

Washington State Department of Licensing: Hearings and Interviews Unit



Code of Ethics For Hearings Examiners

Adopted this 15th day of December 2022.

Marguerite Friedlander

Marguerite Friedlander, Hearings and Interviews Unit Administrator

M. Norman

M. Norman

Miriam Norman, Hearings and Interviews Unit Assistant Administrator

Department of Licensing
HE Code of Ethics
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Preamble

The Code of Ethics for Department of Licensing (hereinafter termed “DOL”) Hearings Examiners (Code) establishes standards for the ethical conduct of Hearings Examiners (hereinafter termed “HEs”). It is intended to provide guidance and assist HEs in maintaining the highest standards of professional and personal conduct, and to provide a basis for regulation of their conduct. The HEs are unionized, state employees, and any disciplinary actions will be taken in accordance with the formalized process. Although the black letter is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. It is recognized, for example, that it would be unrealistic to sanction HEs for minor traffic or civil infractions. The code is not intended to be the basis to obtain tactical advantage before the DOL tribunal.

Terminology

“**De minimis**,” in the context of interests pertaining to disqualification of a HE, means an insignificant interest that could not raise a reasonable question regarding the HE’s impartiality.

“**Direction and Control**” refers to the parties, witnesses, and interpreters participating in the administrative proceedings (e.g., hearings or interviews). For supervisory HEs, this also refers to employees under their supervisory authority.

“**Domestic partner**” means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he/she/they is legally married.

“**Economic interest**” means ownership of more than a de minimis legal or equitable interest. Except for situations in which the HE participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a HE, it does not include:

- (1) an interest in the individual holdings within a mutual or common investment fund;
- (2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the HE or the HE’s spouse, domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant;
- (3) a deposit in a financial institution or deposits or proprietary interests the HE may maintain as a member of a mutual savings association or credit union, or similar proprietary interests;
or
- (4) an interest in the issuer of government securities held by the HE.

“**Fiduciary**” includes relationships such as executor, administrator, trustee, or guardian.

“**Impartial**,” “**impartiality**” and “**impartially**” mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a HE.

“**Impending matter**” is a matter that is imminent or expected to occur in the near future.

“**Impropriety**” includes conduct that violates the law, court rules, or provisions of this Code, on conduct that undermines a HE’s independence, integrity, or impartiality.

“**Independence**” means a HE should not be influenced by partisan demands, public clamor, or considerations of personal popularity or notoriety, nor be apprehensive of unjust criticism.

“**Integrity**” means probity, fairness, honesty, uprightness, and soundness of character.

“**Invidious discrimination**” is a classification which is arbitrary, irrational, and not reasonably related to a legitimate purpose. Differing treatment of individuals based upon race, sex, gender, religion, national origin, ethnicity, sexual orientation, age, or other classification protected by law, are situations where invidious discrimination may exist.

“**Member of the HE’s family**” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the HE maintains a close familial relationship.

“**Nonpublic information**” means information that is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute or court order or impounded or communicated *in camera*, and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports.

“**Pending matter**” is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition.

CANON 1:

A HE SHALL UPHOLD THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE ADMINISTRATIVE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

Rule 1.1: A HE shall comply with the law and shall always act in a manner that promotes public confidence in the integrity and impartiality of the administrative judiciary and shall avoid impropriety and the appearance of impropriety.

Comments:

[1] *The integrity and independence of HEs depends on their ability to rule without fear or favor. Although HEs should be independent, they must comply with the law, including the provisions of the Code. Public confidence in the impartiality of the administrative judiciary is maintained by the adherence of each HE to this responsibility. Conversely, violation of this code diminishes public confidence in the administrative judiciary and thereby does injury to the system of government under law.*

[2] *Public confidence in the administrative judiciary is eroded by improper conduct by HEs. A HE must expect to be the subject of public scrutiny, and therefore must accept*

restrictions on the HE's conduct that might be viewed as burdensome by the ordinary citizen.

- [3] *The prohibition against behaving with impropriety and the appearance of impropriety applies to both the professional and personal conduct of a HE. Whether a HE has failed to act in a manner that avoids impropriety and the appearance of impropriety and promotes public confidence in the integrity and impartiality of the administrative judiciary shall be determined by use of an objective reasonable person test, not by subjective perceptions.*
- [4] *Given the accessibility, widespread transmission, and permanence of electronic communications and material posted on the Internet, a HE must exercise caution when engaging in any type of electronic communication, including communication by text or email, or when participating in online social networking sites, social media, or otherwise posting material on the Internet. The same canons that govern a HE's ability to socialize and communicate in person, on paper, or over the telephone apply to electronic communications, including the use of the Internet, social media, and social networking sites.*

Rule 1.2: A HE shall not allow family, social, political, or other relationships to influence the HE's judicial conduct or judgment.

Rule 1.3: A HE shall not abuse the prestige of office to advance the personal or economic interests of such HE or others, or allow others to do so.

Comments:

- [1] *It is improper for a HE to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a HE to allude to his or her administrative judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a HE must not use DOL letterhead to gain an advantage in conducting his or her personal business.*
- [2] *A HE may provide a reference or recommendation for an individual based upon the HE's personal knowledge.*
- [3] *HEs may participate in the process of judicial selection by cooperating with appointing authorities and screening committees, and by responding to inquiries from such entities concerning the professional qualifications of a person being considered for judicial office.*
- [4] *Special considerations arise when HEs write or contribute to publications of for-profit entities, whether related or unrelated to the law. A HE should not permit anyone associated with the publication of such materials to exploit the HE's office in a manner that violates this Canon or other applicable law. In contracts for publication of a HE's*

writing, the HE should retain sufficient control over the advertising to avoid such exploitation. The publication shall include a disclaimer that the views and opinions expressed are those of the author and not the position of DOL.

CANON 2:

A HE SHALL PERFORM THE DUTIES OF ADMINISTRATIVE JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY

Rule 2.1: Administrative judicial duties include all the duties of the office prescribed by law. In the performance of these duties, the following standards apply.

Rule 2.2: Adjudicative responsibilities:

1. A HE shall be faithful to the law and maintain professional competence in it. A HE shall not be swayed by partisan interests, public clamor, or fear of criticism.

Comment:

[1] When applying and interpreting the law, a HE sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Code.

2. A HE shall require order and decorum in proceedings before the HE.
3. A HE shall be patient, dignified and courteous to parties, witnesses, lawyers, representatives, and others with whom the HE deals in an official capacity, and shall require similar conduct of lawyers, representatives, staff members and others subject to the HE's direction and control.

Comment:

[1] The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the HE. HEs can be efficient and business-like while being patient and deliberate.

4. A HE shall perform hearings without bias or prejudice against or in favor of any person. A HE in the performance of their duties shall not, by words or conduct, manifest bias or prejudice, including but not limited to bias or prejudice based upon actual or perceived age, race, color, gender, sexual orientation, religion, national origin, disability, marital status, socio-economic status or any other protected status enumerated by law.

Comment:

[1] A HE must perform administrative duties impartially and fairly. A HE who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings DOL Hearings into disrepute. Oral communication can give parties or representatives in the proceeding, the media, and others

an impression of judicial bias. A HE must be alert to avoid behavior that may be perceived as prejudicial.

[2] *"Bias or prejudice" does not include references to, or distinctions based upon race, color, sex, religion, national origin, disability, age, marital status, changes in marital status, pregnancy, parenthood, sexual orientation, or social or economic status when these factors are legitimately relevant to the advocacy or decision of the proceeding, or, with regard to administrative matters, when these factors are legitimately relevant to the issues involved.*

5. A HE shall require participants in the proceedings before the HE to refrain from manifesting, by words or conduct, bias or prejudice based upon actual or perceived age, race, color, gender, sexual orientation, religion, national origin, disability, marital status, socio-economic status or any other protected status enumerated by law, against parties, representatives or others. This paragraph does not preclude legitimate advocacy when age, race, sex, sexual orientation, religion, national origin, disability, marital status, socioeconomic status, any other protected status enumerated by law, or other similar factors, are issues in the proceedings.

Comment:

[1] *A HE must refrain from speech or other conduct that could reasonably be perceived as harassment of any kind, including sexual harassment and harassment against any protected class member, among others. The HE must require the same standard of conduct of others subject to the HE's direction and control.*

6. A HE shall accord to all persons who are legally interested in a proceeding, or their representatives, full right to be heard according to law.
 1. Where the HE deems it necessary to advance the ability of a pro se petitioner to be fully heard, the HE may:
 - (i) Provide brief information concerning statutory procedures and substantive law;
 - (ii) Provide brief information about the nature of the hearing, who else is participating in the hearing and how the hearing will be conducted;
 - (iii) Provide brief information about what types of evidence may be presented;
 - (iv) Question witnesses to elicit information and to obtain clarification;
 - (v) Minimize the use of complex legal terms;
 - (vi) Explain the basis for a ruling when made during the hearing or when made after the hearing in writing;

Comment:

[1] *Administrative proceedings often involve pro se petitioners. A HE should conduct hearings with pro se parties in a manner that is fair to both the*

petitioner and DOL, that ensures the efficient conduct of administrative justice, and that ensures the rights of the parties.

7. Unless otherwise authorized by law and except as provided in paragraphs (1) through (6) below, a HE shall not communicate, directly or indirectly, in connection with any issue that relates in any way to the merits of an adjudicatory proceeding pending or impending before the HE with any party to the pending litigation except upon notice and opportunity for all parties to participate.

1. Ex parte communications that are made for scheduling, procedural, administrative, or emergency purposes and that do not affect a substantive right of any party are authorized provided the HE reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the *ex parte* communication.

2. A HE may consult with support staff and interpreters on ministerial matters such as scheduling.

3. HEs may consult other HEs on the matter to help them arrive at their own personal decision on the issue before them.

4. Decisions of a HE shall be based exclusively on the evidence in the record of the proceeding and material that has been officially noticed.

Comment:

[1] *To the extent reasonably possible, all parties and, if applicable, their attorney(s), shall be included in communications with a HE.*

[2] *A HE may consult ethics advisory committees (WSBA Judicial Ethics, Executive Ethics, or similar board) or personnel, other HEs, supervisors, outside counsel or legal experts concerning the HE's compliance with this Code.*

8. Unless otherwise authorized by law, a HE shall not independently investigate facts in a matter pending before the HE and shall consider only evidence in the record and any facts that may properly be judicially noticed.

Comment:

[1] *A HE must not independently investigate facts in a case, unless authorized by law and must consider only the evidence in the record. The prohibition against independent investigation of facts extends to information available in all mediums, including electronic. A HE's exercise of authority granted in WAC 308-101-210 or other relevant WAC is not a violation of this Code.*

9. A HE shall dispose of all judicial matters competently, promptly, efficiently, and fairly. Orders shall be drafted and submitted to DOL for finalization no later than 30

calendar days after the date of the hearing or the record closing, whichever is later; however, with supervisor approval, this may be extended.

Comments:

- [1] *In disposing of matters promptly, efficiently, and fairly, a HE must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. Delay in the administration of justice is a common cause of complaint.*
- [2] *Competence in the performance of administrative judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a HE's responsibilities.*
- [3] *A HE should monitor and supervise cases to reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.*
- [4] *Prompt disposition of the HE's business means a HE should devote adequate time to administrative judicial duties, be punctual in starting hearings, expeditious in determining matters under submission, and insist that parties and counsel cooperate with the HE to that end. In compliance with this rule, HEs are expected to issue all final orders within 30 calendar days from the hearing or the record closing, whichever is later. Any final order requiring longer than 30 calendar days must be approved by a supervisor.*

10. A HE shall not make any public comment that would reasonably be expected to affect the outcome or impair the fairness of a pending or impending proceeding before any court in the State of Washington or any future hearing before DOL. This paragraph does not prohibit HEs from making public statements in the course of their official duties or from explaining for public information the procedures of the administrative judiciary. This paragraph does not apply to proceedings in which the HE is a litigant or representative in a personal capacity.

Comments:

- [1] *The requirement that HEs abstain from public comment regarding a pending or impending proceeding continues during any appellate process and until final disposition. A HE should not be influenced by the potential for personal publicity when making decisions in pending cases. Release of decisions to the media or notifying the media that the decision is available will be strictly scrutinized and rarely appropriate. This code does not prohibit a HE from commenting on proceedings in which the HE is a litigant in a personal capacity.*
- [2] *A HE should use caution in discussing the rationale for a decision and limit such discussion to what is already public record or controlling law.*

[3] *This canon is not intended to preclude participation in an association of Administrative Law Judges merely because such association makes public comments about a pending or impending proceeding in the administrative process. The Section is directed primarily at public comments by a HE concerning a proceeding before another judge.*

11. A HE shall not make pledges or promises to issue opinions on cases prior to being properly asked to consider such issues in authorized hearings nor shall the HE make commitments to rule in a particular fashion.
12. A HE shall comply with confidentiality standards and not disclose or use, for any purpose unrelated to administrative judicial duties, nonpublic information acquired in administrative judicial capacity.

Rule 2.3: Administrative responsibilities. A HE shall diligently discharge the HE's administrative responsibilities without bias or prejudice, maintain professional competence in judicial administration and cooperate with other HEs and non-judicial personnel in the administration of DOL Hearings and Interviews.

Rule 2.4: Supervisory Duties. A HE with supervisory authority for the performance of other HEs should take reasonable measures to ensure that HEs properly discharge their judicial responsibilities, including prompt disposition of matters before them. Orders shall be drafted and submitted to DOL for finalization no later than 30 calendar days, after the date of the hearing or the record closing, whichever is later; however, with supervisor approval, this may be extended.

Comment:

[1] *Public confidence in the administrative judicial system depends upon timely justice. To promote the efficient administration of justice, a HE with supervisory authority should take the steps needed to ensure that HEs administer their workloads promptly. Such steps include scheduling sufficient writing time for HEs to properly discharge their duties. This also includes the need to ensure that staff takes steps to complete their duties timely and efficiently to effectuate swift justice.*

Rule 2.5: Disciplinary responsibilities

1. A HE who receives information indicating a substantial likelihood that another HE has committed a violation of this Code shall take appropriate action.

2. A HE who receives information indicating a substantial likelihood that a lawyer or other representative has engaged in unprofessional conduct shall take appropriate action.
3. A HE shall cooperate, be candid, and honest with lawyer disciplinary agencies.

Comments:

[1] *Insofar as this is compliant with union disciplinary provisions, referral of a HE or lawyer to a substance abuse treatment agency is one example of appropriate action under paragraphs (1) and (2). Notification to the supervisor and bar association, if deemed appropriate, may certainly also be appropriate.*

[2] *Appropriate action may include direct communication with the HE or lawyer who has committed the violation, other direct action if available, reporting the violation in accordance with DOL policy, and reporting the violation to the WSBA.*

[3] *Appropriate action may also include notification to the DOL Hearings and Interviews Management Team.*

Rule 2.6: Disqualification

1. A HE shall disqualify her/him/themself in a proceeding in which the HE's impartiality might reasonably be questioned, including but not limited to the following circumstances:
 1. The HE has personal bias or prejudice concerning a party or a party's representative, or personal knowledge of disputed evidentiary facts concerning the proceeding;
 2. The HE knows that he/she/they served as a lawyer in the matter in controversy, or a lawyer with whom he/she/they previously practiced law served during such association as a lawyer concerning the matter, or he/she/they had been a material witness concerning it;
 3. The HE knows that he/she/they, individually or as a fiduciary, or the HE's spouse, or a person known by the HE to be within the third degree of relationship (including: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, cousin, child, grandchild, great-grandchild, nephew, or niece) to either of them, or the spouse of such a person:
 - (i) is a party to the proceeding, or acting as a lawyer in the proceeding;
 - (ii) is an officer, director or trustee of a party;

(iii) has any other interest that could be substantially affected by the proceeding;

(iv) is likely to be a material witness in the proceeding.

2. A HE shall keep informed about the HE's personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal economic interest of the HE's spouse and minor children residing in the HE's household.

Comments:

[1] *Under this rule, a HE is disqualified whenever the HE's impartiality might reasonably be questioned, regardless of whether any of the specific rules apply.*

[2] *A HE should disclose on the record information that the HE believes the petitioner or their counsel might consider relevant to the question of disqualification, even if the HE believes there is no real basis for disqualification.*

[3] *The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the HE is affiliated does not of itself disqualify the HE. Under appropriate circumstances, the fact that "the HE's impartiality might reasonably be questioned," or that the relative is known by the HE to have an interest in the law firm that could be "substantially affected by the proceeding" may require that HE's disqualification.*

3. A HE subject to disqualification under this Canon, other than for bias or prejudice, may disclose on the record the basis of the HE's disqualification and may ask the petitioner, and counsel if any, to consider, outside of the presence of the HE, whether to waive disqualification. If, following the disclosure, the petitioner, and counsel if represented, agree, without participation by the HE, that the HE should not be disqualified, the HE may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

Comment:

[1] *A HE's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.*

CANON 3:
**A HE SHALL CONDUCT THE HE'S EXTRAJUDICIAL ACTIVITIES TO
MINIMIZE THE RISK OF CONFLICT WITH ADMINISTRATIVE
JUDICIAL OBLIGATIONS.**

Rule 3.1: Extra-judicial activities in general. A HE is encouraged to engage in extrajudicial activities, but shall ensure that the activities:

1. Do not cast reasonable doubt on the HE's capacity to act impartially as a HE;
2. Do not detract from the dignity of quasi-judicial role, or undermine the HE's independence, integrity, or impartiality;
3. Do not interfere with the proper performance of the quasi-judicial duties; and/or
4. Are not incompatible with quasi-judicial office.

Comments:

[1] *Participation in both law-related and other extrajudicial activities helps integrate HEs into their communities and furthers public understanding of administrative proceedings. HEs are encouraged to engage in appropriate extrajudicial activities. HEs are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by volunteering, mentoring, speaking, writing, teaching, or participating in scholarly or academic projects. In addition, HEs are permitted and encouraged to engage in educational, religious, charitable, fraternal or civic extrajudicial activities not conducted for profit, even when the activities do not involve the law.*

[2] *Complete separation of a HE from extrajudicial activities is neither possible nor wise; a HE should not become isolated from the community in which the HE lives. Increasingly, social media and electronic communications are integral parts of community engagement, and this Code applies equally to traditional and online activities. These Canons, which govern a HE's conduct in person, on paper, or by telephone, also apply to electronic communications. Utilizing social media and the internet demands caution, and a HE should be mindful of the accessibility, widespread dissemination, and permanence of any material posted or endorsed.*

[3] *Expressions of bias or prejudice by a HE, even outside the HE's judicial activities, may cast reasonable doubt on the HE's capacity to act impartially as a HE.*

- [4] *Whether a HE's extrajudicial activities cast a reasonable doubt on the HE's capacity to act impartially will be judged by an objective reasonable person standard.*
- [5] *A HE should take care that any appearance at a public hearing, consultation with an executive or legislative body, or appointment to a governmental committee, commission or position does not cast doubt on the HE's ability to decide impartially regarding any issue or party that with reasonable foreseeability might come before the HE, unless the issue or party is one with respect to which the HE would in any event be disqualified under this Code or any other provision of law.*

Rule 3.2: Avocational activities. A HE may speak, write, lecture, teach, and participate in extrajudicial activities subject to the requirements of the Code. Any publication shall include a disclaimer that the views and opinions expressed are those of the author and not the position of DOL.

Comments:

- [1] *In this and other Sections of Canon 3, lists of permissible activities are intended to be illustrative and not exclusive.*
- [2] *As a judicial officer and person specially learned in the law, a HE is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law. To the extent that time permits, a HE is encouraged to do so, either independently or through a bar association, judicial conference or other organization dedicated to the improvement of the law. HEs may participate in efforts to promote the fair administration of justice, the independence of the administrative judiciary and the integrity of the legal profession. If the HE is presenting the DOL perspective, he/she/they shall confirm the DOL position with the Director.*

Rule 3.3: Affiliation with Discriminatory Organizations. A HE shall not hold membership in any organization that practices invidious discrimination on the basis of actual or perceived age, race, color, gender, sexual orientation, religion, national origin, disability, marital status, socio-economic status, or any other protected status enumerated by law. This provision does not prohibit a HE from holding membership and participating in a religious organization or an organization that is dedicated to the preservation of religious, ethnic, cultural, or other values of legitimate common interest to its members, for example affiliation and participation in girl scouts, boy scouts, etc. would not violate this rule.

Comments:

- [1] *Membership of a HE in an organization that practices invidious discrimination gives rise to perceptions that the HE's impartiality is impaired.*
- [2] *A HE's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of the Canon.*
- [3] *When a person who is a HE on the date this Code becomes effective learns that an organization to which the HE belongs engages in invidious discrimination that would preclude membership under this Code, the HE is permitted, in lieu of resigning, to make immediate effort to have the organization discontinue its invidiously discriminatory practices but is required to suspend participation in any other activities of the organization. If the organization fails to discontinue its invidiously discriminatory practice as promptly as possible (and in all events within a year of the HE's first learning of the practices), the HE is required to resign immediately from the organization.*

Rule 3.4: Participation in Educational, Governmental, Civic or Charitable Activities.

Subject to this code, a HE may participate, be a member, or serve in an organization or governmental agency, concerned with the law, legal system, administrative justice, educational, religious, charitable, or civic organizations, not conducted for profit, including but not limited to, the following activities:

1. Assisting such organization or entity in planning related to fundraising, and participating in the management of the organization's funds, or volunteering services or goods at fundraising events as long as the situation is not deemed coercive, and the following parameters are met:
 - (i) The HE does not use or permit use of the prestige of administrative judicial office or DOL for fund-raising or solicitation for membership;
 - (ii) The fund-raising or solicitation for membership is not directed at persons who have appeared, are appearing, or are foreseeably likely to appear before the HE;
 - (iii) The HE's participation in the fund-raising or solicitation for membership would not detract from the dignity of quasi-judicial office, or interfere with the proper performance of judicial duties or be incompatible with judicial office; and
 - (iv) The fund-raising or solicitation for membership is not otherwise prohibited by law.

2. Soliciting contributions from the HE's family and friends, including other HEs, so long as there is no supervisory authority;
3. Appearing at or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such organization or entity, but only if the event serves a fundraising purpose, the HE may do so only if the event concerns the law, the legal system, or the administration of justice;
4. Serving as an officer, director, trustee, or nonlegal advisor of such organization unless it is likely that the organization will come before the HE or be engaged in a hearing before the DOL Hearings and Interviews Unit, which is unlikely given the nature of the work before DOL Hearings and Interviews Unit.

Comments:

- [1] *Nothing in this section or code is meant to preclude a HE from lawful exercise of his/her/their first amendment rights to engage in religious freedom and membership in their chosen religion, to include proselytizing if that is part of their credo.*
- [2] *Mere attendance at an event, whether or not the event serves a fundraising purpose, does not constitute a violation. It is also generally permissible for a HE to serve as an usher or a food server or preparer, or to perform similar volunteer functions, at fundraising, community, civic events sponsored by educational, religious, charitable, fraternal, or civic organizations. Such activities are not solicitation and do not present an element of coercion or abuse the prestige of judicial office.*
- [3] *The changing nature of some organizations and of their relationship to the law makes it necessary for a HE to regularly reexamine the activities of each organization with which the HE is affiliated to determine if it is proper for the HE to continue the relationship to that organization.*
- [4] *Identification of a HE's position on an organization's letterhead for fundraising, membership, solicitation, other purposes, does not violate this section, provided the letterhead lists only the HE's name and office and so long as comparable designations are listed for other persons appearing on the letterhead. For example, a HE's name and title appearing on the charity's letterhead with the names and titles of others is permissible.*
- [5] *A HE may promote broader access to justice by encouraging lawyers to participate in pro bono legal services. Such encouragement may take many forms, including providing lists of available programs, training lawyers to do pro bono legal work, advising of an upcoming pro bono event and*

encourage participation, and participating in events recognizing lawyers who have done pro bono work.

Rule 3.5: Outside DOL Employment and Practice of Law. Unless otherwise proscribed by law or DOL regulation, a HE may seek and accept employment outside of DOL Hearings and Interviews Unit without violating this code, so long as: Human Resources is apprised and the “Outside Employment or Business Activity/Relationship” Form is filled out and approved by the Director and Human Resources to ensure there is not a conflict, such duties do not conflict with the HE’s responsibilities as a HE, and such duties do not involve functions related to prosecutions or adversarial presentations of DOL positions.

1. Consistent with this code and DOL regulations, a HE may practice law, so long as the activity does not affect the independent professional judgment of the HE or conflict with the HE’s official duties. The HE shall not appear before the DOL Hearings and Interviews Unit or be affiliated with any firm that regularly appears before the DOL Hearings and Interviews Unit.

Comment:

[1] A HE may act for himself or herself in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. However, in so doing, a HE must not abuse the prestige of office to advance the interests of the HE or the HE’s family.

Rule 3.6: Financial, Fiduciary Appointments, Gifts.

1. A HE shall not engage in financial and business dealings that adversely affect the HE’s impartiality or exploit the HE’s judicial position or involve the HE in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the DOL in which the HE serves.
2. A HE, subject to the requirements of this Code, may hold and manage investments of the HE and members of the HE’s family, including real estate, and engage in other remunerative activity.
3. HEs are subject to RCW 42.52.140 and 42.52.150, Ethics in Public Service Act. Consistent with the Ethics in Public Service Act and DOL regulation or policy a HE shall not accept a gift, bequest, favor, or loan from anyone except:
 - (i) A gift incident to a public testimonial, book, tapes and other resource materials supplied by a publisher on a complimentary basis for official use, or an invitation to the HE to attend a bar-related function or an activity devoted to the improvement of the law, the legal system or the administration of justice.

- (ii) A gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member of a HE residing in the HE's household, including gifts, awards and benefits for the use of both the spouse or other family member and the HE (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the HE in the performance of judicial duties;
 - (iii) A gift which is customary on a family and social occasion;
 - (iv) A gift from a relative or friend, for a special occasion such as a wedding, anniversary or birthday;
 - (v) A gift, bequest, favor or loan from a relative or close personal friend whose appearance or interest in a case would not in any event require disqualification in this Code;
 - (vi) A loan from a lending institution in its regular course of business on the same terms generally available to persons who are not HEs;
 - (vii) A scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or
 - (viii) Any other gift, bequest, favor or loan, only if the donor is not a party or other person who has come or is likely to come before the DOL.
4. A HE shall not serve as an executor, administrator, trustee, guardian, or other fiduciary if such service interferes with the proper performance of judicial duties. While acting as a fiduciary, a HE is subject to the same restrictions on financial activities that apply to the HE in the HE's personal capacity.

Comments:

[1] A HE must avoid financial and business dealings that involve the HE in frequent transactions or continuing business relationships with persons likely to come before the HE. In addition, a HE should discourage members of the HE's family from engaging in dealings that would reasonably appear to exploit the HE's judicial position.

[2] Participation by a HE in financial and business dealing is subject to the general prohibitions in Canon 3 against activities that tend to reflect adversely on impartiality, demean the judicial office, or interfere with the proper performance of judicial duties. Such participation is also subject to the general prohibition in Canon 2 against activities involving impropriety and the prohibition against the misuse of the prestige of judicial office. In

addition, a HE must maintain high standards of conduct in all of the HE's activities, as set forth in Canon 1.

[3] Subject to the requirements of this Code, a HE may hold and manage investments owned solely by the HE, investments owned solely by a member or members of the HE's family, and investments owned jointly by the HE and members of the HE's family.

[4] Because a gift, bequest, favor or loan to a member of the HE's family residing in the HE's household might be viewed as intended to influence the HE, a HE must inform those family members of the relevant ethical constraints upon the HE in this regard and discourage those family members from violating them. A HE cannot, however, reasonably be expected to know or control all of the financial or business activities of all family members residing in the HE's household.

[5] This Section prohibits HEs from accepting any gifts, favors, bequests or loans not otherwise enumerated, from lawyers or their firms if they have come or are likely to come before the HE.

[6] Gift-giving between friends and relatives is a common occurrence, and ordinarily does not create an appearance of impropriety or cause reasonable persons to believe that the HE's independence, integrity, or impartiality has been compromised. In addition, when the appearance of friends or relatives in a case would require the HE's disqualification under Canon 2, there would be no opportunity for a gift to influence the judge's decision making. There are no restrictions upon the ability of a HE to accept gifts or other things of value from friends or relatives under these circumstances.

[7] Businesses and financial institutions frequently make available special pricing, discounts, and other benefits, either in connection with a temporary promotion or for preferred customers, based upon longevity of the relationship, volume of business transacted, and other factors. A HE may freely accept such benefits if they are available to the public, or if the HE qualifies for the special price or discount according to the same criteria as are applied to persons who are not HEs.

Rule 3.7: Service as arbitrator or mediator. Unless otherwise prohibited by law or DOL regulation, a HE may act as an arbitrator or mediator independent of his or her administrative judicial duties, so long as such activity does not affect matters before DOL, the independent professional judgement of the HE or conflict with the HE's official duties.

Comment:

[1] *This Code does not prohibit HEs from acting as arbitrators or mediators in capacities outside their official administrative judicial duties.*

Rule 3.8: Compensation and Reimbursement for Extrajudicial Activities. Consistent with applicable law and regulation, a HE may receive compensation and reimbursement of expenses for the extrajudicial activities permitted by this Code, subject to the following restrictions:

1. Compensation shall not exceed a reasonable amount, nor shall it exceed what a person who is not a HE would receive for the same activity.
2. Expense reimbursement shall be limited to the actual cost (or per diem allowed) of travel, food, and lodging reasonably incurred by the HE and where appropriate to the occasion, by the HE's spouse or guest. Any payment in excess of such an amount is compensation.

Comments:

[1] *See Canon regarding reporting of gifts, bequests, and loans.*

[2] *This Code does not prohibit a HE from accepting honoraria or speaking fees provided the compensation is reasonable and commensurate with the task performed. A HE should ensure, however, that no conflicts are created by the arrangement. A HE must not appear to trade on the judicial position for personal advantage. Nor should a HE spend significant time away from judicial duties to meet speaking or writing commitments for compensation. In addition, the source of the payment must not raise any question of undue influence or the HE's ability or willingness to be impartial.*

CANON 4

A HE SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITY.

A HE shall abide by RCW 42.52.180 and WAC 292-110-020 governing political activity of state employees.

Comments:

[1] *Participation in political activities is a right of every person. Unless specifically prohibited by law, a HE may engage in political activity that does not affect the fairness, impartiality, or dignity of the HE's office. Further language of prohibition such as found in other codes of ethics was not included in this section because it is considered to be inappropriately and unnecessarily more restrictive than Washington law applicable to HEs as state employees.*