

ADMINISTRATIVE LAW JUDGE CODE OF PROFESSIONAL CONDUCT

PREAMBLE

Pursuant to Executive Order 2016-06, the Department of Central Management Services Bureau of Administrative Hearings (the “Bureau”) is proud to announce the creation of the Code of Conduct for Administrative Law Judges in Illinois (the “Code”). The Code seeks to provide guidance to assist our Illinois administrative law judges in maintaining high standards of judicial and personal conduct as they hear and decide cases on important public matters. The terms “administrative law judge” or “ALJ” are intended to refer to all administrative adjudicators within this State, regardless of their job title.

Prior to the Code, ALJs were not subject to a single uniform code of conduct. Like all State employees, their conduct is subject to mandates of the Illinois Governmental Ethics Act, the State Officials and Employees Ethics Act, the State of Illinois Code of Personal Conduct created on behalf of the Governor pursuant to Section IV of Executive Order 2016-04, and any agency-specific personnel rules. If lawyers, conduct is governed by the Illinois Supreme Court Rules of Professional Conduct. However, these laws do not specifically address the unique ethical dilemmas that confront ALJs. The Code supplies minimum standards for ALJs statewide. In promulgating the Code, the Bureau hopes to equip our ALJs with a valuable tool to service the public and to strengthen the public’s faith in agency decisions and the hearing process as a whole.

The Code is based in part upon the American Bar Association’s Model Code of Judicial Conduct for State Administrative Law Judges (2016 Draft Version) and the National Association of Administrative Law Judiciary’s Model Code of Judicial Conduct for State Administrative Law Judges (adopted November 1993). The text of the rules under the canons is intended to be authoritative and enforceable. The commentary, by explanation and example, provides guidance with respect to the purpose and meaning of the rules. The commentary is not intended as a statement of additional rules. The canons and rules thereunder are rules of reason. They should be applied consistently with constitutional requirements, statutes, administrative rules, administrative orders, and decisional law, and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of ALJs in making decisions.

The Code is designed to provide guidance to ALJs and to provide a structure for regulating conduct. However, it is not intended that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the Code and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity, and the effect of the improper activity on others or on the administrative law system. The Code is not designed nor intended as a basis for civil liability or criminal prosecution. Furthermore, the purpose of the Code would be subverted if it were invoked by lawyers for mere tactical advantage in a proceeding before an ALJ.

CANON 1

AN ADMINISTRATIVE LAW JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE ADMINISTRATIVE LAW JUDICIARY AND AVOID THE APPEARANCE OF IMPROPRIETY.

Rule 1.1: Compliance with the Law

An ALJ shall respect and comply with the law, including the Code of Conduct for Administrative Law Judges in Illinois.

Commentary

None

Rule 1.2: Promoting Public Confidence in the Administrative Law Judiciary

An ALJ shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the administrative law judiciary, and shall avoid impropriety and the appearance of impropriety.

Commentary

An independent and honorable judiciary is indispensable to justice in our society. An ALJ should participate in establishing, maintaining, and enforcing high standards of conduct and shall personally observe those standards so that the integrity and independence of the administrative law judiciary is preserved. The provisions of this Code shall be construed and applied to further that objective.

Rule 1.3: Avoiding Abuse of Prestige of Judicial Office

An ALJ shall not allow family, social, political, or other relationships to influence judicial conduct or judgment. An ALJ shall not abuse the prestige of office to advance the private interests of the ALJ or others, nor convey or permit others to convey the impression that they are in a special position of influence.

Commentary

(1) Maintaining the prestige of office is essential to upholding public confidence in the system. ALJs should distinguish between proper and improper use of the prestige of office in all their activities. It is improper for an ALJ to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for an ALJ to utilize office letterhead to gain an advantage in conducting personal business.

(2) An ALJ may provide a reference or recommendation for an individual based upon the ALJ's personal knowledge using official letterhead if there is no likelihood that use of the letterhead would reasonably be perceived as an attempt to exert pressure by reason of the judicial office.

(3) Special considerations arise when ALJs write or contribute to publications of for-profit entities, whether related or unrelated to the law. An ALJ should not permit anyone associated with the publication of such materials to exploit the ALJ's office in a manner that violates this Rule or other applicable law. The ALJ should retain sufficient control over the advertising to avoid such exploitation.

CANON 2

AN ADMINISTRATIVE LAW JUDGE SHALL PERFORM THE DUTIES OF OFFICE IMPARTIALLY, COMPETENTLY AND DILIGENTLY.

Rule 2.1: Giving Precedence to the Duties of Office

The duties of office, as prescribed by law, shall take precedence over all of an ALJ's personal and extrajudicial activities.

Commentary

(1) To ensure that ALJs are available to fulfill their judicial duties, ALJs must conduct personal and extrajudicial activities to minimize the risk of conflicts that would result in frequent disqualification. See Canon 3.

(2) Although it is not a duty of office unless prescribed by law, ALJs are encouraged to participate in activities that promote public understanding of and confidence in the administrative justice system.

Rule 2.2: Impartiality and Fairness

An ALJ shall uphold and apply the law and shall perform all duties of office fairly and impartially.

Commentary

(1) To ensure impartiality and fairness to all parties, an ALJ must be objective and open-minded. Although each ALJ has a unique background and personal philosophy, an ALJ must interpret and apply the law without regard to whether the ALJ approves or disapproves of the law in question. Good faith errors of fact or law made by an ALJ applying or interpreting the law do not violate this Rule.

(2) It is not a violation of this Rule for an ALJ to make reasonable accommodations to ensure self-represented litigants are afforded the opportunity to have their matters fairly heard.

Rule 2.3: Bias, Prejudice, and Harassment

An ALJ shall perform the duties of office, including administrative duties, without bias or prejudice. An ALJ shall not, in the performance of official duties, by words or conduct manifest bias or prejudice, or engage in harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit lawyers engaged in proceedings before the ALJ or others subject

to the ALJ's direction and control to do so. This Rule does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation, socioeconomic status, or other similar factors are issues in the proceeding.

Commentary

(1) Expressions of bias or prejudice by an ALJ, even unrelated to judicial activities, may cast reasonable doubt on his or her capacity to act impartially as an ALJ.

(2) Facial expressions and body language can convey an appearance of bias or prejudice. An ALJ must avoid conduct that may reasonably be perceived as biased or prejudiced.

Rule 2.4: External Influences on Judicial Conduct

An ALJ shall not:

(A) be swayed by public clamor or fear of criticism;

(B) permit family, social, political, financial, or other interests or relationships to influence the ALJ's judicial conduct or judgment; or

(C) convey or permit others to convey the impression that any person or organization is in a position to influence the ALJ.

Commentary

An independent administrative law judiciary requires that ALJs decide cases according to law and facts, without regard to whether particular laws or litigants are popular or unpopular. Confidence in the administrative law judiciary is eroded if decision-making is perceived to be subject to inappropriate influences.

Rule 2.5: Competence, Diligence, and Cooperation

An ALJ shall perform judicial and administrative duties competently and diligently. An ALJ shall cooperate with other ALJs, legal professionals, and other officials in the administration of official business.

Commentary

(1) Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform judicial responsibilities.

(2) An ALJ should stay abreast of significant developments in law and strive to continually hone both legal and professional skills through education and training.

(3) Prompt disposition requires the ALJ to devote adequate time to judicial duties, to be punctual in attending hearings and expeditious in determining matters, and to take reasonable measures to ensure that staff, litigants, and their lawyers or lay representatives cooperate with the ALJ.

(4) In disposing of matters promptly, an ALJ must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. An ALJ should monitor cases in ways that reduce or eliminate dilatory practices, avoidable delays, and

unnecessary costs. Attention to prompt resolution of the ALJ's docket, and issuing decisions without undue delay, is critical to the effectiveness and efficiency of administrative agencies.

Rule 2.6: Ensuring the Right to Be Heard

An ALJ shall accord to every person who has a legal interest in a proceeding, or that person's representative, the right to be heard according to law. An ALJ may encourage parties to a proceeding to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

Commentary

An unrepresented party may never have been in a hearing room before. Where necessary to advance the ability of an unrepresented party to be fully heard, an ALJ may provide brief information concerning hearing procedures and substantive law, explain any rulings made, and conduct the hearing so as to fully develop the record. However, in doing so, an ALJ should make clear to the unrepresented party his or her role is to conduct a fair and impartial hearing for all parties, not to provide legal advice or guidance or advocate on the unrepresented party's behalf.

Rule 2.7: Responsibility to Decide

An ALJ shall hear and decide matters assigned to the ALJ, except where disqualification is required under this Code or other law.

Commentary

None

Rule 2.8: Decorum and Demeanor

An ALJ shall:

- (A) require order and decorum in proceedings before the ALJ; and
- (B) be patient, dignified, and courteous to litigants, witnesses, lawyers, staff and others with whom the ALJ deals in an official capacity, and shall require similar conduct of lawyers, staff, and others subject to the ALJ's direction and control.

Commentary

None

Rule 2.9: Ex Parte Communications

(A) An ALJ shall not initiate, permit, or consider ex parte communications. An ex parte communication is any written or oral communication that directly or indirectly imparts or requests material information or makes a material argument regarding a pending or impending proceeding without including all parties to the proceeding on the communication.

- (1) The prohibition on ex parte communications does not prevent the ALJ from communicating to one party about routine procedural and practice matters.

(2) An ALJ may consult other ALJs and support personnel whose function is to aid the ALJ in carrying out the ALJ's adjudicative responsibilities.

(3) An ALJ may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the ALJ.

(4) An ALJ may initiate, permit or consider any ex parte communications when expressly authorized by law to do so.

(B) If an ALJ inadvertently receives an unauthorized ex parte communication bearing upon the substance of a proceeding, the ALJ shall make provision to promptly notify the parties of the substance of the communication and shall make the communication part of the record.

(C) An ALJ's decision shall be based exclusively upon evidence in the record of the proceeding and material that has been officially noticed. An ALJ shall not investigate facts independently.

(D) An ALJ shall make reasonable efforts to ensure that staff and others subject to the ALJ's direction and control follow the provisions of this Rule.

Commentary

None

Rule 2.10: Statements on Pending and Impending Cases

(A) An ALJ shall not, while a proceeding is pending or impending, make any public statement that might reasonably be expected to affect its outcome or impair its fairness or make any non-public statement that might substantially interfere with a fair hearing.

(B) An ALJ shall not, in connection with cases, controversies, or issues that are likely to come before the ALJ, make pledges, promises, or commitments that are inconsistent with the impartial performance of adjudicative duties.

(C) An ALJ shall require those subject to the ALJ's direction and control to refrain from making statements that the ALJ would be prohibited from making under Paragraphs (A) and (B).

(D) Notwithstanding the restrictions in Paragraphs (A) and (B), an ALJ may make public statements in the course of their official duties, explain administrative procedures, and comment on any proceeding in which the ALJ is a litigant in a personal capacity.

Commentary

None

Rule 2.11: Disqualification and Remittal

(A) An ALJ shall disqualify himself or herself in any proceeding in which the ALJ's impartiality might reasonably be questioned, including but not limited to instances where:

(1) the ALJ has a personal bias or prejudice concerning a party or a party's lawyer or other representative involved in the proceeding;

(2) the ALJ served as lawyer or representative in the matter in controversy, or a lawyer with whom the ALJ privately practiced law served during such association as a lawyer concerning the matter, or the ALJ or such lawyer has been a material witness concerning it;

- (3) the ALJ has served in other governmental employment and in such capacity participated as counsel, adviser, or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;
- (4) the ALJ has made a public statement, other than in an administrative proceeding, adjudicative decision or adjudicative opinion, that commits or appears to commit the ALJ to reach a particular result or rule in a particular way in the proceeding;
- (5) the ALJ, individually or as a fiduciary, or the ALJ's spouse or domestic partner, child, or other member of the ALJ's family residing in the ALJ's household, has a more than de minimis financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding; or
- (6) the ALJ or the ALJ's spouse or domestic partner or a person within the third degree of relationship to either of them or the spouse of such a person:
 - (a) is a party to the proceeding, or an officer, director, general partner, major shareholder, or trustee of a party;
 - (b) is acting as a lawyer or representative in the proceeding;
 - (c) is known by the ALJ to have an interest that could be substantially affected by the outcome of the proceeding; or
 - (d) is likely to be a material witness in the proceeding.

(B) An ALJ should be aware of his or her personal and fiduciary financial interests, and make a reasonable effort to keep informed about the personal financial interests of his or her spouse or domestic partner, child, or other member of the ALJ's family residing in the ALJ's household.

(C) An ALJ disqualified by this Rule, other than for bias or prejudice, may disclose on the record the basis of the ALJ's disqualification. If, following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers or representatives, independently of the ALJ's participation, all agree that the ALJ should not be disqualified and the ALJ is willing, the ALJ may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

Commentary

For purposes of this Rule, third degree of relationship constitutes a segment of the extended family and includes first cousins, great grandparents and great grandchildren.

Rule 2.12: Supervisory Duties

(A) An ALJ shall require staff and others subject to the ALJ's direction and control to act in a manner consistent with the ALJ's obligations under this Code.

(B) An ALJ with supervisory authority for the performance of other ALJs shall take reasonable measures to ensure that those ALJs properly discharge their adjudicative responsibilities, including prompt disposition of proceedings.

Commentary

(1) An ALJ may not direct personnel to engage in conduct on the ALJ's behalf or as the ALJ's representative when such conduct would violate this Code if undertaken by the ALJ.

(2) *Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, an ALJ with supervisory authority must take the steps needed to ensure that ALJs under their supervision administer their workloads promptly.*

(3) *A supervisory ALJ should not interfere with the decisional independence of other ALJs. Reasonable docket control, case assignments, logistical matters, and other administrative concerns are appropriate provided that these are done in an impartial manner and in no way operate to favor any particular outcome in any case.*

Rule 2.13 Upholding the Integrity of the Legal Profession

(A) An ALJ having reasonable belief that the performance of a lawyer or another ALJ is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall take appropriate action which may include a confidential referral to a lawyer or judicial assistance program.

(B) An ALJ having knowledge that another ALJ has committed a violation of this Code that raises a substantial question regarding the ALJ's honesty, trustworthiness, or fitness as an ALJ in other respects shall take appropriate action, including informing the appropriate authority.

(C) An ALJ having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall take appropriate action, including informing the appropriate authority.

(D) An ALJ shall cooperate and be candid and honest with judicial and lawyer disciplinary and other official investigatory agencies in a manner consistent with judicial confidentiality provisions provided by law.

(E) An ALJ shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of the ALJ or a lawyer.

Commentary

Cooperation with investigations and proceedings of judicial and lawyer disciplinary agencies, as required in Paragraph (D), instills confidence in ALJs' commitment to the integrity of the administrative judiciary and the protection of the public.

CANON 3

A STATE ADMINISTRATIVE LAW JUDGE SHALL REGULATE EXTRA-JUDICIAL ACTIVITIES TO MINIMIZE CONFLICT WITH JUDICIAL DUTIES

Rule 3.1: Extrajudicial Activities in General

An ALJ may engage in extrajudicial activities, except as prohibited by law or this Code, including engagement in the arts, sports, and other social or recreational activities. An ALJ may speak, write, lecture, and teach on legal issues as well as non-law-related subjects, subject to the other requirements of this Code and other controlling law and employment duties of the ALJ. However, when engaging in extrajudicial activities, an ALJ shall conduct all his or her activities so that they do not:

(A) interfere with the proper performance of judicial duties;

- (B) lead to frequent disqualification of the ALJ;
- (C) appear to a reasonable person to undermine the ALJ'S independence, integrity, or impartiality; or
- (D) make use of court premises or staff, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

Commentary

(1) The actions, participation, or engagements that are prohibited under this Rule are also prohibited within the realm of social media. An ALJ is not required to forgo use of social media altogether. Rather, an ALJ must recognize that use of social media may implicate provisions of this Code and are advised to proceed cautiously. An ALJ's use of social media must not interfere with the ALJ's overriding duty to uphold the independence, integrity, and impartiality of the administrative law judiciary.

(2) When utilizing social media, an ALJ must avoid creating an environment that might encourage ex parte communications regarding a pending or impending matter before the ALJ. The ALJ should not make any comment on any site about any matter before the ALJ nor should the ALJ interact on social media with individuals or organizations whose advocacy or interests in matters before the ALJ would raise questions about the ALJ's independence.

(3) This Code does not specifically prohibit an ALJ from blogging on the internet, but the ALJ should exercise caution as to how that blog is used in order to make sure the ALJ's impartiality is not called into question or the activity does not impair the ALJ's ability to decide issues that come before the ALJ.

(4) An ALJ utilizing social media should become familiar with and closely monitor privacy settings. An ALJ should be aware that other social media participants may not guard privacy as diligently and may thereby expose the ALJ's photos, comments, and personal information without the ALJ's permission. An ALJ should be cognizant that material posted to social media sites is often irretrievable and may be taken out of context.

Rule 3.2: Appearance before Governmental Agencies and Officials

An ALJ shall not appear voluntarily at a public hearing before, or otherwise consult with, an executive or legislative body or official, except:

- (A) In connection with matters concerning the law, the legal system, or the administration of justice;
- (B) In connection with matters about which the ALJ acquired knowledge or expertise in the course of the ALJ's official duties; or
- (C) When the ALJ is acting in a self-represented capacity involving his or her own legal or economic interests, or when the ALJ is acting in a fiduciary capacity.

Commentary

None

Rule 3.3: Testifying as a Character Witness

An ALJ shall not voluntarily testify as a character witness in a judicial, administrative, or other adjudicatory proceeding.

Commentary

An ALJ who testifies as a character witness without being subpoenaed abuses the prestige of the judicial office to advance the interests of another.

Rule 3.4: Appointment to Governmental Positions

An ALJ may accept appointment to a governmental committee, board, commission, or other position only if such appointment neither conflicts with the ALJ's official duties nor impacts the ALJ's independent professional judgment.

Commentary

If the appointment could present an appearance of impropriety, conflict, bias, or prejudice concerning the ALJ's official position, the ALJ should decline the appointment.

Rule 3.5: Use of Nonpublic Information

An ALJ shall not intentionally disclose or use nonpublic information acquired in an official capacity for any purpose unrelated to the ALJ's official duties.

Commentary

None

Rule 3.6: Affiliation with Discriminatory Organizations

An ALJ shall not:

- (A) hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation; or
- (B) utilize the benefits or facilities of an organization that the ALJ knows or should know practices invidious discrimination as identified in paragraph (A).

Commentary

(1) An ALJ's attendance at an event or facility of an organization as delineated above does not violate this Rule if such attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices, but the ALJ should consider whether such attendance could cause a reasonable observer to question the ALJ's independence, integrity, or impartiality as delineated in Rule 3.1(C), above.

(2) Invidious discrimination means treating a class of persons unequally in a manner that is malicious, hostile, or damaging.

Rule 3.7: Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

An ALJ may, within the confines of Rule 3.1,:

(A) participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, including but not limited to the following activities:

(1) serving as an officer, director, trustee, or advisor of such an organization or entity, unless it is likely that the organization or entity:

(a) will be engaged in proceedings that would ordinarily come before the ALJ; or

(b) will frequently be engaged in adversary proceedings in the tribunal of which the ALJ is a member, or in any tribunal subject to the appellate jurisdiction of the tribunal of which the ALJ is a member.

(2) assisting such an organization or entity in planning related to fundraising, and participating in the management and investment of the organization's or entity's funds;

(3) soliciting contributions for such organization or entity, but only from members of the ALJ's family or other judges over whom the ALJ does not exercise supervisory or appellate authority;

(4) soliciting membership for such organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity;

(5) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting their title to be used in connection with an event of such an organization or entity;

(6) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities; and

(7) encouraging attorneys to provide pro bono public legal services.

(B) participate in activities sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit or for the economic or political advantage of its members, including but not limited to the following activities:

(1) serving as an officer, director, trustee, or advisor of such an organization or entity, unless it is likely that the organization or entity:

(a) will be engaged in proceedings that would ordinarily come before the ALJ; or

(b) will frequently be engaged in adversary proceedings in the tribunal of which the ALJ is a member, or in any tribunal subject to the appellate jurisdiction of the tribunal of which the ALJ is a member.

(2) assisting such an organization or entity in planning related to fundraising, and participating in the management and investment of the organization's or entity's funds;

(3) soliciting contributions for such organization or entity, but only from members of the ALJ's family or other judges over whom the ALJ does not exercise supervisory or appellate authority; or

(4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting their title to be used in connection with an event of such an organization or entity, unless such event serves a fund-raising purpose, in which case the ALJ shall not so participate but may attend.

Commentary

None

Rule 3.8: Appointments to Fiduciary Positions

An ALJ shall not serve as an executor, administrator, trustee, guardian, or other fiduciary if such service will interfere with the proper performance of judicial duties or if it is likely that as a fiduciary, the ALJ will be engaged in proceedings that would ordinarily come before the ALJ, or if the estate, trust or ward becomes involved in adversary proceedings in an agency in which the ALJ serves or one under its appellate jurisdiction. An ALJ acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to an ALJ personally.

Commentary

None

Rule 3.9: Service as Arbitrator or Mediator

(A) An ALJ shall not be an arbitrator or mediator regarding a matter over which the ALJ may later preside.

(B) A full-time ALJ should not act as an arbitrator or mediator, nor perform other judicial functions apart from the ALJ's official duties, unless expressly authorized by law.

(C) A part-time ALJ may act as an arbitrator or mediator regarding matters over which the ALJ is not currently and will not later preside, but shall not do so if the ALJ's impartiality or independent professional judgment might reasonably be questioned because of such work.

Commentary

This provision does not, and should not be interpreted to, include or cover any service as an arbitrator or mediator that is part of the ALJ's official duties, including but not limited to pre-trial or post-trial conferences or settlement negotiations.

Rule 3.10: Practice of Law

Subject to law and agency rules, an ALJ may practice law if such activity neither affects the independent professional judgment of the ALJ nor the conduct of the ALJ's official duties. An ALJ acting as an attorney shall not accept representation of a client who is a litigant before the tribunal for whom the ALJ serves or if it is possible that such person will appear before the ALJ. An ALJ shall not practice law before the administrative tribunal for which the ALJ serves.

Commentary

If an agency has adopted a more restrictive policy governing secondary employment, the more restrictive policy shall control.

Rule 3.11: Financial, Business, or Remunerative Activities

(A) An ALJ shall refrain from financial and business dealings that tend to reflect adversely on impartiality, interfere with the proper performance of judicial duties, exploit the ALJ's official position, or involve the ALJ in frequent transactions or continuing business relationships with attorneys or persons likely to come before the agency in which the ALJ serves.

(B) Subject to the requirements of paragraph (A), the laws of the jurisdiction and the other provisions of this Code, an ALJ may hold and manage personal investments of the ALJ and members of the ALJ's family, including real estate holdings, and engage in other remunerative activity. An ALJ shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that an ALJ may manage or participate in a business closely held by the ALJ or members of the ALJ's family, or a business entity primarily engaged in investment of the financial resources of the ALJ or members of the ALJ's family.

(C) An ALJ shall not engage in financial activities, even those otherwise permitted under the preceding paragraphs, if they will lead to frequent disqualification of the ALJ, and shall manage his or her investments and other financial interests to minimize the number of cases in which the judge might be disqualified. As soon as the ALJ can do so without serious financial detriment, the ALJ shall divest themselves of any such investments and other financial interests which might require frequent disqualification.

Commentary

None

Rule 3.12: Compensation for Extrajudicial Activities

An ALJ may accept reasonable compensation for extrajudicial activities permitted by this Code or other law unless such acceptance would appear to a reasonable person to undermine the ALJ's independence, integrity, or impartiality or such compensation is otherwise prohibited by law. Compensation should not exceed what a person who is not an ALJ would receive for the same activity.

Commentary

(1) If the source of such payments might give the impression of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety, the compensation should be declined regardless of the level of compensation.

(2) Nothing in this Code exempts the ALJ from having to follow Illinois law or policy regarding secondary employment opportunities.

Rule 3.13: Acceptance of Gifts, Loans, Bequests, Benefits, or Other Things of Value

(A) An ALJ shall not accept any gifts, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the ALJ's independence, integrity, or impartiality, and may only accept such gifts, loans, bequests, benefits, or other thing of value if such acceptance is consistent with relevant agency rules and other applicable laws.

(B) Unless otherwise prohibited by law or this Code, an ALJ may accept the following:

(1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;

(2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding before the ALJ would in any event require disqualification of the ALJ under this Code;

(3) ordinary social hospitality;

(4) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not ALJs or judges;

(5) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not ALJs or judges;

(6) scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated persons who are not ALJs or judges, based upon the same terms and criteria;

(7) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use; or

(8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner, or other family member of an ALJ residing in the ALJ's household, but that incidentally benefit the ALJ;

(9) gifts incidental to a public testimonial;

(10) invitations to the ALJ and the ALJ's spouse, domestic partner, or guest to attend without charge;

(a) an event associated with a bar-related function or other activity relating to the law, the legal system, or the administration of justice; or

(b) an event associated with the ALJ's educational, religious, charitable, fraternal, or civic activities permitted by this Code, if the same invitation is offered to non-ALJs and non-judges who are engaged in similar ways in the activity as is the ALJ.

Commentary

(1) This Rule does not encompass campaign contributions, a matter covered by Canon 4.

(2) This Rule is not intended to replace provisions governing the acceptance of gifts found elsewhere in Illinois law or policy. An ALJ shall follow the most restrictive applicable mandate.

(3) Because benefits such as gifts, bequests, favors, and loans to a member of the ALJ's family could be viewed as intended to influence the ALJ, an ALJ shall inform family members residing in his or her household of the ALJ's ethical constraints and shall urge those family members to decline such benefits.

(4) An ALJ must be ever-cognizant of the appearance of impropriety referenced in Canon 1.

Rule 3.14: Reimbursement of Expenses and Waivers of Fees or Charges

(A) Unless otherwise prohibited by this Code or other law, an ALJ may accept reimbursement and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the ALJ's employing entity, if the expenses or charges are associated with the ALJ's participation in extrajudicial activities permitted by this Code.

(B) Reimbursement of expenses shall be limited to the actual costs reasonably incurred by the ALJ and, when appropriate to the occasion, by the ALJ's spouse, domestic partner, or guest. Payment in excess of such an amount is compensation.

Commentary

None

CANON 4

AN ADMINISTRATIVE LAW JUDGE SHALL REFRAIN FROM ENGAGING IN POLITICAL ACTIVITY INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE ADMINISTRATIVE LAW JUDICIARY.

Rule 4.1: Political and Campaign Activities

An ALJ shall abide by all laws, agency rules, and any administrative orders governing political activities of State employees.

Commentary

(1) Participation in political activities is the right of every person. Unless prohibited by law, an ALJ may engage in political activity on personal time so long as the activity does not affect his or her impartiality and does not foster impropriety or the appearance of impropriety.

(2) Examples of political activities an ALJ may engage in without violation of this Code includes, but is not limited to, displaying a bumper sticker on the ALJ's vehicle, displaying a sign on the ALJ's residence or yard, or contributing money to a political campaign so long as the ALJ does not attach to his or her name the title of ALJ.

Rule 4.2: Candidates for Appointive Positions

A candidate for an appointed governmental position may communicate with the appointing or confirming authority, including any selection, screening or nominating commission or similar organization, and seek endorsements for the appointment from any person or organization other than a partisan political organization.

Commentary

None

Rule 4.3: Activities of ALJs who Become Candidates for Elective Office

An ALJ may run for public office, but shall at all times act in a manner consistent with the integrity and independence of his or her position as ALJ. An ALJ need not resign his or her position upon becoming a candidate for public office, unless otherwise required by law, provided the ALJ complies with the provisions of this Code.

Commentary

None

EFFECTIVE DATE

This Code of Conduct for Administrative Law Judges in Illinois shall be in full force and effect as of its issuance date of XXXXX and is subject to revision in whole or in part by the Bureau of Administrative Hearings.