



CANONS OF JUDICIAL ETHICS

SUPREME COURT OF PUERTO RICO

**CANONS OF JUDICIAL ETHICS
OF PUERTO RICO (2005)***

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CANONS OF JUDICIAL ETHICS OF PUERTO RICO (2005)

Preamble

In a democratic society, it is incumbent upon the Judicial Branch to interpret the laws and adjudicate cases and controversies expeditiously, efficiently, sensitively, and fairly. Judicial independence, the sound and impartial administration of justice, and the trust of the people in their system of justice all contribute to support and strengthen the democratic foundation of our society. Therefore, promoting these principles and aspirations is consubstantial with the proper discharge of the adjudicative role by those whose duty it is to impart justice.

The members of the bench uphold and safeguard the values of equality of all who appear before the courts and exemplify, through their conduct, the importance of an independent and impartial judiciary for the protection of human rights. By promoting an independent judiciary, judges guarantee that the courts serve as protectors of the Constitution and the rule of law.

Judges, like all citizens, must obey the law, and their conduct must represent that of the model citizen in a democracy. Judges must fulfill the duties imposed by the Judicial Branch and respect and honor the judicial office. In addition, when assuming office, judges also assume specific limitations on their conduct, both in the discharge of the judicial function and in other activities, whether personal or professional. While these restrictions do not curtail their rights as members of our society, they are sacrifices made in their public and private lives that strengthen the integrity and independence of their office and promote trust and respect for the judiciary. Likewise, judges vow to promote the respectful and courteous treatment of their fellow members of the bench, Judicial Branch officials, and individuals who come before the court. Judges also maintain order in the court, preserving the decorum and dignity of the same and the solemnity of its proceedings.

These canons represent the minimum standards of conduct that must be zealously followed by those entrusted with the task of imparting justice. They are designed to guide judges in the discharge of their judicial office and to serve as a framework for regulating judicial conduct. The overriding purpose of these canons is to strengthen judicial independence as a pillar of our democracy. They also aspire to bolster the people's trust in their system of justice by requiring judges to adhere to the most stringent ethical standards when handling their personal, financial, and extrajudicial affairs. Lastly, the Canons of Judicial Ethics shall assure the efficient performance of their duties by encouraging judges to be industrious, impartial, prudent, temperate, empathetic, continuous students and cautious interpreters of the law, and to strive for the harmonious resolution of the disputes brought before them.

The canons herein prescribed are of a general nature. Their precise content and scope shall be determined by the different scenarios in which judges discharge the duties of their office. Thus, judges should be rigorous in examining and applying them to their specific circumstances. Judges should also be aware that to fully compliance with these canons, they should be guided by the principles and goals that inspire them.

Background

The Preamble is a general statement of the principles that are built into the Canons of Judicial Ethics. The purpose of the Preamble is to provide the philosophical framework for the standards contained therein. The scope of the Preamble is akin to the statement of purpose which precedes a statute. Thus, it is important to clarify that it is not a legal provision or source of law from which to impose disciplinary sanctions; it does, however, serve to interpret specific canons.

The concepts outlined here stem, in part, from the general principles inscribed in the Canons of Judicial Ethics of 1977, while additional concepts were incorporated into new canons, such as Canon 1 establishing the duty to obey the law.

The incorporation of the concept of empathy in the fourth paragraph addresses the interest of cultivating this quality among judges. The word “continuous” was added to emphasize the importance of legal education and training for judges, so they may efficiently administer justice in the courts.

PART I. GENERAL DUTIES AND ATTRIBUTES

Canon 1. Compliance with the Law

A judge shall respect and comply with the law and shall faithfully uphold the oath of office.

Background

This new canon is inspired by the obligation imposed upon officials of the Commonwealth of Puerto Rico through the Oath of Allegiance and to Faithfully Discharge the Duties of the Office or Employment under Section 186 of the Political Code of 1902, as amended. 3 LPRC § 601. This canon also corresponds, in part, to Model Canon 2A of the American Bar Association Model Code of Judicial Conduct, which establishes a similar rule regarding the duty of the members of the judiciary to respect and comply with the law.

Comment

The underlying policy of this canon is to recognize that the judicial duty extends beyond the function of administering and interpreting the laws. This canon is incorporated for the purpose of clearly establishing that judges are not above the law and are the first who are called upon to respect and obey the law. This does not mean that any violation of a given law or regulation is, of itself, an ethics violation prompting a disciplinary proceeding.

Canon 2. Judicial Independence

A judge shall exemplify judicial independence in both its individual and institutional aspects.

Background

This new canon stems from the concept of judicial independence contained in the Bangalore Principles of Judicial Conduct, Annex to the Report of the Special Rapporteur on the Independence of Judges and Lawyers, U.N., Comm'n Human Rights, 59th Sess., Item 11(d), E/CN.4/2003/65 (2003). The first sentence of Canon XIII of the Canons of Judicial Ethics of 1977 incorporates, to a certain extent, the principle of an independent judiciary by establishing that members of the judiciary must protect and promote the independence of the Judicial Branch as a stabilizing factor in the governmental structure of our democratic system.

Comment

This canon establishes a judge's obligation to embody the principle of an independent judiciary. The Bangalore Principles of Judicial Conduct, from which this canon derives its text, state that an independent judiciary is a prerequisite to the rule of law and a fundamental guarantee for a fair trial. A judge's integrity and independence hinges on the ability to discharge their duties without fear or favoritism that may affect the impartial adjudication of the controversies before the court.

Canon 3. Precedence of Judicial Duties

The judicial duties of a judge shall take precedence over all other activities. A judge shall not abandon or neglect the obligations of their office.

Background

This canon corresponds to the first and last sentences of Canon III of Judicial Ethics of 1977, as amended through Resolution of November 12, 1999, issued by the Supreme Court to reflect a gender-neutral language. The first sentence provides, in part, a rule similar to Model Canon 3A of the American

Bar Association Model Code of Judicial Conduct. The last sentence establishes a new rule, based in part on Model Canon 3C(1) of the aforementioned Model Code and on Value 6 of the Bangalore Principles of Judicial Conduct on Competence and Diligence.

Comment

The canon establishes that judicial duties shall take precedence over any other activity a judge be involved with and prohibits a judge from abandoning or neglecting these duties. To duly discharge the office of judge, members of the judiciary must be competent, empathetic, upright, and diligent. Judges must maintain competence and increase their knowledge and abilities given the available resources offered by the Judicial Academy. Judges must also develop the necessary personal qualities to properly discharge their judicial duties. These include not only the adjudication of cases and controversies, but also other tasks germane to a sound administration of the courts. *See*, Model Canon 3C(1) of the American Bar Association Model Code of Judicial Conduct; Value 6 of the Bangalore Principles of Judicial Conduct, Applications 6.3 and 6.4.

Canon 4. Administrative Duties

A judge shall carefully and diligently discharge the administrative duties imposed upon them by the laws and regulations applicable to the judiciary. A judge shall also diligently follow the administrative orders and guidelines issued by the Office of Court Administration.

Background

This canon corresponds to Canon V of Judicial Ethics of 1977, as amended through Resolution of November 12, 1999, issued by the Supreme Court to reflect a gender-neutral language. It restates the contents of Canon V with slight changes in style. The word “instructions” in the second sentence was replaced by the phrase “administrative orders and guidelines” to correctly identify the communications issued by the Office of Court Administration. This canon corresponds, in part, to Model Canon 3C(1) of the American Bar Association Model Code of Judicial Conduct.

Comment

The proper discharge of the judicial office is not strictly limited to the performance of adjudicative functions. In accordance with this canon, the duty to act with diligence and care when conducting court business extends to the compliance with administrative standards imposed by the laws and

regulations applicable to the Judicial Branch and the administrative orders and guidelines issued by the Office of Court Administration.

Canon 5. Discriminatory Conduct Prohibited

A judge shall not engage in conduct constituting discrimination on account of race, color, birth, national origin, socioeconomic status, political or religious ideals, physical or mental condition, age, gender, or sexual orientation. Neither shall a judge permit those who come before the court, nor personnel under their direction and control, to display such conduct.

Background

This canon, which expressly adopts the Judicial Branch public policy against any form of discrimination, derives from the second paragraph of Canon XI of Judicial Ethics of 1977. This paragraph was incorporated into this canon by virtue of Resolution of the Supreme Court of November 12, 1999, *In re Enmdas. Cánones Ética Judicial*, 149 DPR 733 [49 PR Offic. Trans. 54] (1999). Through this Resolution, the Supreme Court added three paragraphs to Canon XI to expressly prohibit all manifestations of discrimination by members of the bench and revised the text of all the canons to include a gender-neutral language. Of the three paragraphs prohibiting discrimination in Canon XI of 1977, only the paragraph which appears here was included because it was understood to cover all discriminatory behavior specified in the other paragraphs. This canon uses the term “gender” instead of “sex” as a result of the distinction made by the Special Judicial Commission to Investigate Gender Discrimination in the Courts of Puerto Rico in its report. The Committee used the term “sex” to refer only to the biological characteristics that differentiate men and women, while the term “gender” was used to refer to the social and historical construction that has been made based on the characteristics that are considered to define men and women and the conduct expected of them in our society. The concept of “gender” refers, then, to the behavior and the roles of men and women in all aspects of life, from those related to sexuality to those having to do with performing activities and occupations in a given community. Report on Gender Discrimination in the Courts of Puerto Rico, August 1995, at 19–20.

Comment

In the case of *In re Robles Sanabria*, 151 DPR 483 [51 PR Offic. Trans. 25] (2000), this Court held that the respondent judge incurred in the form of sexual harassment known as hostile work environment harassment against the complainant and that said conduct violated the ethical principles enshrined in the Canons of Judicial Ethics. The Court referenced

Memorandum No. 117 of March 2, 1988, whereby the Judicial Branch established its own public policy regarding sexual harassment in the workplace, and incorporated amendments to the Canons of Judicial Ethics of 1999 to expressly prohibit all manifestations of discrimination by members of the judiciary, including gender discrimination in the form of sexual harassment. The purpose of the Judicial Branch public policy regarding sexual harassment—as with Law No. 17 of April 22, 1988, known as the Sexual Harassment in Employment Act—is to bar all forms of sexual harassment in the workplace and to establish an administrative proceeding to address the complaints of those who believe they have been a victim of this type of behavior in the workplace. This Judicial Branch public policy is grounded, not only in the clear constitutional precepts adopted in the public policy of the Commonwealth against sexual harassment, but also on Law No. 64 of May 31, 1973, which creates an autonomous merit-based personnel system for the Judicial Branch, which precludes any discriminatory consideration in the context of personnel proceedings. *In re Robles Sanabria*, 151 DPR 483 [51 PR Offic. Trans. 25] (2000).

Canon 6. Relations and Cooperation Between Judges

Judges shall cooperate with each other to attain the most effective administration of justice. Their conduct shall be characterized by mutual respect, cordiality, and professional collaboration, regardless of the differences in their relative positions within the judicial system. A judge shall avoid unfounded or unnecessary criticism that may tend to discredit their fellow judges.

Background

This canon corresponds to Canon IV of Judicial Ethics of 1977, as amended through Resolution of November 12, 1999, issued by the Supreme Court to reflect a gender-neutral language. This canon restates the contents of Canon IV with slight changes in style, except for the last sentence, which became part of the new Canon 7. The first sentence of this canon corresponds in part to Model Canon 3C(1) of the American Bar Association Model Code of Judicial Ethics.

Comment

The proper performance of the adjudicative functions requires a judge to act with courtesy, equanimity, prudence, and respect, not only toward court officials and to those who resort to the courts in search of justice, but also toward their fellow judges. Model Canon 3C(1) of the American Bar Association

Model Code of Judicial Conduct establishes that a judge shall cooperate with other judges and officials of the court in the administration of court business.

Canon 7. Disciplinary Proceedings

When a judge has personal knowledge of the facts, a judge shall initiate and cooperate with any appropriate disciplinary proceedings against a judge, lawyer, or Judicial Branch official or employee whose conduct is contrary to these Canons, administrative standards, or current laws and regulations.

A judge shall not unduly interfere with witnesses, documentary evidence, or any aspect of the disciplinary proceeding.

Background

This new canon corresponds for the most part to the last sentence of Canon IV of Judicial Ethics of 1977. Its content relates to the standards provided in Model Canon 3D(1) and (2) of the American Bar Association Model Code of Judicial Conduct. The second sentence is a new addition.

Comment

The duty to maintain an attitude of cordiality and respect, as required by Canon 6, does not preclude the duty to ensure that their fellow judges conduct themselves in accordance with these canons, either in their own private lives or in the performance of their judicial duties.

For this reason, this canon imposes an obligation on the members of the judiciary to bring disciplinary proceedings against judges and lawyers whose conduct is contrary and in violation of the canons of judicial or professional ethics, and when they have personal knowledge of the conduct incurred, even when doing so may be uncomfortable.

The second sentence of this canon, which establishes a new rule barring the improper intervention of judges during the course of a disciplinary proceeding, seeks to protect the integrity of these proceedings. This prohibited conduct includes not only inciting a witness to alter their testimony, but also to make false representations or falsify documentary evidence. *In re Clavell Ruiz*, 131 DPR 500 [31 PR Offic. Trans. 23] (1992); *In re Vargas Soto*, 146 DPR 55 [46 PR Offic. Trans. 11] (1998).

PART II. ADJUDICATIVE DUTIES OF THE JUDICIAL OFFICE

Canon 8. Discharge of Adjudicative Duties

In the proper performance of their duties, a judge shall be industrious, prudent, temperate, and impartial. A judge shall carry out the adjudicative duties of the judicial office with independence, on the basis of a careful and

conscious construction of the law, free from external influences, inducements, pressure, threats, or interferences, either directly or indirectly, originating from any source or for any reason. A judge shall be dedicated to the study of the law and diligent in ascertaining the essential facts of each controversy.

A judge's conduct must exclude every possible appearance that they are susceptible of acting under the influence of persons, groups, political parties, or religious institutions, or that that they may be influenced by public clamor, by considerations of popularity or notoriety, or by improper considerations.

Background

The first paragraph of this canon corresponds to the first paragraph of Canon II of Judicial Ethics of 1977, as amended through Resolution of November 12, 1999, issued by the Supreme Court to reflect a gender-neutral language. In the revision of this canon, stylistic elements were changed, and new text was inserted to emphasize the principle of judicial discretion that members of the judiciary must exercise in the discharge of their adjudicative duties.

The second paragraph adopts the first sentence of Canon XI of Judicial Ethics of 1977 on the impartial conduct of judges in the discharge of their judicial functions.

Comment

The Supreme Court Puerto Rico ruled in the case of *In re Cruz Aponte*, 159 DPR 170, 180 [59 PR Offic. Trans. 19] (2003), pursuant to Canon II of Judicial Ethics of 1977, that “even though the office of judge is vested with power, it should not be used improperly either within or outside the courtroom. The aim of this rule is to avoid making decisions while drunk with power.”

Examples of judicial actions that may be contrary to the requirements of this canon are being discourteous regarding a guilty plea or settlements or compromises between parties, interfering with the attorney-client relationship, improper language, excessive delay in resolving cases, ex parte communications, commenting on cases under submission, disregarding witness testimonies, and improper interventions in favor of acquaintances.

One aspect deserving attention is the judge's duty to stay current in the field of Law. This entails making the most of the educational opportunities provided to them and to dedicate time to reading caselaw and recently enacted legislation. The obligation to be diligent in “ascertaining the essential facts of each controversy” implies that judges should not assume a passive attitude of merely listening. On the contrary, a judge should intervene when it is proper to do so, always keeping in mind that ours is an adversarial system, and it does

not fall to judges to carry out their own investigation. *See*, Rafael J. Torres Torres, *Cánones de Ética Judicial de Puerto Rico* 9 (No. 1–4) Forum 7, 8 (1993).

Canon 9. Consideration of Evidence

A judge shall accord to every person who has a legal interest in a proceeding, or that person’s attorney, the right to be heard according to law. In complying with this duty, a Judge shall decide each controversy on the basis of their own appreciation of the evidence introduced. A judge shall not allow the assertion of a party’s statutory or constitutional rights to negatively influence a judge’s determination. In matters under submission, a judge may request a party to draft proposed judgments, resolutions or orders when deemed necessary to further the ends of justice, which might be used as an aid.

Background

This canon corresponds, in part, to the second paragraph of Canon II of Judicial Ethics of 1977. The first sentence is adapted from Model Canon 3B(7) of the American Bar Association Model Code of Judicial Conduct. The third sentence is adapted from Canon XIV of Judicial Ethics of 1977, denoting that a judge should not be influenced by the exercise of a defendant’s right to defend themselves in the context of a criminal prosecution. This text was replaced by a broader provision encompassing the same prohibition, but its scope is extended to any judicial decision, in either a civil or criminal proceeding.

Comment

The right to be heard pursuant to the law is the basis of the constitutional guarantee of due process of law. This right is recognized in these canons to emphasize the importance that judges ensure compliance with the due process of law in the discharge of their adjudicative duties.

In the case of *In re Hon. Díaz García, T.P.I.*, 158 DPR 549 [58 PR Offic. Trans. 47] (2003), the Supreme Court explained that, in order for an error of fact or law to constitute unethical conduct, it must be shown that the judge’s error was an intentional abuse of judicial discretion or that the error was of such magnitude as to manifest improper conduct or favoritism toward a specific attorney. In addition, the Supreme Court stated that judges who deny a litigant the due process of law act unlawfully and project an air of bias, which may also constitute unethical conduct. The Supreme Court clarified that “the opposite of the due process of law is the nonobservance of the fundamental impartiality, which is the essence of all forms of justice.” *Id.* at 559 [58 PR Offic. Trans. 47, at ___].

Regarding the matter of draft judgments, the Supreme Court has expressed that the practice of requesting such drafts is not objectionable in and

of itself. The canon views draft judgments as “an aid to overworked judges, bogged down with enormous case load.” *Báez García v. Cooper Labs., Inc.*, 120 DPR 145, 157 [20 PR Offic. Trans. 153, 166] (1987). In accordance with *Román Cruz v. Díaz Rifas*, 113 DPR 500, 508 [13 PR Offic. Trans. 642, 651] (1982), the Supreme Court upheld the ruling in *Báez García*, whereby the Court held that it is highly improper to “blindly” sign draft judgments. In the exercise of their power to use draft judgments, judges must ensure that the findings of fact included in the judgment reflects truthfully and faithfully the proceedings as they occurred in the courts and that judges should adequately weigh the advantages and disadvantages when deciding to use this aid.

Canon 10. Appointment of Persons to Assist the Court

Judges may be assisted by the necessary human resources and technical support to properly discharge their duties. When appointing experts, appraisers, special masters, receivers, trustees, guardians, and other human resources to aid the court in its judicial function, a judge shall see to it that said designation falls upon persons of unquestionable professional capacity and moral integrity. Appointments shall not be based on personal favoritism or recommendations based thereon. A judge shall carefully supervise the work of the appointees.

A judge shall give notice to the parties or parties’ counsel of the names of those being considered as an expert or professional resource before their appointment as such, so as to afford the parties, within a reasonable term, an opportunity to object thereto with regard to their capacity or impartiality.

Background

The first paragraph corresponds to Canon VI of Judicial Ethics of 1977 with slight changes in style. The terms “human resources” and “technical support” are added to clarify the content of the canon.

The second paragraph is new. After examining this canon, it was necessary to provide a rule concerning a judge’s duty to notify the parties of the names of the professionals or experts who are being considered to assist in the performance of the judge’s judicial duties so the parties may be afforded the opportunity to object to the appropriateness or impartiality of the appointment before the court has made the designation or has entered into an agreement.

Comment

Judges must always avoid the giving the impression of improper conduct. Frequently appointing the same experts or appraisers, particularly if they are known to be close personal friends, may on occasion give rise to

negative comments. *See*, Torres Torres, *supra*, at 11. Precisely to preserve due process and avoid even the appearance that judges grant improper advantages to certain parties, this canon incorporates the duty to notify the parties, within a reasonable period of time, the names of those being considered for an appointment as an expert or professional resource.

Canon 11. Intervening During Trial

Although it is the duty and right of lawyers to present their client's case in the light most favorable to the merits thereof, it is a fundamental duty of the judiciary to see to it that no person suffers an injustice. A judge participates in ascertaining the truth and determining what is fair. To this end, a judge shall intervene in any judicial proceeding to prevent unnecessary delays and to clear up any point or to avoid an injustice.

However, a judge shall refrain from making common cause with any of the parties in unjustified interrogatories, statements on the merits of the cause, or improper or prejudicial comments. A judge shall also refrain from unduly intervening with witnesses, documentary evidence, or any aspect of the judicial proceeding.

Background

This canon corresponds to Canon XIV of Judicial Ethics of 1977, as amended through Resolution of November 12, 1999, issued by the Supreme Court to reflect a gender-neutral language. Canon XIV, in turn, adopted the first paragraph of the previous Canon V of Judicial Ethics of 1957 (Intervening During Trial), excluding the third sentence.

After revising Canon XIV of Judicial Ethics of 1977, the last sentence was incorporated under Canon 9 of these Canons. It provides that a judge should not be influenced by the exercise of a defendant's exercise to defend themselves in the context of a criminal case. This standard was replaced with a new rule that provides the same prohibition applicable to judicial determinations in civil proceedings.

Comment

This canon seeks to avoid biased interventions by judges in favor of any of the parties that may influence the outcome of a case and undermine the public's trust in the courts. In our adversarial judicial system, which is distinct from an inquisitorial system, a judge who grants an improper advantage to a party to a judicial proceeding is acting contrary to a fundamental guarantee of our legal system, which is the due process of law.

Canon 12. Ex Parte Communications

A judge shall not hold private interviews with the parties or their lawyers, or permit communications or arguments designed to influence a judge's actions in matters under a judge's competence or under submission when other interests that may be affected thereby are not represented before the court, except in noncontentious cases, with which a judge should always be very cautious.

Background

This canon corresponds to Canon XV of Judicial Ethics of 1977, as amended through Resolution of November 12, 1999, issued by the Supreme Court to reflect a gender-neutral language, with slight modifications in style. Canon XV of Judicial Ethics of 1977 restated the contents of Canon VII of Judicial Ethics of 1957 barring private audiences with a party without the presence of the adverse party, except for the word "grant," which was substituted for "hold" to establish a clearer and more encompassing prohibition.

Comment

The prohibition provided in this canon does not extend to the communications by any of the parties over procedural aspects of the case, provided the judge simultaneously notifies the matter to the other party, except in emergency situations, such as requests for a later turn or continuances made over the telephone when both parties have access thereto.

For the purposes of these Canons, the term "lawyer" refers to all legal professionals, including prosecutors. In both civil and criminal proceedings, judges, as a rule, should avoid private ex parte interviews. This means that all parties must be present at any conference the judge may hold during the course of a proceeding. In criminal cases, for example, the parties are the prosecutors and defense attorneys.

Canon 13. Demeanor Toward Participants in Court Proceedings

A judge shall be considerate and respectful to lawyers.

Likewise, a judge shall be considerate and respectful to witnesses, jurors, court officials, and to all those who appear before the court. A judge shall see to it that lawyers and other court personnel and employees under a judge's direction observe the same conduct.

Background

This canon corresponds, in part, to Canon XVI of Judicial Ethics of 1977, as amended through Resolution of November 12, 1999, issued by the Supreme

Court to reflect a gender-neutral language, with slight modifications in style. Canon XVI, in turn, corresponds in part to the previous Canon VI of Judicial Ethics of 1957 (Being Considerate and Courteous to Those Appearing Before the Judge).

Canon XVI, approved by the Supreme Court in 1977, provided that all judges have the duty to avoid undue attention toward those appearing in their courtroom. After examining this canon, the previous review committee found that this rule was necessary to prevent judges from tarnishing the appearance of impartiality of the court through excessive attentions toward an individual because of the person's position or prestige. The committee also considered it necessary to include the last sentence to establish a judge's duty to see to it that lawyers and court officials observe this canon.

Comment

This canon amends the first sentence of Canon XVI of Judicial Ethics of 1977 to eliminate reference to any special treatment toward lawyers who are new to the legal profession. Although judges may take into consideration that lawyers who are new to the profession can make mistakes as a result of their inexperience, being considerate and respectful toward them should not come to be treatment which may be perceived as preferential or favorable, in prejudice to other members of the legal profession. Likewise, judges should avoid giving special consideration or undue attention to other participants in the adjudicative process. Thus, judges have the responsibility to procure an environment of respect for the dignity of every person appearing in their courtroom.

Canon 14. Conduct During Court Proceedings

During the course of a judicial proceeding, judges shall conduct themselves with due propriety and circumspection, without showing excessive impatience or severity. A judge shall not make comments or gestures alien to the judicial process, including derisive or mocking comments, expressions, or gestures. A judge shall not in any manner ridicule lawyers, parties, witnesses, court officials, or other persons who appear before the court.

A judge shall direct court business with order and decorum and shall be vigilant to avoid any conduct that might affect the dignity and respect due to the court. A judge shall also intervene to prevent the improper conduct of the parties, lawyers, or any other person, and shall take any action that may be in order pursuant to the law, the Canons of Professional Ethics, and the best traditions of the judicial system.

Background

This canon corresponds for the most part to Canon XVII of Judicial Ethics of 1977, as amended through Resolution of November 12, 1999, issued by the Supreme Court to reflect a gender-neutral language, with slight modifications in style. Canon XVII, in turn, corresponds in part to the previous Canon IV of Judicial Ethics of 1957 (Court Business), with slight changes to the text as a result of caselaw.

As a result of the revision of this canon, the scope of the text was extended to include specific behavior that should be avoided, such as making comments, gestures, or expressions to mock or ridicule persons in the courtroom.

Comment

In this canon, the phrase “general attitude, his statements, and his tone of voice” was replaced with the term “conduct.” The reason for this change is that conduct reflects an individual’s general attitude. A person’s statements and tone of voice similarly represent a conduct that reflects a general attitude.

The third paragraph of Canon XVII was stricken so as to dissuade judges from praising or censuring conduct that tends to flatter or degrade a lawyer’s image, to avoid complaints of bias or persecution.

In the case of *In re Hon. Maldonado Torres*, 152 DPR 858, 868–869 [52 PR Offic. Trans. 53, ___] (2000), regarding the behavior of a member of the judiciary when speaking to a lawyer in an extremely sharp and unnecessary tone of voice, the Supreme Court stated the following:

Judges, alongside lawyers, are bound to preserve the dignity of court proceedings through the application of standards of urbanity and mutual respect, thus averting any type of conduct that might impair the respect and dignity that should exist in a courtroom. *In re Andréu Ribas*, 81 PRR 87, 117 (1959). These standards of conduct must even prevail in situations where a judge must deal with disrespectful, incompetent, arrogant, and irresponsible persons. The fact that a judge is provoked should not cause judges to lower themselves to the level of the speaker. The high office of a judgeship demands an utmost effort to maintain an air of serenity.

In addition, the Supreme Court explained that to vindicate the authority of the court, judges have remedies at their disposal, such as civil or criminal contempt and any other measure provided by law or supported by the best customary practices of the judicial system. Respect toward the courts does not entail a prior restraint on free speech since a healthy and timely critique of the Judicial Branch is a necessary tool to hold judges to a strict compliance of their duties. Nonetheless, the Supreme Court stated that critiques cannot overstep the limits of civility and appropriateness, nor should it result in attitudes that judges need not tolerate.

In accordance with this canon, the use of foul language in the courtroom, inappropriately intervening with a witness by summoning her to appear in court over the telephone and prompting her to quit her job or accept the charges filed against her (making her believe that the judge was acting within the authority of the office), and taking out a firearm during a child custody case are all actions contrary to the proper judicial functions because they denote imprudence, bias and lack of judicial temperament. *In re Martínez González*, 151 DPR 519 [51 PR Offic. Trans. 27] (2000).

Order and decorum in a courtroom must stem from the model of conduct imposed by the very judge and not through the raw exercise of power. Finding a person in contempt, which is an instrument to vindicate the dignity of the court, must be used as a last recourse. A judge who continuously needs to resort to this to maintain order and respect toward the court in all likelihood lacks the character demanded from the judicial office.

A judge must also avoid making any statements that may reflect bias of any nature and that may raise doubts regarding his or her capacity to act impartially.

Torres Torres, *supra*, at 21–22.

Canon 15. Solemnity of the Proceedings; Photography, Filming, Recording, or Reproduction

A judge shall conduct judicial proceedings in an atmosphere of solemnity and respect.

The taking of photographs and video in the courtroom during court sessions or recesses, and radio or television broadcast of judicial proceedings shall be permitted only per authorization of the Supreme Court by order, rule, or guideline. This measure will guarantee public access to court proceedings without impairing the attainment of a fair and impartial trial and without interrupting the proceedings or affecting the sound administration of justice.

The taking of photographs and video during strictly ceremonial occasions may be permitted.

The official use of equipment or recording devices authorized by the Office of Court Administration and the use of recording devices or similar equipment by parties' counsel shall be permitted.

In addition, the use of laptop computers, mobile telephones, tablets, and other electronic devices or similar equipment for gathering and transmitting written information over the internet may be permitted, provided their use does not interfere with the judicial proceeding, they are silent and discreet, and are not used to take photographs, record video or audio, broadcast, or televise. The above notwithstanding, a judge may restrict or limit the live

broadcast of a judicial proceeding where the court finds it would prevent a fair and impartial trial or the sound administration of justice.

Background

By virtue of the Resolution of April 19, 2013, the Supreme Court adopted a new Canon 15 of Judicial Ethics, abolishing the language that prohibited taking photographs and video or audio recordings, as well as broadcasting judicial proceedings, except for ceremonial occasions or for educational purposes. This canon proceeds in part from the repealed Canon 15 of Judicial Ethics of 2005, which maintained the text of Canon XVIII of the Canons of Judicial Ethics of 1977 substantially unaltered. This canon, in turn, was preceded by Canon X of Canons of Judicial Ethics of 1957.

Comment

As a result of the changes to this Canon, photographing and filming during court sessions or recesses thereof, and radio or television broadcast of judicial proceedings is allowed per authorization of the Supreme Court through order, rule, or guidelines. The canon seeks to guarantee public access to judicial proceedings without jeopardizing the right to a fair and impartial trial, interrupting the judicial process, or impairing the sound administration of justice.

In its Resolution of April 19, 2013, the Supreme Court stated that the adoption of the new canon is grounded on the idea of bringing our system of justice ever closer to the highest values and levels of transparency with the aim of fostering the public's trust in the judiciary and guarantee public access to judicial proceedings. In addition, the Resolution of the Supreme Court recognizes that "the traditional information gathering tools are being replaced by other specialized instruments that offer more flexibility and efficiency." Thus, the canon authorizes the use of laptops, mobile telephones, tablets, and other electronic devices for gathering and transmitting written information. It is important to note that this canon provides that judges may restrict or limit the use of such devices to transmit written information through the internet if the judge finds that it would affect the attainment of a fair and impartial trial or the sound administration of justice. This canon maintains unaltered the duty of judges to keep an atmosphere of solemnness and decorum during a judicial proceeding.

By virtue of the provisions of the new Canon 15, the Supreme Court authorized the Experimental Program for the Use of Photographic Cameras and Audiovisual Broadcasting Equipment by the Media in Judicial Proceedings. With the aim of establishing the regulatory framework for this experimental program, the Supreme Court adopted the Rules for the

Experimental Program for the Use of Photographic Cameras and Audiovisual Broadcasting Equipment by the Media in Judicial Proceedings.

Canon 16. Punctuality

A judge shall be prompt in the performance of their duties, recognizing that the time of lawyers, litigants, jurors, witnesses, and of all those who come before the court is valuable.

A judge shall open court at the regular session hours, pursuant to the rules in effect, unless barred by the circumstances of the matters on the court calendar. In these circumstances, the judge shall explain to the parties, lawyers, and the public the reasons that prevented opening court at the time fixed.

Background

This canon corresponds mainly to Canon XIX of Judicial Ethics of 1977, as amended by Resolution of November 12, 1999, issued by the Supreme Court to reflect a gender-neutral language, with slight changes in style. Canon XIX restates, in turn, the standards of Canon III of Judicial Ethics of 1957, while the second paragraph adopts the standard established in *Pueblo v. Arraiza*, 103 DPR 243 [3 PR Offic. Trans. 337] (1975).

Comment

Rule 12 of the Rules of Administration for the Court of First Instance of the Commonwealth of Puerto Rico (4 LPRA App. II-B) establishes the rules for holding court sessions, regular session hours and other aspects of the operation of the court. In *Pueblo v. Arraiza*, the Supreme Court emphasized the duty of judges to keep in mind that the regular session hours are from 9:00 A.M. to 12:00 P.M. and from 2:00 P.M. to 5:00 P.M., and that only when regular sessions hours cannot be complied with for reasons that are duly justified, judges should make the necessary arrangements with the administrative judge so that the matters scheduled in the court calendar may be addressed and explain to the parties, the attorneys, and the public the reasons which prevented the opening of the session at the hour set. The Supreme Court stated: “It is thus expected by the public. To do so will contribute to exalt the dignity of the courts and to stimulate punctuality in the attorneys.” *Pueblo v. Arraiza*, 103 DPR, at 245 [3 PR Offic. Trans., at 340]. See also: *In re Hon. Ferrán Quintana*, 157 DPR 622 [57 PR Offic. Trans. 39] (2002); *In re Miranda Rivera*, 141 DPR 94 [41 PR Offic. Trans. 8] (1996).

When regular working hours are extended for court officials and employees of the Judicial Branch due to service needs, judges must consider

the applicable local and federal labor laws and regulations so as not to violate them.

Canon 17. Undue Delays

A judge shall be diligent in managing the judicial proceedings of matters under submission and shall see to it that the parties be diligent as well. A judge shall carefully examine motions for continuances and for extension of time and should only grant them when they are perfectly justified.

Background

This canon corresponds to Canon XX of Judicial Ethics of 1977, as amended through Resolution of the Supreme Court of November 12, 1999, to reflect a gender-neutral language, with slight changes in style. Canon XX, in turn, restates the provisions of the previous Canon XIII of Judicial Ethics of 1957 with added text to establish the duty of judges to carefully examine motion for continuances and for extension of time in a proceeding and grant them only when a party has perfectly justified the motion, pursuant to the applicable regulatory framework.

Comment

The report submitted to the Supreme Court by the Commission on the Future of the Courts in 2000 revealed a generalized negative perception among the public regarding the time it takes to resolve a case in the courts. The majority of people interviewed indicated that court cases take an excessively long time. 2 *Visión en Ruta al Futuro*, Report of the Commission on the Future of the Courts 19 (April 2000). To change this negative perception, pursuant to this canon, judges must avoid any undue delays in judicial proceedings and weigh the factors and circumstances when examining motions for extensions or continuances, in accordance with Rule 17 for the Administration of the Court of First Instance of the Commonwealth of Puerto Rico (4 LPRA App. II-B), regarding motion for continuances and transfers, and any other applicable rule.

Canon 18. Confidentiality

A judge shall not disclose confidential information acquired in the performance of their judicial duties where a judge is barred by law, regulation, or administrative order or guidelines from disclosing.

Background

This new canon provides with respect to the duty of the members of the judiciary to safeguard confidential information in accordance with the

prohibitions which has been established for said purposes in law, regulations, and administrative orders and guidelines, as applicable. This duty includes instructing of the rule of confidentiality of this canon to employees and officials who are under the supervisions of the judge.

Comment

The rule adopted in this canon is based on the Value 4 of the Bangalore Principles of Judicial Conduct, Application 4.[10] *supra*, which provides that judges must not use or disclose information obtained in their official capacity for any purpose otherwise unrelated to the exercise of their duties as judge.

Canon 19. Public Statements

A judge shall not make public statements regarding any matter under submission or give reasons for such actions.

Background

This Canon corresponds to Canon XXV of Judicial Ethics of 1977, as amended by Resolution of the Supreme Court of November 12, 1999, to reflect a gender-neutral language, except for part of the last sentence, which was eliminated.

Comment

The rule that provided that judges must not allow persons who are acting under their supervision as employees or court officials to issue public statements regarding matters which are being considered by the court was stricken because Rule 4 of the Code of Ethics for Officials, Employees, and Former Officials or Employees of the Judicial Branch, approved on April 1, 1998 and circulated through Memorandum No. 25 of the Administrative Director of the Courts, expressly provides the same prohibition for employees or officials who work in the courts from “disclosing information, opinions or communications of a confidential or private nature to lawyers, litigants or authorized persons.”

This Canon does not bar members of the judiciary from offering explanations to orient or illustrate to the public sitting in the courtroom concerning the decision reached by the court or to explain some aspect of the proceeding so as to avoid giving a wrong impression. Permission to offer orientation and explanations does not entail arguing and defending the decisions of the court. Permission to offer orientation or explanations does not entail arguing and defending the decisions of the court, but rather explaining that the decision was reached based on the applicable law. *See, Torres Torres, supra, at 27.*

Canon 20. Limitations; Disqualification

A judge shall hear and decide matters assigned, except where disqualification is required by law, including, but not limited to, the following instances where:

(a) The judge is prejudiced or biased with regard to any of the parties or counsel participating in the controversy or because the judge has prejudged the case.

(b) The judge has a personal or economic interest in the outcome of the case.

(c) The judge has served as lawyer or counsel to any of the parties or to their lawyers in the matter in controversy or has served as prosecuting attorney in an investigation or criminal proceeding in which the events were the same as those of the case under submission.

(d) The judge previously presided over same case in a lower court or was the judge who issued the warrant of arrest or the summons to determine probable cause in the preliminary hearing of a criminal proceeding.

(e) There is a relationship of kinship or affinity within the fourth degree with the defendant, the victim of the offense, the defense counsel, the prosecuting attorney, or a member of the jury in a criminal proceeding, or with any of the parties or their lawyers in a civil proceeding.

(f) In the proceeding before the judge, there is a natural or artificial person who has furnished or arranged for the judge to receive a loan in which the usual guarantees or conditions were not complied with.

(g) The judge has served in governmental employment and in such capacity participated as counsel, advisor, or material witness concerning the merits of the particular matter in controversy.

(h) One of the attorneys of the parties is or has served during the last three years as an attorney for the judge who is going to adjudicate the controversy before the court.

(i) There is any other cause that may reasonably cast doubts upon the judge's ability to decide the matter impartially or which tends to undermine the public confidence in the administration of justice.

As soon as learning of a cause for disqualification, judges should disqualify themselves through a written resolution stating the cause thereof and notify all the parties.

Background

This canon corresponds to Canon XII of Judicial Ethics of 1977, as amended by Resolution of the Supreme Court of November 12, 1999, to reflect a gender-neutral language.

The first sentence adopts the text of Model Canon 3B(1) of the American Bar Association Model Code of Judicial Conduct.

A new subdivision (g) is added to provide as grounds for disqualification a judge's participation as legal advisor, counsel, or material witness in the matter in controversy while serving as a public official before being appointed as judge. The term "matter in controversy" as used in this subdivision refers to a specific case before the court. It does not include general or specific legal arguments for which the official had expressed or issued an opinion before a judicial appointment. This reasoning stems from Canon 3(C)(1)(e) of the Code of Conduct for United States Judges which states: "(e) the judge has served in governmental employment and in that capacity participated as a judge (in a previous judicial position), counsel, advisor, or material witness concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy."

A new subdivision (h) is also added to provide for instances in which judges may disqualify themselves in a case where a party's counsel currently serves as the judge's legal representative in any matter or has been within the last three years.

Comment

A violation of this canon occurs when, among other reasons, judges exhibit conduct that cast doubts on their impartiality and undermines the public trust in the judicial system. *In re Castro Colón*, 155 DPR 110 [55 PR Offic. Trans. 10] (2001).

Subdivision (b) of this canon, which establishes as grounds for disqualification having a personal or economic interest in the outcome of a case, must be examined in light of the rest of the canons, particularly the canon that regulates the conduct within the context of economic activities (Canon 36).

In the case of *In re Lugo Rodríguez II*, 155 DPR 123 [55 PR Offic. Trans. 11] (2001), the Supreme Court held that the judge's appointment had ended when the disciplinary proceeding began, the conduct of the judge constituted a violation of Canon 38 of Professional Ethics (4 LPRA App. IX), which demands that all lawyers strive to the maximum of their ability to uphold the honor and dignity of their profession, even if by doing so they must undergo personal sacrifices, and provides that an attorney should even avoid the appearance of professional impropriety. In addition, the Supreme Court pointed out that the respondent showed poor judgment when acting as a judge and intervening in the matter of a bond involving a defendant who was also the judge's neighbor. Canon XI of Judicial Ethics of 1977 demands that judges not only act impartially, but also requires a conduct that precludes any possible appearance that a member of the judiciary is susceptible to acting on the basis

of improper influences or motivations. For this reason, Canon XII of Judicial Ethics of 1977 also requires judges to disqualify themselves from any judicial proceeding where there are grounds that might reasonably cast doubts on their ability to decide matters impartially.

Moreover, in *Andino Torres, Ex parte*, 15[2] DPR [509] [52 PR Offic. Trans. 32] (2000), Justice Efraín Rivera Pérez issued a vote explaining his disqualification due to his participation as a judge when the case was pending with the Circuit Court of Appeals, wherein the decision of the Court of First Instance was affirmed. As part of his analysis, Justice Rivera Pérez referenced Canons XI and XII(g) of Judicial Ethics of 1977 and Civil Procedure Rule 63. Pursuant to these rules, he stated that judges must not only be impartial, but their conduct must also avoid all possible appearances of bias. Justice Rivera Pérez repeated this standard of “appearance of partiality” and explained that “for disqualification to lie, [i]t is not necessary to actually establish the existence of prejudice or partiality, the appearance of partiality or prejudice suffices[.]” He also stated that the standard for a disqualification or recusal of a judge, provided in Civil Procedure Rule 63.1 (32 LPR App. III), is similar to the provisions of Canon 12 of Judicial Ethics, Model Canon 3E(1) of American Bar Association Model Code of Judicial Conduct, and as provided by federal law, 28 USC § 455. Pursuant to this standard, a disqualification is proper based on any grounds which may reasonably cast doubt on the judge’s ability to decide matters impartially; thus, this standard fosters the public’s trust in the impartiality of the judicial process. Justice Rivera Pérez also stated that this is an objective standard because it demands an inquiry into whether the disqualification is proper from the point of view of a reasonable observer who is well informed of all the relevant facts that have been made public and of those hidden from public view. In the case of *In re Colton Fontán [II]*, 154 DPR 776 [54 PR Offic. Trans. 57] (2001), Justice Rivera Pérez dismissed a motion to disqualify under this standard and concluded that in this case an objective and reasonable observer had no reasonable basis or cause to doubt the judge’s impartiality, upon examining a petition for readmission to the legal profession filed by Pedro Colton Fontán. Justice Rivera Pérez explained that the motion to disqualify filed by the Solicitor General arguing the appearance of prejudice or partiality was not grounded on specific, detailed, or concrete averments regarding the truth of the facts that had been made public and those that had not.

Likewise, in *In re Campoamor Redín*, 150 DPR 138 [50 PR Offic. Trans. 14] (2000), this Supreme Court reprimanded a former judge for violating Canons XI and XII of Judicial Ethics of 1977 when he called a lawyer as a witness in a personal matter before the court, after which he presided over other cases where the lawyer appeared representing the defendants. The

Supreme Court found that the former judge violated these canons, even when he had not adjudicated any rights whatsoever that might favor one of the lawyer's clients because he placed himself in a position where his impartiality could be reasonably questioned. The Supreme Court stated that the imprudence of the judge impaired the public's trust in the judicial system because "he should also have made sure that the scale for weighing the people's rights was without reproach." The Supreme Court also reiterated the established rule that provides that "judges must not accept assignments or commissions that compromise the image of impartiality and sobriety which exalts the judiciary or cast doubt on the ability of the judge to act evenhandedly." *In re Campoamor Redín*, 150 DPR, at 153 [50 PR Offic. Trans. 14, at ___] In addition, considering that the members of the judiciary are also lawyers, the Supreme Court concluded that this conduct infringed upon Canon 38 of Professional Ethics (4 LPRA App. IX), which provides that lawyers must avoid even the appearance of improper conduct.

Subdivision (i) of this canon allows the disqualification or recusal of a judge for any reason which might reasonably cast doubt on the impartiality of the trier of fact or which tends to undermine public confidence in the justice system. Nonetheless, judges must seek to avoid that any party to an action improperly uses this subdivision to disqualify a judge for reasons other than what it is actually warranted.

Under subdivision (h), legal representation assumed more than three years prior shall not be grounds for a judge's disqualification hereunder because it is considered to be too remote. Nonetheless, regardless of the numbers of years, disqualification does not necessarily lie where legal services were rendered in a case in which the judge would have been brought into the action previously in the judge's official capacity or in an individual capacity in the exercise of the judge's official duties under Law No. 9 of November 26, 1975, as amended.

Despite the disparity among jurisdictions in the United States regarding the number of years that should be established as a term for disqualification, a need therefor has been recognized. *See*, American Bar Association, *Annotated Model Code of Judicial Conduct* 203 (2004).

PART III. OTHER JUDICIAL DUTIES IMPOSED BY THE LAW

Canon 21. Celebration of Marriages

A judge shall celebrate marriage rites upon request of interested parties who comply with the legal requirements. A judge shall officiate the marriage in court during its regular business hours and in a manner that does not interfere with the court's judicial functions. Only in extraordinary

circumstances, and with the authorization of the administrative judge, may a judge celebrate a marriage outside the courtroom during its regular hours. Likewise, a judge shall refrain from celebrating marriages outside regular or special court hours.

A judge shall not collect any fees when celebrating the marriage rites in court during regular or special business hours. This prohibition extends to judges who have a special appointment or special work schedule. A judge may only collect a fee when the marriage is officiated outside the courtroom and its regular business hours, pursuant to the law.

No judge shall refuse to celebrate a marriage in the court or encourage the interested parties to celebrate the marriage outside regular court hours with the purpose of evading the duty to provide this service free of charge.

Background

This canon is new, based on the Administrative Order issued by the Chief Justice on September 30, 2000; Circular Letter No. 81 of October 4, 2000, issued the Office of Court Administration. The Administrative Order establishes the rules governing all aspects of nonadjudicative duties assigned by law to members of the judiciary. One of these duties is to officiate marriages.

Comment

This canon applies to all judges of the Court of First Instance and the Court of Appeals, pursuant to the Administrative Order issued by the Chief Justice on September 30, 2000.

The Administrative Order is in keeping with Section 81 of Civil Code, 31 LPR § 249, providing that judges have the duty to celebrate the rites of marriage absolutely free of charge to interested parties who wish to be wed. As an exception, this Section 81 authorizes judges to charge fees when the ceremony is performed outside the urban area of the municipality where the judge resides or when it is performed before nine o'clock in the morning or after five o'clock in the afternoon.

This canon authorizes judges to officiate marriages outside the court during business hours, but only in extraordinary circumstances when warranted, which would include, for example, a marriage celebrated *in articulo mortis*. In such circumstances, the administrative judge's prior authorization is also required so the necessary administrative arrangements may be carried out without affecting the court calendar of fellow judges. In addition, and pursuant to this canon, a judge may not charge a fee for performing the marriage rite.

The last sentence of this canon aspires to prevent any conduct which circumvents a judge's duty to offer this service free of charge. To this end, it

should be clear that all members of the judiciary have an obligation to fit these ceremonies in the court calendar to comply with this rule.

Canon 22. Performance of Electoral Duties

A judge shall perform electoral duties as delegated by the law, free from partisan political influences. In the performance of said duties, a judge shall comply with these Canons of Judicial Ethics.

The performance of electoral duties does not relieve a judge from complying with the judicial and administrative duties in the court where a judge is assigned, nor with any responsibility towards the Judicial Branch.

Background

This canon corresponds to Canon VII of Judicial Ethics of 1977, as amended by Resolution of the Supreme Court of November 12, 1999, to reflect a gender-neutral language, with some slight changes.

These ethical standards were originally established through Administrative Order issued by the Chief Justice on July 30, 1975, because the Canons of Judicial Ethics of 1957 provided nothing in regard to the electoral duties of members of the judiciary. Subsequently, they were included in Canon VII of Judicial Ethics of 1977.

Comment

This canon echoes the same principles adopted in Canon VII of Judicial Ethics of 1977. The first paragraph was rephrased, and a new text was added, substituting the first sentence of the aforementioned Canon VII to expressly establish the general rule that judges have the obligation to perform electoral duties assigned by law and to comply with the Canons of Judicial Ethics while performing these duties. With this new text, the committee took into account the Administrative Order issued by the Chief Justice on September 30, 2000, forwarded to judges through Circular Letter No. 81 of October 4, 2000, issued by the Office of Court Administration. The Administrative Order clarified that members of the judiciary must discharge their electoral duties pursuant to the Puerto Rico Electoral Act, Law No. 4 of December 20, 1977 (16 LPRA § 3001 *et seq.*) and that no judge may assume these duties without receiving prior written authorization from the Chief Justice.

PART IV. EXTRAJUDICIAL ACTIVITIES

Canon 23. General Duty

A judge shall conduct all extrajudicial activities so as not to cast doubt on their capacity to decide impartially a matter before the court, demean the judicial office, or interfere with the proper performance of their judicial duties.

Background

This canon is new. Its purpose is to provide a clear and general standard to govern the public behavior of judges in the context of their activities away from the bench. This general standard is similar to Model Canon 4A of the American Bar Association Model Code of Judicial Conduct. This canon replaces the first paragraph of Canon XXIV of Judicial Ethics of 1977, which stated that even though it is neither necessary nor desirable that a judge live in seclusion, judges must be scrupulous in avoiding actions that might reasonably give the impression that their social, business or family relations or friends in some way influence their judicial decisions.

Comment

The general standard established in this canon makes subdivision (b) of Canon XXIV of Judicial Ethics of 1977—providing an ambiguous and imprecise prohibition against visiting places of dubious reputation—unnecessary. Subdivision (c) of the previously mentioned canon, which prohibited drinking alcoholic beverages without moderation in public places, is also made unnecessary.

Canon 24. Extrajudicial Activities

Without impairing the proper performance of their judicial duties, a judge may participate in extrajudicial activities in connection with matters concerning the law, the legal system, the administration of justice, or non-legal subjects, such as writing and teaching engagements. A judge may participate in these activities, subject to the requirements of these canons, outside regular working hours or during regular working hours when such engagement is justified, provided the judge makes the necessary administrative arrangements.

When speaking in an event or writing on a subject in connection with these extrajudicial activities, a judge shall prevent an audience from perceiving erroneously that their expressions are made in the judge's official capacity or on behalf of the Judicial Branch. The judge shall stress at the beginning of the speech or paper that the judge's expressions reflect their own

personal ideas, views, and opinions, and in no way represents the official position of the Judicial Branch.

Background

The second sentence of Canon III of Judicial Ethics of 1977, which provided that judges may participate in activities that promote the improvement of the law and of the administration of justice, was inserted in the first paragraph of this new canon. The content of this canon was broadened to provide a rule similar to Model Canon 4B of the American Bar Association Model Code of Judicial Conduct. This canon also adopts Criterion No. I of the Criteria to Guide the Exercise of the Right of Free Speech in Extrajudicial Activities issued by the Chief Justice through Circular Letter No. 3 of August 22, 1994. The second paragraph is new and adopts Criterion No. V of the aforementioned Circular Letter.

Comment

This new canon seeks to promote the participation of judges in extrajudicial activities related to an area of Law and the administration of justice. It also encourages the participation of members of the judiciary in their individual capacity as citizens in other activities that may contribute to the improvement of society. Model Canon 4B of the American Bar Association Model Code of Judicial Conduct provides a similar standard, establishing that judges may engage in activities, such as writing, public speaking, teaching, and participating in extrajudicial activities that concern the law, the legal system, the administration of justice, and non-legal matters, subject to the requirements of said Model Code. When judges become involved in permitted extrajudicial activities, participating in a serious, courteous, respectful, and reasonable manner, judges are helping to eliminate any negative views the public may have of the judiciary, such as the perception that judges lack empathy, are out of touch with today's social problems, assume an arrogant attitude in the discharge of their duties, or are ignorant of the law. See, *Visión en Ruta al Futuro, supra*, at 2, 3, 4, 9, 13, 32, 20, 57, 58, 117, & 118.

The standard provided in the second sentence of the first paragraph of this canon guarantees that judicial matters will be duly attended to when a judge participates in authorized extrajudicial activities. This stems from Criterion No. I of the Criteria to Guide the Exercise of the Right of Free Speech in Extrajudicial Activities issued by the Chief Justice through Circular Letter No. 3 of August 22, 1994. This criterion establishes that, in accordance with the principle that the hearing and disposition of cases have priority over any other activity, judges are recommended to exercise their right to publicly express their ideas preferably during non-working hours or in their free time.

This criterion also establishes that in appropriate situations and with the prior authorization of the regional administrative judge, or the Chief Justice if a waiver is required, judges may issue extrajudicial statements during business hours, provided the necessary precautions are taken to avoid neglecting their judicial duties.

The standard provided in the second paragraph corresponds to the principle set forth in the Preamble of these canons, which states that the members of the judiciary have a duty to preserve the impartiality of the justice system. This stems from Criterion No. V of the Criteria to Guide the Exercise of the Right of Free Speech in Extrajudicial Activities. This criterion recommends, so as to prevent the community from erroneously perceiving that judges who speak in extrajudicial activities are doing so on behalf of the Judicial Branch, indicating at the beginning of the exposition, whether spoken or in writing, that the statements made are their personal ideas on the matter and in no way represent the official position of the Judicial Branch.

Canon 25. Proposals Concerning the Improvement of the Law; Consultations; Public Hearings

The Chief Justice shall, ordinarily, be the official spokesperson for the Judicial Branch concerning any proposal for the improvement of the judicial system.

A judge may appear at a public hearing before an executive and legislative body when a judge has been duly summoned to speak on matters in connection with the law, the legal system, or the administration of justice, provided the judge's experience in the Judicial Branch may afford a significant contribution, and provided prior notice of participation is given to the Chief Justice. A judge may also appear to speak before other bodies when the matter is in connection with their civil interests. When speaking at these forums, the judge shall state that their expressions reflect the judge's personal opinions, and do not reflect the official position of the Judicial Branch.

A judge shall not address consultations made by the Executive or Legislative Branch or its officials.

Background

The content of the third paragraph of Canon III of Judicial Ethics of 1977, which ordered judges to channel all proposals concerning the improvement of the judicial system through the office of the Chief Justice of the Supreme Court, was inserted in the second paragraph of this new canon. The second and third paragraphs are new, and they provide a rule similar to the standard established in Model Canon 4C(1) of the American Bar Association Model Code of Judicial Conduct.

Comment

The canon adopts, in general terms, the standard set forth in Model Canon 4C(1) of the American Bar Association Model Code of Judicial Conduct, which allows judges to appear at hearings before the Executive or Legislative Branch on matters concerning the Law, the legal system, or the administration of justice, provided the judge has been duly summoned. This canon also adopts the rule allowing judges, as an exception, to appear in their individual capacity to speak on matters that relate to them personally or to their interests. This rule governs aspects of extrajudicial expression that should be addressed in our canons with specific guidelines. This canon does not limit the power of any judge to issue expressions before an appropriate forum as Chair of the Judicial Association.

Canon 26. Incompatible Positions or Commissions

A judge shall not accept any position, commission, or office that is incompatible with a judge's judicial responsibilities or may interfere with the proper performance of a judge's judicial duties by taking time away from the judicial office, such as:

(a) all positions, commissions or offices that may do injury to the judiciary's image of impartiality or cast reasonable doubt over a judge's capacity to act impartially in specific matters that may be brought before the court,

(b) all activities that create unwanted notoriety,

(c) all activities which the prestige and authority of the judge's office may be perceived as having an undue influence before governmental or private bodies,

(d) any office in the Executive or Legislative Branches, in the municipal government or in any other state agency, or

(e) any of the following commissions, offices, or activities:

(1) chair, executive director, or officer of the Puerto Rico Bar Association,

(2) member of the Governing Board of the Puerto Rico Bar Association or of the board of directors of the district delegations or local bodies of said institution,

(3) member of any committee of the Puerto Rico Bar Association, unless said committee is not in conflict with these canons,

(4) members, direct or indirect, of electoral campaigns for candidates who are running for any office in the Puerto Rico Bar Association or any other legal professional association, in their governing boards or board

of directors of the district delegations or local bodies (except for exercising the right to vote, a judge shall not endorse a candidate for any of said positions),

(5) chair, director or officer of any other organization or association of legal professionals in Puerto Rico, except as a member of a committee that is not in conflict with these canons,

(6) chair, director, or officer of any public agency,

(7) guardian, executor, trustee, administrator, or holder of any fiduciary position, except when related to the judge's family, up to the third degree of kinship or affinity,

(8) arbitrator, mediator, or intermediary, in private or public entities, except when these duties are authorized by law.

Background

This canon corresponds to Canon VIII of Judicial Ethics of 1977, as amended through Resolution of November 12, 1999, issued by the Supreme Court to reflect a gender-neutral language. Canon VIII of 1977 incorporates the standards of Canon XV of Judicial Ethics of 1957 and the rules barring participation in Puerto Rico Bar Association committees and in electoral campaigns or from publicly supporting candidates seeking office in the Bar Association or in any other professional organization of lawyers in Puerto Rico. In the aforementioned revision, Canon VIII also adopted the rule prohibiting judges from acting in a fiduciary capacity. This standard is based on Model Canon 4E of the American Bar Association Model Code of Judicial Conduct. Additionally, the standard provided in Model Canon 4F of the same Model Code was included herein, on services as an arbitrator or mediator.

The content of this canon was unaltered in this revision, except for a few slight stylistic changes to the fourth and third sentences of the first paragraph of Canon VIII of Judicial Ethics of 1977, and to the second paragraph, subdivisions (a), (b), and (d), and to expand the provisions of subdivisions (c) and (e)(4).

Comment

The prohibitions laid down in this canon are restrictions that limit the exercise of rights all citizens enjoy under the Constitution, which judges freely and voluntarily accept upon taking the oath of office. These restrictions seek to ensure that all judicial actions are proper and maintain appearance of propriety, so as to preserve public trust in the independent and impartial administration of justice. These restrictions also seek to avoid that members of the judiciary become involved in activities that result in unwanted notoriety.

This canon repeats the first sentence of Canon VIII of Judicial Ethics of 1977, which is a general prohibition directed to judges against accepting

positions, commissions, and offices that are incompatible with their judicial duties. Subdivisions (a), (b), and (c) list the categories of positions and commissions that judges may not accept by providing their incompatibility with any position, commission or office that may cause injury on the Judiciary's image of impartiality or cast reasonable doubt over a judge's capacity to act impartially in specific matters that may be brought before the court. In general, a judge's private affairs must be limited to those that do not subtract time from the judicial office or jeopardize the image of impartiality and solemnness that sets the judiciary in high regard.

Subdivision (b) repeats the standard set forth in Canon VIII of Judicial Ethics of 1977, providing the incompatibility of all activity or action that produces unwanted notoriety. Subdivision (c) expands the text of Canon VIII to declare incompatible all activity or action where the prestige and authority of the judicial office may be perceived as an undue influence, regardless of whether the activity or action is conducted in the public or in the private sphere. The prohibition established in subdivision (c) must be read alongside the standard set forth in the second paragraph of Canon 25 of these canons, which bars judges from appearing at public hearings before a body of the Executive or Legislative Branch, except when the judge has been duly summoned to appear to discuss matters concerning the law, the legal system, or the administration of justice, or when representing the judge's private interests appearing in an individual capacity.

Subdivisions (e)(1), (e)(2), (e)(3), (e)(5), and (e)(6), which correspond to subdivisions (a), (b), (c), (d), and (e) of Canon VIII of Judicial Ethics of 1977, list the positions and offices within the administrative and internal governance structure of the Puerto Rico Bar Association, other public entities, and other professional organizations of lawyers, that are incompatible with the judicial office.

The new text of subdivisions (e)(3) and (e)(5) (subdivisions (c) and (d) of Canon VIII of Judicial Ethics of 1977), by expanding the standard expressed therein, allows judges, as an exception, to participate as a member of any Puerto Rico Bar Association committee or of any other group or association of lawyers in Puerto Rico, provided it is not in a conflict with these canons. Invoking this exception to the rule requires all judges, before deciding to join a committee as allowed under this canon, to carefully analyze if the work of the committee has a direct bearing on the improvement of the law, the legal system, or the administration of justice and if participating in the committee would cast reasonable doubt over the judge's capacity to act impartially in the discharge of the judicial office. The following factors would suggest that a judge's participation is not in conflict with these canons: (1) the work of the committee has direct bearing or is related to the operation of the courts to

impart fair and impartial justice; (2) the committee adopts clear positions on the legal system and on issues that directly impact the Judicial Branch; (3) the committee members represent diverse sectors of society with different points of view; (4) the structure of the committee allows judges to participate only in matters related to the improvement of the law, the legal system, and the administration of justice.

On the contrary, the following factors are indicative of a possible conflict with these canons, if the committee: (1) has an ulterior motive other than the improvement of the legal system to further a social, political or civic cause; (2) advocates for the rights of a certain group of people in specific cases; (3) is composed of members who represent only one point of view; (4) includes a member who shall appear as a party or witness before the judge; (5) is dedicated to helping or providing guidance or support to people who participate in any judicial proceeding, or (6) advocates for the enactment of legislation to benefit a specific cause or group.

Subdivision (e)(4) of this canon repeats the standard set forth in Canon VIII of Judicial Ethics of 1977, precluding judges from participating, either direct or indirectly, in electoral campaigns for candidates seeking office in the Puerto Rico Bar Association or in other professional organization of lawyers. This canon, however, recognizes the right to vote in the election held by these organizations.

Subdivisions (e)(7) and (e)(8) (subdivisions (f) and (g)) of Canon VIII of Judicial Ethics of 1977 seek to prevent judges from participating in quasi-judicial or mediation proceedings where the authority of the judicial office may cause undue influence.

Canon 27. Prohibition on the Private Practice of Law and the Notarial Profession

A judge shall not practice law or the notarial profession, except when authenticating and authorizing documents as required by law. A judge shall not act as legal advisor to individuals or private or public entities, either with or without compensation.

A judge shall abstain from recommending lawyers to provide legal representation before any forum or to render professional services for any matter, except when the recommendation is made for matters involving a member of the judge's family up to the fourth degree of kinship or affinity.

Background

This canon corresponds to Canon IX of Judicial Ethics of 1977, as amended through Resolution of November 12, 1999, issued by the Supreme Court to reflect a gender-neutral language, with some slight changes in style.

The ban from private practice was not included in the previous Canons of Judicial Ethics of 1957 but was added for the first time under Canon IX [of Judicial Ethics of 1977], adopting a similar standard provided in Model Canon 4G of the American Bar Association Model Code of Judicial Conduct. In this revision, the first sentence of the canon is expanded to clarify the text, while the second sentence establishes a new rule.

Comment

This canon provides an absolute prohibition against the private practice of law and notarial practice by judges in order to avoid conflicts of interest or the appearance of bias or improper conduct in the discharge of their judicial duties. The exercise of the legal and notarial profession is incompatible with the duties of a judge and, thus, this prohibition is also established in Section 2.015 of the Judiciary Act of 2003, Law No. 201 of August 22, 2003 (4 LPRA § 24m).

The prohibition does not extend to the functions of authenticating and authorizing documents, pursuant to the Act of March 12, 1908, as amended, 4 LPRA §§ 890, 892 & 892(a). Regarding the obligation to submit monthly indices on the authorization of these affidavits and declaration of authentications (4 LPRA § 892(a)), Memorandum No. 174 of February 16, 1996, instructs judges to submit these reports to the Administrative Director of the Courts using the appropriate form.

The prohibition established in the second sentence of this canon is new. It seeks to prevent judges from acting as legal advisors to individuals, public entities, or private organizations, regardless of whether the judge is compensated for such services. This prohibition supposes that providing legal counsel is to engage in the private practice of law and should members of the judiciary engage in this type of activity, they could find themselves in the uncomfortable position of issuing an opinion on a controversy that could potentially be brought to the courts. This course of action could undermine the confidence in the impartiality of the judge, in particular, and the judiciary in general, regarding any matter that may be submitted to the courts, specifically if the legal advice occurs in the context of a public debate. Likewise, a judge's opinion issued in the context of a discussion before an adjudicative or deliberative body, supported by the prestige and authority of the office, may be perceived as an undue influence.

The prohibition is not at odds with the duties to educate and provide orientation that, without being legal advice, all judges must perform. This prohibition also does not preclude judges from joining associations that seek to further the professional capacity of the judiciary, nor does it bar judges from

participating in activities in matters unrelated to the law, provided such participation is carried out in accordance with these canons.

The second paragraph repeats the second sentence of Canon IX of Judicial Ethics of 1977, forbidding a judge from recommending lawyers to render professional legal services in specific causes of action. This prohibition is based on the assumption that a recommendation made by a judge concerning a lawyer's adeptness to handle certain matters may be perceived by the public as an improper invitation to procure the professional services of a specific lawyer. This action may give the impression that judges "trust more in the opinion of a specific lawyer than that of another, whether or not that the judge will directly intervene in the matter." *In re Suárez Marchán*, 159 DPR 724, 736 [59 PR Offic. Trans. 73, ___] (2003). The prohibition also seeks to avoid individuals from feeling compelled to follow the recommendations concerning professional services simply because the recommendation came from a member of the judiciary.

This rule was expanded to provide an exception allowing judges to make recommendations to their relatives within the fourth degree of consanguinity and affinity. The exception acknowledges that there inevitably shall be circumstances where a judge might incidentally become involved in the legal affairs of family or friends, or in their own, either by offering advice or drafting or reviewing documents, without compensation or establishing an attorney-client relationship. In these circumstances, judges must always be aware of the absolute ban provided by this canon so as to prevent their participation from going beyond an informal assistance into the realm of prohibited conduct.

Canon 28. Prohibited Political Activities

A judge shall refrain from participating in political activities, without impairing the judge's right to vote, to entertain the judge's personal views regarding political questions, and to perform the duties and functions required by the electoral laws and regulations.

While the following list shall not exclude other activities which are forbidden, due to their political nature, judges shall not:

- (a) participate in political campaigns or meetings of any type, informal gatherings, assemblies, conventions, primaries, or other partisan political acts,
- (b) hold office in political bodies or parties,
- (c) make direct or indirect contributions to political candidates, organizations, or parties,
- (d) endorse political leaders or candidates for elective or government office,

(e) express themselves publicly on matters or acts of a partisan political nature,

(f) maintain close relations with political figures or leaders that might identify them in the public eye as affiliated with a political party, organization, or movement,

(g) participate in meetings with government officials to discuss matters of a partisan political nature,

(h) engage in polemics with political candidates or leaders, or

(i) promote the interests of any political organization or party.

Background

This canon corresponds, in part, to Canon XIII of Judicial Ethics of 1977, as amended through Resolution of November 12, 1999, issued by the Supreme Court to reflect a gender-neutral language. Canon XIII is based, in part, on the previous Canon XVIII of Judicial Ethics of 1957.

The first sentence of Canon XIII of Judicial Ethics of 1977, which establishes the principle that judges must protect and promote the independence of the Judicial Branch to provide balance in our democracy's structure of government, was eliminated here and the standard was rearticulated in Canon 2. As a result of this revision, stylistic changes were incorporated to this canon, and subdivisions (a) and (d), due to their similar content, were consolidated in new subdivision (a). The last sentence was stricken. As a result of the stylistic revisions, parts of subdivision (i), which alluded to the right of judges to defend themselves from abusive attacks to his person or honor in the context of political activities, were excluded. The second to last sentence, which stated that judges should be and feel free from all political influence and his conduct should not give the impression that his political ideas interfere with the performance of his judicial duties, was also eliminated because the content of said standard is included, however succinctly, in the first sentence of this canon.

Comment

The phrase "that might identify them in the public eye" was added to subdivision (f), which corresponds to subdivision (g) of Canon XIII of Judicial Ethics of 1977, to clarify that the conduct prohibited by this canon also includes conveying to the public affiliation to a political party by maintaining close ties with public figures or political leaders. The standard set forth in subdivision (f) does not imply that a judge cannot maintain a close personal relationship with a politician, such is the case of a longtime friendship or a judge who is married to a political figure. The aim of this canon is to prevent members of the judiciary from sullyng the image of impartiality of the judicial system with

behavior that gives the impression that the judge is subject to the influence of people whose notoriety is a result of party politics.

Canon 29. Efforts to Obtain an Appointment or Public Office

A judge shall abstain from unduly seeking promotions within the judiciary or to be reappointed to office. Likewise, a judge shall abstain from unduly seeking any other public office.

This prohibition includes all endeavors in the judge's benefit and for the benefit of others, but excludes official activities before the bodies which advise the executive and legislative powers regarding judicial appointments.

Background

This canon corresponds to Canon XXII of Judicial Ethics of 1977, as amended through Resolution of November 12, 1999, issued by the Supreme Court to reflect a gender-neutral language. Canon XXII of Judicial Ethics of 1977 adopted the first sentence of previous Canon XVII of Judicial Ethics of 1957, replacing the word "campaign" for "efforts", in addition to incorporating the standard set forth in the second paragraph, which clarifies that the prohibition extends to any efforts made for personal benefit or for the benefit of another, except for the official endeavors to obtain a judicial nomination.

The canon underwent stylistic revisions. The standard provided in the first sentence was expanded.

Comment

This canon aims to forbid judges from engaging in undue activities to achieve promotions or reappointments to the judiciary, or to obtain other public office. As a result of this revision, the standard provided in the first sentence was expanded to preclude efforts carried out to obtain reappointment as a judge and to clarify that "seeking" refers to efforts to unduly seek such promotion or office. The prohibition excludes official endeavors before the bodies which advise the Executive and Legislative Branches regarding judicial appointments because it is understandable that, in order to attain promotions or reappointments to the judiciary, a judge must first submit a formal petition with the appropriate administrative body.

Canon 30. Undue Influence

In their extrajudicial and out-of-court activities, a judge shall not incur in conduct or act in such a way that conveys the impression that a judge exerts or seeks to exert undue influence on the discharge of another judge's judicial duties or the duties prescribed by law of any public official. A judge shall not

exert direct or indirect influence to sway another judge's disposition to obtain a favorable treatment in the litigation of a judge's personal causes.

A judge shall not convey the impression that any person is in position to influence them. Likewise, a judge shall see to it that no Judicial Branch employee or official conveys the impression that they may exert influence on a judge.

Background

This canon corresponds to Canon XXIII of Judicial Ethics of 1977, as amended through Resolution of November 12, 1999, issued by the Supreme Court of Puerto Rico to reflect a gender-neutral language. The latter is based on the second paragraph of the previous Canon VIII of Judicial Ethics of 1957.

The last sentence of Canon XXIII, providing for the appearance of a judge as a party or a character witness at judicial proceedings, was incorporated under the new Canon 31.

Comment

This canon bars judges from exercising undue influence over their fellow judges, either directly or indirectly, whether for personal benefit or for the benefit of others. This canon also prohibits exerting undue influence over other public officials in the performance of their official duties. In addition, this canon directs a judge to ensure that employees and officials of the Judicial Branch do not incur in conduct that may fuel such a belief. The prohibitions presuppose that the judicial office enjoys public prestige and influence and that a judge's opinion, on or off the bench, enjoys singular authority and respect in the community. Consequently, this canon imposes the obligation to avoid giving the impression that members of the judiciary improperly exert their authority or influence.

Canon 31. A Judge as a Party or Witness

A judge shall be assisted by counsel when appearing as a party before a court or adjudicative administrative forum.

A judge shall not volunteer to testify as a character witness in a judicial proceeding.

Background

This canon is new. The second sentence here is the last sentence of Canon XXIII of Judicial Ethics of 1977, which was transferred to this canon.

Comment

This new canon was drafted to address two scenarios: (1) when a member of the judiciary appears as a party before the court or administrative agency with adjudicative powers, and (2) when a judge appears as a character witness. Either scenario may occur within an adversarial or noncontentious proceeding.

The first sentence of this canon reflects the interest in avoiding sullyng the judiciary's image of impartiality by giving the impression that judges may influence the trier of fact in a case or take advantage of their judicial office when they appear as a party before another judge, who is a colleague. See, *Bonilla v. Citibank*, 116 DPR 705, 709 [16 PR Offic. Trans. 867, 872] n.3 (1985), where the Supreme Court expressed dissatisfaction with the plaintiff-appellee, a judge who assumed his own representation before the trial court. This action is inexcusable; members of the judiciary must be cautious when appearing as parties to a case in order to avoid being construed as taking advantage of their judicial office. Likewise, a judge may be seen as taking advantage of the judicial office when appearing pro se before an administrative body with adjudicative functions.

Forbidding judges from voluntarily appearing as character witnesses in the courts of the Commonwealth of Puerto Rico or in federal courts, prevents them from dealing with the difficult task of weighing the credibility of other judges. As an exception, it is allowed when such testimony is compelled. See, *In re Communication of Judge Pérez Giménez*, 112 DPR 683 [12 PR Offic. Trans. 857] (1982).

Canon 32. Compensated Extrajudicial Activity

A judge shall not render compensated extrajudicial services except for those activities not incompatible with these canons and which do not adversely affect the faithful and diligent performance of their judicial duties and functions. Judges who wish to render compensated extrajudicial services must request a waiver from the Chief Justice of the Supreme Court each year.

The source of said compensation or the manner in which payments are made should not convey the impression that undue influence is being exerted or is intended to be exerted on the judge. The compensation received should not exceed that amount which would reasonably commensurate under similar circumstances to a person who is not a member of the judiciary.

Background

This canon corresponds to subdivision (a) of Canon X of Judicial Ethics of 1977, as amended through Resolution issued by the Supreme Court of Puerto Rico of November 12, 1999, to reflect a gender-neutral language. The previous

Canons of Judicial Ethics of 1957 provided nothing with regard to compensated extrajudicial activities by members of the judiciary.

Subdivision (b) of Canon X was incorporated under the new Canon 37.

Comment

The prohibition on the rendering of compensated extrajudicial activities was set forth in subdivision (a) of Canon X of Judicial Ethics of 1977, in conjunction with subdivision (b) on financial disclosure. Since these provisions address different issues, they were incorporated into separate canons to improve internal coherence. The rule providing the duty to submit financial disclosure reports was incorporated under the new Canon 37.

The text of this canon corresponds fully to subdivision (a) of Canon X of Judicial Ethics of 1977, but slight stylistic modifications were introduced. Its content is similar to that of Model Canon 4H(1) and H(1)(a) of the American Bar Association Model Code of Judicial Conduct, with a different wording.

Canon 33. Use of Personnel for Private Gain

A judge shall not use the services rendered by Judicial Branch employees and officials for nonofficial activities.

Likewise, a judge shall refrain using the services of employees and officials of an agency, municipality, or government entity for personal gain.

Background

The last sentence of Canon XXIV of Judicial Ethics of 1977 became the basis for this new canon. The remaining provisions of the previous canon were similarly incorporated into separate canons as part of this revision of the standards governing public conduct. By separately emphasizing each ethical aspect of the public conduct expected of judges, these standards are made to be more accessible and manageable.

Comment

Similar standards establishing this prohibition are found in subdivision (c) of Section 3.2 of the Ethics in Government Act of the Commonwealth of Puerto Rico, 3 LPRA § 1822, applicable to officials and employees of the Executive Branch; as for officials and employees of the Judicial Branch, see Section 22(d) of the Regulations for the Administration of the Judicial Branch Personnel System (4 LPRA App. XIII).

PART V. PUBLIC CONDUCT

Canon 34. Social Events

A judge shall not accept invitations to attend social events when they come from lawyers who frequently practice in the courtroom where the judge presides. Similarly, a judge shall not accept invitations from lawyers whose interests have, are, or are likely to come before their consideration. Excluded from the foregoing are the social events organized by the Puerto Rico Bar Association, its delegations, other organizations that group members of the legal profession, and educational and cultural organizations, as well as ceremonies held by bona fide entities in honor of a judge for contributions in the fields of literature, art, civics, academia, sports, science, and law.

Background

The prohibitions under subdivisions (a) and (f) of Canon XXIV of Judicial Ethics of 1977 were grouped together to form this new canon. Both standards, which address the ethical aspects governing social activities of members of the judiciary, were separated from Canon XXIV as a result of this revision.

The first paragraph of Canon XXIV was eliminated because the standards contained therein were incorporated in the Preamble to these canons.

Comment

The prohibition established in this canon, which seeks to protect the impartiality of the judicial system, basically aims to avoid situations where a judge of the Court of First Instance might give the impression in the public eye that a judge's social activities or relationships exert an undue influence over judicial decisions.

Canon 35. Acceptance of Gifts

A judge shall not accept gifts, testamentary gifts or bequests, favors, or loans from any person, and shall urge relatives residing in the judge's household to refuse them, unless these are:

(a) gifts incident to a public testimonial, books, tapes, and other resource materials supplied on a complementary basis by publishers for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related event hosted by the Puerto Rico Bar Association or by any other professional organization that groups members of the legal profession dedicated to the improvement of the law, legal system, or the administration of justice,

(b) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse or other family member of a judge residing in the judge's household, including gifts, awards, and benefits for the use of both the spouse or other family member and the judge, provided that the gift, award or benefit may not reasonably be perceived as an attempt to influence the judge in the performance of their judicial office,

(c) displays of ordinary social hospitality,

(d) gifts, testamentary gifts or bequests, favors, or loan from a relative or close personal friend whose interest in any proceeding would, in any event, require disqualification of the judge,

(e) loans from a financial institution in its regular course of business granted on the same terms generally available to persons who are not judges,

(f) scholarships or fellowships awarded based on the same terms and criteria applied to other applicants, or

(g) any gift, testamentary gift or bequests, favor, or loan, if the source is not a party to an action before the judge or any other person who has come or is likely to come before the judge, or whose interests have come or are likely to come before the judge, and if the judge reports of such a gift, testamentary gift, favor, or loan in the same manner as the judge would report any compensation in accordance with Canon 37.

Background

This canon is new, except for the first sentence, which adopts the prohibition laid down in subdivisions (d) and (e) of Canon XXIV of Judicial Ethics of 1977. As a result of the revision of Canon XXIV, the standards set forth therein were incorporated through separate canons.

Comment

Subdivisions (a) through (g) adopt a similar text to that of Model Canon 4D(5) of the American Bar Association Model Code of Judicial Conduct.

Canon 36. Economic Interests

A judge shall not:

(a) use the power or the prestige of the judicial office for private gain or to promote the success of a business or commercial or economic activities for the judge's own personal benefit or for the benefit of relatives or other persons or organizations,

(b) participate in business, commercial, economic, or financial activities or transactions which are in conflict with or could foreseeably come in conflict with their judicial duties,

(c) intervene as a judge in cases, the outcome of which could substantially affect the judge's economic or financial interest or that of a relative,

(d) solicit funds or permit the use of the judge's name therefor, regardless of the purpose or final recipient of the same, or

(e) solicit donations or contributions for the Puerto Rico Bar Association or for civic, charitable, professional, or any other type of organization.

When participating in business, commercial, economic, and financial activities or transactions which are not in conflict with the judge's judicial duties, a judge shall exercise caution and prudence to avoid the appearance of misconduct or giving grounds to a reasonable suspicion that the judge is using the position or the prestige of the office for personal benefit or for the benefit of others.

Background

This canon corresponds to Canon XXI of Judicial Ethics of 1977, as amended by Resolution of the Supreme Court of November 12, 1999, to reflect a gender-neutral language. The basis for this canon is the previous Canon XVI of Judicial Ethics of 1957, which only provided a general rule.

The same standards provided under Canon XXI of Judicial Ethics of 1977, with slight changes in style, are repeated here in subdivisions. A new subdivision (c) is added, precluding a judge from intervening in a case where the outcome may substantially affect a judge's economic or financial interests.

Comment

This canon, by establishing limits on a judge's conduct in the course of business or in the context of commercial, economic, or financial activities or transactions, prohibits judges from lending the prestige of their office to obtain personal economic benefit or to benefit relatives or other individuals. This canon also bars judges, when participating in society as consumers of goods and services, from deriving benefits, privileges, or special consideration as a result of their judicial office.

This canon also precludes judges from participating in economic or commercial activities when said activities may pose a conflict with their ability to fully comply with their judicial duties. A business transaction or an economic, financial, or commercial activity may conflict with the duties of the judicial office when, due to the nature of the relationship between the judge and the business, activity or transaction, judges find themselves in a situation where their conduct may reasonably be perceived as biased or prejudiced or creates the appearance of bias or prejudice when adjudicating a controversy.

Likewise, this canon imposes on judges the duty to carefully examine whether a business transaction or an economic, financial, or commercial activity in which the judge is participating or is planning on participating may pose a conflict of interests with their judicial duties. This duty demands that a judge be watchful of possible conflicts of interest in all activities involving financial issues.

In line with the foregoing, and pursuant to the new prohibition under subdivision (c), judges shall avoid presiding over any case the result of which may substantially affect their economic or financial interests. See, *In re Petition by Lugo Bougal and Arraiza*, 112 DPR 134 [12 PR Offic. Trans. 162] (1982). The outcome of a case has a substantial effect on the economic and financial interests of a judge when said outcome impacts the value or amount of stock, bonds, or other securities or financial investments belonging to the judge or to the judge's relatives. Absent the possibility of such an outcome, a judge's intervention in a case shall be governed by other principles provided in these canons that demand caution and prudence to avoid possible conflicts of interest or the appearance thereof. In those cases where the result may affect the judge's economic or financial interests, but not substantially, it is preferable that judges disclose to the parties the nature of the interest and whether or not it affects the impartial adjudication of the controversy, so the parties may be duly informed of the matter and the appropriate course of action may be taken.

The canon also forbids judges from directly or indirectly participating in fundraising activities, regardless of the intended use of the funds or the entity organizing the fundraiser. This is a general standard designed to prevent judges, or entities organizing the fundraiser or benefitting from the funds, from lending the image of authority as a judge to compel the public to cooperate in the fundraising efforts or to give donations. Nevertheless, the prohibition should not be understood to preclude a judge from participating in civic or cultural organizations as member of a board or in committees, unless said participation involves fundraising efforts, in which case the participation is prohibited under this canon.

Lastly, it is recommended that judges jointly examine this canon with Canon 20 on disqualifications, as this may assist in determining whether this mechanism is appropriate under the specific circumstances in order to avoid engaging in the prohibited conduct.

PART VI. REPORTS

Canon 37. Financial Disclosure Reports

A judge shall submit a financial disclosure report, as required by the regulations applicable to this canon issued by the Supreme Court.

Background

The standard provided in subdivision (b) of Canon X of Judicial Ethics of 1977, as amended by Resolution of the Supreme Court of November 12, 1999, to reflect a gender-neutral language, was incorporated under this new canon.

Comment

This new canon only adopts the content of subdivision (b) of Canon X of Judicial Ethics of 1977, providing the obligation of judges to file these reports pursuant to the applicable rules adopted by the Supreme Court. The rest of the text was stricken for being unnecessary after the Supreme Court adopted rules to regulate this canon, whereby providing in detailed all information and instructions required for filing these reports. *See*, Resolution of March 2, 1998.

This new canon adopts the language of Model Canon 4H(2) of the American Bar Association Model Code of Judicial Conduct with respect to the obligation of judges to file financial disclosure reports. Except for the second sentence of Model Canon 4H(2), our regulation also requires disclosing the same information required under the aforementioned model canon and under Model Canon 3E(2).

Canon 38. Other Reports

A judge shall submit other reports as required by Judicial Branch rules and administrative guidelines.

Background

This canon is new and is included to recognize the obligation of the members of the judiciary to file the reports that may be required during the course of their judicial office.

Comment

The applicable rules and administrative guidelines of the Judicial Branch require that certain reports be filed, whereby judges give accountability for their judicial performance. Examples of these reports are as follow: (1) periodic reports on the judicial efforts of administrative judges, pursuant to Rules 7, 11, and 35 for the Administration of the Court of First Instance (4 LPRA App. II-B), and Rule 12 of the Rules of the Court of Appeals

of July 16, 2004 (4 LPRA App. XXII-B); (2) the monthly indices on affidavits and declarations of authenticity authorized under Sections 4 and 6A of Law No. 13 of March 12, 1908, as amended (4 LPRA §§ 890 & 892a); and Memorandum No. 174 of February 16, 1996 issued by the Office of Court Administration; (3) attendance reports, in accordance with the guidelines on the registration of attendance of judges of the Court of First Instance, Memorandum No. 225 of March 9, 1998 issued by the Office of Court Administration. See, *In re Hon. González Porrata-Doria*, 158 DPR 150 [58 PR Offic. Trans. 10] (2002).