



## Illinois Judicial Ethics Committee

### JUDICIAL ELECTION/CAMPAIGN FAQs

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The Illinois Judicial Ethics Committee (IJEK), a joint committee of the Illinois State Bar Association, the Chicago Bar Association, and the Illinois Judges Association, provides the following responses to Frequently Asked Questions (FAQs) as a service to candidates seeking election to judicial office in Illinois. These FAQs are intended to provide general guidance on common questions faced by judicial candidates. The FAQs are not intended to offer legal advice, provide a comprehensive analysis applicable to specific factual scenarios, or constitute a substitute for a candidate's own legal research and judgment.

Issues faced by candidates for judicial election in Illinois are generally governed by the Illinois Code of Judicial Conduct (Ill. Sup. Ct. R. 61 *et seq.*) or the Illinois Election Code (10 ILCS 5/1-1 *et seq.*). Additional guidance regarding those issues is contained in the IJEK's published opinions. See <https://www.ija.org/opinion-list>. The views of the IJEK expressed in these FAQs and its published opinions are not binding on the Judicial Inquiry Board, the Illinois Courts Commission, the Attorney Registration & Disciplinary Commission, or the courts.

**Last Updated:** *September 30, 2019*

#### **1. What activities may I engage in prior to declaring as a candidate?**

You may make inquiries to, and seek support from, elected officials and others to determine the viability of candidacy. You may ask people to join your committee or campaign team. You may not engage in any fundraising activities.

#### **2. When do I become a candidate?**

A candidate is defined in the Code of Judicial Conduct as "a person seeking public election for or public retention in judicial office. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election

authority, or authorizes solicitation or acceptance of contributions or support.” Illinois Code of Judicial Conduct, Terminology.

**3. May I personally circulate my nominating petitions?**

Yes. Supreme Court Rule 67B allows judicial candidates to circulate their own nominating petitions.

**4. May I personally circulate or sign other candidates’ nominating petitions?**

Yes, if in the same election. *See* IJEC Opinion 1998-02 (A judge may circulate and sign the nominating petitions of a judicial candidate when that judge is also a candidate in the same election).

**5. May I raise money for my campaign?**

No, you may not personally solicit campaign funds. All fundraising must be conducted by your campaign committee. Supreme Court Rule 67B(2) limits soliciting contributions no earlier than one year before an election and no later than 90 days after the last election in which the candidate participates during the election year. *See also* IJEC Opinion 1995-08 (judge may send a personally signed “thank you” note to campaign contributors).

**6. Is it necessary to form a campaign committee?**

Yes, it is necessary to form a campaign committee if your campaign intends to solicit funds from others. The primary functions of the campaign committee are to (a) raise money and (b) track and report funds received and expenses paid. To remain compliant with the Code of Judicial Conduct, it is advisable to form a campaign committee. However, it is not necessary to form a campaign committee if your campaign is self-funded and expenditures do not exceed the statutory threshold established by the Election Code.

**7. How do I form and organize a campaign committee?**

Supreme Court Rule 67B states that a candidate may establish a campaign committee, but is silent on the organization of a committee. The Illinois Election Code only requires that a Chairman and Treasurer be named. *See* 10 ILCS 5/9-2(f).

**8. How does my campaign committee get registered?**

Registration is governed by the Election Code.

**9. What authority does my campaign committee have?**

Supreme Court Rule 67B(2) states a campaign committee may “conduct campaigns for the candidate through media advertisements, brochures, mailings, [and] candidate forums....” The campaign committee may also “solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate’s campaign, and obtain public statements of support for his or her candidacy.” A candidate’s campaign committee may solicit and accept campaign

contributions no earlier than one year before an election and no later than 90 days after the last election in which the candidate participates during the election year. *See id.*

**10. May I serve as chair or treasurer of my campaign committee?**

No. Supreme Court Rule 67A(1)(d) states a judicial candidate shall not solicit funds. These activities are reserved for the candidate's campaign committee. The chair or treasurer of a campaign committee is inherently associated with any solicitation of funds by the committee. Because a candidate is prohibited from soliciting funds personally it follows that the candidate cannot do so on behalf of the candidate's committee.

**11. May a spouse or other family member serve as treasurer of my campaign committee?**

The Illinois Code of Judicial Conduct does not prohibit a spouse or family member from serving on the committee. However, Supreme Court Rule 67A(3) states the candidate shall encourage family members to adhere to the same standards of political conduct as apply to the candidate and shall prohibit those who serve at the pleasure of the candidate from doing on the candidate's behalf what the candidate is prohibited from doing under the provisions of the Supreme Court Rules. *See* IJEC Opinion 1996-01 (a candidate for judge or a member of the candidate's family is not prohibited from signing campaign fund checks to pay campaign expenses).

**12. May I personally seek endorsements of my campaign?**

Yes. There is no prohibition against a candidate personally seeking endorsements.

**13. May my campaign committee seek endorsements of my campaign?**

Yes. Supreme Court Rule 67B(2) allows campaign committees to "obtain public statements of support for his or her candidacy."

**14. May I campaign with other judicial candidates?**

Yes. There is no specific prohibition against a judicial candidate (whether the candidate is a judge or lawyer) campaigning with other judicial candidates. Furthermore, the Code of Judicial Conduct specifically allows judicial candidates to speak to gatherings on their own behalf, and publicly endorse or publicly oppose other candidates in a public election. Ill. Sup. Ct. R. 67B(1)(b)(i) and (iv). These types of allowed activities may be undertaken with other judicial candidates.

**15. May I campaign with non-judicial candidates?**

Yes. See answer to Question 14, above. The Illinois Code of Judicial Conduct's allowance of judicial candidate endorsements extends to other non-judicial candidates if they are running in the same public election. Supreme Court Rule 67B(1)(b)(iv). *See* IJEC Opinion 1994-11 (judge running for election may endorse judicial candidates or other candidates in the same election).

**16. May I jointly advertise with other judicial candidates?**

Yes. There is no specific prohibition against a judicial candidate (whether the candidate is a judge or lawyer) jointly advertising with other judicial candidates. Nevertheless, a candidate should be mindful that a judicial candidate is individually responsible to maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary. Supreme Court Rule 67A(3)(a).

**17. May I jointly advertise with non-judicial candidates?**

Yes. There is no specific prohibition against a judicial candidate (whether the candidate is a judge or lawyer) jointly advertising with other non-judicial candidates. Nevertheless, be mindful that a judicial candidate is individually responsible to maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary. Supreme Court Rule 67A(3)(a).

**18. May I wear a robe in any of my advertisements?**

Yes. An incumbent judge may wear a robe in political advertisements as long as doing so is consistent with the dignity, integrity, and independence of the judicial office. *Cf.* IJEC Opinion 1994-03 (judge may wear his or her robe in civic parade).

**19. What if I have a question about a specific advertisement?**

The IJEC does not ordinarily comment on specific campaign advertisements. A candidate is responsible for any ads published by his or her campaign committee.

**20. May I be on a slate card that lists all candidates of my party?**

Yes. Supreme Court Rule 67B(3) allows a candidate for judicial office in a public election to be listed on election materials along with the names of other candidates for elective office and to appear on promotions of the ticket.

**21. May I endorse other candidates?**

Yes. A judicial candidate (judge or lawyer) may publicly endorse or publicly oppose other candidates in a public election in which the judicial candidate is running. Supreme Court Rule 67B(1)(b)(iv). A judge who is not a candidate is prohibited from endorsing candidates for any office.

**22. May I personally solicit campaign contributions?**

No. Neither a judge nor a judicial candidate shall personally solicit or accept campaign contributions. Supreme Court Rule 67B(2). *See also Williams-Yulee v. Florida Bar*, 575 U.S. 1656 (2015) (upholding constitutionality of prohibition against solicitation of campaign contributions by judicial candidates).

**23. May I purchase tickets to political events?**

Yes. A judge or judicial candidate may purchase tickets for and attend political gatherings. Supreme Court Rule 67B(1)(a)(i).

**24. May I hold a fundraiser for my candidacy at my house?**

Yes. There is no specific prohibition against a judicial candidate (whether the candidate is a judge or lawyer) holding a campaign fundraiser for their own candidacy at his or her residence. Be mindful that you may not personally solicit or accept campaign funds, nor may you solicit individuals to attend the function. However, your campaign committee may engage in these activities. Supreme Court Rule 67B(2).

**25. May I accept donations from attorneys?**

No, you may not, but your campaign committee may. *See* Supreme Court Rule 67(B)(2). In accepting campaign contributions all candidates should keep in mind that if the total amount of the contributions from any one source is disproportionately large, that may provide the basis for a disqualification or recusal motion pursuant to the United States Supreme Court's analysis in *Caperton v. A.T. Massey Coal Co., Inc.*, 556 U.S. 868, 129 S. Ct. 2252 (2009).

If a party, a party's lawyer, or the law firm of a party's lawyer has made a direct or indirect contribution to the judge's campaign in an amount that would raise a reasonable concern about the fairness or impartiality of the judge's consideration of a case involving the party, the party's lawyer, or the law firm of the party's lawyer, the judge should consider whether recusal would be appropriate. Supreme Court Rules 63C and 63D.

Additionally, the IJEC has opined that a judge is disqualified from hearing any matters during an election campaign in which one of the parties is personally represented by the judge's campaign chairman. However, this is limited to the chair and not other lawyers associated with the chair. *See* IJEC Opinion 1996-20. Moreover, a judge is usually not disqualified simply because a lawyer or a party was a contributor to the judge's campaign. *See* IJEC Opinion 1993-11.

**26. What can individuals and family members do to help my campaign?**

Individuals may do anything within the election laws to help your campaign—such as raise money, solicit support, hand out literature, etc., unless they are judges, court employees or Hatch Act employees, subject to the same or similar restrictions as you.

Members of a judge's family are not governed by the Illinois Code of Judicial Conduct. Nevertheless, IJEC Opinion 2006-02 notes that a judge must encourage a spouse to limit activities in support of the judge's candidacy to those in which the judge is permitted to engage. However, that opinion also notes that a judge's spouse may engage in independent campaign activities in support of a candidate for public office including: (1) soliciting funds for the candidate; (2) publicly endorsing the candidate; (3) displaying a bumper sticker on a vehicle jointly owned by the spouse and judge and driven by the spouse; and (4) displaying a campaign sign in the yard of the home jointly owned by the spouse and judge.

**27. May I contribute to the party organization or candidate?**

Yes. A judicial candidate, including a judge who is a candidate for judicial office, may contribute to a political party or organization or candidate for public office. *See* Supreme Court Rule 67B(1)(a) and IJEC Opinions 1994-06 and 1996-12.

**28. May I loan money to my campaign?**

Yes. You may loan money to your campaign. You must disclose this on your campaign finance report filings.

**29. What am I allowed to say, or prohibited from saying, during my campaign?**

Pursuant to *Republican Party of Minnesota v White*, 536 U.S. 765 (2002), a candidate for judicial office may state personal views on legal, political or other issues but may not make pledges or promises other than the faithful and impartial performance of the duties of office. *See* Supreme Court Rule 67A(3)(d) and (e). A candidate also shall not knowingly or with reckless disregard for the truth, make, or permit or encourage others, including, his or her campaign committee, to make any false or misleading statement; or make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court. *See also* Supreme Court Rule 67A(3)(b), (c), (d)(ii), and (e).

**30. May I make any promises or pledges regarding how I will conduct myself if elected?**

Supreme Court Rule 67A(3)(d)(i) prohibits a judge from “mak[ing] statements that commit or appear to commit the candidate with respect to cases, controversies or issues within cases that are likely to come before the court.” General statements, such as a pledge to follow the law, are usually permissible.

**31. May I respond to questionnaires?**

You may. *But see* the limitations discussed in Questions 29 and 30, above.

**32. Is there a time limit on ending my campaign activities once the election is over?**

Yes. Pursuant to Supreme Court Rule 67B(2) a judge’s candidate committee “may solicit contributions . . . no later than 90 days after the last election in which the candidate participates during the election year.”

**33. When are written thank you letters to contributors permitted?**

Your committee may thank your contributors at any time. A judicial officer may sign thank you notes to contributors before and after the election. The IJEC has opined that a judge may send a personally signed “thank-you” note to campaign contributors. *See* IJEC Opinion 95-8.

**34. What may I do if my campaign committee has a debt (or a surplus) after the election?**

This is governed by the provision of the Illinois Election Code, 10 ILCS 5/9-5, regarding disposition of surplus funds of an inactive committee.

**35. May I keep working as an attorney after the election?**

A judge-elect is permitted to continue practicing law until sworn in as a judge. Thereafter, like all judges, the new judge is prohibited from practicing law. *See* Supreme Court Rule 65F

**36. Must a judge's name be removed from the firm name, and listing of lawyers, of the judge's former firm once the judge takes office?**

Yes. Several jurisdictions and authorities have concluded that a newly elected judge is required to remove promptly the judge's name from a law firm. *See* Gray, "Ethical Issues for New Judges," American Judicature Society (1996)

<https://www.ncsc.org/~media/Files/PDF/Topics/Center%20for%20Judicial%20Ethics/Publications/EthicalIssuesforNewJudges.ashx>.

Some limited relief from this requirement was referenced in IJEC Opinion 1998-08 ("A judge need not require his former firm to remove his or her surname from the name of the firm if the judge's foreseeable tenure on the bench does not constitute a substantial period of time"). *See also* Illinois Rule of Professional Conduct 7.5(c) ("The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.").