

JUDICIAL ELECTIONS
Rule 21-700(A)(1) (2) and (3)

Code of Judicial Conduct Rules Applicable to Incumbent Judges:

1. A judge may engage in political activity on behalf of the legal system, the administration of justice, measures to improve the law, and as expressly provided by law or other provisions of the Code.

2. Unless prohibited by law, a judge may purchase tickets for and attend political gatherings, contribute to a political organization, and, except in non-partisan elections, may identify the judge's political party.

An incumbent judge shall not:

1. Act as a leader or hold an office in a political organization.
2. Publicly endorse or publicly oppose a candidate for public office through the news media or in campaign literature.
3. Make speeches on behalf of a political organization.
4. Solicit funds for a political organization or candidate.

Comments: The foregoing restrictions do not limit a judge's private comments on judicial candidates or other candidates for public office.

A judge may engage in the administrative functions of planning and other official activities of the executive and legislative branches.

This rule was held to prohibit an incumbent magistrate judge from publicly endorsing a mayoral candidate in a municipal election because political endorsements create an appearance of bias. The rule was held constitutional even under a strict standard of scrutiny. *See In re Vincent*, 143 N.M. 56, 172 P.2d 605; 2007 NMSC 056.

JUDICIAL ELECTIONS

Code of Judicial Conduct Rules Applicable to All Candidates in Judicial Elections.

Rule 21-700(B)(1), (2) and (3). Candidates for election to judicial office are permitted to participate in the electoral process, provided they comply with these requirements:

a. They must maintain the dignity appropriate to judicial office, act in a manner consistent with the impartiality, integrity and independence of the judiciary and shall encourage members of their family to adhere to the same standards of political conduct in support of a candidate;

b. They shall prohibit public officials and employees subject to the candidate's direction or control from doing for the judge what the candidate is prohibited from doing under the rules;

c. They shall not allow any other person to do for the candidate what the candidate is prohibited from doing under these rules, except activities such as fundraising which are permitted for a campaign committee.

d. They may speak at public meetings, subject to other applicable rules.

e. They may not publicly endorse or publicly oppose a candidate for any public office through the news media or in campaign literature, and

f. They may not solicit funds for a political organization.

Candidates can privately express their views on judicial candidates or candidates for non-judicial public offices. Candidates are not deemed to have publicly endorsed another candidate for public office by reason of joint fundraising, or running on a slate with other candidates.

JUDICIAL ELECTIONS
Rule 21-700(B)(4) and (7)

Candidates for election to judicial office:

- (a) Shall not, with respect to cases, controversies or issues that are likely to come before the court, make pledges, promises or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office;
- (b) Shall not misrepresent the candidate's or the candidate's opponent's identity, qualifications, present position or other material fact.
- (c) May respond to personal attacks or attacks on the candidate's record as long as the response does not violate the standards in (a) and (b) above.

The Code prohibits a candidate for judicial office from making statements that commit the candidate regarding cases, controversies or issues likely to come before the court. As a corollary, the candidate should emphasize in any public statement the candidate's duty to uphold the law regardless of the candidate's personal views. The prohibitions of this rule apply to statements made in the process of securing judicial office, such as statements to commissions charged with judicial nomination, selection and tenure, and legislative bodies confirming appointment.

A candidate for judicial office who has made a public statement that commits or appears to commit the judge with respect to an issue or controversy in a proceeding before that judge, is disqualified and must recuse himself or herself in that proceeding. See Rule 21-400(A)(6).

Where false information concerning a judicial candidate is made public, a judge or another judicial candidate having knowledge of the facts is not prohibited from making the facts public.

JUDICIAL ELECTIONS
Rule 21-700(B)(6)

Campaign Advertising:

Candidates for judicial office may use advertising that does not contain any misleading contents provided that the advertising is within the bounds of proper judicial decorum and does not, in non-partisan elections, contain any reference to the candidate's affiliation with a political party.

This rule complements Rule 21-700(B)(1) requiring candidates to maintain the dignity appropriate to judicial office.

Campaign advertising must not contain pledges, promises or commitments that are inconsistent with the duty to adjudicate impartially all cases, controversies and issues that may come before the court after the election. See Rule 21-700(B)(4).

If a candidate runs an advertisement that commits or appears to commit the candidate with respect to an issue or controversy in a legal proceeding that may come before the court, the judge is disqualified and is required to recuse himself or herself in that proceeding. See Rule 21-400(A)(6).