Guidelines for the Conduct of Campaigns for Judicial Office

Approved by the Board of Trustees January 16, 2019

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 4 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 KCBA's Fair Campaign Practices Committee, and may be considered by KCBA's Judicial Candidate Evaluation Committee 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 for Campaigns

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 KCBA's Judicial Candidate Evaluation Committee for consideration in its rating of candidates for judicial positions.

B. Fundraising
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 or Representations

1. Statements or Representations 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 representations, and information issued by the candidate's campaign. The candidate is personally responsible for ensuring that such materials, statements and information are truthful and not misleading. These guidelines contain examples of misleading practices, but these examples are not exclusive.

   c. Candidates may not misleadingly give the impression of incumbency in the office they seek. Examples of this include the following:

      i. Use of judicial robes in campaign advertising by candidates who are not incumbents for the position for which they are running, unless the candidate is, at the time of the campaign, a full-time, active judge (and not a commissioner, magistrate, pro tem judge, or administrative law judge). The candidate must clearly state his or her present judicial position and may not use the robes in such a way as to invite viewers to draw the erroneous conclusion that the candidate is an incumbent for the position sought.

      ii. Use of the title “judge” by lower court judges running for positions on higher courts in contexts that do not make their actual status clear. For example, a judge on the Seattle Municipal Court who seeks election to the King County Superior Court could create a false impression of incumbency by use of the term "Judge [Name] for Superior Court" unless he or she also clearly stated his or her present judicial position in the same advertising, e.g., "Municipal Court Judge [Name] for Superior Court."

      iii. Use of signs or namebadges that arrange and use the candidate’s name and the word “judge” in such a way as to invite viewers to draw the erroneous conclusion that the candidate is an incumbent judge.

      iv. A written introduction, profile, or document of any kind identifying the candidate as "judge" without clarifying the individual's actual, present judicial position, if the individual is not the incumbent.

   d. Upon request of KCBA, 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".

2. Conduct of Campaign & Code of Judicial Conduct
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. Candidates should not violate any judicial canons applicable to candidates, or other applicable law pertaining to judicial candidates.

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.

F. Promotion of Evaluations or Ratings.
Candidates who publicize any rating or evaluation received by any organization must identify the source of that rating or evaluation in text immediately following or adjacent to the text that reports the rating or evaluation. For example, "Well Qualified -- Loren Miller Bar Association."

III. The Fair Campaign Practices Committee
A. Function of the Committee
The Fair Campaign Practices Committee (the Committee) shall investigate allegations of unfair judicial campaign conduct and/or violations of these Guidelines that are presented in writing 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. A chairperson shall be appointed by the KCBA president and serve until his or her successor is appointed.

No Committee member shall publicly endorse or oppose any candidate for judicial office or personally contribute to any such candidate's campaign. Members must disclose to KCBA any close ties with an individual complainant or the subject of the complaint. 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 submitted to the KCBA Executive Director. 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, KCBA 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.

   If a candidate acknowledges and corrects the error upon notification without contesting the violation, the Committee chair is authorized to administratively close the complaint without further action by the committee.

2. Processing of Complaints and Requests for Investigation
   Each complaint or request for investigation should be assigned to Association staff and/or Committee members for investigation. The investigation should be completed and a confidential, non-public report made to the Committee. The chair may in his or her discretion combine similar complaints and/or summarily dismiss repetitive or nuisance complaints.

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 submitted to the KCBA Executive Director. If the organization acknowledges and corrects the error upon notification without contesting the violation, the Committee chair is authorized to administratively close the complaint without further action by the committee.
If the organization disputes the reported violation, KCBA 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 to Association staff and/or Committee members for investigation. The investigation should be completed and a confidential, non-public report made to the Committee 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 chair may in his or her discretion combine similar complaints and/or summarily dismiss repetitive or nuisance complaints.

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 the Rules of Professional Conduct, the Code of Judicial Conduct, Washington's public disclosure laws and these Guidelines, prior decisions by KCBA 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 or finding the complaint repetitive or a nuisance complaint, 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 without public statement by the Association. 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 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. If such mutual resolutions can be reached, they do not need to be considered by the Board.
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 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. Current and past board actions and statements, authorized for public release, shall be archived on the Association's website for public reference.

G. Confidentiality of Proceedings.
The complaint or request for investigation, the candidate's response (if any), and the deliberations of the Committee and the Board of Trustees shall be confidential. Only an action taken or statement issued by the Board may be released publicly, and the board, in its discretion, may send any record of action or statement to any persons or entities, including the media.
AGREEMENT FOR CONDUCT OF JUDICIAL CAMPAIGNS

Judicial integrity and independence 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 4 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 KCBA 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:____________________________  ________________________________________
(Signature)
(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 Candidate Evaluation Committee for consideration in its rating of candidates for judicial positions.

DATED:____________________________ __________________________________________
(Signature)
(Printed Name)