

**King County Bar Association Guidelines  
for the Conduct of Campaigns for Judicial Office  
June 2008**

**I. Introduction**

Contests for judicial office must be conducted in such a way as not to impair public confidence in the integrity and objectivity of the judicial process. The following Guidelines set forth minimum standards applicable to campaigns for judicial office. Compliance with these Guidelines does not relieve the candidate or the candidate's campaign committee from the standards established by Canon 7 of the Code of Judicial Conduct or any applicable state or local laws, rules, or regulations.

These Guidelines have been adopted by the Board of Trustees of the King County Bar Association (KCBA). Allegations of violations of the Guidelines will be investigated by the Fair Campaign Practices Committee of the KCBA, and may be considered by the Judicial Screening Committee of the KCBA in connection with its rating of candidates for judicial positions. The functions and operation of the Fair Campaign Practices Committee are outlined in more detail in Section III below.

**II. Guidelines**

**A. Applicability of the Guidelines**

These Guidelines apply to both primary and general judicial election campaigns involving candidates running for office in a jurisdiction that includes all or a portion of King County. These Guidelines apply to judges, lawyers seeking judicial office, and any person acting on their behalf, regardless of whether the candidate agrees to be bound hereby. Although candidates are not required by law to agree to be bound by these Guidelines, the failure to do so will be communicated to the KCBA Judicial Screening Committee for consideration in its rating of candidates for judicial positions.

**B. Fund Raising**

A candidate shall not personally solicit or accept campaign contributions. Nor shall a candidate or a candidate's campaign committee accept any sum that exceeds contribution limits established by the Public Disclosure Commission or that creates the appearance that the donor is seeking to gain advantage or special favor from the candidate in the performance of the duties of judicial office.

**C. Media and Campaign Statements**

**1. Campaign Statements in the Media or Otherwise**

- (a) Any material presented by a candidate or a candidate's campaign committee, including the candidate's statement of qualifications, shall reflect the dignity and integrity of the judicial office.

- (b) The candidate is responsible for reviewing and approving in advance of release all campaign advertisements, handbills, posters, releases to news media, scripts for television and radio broadcasts, and any other materials, statements and information issued by the candidate's campaign. The candidate is personally responsible for ensuring that such campaign materials, statements and information are truthful and not misleading.
- (c) Upon request of the KCBA and/or the KCBA's Fair Campaign Practices Committee, the candidate shall publicly repudiate, via press release or other public statement, any untruthful or misleading statement or any other conduct that violates these Guidelines of a political action committee, a political organization (as defined in 26 U.S.C. § 527), or any similarly situated organization that purports to be independent of and unaffiliated with any candidate for judicial office, but which nevertheless engages in advocacy or other conduct that has the effect of supporting or opposing a candidate. Such organizations collectively shall be referred to herein as a "Political Organization".
- (d) The King County Bar Association Fair Campaign Practices Committee "Opinion: Misleading Conduct", the current version of which is available on the KCBA website, [www.kcba.org](http://www.kcba.org), is incorporated by reference herein.

## **2. Conduct of Campaign**

A candidate should campaign only on the basis of facts and arguments related to the candidate's qualifications, or the qualifications of opponents, to be a capable and impartial jurist.

### **D. Appearances**

A judicial candidate or designated representative may appear before political, civic, or other organizations in the company of candidates for non-judicial offices, but shall not represent that the appearance is an endorsement of any non-judicial candidate.

### **E. Endorsements**

The candidate or the candidate's campaign committee shall not knowingly seek or refer to public endorsements by a party to litigation, including appeal, or a person or entity, including counsel, closely related to such litigation, where an endorsement of the candidate creates the appearance of improper use of judicial office.

### **III. The Fair Campaign Practices Committee**

#### **A. Function of the Committee**

The Fair Campaign Practices Committee (Committee) shall investigate allegations of unfair judicial campaign conduct and/or violations of these Guidelines that are presented in writing by a person not a member of the Committee through either a "complaint" or a "request for investigation". Once the Committee initiates an investigation, it may consider and take action with respect to all unfair campaign practices discovered through the investigation, including unfair practices that were not identified in the complaint or request for investigation.

#### **B. Membership**

The Committee shall consist of lawyers who are active members of the King County Bar Association. Retired judges also may serve on the Committee, but no active judges shall serve on the Committee.

Members shall be appointed to serve a three-year term, with the term of one-third of the Committee to end each year. Committee members whose terms are due to expire may request to be reappointed to an additional three-year term. To facilitate initiation of the use of staggered terms, one-third of committee members appointed in 2005 shall be appointed to one-year terms, one-third shall be appointed to two-year terms, and one-third shall be appointed to three-year terms. All newly appointed committee members in subsequent years shall be appointed to three-year terms.

No Committee member shall publicly endorse or oppose any candidate for judicial office or personally contribute to any such candidate's campaign. At each Committee meeting, the Committee Chair shall inquire of the attendees whether they are in compliance with this restriction. Any member of the Committee determined not to be in compliance with this limitation shall not participate in any pending investigation or deliberations pertaining to the judicial race(s) in which the member has publicly supported or opposed a candidate, including by but not limited to public endorsement or campaign contribution, and shall be excused from all future Committee involvement during the same election cycle pertaining to such judicial race(s).

#### **C. Complaints Against Candidates and/or Their Campaign Committees**

##### **1. Allegations and Response**

A complaint or request for investigation may be brought to the Committee by any person at any time. All complaints and requests for investigation shall be in writing and shall be given either to a member of the Committee or to the Executive Director of the King County Bar Association. Upon receipt of a complaint or request for investigation made with respect to an unfair campaign practice allegedly engaged in by a candidate or a candidate's campaign committee, the Committee shall provide a copy to the candidate against whom the complaint

or request for investigation is directed, and the candidate shall be provided an opportunity to respond in writing.

**2. Processing of Complaints and Requests for Investigation**

Each complaint or request for investigation should be assigned within one business day of its receipt to one or more Committee members for investigation. The investigation should be completed and a report made to the Committee within two business days after the investigation has been assigned. The Committee should meet and act on the report within one business day after its receipt. These time lines may be varied by the chair of the Committee as circumstances require.

**D. Complaints Against Political Organizations**

**1. Allegations and Response**

A complaint or request for investigation may be brought to the Committee by any person at any time. All complaints and requests for investigation shall be in writing and shall be given either to a member of the Committee or to the Executive Director of the King County Bar Association. Upon receipt of a complaint or request for investigation made with respect to an unfair campaign practice allegedly engaged in by a Political Organization, the Committee shall provide a copy of the complaint to all candidates in the judicial race with respect to which the alleged unfair campaign practice occurred.

**2. Processing of Complaints and Requests for Investigation**

Each complaint or request for investigation should be assigned within one business day of its receipt to one or more Committee members for investigation. The investigation should be completed and a report made to the Committee within three business days after the investigation has been assigned, and should include (but not necessarily be limited to) inquiry with each candidate in the affected judicial race, or the candidate's representative, to obtain their views as to whether the allegedly unfair campaign practice is in fact an unfair campaign practice. The Committee should meet and act on the report within one business day after its receipt. These time lines may be varied by the chair of the Committee as circumstances require.

**E. Committee Review and Action**

Five Committee members shall be a quorum for any Committee action. The Committee may ask interested parties to attend its post-investigation meeting. The Committee should make its decision on the date of its meeting. In reaching its decision as to whether an unfair campaign practice has occurred and in making its recommendations for corrective action, the Committee may take into account the standards set forth in RPC 8.2, the Code of Judicial Conduct, Washington's public disclosure laws and these Guidelines, prior decisions by the Committee in similar cases, any undue delay of the

initiating party in submitting the complaint or request for investigation, and the proximity of receipt of the complaint or request for investigation to the election, among other factors. Committee recommendations may include but are not limited to:

1. Finding no adequate basis for any allegation in the complaint or request for investigation and summarily dismissing the complaint or request for investigation without need for review and action by the Board. The Committee shall notify the complainant and each candidate in the affected judicial race of that dismissal. In the event the complaint or request for investigation contains multiple claims, and the Committee determines that some but not all claims should be dismissed, the Committee shall make a recommendation of dismissal to the Board as part of the report described in Section E.3 herein. The Board may consider that recommendation along with the other recommendations received from the Committee, pursuant to Section F.
2. With respect to complaints made against a candidate or a candidate's campaign committee, securing an agreed-upon resolution of the matter by the candidates that is satisfactory to the Committee. Such resolution may include securing from the candidate not complying with the Guidelines a public retraction of erroneous statements or an agreement to cease non-compliance.
3. With respect to complaints made against a candidate or a candidate's campaign committee, finding unfair campaign conduct with or without mitigating factors (such as inadvertent or unintentional conduct), in which case a written report will be made to the Board of Trustees, stating the findings and recommendations of the Committee, which may include but not be limited to a recommendation of public criticism by the Board or a recommendation that the Board forward the complaint or request for investigation to the Washington State Bar Association or the Washington Commission on Judicial Conduct for possible disciplinary action.
4. With respect to complaints made concerning alleged unfair campaign practices of a Political Organization, the Committee shall determine whether the challenged statement or other conduct of the Political Organization (1) supports or opposes a candidate and (2) would violate the Fair Campaign Practices Guidelines or other applicable standard if engaged in by a candidate. If the Committee determines that the answer to both of these questions is "yes", then the Committee shall contact the candidate supported by the Political Organization's statement or conduct and request that candidate publicly to repudiate, via press release, posting on the candidate's website, or other public statement that is disseminated or otherwise made available to the media covering the whole of King County, the challenged statement or conduct of the Political Organization. If the candidate agrees to repudiate the challenged statement or conduct, the candidate shall provide the Committee a copy of his or her repudiatory statement within three (3) days of the agreement, with a statement identifying to whom and the means by which it has been publicly disseminated. If the candidate fails to respond to the Committee's request or declines to provide a repudiatory statement, provides a

repudiatory statement that in the judgment of the Committee is not adequate to address the concerns raised by the Political Organization's challenged statement or conduct, or fails to provide timely evidence of when and how the repudiatory statement was publicly disseminated, the Committee shall convene again to determine whether to (1) renew its request to the candidate to make a satisfactory repudiatory statement or (2) recommend to the Board that action be taken against the candidate concerning his or her failure to make the requested repudiation in a form and manner satisfactory to the Committee. If the candidate makes a satisfactory repudiatory statement but does not provide timely evidence that it has been made publicly available in a manner that will allow for its dissemination throughout King County, the Committee may request the Executive Director to forward the candidate's repudiatory statement to media outlets that will allow such dissemination.

**F. Board of Trustees' Review and Action**

The Board of Trustees shall meet at the earliest feasible date to consider Committee findings and recommendations pursuant to Section E.3 or Section E.4. The Board or the President may ask interested parties to attend, and may permit the introduction of any statements or evidence that may be useful to its deliberations. The Board may adopt, modify, or reject the Committee's findings and recommendations. The Board shall promptly provide written notification to the candidate, the complainant, and other appropriate parties of its decision. The Board shall render its decision without regard to whether the complaint or request for investigation was received in adequate time for it to render a decision before the election at issue.

**G. Confidentiality of Proceedings.**

The complaint or request for investigation, the candidate's response (if any), and the findings and action of the Board (or Committee dismissal under Section E.1) shall be available to the public and may be disclosed to any persons or entities, including the media. The deliberations of the Committee and the Board of Trustees shall be confidential. The written findings and conclusions of the Committee shall also be confidential, except to the extent they may be referred to by Committee or Board members while interested parties are in attendance, or if the Board refers the matter to the Washington State Bar Association or the Washington Commission on Judicial Conduct for potential disciplinary action, or to the extent they are made publicly available by the Board in its discretion.

**AGREEMENT FOR CONDUCT OF JUDICIAL CAMPAIGNS**

Judicial integrity and independence of are indispensable to the administration of justice. The actions of candidates for judicial office affect the integrity of and independence of our judicial system reflecting both on the Washington State Judicial System and the State of Washington. Therefore, it is important that judicial election campaigns be conducted in a way that reflects the dignity and integrity of judicial office and independence of the judiciary.

As a judge or judicial candidate I acknowledge my responsibility to promote the establishment, maintenance and preservation of judicial integrity and independence by upholding the law and preserving the public trust and confidence in the justice system and by adhering to these principles in all matters concerning judicial elections

In keeping with these principles, I agree to familiarize myself with all applicable laws and regulations regarding judicial campaigns, including Canon 7 of the Code of Judicial Conduct, and to conduct my campaign in accordance therewith. I also agree to familiarize myself with and abide by the King County Bar Association's Guidelines for the Conduct of Campaigns for Judicial Office, a copy of which I have received. I shall also cause those managing my campaign to read this Agreement and to abide by its terms.

I further agree, upon request of the King County Bar Association and/or the King County Bar Association's Fair Campaign Practices Committee, to repudiate statements or other conduct of certain third parties that, if engaged in by a candidate, would violate the Code of Judicial Conduct and/or the Guidelines.

DATED: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(Printed Name)

**DECLINATION OF ABOVE AGREEMENT**

I decline to sign the above Agreement. I acknowledge that I have received a copy of the KCBA Guidelines for the Conduct of Campaigns for Judicial Office and that KCBA has asserted the right to enforce said Guidelines against me and persons acting on my behalf notwithstanding my lack of agreement thereto. I further acknowledge that the fact of my decision not to sign the above Agreement may be communicated to the KCBA Judicial Screening Committee for consideration in its rating of candidates for judicial positions.

DATED: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(Printed Name)