

Judicial Demeanor

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Funded By A Grant From The Texas Court Of Criminal
Appeals

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Congratulations!

You are a judge!

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Now . . .

How do you act like one?

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What do you think is proper judicial demeanor?

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Elements Of Proper Judicial Demeanor:

- Being competent
- Maintaining court order
- Being ethical



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How Can I Be Competent?

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Basics For The Bench

- Complete required judicial education
- Go observe different courts and talk to other judges
- Use the resources available to you

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Resources For Finding the Answer

- www.tjctc.org
 - Deskbooks, Forms, Charts and Checklists
 - Legal Question Board and Legal Calls
 - Recordings and Self-Pace Modules
- www.sll.texas.gov/legal-help
 - Has Texas Laws and Court Rules

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Helpful Resource Examples:

- New Judges Checklist
- Trial Scripts
- Upcoming live webinars



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Find New Judges Checklist

- Go to www.tjctc.org
 - Under Legal Resources tab, click Charts & Checklist
 - Click Officeholding and Ethics heading

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Find Trial Scripts

- Go to www.tjctc.org
 - Under Legal Resources tab, click Deskbooks
 - Click Trial Notebook (They are near the end.)

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Find Webinar Schedule

- Go to www.tjctc.org
 - Click Online Learning
 - Click Virtual Programs

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How Can I Maintain Order in the court?

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Order In The Court!

- Explain the process
- De-escalate
- Use contempt powers

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1. Explain The Court Procedure

- Use simple words and explanations for self-represented litigants
- Introduce your dockets
- Make sure everyone knows how the process is going to work

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2. De-escalation



- When people start to escalate during court or in your office, the best option is to maintain a calm demeanor and try to defuse the situation.
 - Recesses/breaks may help!
- Remember to recognize and accommodate people with mental health issues.

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3. Contempt

- Contempt is a tool a judge can use when someone behaves extremely inappropriately in court or does not follow a court order.
- Please note: A judge must be very careful to only hold someone in contempt for **interfering with court processes and justice**, and not because **they get upset or offended the judge personally**.
- Contempt rules/procedures for juveniles are different

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Types Of Contempt



Contempt may be:

- **Direct** – Occurs in the court’s presence
- **Constructive (Indirect)** – Occurs outside the court’s presence; as in failing to obey a court order

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Direct Contempt Examples

Outbursts by anyone participating in the trial, including officers of the court

Disruptive behavior by those observing the trial

Violation of a judge’s direct orders made in an attempt to maintain order or ensure a fair trial to the litigants

Repeatedly arguing or asking a question designed to bring in inappropriate evidence, despite a previous order from the judge to stop

Attempts to bribe or improperly influence a juror that are done in the court’s presence

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Constructive Contempt Examples

Failure or refusal to obey a court order

Hiding evidence

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Two Different Types Of Punishment

Punitive and Coercive (Not mutually exclusive)

- Punitive
 - \$100 Fine, 3 days in jail, or both
- Coercive
 - Put in jail until comply with court order (max 18 months)
 - May trigger right to jury trial and legal counsel if in jail for 6 months or more
- Notice and Hearing Required
 - Unless immediate punishment is necessary to maintain court order

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When Should I Use Contempt?

- Contempt should be used as a last resort
- Not used to bully or intimidate
- Think about alternatives to contempt

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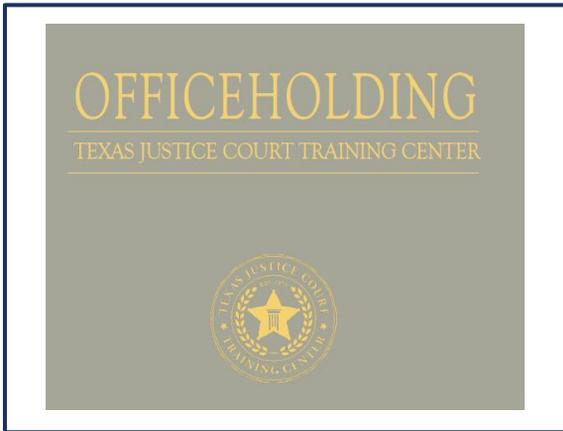
Alternatives of Contempt

No contempt for:

- Deferred Disposition violation
 - Violation results in conviction after a show cause hearing
- Driver Safety Court failure
 - Violation results in conviction after a show cause hearing
- Failure of an adult to pay fines and costs
 - Other procedures in Chapter 8 of the Criminal Deskbook

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For More Information On Contempt



- For more information on contempt procedures and contempt orders, see Chapter 3(A) of the Officeholding Deskbook.

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How Can I Be Ethical?

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Look to the Texas Code of Judicial Conduct

- 8 Canons that give standards for conduct (on and off the bench)
 - These standards are applied to court staff as well
- Code is not exhaustive
 - Judges should also be governed by their general ethical standards
- There are also advisory opinions to help understand and apply the code

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Next Session Has Class Questions



- You will discuss the questions on the slide at your table
 - You must decide if conduct is proper or not according to the code and advisory opinions and why or why not
 - Feel free to use www.tjctc.org as a resource
 - Nominate table spokesperson who will share your answer

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Canon 1 -

Upholding The Integrity And Independence Of The Judiciary



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Canon 1 Scenarios-Proper? Why?

1. Can a JP be the subject of a fund-raising roast?
2. Can a JP act as a prosecutor in any capacity?
3. Can a JP be a paid legal consultant for TV or movies?

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Canon 2

Avoiding Impropriety and the Appearance of Impropriety in All of the Judge's Activities



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Canon 2 ABC's

- Shall comply with laws
- Shall act in a manner that promotes public confidence in judiciary
- Shall not allow relationships to influence judgment or conduct

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Canon 2 ABC's Continued

- Shall not lend prestige of office to others
- Shall not knowingly hold membership in a group that discriminates

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Canon 2 Scenarios—Proper? Why?

1. Publicly endorse a candidate for public office?
2. Provide brochures that refer people to county bar lawyer referral service?
3. Testify voluntarily as a character witness?

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Canon 3

Performing the Duties of Judicial Office Impartially and Diligently

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Canon 3 ABC's

- Judicial duties take precedence over other activities
- Shall be faithful to and competent in the law
- Shall hear and decide matters assigned
 - Except when disqualification or recusal is appropriate

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Canon 3 ABC's Continued

- Require order and decorum in proceedings
- Require all to act courteous without bias or prejudice in your court

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Canon 3 ABC's Continued 2

- Shall not disclose or use nonpublic information received in a judicial capacity
- Yet, you must follow Rule 12/disclosure of judicial records that are public info
 - See Recordkeeping & Reporting Deskbook on "how to"

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Canon 3 ABC's Continued 3

- Do not comment about cases
 - However, this does not keep you from explaining procedures of the court
- Must inform State Commission on Judicial Conduct if another judge breaks code
- Must inform State Bar of Texas if an attorney breaks their rules of conduct

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Canon 3 Scenarios—Proper? Why?

1. Decide to not take truancy filings anymore?
2. Allow clerks to publicly comment on cases?
3. Recuse yourself because you are in a legal battle with defendant in a different court?

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Canon 4

Conducting the Judge's Extra-Judicial Activities to Minimize the Risk of Conflict with Judicial Obligations

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Canon 4 ABC's

- You can speak, write, and participate in activities that have to do with the legal system
- You can also be involved in and serve on a board for organizations, government agencies, civic groups or charitable activities that raise money, so long as you do not fundraise personally
- Refrain from financial activities that reflect adversely to impartiality or interfere with job duties

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Canon 4 ABC's Continued

- Generally, you or household family cannot accept outside gifts
 - Exceptions apply:
 - Incidental to public honor
 - Invitation to a judge and spouse to attend a bar-related function
 - Ordinary social hospitality from friend or relative
 - Must be commensurate with occasion and relationship
 - Do not take anything from a party whose interest have come or are likely to come before you as a judge

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Canon 4 ABC's Continued 2

- A full-time judge may not act as arbitrator or mediator for pay
 - Can encourage people to go to mediation
- Non-attorney JP's cannot practice law outside capacity as JP
- Attorney JP's cannot practice in their own court or anything related to one of their JP cases

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Canon 4 ABC's Continued 3

- Compensation and reimbursement allowed for extra-judicial activities if it does not appear to influence judicial duties and it is a reasonable amount
- Shall file financial and other legally required reports

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Canon 4 Scenarios—Proper? Why?

1. Attend a holiday party at a law firm that is open to public?
2. Accepting lower interest rate on car loan because you are a JP?
3. Be a speaker or guest of honor at an organization's fund-raising event?

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Canon 5

Refraining from Inappropriate Political Activity

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Canon 5 ABC's

- Shall not make pledges or promises about cases that suggest you are predisposed to a probable decision
- You cannot make false or reckless comments about an opponent
- Must resign once you become a candidate in a contested election for a non-judicial officer role

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Canon 5 ABC's Continued

- You may **not** endorse a candidate for **any** political office
 - You may attend events
 - May indicate support of political party

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Canon 5 Scenarios—Proper? Why?

1. Sharing a Facebook meme that says, “I back Minnie Mouse in 2024” or “I back Peter Pan in 2024”?
2. Sending out a mailer on your opponent with statements that have not been fact checked?
3. Keeping your job as JP after becoming a candidate for County Court at Law Judge in contested election?

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Canon 6

Compliance with the Code of Judicial Conduct

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Canon 6 ABC's

- Shall not have improper *ex parte* communication
- Code applies to temporary JP's and judicial candidates
- If the code is not followed, you may be sanctioned by the State Commission on Judicial Conduct

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Canon 7 & 8

- 7: Effective Date of Compliance
 - As soon as you can
- 8: Construction and Terminology of the Code
 - Purpose and definitions

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Finding the Code and Advisory Opinions?

■ www.tjctc.org

■ Officeholding and Ethics Deskbook



Officeholding and Ethics Deskbook

Revised January 2022. This deskbook contains information on lots of topics related to holding office as a justice of the peace, including ethics, elections, contempt, weddings, liability, and more!

[Click here to download a copy.](#)

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Do You Have Questions About Ethics Or A Canon?



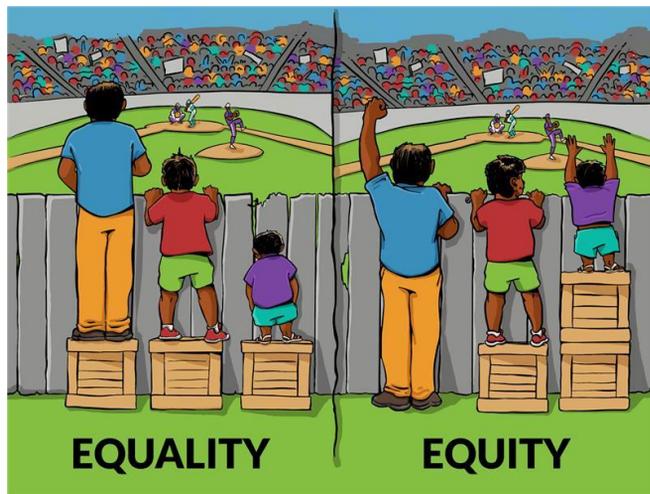
- Call a State Commission on Judicial Conduct attorney. They can provide information and guidance about ethics and the canons.
- 512-463-5533 – Main Number

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Remember: Equality vs. Equity

Equality: giving everyone in the room a size 11 shoe

Equity: giving everyone a shoe that is their size



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In Conclusion

- Many people in your court just need to be heard, even if they lose their case
- You can give people hope in the justice system by treating them fairly
- Treating people with kindness and dignity upholds the dignity of being a Justice of the Peace