

PROPOSED REVISIONS TO CODE OF CONDUCT FOR U.S. JUDGES

Public Comments

#7	Nan Aron, President, Alliance for Justice, Washington, D.C.	04/17/2008
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Alliance for Justice is a national association of environmental, civil rights, mental health, women's, children's, and consumer advocacy organizations. Since its inception in 1979, AFJ has worked to advance the cause of justice for all Americans, strengthen the public interest community's ability to influence public policy, and foster the next generation of advocates. Through both our work on the selection of federal judges and our efforts to preserve access to justice for all Americans, we fight to preserve the independence and integrity of the federal judiciary. In this capacity, we submit the following comments to the proposed revisions to the Code of Conduct for United States Judges.

The recent changes to the judicial code of conduct appropriately reflect growing concern about judges using their powers to advance their own personal and professional interests. While the previous version of the code mainly discouraged judges from wielding their influence on behalf of others, the updated text incorporates explicit language referring to judges' individual political, financial and professional interests, as well as to their perceived honesty (or lack thereof).

Though many of the changes to the code are subtle, taken together they convey a decidedly more restrictive tone that we believe will enhance the integrity of the judiciary. For example, Canon 2, paragraph B now explicitly lists "political" and "financial" relationships or interests as factors judges should not allow to influence their conduct. The prior version mentioned only "family" and "social" relationships. The same paragraph, which previously prohibited judges from lending "the prestige of the judicial office to advance the private interests of others," now bars an individual judge from acting "to advance the private interests of **the judge or** others." Similarly, in Canon 2A, language concerning the appearance of impropriety in the "professional and personal conduct of a judge" now appears closer to the top of the paragraph, indicating an added emphasis on judges' behavior both in and out of the courtroom. Furthermore, in the revised edition of the code, the terms "honesty" and "temperament" are included in a list of factors whose impairment constitutes an appearance of impropriety.

The revised code places a stronger emphasis on discrimination by broadening the language used to define "invidious discrimination" on the part of organizations to which judges belong (Canon 2, paragraph C and Canon 2C). The revisions also include significant changes to Canon 3A, which addresses judges' "adjudicative responsibilities." There are several new paragraphs of explicitly restrictive language on *ex parte* communications, in addition to more minor changes such as firmly stating that a judge should "not make" public comment on pending matters where the earlier version simply suggested that judges "avoid" doing so.

Alliance for Justice applauds the proposed revisions. Those who have the privilege to serve on the federal bench wield enormous power over the lives of Americans. In exchange, they should be held to the highest standard of independence, honesty, and integrity and take all steps

necessary to avoid the appearance of impropriety. The proposed revisions would facilitate that goal, and we wholeheartedly support their adoption.