

JUDICIAL ELECTIONS

Rule 21-900

21-900. Violations.

A. Violation by incumbents. Violations of any of the rules of the Code of Judicial Conduct by incumbent judges shall be investigated, proceeded upon and disposed of by the Judicial Standards Commission in accordance with its authority and rules of procedure, and by the Supreme Court of New Mexico acting under its powers of contempt and superintending control. Judges shall comply with all rules, requirements and procedures of the Judicial Standards Commission, shall cooperate with the Judicial Standards Commission in the performance of its functions and shall comply with all laws applicable to judicial office.

B. Violations by candidates for judicial office. All candidates for judicial office shall comply with Rules 21-700, 21-800, 21-900 and 21-901 NMRA of the Code of Judicial Conduct. Violations of those rules by persons who are members of the bar shall be deemed to constitute violations of the Rules of Professional Conduct. Violations of those rules by candidates who are not lawyers are within the superintending control of the Supreme Court, and may be grounds for petitioning the Supreme Court for relief by way of mandamus, injunction or other equitable relief to require compliance and rectify non-compliance.

C. Challenges of violations in election campaigns. A candidate may bring an action to challenge a violation by the candidate's opponent of Paragraph B of Rule 21-700 NMRA or Rule 21-800 NMRA occurring in election campaigns for judicial office.

(1) Filing and venue. In election campaigns for the Supreme Court and Court of Appeals, by filing a complaint in the district court for Santa Fe County. In election campaigns for district, metropolitan, magistrate, municipal and probate courts, by filing a complaint in the district court of the county in which the complainant or the defendant resides, by only within the judicial district where the election is to occur. The complainant shall serve all parties within three (3) days after filing the action. If available, any statement, advertisement or publication alleged to constitute a violation shall be filed with the complaint.

(2) Standing; parties. Violations by a candidate or by a candidate's campaign committee can be challenged by an opposing candidate. The alleged violator shall be joined as a defendant and shall be served forthwith in person with the complaint, summons and notice of hearing when issued. A candidate who has not been joined as a party may intervene in the proceeding by filing a notice of intervention and a response to the complaint within the time required by this rule.

(3) Hearing. The complaint shall be heard by the district court without a jury within ten (10) days after the action is filed, unless the time is extended for good cause. Peremptory challenges to the district judge shall be filed by the complainant within three (3) days after the action is filed and by a defendant within three (3) days after the service of process on that defendant. The district court shall enter its decision, findings of fact and conclusions of law, within not more than three (3) days after the hearing is completed. The decision of the district court shall constitute a final judgment immediately upon entry.

(4) Remedies. The district court is authorized to issue any order provided by the Rules of Civil Procedure for the District Courts and any remedial decrees for cessation of

violations, retractions, corrective publications or other relief as may be reasonable required to rectify the effects of the violation. The district court may also refer any violation to the Judicial Standards Commission or the Disciplinary Board of the Supreme Court for additional action.

(5) Discovery. Any documentary or demonstrative evidence to be offered at the hearing shall be exchanged by the opposing parties as ordered by the district court, and in any case not less than twenty-four (24) hours prior to the commencement of the hearing. Discovery shall not delay the hearing on the merits, but wrongful refusal, obstruction or delay in discovery may be sanctioned in the discretion of the district court. The parties may by subpoena require the appearance of witnesses and the production of evidence at the hearing. The district court may allow oral testimony to be admitted telephonically.

(6) Appeals. Appeals shall be taken directly to the Supreme Court of New Mexico pursuant to the provisions of Rule 12-603 NMRA of the Rules of Appellate Procedure.

(7) Other rules applicable. The Rules of Civil Procedure for the District Courts, Rules of Appellate Procedure and Rules of Evidence shall apply unless inconsistent with this rule.

(8) Other proceedings. The jurisdiction of the Judicial Standards Commission, the Supreme Court and the Disciplinary Board to hear violations of the Code of Judicial Conduct is not affected by this paragraph.

[As amended, effective February 16, 1995; September 21, 2004.]