

TITLE 1 - GENERAL PROVISIONS

CHAPTER 1-13 CODE OF JUDICIAL CONDUCT

1-13-1 Purpose

The purpose of this Code is to establish standards that shall apply to all proceedings in the Courts of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.

JUDICIAL RULE 1

JR 1-13-101 Maintaining the Integrity of the Judicial System

- (a) A judge shall observe high standards of conduct so that the integrity, impartiality and independence of the judiciary are preserved and shall act at all times in a manner that promotes public confidence in the judiciary and the judicial system.
- (b) A judge shall not commit a criminal act.
- (c) A judge shall not engage in conduct that reflects adversely on the judge's character, competence, temperament or fitness to serve as a judge.
- (d) A judge shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
- (e) A judge shall not allow family, social or other relationship to influence judicial conduct or judgment.
- (f) A judge shall not use the position to advance the private interests of the judge or any person, nor shall a judge convey or permit anyone to convey the impression that anyone has a special influence with the judge, but a judge may provide a character or ability reference for a person about whom the judge has personal knowledge.
- (g) A judge shall not testify as a character witness except pursuant to subpoena.
- (h) A judge shall not hold membership in any organization that the judge knows is a discriminatory organization.

JUDICIAL RULE 2

JR 1-13-201 Impartial and Diligent Performance of Judicial Duties

- (a) A judge's performance of judicial duties shall take precedence over all other activities and a judge shall not neglect the business of the court.

(b) A judge shall provide to every person who has a legal interest in a proceeding, and to that person's lawyer, the right to be heard according to law.

(c) A judge shall not communicate or permit or cause another to communicate with a lawyer or party about any matter in an adversary proceeding outside the course of the proceeding, except with the consent of the parties or as expressly authorized by law or permitted by this rule.

(d) A judge may communicate ex parte when circumstances require for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits, provided that:

(1) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication; and

(2) the judge makes provision by delegation or otherwise promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(e) A judge shall promptly disclose to the parties any communication not otherwise prohibited by this rule that will or reasonably may influence the outcome of any adversary proceeding. The disclosure shall identify the person with whom the communication occurred and the substance of the communication, and the judge shall give the parties a reasonable opportunity to respond to the information disclosed.

#### JR 1-13-202 Public Comment

(a) A judge shall not, while a proceeding is pending in any court within the judge's jurisdiction, make any public comment that might reasonably be expected to affect the outcome or impair the fairness of the proceeding. The judge shall require similar abstention on the part of court personnel who are subject to the judge's direction or control. This rule shall not prohibit a judge from making public statements in the course of official duties, from explaining for public information the procedures of the courts, from establishing a defense to a criminal charge or civil claim against the judge or from otherwise responding to allegations concerning the judge's conduct in the proceeding.

#### JR 1-13-203 Honesty, Trustworthiness, or Fitness

(a) A judge possessing knowledge that another judge or a lawyer has committed a violation of the rules of judicial or professional conduct or law that raises a substantial question as to that individual's honesty, trustworthiness or fitness as a judge or lawyer shall inform the Tribal Council of the Tribes and the Disciplinary Agency of the appropriate Bar Association.

(b) A judge possessing knowledge or evidence concerning another judge or lawyer shall reveal that knowledge or evidence on request by an authority empowered to

investigate or act upon the conduct.

JR 1-13-204 Appointment

(a) A judge shall make any appointment only on the basis of merit.

JR 1-13-205 Disqualification

(a) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality reasonably may be questioned, including but not limited to the following:

(1) the judge has a bias or prejudice concerning a party or has personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously was associated served during the association as a lawyer in the matter, or the judge or the lawyer has been a material witness in the matter,

(3) the judge knows that the judge, individually or as a fiduciary, or the judge's extended family, wherever residing, or any other person residing in the judge's household has a financial interest in the subject matter in controversy, is a party to the proceeding or has any other interest that could be substantially affected by the outcome of the proceeding;

(4) the judge, the judge's extended family wherever residing, or any other person residing in the judge's household

(A) is a party to the proceeding, or an officer, director, partner or trustee of a party,

(B) is acting as a lawyer in the proceeding,

(C) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or

(D) is, to the judge's knowledge, likely to be a material witness in the proceeding.

(b) A judge shall be responsible for knowing about the judge's financial interests, including such interests relating to service as a fiduciary, and shall make reasonable efforts to be informed about the financial interests of the judge's extended family, wherever residing.

(c) A judge who is disqualified under this rule may, rather than withdraw from the proceeding, disclose on the record the basis of the disqualification. If, after such disclosure, the parties all agree in writing or on the record that the judge's relationship is

immaterial or that the judge's financial interest is insubstantial, the judge may participate in the proceeding. Any writing signed by or on behalf of all parties, shall be incorporated in the record of the proceeding.

JR 1-13-206 Faithful to the Law

(a) A judge shall be faithful to the law and shall decide matters on the basis of the facts and applicable law.

JR 1-1-3-207 Partisan Interests

(a) A judge shall not be swayed by partisan interests, public clamor or fear of criticism.

JR 1-13-208 Order and Decorum

(a) A judge shall maintain order and decorum in proceedings before the judge.

JR 1-13-209 Conduct

(a) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers, court personnel and members of the public.

(b) A judge shall not act in a way that the judge knows, or reasonably should know, would be perceived by a reasonable person as biased or prejudiced toward any of the litigants, jurors, witnesses, lawyers or members of the public.

JUDICIAL RULE 3

JR 1-13-301 Extra Judicial Activities, Minimizing the Risk of Conflict with Judicial Obligations

(a) A judge shall not serve as an officer, director, trustee or advisor of a private or public corporation or of an educational, religious, charitable, fraternal, political or civic organization if the corporation or organization regularly engages in proceedings that would ordinarily come before the judge or in adversary proceedings in the court.

JR 1-13-302 Solicitation Prohibited

(a) A judge shall not personally solicit funds for any private or public corporation or for any educational, religious, charitable, fraternal, political or civic organization or use or permit the use of the prestige of the judicial office for that purpose, but may be an officer, director or trustee of such an organization. This rule does not prohibit a judge from assisting an organization or governmental agency devoted to improvement of the law, legal education, the legal system, or the administration of justice in raising, managing or investing funds nor does it prohibit the judge from making recommendations to public- and private-granting agencies on projects and programs

concerning the law, legal education, the legal system, and the administration of justice

JR 1-13-303 Gifts, Bequests, Favors or Loans

(a) A judge shall not directly or indirectly accept gifts, bequests, favors or loans from anyone, except that a judge may accept

(1) gifts incident to a public testimonial to the judge, books supplied by publishers on a complimentary basis for official use or invitations to the judge to attend law-related functions or activities related to the improvement of law, legal education, the legal system or the administration of justice;

(2) ordinary social hospitality; gifts, bequests, favors or loans from relatives; gifts from friends for wedding, birthday or other personal occasions; loans from lending institutions in the regular course of business on terms generally available to persons who are not judges; or scholarships, fellowships or grants awarded on terms applied to other applicants,

(3) any other gift, bequest, favor or loan only if the donor is not a party or other person whose interests have come or are likely to come before the judge.

JR 1-13-304 Nonpublic Information

(a) Nonpublic information acquired by a judge in a judicial capacity shall not be used or disclosed for any purpose not related to judicial duties.

JUDICIAL RULE 4

JR 1-13-401 Political Activity by a Judge

(a) A judge shall not engage in political activity that

(1) involves persons, organizations or specific issues that would disqualify a judge under 1-13-21(j);

(2) creates a reasonable doubt about the judge's impartiality toward persons, organizations or factual issues that foreseeably may come before the court on which the judge serves, whether or not the judge would be disqualified;

(3) implies support by the judge in the judge's official capacity to a cause other than the improvement of the law, legal education, the legal system, or the administration of justice; or

(4) jeopardizes the political impartiality of the judicial branch of government.

(b) A judge shall not authorize any public official, or employee or other person who is

subject to the judge's direction or control to do anything that a judge may not do under JR 1-13-401(a)(1)-(4) or to do on the judge's behalf anything that the judge may not do under JR 1-13-401(a)(1)-(4).

JR 1-13-402 Misrepresentation, Pledges, or Promises

(a) A judge shall not:

- (1) Misrepresent the judge's identity, qualifications, present position, education, experience or other fact;
- (2) Make pledges or promises of conduct in office that could inhibit or compromise the faithful, impartial and diligent performance of the duties of the office;
- (3) Seek support for the judge or invite opposition to another judicial candidate because of membership by either candidate in a political organization, or
- (4) Publicly identify the judge, for the purpose of appointment, as a member of a political party other than by registering to vote.

JR 1-13-403 Candidate for elective public non judicial office

- (a) A judge shall resign the judicial office before becoming a candidate for an elective public non judicial office, which occurs when the judge announces the candidacy.
- (b) The provisions of JR 1-13-401(a)-(b) and JR 1-13-402(a) also apply to any person who becomes a candidate for an elective judicial office, which occurs when the person announces the candidacy.

JUDICIAL RULE 5

JR 1-13-501 Application of Judicial Rules

(a) Anyone, whether or not a lawyer, who is an officer of the court system of the Tribes performing judicial functions is a judge for the purposes of this Code. All judges shall comply with this Code except as provided otherwise in this rule.

JR 1-13-502 Conflict

(b) A person who serves as a judge shall not, except with the express consent of the parties and lawyers, accept a judicial assignment involving a lawyer or law firm that the person is then opposing, as a lawyer or a party, in any legal proceeding.

ORDER

These Rules shall govern all proceedings or actions filed in the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians Tribal Court.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2004.

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Don Owen Costello  
Chief Judge

Approved

\_\_\_\_\_  
Ron Brainard  
Chairperson

APPENDIX A

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

## JUDICIAL CONDUCT

### LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the "Judicial Conduct" Code, Resolution No. 04-065, Ordinance No. 060, in a business Tribal Council meeting on August 30, 2004. Vote was 7 (for), 0 (against) and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved the "Judicial Conduct" Code, Resolution No. 04-035, Ordinance No. 060, in a regular Tribal Council meeting on May 16, 2004. Vote was 7 (for), 0 (against) and 0 (abstaining).