

**Proposed
Rules for the Committee
on Judicial Elections**

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1 **PROPOSED RULES FOR THE COMMITTEE ON JUDICIAL ELECTIONS**

2
3 In order to maintain the independence, integrity and impartiality of the judiciary in the State of
4 Oklahoma, the Supreme Court has adopted the Code of Judicial Conduct which governs the
5 conduct of candidates for judicial office under its exclusive supervisory and administrative
6 power over the inferior courts, as provided under Article VII of the Oklahoma Constitution. To
7 facilitate the enforcement of the Code, as it relates to judicial elections, the Supreme Court now
8 establishes a Committee on Judicial Elections.

9
10 **RULE 1. ORGANIZATION**

11
12 A. **ORGANIZATION.** There is established a Committee on Judicial Elections.
13 The Committee shall consist of nine (9) members. Three (3) members shall be
14 members of the Oklahoma Bar Association, in good standing, who are not judges
15 of a court of record. Three members shall be district judges or associate district
16 judges with at least 10 years of service; Three members shall be lay persons.

17
18 B. **APPOINTMENT.** The Board of Governors of the Oklahoma Bar Association
19 shall appoint the attorney members and the lay members of the committee. The
20 Chief Justice of the Supreme Court shall appoint the judge members. The terms
21 of the initial appointments to the Committee shall be as follows: one attorney
22 member, one judge member and one lay member shall be appointed for a term of

1 one year; one attorney member, one judge member and one lay member shall be
2 appointed for a term of two years; and the remaining attorney member, judge
3 member and lay member shall be appointed for a term of three (3) years.

4 Following the initial appointments the terms of service for the members of the
5 Committee shall be for three (3) years.

6 If a member of the Committee changes his or her status as a member of
7 one of the three (3) categories of membership, the Committee member shall
8 immediately submit his or her resignation from the Committee to the Chairperson
9 of the Committee. The Chairperson of the Committee shall provide notice of
10 resignation to the appointing authority for the affected category of membership.

11 Within sixty (60) days the appointing authority shall appoint a new member of the
12 Committee. The resignation of the former committee member shall not be
13 effective until the replacement member is appointed. The replacement member
14 shall be appointed for the remainder of the unexpired term of the former member
15 and may be reappointed.

16 If a member of the committee resigns for a reason other than a
17 change of eligibility status or death the procedure set out in the previous
18 paragraph shall be followed in appointing a new committee member.

19
20 **C. CHAIRPERSON.** The judge member with the most years of judicial service on a
21 court of record shall serve as the chairperson of the Committee. The judge
22 member with the second-most years of judicial service on a court of record shall

1 serve as the vice chairperson of the Committee and shall be empowered to fulfill
2 the role of the chairperson in his or her absence. The chairperson and vice
3 chairperson shall furnish their contact information to the Administrative Director
4 of the Courts and ensure that such information is accurate and up to date.

5
6 **D. CONFIDENTIALITY.** Except as provided under Rule 3 K and Rule 5A all
7 filings, documents, correspondence and proceedings before the Committee shall
8 be confidential and shall not be released to the public.

9
10 **RULE 2: COMPLAINTS**

11
12 **A. COMPLAINT FORM.** A judicial candidate who believes there has been a
13 violation of Canon 4 of the Code of Judicial Conduct may file a complaint. The
14 complaint shall be made in writing and be signed and verified by the complaining
15 party. The complaint shall allege a violation or violations of Canon 4 with
16 specific facts and sufficient documentation to support the allegations. If the
17 violation or violations alleged concern written or recorded material, those
18 materials shall be attached to the complaint. It shall include contact information
19 for both the complaining party and the defending party. The contact information
20 should include the e-mail address, telephone number, facsimile number, mailing
21 address and physical address for both parties.

1 **B. WHO MAY FILE.** A complaint against a judge or a candidate for judicial office
2 shall only be accepted from an opposing candidate for that judicial office.

3
4 **C. FILING.** The original complaint and (5) five copies of the complaint with all
5 attachments shall be filed with the Administrative Director of the Courts. The
6 complaint and attachments may be filed during regular business hours by personal
7 delivery, by United States Postal Service First Class mail or another express
8 delivery service or by e-mail or facsimile. Immediately upon receipt of a
9 complaint, the Administrative Director shall notify the Chairperson of the
10 Committee of the receipt of the complaint and forward five (5) copies of the
11 complaint with all attachments to him or her. This shall be sent by overnight
12 delivery using the United States Postal Service or another express mail provider.
13 The Administrative Director of the Courts will in the Director's office file one
14 copy of the complaint with all attachments.

15
16 **D. RECEIPT.** The Chairperson shall ensure that each complaint meets the
17 requirements of Rule 2. If the complaint fails to meet the requirements of Rule 2
18 the Chairperson shall notify the complaining party and indicate the reasons why
19 the complaint is insufficient. The complaining party shall have the right to file an
20 amended complaint to correct the deficiencies, pursuant to and in accordance with
21 Paragraph C.

1 **E. PANEL.** If the complaint meets the requirements of Rule 2 the Chairperson shall
2 within two business days after its receipt appoint a Hearing Panel comprised of
3 three (3) members of the Committee including one judge member, one attorney
4 member, and one lay member. The Chairperson shall designate a member of the
5 panel to serve as panel chairperson and shall forward the complaint to all
6 members of the panel.

7
8 **F. NOTICE OF A COMPLAINT.** The Chairperson shall immediately notify the
9 defending party that a complaint has been made against him or her and forward a
10 copy of the complaint with a copy of all attachments to him or her by overnight
11 delivery using the United States Postal Service or another express delivery
12 service. In addition, to provide more immediate notice, the chairperson may send
13 a copy of the complaint by e-mail or facsimile.

14
15 **G. NOTICE OF PANEL MEMBERS.** Immediately upon the appointment of the
16 Hearing Panel the Chairperson shall provide, by e-mail or facsimile to the
17 complaining party and the defending party, the names and contact information of
18 the three panel members.

19
20 **H. RESPONSIBILITIES OF THE PANEL CHAIRPERSON.** The panel
21 chairperson shall ensure that all members of the panel receive copies of all written
22 communications with the parties and the documents and materials provided by the

1 parties.

2
3 **RULE 3: HEARING PROCEDURES**

4
5 **A. NOTICE OF THE HEARING.** The panel chairperson shall set a date for a
6 hearing to be held not less than two (2) calendar days and not more than six (6)
7 calendar days after the appointment of the Hearing Panel and shall by e-mail or
8 facsimile immediately notify both parties of the date of the hearing.

9
10 **B. RESPONSE.** The defending party shall serve a written response to the
11 allegations of the complaint along with any supporting documentation or
12 materials to the members of the Hearing Panel and to the complaining party. A
13 copy of the response with all supporting documentation and materials shall also
14 be filed with the Administrative Director of the Courts. Except as provided in
15 Paragraph E, the Response shall be filed within two business days of receiving a
16 copy of the complaint. The response may be filed during regular business hours
17 by personal delivery or be sent by overnight delivery using the United States
18 Postal Service First Class mail, another express delivery service, or by e-mail or
19 facsimile. The date of personal delivery, the sending of the e-mail, or facsimile or
20 the date of mailing shall be considered the date of filing.

21
22 **C. FAILURE TO RESPOND.** If the defending party does not file a response in the

1 manner required by Rule 3 B the Hearing Panel may proceed to hear the matter.
2 However, at its discretion, the Committee may consider a late filed response.

3
4 **D. HEARING.** The chairperson of the Hearing Panel shall conduct the hearing
5 which may be in person or at the chairperson's discretion by teleconference or
6 some other effective means which allows all parties and the panel to communicate
7 directly with each other.

8
9 1.The parties shall have an opportunity to appear at the hearing in person and/or
10 by counsel.

11
12 2.The parties may call witnesses to give testimony relevant to the issues raised in
13 the pleadings and may present any relevant evidence in support of the party's
14 position.

15
16 3The parties may offer oral arguments in support of their positions.

17
18 4.The rules of evidence shall not be strictly enforced and the chairperson shall
19 endeavor to conduct the proceedings in such a way as to ascertain the truth of the matter before
20 the panel without allowing undue or duplicative proof.

21
22 **E. EXPEDITED HEARING.** If a complaint is filed within two weeks of an

1 election in which the parties are involved, the panel chairperson may determine
2 that an expedited hearing is necessary. If such an expedited hearing is determined
3 to be necessary the panel chairperson, in the chairperson's sole discretion, shall
4 set the date for the hearing and the time for filing a response to the complaint. All
5 panel members and the parties shall be notified by e-mail or facsimile of the date
6 and time for the expedited hearing and the time in which to respond to the
7 complaint. The provision of Paragraph C shall apply if no response is filed.

8
9 **F. DETERMINATION.** Following the hearing the panel shall determine if a
10 violation(s) of Canon 4 have occurred and that the allegations warrant speedy
11 intervention or, alternatively, that a violation(s) of Canon 4 has not occurred,
12 and/or that the allegations do not warrant speedy intervention by the panel.

13
14 **G. BURDEN OF PROOF AND EVIDENTIARY STANDARD.** The party bringing
15 the complaint shall have the burden of proof. The standard of evidence to be used
16 by the panel in making its determination of whether a violation of the Rules of
17 Judicial Conduct has occurred shall be by clear and convincing evidence.

18
19 **H. HEARING PANEL'S REPORT.** The panel shall issue a written report within two
20 (2) business days after the hearing specifying the panel's determination. If a
21 violation is found the report shall identify the rule(s) which has been violated and
22 the conduct constituting the violation(s). A majority of the panel members must

1 agree with the report and sign it. The report of the panel shall be transmitted to the
2 parties orally, or by facsimile or by e-mail and copies shall be sent to the parties by
3 overnight delivery.

4
5 **I. CEASE AND DESIST ORDER.** If the panel determines that a violation(s) of
6 Canon 4 has occurred, it may issue a cease and desist order which identifies the
7 rule(s) violated and the conduct determined to be a violation of Canon 4. The panel
8 may direct the defending party-candidate to take appropriate remedial measures
9 which may include:

- 10 1. Immediately cease the offending conduct;
- 11 2. Withdraw the offending material, if any, from public distribution
12 and/or publication;
- 13 3. Publish a retraction in the specific media required by the panel;
- 14 4. Publish an apology in the specific manner required by the panel;
15 and/or
- 16 5. Submit a signed written agreement of compliance within time
17 certain;
- 18 6. Any other remedial measure deemed appropriate by the panel;
- 19 7. Any combination of the above remedial measures.

20 The order shall provide for a reasonable time as determined by the panel, within which a defending
21 party-candidate must comply with the cease and desist order and the manner for establishing proof
22 of such compliance. In setting the time for compliance with the cease and desist order the panel

1 shall take into consideration the time remaining before the judicial election. Before publication the
2 chairperson of the panel shall approve the wording of any retraction or apology required of a
3 candidate.

4 If the defending party candidate does not comply with the cease and desist order, the panel
5 may request that the Committee on Judicial Elections refer the matter in accordance with Rule 6 to
6 the General Counsel of the Oklahoma Bar Association or to the Council on Judicial Complaints.

7
8 **J. FINDING OF NO VIOLATION.** If the panel's decision is that it does not believe
9 that a violation(s) has occurred, the panel shall issue a decision that it has
10 determined no violation has occurred. The complaining party shall have the
11 opportunity to request an appellate hearing.

12
13 **K. DISCLOSURE OF THE HEARING PANEL'S REPORT.** The Hearing Panel
14 shall consider and determine if the report or any part of the report should be
15 released to the public. In making the decision the Hearing Panel shall consider the
16 requests of the parties and what is in the best interests of the public, but it shall be
17 in the sole discretion of the Hearing Panel to make the decision to release or not
18 release the report.

19 **L. CHANGE OF TIME LIMITS.** The chairperson of the Hearing Panel, for good
20 cause shown may shorten or extend the time limits set out in this rule.

21 **M. DECISION TO APPEAL.**

22 (1) If either the complaining party or the defending party wishes to appeal the

1 decision of the Hearing Panel that party may do so by filing with the Appellate
2 Panel a notice of appeal and a position paper, as defined in Rule 4 D, setting out the
3 basis of the party's appeal and why there was or there was not a violation(s) of the
4 Rules of Judicial Conduct. The defending party may commence such an appeal
5 even though he or she has agreed to comply with a cease and desist order or other
6 directive.

7
8 (2) If the appeal is commenced the Hearing Panel will file with the Appellate
9 Panel its decision, orders and/or directives and the original record of all materials
10 filed with the Hearing Panel. This material together with the party's notice of
11 appeal and position paper shall be the record on the appeal.

12
13 (3) The party appealing the decision of the Hearing Panel shall now be designated
14 the Appellant. The other party shall be designated the Appellee.

15
16 **N. STAY OF ACTION PENDING APPEAL.** The Hearing Panel may stay any
17 remedial action pending on appeal.

18
19 **O. TIME FOR FILING NOTICE OF APPEAL AND POSITION PAPERS.** If the
20 appeal is commenced, the Notice of Appeal and Position Paper(s) provided for in
21 Paragraph M above shall be filed within five (5) business days of the receipt of the
22 decision of the Hearing Panel.

1 **RULE 4: APPELLEE’S PROCEDURES**

2

3 **A. APPOINTMENT OF APPELLATE PANEL.** Upon receiving notice of the
4 institution of the appellate procedures, the chairperson shall appoint an Appellate
5 Panel consisting of three members of the Committee including one judge member,
6 one attorney member and one lay member. The Chairperson of the Committee shall
7 designate a member of the panel to serve as the panel chairperson. None of the
8 members of this panel shall have served on the Hearing Panel in the matter now
9 before the Committee.

10

11 **B. NOTIFICATION.** The chairperson of the Appellate Panel shall set a date for the
12 hearing and notify the parties. The hearing shall occur within ten (10) business
13 days after receipt of the appellant’s notice of appeal and position paper.

14

15 **C. APPELLEE’S POSITION PAPER.** The appellee shall file a written position
16 paper with the panel chairperson and serve a copy on the appellant at least three (3)
17 business days before the date set for hearing.

18

19 **D. FORM OF POSITION PAPERS.** The position papers shall indicate why the
20 specific conduct alleged in the matter does or does not constitute a violation(s) of
21 Canon 4, why the decision of the Hearing Panel was or was not in error and also
22 may indicate why the specific conduct alleged is or is not allowed by law or the

1 Code of Judicial Conduct.

2
3 **E. ADMINISTRATION.** The chairperson of the Appellate Panel shall act as the
4 administrator of the proceedings and shall call witnesses, hear arguments, entertain
5 objections and take such other actions as are necessary to maintain the decorum of
6 the proceedings.

7
8 **F. COUNSEL.** The parties may be represented by counsel, if desired, or may
9 represent themselves.

10
11 **G. HEARING.**

12 1. The hearing shall be a de novo hearing.

13
14 2. The parties may call witnesses to give testimony relevant to the issues raised
15 in the pleadings and may present any relevant evidence in support of the
16 party's position.

17
18 3. The parties may offer oral arguments in support of their positions.

19
20 4. The rules of evidence shall not be strictly enforced and the administrator
21 shall endeavor to conduct the proceedings in such a way as to ascertain the
22 truth of the matter before the panel without allowing undue or duplicative

1 proof.

2
3 **J. DECISION.** 1. Within five (5) business days of the date of the hearing the
4 Appellate Panel will issue its decision. The Panel may affirm, modify or reverse the
5 decision of the Hearing Panel. If the Committee finds that there has been a
6 violation of the Code of Judicial Conduct it shall determine if remedial action
7 should be imposed and, if any, the remedial action that is to be imposed upon the
8 person or persons committing the violation.

9
10 2. The decision shall be issued in writing and shall contain findings of fact and
11 conclusions of law and it shall specify any action taken by the Appellate Panel and
12 the remedial action to be imposed, if any.

13
14 3. A majority of the members of the Appellate Panel must agree with the decision
15 and sign it.

16
17 **RULE 5: ACTIONS AND SANCTIONS**

18
19 **A. PUBLIC STATEMENT.** The Appellate Panel shall make the decision available to
20 the public.

21
22 **B. CEASE AND DESIST ORDER.** The Appellate Panel may issue a cease and

1 desist order to the party-candidate requiring him or her to stop the behavior that
2 violates Canon 4.d, and/or if warranted, to issue a public apology and/or a retraction
3 in one or more forums, as determined by the Appellate Panel. The cease and desist
4 order shall set out the conduct which violates Canon 4 of the Code of Judicial
5 Conduct, including the specific statements which were made, if applicable.

6
7 **RULE 6. REFERRAL FOR DISCIPLINE.**

8
9 In no event shall the Committee on Judicial Elections have the authority to institute
10 disciplinary proceedings against any candidate for judicial office, which power is
11 specifically reserved to the Council on Judicial Complaints or the Oklahoma Bar
12 Association, as the facts may warrant. As may be appropriate, the Committee on
13 Judicial Elections may refer its file, findings, conclusions and recommendations for
14 discipline to the Council on Judicial Complaints or the Oklahoma Bar Association.

15
16 **DEFINITIONS**

17
18 “Business Day” - The term “business day” in these rules shall include all the days of the week
19 Monday through Friday except for legal holidays recognized by the state of Oklahoma.

20
21 "Committee" - The term Committee in these rules means the Committee on Judicial Elections.
22

1 "Complaint" - the term "complaint" refers to the original complaint and/or any amended complaint
2 which is filed.

3
4 "Filing" - Filing may be accomplished by personal delivery during regular business hours, by
5 facsimile, e-mail or any form of overnight mail delivery requiring certification of delivery. If the
6 filing is made by facsimile or e-mail, a copy shall also be sent by overnight mail delivery.

7
8 "Forum" - A forum for purposes of the rules can include an organization, group of people or any
9 form of publication including written, television, radio or digital media.

10
11 "Forward" - Forwarding may be accomplished by personal delivery during regular business hours
12 or by facsimile, e-mail or any form of overnight mail delivery requiring certification of delivery. If
13 made by facsimile or e-mail, a copy shall also be sent by overnight mail delivery.

14
15 "Remedial action" - Remedial action shall include all of those actions which a Hearing Panel may
16 impose or require as specified in Paragraph 3I of these rules.

17
18 "Service" - Service may be accomplished by personal delivery during regular business hours or by
19 facsimile, e-mail or any form of overnight mail delivery requiring certification of delivery. If made
20 by facsimile or e-mail, a copy shall also be sent by overnight mail delivery.

21
22 "Submit" - Submitting may be accomplished by personal delivery during regular business hours or

- 1 by e-mail, facsimile or any form of overnight mail delivery requiring certification of delivery. If
- 2 made by e-mail, facsimile or a copy shall also be sent by overnight mail delivery.