
Staff	Mark Jacobson, 415-865-7898, mark.jacobson@jud.ca.gov
Discussion	<p>As a consequence of state funding of the trial courts, judges have undertaken administrative and business responsibilities and decisions that previously were handled by the counties. For example, judges are sometimes involved in selecting contractors for various purposes on behalf of the court, such as working on new or renovated courthouses, or in leasing or acquiring property. Judges also occasionally appear on behalf of their courts before zoning commissions and boards of supervisors.</p> <p>The Political Reform Act (Gov. Code, § 81000 et seq.), which prohibits public officials from participating in government decisions in which they have a financial interest, does not apply to judges because they are not considered “public officials” under the act. (Gov. Code, § 82048.) The disqualification provisions in canon 3 are also inapplicable because they refer exclusively to the duty to disqualify from a “proceeding,” not from business transactions or administrative decisions. The only canons that appear to be applicable are canon 1, which requires judges to uphold the integrity and independence of the judiciary; canon 2, which states that judges must avoid impropriety and the appearance of impropriety; and canon 2A, which provides that judges must act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.</p> <p>The committee agreed that a canon focusing on administrative and business conduct would be beneficial in that it would promote the fair and conflict-free administration of the courts. Because existing canon 3C pertains to administrative responsibilities of judges, the committee concluded that the new language should be inserted into that canon.</p> <p>In April 2007, the committee circulated for comment a proposed amendment to canon 3C(1) that would have required judges to</p>

discharge their administrative responsibilities “free of conflict of interest” and without bias or prejudice. After considering comments, the committee decided not to recommend the proposed amendment to the Supreme Court. The committee concluded that it was unclear whether the term “conflict of interest” applied to all conflicts, financial or otherwise, as was intended. The committee further concluded that the canon should be more specific. Therefore, the committee agreed that the proposed amendment should be modified to require that judges discharge their administrative responsibilities “on the basis of merit, without bias or prejudice, and in a manner that promotes public confidence in the integrity of the judiciary.”

The text of the proposed amendment to canon 3C(1) is attached.

Attachment

Canon 3C(1) of the California Code of Judicial Ethics would be amended to read:

CANON 3

A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE
IMPARTIALLY AND DILIGENTLY

A.–B. ***

C. Administrative Responsibilities

(1) A judge shall diligently discharge the judge’s administrative responsibilities on the basis of merit, without bias or prejudice, and in a manner that promotes public confidence in the integrity of the judiciary. A judge shall maintain professional competence in judicial administration, and shall cooperate with other judges and court officials in the administration of court business.

(2)–(5) ***

D.–E. ***

Item SP08-04 Response Form

Title: Conflicts of Interest for Judges With Administrative Responsibilities (amend Cal. Code Jud. Ethics, canon 3C(1))

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ Title: _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

Please **write** or **fax** or [respond using the Internet](#) to:

Address: Ms. Camilla Kieliger,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102

Fax: (415) 865-7664 **Attention:** Camilla Kieliger

Internet: <http://www.courtinfo.ca.gov/invitationstocomment/commentform.htm>

DEADLINE FOR COMMENT: 5:00 p.m., Friday, February 15, 2008

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee.
All comments will become part of the public record of the council's action.*