

**OHIO STATE BAR ASSOCIATION
JUDICIAL ELECTION CAMPAIGN
ADVERTISING MONITORING COMMITTEE**

STATEMENT OF PURPOSE AND GUIDELINES*

The guidelines set forth herein are intended to expand upon and incorporate the prohibitions of Canon 7 of the Code of Judicial Conduct as it relates to advertisements in judicial campaigns. Set forth herein are the objectives to be met in judicial campaigns and the appropriateness of restrictions on judicial campaigns. Included are references to existing Rules and Regulations, as well as examples of questionable conduct and the mechanism to be followed by this Committee for deterring persons who might intentionally or inadvertently violate Canon 7.

Canon 7 states broadly that "[a] judge should refrain from political activity inappropriate to his judicial office" and that candidates "should maintain the dignity appropriate to judicial office." More specifically, Canon 7 sets out certain "campaign conduct" and "campaign guidelines" that proscribe any false statements and certain misrepresentations during the course of judicial campaigns. The need for clarification, so as to avoid inadvertent violations, and for mechanisms to dissuade persons from prohibited activity, is accentuated by the growing trend toward so-called "negative advertising" in judicial campaigns. Such conduct undermines public trust and confidence in the judiciary and is contrary to the ultimate goal of a fair, impartial and open-minded independent judiciary.

These guidelines are not intended to infringe upon the expressional and associational freedom of judicial candidates under the First Amendment. There is no intention to go beyond the balance struck in Canon 7 between protected and unprotected speech.

The foremost concern, however, reflects a widely shared view that judicial elections are in some respects different from elections of a person seeking executive or legislative positions. Elected judges are not to be viewed as "representatives" in the same sense that nonjudicial officials commonly are so regarded.

Although our voters elect judges, the Ohio Constitution includes several provisions that treat judges as uniquely different from other elected officials: (1) appellate judges' terms are uniquely long (six years, Art. IV, §6); (2) only judges are subject to mandatory age retirement (art. IV, §6(c)); (3) only judges are protected against reduction in pay during a term in office (Art. IV, §6(b)); (4) only judges are subject to both impeachment and special disciplinary process (Art. IV, §17); and (5) only judges cannot run for a nonjudicial office without first resigning (Art. IV, §6(b)). Also, judges "must have training and experience" (ORC Ann. §§1907.13, 2301.01, 2501.02 and 2503.01); it is hard to conceive of barring voters from choosing, say, a legislator who lacks "training and experience". Last, our code of judicial conduct bars judges from

* These guidelines, procedures and regulations are based in whole and part on the standards and procedures adopted by the Columbus Bar Association.

personally soliciting campaign funds (Canon 7(c)(2)(a)), and limits the period in which fund-raising is allowed (Canon 7(c)(4)).

Such provisions in our constitution, similar provisions in the constitutions of other states that elect judges, and numerous other statutes and rules in many states, all reflect that a judge's job differs in fundamental ways from the work of other elected officials. such fundamental differences are the reason that so many states have sought to regulate judicial elections in ways that would be inconceivable for any other elections.

The judicial oath require judges to administer justice to all in a nonpartisan manner; to be arbiters of conflict, not spokespersons for the varying interests of certain political or geographical constituencies; and to retain an open mind on issues or matters that may come before them. Thus, judicial candidates should aspire to a higher standard of campaign conduct. It is hoped that these guidelines will assist all judicial candidates in meeting this objective.