

Rule 3.6. Code of Conduct for Adjudicative Board Members

(a) General. The Adjudicative Board performs duties that safeguard the integrity and independence of the judiciary. The conduct of Adjudicative Board Members in the performance of their duties shall be in accordance with this Rule 3.6.

(b) Consent.

(1) *Acknowledgement and Consent.* By accepting appointment to the Adjudicative Board, each Adjudicative Board Member acknowledges and agrees to abide by the provisions of this Rule 3.6.

(2) *Removal.* If an Adjudicative Board Member violates this Rule and, in the Adjudicative Board's view, that violation cannot be adequately addressed internally, a majority of the Adjudicative Board may recommend to the Governor that the appointment of an attorney Adjudicative Board Member or non-attorney Adjudicative Board Member should be rescinded and the Adjudicative Board Member removed from the Adjudicative Board, or recommend to the Supreme Court that the appointment of a judge Adjudicative Board Member should be rescinded and the Adjudicative Board Member removed from the Adjudicative Board.

(c) Confidentiality.

(1) *Public Information.* On commencement of a formal proceeding, records of hearings (including audio recordings and transcripts), orders of the Adjudicative Board Panel, and pleadings and motions filed in the formal proceeding (unless subject to a protective order) are public.

(2) *Deliberative Communications.* The work product, deliberations, and internal communications of an Adjudicative Board Panel are confidential and shall not be disclosed.

(3) *Protection of Confidential Files.* Each Adjudicative Board Member shall take appropriate measures to protect confidential information and communications from disclosure.

(d) Appearance of Impropriety.

(1) *Private Conduct.* Adjudicative Board Members shall respect and comply with federal and state laws and shall conduct their personal and professional business at all times in a manner that promotes public confidence in the integrity and impartiality of the Adjudicative Board.

(2) *Representation before Adjudicative Board Panel.* No Adjudicative Board Member may represent a Judge concerning disciplinary proceedings that are pending or known to be contemplated against the Judge.

(3) *Independent Judgment.* In discharging the responsibilities of an Adjudicative Board Panelist, no Panelist shall allow the Panelist's business, professional, family, social, or other relationships to influence the Panelist's conduct or judgment.

(4) *Prestige of the Office.* An Adjudicative Board Member shall not lend the prestige of the Adjudicative Board Member's appointment to the Adjudicative Board to advance the private interests of the Adjudicative Board Member. Nor shall an Adjudicative Board Member convey to another person that such person's relationship with the Adjudicative Board Member could influence the decisions of an Adjudicative Board Panel.

(5) *Business Dealings.* Adjudicative Board Members shall refrain from professional, financial, and business dealings that may adversely reflect, directly or indirectly, on their impartiality, interfere with the proper performance of their duties, or exploit their position as Adjudicative Board Members.

(6) *Ex Parte Communications.* Adjudicative Board Members shall refrain from ex parte communications, except where allowed by the Code of Judicial Conduct, Rule 2.9.

(7) *Public Comments.* Adjudicative Board Members shall not communicate with the press, media outlets or platforms, or any member of the public about any proceeding under these Rules.

(e) Political Activity.

(1) *Judicial Campaigns.* No Adjudicative Board Member shall participate in or contribute to a campaign for or against the retention of a judge for another term in office.

(2) *Non-Judicial Campaigns.* No Adjudicative Board Member shall take any action in non-judicial campaigns that would be construed as the Adjudicative Board's viewpoint for or against a candidate or a public referendum.

(f) Use of State Resources. Adjudicative Board Members who utilize information technology, electronic communications, computers, or other resources provided by the state shall comply with the judicial branch policies applicable to the use thereof by judicial branch employees.

(g) Disqualification.

(1) *Disclosure.* Adjudicative Board Panelists shall disclose to the Adjudicative Board Panel and the parties any present or past family, personal, social, professional, financial, or

business relationship with the subject Judge, a lawyer who is representing the subject Judge, the complainant, or a witness. A lawyer Adjudicative Board Panelist also must disclose if the lawyer or the lawyer's law firm has one or more pending cases before the subject Judge. After such disclosure, if a Panelist self-disqualifies from participation in the formal proceeding on their own motion, the Panelist shall notify the parties and the State Court Administrator, who shall then randomly select another Panelist from among the Adjudicative Board's membership, ensuring that the composition of the newly constituted Adjudicative Board Panel complies with Article VI, Section 23(3)(c.5)(II) of the Colorado Constitution.

(2) *Motions for Disqualification.* Any party may move under C.R.C.P. 97 for disqualification of an Adjudicative Board Panelist from presiding over formal proceedings. The Adjudicative Board Panel shall grant the motion if a judge, similarly situated, would be required to disqualify under C.R.C.P. 97, applicable rules under the Code of Judicial Conduct, including Rules 1.2 and 2.11, and relevant advisory opinions issued by the Colorado Judicial Ethics Advisory Board. In deciding the motion, the Adjudicative Board Panel shall consider whether the Panelist's ability to participate fairly and impartially could reasonably be questioned, including, for example, where the Panelist:

- (A) is the Judge whose conduct is the subject of the formal proceedings;
- (B) was involved in events relating to the allegations;
- (C) has personal knowledge of evidence that is relevant to the allegations;
- (D) is or expects to be a material witness regarding the subject Judge's conduct;
- (E) is a close personal friend of the subject Judge;
- (F) has a personal bias for or against the subject Judge or the person who has alleged judicial misconduct; or
- (G) has a personal or professional relationship with a complainant or witness in the proceedings.

If the Adjudicative Board Panel grants a party's motion to disqualify a Panelist, the Adjudicative Board Panel shall notify the State Court Administrator, who shall then randomly select another Panelist from among the Adjudicative Board's membership, ensuring that the composition of the newly constituted Adjudicative Board Panel complies with Article VI, Section 23(3)(c.5)(II) of the Colorado Constitution.

(3) *Appearance before the Subject Judge.* A lawyer Adjudicative Board Panelist shall self-disqualify from an Adjudicative Board Panel's consideration of the conduct of a subject

Judge before whom the lawyer has one or more pending cases. A lawyer Adjudicative Board Panelist may self-disqualify from an Adjudicative Board Panel's consideration of the conduct of a subject Judge before whom the lawyer's firm has one or more pending cases.

(4) *Previous Complaints.* An Adjudicative Board Panelist is not necessarily disqualified by having participated in a previous formal proceeding against the subject Judge.