

The Constitution Project



## The Higher Ground

Standards  
of Conduct  
for Judicial  
Candidates

## Judges Are Not Politicians

Judicial candidates should not be political candidates in the traditional sense.

Political candidates are expected to represent the interests of a geographically defined group of people. They are expected to be partisan and favor a political party and certain interest groups. As a qualification for election, voters expect them to declare in advance their positions on controversial public policy issues.

As surprising as it may sound to some, judges do not, or at least should not, do any of these things.

They do not represent constituents. They represent the law. Their decisions must be based upon an informed and good faith interpretation of the law and the Constitution, not popular opinion or special interests.

Judicial candidates should not support any political or ideological agenda.

They should not declare in advance how they would decide a case, since the facts are different in each case. Such a declaration would be the equivalent of an umpire calling a pitch before it's thrown.



## The Right to Impartial Justice

If you enter a courtroom as a litigant, you have a right to expect three things:

That the judge is impartial.

That the judge is fair.

That the judge is knowledgeable about the law.

Wouldn't it be distressing if you had a case before a judge who had expressed an opposing position on cases such as yours during his or her campaign? Wouldn't it be equally disconcerting to know that your opponent in the case was a major campaign contributor to the judge?

Of course it would. Justice that is absolutely impartial is a cornerstone of democracy.

And yet these scenarios are played out in many courtrooms daily.

If justice is to remain impartial, the rulings of judges must be independent of popular opinion and political pressure.



## A Better Way

It stands to reason, therefore, that judicial candidates must be held to a higher standard in their campaign practices. The courts initiative (a program of the Constitution Project) has developed standards that will encourage candidates to seek the “higher ground” in their campaigns. The Higher Ground Standards create a yardstick against which all candidates can be judged.

The Standards were developed with the assistance of former judges, legal scholars, and good government groups. Almost all of them can be found in judicial canons that govern the behavior of judges. However, the Higher Ground Standards distill volumes of “legalese” into a few concise and easy-to-understand principles.

The Higher Ground Standards will imbue judicial campaigns with the principles that give Americans confidence in their justice system: honesty, dignity, and impartiality.



## Higher Ground Standards for Judicial Candidates

*The courts are often the last and best hope for the redress of grievances and the realization of justice. They protect the general welfare from those seeking privileged advantage, and preserve individual rights from the heavy hand of government. Our courts can decide cases fairly only when judges are free to make decisions according to the law and constitutional principles, without regard to political or public pressure.*

*Because of the unique role of judges in our democratic system, candidates for judicial offices must be held to higher standards than are candidates for other elected offices. Thus, judicial candidates must not only be unbiased and impartial, they must avoid any appearance of bias or impropriety.*

Therefore,

- 1. Candidates should refrain from making promises about how they will decide issues that may come before them as judges, since it would be improper for them to pre-judge a case.*
- 2. Candidates should solicit or accept campaign funds only through an official campaign committee.*
- 3. Candidates should disclose publicly each contributor's name, occupation and the amount of any contribution of one hundred dollars or more (or the amount specified by state law if it is lower) within five days of the donation.*

4. *Candidates should take responsibility for all advertising, statements, and other campaigning done on their behalf by staff and supporters, and should condemn all campaigning on their behalf that is misleading or unfair.*
5. *Candidates should not make misleading or unfair references to opponents or misrepresent their records.*
6. *Candidates should conduct themselves in a manner that promotes public confidence in the integrity, independence, and impartiality of the judiciary.*

*A judge's position is one of great and sacred trust. Judicial candidates should adhere to these and all principles that uphold the dignity of the courts, promote judicial independence, and avoid even the appearance of partiality.*

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