

# PROPOSED AMENDMENT TO THE MICHIGAN CODE OF JUDICIAL CONDUCT 2(F) TO PROHIBIT MEMBERSHIP IN ORGANIZATIONS THAT PRACTICE INVIDIOUS DISCRIMINATION

## Issue

Should the Representative Assembly support the proposed amendment to the Michigan Code of Judicial Conduct 2(F) as presented below:

A judge should not allow activity as a member of an organization to cast doubt on the judge's ability to perform the function of the office in a manner consistent with the Michigan Code of Judicial Conduct, the laws of this state, and the Michigan and United States Constitutions. ~~A judge should be particularly cautious with regard to membership activities that discriminate, or appear to discriminate, on the basis of race, gender, or other protected personal characteristic.~~ **A judge shall not hold membership in any organization that practices invidious discrimination on the basis of religion, race, national origin, ethnicity, sex, gender identity, or sexual orientation.** Nothing in this paragraph should be interpreted to diminish a judge's right to the free exercise of religion.

## Synopsis

The Michigan Coalition for Impartial Justice is comprised of eleven affinity bar associations and sections of the Michigan State Bar. The member organizations include:

-American Indian Law Section; -Animal Law Section; -Arab American Bar Association; -Attorneys for Animals; -Business Law Section; -D. Augustus Straker Bar Association; -Detroit Metropolitan Bar Association; -Genesee County Bar Association; -LGBTQA Law Section; - Marijuana Law Section, - Michigan Asian-Pacific American Bar Association; -Washtenaw County Bar Association; -Women Lawyers Association of Michigan.

These groups ardently agree that no individuals who interact with a court of law, in any capacity, should suffer the impression that a judge is biased against them on account of their race, sex, gender identity, religion, national origin, ethnicity, or sexual orientation. Thus, we have united to eliminate bias--actual and perceived--from our courts. In order to obtain this goal, we propose an amendment to the Code of Judicial Conduct, Canon 2(F) for the reasons described herein that prohibit membership in organizations that invidiously discriminate.

## Background

### I. Development of Judicial Canons Concerning Judge's Membership in Organizations that Discriminate

*American Bar Association (ABA) Model Code Commentary – 1984: Judicial membership in organizations which practice invidious discrimination on the basis of race, sex, religion or national origin, as determined by the judge's own conscience, is "inappropriate"*

The ABA Code of Judicial Conduct ("Code") provides direction on the manner in which judges should conduct themselves. The objective of the Code is to maintain both the reality of judicial integrity and the appearance of that reality. Canon 2 of the Code instructs a judge to avoid impropriety and the appearance of impropriety in all of the judge's activities.

Before 1984, however, the ABA did not directly address the issue of judicial membership in private restricted organizations. Leslie W. Abramson, *Canon 2 of the Code of Judicial Conduct*, Marquette Law Review (Volume 79 Issue 4, Summer 1996). Because the Code did not prohibit judges from belonging to such organizations, the implication was that membership was permissible. *Id.* As a result of concerns that judicial participation in private club membership casts doubt on a judge's ability to rule impartially and does not advance the public's confidence in the judiciary's impartiality, the ABA added the following paragraph to the Code's Commentary for Canon 2 in 1984:

***It is inappropriate for a judge to hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion, or national origin.*** Membership of a judge in an organization that practices invidious discrimination may give rise to perceptions by minorities, women, and others, that the judge's impartiality is impaired. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined by a mere examination of an organization's current membership rolls but rather depends upon the history of the organization's selection of members and other relevant factors. ***Ultimately, each judge must determine in the judge's own conscience whether an organization of which the judge is a member practices invidious discrimination.***

*Id.* (emphasis added).

The 1984 ABA addition took a cautious approach to the issue by including it in Canon 2's Commentary rather than its black-letter standards. *Id.* The 1984 Commentary also did not require a judge to choose between the judgeship or the organizational membership, but left the decision on the issue to "the judge's own conscience." *Id.* Judges, then, were free to belong to discriminatory organizations. *Id.* (citing Steven Lubet, *Judicial Ethics and Private Lives*, 79 Nw. U. L. REV. 983, 1004 (1985).

*ABA Model Code – 1990 : Judges “shall not” hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or national origin.*

From 1987 to 1990, the ABA reviewed the entire model code. During that review, the question of membership in organizations that practice invidious discrimination “provoked more discussion...than any other topic” (Moser, “The 1990 ABA Code of Judicial Conduct: A Model for the Future,” 4 Georgetown Journal of Legal Ethics 731, 739 (1991)) and “inspired the most comment....” (Milord, The Development of the ABA Judicial Code at 17 (1992)).

Ultimately, in 1990, the ABA added Canon 2C to the black-letter language of Canon 2. Abramson, *supra*. Canon 2C states: “***A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or national origin.***”

The major change in the 1990 provision rendered the 1984 “non-mandatory, subjective” provision a “mandatory and objective” prohibition. Specifically, the canon replaced the phrase “it is inappropriate” with “shall not.” In addition, the language which relegated the decision over whether an organization practices invidious discrimination to a judge’s own conscience was removed.

In addition to the use of mandatory language within the Code, the ABA amended the Code to be gender neutral, rather than using only masculine pronouns. Abramson, *supra*.

The commentary to Canon 2C stated, in part, as follows:

Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge’s impartiality is impaired. Section 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization’s current membership rolls but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex or national origin persons who would otherwise be admitted to membership. *See New York State Club Ass’n. Inc. v. City of New York*, 108 S. Ct. 2225, 101 L. Ed. 2d 1 (1988); *Board of Directors of Rotary International v. Rotary Club of Duarte*, 481 U.S. 537, 107 S. Ct. 1940, 95 L. Ed. 2d 474 (1987); *Roberts v. United States Jaycees*, 468 U.S. 609, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984).

According to the ABA committee, “these provisions seek to balance a judge’s right of private association with the need of the public to be assured that every judge both gives the appearance of impartiality and is capable of fair and unbiased trial conduct and decisions.” Report No. 112, ABA Standing Committee on Ethics and Professional Responsibility Report to the House of Delegates and Recommendation at 7 (August 1990).

*Michigan’s Code of Judicial Conduct: Judges should “be particularly cautious” with regard to membership activities that discriminate*

In September 1990, the Representative Assembly of the State Bar of Michigan recommended that the Michigan Supreme Court amend the Code of Judicial Conduct. This recommendation stemmed from the joint recommendations of the Michigan Supreme Court’s Task Forces on Racial / Ethnic Issues in the Courts and Gender Issues in the Courts. With regard to a judge’s membership in

an organization that practices invidious discrimination, the Representative Assembly recommended the following amendments to what was then Canon 2C:

A judge should not allow his family, social, or other relationships to influence his judicial conduct or judgment. **A judge shall not hold membership in any organization that the judge knows invidiously discriminates on the basis of gender, race, religion, disability, age, sexual orientation, or ethnic origin.** ~~He~~**A judge** should not use the prestige of ~~his~~ **the judicial** office to advance the business interests of ~~himself~~ **the judge** or others. ~~He~~**A judge** should not appear as a witness in a court proceeding unless subpoenaed.

It was not until July 1993 that the Michigan Supreme Court adopted amendments to the Michigan Code of Judicial Conduct regarding a judge's participation in organizations.<sup>1</sup> However, the

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<sup>1</sup> In December 1990, SBM President James K. Robinson wrote an article in the SBM Journal, wherein he noted that the proposed amendments provide that judges and lawyers "shall not engage in invidious discrimination on the basis of race, religion, disability, age, sexual orientation, gender, or ethnic origin." He also noted that "under the proposed rules, judges and lawyers would be barred from membership in organizations engaging in invidious discrimination (i.e., arbitrary, irrational discrimination not reasonably related to a legitimate purpose)." James K. Robinson, *Discrimination and the Legal System*, SBM Journal (December 1990).

Also in the December 1990 article, Ingrid Farquharson and Elsa Shartsis wrote a column "Against the Proposals," wherein it was argued that the amendments would violate civil rights and be impractical to enforce. In writing "For the Proposals," Victoria A. Roberts argued that the compelling interest in eliminating invidious discrimination in the profession justifies the means and that there is a constitutionally protected right to be free from invidious discrimination. *Speaking Out: Can Rules Eliminate "Invidious Discrimination?"* SBM Journal (December 1990).

In response to the above, in March 1991, the Detroit News ran an article called "Keeping Lawyers Out of 'Bad Company,'" wherein journalist Chuck Moss sarcastically attacked the proposals. Because the Detroit News refused to publish a letter to the editor, which was written by Lorraine H. Weber, Clerk of the Representative Assembly, SBM President Michael Franck published Weber's letter in the SBM Journal instead. In introducing Weber's letter, Franck stated "It was obvious that Mr. Moss had not read the proposals in question. In virtually every respect, he either misstated or distorted the provisions. He thereby very successfully trivialized an important substantive issue." Weber's letter then went on to point out all of the inaccuracies in the Detroit News article, including Moss' false conclusions that the amendments would prohibit belonging to organizations like the Boy Scouts, Special Olympics, Catholic Church, Islam, or affiliated bar associations which celebrate certain ethnic backgrounds. Weber pointed out the inaccurate conclusions of Moss and stated: "Moss' fictional dialogue is the worst kind of propaganda, relying on distortion, innuendo and sarcasm to sway public opinion."

Then, in May 1991, an "Addendum re Invidious Discrimination" was published in the Michigan Bar Journal. In that addendum, Robinson noted that the current proposals concerning invidious discrimination by judges and lawyers have produced more mail, calls and comments than any other topic in recent memory. He further stated: "Unfortunately, too many of those who have been moved by this issue to speak out seem to be adherents to the view that one should never let the facts get in the way of one's opinions. This may be because too many have secured their information on the proposals from uninformed and incomplete accounts which have appeared in the public press rather than from the proposals themselves." As a result, Robinson noted that by order of the Michigan Supreme Court, the proposals on

Supreme Court fell short of prohibiting membership in organizations which invidiously discriminate.<sup>2</sup> Rather than amending Canon 2C as recommended to address membership in organizations which discriminate, the Supreme Court added section E to Canon 2, which included non-mandatory, subjective language:

A judge should not allow activity as a member of an organization to cast doubt on the judge's ability to perform the function of the office in a manner consistent with the Michigan Code of Judicial Conduct, the laws of this state, and the Michigan and United States Constitutions. ***A judge should be particularly cautious with regard to membership activities that discriminate, or appear to discriminate, on the basis of race, gender, or other protected personal characteristic.*** Nothing in this paragraph should be interpreted to diminish a judge's right to the free exercise of religion.

The Court noted that its “order varies in some respects from the recommendations of [the Task Force on Racial / Ethnic Issues in the Courts and the Task Force on Gender Issues in the Courts], but retains and emphasizes the central purpose: this Court's commitment to a policy that assures that all persons will be treated fairly, with courtesy and respect.” The court further noted that the Code of Judicial Conduct was being re-promulgated in a gender-neutral style that reflects the diversity of Michigan's judiciary. *Amendments to Rule 9.205 of the Michigan Court Rules, Rule 1.2 of the Michigan Rules of Professional Conduct, and to the Michigan Code of Judicial Conduct; Addition of Rule 6.5 to the Michigan Rules of Professional Conduct* (Michigan Bar Journal, August 1993).

To date, 43 states have adopted mandatory, objective language regarding a judge's membership in organizations which practice invidious discrimination. Michigan is one of the 7 states which has not yet done so. *See* Survey of the Law, *infra*.

*ABA Model Code – 2007 : The protected class broadens to include gender, ethnicity, and sexual orientation*

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invidious discrimination recommended by the Supreme Court's Bias Task Forces and the State Bar's Representatives Assembly were being published in that issue of the Bar Journal.

<sup>2</sup> This decision, however, was not unanimous. In fact, Justices Levin and Mallett dissented in part, stating that they concur in the amendment of Canon 2E of the Michigan Code of Judicial Conduct, but would go further and amend Canon 2E. to read as follows:

***A judge should not be a member of an organization that discriminates on the basis of race, gender, or other protected personal characteristic.*** A judge may, however, belong to an organization that has a particular demographic focus, provided, if the organization is law-related, that membership in the organization is open to all and it is committed to equal justice under law. If the organization has a particular demographic focus and is not law-related, a judge should not belong if the nature or objectives of the organization cast doubt on the judge's personal commitment to equal justice under law. Nothing in this paragraph should be interpreted to diminish a judge's freedom of religion.

Michigan Bar Journal, August 1993.

In the initial drafting of Canon 2C, the ABA included the categories of race, sex, religion and national origin because those are the only classes that are constitutionally protected. Milord, *supra*, at 16. In 2003, however, the ABA began an extensive review of the 1990 ABA Model Code. After three-and-one-half years of comprehensive study, those efforts culminated in the adoption of a revised ABA Model Code of Judicial Conduct in 2007. With regard to judges being members of organizations that practice invidious discrimination, the 2007 amendments broadened the protected classes to include gender, ethnicity, and sexual orientation, stating:

A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, ***gender***, religion, national origin, ***ethnicity, or sexual orientation***.

The comments to the amended Rule 3.6 provide, in part:

A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired.

An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited.

\* \* \*

A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule.

Although 27 states have amended their judicial canons to broaden the protected classes to include gender, ethnicity and sexual orientation, consistent with the ABA Model Rule, Michigan has not

followed suit. In fact, for more than 25 years, there have not been any substantive amendments to Michigan's Canon which addresses a judge's membership in organizations that discriminate.<sup>3</sup>

A list of all of the states and the language of their respective judicial canons is contained within the Survey of Law section, *infra*.

## **II. Justification for the Proposed Michigan Amendment**

It has been a long-standing concern that judicial membership in organizations that invidiously discriminate creates not only the appearance of impropriety, but also may lead to actual bias towards one classification of persons over another.

The notion that a judge's personal opinions and organizational membership affects his or her decisions on the bench has been a notable topic of interest in modern times. Consequently, numerous studies and articles have addressed this topic. Examples include articles like "Judicial Bias: Playing Favourites," Eric A. Posner, *The Economist*, by S.M., May 13, 2014; *Does Political Bias in the Judiciary Matter?: Implications of Judicial Bias Studies for Legal and Constitutional Reform*, University of Chicago Law Review, (Vol 75 No. 2, Spring, 2008); Latonia Haney Keith, *Cultural Competency in a Post-Model Rule 8.4(g) World*, Duke Journal of Gender & Law (Volume 25:1, 2017); Benjamin B Strawn, *Do Judicial Ethics Canons Affect Perceptions of Judicial Impartiality*, Boston University Law Review (Volume 88:781, 2008). The public's perception of the judicial system many times starts with its interactions with a judge. This fact places extra significance on every judge's conduct on and off the bench. In fact, the canons themselves declare the following:

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. A judge should always be aware that the judicial system is for the benefit of the litigant and the public, not the judiciary. The provisions of this code should be construed and applied to further those objectives.

Michigan Code of Judicial Conduct, Canon 1.

As a result, a majority of jurisdictions in the United States, the Federal Cannons, and the ABA, have specifically prohibited judicial membership in organizations that invidiously discriminate, which means that the membership of the organization excludes membership based on the race, religion, gender, sexual orientation, or national origin of the applicant. This is not to say that the canon prohibits members of the bench from exercising their First Amendment rights. See Comment on Judicial Cannon 3, Rule 3.6 of the Code. Judges are entitled to the same constitutional rights and protections as the rest of the country, but they have a specific duty to remain unbiased and impartial given their unique role as gatekeepers of the legal system.

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<sup>3</sup> Although the Michigan Supreme Court again made amendments to Canon 2 in 2013, the substance of Canon 2E remained intact; the amendments only resulted in 2E becoming 2F.

The perception that a judge is biased or impartial due to membership in an organization that discriminates based on race, religion, gender, sexual orientation, and/or national origin is particularly visible to the members of the community who have been excluded by such organizations. As noted by author Cynthia Gray, upon contemplation of revising the model judicial canons the ABA committee determined:

Membership of judges in exclusive organizations that invidiously discriminate creates understandable and predictable perceptions by significant segments of the public—particularly minorities and women—that the judicial members approve, or at least acquiesce, in the biases inherent in the organizations membership policies. The result is a perception, shared by a significant portion of the public, that judicial members cannot perform judicial functions impartially.

*Key Issues in Judicial Ethics: Organizations that Practice Invidious Discrimination*, American Judicature Society and the State Justice Institute (Order #843, July 1999), citing *Report No. 120, ABA Standing Committee on Ethics and Professional Responsibility Report to the House of Delegates and Recommendation* (7 August 1984).

Gray further notes that the ABA came to this conclusion based on “persuasive testimony from the very persons excluded” and thus it found that “the public perception of impartiality arising from judicial membership in organizations that invidiously discriminate could not be ‘brushed aside as insignificant or aberrant.’” *Id.*

Other jurisdictions have followed suit, noting the same reasoning required the change in their judicial canons. For example, Indiana noted in Indiana Advisory Opinion 1-94, the “very arbitrariness and irrationality of racial, sexual, religious or origin-based distinctions in a judge’s organization invites questions about the judge’s commitment to equality and fairness.” *Key Issues in Judicial Ethic* at 4. Likewise, North Dakota noted in an Advisory Opinion, “judges as community leaders, must be cognizant of how membership will be viewed by the public, especially in rural areas where they are more publicly recognizable in the organizations to which they belong.” *Id.*

Similar concerns are echoed in Michigan Ethics Opinion JI-109, wherein the commission correctly noted that regulations on judicial participation is important because:

[J]udges are supposed to be impartial, to make decisions based upon the law and the record of a case, and to uphold the law, judges should not declare their personal preferences regarding policy questions. If a judge has become identified with a particular interest group or position, and that group appears as a party or a similar issue arises before the judge in a pending matter, the judge may have to recuse himself or herself in order to preserve the fairness of the process.

JI-109, August 6, 1996.

This opinion dealt specifically with MCJC 3A(6), however similar reasoning can be applied to the need to have a clear and unambiguous language in Canon 2(F). The current language of Canon 2(F) is outdated and vague. For instance, the prior ABA rule on organizational membership, left open such a wide range of interpretation of the canon given the discretionary language, there was a very low



and sparse enforcement. Mark I. Harrison, *The 2007 ABA Model Code of Judicial Conduct: Blueprint For A Generation of Judges*, *The Justice System Journal* (Vol 28 No 3, 2007). Harrison noted:

To address the concern that a duty to avoid the appearance of impropriety was too vague for independent enforcement, the Commission's preliminary draft included comment to effect that ordinarily, when judges are disciplined for violating their duty to avoid the appearance of impropriety, it is a combination of other, more-specific rule violations that give rise to the appearance problem.

*Id.* at 262.

Without clear language that prohibits membership in organizations that discriminate invidiously, many members of the bench may not realize the impact their membership has on the individuals who appear before them. This is to say, this Coalition for Impartial Justice recognizes that there are members of the bench who may have joined an organization without any malicious intent to create an appearance of impropriety, because as many studies indicate, discrimination may occur because you cannot see it. Joan Williams, *et al.* *You Can't Change What You Can't See: Interrupting Racial & Gender Bias in the Legal Profession, Executive Summary*, ABA's Commission on Women in the Profession and the Minority Corporate Counsel Association (Executive Summary, 2018).

Moreover, as evidenced by the fact that the Michigan State Bar Representative Assembly, proposed this language previously, there is an obvious need and desire to have the canon reflect the expectations that our community has of our members of the bench. See Lorraine H. Weber, *Eliminating the Barriers Opening the Doors*, *Michigan Bar Journal*, (January, 2001).

Additionally, the State Bar of Michigan has already taken steps to address the growing need for diversity inclusion by challenging members to become more aware in recognizing the biases around them. Legal practitioners have been asked to take the Diversity Pledge and requested to maintain a "Diversity & Inclusion Advisory Committee" at their places of employment. In addition, many task forces such as Race Relations and Diversity Task Force, the Michigan Department of Civil Rights, and the ABA Commission on Women in the Profession, have continued to fight for diversification and equal access to the judicial system. Moreover, law makers have pushed for the extension of the Elliot-Larsen Civil Rights Act for the LGBTQ community in Michigan. However, the most glaring and overwhelming is the support and enthusiasm exhibited by the bar as a whole; evident through numerous sections and organizations hosting events that celebrate our diverse bar. It is clear that now is the time for the judicial canons to be revised to more accurately and clearly reflect the values of the Michigan legal community.

In conclusion, there is no justifiable reason for a member of the bench who is charged with the high duty of impartiality and un-biasness to be a member of an organization that invidiously discriminates, absent a justifiable and lawful exercise of the First Amendment. The negative impact that unquestionably results on the individuals who are discriminated against by the organization creates a clear perception of partiality and bias that the canons were specifically promulgated to prohibit.

**Opposition**

None known.

**Prior Action by Representative Assembly**

September 1990 (see above).

**Fiscal and Staffing Impact on State Bar of Michigan**

None known other than in relation to grievances filed against judges who violate the proposed amendment.

**STATE BAR OF MICHIGAN POSITION  
By vote of the Representative Assembly on September 26, 2019**

Should the Representative Assembly support the proposed amendment to the Michigan Code of Judicial Conduct 2(F) as presented above?

(a) Yes

or

(b) No

# APPENDIX 1

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Survey of Judicial Canons  
from Other States

STATE	CANON	LANGUAGE	MANDATORY?	BROAD PROTECTED CLASS?
Alabama	Canon 5	B. Civic and charitable activities. A judge may participate in civic and charitable activities that do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties. A judge may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization or institution 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 or institution will be engaged in proceedings that would ordinarily come before him 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 re-examine the activities of each organization with which he is affiliated to determine if it is proper for him to continue his relationship with it.	No	No
Alaska	Canon 2	C. A judge shall not hold membership in any organization that the judge knows* practices invidious discrimination on the basis of race, sex, religion or national origin, nor shall a judge regularly use the facilities of such an organization. A judge shall not arrange to use the facilities of an organization that the judge knows* practices invidious discrimination on the basis of race, sex, religion, or national origin unless there are no alternative facilities in the community and use of the facilities would not give rise to an appearance of endorsing the discriminatory practices of the organization. Commentary.—This Section prohibits a judge from holding membership in any organization that the judge knows engages in invidious discrimination on the basis of race, sex, religion or national origin. The membership of a judge in an organization that practices such discrimination gives rise to perceptions among the public that a judge is insensitive to minorities, women, and others protected against discrimination.	Yes	No
Arizona	Canon 3	Rule 3.6. Affiliation with Discriminatory Organizations (A) A judge shall not hold membership in any organization that practices invidious	Yes	Yes

	<p>discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. (B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices. (C) A judge's membership or participation in a religious organization as a lawful exercise of the freedom of religion, or a judge's membership or participation in an organization that engages in expressive activity from which the judge cannot be excluded consistent with the judge's lawful exercise of his or her freedom of expression or association, is not a violation of this rule. - 26 - Comment 1. A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired. 2. An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization stigmatizes excluded persons as inferior and odious, whether it perpetuates and celebrates cultures, historical events, and ethnic or religious beliefs, identities, or traditions, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited. 3. When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately</p>		
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		from the organization. 4. This rule does not prohibit a judge's national or state military service.		
Arkansas	Canon 3	<p>Rule 3.6 Affiliation with Discriminatory Organizations (A) A judge shall not hold membership in any organization that practices invidious discrimination. (B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination. A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.</p> <p>COMMENT [1] A judge's public manifestation of approval of invidious discrimination gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired. [2] Invidious discrimination will generally be demonstrated if an organizations' exclusionary membership practices are arbitrary, irrational, or the result of hostility or animus toward an identifiable group. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited. [2A] A judge may ordinarily be a member of an organization which is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited, even though that organization is a single sex or single race organization. Likewise, a judge may ordinarily be a member of an organization which is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, even though in fact its membership is limited. Similarly, a</p>	Yes	No

		<p>judge may have or retain membership with a university related or other living group, even though its membership is single sex. However, public approval of, or participation in, any discrimination that gives the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary violates this Code. For example, an organization that conducts lobbying or advocacy on behalf of its members may raise such concerns. Ultimately, each judge must determine in the judge's own conscience whether participation in such an organization violates Rule 3.6. [3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization. [4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule. [5] This Rule does not apply to national or state military service.</p>		
California	Canon 2	<p>C. Membership in Organizations A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. This canon does not apply to membership in a religious organization. ADVISORY COMMITTEE COMMENTARY: Canon 2C Membership by a judge in an organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation gives rise to a perception that the judge's impartiality* is impaired. The code prohibits such membership by judges to preserve the fairness, impartiality,* independence,* and honor of the judiciary, to treat all parties equally under the law,* and to avoid impropriety* and the appearance of impropriety.* Previously, Canon 2C contained exceptions to this prohibition for membership in religious organizations, membership in an official military organization of the United States and, so long as membership did not violate Canon 4A, membership in a nonprofit youth organization. The exceptions for membership in an official military organization of the United States and nonprofit youth organizations have been eliminated as exceptions to the canon. The exception for membership in religious organizations has been preserved. Canon 2C refers to the current practices of the organization. Whether an organization</p>	Yes	Yes

	<p>practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather depends on how the organization selects members and other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex, gender, national origin, ethnicity, or sexual orientation persons who would otherwise be admitted to membership. Although Canon 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation, a judge's membership in an organization that engages in any discriminatory membership practices prohibited by law* also violates Canon 2 and Canon 2A and gives the appearance of impropriety.* In addition, it would be a violation of Canon 2 and Canon 2A for a judge to arrange a meeting at a club that the judge knows* practices such invidious discrimination or for the judge to use such a club regularly. Moreover, public manifestation by a judge of the judge's knowing* approval of invidious discrimination on any basis gives the appearance of impropriety* under Canon 2 and diminishes public confidence in the integrity* and impartiality* of the judiciary in violation of Canon 2A. Ø CJEO Historical Notes: Commentary following canon 2C amended effective January 21, 2016; previously amended effective January 21, 2015, June 18, 2003, and March 4, 1999; adopted effective January 15, 1996. Canon 2C amended effective January 21, 2016; previously amended effective January 1, 2013 and June 18, 2003; adopted effective January 15, 1996. Ø CJEO Annotations: Membership in a Boy Scouts of America alumni group is permissible under the organization's policy prohibiting the denial of membership and employment on the basis of sexual orientation. CJEO Oral Advice Summ Judges who are</p>		
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		leaders of a Boy Scouts of America troop must investigate their troop's policies, practices, and values of common interest to determine whether their local troop practices invidious discrimination. CJEO Oral Advice Summary 2015-014, Judicial Membership in a Church-Sponsored Boy Scouts of America Troop, Cal. Supreme Ct., Com. Jud. Ethics Opns., pp. 2-3.		
Colorado	Canon 2	<p>Rule 3.6 Affiliation with Discriminatory Organizations (A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. (B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.</p> <p>Comment: [1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired. [2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation, persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited, such as scouting</p>	Yes	Yes

		organizations. [3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization. [4] This Rule does not apply to national or state military service.		
Connecticut	Canon 3	Rule 3.6 Affiliation with Discriminatory Organizations (a) A judge shall not hold membership in any organization that practices unlawful discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, physical or mental disability, or sexual orientation. When a judge learns that an organization to which the judge belongs engages in unlawful discrimination, the judge must resign immediately from the organization. (b) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices unlawful discrimination on one or more of the bases identified in subsection (a). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practice.	Yes	Yes
Delaware	Canon 3	Rule 3.6 Affiliation with Discriminatory Organizations (A) A judge should not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity or sexual orientation. Comment: Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge's impartiality is impaired. Rule 3.6 refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which a judge should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Other relevant factors include the size and nature of the organization and the diversity of persons in the	Yes	Yes

		<p>locale who might reasonably be considered potential members. Thus the mere absence of diverse membership does not by itself demonstrate a violation unless reasonable persons with knowledge of all the relevant circumstances would expect that the membership would be diverse in the absence of invidious discrimination. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity or sexual orientation persons who would otherwise be admitted to membership. .... When a judge determines that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Rule 3.6(A) or under Rules 1.1 and 1.2, the judge is permitted, in lieu of resigning, to make immediate and continuous efforts to have the organization discontinue its invidiously discriminatory practices. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within two years of the judge's first learning of the practices), the judge should resign immediately from the organization. (A) A judge should not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination on one or more bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of the Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.</p>		
Florida	Canon 2	<p>(C) A judge should not hold membership in an organization that practices invidious discrimination on the basis of race, sex, religion, or national origin. Membership in a fraternal, sororal, religious, or ethnic heritage organization shall not be deemed to be a violation of this provision. Comment on 2(C): Florida Canon 2C is derived from a recommendation by the American Bar Association and from the United States Senate Committee Resolution, 101st Congress, Second Session, as adopted by the United States Senate Judiciary Committee on August 2, 1990. Membership of a judge in an organization that practices invidious discrimination gives rise to</p>	Yes	No

	<p>perceptions that the judge's impartiality is impaired. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on the history of the organization's selection of members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. ... Other relevant factors include the size and nature of the organization and the diversity of persons in the locale who might reasonably be considered potential members. Thus the mere absence of diverse membership does not by itself demonstrate a violation unless reasonable persons with knowledge of all the relevant circumstances would expect that the membership would be diverse in the absence of invidious discrimination. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex, or national origin persons who would otherwise be admitted to membership. This Canon is not intended to prohibit membership in religious and ethnic clubs... civic organizations, ... young people's organizations, ... and charitable organizations...Although Section 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, religion or national origin, a judge's membership in an organization that engages in any discriminatory membership practices prohibited by the law of the jurisdiction also violates Canon 2 and Section 2A and gives the appearance of impropriety. In addition, it would be a violation of Canon 2 and Section 2A for a judge to arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, sex, religion or national origin in its membership or other policies, or for the judge to regularly use such a club. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2</p>		
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		and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Section 2A. When a person who is a judge on the date this Code becomes effective learns that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Section 2C or under Canon 2 and Section 2A, the judge is permitted, in lieu of resigning, to make immediate efforts to have the organization discontinue its invidiously discriminatory practices, but is required to suspend participation in any other activities of the organization. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within a year of the judge's first learning of the practices), the judge is required to resign immediately from the organization.		
Georgia	Canon 3	(A) A judge shall not hold membership in any organization that practices invidious discrimination. (B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination. (B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination. A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices. Commentary: [1] A judge's public manifestation of approval of invidious discrimination gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired. [2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership, position or participation on the basis of age, disability, ethnicity, gender or sex, marital status, national origin, race, religion, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of	Yes	Yes

		<p>an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited. [3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization. [4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule. [5] This Rule does not apply to national or state military service.</p>		
Hawaii	Canon 3	<p>Rule 3.6 Affiliation with Discriminatory Organizations (a) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, gender identity, gender expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or personal characteristics. (b) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in Rule 3.6(a). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices. COMMENT: [1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired. [2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or personal characteristics persons who would otherwise be eligible for admission. Whether an organization</p>	Yes	Yes

		practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited. [3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization. [4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule. [5] This Rule does not apply to national or state military service.		
Idaho	Canon 3	Rule 3.6 Affiliation with Discriminatory Organizations (A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. (B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices. (C) A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule.	Yes	Yes
Illinois	Canon 5; Canon 2	Rule 65: Canon 5. A Judge Should Regulate His or Her Extrajudicial Activities to Minimize the Risk of Conflict with the Judge's 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 the judge's office or interfere with the performance of the judge's judicial duties. Rule 62: Canon 2. A Judge Should Avoid Impropriety and the	No	No

		Appearance of Impropriety in All of the Judge's Activities. A. A judge should respect and comply with the law and should conduct himself or herself 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 the judge's judicial conduct or judgment. A judge should not lend the prestige of judicial office to advance the private interests of others; nor should a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.		
Indiana	Canon 3	Rule 3.6 Affiliation with Discriminatory Organizations (A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. (B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.	Yes	Yes
Iowa	Canon 3	Rule 3.6 Affiliation with Discriminatory Organizations (A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not prohibited. (B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.	Yes	Yes
Kansas	Canon 3	Rule 3.6 Affiliation with Discriminatory Organizations (A) A judge shall not hold membership	Yes	Yes



		in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. (B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph. (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.		
Kentucky	Canon 3	Rule 3.6 Affiliation with Discriminatory Organizations. (A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. (B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.	Yes	Yes
Louisiana	Canon 2	A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All Activities. C. A judge shall not hold membership in any organization that arbitrarily excludes from membership, on the basis of race, religion, sex or national origin, any persons who would otherwise be admitted to membership. The term "organization" shall not include, however, an association of individuals dedicated to the preservation of religious, ethnic, historical or cultural values of legitimate common interest to its members; or an intimate, distinctly private association of persons whose membership limitations would be entitled to constitutional protection.	Yes	No
Maine	Canon 3	Rule 3.6 Affiliation with Discriminatory Organization. A. A judge shall not hold membership in any organization that practices unlawful discrimination. A judge who is a member of such an organization at the effective date of this Rule, or who learns at a later time that an organization of which the judge is	Yes	No

		a member practices unlawful discrimination, may retain membership in the organization for a reasonable time not exceeding one year, but must resign if the organization does not discontinue its discriminatory practices within that time.		
Maryland	Canon 3	Rule 3.6 Affiliation with Discriminatory Organizations (a) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. (b) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (a). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.	Yes	Yes
Massachusetts	Canon 3	Rule 3.6 Affiliation with discriminatory organizations. (A) A judge shall not hold membership in any organization that practices invidious discrimination. (B) A judge shall not use the benefits or facilities of an organization if the judge knows or should be aware that the organization practices invidious discrimination. A judge's attendance at an event in a facility of such organization is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.	Yes	No
Michigan	Canon 2	F. A judge should not allow activity as a member of an organization to cast doubt on the judge's ability to perform the function of the office in a manner consistent with the Michigan Code of Judicial Conduct, the laws of this state, and the Michigan and United States Constitutions. A judge should be particularly cautious with regard to membership activities that discriminate, or appear to discriminate, on the basis of race, gender, or other protected personal characteristic. Nothing in this paragraph should be interpreted to diminish a judge's right to the free exercise of religion.	No	No, but includes gender
Minnesota	Canon 3	Rule 3.6 Affiliation with Discriminatory Organizations. (A) A judge shall not knowingly hold membership in any organization that practices unlawful discrimination. (B) A judge shall not use the	Yes	Yes

		<p>benefits or facilities of an organization if the judge knows or should know that the organization practices unlawful discrimination. A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices. Comment: [1] A judge's public manifestation of approval of unlawful discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices unlawful discrimination creates the perception that the judge's impartiality is impaired. [2] An organization is generally said to discriminate unlawfully if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, sexual orientation, or other classification protected by law, persons who would otherwise be eligible for admission. Whether an organization practices unlawful discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited. [3] When a judge learns that an organization to which the judge belongs engages in unlawful discrimination, the judge must resign immediately from the organization. [4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule. [5] This Rule does not apply to national or state military service.</p>		
Mississippi	Canon 2	<p>C. A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, gender, religion or national origin. Commentary: Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge's impartiality is impaired. Section 2C refers to the current practices</p>	Yes	No, but includes gender

	<p>of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, gender or national origin persons who would otherwise be admitted to membership. See <i>New York State Club Ass'n. v. City of New York</i>, U.S., 108 S.Ct. 2225, 101 L.Ed.2d 1 (1988); <i>Board of Directors of Rotary International v. Rotary Club of Duarte</i>, 481 U.S. 537, 107 S.Ct. 1940, 95 L.Ed.2d 474 (1987); <i>Roberts v. United States Jaycees</i>, 468 U.S. 609, 104 S.Ct. 3244, 82 L.Ed.2d 462 (1984). Although Section 2C relates only to membership in organizations that invidiously discriminate on the basis of race, gender, religion or national origin, a judge's membership in an organization that engages in any discriminatory membership practices prohibited by the law of the jurisdiction also violates Canon 2 and Section 2A and gives the appearance of impropriety. In addition, it would be a violation of Canon 2 and Section 2A for a judge to arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, gender, religion or national origin in its membership or other policies, or for the judge to regularly use such a club. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Section 2A. When a person who is a judge on the date this Code becomes effective learns that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Section 2C or under Canon 2 and Section 2A, the judge is permitted, in lieu of resigning, to make</p>		
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		<p>immediate efforts to have the organization discontinue its invidiously discriminatory practices, but is required to suspend participation in any other activities of the organization. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within a year of the judge's first learning of the practices), the judge is required to resign immediately from the organization.</p>		
Missouri	Canon 3	<p>Rule 2-3.6 Affiliation with Discriminatory Organizations. (A) A judge shall not hold membership in any organization that practices invidious discriminatory conduct against any person who is protected by law from discrimination. (B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination. A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule 2-3.6 when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices. Comment: [1] A reasonable person standard should be used to determine whether a judge's membership in the organization creates the perception that the judge's impartiality, integrity or independence is impaired. [2] Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited. [3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination against any person who is protected by law from discrimination, the judge must resign from the organization unless the organization corrects its practice within six months. [4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule 2-</p>	Yes	Yes

		3.6. [5] This Rule 2-3.6 does not apply to national or state military service.		
Montana	Canon 3	<p>Rule 3.6 Affiliation with Discriminatory Organizations. (A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. (B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A).</p> <p>A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices. (C) A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule. This Rule does not apply to national or state military service. COMMENT [1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired. [2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited. [3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the</p>	Yes	Yes

		judge must resign immediately from the organization.		
Nebraska	Canon 3	<p>§ 5-303.6. Affiliation with discriminatory organizations. (A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. (B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices. Comment: [1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired. [2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited. [3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization. [4] A judge's membership in a religious organization as a lawful exercise of the freedom of</p>	Yes	Yes

		religion is not a violation of this Rule. [5] This Rule does not apply to national or state military service.		
Nevada	Canon 3	Rule 3.6. Affiliation With Discriminatory Organizations. (A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. (B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.	Yes	Yes
New Hampshire	Canon 4	A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations. A. Extra-judicial Activities in General. A judge shall conduct all of the judge's extra-judicial activities so that they do not: (1) cast reasonable doubt on the judge's capacity to act impartially as a judge; (2) demean the judicial office; or (3) interfere with the proper performance of judicial duties. Commentary: Complete separation of a judge from extra judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives. Expressions of bias or prejudice by a judge, even outside the judge's judicial activities, may cast reasonable doubt on the judge's capacity to act impartially as a judge. Expressions which may do so include jokes or other remarks demeaning individuals on the basis of their race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status. See Section 2C and accompanying Commentary.	No	No
New Jersey	Canon 5	Canon 5: Rule 5.3 Affiliation with Discriminatory Organizations (A) A judge shall not hold membership in any organization that practices invidious discrimination on any of the bases prohibited by Rule 3.6(A). Comment: [1] A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired. [2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership, on the bases	Yes	Yes



		prohibited by Rule 3.6(A), persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination cannot be determined from an examination of an organization's current membership rolls, but rather depends on how the organization selects members, as well as other relevant factors, including but not limited to whether the organization is dedicated to religious, ethnic or cultural values of legitimate common interest to its members. Organizations dedicated to the preservation of religious, spiritual, charitable, civic or cultural values that do not stigmatize any excluded persons are not considered to discriminate invidiously. [3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization.		
New Mexico	Canon 2	Judicial employees shall avoid impropriety and the appearance of impropriety in all their activities.	No	No
New York	Section 100.2	A Judge Shall Avoid Impropriety and the Appearance of Impropriety in all of the Judge's Activities. (D) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of age, race, creed, color, sex, sexual orientation, gender identity, gender expression, religion, national origin, disability or marital status. This provision does not prohibit a judge from holding membership in an organization that is dedicated to the preservation of religious, ethnic, cultural or other values of legitimate common interest to its members.	Yes	No, but includes sexual orientation
North Carolina	Canon 2	A judge should avoid impropriety in all his activities. C. A judge should not hold membership in any organization that practices unlawful discrimination on the basis of race, gender, religion or national origin.	No	No, but includes gender
North Dakota	Canon 3	Canon 3: A judge shall conduct the judge's personal and extrajudicial activities to minimize the risk of conflict with the duties of judicial office. Rule 3.1: Extrajudicial Activities in General: a judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not: (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.	Yes	No

Ohio	Canon 4	(B) Memberships in Organizations that Practice Invidious Discrimination. A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, gender, religion, or national origin. Commentary: As an example of the meaning of the phrase, "subject to the requirements of this Code," a judge permitted by Canon 2(B) to serve on the board of a fraternal institution may be prohibited from such service by Canon 4(B) or Canon 2(A) if the institution practices invidious discrimination or if service on the board otherwise casts reasonable doubt on the judge's capacity to act impartially as a judge.	Yes	No
Oklahoma	NONE	NONE	NONE	NONE
Oregon	Rule 1.3; Rule 4.4	Rule 1.3 Definitions ... Discriminatory organization: An organization that, as a policy or practice and contrary to applicable federal or state law, treats persons less favorably in granting membership privileges, allowing participation, or providing services on the basis of sex, gender identity, race, national origin, ethnicity, religion, sexual orientation, marital status, disability, or age. Rule 4.4 Affiliation with Discriminatory Organizations (A) A judge shall not hold membership in an organization that the judge knows or should know is a discriminatory organization. (B) A judge shall not use the benefits or facilities of a discriminatory organization if the judge knows or should know that the organization is a discriminatory organization. A judge's attendance at an event of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's 14 attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's discriminatory practices.	Yes	Yes
Pennsylvania	Canon 3	Rule 3.6 Affiliation with Discriminatory Organizations. (A) A judge shall not hold membership in any organization that practices invidious discrimination in the basis of race, sex, gender identity or expression, religion, national origin, ethnicity, disability or sexual orientation. (B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's	Yes	Yes

		<p>attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices. Comment: (1) A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired. (2) An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender identity or expression, religion, national origin, ethnicity, disability or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited. (3) When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization. (4) A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule. (5) This Rule does not apply to national or state military service.</p>		
Rhode Island	Canon 3	<p>Rule 3.6 Affiliation with Discriminatory Organizations. (A) A judge* shall not hold membership in any organization that practices invidious discrimination. (B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination. A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices. Comment: [1] A judge's public</p>	Yes	Yes

		<p>manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety* and diminishes public confidence in the integrity* and impartiality* of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired. [2] An organization is generally said to discriminate invidiously if it, by way of example, arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, disability, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, may depend upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited. [4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule. [5] This Rule does not apply to national or state military service.</p>		
South Carolina	Canon 2	<p>A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities. C. A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or national origin. Commentary: Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge's impartiality is impaired. Section 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, or that it is in fact</p>	Yes	No

	<p>and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex or national origin persons who would otherwise be admitted to membership. See <i>New York State Club Ass'n. Inc. v. City of New York</i>, 487 U.S. 1, 108 S.Ct. 2225, 101 L.Ed.2d 1 (1988); <i>Board of Directors of Rotary International v. Rotary Club of Duarte</i>, 481 U.S. 537, 107 S.Ct. 1940, 95 L.Ed.2d 474 (1987); <i>Roberts v. United States Jaycees</i>, 468 U.S. 609, 104 S.Ct. 3244, 82 L.Ed.2d 462 (1984). An organization dedicated to the preservation of religious, spiritual, charitable, civic or cultural values, or a sororal, fraternal, alumni, or other college, university or school related organization, is not considered to discriminate invidiously if it does not stigmatize any excluded persons as inferior and therefore unworthy of membership. Although Section 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, religion or national origin, a judge's membership in an organization that engages in any discriminatory membership practices prohibited by the law of the jurisdiction also violates Canon 2 and Section 2A and gives the appearance of impropriety. In addition, it would be a violation of Canon 2 and Section 2A for a judge to arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, sex, religion or national origin in its membership or other policies, or for the judge to regularly use such a club. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Section 2A. When a person who is a judge on the date this Code becomes effective learns that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Section 2C or under Canon 2 and Section 2A, the judge is permitted, in lieu of resigning, to make immediate efforts to have the organization discontinue its invidiously discriminatory practices, but is required to suspend participation in any other</p>		
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		activities of the organization. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within a year of the judge's first learning of the practices), the judge is required to resign immediately from the organization.		
South Dakota	Canon 2	A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities. C. A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or national origin. Commentary: Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge's impartiality is impaired. Section 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex or national origin persons who would otherwise be admitted to membership. See <i>New York State Club Ass'n. Inc. v. City of New York</i> , 108 S. Ct. 2225, 101 L. Ed. 2d 1 (1988); <i>Board of Directors of Rotary International v. Rotary Club of Duarte</i> , 481 U.S. 537, 107 S. Ct. 1940 (1987), 95 L. Ed. 2d 474; <i>Roberts v. United States Jaycees</i> , 468 U.S. 609, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984). Organizations dedicated to the preservation of religious, fraternal, sororal, spiritual, charitable, civic, or cultural values, which do not stigmatize any excluded persons as inferior and therefore unworthy of membership, are not considered to discriminate invidiously. Although Section 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, religion or national origin, a judge's membership in an organization that engages in any	Yes	No

		<p>discriminatory membership practices prohibited by the law of the jurisdiction also violates Canon 2 and Section 2A and gives the appearance of impropriety. In addition, it would be a violation of Canon 2 and Section 2A for a judge to arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, sex, religion or national origin in its membership or other policies, or for the judge to regularly use such a club. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Section 2A. When a person who is a judge on the date this Code becomes effective learns that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Section 2C or under Canon 2 and Section 2A, the judge is permitted, in lieu of resigning, to make immediate efforts to have the organization discontinue its invidiously discriminatory practices, but is required to suspend participation in any other activities of the organization. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within a year of the judge's first learning of the practices), the judge is required to resign immediately from the organization. Source: SL 1993, ch 398 (Supreme Court Rule 93-15), eff. July 1, 1993; SL 2006, ch 274 (Supreme Court Rule 05-13), eff. Jan. 1, 2006.</p>		
Tennessee	Canon 2	<p>A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities. C. A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or national origin. Commentary: Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge's impartiality is impaired. Section 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as</p>	Yes	No

		<p>whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex, or national origin persons who would otherwise be admitted to membership. See <i>New York State Club Ass'n, Inc. v. City of New York</i>, 108 S. Ct. 2225, 101 L. Ed. 2d 1 (1988); <i>Board of Directors of Rotary International v. Rotary Club of Duarte</i>, 481 U.S. 537, 107 S. Ct. 1940, 95 L. Ed. 2d 474 (1987); <i>Roberts v. United States Jaycees</i>, 468 U.S. 609, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984). Although Section 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, religion or national origin, a judge's membership in an organization that engages in any discriminatory membership practices prohibited by the law of the jurisdiction also violates Canon 2 and Section 2A and gives the appearance of impropriety. In addition, it would be a violation of Canon 2 and Section 2A for a judge to arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, sex, religion, or national origin in its membership or other policies, or for the judge to use such a club regularly. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Section 2A. When a person who is a judge on the date this Code becomes effective learns that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Section 2C or under Canon 2 and Section 2A, the judge is permitted, in lieu of resigning, to make immediate efforts to have the organization discontinue its invidiously discriminatory practices, but is required to suspend participation in any other activities of the organization. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within a year of the judge's first learning of the</p>		
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		practices), the judge is required to resign immediately from the organization.		
Texas	Canon 2	<p>Avoiding Impropriety and the Appearance of Impropriety in All of the Judge’s Activities. C. A judge shall not knowingly hold membership in any organization that practices discrimination prohibited by law. Commentary: Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge’s impartiality is impaired. Canon 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization’s current membership rolls but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. See <i>New York State Club Ass’n. Inc. v. City of New York</i>, 487 U.S. 1, 108 S. Ct. 2225, 101 L. Ed. 2d 1 (1988); <i>Board of Directors of Rotary International v. Rotary Club of Duarte</i>, 481 U.S. 537, 107 S. Ct. 1940, 95 L. Ed. 2d 474 (1987); <i>Roberts v. United States Jaycees</i>, 468 U.S. 609, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984). Other relevant factors include the size and nature of the organization and the diversity of persons in the locale who might reasonably be considered potential members. Thus the mere absence of diverse membership does not by itself demonstrate a violation unless reasonable persons with knowledge of all the relevant circumstances would expect that the membership would be diverse in the absence of invidious discrimination. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex, or national origin persons who would otherwise be admitted to membership. Although Canon 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, religion or national origin, a judge’s membership in an organization that engages in any invidiously discriminatory membership practices prohibited by</p>	Yes	Yes

		<p>applicable law violates Canons 2 and 2A and gives the appearance of impropriety. In addition, it would be a violation of Canons 2 and 2A for a judge to arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, sex, religion, or national origin in its membership or other policies, or for the judge to use such a club regularly. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Canon 2A. When a judge determines that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Canon 2C or under Canons 2 and 2A, the judge is permitted, in lieu of resigning, to make immediate and continuous efforts to have the organization discontinue its invidiously discriminatory practices. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within two years of the judge's first learning of the practices), the judge should resign immediately from the organization.</p>		
Utah	Canon 3	<p>Affiliation with Discriminatory Organizations (A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule. (B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join under paragraph (A) is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices. Commentary: [1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices</p>	Yes	Yes

		<p>invidious discrimination creates the perception that the judge's impartiality is impaired. [2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation, persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited, such as scouting organizations. [3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization. [4] This Rule does not apply to national or state military service.</p>		
Vermont	Canon 2	<p>C. A judge shall not hold membership in any organization that, in the selection of members, practices invidious discrimination on the basis of race, sex, sexual orientation, religion, or national origin. A judge who is a member of such an organization at the effective date of this Section C, or who learns at a later time that an organization of which the judge is a member practices such discrimination, may retain membership in the organization for a reasonable time not exceeding one year, but must resign if the organization does not discontinue its discriminatory practices within that time.</p>	Yes	No, but includes sexual orientation
Virginia	Canon 2	<p>C. A magistrate shall not hold membership in any organization that practices invidious discrimination on the basis of race, gender, religion or national origin. Commentary: Membership of a magistrate in an organization that practices invidious discrimination gives rise to the perception that the magistrate's impartiality is impaired. Section 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which magistrates should be sensitive. The answer cannot</p>	Yes	No, but includes gender

		<p>be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, or that it is in fact and effect an intimate, purely private organization. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, gender or national origin persons who would otherwise be admitted to membership. Although Section 2C relates only to membership in organizations that invidiously discriminate on the basis of race, gender, religion or national origin, a magistrate's membership in an organization that engages in any discriminatory membership practices prohibited by the law of the jurisdiction also violates Canon 2 and Section 2A and gives the appearance of impropriety. In addition, it would be a violation of Canon 2 and Section 2A for a magistrate to arrange a meeting at an organization's facilities that the magistrate knows practices invidious discrimination on the basis of race, gender, religion or national origin in its membership or other policies, or for the magistrate to regularly use such a facility. Moreover, public manifestation by a magistrate of the magistrate's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judicial system, in violation of Section 2A.</p>		
Washington	Canon 3	<p>Rule 3.6 Affiliation with Discriminatory Organizations. (A) A judge shall not hold membership in any organization that practices invidious discrimination on the bases of race, sex, gender, religion, national origin, ethnicity, sexual orientation or other classification protected by law. (B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an</p>	Yes	Yes

		<p>endorsement of the organization's practices. Comments: [1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired. [2] Whether an organization practices invidious discrimination is a complex question to which judges should be attentive at all times, given the prevailing state and federal law. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends on how the organization selects members, as well as other relevant factors, such as the organization's purposes or activities, and whether the organization is dedicated to the preservation or religious, ethnic, or cultural values of legitimate common interest to its members. [3] If a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization. [4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule.</p>		
West Virginia	Canon 3	<p>Rule 3.6 Affiliation with Discriminatory Organizations. (A) A judge shall not hold membership in any organization that practices invidious discrimination on the bases of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. (B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices. Comments: [1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the</p>	Yes	Yes

		<p>judge's impartiality is impaired. [2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited. [3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization. [4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule. [5] This Rule does not apply to national or state military service.</p>		
Wisconsin	SCR 60.03(3)	<p>A judge may not hold membership in any organization that practices invidious discrimination on the basis of race, gender, religion or national origin. Comment: Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge's impartiality is impaired. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Whether an organization, club or group is "private" depends on a review of the following factors: 1) size; 2) purpose; 3) policies; 4) selectivity in membership; 5) congeniality; and 6) whether others are excluded</p>	Yes	No, but includes gender

		<p>from critical aspects of the relationship. An organization that is not "private" is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex or national origin persons who would otherwise be admitted to membership. See, <i>New York State Club Ass'n. Inc. v. City of New York</i>, 108 S. Ct. 2225, 101 L. Ed. 2d 1 (1988); <i>Board of Directors of Rotary International v. Rotary Club of Duarte</i>, 481 U.S. 537 (1987), 95 L. Ed. 2d 474; <i>Roberts v. United States Jaycees</i>, 468 U.S. 609 (1984). Organizations dedicated to the preservation of religious, fraternal, sororal, spiritual, charitable, civic or cultural values which do not stigmatize any excluded persons as inferior and therefore unworthy of membership are not considered to discriminate invidiously. Public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. When a judge has reason to believe that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under sub. (3) or under SCR 60.03, the judge may, in lieu of resigning, make immediate efforts to have the organization discontinue its invidiously discriminatory practices but must suspend participation in any other activities of the organization. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible, the judge must resign from the organization.</p>		
Wyoming	Canon 3	<p>Rule 3.6 Affiliation with Discriminatory Organizations. (A) A judge shall not hold membership in any organization that practices invidious discrimination on the bases of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. (B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know* that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices. Comment. — [1] A judge's public manifestation of</p>	Yes	Yes

	<p>approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired. [2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether 17 CODE OF JUDICIAL CONDUCT Canon 3 Page: 17 Job Path: @psc3912/cville_data2/stcodes/wy/rls-supp/qj58284.22 Date: 02/29/16 Time: 12:56:49 0000 49961-27 WY -- PROOF the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited. Absent these or similar factors, such an organization may be perceived to discriminate invidiously. A judge's apparent condoning of such practices diminishes public confidence in the integrity and impartiality of the judiciary. [3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization. [4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule. [5] This Rule does not apply to national or state military service.</p>		
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# APPENDIX 2

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ABA Model Code of Judicial  
Conduct: Canon 3

# ABA Model Code of Judicial Conduct: Cannon 3

## Rule 3.6: Affiliation with Discriminatory Organizations

(A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation.

(B) A judge shall not use the benefits or facilities of an organization if the judge knows\* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

## Comment on Rule 3.6

[1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired.

[2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited.

[3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization.

[4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule.

[5] This Rule does not apply to national or state military service.