

CODE OF JUDICIAL CONDUCT

Canon

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Canon

5. A Judge Should Regulate the Judge's Extrajudicial Activities to Minimize the Risk of Conflict with His or Her Judicial Duties
6. A Judge Should Regularly File Reports of Compensation Received for Quasi-Judicial and Extrajudicial Activities
7. A Judge Should Refrain from Political Activity Inappropriate to the Judicial Office

NOTE: This code of judicial conduct was adopted by the judges of the superior court effective Oct. 1, 1974. The Canons and accompanying commentaries are those adopted by the House of Delegates of the American Bar Association on August 16, 1972, as adapted to conform with Connecticut judicial procedures.

Canon 1. A Judge Should Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

(P.B. 1978-1997, Canon 1.)

Canon 2. A Judge Should Avoid Impropriety and the Appearance of Impropriety in All the Judge's Activities

(a) A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(b) A judge should not allow the judge's family, social, or other relationships to influence his or her judicial conduct or judgment. The judge should not lend the prestige of judicial office to advance the private interests of others; nor should the judge convey or permit others to convey the impression that they are in a special position to influence him or her. The judge should not testify voluntarily as a character witness.

(P.B. 1978-1997, Canon 2.)

COMMENTARY: Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. The judge must expect to be the subject of constant public scrutiny. The judge must therefore accept restrictions on his or her conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The testimony of a judge as a character witness injects the prestige of judicial office into the proceeding in which the judge testifies and may be misunderstood to be an official

testimonial. This Canon, however, does not afford the judge a privilege against testifying in response to an official summons.

Although a judge should be sensitive to possible abuse of the prestige of office, a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation. However, a judge must not initiate the communication of information to a sentencing judge or a probation or corrections officer but may provide to such persons information for the record in response to a formal request.

Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees seeking names for consideration, and by responding to official inquiries concerning a person being considered for a judgeship.

Canon 3. A Judge Should Perform the Duties of Judicial Office Impartially and Diligently

The judicial duties of a judge take precedence over all the judge's other activities. Judicial duties include all the duties of that office prescribed by law. In the performance of these duties, the following standards apply:

(a) **Adjudicative Responsibilities.**

(1) A judge should be faithful to the law and maintain professional competence in it. A judge should be unswayed by partisan interests, public clamor, or fear of criticism.

(2) A judge should maintain order and decorum in proceedings before the judge.

(3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of the judge's staff, court officials, and others subject to the judge's direction and control.

COMMENTARY: The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and businesslike while being patient and deliberate.

(4) A judge should accord to every person who is legally interested in a proceeding, or that person's lawyer, full right to be heard according to

law. A judge shall not initiate, permit or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

(A) Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:

(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(B) A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.

(C) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(D) A judge may, with the consent of the parties, confer separately with the parties and or their lawyers in an effort to mediate or settle matters pending before the judge.

(E) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

COMMENTARY: The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted.

To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.

Whenever presence of a party or notice to a party is required by Canon 3(a)(4), it is the party's lawyer, or, if the party is unrepresented, the party, who is to be present or to whom notice is to be given.

An appropriate and often desirable procedure for a court to obtain the advice of a disinterested expert on legal issues is to invite the expert to file a brief *amicus curiae*.

Certain ex parte communication is approved by Canon 3(a)(4) to facilitate scheduling and other administrative purposes and to accommodate emergencies. In general, however, a judge must discourage ex parte communication and allow it only if all the criteria stated in Canon 3(a)(4) are clearly met. A judge must disclose to all parties all ex parte communications described in Canons 3(a)(4)(A) and 3(a)(4)(B) regarding a proceeding pending or impending before the judge.

A judge must not independently investigate facts in a case and must consider only the evidence presented.

A judge may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions.

A judge must make reasonable efforts, including the provision of appropriate supervision, to ensure that Canon 3(a)(4)

is not violated through law clerks or other personnel on the judge's staff.

If communication between the trial judge and an appellate court with respect to a proceeding is permitted, a copy of any written communication or the substance of any oral communication should be provided to all parties.

(5) A judge should dispose promptly of the business of the court.

COMMENTARY: Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with the judge to that end.

(6) A judge should abstain from public comment about a pending or impending proceeding in any court, and should require similar abstention on the part of court personnel subject to the judge's direction and control. This subdivision does not prohibit judges from making public statements in the course of their official duties, from explaining for public information the procedures of the court, or from correcting factual misrepresentation in the reporting of a case.

(Amended June 29, 1998, to take effect Jan. 1, 1999; amended June 28, 1999, on an interim basis pursuant to the provisions of Sec. 1-9 (c) to take effect Jan. 1, 2000, and amendment adopted June 26, 2000, to take effect Jan. 1, 2001.)

COMMENTARY: "Court personnel" does not include the lawyers in a proceeding before a judge. The conduct of lawyers is governed by the Rules of Professional Conduct.

(b) Administrative Responsibilities.

(1) A judge should diligently discharge his or her administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

(2) A judge should require the judge's staff and court officials subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge.

(3) A judge should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware. A judge is not required to disclose information gained by the judge while serving as a member of a committee that renders assistance to ill or impaired judges or lawyers or while serving as a member of a bar association professional ethics committee.

COMMENTARY: Disciplinary measures may include reporting a lawyer's misconduct to an appropriate disciplinary body. The judge who receives this information still has discretion to report it to the appropriate authority, depending on the seriousness of the conduct and the circumstances involved.

(4) A judge, in the exercise of the judge's power of appointment, should appoint on the basis of merit, should avoid favoritism, and should make only those appointments which are necessary. A judge should not approve compensation of

appointees beyond the fair value of services rendered.

COMMENTARY: Appointees of the judge include officials such as referees, commissioners, special masters, receivers, guardians and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by this subdivision.

(5) A judge shall not knowingly advocate or knowingly participate in the appointment, employment, promotion or advancement of a relative in or to a position in the judicial branch. For purposes of this subdivision, relative means grandfather, grandmother, father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(c) Disqualification.

(1) A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(A) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(B) the judge served as lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

COMMENTARY: A lawyer in a governmental agency does not necessarily have an association with other lawyers employed by that agency within the meaning of this subparagraph; a judge formerly employed by a governmental agency, however, should disqualify himself or herself in a proceeding if his or her impartiality might reasonably be questioned because of such association.

(C) the judge knows that he or she, individually or as a fiduciary, or his or her spouse or minor child residing in the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(D) the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

COMMENTARY: The fact that a lawyer in a proceeding is affiliated with a law firm with which a lawyer-relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "the judge's impartiality might reasonably be questioned" under Canon 3(c)(1), or

that the lawyer-relative is known by the judge to have an interest in the law firm that could be "substantially affected by the outcome of the proceeding" under Canon 3(c)(1)(D)(iii) may require the judge's disqualification.

(iii) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) is to the judge's knowledge likely to be a material witness in the proceeding;

(2) Notwithstanding the foregoing, a judge may contribute to a client security fund maintained under the auspices of the court, and such contribution will not require that the judge disqualify himself or herself from service on such a client security fund committee or from participation in a lawyer disciplinary proceeding or in any matter concerning restitution or subrogation relating to such a client security fund;

(Amended June 29, 1998, to take effect Jan. 1, 1999.)

COMMENTARY: This is intended to make clear that the restrictions imposed by *Dacey v. Connecticut Bar Assn.*, 184 Conn. 21 (1981), or any implications therefrom should not be considered to apply to judges contributing to a client security fund under the auspices of the court.

(3) A judge is not automatically disqualified from sitting on a proceeding merely because a lawyer or party to the proceeding has filed a lawsuit against the judge or filed a complaint against the judge with the judicial review council. When the judge becomes aware that such a lawsuit or complaint has been filed against him or her, the judge should, on the record, disclose that fact to the lawyers and parties to the proceeding before such judge.

(Amended June 25, 2001, to take effect Jan. 1, 2002.)

(4) A judge should be informed about the judge's personal and fiduciary financial interests, and make a reasonable effort to be informed about the personal financial interests of his or her spouse and minor children residing in the judge's household.

(5) For the purposes of this section:

(A) the degree of relationship is calculated according to the civil law system;

(Amended June 29, 1998, to take effect Jan. 1, 1999.)

COMMENTARY: According to the civil law system, the third degree of relationship test would, for example, disqualify the judge if the judge's or the judge's spouse's parent, grandparent, uncle or aunt, sibling, or niece's or nephew's spouse were a party or lawyer in the proceeding, but would not disqualify the judge if a cousin were a party or lawyer in the proceeding.

(B) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(C) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

(i) ownership in a mutual or common investment fund that holds securities is not a “financial interest” in such securities unless the judge participates in the management of the fund;

(ii) an office in an educational, religious, charitable, fraternal, or civic organization is not a “financial interest” in securities held by the organization;

(iii) the proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a “financial interest” in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) ownership of government securities is a “financial interest” in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(d) Remittal of Disqualification.

A judge disqualified by the terms of Canon 3(c)(1)(C) or Canon 3(c)(1)(D) may, instead of withdrawing from the proceeding, disclose on the record the basis of the disqualification. If, based on such disclosure, the parties and lawyers, independently of the judge’s participation, all agree in writing that the judge’s relationship is immaterial or that the judge’s financial interest is insubstantial, the judge is no longer disqualified, and may participate in the proceeding. The agreement, signed by all parties and lawyers, shall be incorporated in the record of the proceeding.

(P.B. 1978-1997, Canon 3.)

COMMENTARY: This procedure is designed to minimize the chance that a party or lawyer will feel coerced into an agreement. When a party is not immediately available, the judge without violating this section may proceed on the written assurance of the lawyer that the party’s consent will be subsequently filed.

Canon 4. A Judge May Engage in Activities to Improve the Law, the Legal System, and the Administration of Justice

A judge, subject to the proper performance of his or her judicial duties, may engage in the following quasi-judicial activities, if in doing so the judge does not cast doubt on the judge’s capacity to decide impartially any issue that may come before him or her:

(1) A judge may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.

(2) A judge may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and may otherwise consult with an executive or legislative body or official, but only on matters concerning the administration of justice.

(3) A judge may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. The judge may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising activities. The judge may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

(P.B. 1978-1997, Canon 4.) (Amended June 29, 1998, to take effect Jan. 1, 1999.)

COMMENTARY: As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that time permits, the judge is encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law.

Extrajudicial activities are governed by Canon 5.

Canon 5. A Judge Should Regulate the Judge’s Extrajudicial Activities to Minimize the Risk of Conflict with His or Her Judicial Duties

(a) Avocational Activities. A judge may write, lecture, teach, and speak on nonlegal subjects, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of his or her office or interfere with the performance of his or her judicial duties.

COMMENTARY: Complete separation of a judge from extrajudicial activities is neither possible nor wise; a judge should not become isolated from society.

(b) Civic and Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon the judge’s impartiality or interfere with the performance of his or her judicial duties. A judge may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

(1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.

COMMENTARY: The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which he or she is affiliated to determine if it is proper to continue his or her relationship with it. For example,

in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

(2) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of his or her office for that purpose, but the judge may be listed as an officer, director, or trustee of such an organization. The judge should not be a speaker or the guest of honor at an organization's fund raising events, but may attend such events.

(3) A judge should not give investment advice to such an organization, but may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

COMMENTARY: A judge's participation in an organization devoted to quasi-judicial activities is governed by Canon 4.

(c) Financial Activities.

(1) A judge should refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of his or her judicial duties, exploit the judge's judicial position, or involve the judge in frequent transactions with lawyers or persons likely to come before the court on which he or she serves.

(2) Subject to the requirement of subdivision (1), a judge may hold and manage investments, including real estate, and engage in other remunerative activity including the operation of a business.

(3) A judge should manage his or her investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, he or she should divest himself or herself of investments and other financial interests that might require frequent disqualification.

(4) Neither a judge nor a member of the judge's family residing in the judge's household should accept a gift, bequest, favor, or loan from anyone except as follows:

(A) a judge may accept a gift incident to a public testimonial to the judge; books supplied by publishers on a complimentary basis for official use; or an invitation to the judge and the judge's spouse to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice;

(B) a judge or a member of the judge's family residing in the judge's household may accept ordinary social hospitality; a gift, bequest, favor, or loan from a relative; a wedding or engagement

gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; or a scholarship or fellowship awarded on the same terms applied to other applicants;

(C) a judge or a member of the judge's family residing in the judge's household may accept any other gift, bequest, favor, or loan only if the donor is not a party or other person whose interests have come or are likely to come before the judge, and, if its value exceeds \$100, the judge reports it in the same manner as he or she reports compensation pursuant to statute.

(5) For the purposes of this section "member of the judge's family residing in the judge's household" means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household.

(6) A judge is not required by this Code to disclose his or her income, debts, or investments, except as provided in this Canon and Canon 3 and as provided by statute.

COMMENTARY: Canon 3 requires a judge to disqualify himself or herself in any proceeding in which the judge has a financial interest, however small; Canon 5 requires a judge to refrain from engaging in business and from financial activities that might interfere with the impartial performance of his or her judicial duties; Canon 6 requires the judge to report all compensation the judge receives for activities outside his or her judicial office. A judge has the rights of an ordinary citizen, including the right to privacy of his or her financial affairs, except to the extent that limitations thereon are required to safeguard the proper performance of the judge's duties. Owning and receiving income from investments do not as such affect the performance of a judge's duties.

(7) Information acquired by a judge in his or her judicial capacity should not be used or disclosed by the judge in financial dealings or for any other purpose not related to his or her judicial duties.

(d) Fiduciary Activities. A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of his or her judicial duties. "Member of the judge's family" includes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. As a family fiduciary a judge is subject to the following restrictions:

(1) A judge should not serve if it is likely that as a fiduciary the judge will be engaged in proceedings that would ordinarily come before him or her, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.

COMMENTARY: The Effective Date of Compliance provision of this Code qualifies this subsection with regard to a judge who is an executor, administrator, trustee, or other fiduciary at the time this Code becomes effective.

(2) While acting as a fiduciary a judge is subject to the same restrictions on financial activities that apply to the judge in his or her personal capacity.

COMMENTARY: A judge's obligation under this Canon and obligation as a fiduciary may come into conflict. For example, a judge should resign as trustee if it would result in detriment to the trust to divest it of holdings whose retention would place the judge in violation of Canon 5(c)(3).

(e) Arbitration. A judge should not act as an arbitrator or mediator, except with respect to court annexed alternate dispute resolution programs.

(Amended June 29, 1998, to take effect Jan. 1, 1999.)

(f) Practice of Law. A judge should not practice law.

(Amended June 29, 1998, to take effect Jan. 1, 1999.)

(g) Extrajudicial Appointments. A judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. A judge, however, may represent his or her country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

(P.B. 1978-1997, Canon 5.) (Amended June 29, 1998, to take effect Jan. 1, 1999.)

COMMENTARY: Valuable services have been rendered in the past to the states and the nation by judges appointed by the executive to undertake important extrajudicial assignments. The appropriateness of conferring these assignments on judges must be reassessed, however, in light of the demands on judicial resources created by today's crowded dockets and the need to protect the courts from involvement in extrajudicial matters that may prove to be controversial. Judges should not be expected or permitted to accept governmental appointments that could interfere with the effectiveness and independence of the judiciary.

Canon 6. A Judge Should Regularly File Reports of Compensation Received for Quasi-Judicial and Extrajudicial Activities

A judge may receive compensation and reimbursement of expenses for the quasi-judicial and extrajudicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing the judge in judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions:

(1) Compensation. Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.

(2) Expense Reimbursement. Expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion,

by the judge's spouse. Any payment in excess of such an amount is compensation.

(P.B. 1978-1997, Canon 6.)

Canon 7. A Judge Should Refrain from Political Activity Inappropriate to the Judicial Office

Political Conduct in General.

(a) A judge should not:

(1) act as a leader or hold any office in a political organization;

(2) make speeches for a political organization or candidate or publicly endorse a candidate for public office;

(3) solicit funds for or pay an assessment or make a contribution to a political organization or candidate, attend political gatherings, or purchase tickets for political party dinners, or other functions.

(b) A judge should resign from office when the judge becomes a candidate either in a party primary or in a general election for a nonjudicial office, except that such a judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention, if the judge is otherwise permitted by law to do so.

(c) A judge should not engage in any other political activity except on behalf of measures to improve the law, the legal system, or the administration of justice.

Compliance with the Code of Judicial Conduct

(a) All full-time judges and family support magistrates appointed pursuant to General Statutes § 46b-231 (f) shall comply with this Code.

(b) Trial Referees and Senior Judges. The term "judge" includes senior judge and trial referee, except where the context clearly denotes a different meaning. Trial referees and senior judges are not required to comply with Canon 5 (d) and (g).

(Amended June 25, 2001, to take effect Jan. 1, 2002.)

Effective Date of Compliance

(a) This Code shall become effective on October 1, 1974.

(b) Persons to whom this Code becomes applicable should arrange their affairs as soon as reasonably possible to comply with it. If, however, the demands on an individual's time and the possibility of conflicts of interest are not substantial, a person who holds judicial office on the date this Code becomes effective may:

(1) continue to act as an officer, director, or nonlegal advisor of a family business;

(2) continue to act as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a family member.

(P.B. 1978-1997, Canon 7.)