

**IDAHO CODE OF CONDUCT FOR  
ADMINISTRATIVE LAW JUDGES**

**State of Idaho – Office of Administrative Hearings**

**Effective: August 1, 2025**



## **PREAMBLE**

[1] As with the judiciary itself, an independent, unbiased administrative judiciary is also indispensable to our system of justice. The legal system in the State of Idaho is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society; this principle extends to those who act as decisionmakers in the administrative contested case process, as well. Thus, the administrative judiciary plays a central role in preserving the principles of justice and the rule of law in administrative contested case proceedings. Inherent in all the Canons contained in this Idaho Code of Conduct for Administrative Law Judges (“Code”) are the precepts that Administrative Law Judges, individually and collectively, must respect and honor their role within Idaho’s legal system as a public trust and strive to maintain and enhance confidence in the legal system. The Administrative Law Judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

[2] Administrative Law Judges should maintain the dignity of their positions at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should at all times conduct themselves in a manner that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

[3] This Code establishes standards for the ethical conduct of Administrative Law Judges and Administrative Law Judge candidates. It is not intended as an exhaustive guide for the conduct of Administrative Law Judges and Administrative Law Judge candidates, who are, for example, also governed in their conduct by the Administrative Procedure Act and general ethical standards. The Code is intended, however, to provide guidance and assist Administrative Law Judges in maintaining the highest standards of judicial and personal conduct, and to provide a basis for regulating their conduct through discipline by the Chief Administrative Law Judge for the State of Idaho.

## SCOPE

[1] The Idaho Code of Conduct for Administrative Law Judges (“Code”) consists of Four Canons, numbered Rules under each Canon, and Comments that generally follow and explain each Rule. The Scope and Terminology sections provide additional guidance in interpreting and applying the Code. An Application section establishes when the various Rules apply to an Administrative Law Judge or Administrative Law Judge candidate.

[2] The Canons state overarching principles of ethics in conduct that all Administrative Law Judges must observe. Because an Administrative Law Judge may be disciplined for violating a Rule, the Canons provide important guidance in interpreting the Rules. Where a Rule contains a permissive term, such as "may" or "should," the conduct being addressed is committed to the personal and professional discretion of the Administrative Law Judge or candidate in question, and no disciplinary action should be taken for action or inaction within the bounds of such discretion.

[3] The Comments that accompany the Rules serve two functions. First, they provide guidance regarding the purpose, meaning, and proper application of the Rules. They contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. The Comments neither add to nor subtract from the binding obligations set forth in the Rules. Therefore, when a Comment contains the term "must," it does not mean that the Comment itself is binding or enforceable; it signifies that the Rule in question, properly understood, is obligatory as to the conduct at issue.

[4] Second, the Comments identify behavioral goals for Administrative Law Judges. To implement fully the principles of this Code as articulated in the Canons, Administrative Law Judges should strive to exceed the standards of conduct established by the Rules, holding themselves to the highest ethical standards and seeking to achieve those goals, thereby enhancing the dignity of their position with the Office of Administrative Hearings.

[5] The Rules of this Code are rules of reason that should be applied consistent with constitutional requirements, statutes, other court rules, and decisional law, and with due regard for all relevant circumstances. The Rules should not be interpreted to impinge upon the essential independence of Administrative Law Judges in making decisions in contested case proceedings.

[6] Although the black letter of the Rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. Whether discipline should be imposed should be determined through a reasonable and reasoned application of the Rules, and should depend upon factors such as the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the operation of the Office of Administrative Hearings or others. The decision as to whether

discipline (up to and including termination) is imposed is in the sole discretion of the Chief Administrative Law Judge.

[7] The Code is not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before the Office of Administrative Hearings or a court.

## TERMINOLOGY

**“Administrative Law Judge”** means any individual employed as a full-time state employee by the State of Idaho Office of Administrative Hearings, including the Chief Administrative Law Judge, the Deputy Chief Administrative Law Judge, and any Administrative Law Judges appointed by the Chief Administrative Law Judge pursuant to section 67-5282(1)(d), Idaho Code. For purposes of this Code, this term also includes those individuals retained by the Chief Administrative Law Judge as independent contractor hearing officers pursuant to section 67-5282(1)(i), Idaho Code.

**“Adjunct faculty”** means a part-time, non-benefit-eligible, temporary faculty position paid on a per-credit basis, at a degree-granting public or private higher educational institution in the State of Idaho, a trade school in the State of Idaho, or a medical specialty program accepting Idaho students into cooperative programs. Approval of service in a particular adjunct faculty position shall be within the sole discretion of the Chief Administrative Law Judge.

**"Appropriate authority"** means the authority having responsibility for initiation of disciplinary proceedings in connection with the violation to be reported. *See* Rule 2.13.

**"Candidate for appointment to an Administrative Law Judge position"** means any person seeking appointment as an Administrative Law Judge with the Office of Administrative Hearings. A person becomes a candidate as soon as they submit any application materials to the Office of Administrative Hearings. *See* Rule 4.3.

**"Contribution"** means both financial and in-kind contributions, such as goods, professional or volunteer services, advertising, and other types of assistance, which, if obtained by the recipient otherwise, would require a financial expenditure. *See* Rule 3.7.

**"De minimis,"** in the context of interests pertaining to disqualification of an Administrative Law Judge, means an insignificant interest that could not raise a reasonable question regarding the Administrative Law Judge's impartiality. *See* Rule 2.11.

**"Domestic partner"** means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married. *See* Rules 2.11, 3.10, 3.13, and 3.14.

**"Duties"** means all the adjudicative, administrative, and supervisory duties of the Administrative Law Judge's office as prescribed by law.

**"Economic interest"** means ownership of more than a de minimis legal or equitable interest. Except for situations in which the Administrative Law Judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before an Administrative Law Judge, it does not include: (1) an interest in the individual holdings within a mutual or common investment fund; (2) an interest in securities held

by an educational, religious, charitable, fraternal, or civic organization in which the Administrative Law Judge or their spouse, domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant; (3) a deposit in a financial institution or deposits or proprietary interests the Administrative Law Judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or ( 4) an interest in the issuer of government securities held by the Administrative Law Judge. *See* Rules 1.3, 2.11, and 3.2.

**"Fiduciary"** includes relationships such as executor, administrator, trustee, or guardian. *See* Rules 2.11, 3.2, and 3.8. "Impartial," "impartiality," and "impartially" mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties. *See* Rules 2.11, 3.2, and 3.8.

**"Impending matter"** is a matter that is imminent or expected to occur in the near future. *See* Rule 2.9.

**"Impropriety"** includes conduct that violates the law, or provisions of this Code, and conduct that undermines an Administrative Law Judge's independence, integrity, or impartiality. *See* Rule 1.2.

**"Independence"** means an Administrative Law Judge's freedom from influence or controls other than those established by law. *See* Canons 1 and 4, and Rules 1.2, 2.4, 2.9, 2.12, 3.1, 3.7, 3.12, and 3.14.

**"Integrity"** means probity, impartiality, honesty, uprightness, and soundness of character. *See* Canons 1 and 4, and Rules 1.2, 2.14, 3.1, 3.7, 3.12, and 3.13.

**"Knowingly," "knowledge," "known," and "knows"** mean actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

**"Law"** encompasses statutes, constitutional provisions, decisional law, and administrative regulations.

**"Member of an Administrative Law Judge's family residing in the Administrative Law Judge's household"** means any relative of an Administrative Law Judge by blood or marriage, or a person treated by an Administrative Law Judge as a member of the Administrative Law Judge's family, who resides in the Administrative Law Judge's household. *See* Rule 3.13.

**"Nonpublic information"** means information that is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute or court order or impounded or communicated in camera, information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports, information contained in non-public agency records, and materials which are exempt from disclosure under the Idaho Public Records Act. *See* Rule 3.5; *see also* Chapter 1, Title 74, Idaho Code.

**"Pending matter"** is a matter that has commenced. A matter continues to be pending through any judicial review and/or appellate process until final disposition. *See* Rule 2.9.

**"Political organization"** means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office. *See* Rules 4.1 and 4.3.

**"Public election"** includes primary and general elections, partisan elections, nonpartisan elections, and retention elections. *See* Rule 4.5.

**"Third degree of relationship"** includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece. *See* "The Nolan Chart of Relationships and Degrees of Kindred." *See* Rule 2.11.

## **APPLICATION**

This application section establishes when the various Rules apply to an Administrative Law Judge and an Administrative Law Judge candidate:

### **A. APPLICABILITY OF THIS CODE**

The provisions of the Idaho Code of Conduct for Administrative Law Judges (“Code”) shall apply to all Administrative Law Judges, as defined in the Terminology section of this Code.

#### ***Comment***

*The Rules in this Code have been formulated to address the ethical obligations of any person who serves in an Administrative Law Judge role and are premised upon the supposition that a uniform system of ethical principles apply to all those authorized to perform those functions. However, for individuals serving in an independent contractor role, certain of the Rules herein may be waived by the Chief Administrative Law Judge, pursuant to section 67-5283(2), Idaho Code. Absent such express waiver, and in the time period before such waiver is granted, independent contractors are required to comply with all Rules herein.*

### **B. TIME FOR COMPLIANCE**

A person to whom this Code becomes applicable shall begin complying immediately with its provisions, except that those Administrative Law Judges to whom Rule 3.8 (Appointments to Fiduciary Positions) and 3.11 (Financial, Business or Remunerative Activities) apply shall comply with those Rules as soon as is reasonably possible, but in no event later than any deadline for compliance established by the Chief Administrative Law Judge in regards to the specific circumstances.



## CANON I

### ***AN ADMINISTRATIVE LAW JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE OFFICE OF ADMINISTRATIVE HEARINGS***

#### **Section 1.1: Compliance with the Law**

An Administrative Law Judge shall, at all times, comply with the law, including, but not limited to, this Code of Conduct for Administrative Law Judges, the Idaho State Bar’s “Idaho Rules of Professional Conduct,” and Idaho Code §§67-5280 through 5286.

#### **Section 1.2: Promoting Confidence in the Administrative Law Process**

An Administrative Law Judge shall act, at all times, in a manner that promotes public confidence in the independence, integrity, and impartiality of the Office of Administrative Hearings, and shall avoid impropriety and the appearance of impropriety.

#### ***Comment***

*[1] An Administrative Law Judge should participate in establishing, maintaining, and enforcing high standards of conduct and shall personally observe those standards so that the integrity and independence of the Office of Administrative Hearings is preserved. The provisions of this Code shall be construed and applied to further that objective.*

*[2] Deference to the judgments and rulings in administrative proceedings depends upon public confidence in the integrity and independence of Administrative Law Judges. The integrity and independence of Administrative Law Judges depends in turn upon their acting without fear or favor. Although Administrative Law Judges should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the administrative law process is maintained by the adherence of each Administrative Law Judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the administrative law process and thereby does injury to our system of government.*

*[3] Administrative Law Judges are expected to abide by all guidance issued by the Chief Administrative Law Judge regarding the use of technology, including the use of artificial intelligence, generative or otherwise, to ensure and reinforce public confidence in decisions issued by Administrative Law Judges.*

### **Section 1.3: Avoiding Abuse of Prestige of Service as an Administrative Law Judge**

An Administrative Law Judge shall, at all times, not abuse the prestige of service as an Administrative Law Judge to advance the personal or economic interests of the Administrative Law Judge or others, or allow others to do so.

#### **Comment**

*[1] It is improper for an Administrative Law Judge to use or attempt to use their position to gain personal advantage or deferential treatment of any kind. For example, an Administrative Law Judge must not use OAH letterhead to gain an advantage in conducting their personal business.*

*[2] Subject to approval by the Chief Administrative Law Judge or their designee, an Administrative Law Judge may provide a reference or recommendation for an individual based upon the Administrative Law Judge's personal knowledge, using official letterhead if there is no likelihood that the use of the letterhead would reasonably be perceived as an attempt to exert pressure by reason of the Administrative Law Judge's position with OAH.*

*[3] Special considerations arise when Administrative Law Judges write or contribute to publications of for-profit entities, whether related or unrelated to the law. An Administrative Law Judge should not permit anyone associated with the publication of such materials to exploit the Administrative Law Judge's position with OAH in a manner that violates this Section or other applicable law. The Administrative Law Judge should retain sufficient control over the advertising to avoid such exploitation.*

## CANON 2

### ***AN ADMINISTRATIVE LAW JUDGE SHALL PERFORM THE DUTIES OF OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.***

#### **Section 2.1: Giving Precedence to the Duties of Office**

The duties of office, as prescribed by law, shall take precedence over all of an Administrative Law Judge's personal and other activities outside of their service as an Administrative Law Judge with OAH.

#### ***Comment***

*[1] To ensure that Administrative Law Judges are available to fulfill their duties, Administrative Law Judges must conduct their personal and non-OAH activities to minimize the risk of conflicts that would result in frequent disqualification. See Canon 3.*

*[2] Although it is not a duty of office unless prescribed by law, Administrative Law Judges are encouraged to participate in activities that promote public understanding of and confidence in the administrative justice system, including participation in Idaho State Bar sections, Continuing Legal Education (CLE) presentations, and similar activities.*

#### **Section 2.2: Impartiality and Fairness**

An Administrative Law Judge shall uphold and apply the law and shall perform all duties of office fairly and impartially.

#### ***Comment***

*[1] To ensure impartiality and fairness to all parties, an Administrative Law Judge must be objective and open-minded.*

*[2] Although each Administrative Law Judge comes to the OAH with a unique background and personal philosophy, an Administrative Law Judge must interpret and apply the law without regard to whether the Administrative Law Judge approves or disapproves of the law in question.*

*[3] When applying and interpreting the law, an Administrative Law Judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Section.*

*[4] It is not a violation of this Section for an Administrative Law Judge to make reasonable accommodations to ensure self-represented litigants are afforded the opportunity to meaningfully participate and have their matters fairly heard.*

*[5] To ensure impartiality and fairness to all parties, Administrative Law Judges are expected to abide by all guidance issued by the Chief Administrative Law Judge regarding the use of technology, including the use of artificial intelligence, generative or otherwise.*

### **Section 2.3: Bias, Prejudice and Harassment**

(A) An Administrative Law Judge shall perform the duties of office, including administrative duties, without bias or prejudice.

(B) An Administrative Law Judge shall not, in the performance of official duties, by words or conduct manifest bias or prejudice, or engage in harassment based upon race, sex, gender identity, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit support staff, or others subject to the Administrative Law Judge's direction and control to do so.

(C) An Administrative Law Judge shall require lawyers in proceedings before the Administrative Law Judge to refrain from manifesting bias or prejudice, or engaging in harassment, based on attributes or factors enumerated in (B) above, against parties, witnesses, lawyers, or others.

#### ***Comment***

*[1] An Administrative Law Judge who manifests bias or prejudice impairs the fairness of proceedings and brings the OAH into disrepute.*

*[2] Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based on stereotypes; threatening; intimidating; or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and lawyers, the media, and others an appearance of bias or prejudice. An Administrative Law Judge must avoid conduct that may reasonably be perceived as prejudiced or biased.*

*[3] Harassment, as referred to in paragraphs (B) and (C) is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as the factors enumerated in (2) above.*

*[4] Sexual harassment includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome.*

## **Section 2.4: External Influences on Conduct**

- (A) An Administrative Law Judge shall not be swayed by public clamor or fear of criticism.
- (B) An Administrative Law Judge shall not permit family, social, political, financial, or other interests or relationships to influence the Administrative Law Judge's conduct or judgment.
- (C) An Administrative Law Judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the Administrative Law Judge.

### ***Comment***

*An independent Office of Administrative Hearings requires that Administrative Law Judges decide cases according to the law and facts, without regard to whether particular laws or litigants are popular or unpopular. Confidence in the OAH is eroded if decision making is perceived to be subject to inappropriate outside influences.*

## **Section 2.5 Competence, Diligence, and Cooperation**

- (A) An Administrative Law Judge shall perform all of their duties competently and diligently.
- (B) An Administrative Law Judge shall cooperate with other Administrative Law Judges, legal professionals, and other officials in the administration of official business.

### ***Comment***

*[1] Competence in the performance of hearing officer duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform such responsibilities. This includes gaining knowledge, on a continuing basis, regarding the use and misuse of technology in administrative contested case proceedings, including the use/misuse of artificial intelligence, generative or otherwise.*

*[2] An Administrative Law Judge should seek the necessary time and resources to discharge all of their responsibilities.*

*[3] Prompt disposition of the Administrative Law Judge's business requires the Administrative Law Judge to devote adequate time to hearing officer duties, to be punctual in attending hearings and expeditious in determining matters, and to take reasonable measures to ensure that staff, litigants, and their lawyers or lay representatives cooperate with the Administrative Law Judge to that end.*

*[4] In disposing of matters promptly, an Administrative Law Judge must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. An Administrative Law Judge should*

*monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs. Attention to prompt resolution of the Administrative Law Judge's docket, and issuing decisions without undue delay, is critical to the effectiveness and efficiency of the administrative process.*

## **Section 2.6: Ensuring the Right to Be Heard**

(A) An Administrative Law Judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer or lay representative, the right to be heard according to law.

(B) An Administrative Law Judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

## **Section 2.7 Responsibility to Decide**

An Administrative Law Judge shall hear and decide matters assigned to the Administrative Law Judge, except where disqualification is required by Section 2.11 or other law.

## **Section 2.8: Decorum and Demeanor**

(A) An Administrative Law Judge shall require order and decorum in proceedings before the Administrative Law Judge.

(B) An Administrative Law Judge shall be patient, dignified, and courteous to litigants, witnesses, lawyers, staff and others with whom the Administrative Law Judge deals in an official capacity, and shall require similar conduct of lawyers, staff, officials, and others subject to the Administrative Law Judge's direction and control.

## **Section 2.9: Ex Parte Communications**

(A) Unless required for the disposition of ex parte matters specifically authorized by statute, an Administrative Law Judge serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the proceeding, with any party, except upon notice and opportunity for all parties to participate in the communication.

(B) An Administrative Law Judge may consult with staff and officials whose functions are to aid the Administrative Law Judge in carrying out the Administrative Law Judge's responsibilities in a contested case (but excluding agency personnel with regard to a pending or impending matter before the Administrative Law Judge), such as other Administrative Law Judges or Law Clerks under the direction and control of the Administrative Law Judge, provided the Administrative Law Judge makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility to personally decide the matter.

(C) If an Administrative Law Judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the Administrative Law Judge shall promptly notify the parties of the substance of the communication and provide the parties with an opportunity to respond.

(D) An Administrative Law Judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be subject to administrative notice. This prohibition includes independent internet research, including, but not limited to, online news sources and/or social media.

(E) An Administrative Law Judge shall make reasonable efforts, including providing appropriate supervision, to ensure that this Section is not violated by staff, law clerks, and others subject to the Administrative Law Judge's direction and control.

### **Section 2.10: Statements on Pending and Impending Cases**

(A) An Administrative Law Judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any tribunal, or make any non-public statement that might substantially interfere with a fair hearing.

(B) An Administrative Law Judge shall not, in connection with cases, controversies, or issues that are likely to come before the Administrative Law Judge, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of office.

(C) An Administrative Law Judge shall require staff and others subject to the Administrative Law Judge's direction and control to refrain from making statements that the Administrative Law Judge would be prohibited from making by paragraph (A) and (B).

(D) Notwithstanding the restrictions in paragraph (A), an Administrative Law Judge may make public statements regarding the general performance of their official duties, such as explaining contested case procedures.

(E) Subject to the requirements of paragraph (A), an Administrative Law Judge may respond directly or through a third party to allegations in the media or elsewhere concerning the Administrative Law Judge's conduct in a matter, subject to advance approval by the Chief Administrative Law Judge or their designee.

### **Section 2.11: Disqualification**

(A) An Administrative Law Judge shall disqualify themselves in any proceeding in which the Administrative Law Judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

(1) The Administrative Law Judge has a personal bias or prejudice concerning a party or party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

(2) The Administrative Law Judge knows that the Administrative Law Judge, the Administrative Law Judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such person is:

(a) a party to the proceeding, or an officer, director, deputy director, administrator, deputy administrator, board member, general partner, major shareholder, managing member, or trustee of a party;

(b) acting as a lawyer in the proceeding;

(c) a person who has more than a de minimis interest that could be substantially affected by the proceeding; or,

(d) likely to be a material witness in the proceeding.

(3) The Administrative Law Judge knows that they, individually or as a fiduciary, or the Administrative Law Judge's spouse, domestic partner, parent or child, or any other member of the Administrative Law Judge's family residing in the Administrative Law Judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding.

(4) The Administrative Law Judge has made a public statement, other than in a tribunal proceeding, adjudicative decision, or adjudicative opinion, that commits or appears to commit the Administrative Law Judge to reach a particular result or ruling in a particular way in the proceeding or controversy.

(5) The Administrative Law Judge:

(a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(b) served in government employment, and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed an opinion concerning the merits of the particular matter in controversy;

(c) was a material witness concerning the matter; or

(d) previously presided as an Administrative Law Judge, mediator, arbitrator, adjudicator, Administrative Law Judge, or judge over the matter in another tribunal or court.

(B) An Administrative Law Judge shall keep informed about the Administrative Law Judge's personal and fiduciary economic interests, and make reasonable effort to keep informed about the



personal economic interests of the Administrative Law Judge's spouse or domestic partner and minor children residing in the Administrative Law Judge's household.

## **Section 2.12: Supervisory Duties**

(A) An Administrative Law Judge shall require staff and others subject to the Administrative Law Judge's direction and control to act in a manner consistent with the Administrative Law Judge's obligations under this Code.

(B) An Administrative Law Judge with supervisory authority for the performance of other Administrative Law Judges shall take reasonable measures to ensure that those Administrative Law Judges properly discharge their adjudicative responsibilities, including the prompt disposition of matters before them.

### ***Comment***

*[1] An Administrative Law Judge is responsible for their own conduct and for the conduct of others, such as staff, when those persons are acting at the Administrative Law Judge's direction or control. An Administrative Law Judge may not direct OAH personnel to engage in conduct on the Administrative Law Judge's behalf or as the Administrative Law Judge's representative when such conduct would violate the Code if undertaken by the Administrative Law Judge.*

*[2] Public confidence in the OAH depends upon timely justice. To promote the efficient administration of justice, an Administrative Law Judge with supervisory authority must take the steps needed to ensure that Administrative Law Judges under their supervision administer their workloads promptly.*

*[3] A supervisory Administrative Law Judge should not interfere with the decisional independence of other Administrative Law Judges. Reasonable case control, case assignments, logistical matters, and other administrative concerns are appropriate, provided that these are done in an impartial manner and in no way operate to favor any particular outcome in any case.*

## **Section 2.13: Responding to Misconduct**

(A) An Administrative Law Judge having knowledge or who has received information that another Administrative Law Judge has committed a violation of this Code that raises a substantial question regarding the Administrative Law Judge's honesty, trustworthiness, or fitness as an Administrative Law Judge in other respects shall inform the appropriate authority.

(B) An Administrative Law Judge having knowledge or who has received information that a lawyer has committed a violation of the Idaho Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other

respects shall inform the appropriate authority consistent with the Idaho Rules of Professional Conduct.

#### **Section 2.14: Cooperation with Disciplinary Authorities**

(A) An Administrative Law Judge shall cooperate and be candid and honest with judicial and lawyer disciplinary and other official investigatory agencies, in a manner consistent with confidentiality provisions provided by law.

(B) An Administrative Law Judge shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of the Administrative Law Judge or a lawyer.

#### ***Comment***

*Cooperation with investigations and proceedings of judicial and lawyer disciplinary agencies, as required in paragraph (A), instills confidence in Administrative Law Judges' commitment to the integrity of the administrative law adjudication system and the protection of the public.*

## CANON 3

### ***AN ADMINISTRATIVE LAW JUDGE SHALL CONDUCT PERSONAL AND EXTRA-JUDICIAL ACTIVITIES IN A MANNER THAT WILL MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF THE OFFICE OF ADMINISTRATIVE HEARINGS***

#### **Section 3.1: Non-OAH Activities in General**

An Administrative Law Judge may engage in activities outside of their service as an Administrative Law Judge with OAH, except as prohibited by law or this Code; however, when engaging in such outside activities, an Administrative Law Judge shall not:

- (A) Participate in activities that will interfere with the proper performance of the Administrative Law Judge's duties;
- (B) Participate in activities that will lead to frequent disqualification of the Administrative Law Judge;
- (C) Participate in activities that would appear to a reasonable person to undermine the Administrative Law Judge's independence, integrity, or impartiality;
- (D) Engage in conduct that would appear to a reasonable person to be coercive; or
- (E) Make use of OAH premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

#### ***Comment***

*The actions, participation or engagements that are prohibited under this Section include any such activity within the realm and use of social media.*

*The ultimate determination pursuant to this Section is within the sole discretion of the Chief Administrative Law Judge.*

#### **Section 3.2: Appearance before Governmental Agencies and Consultation with Government Officials**

An Administrative Law Judge shall not appear voluntarily at a public hearing before, or otherwise consult with, a legislative body or official, except:

- (A) In connection with matters concerning the law, the legal system, or the administration of justice, including, but not limited to, proposed statutes or regulations regarding the Office of

Administrative Hearings or relating to contested case proceedings conducted by the Office of Administrative Hearings;

(B) In connection with matters about which the Administrative Law Judge acquired knowledge or expertise in the course of the Administrative Law Judge's official duties; or

(C) When the Administrative Law Judge is acting in a self-represented capacity involving the Administrative Law Judge's legal or economic interests, or when the Administrative Law Judge is acting in a fiduciary capacity, provided that disclaimer is made that such appearance is made individually and not as a representative of the Office of Administrative Hearings.

### **Section 3.3: Testifying as a Character Witness**

An Administrative Law Judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly summoned by subpoena.

#### ***Comment***

*An Administrative Law Judge who, without being subpoenaed, testifies as a character witness abuses the prestige of service as an Administrative Law Judge to advance the interests of another. See Section 1.3. Except in unusual circumstances where the demands of justice require, an Administrative Law Judge should discourage a party from requiring the Administrative Law Judge to testify as a character witness.*

### **Section 3.4: Appointment to Governmental Positions**

An Administrative Law Judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless such appointment does not conflict with the Administrative Law Judge's official duties and there is no appearance of conflict, bias or prejudice concerning the Administrative Law Judge's official position. As a licensed and practicing attorney, an Administrative Law Judge's service on any committee, board, commission, section, or other position with the Idaho State Bar is not a violation of this Section, provided that such participation in such Idaho State Bar activities does not otherwise violate Section 3.1.

### **Section 3.5: Use of Nonpublic Information**

An Administrative Law Judge shall not intentionally disclose or use nonpublic information acquired in an official capacity for any purpose unrelated to the Administrative Law Judge's adjudicative duties.

### **Section 3.6: Affiliation with Discriminatory Organizations**

(A) An Administrative Law Judge shall not hold membership in any organization that practices discrimination on the basis of race, sex, gender identity, religion, national origin, ethnicity, sexual orientation, and/or disability.

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

### **Section 3.7: Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities**

(A) Subject to the requirements of Section 3.1 and Idaho Code §67-5282, an Administrative Law Judge may hold volunteer positions that are not inconsistent with their duties as an Administrative Law Judge. Accordingly, an Administrative Law Judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

- (1) assisting such an organization or entity in planning related to fund-raising, and participating in the management and investment of the organization's or entity's funds;
- (2) soliciting contributions for such an organization or entity, but only from members of the Administrative Law Judge's family, or from Administrative Law Judges over whom the Administrative Law Judge does not exercise supervisory or adjudicatory authority;
- (3) soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice;
- (4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting their title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the Administrative Law Judge may participate only if the event concerns the law, the legal system, or the administration of justice.

(5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization entity is concerned with the law, the legal system, or the administration of justice; and

(6) serving as an officer, director, trustee, or non-legal advisor of such an organization or entity, unless it is likely that the organization or entity:

(a) will be engaged in proceedings that would ordinarily come before the Administrative Law Judge; or

(b) will frequently be engaged in adversary proceedings in the Office of Administrative Hearings.

(B) An Administrative Law Judge may not serve as the agent, representative, officer, political treasurer, or employee, whether for profit or otherwise, of any political party, political committee, or candidate, whether as defined in either chapter 1, title 34, or chapter 66, title 67, Idaho Code, or otherwise.

(C) An Administrative Law Judge may encourage lawyers to provide pro bono public legal services.

### ***Comment***

*[1] The activities permitted by paragraph (A) generally include those sponsored by or undertaken on behalf of public or private not-for-profit educational institutions, and other not-for-profit organizations, including law-related, charitable, and other organizations.*

*[2] Even for law-related organizations, an Administrative Law Judge should consider whether the membership and purposes of the organization, or the nature of the Administrative Law Judge's participation in or association with the organization, would conflict with the Administrative Law Judge's obligation to refrain from activities that reflect adversely upon an Administrative Law Judge's independence, integrity, and impartiality.*

*[3] Mere attendance at an event, whether or not the event serves a fund-raising purpose, does not constitute a violation of paragraph 4(A). It is also generally permissible for an Administrative Law Judge to serve as an usher or a food server or preparer, or to perform similar functions, at fund-raising events sponsored by educational, religious, charitable, fraternal, or civic organizations. Such activities are not solicitation and do not present an element of coercion or abuse the prestige of service as an Administrative Law Judge.*

### **Section 3.8: Appointments to Fiduciary Positions**

An Administrative Law Judge acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to an Administrative Law Judge personally.

### **Section 3.9: Service as Arbitrator, Mediator, or Adjudicator**

(A) An Administrative Law Judge employed within the OAH shall not act as an arbitrator or a mediator or perform other adjudicatory functions except as expressly authorized by Idaho Code §67-5280(2)(b) and where specifically approved and assigned by the Chief Administrative Law Judge.

(B) An Administrative Law Judge who is an independent contractor with OAH shall not act as an arbitrator or a mediator or perform other adjudicatory functions apart from their official duties as a contracting Administrative Law Judge if their impartiality as an Administrative Law Judge might reasonably be questioned because of such work.

#### ***Comment***

*An Administrative Law Judge who contracts with OAH will generally be understood to have other financial, business, and/or remunerative activities outside of the OAH (including, but not limited to, private mediation, arbitration, and adjudicator services), and may thereby request waiver of such statutory restrictions thereon as outlined in this Section and Idaho Code §67-5282(2), as per Idaho Code §67-5283(d). However, by statute, the granting of such waiver is discretionary in nature, and may be refused where such activities may impair, or appear to impair, the impartiality and/or the ongoing operations of the OAH, such as where such activities may lead to frequent disqualification of the Administrative Law Judge.*

### **Section 3.10: Practice of Law**

(A) An Administrative Law Judge employed within OAH shall not engage in the practice of law outside of their role at OAH, except for the practice of law which is permitted for an Administrative Law Judge by the Idaho Code of Judicial Conduct and is not otherwise inconsistent with this Code of Conduct or their duties as an Administrative Law Judge.

(B) An Administrative Law Judge who is an independent contractor with OAH may engage in the practice of law outside of their service as an Administrative Law Judge with OAH, provided that:

- (1) A disclosure is filed with the Chief Administrative Law Judge that states what other outside work the independent contractor is engaged;
- (2) The independent contractor does not engage in outside work presenting a conflict of interest; and

(3) The independent contractor discloses such other information as required by this Code.

***Comment***

*With respect to Section 3.10(A), the Idaho Code of Judicial Conduct generally addresses an Administrative Law Judge's practice of law under Canon 3.10, which provides: "An Administrative Law Judge shall not practice law. An Administrative Law Judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the Administrative Law Judge's family, but is prohibited from serving as the family member's lawyer in any forum." In turn, the Idaho Code of Judicial Conduct definitions provide that a "member of the Administrative Law Judge's family" means "a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the Administrative Law Judge maintains a close familial relationship."*

**Section 3.11 Financial, Business, or Remunerative Activities**

(A) An Administrative Law Judge shall not hold any other public or private-sector position, whether for profit or otherwise, except for volunteer or adjunct faculty positions that are not inconsistent with their duties as an Administrative Law Judge.

(B) An Administrative Law Judge who is an independent contractor with OAH may request that the Chief Administrative Law Judge waive application of Section 3.11(A) to them, to the extent such activity does not create a conflict of interest.

***Comment***

*Pursuant to Idaho Code §67-5282(2)(d), an Administrative Law Judge "shall not ... [h]old any other public or private-sector position, whether for profit or otherwise, except for volunteer or adjunct faculty positions that are not inconsistent" with their duties as an Administrative Law Judge. Accordingly, an Administrative Law Judge is permitted to accept wages, salaries, or other compensation for teaching as adjunct faculty, provided the compensation is reasonable and commensurate with the task performed. The Administrative Law Judge should be mindful, however, that their duties of office must take precedence over all such volunteer or adjunct faculty positions. See Rule 2.1.*

*An Administrative Law Judge who contracts with OAH will generally be understood to have other financial, business, and/or remunerative activities outside of the OAH, and may thereby request waiver of statutory restrictions thereon as outlined in this Section and Idaho Code §67-5282(2), as per Idaho Code §67-5283(d). However, by statute, the granting of such waiver is discretionary in nature, and may be refused where such activities may impair, or appear to impair,*



*the impartiality and/or the ongoing operations of the OAH, such as where such activities may lead to frequent disqualification of the Administrative Law Judge.*

### **Section 3.12: Compensation for Non-OAH Activities**

(A) An Administrative Law Judge may accept reasonable compensation for activities outside of their service as an Administrative Law Judge with OAH where permitted by this Code or other law, unless such acceptance would appear to a reasonable person to undermine the Administrative Law Judge's independence, integrity, or impartiality.

(B) An Administrative Law Judge shall, at all times, comply with the requirements of Idaho's Ethics in Government Act (Chapter 4, Title 74, Idaho Code) and Idaho's Bribery and Corrupt Influences Act (Chapter 13, Title 18, Idaho Code).

#### ***Comment***

*An Administrative Law Judge should review and be familiar with the Idaho Attorney General's "Ethics in Government Manual."*

### **Section 3.13: Acceptance of Gifts, Loans, Bequests, Benefits, or Other Things of Value**

(A) An Administrative Law Judge shall not accept any gifts, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the Administrative Law Judge's independence, integrity, or impartiality.

(B) Unless otherwise prohibited by law or by paragraph (A), an Administrative Law Judge may accept the following:

- (1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;
- (2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending or impending before the Administrative Law Judge would in any event require disqualification of the Administrative Law Judge under Section 2.11;
- (3) ordinary social hospitality;
- (4) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not Administrative Law Judges or judges;

(5) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not Administrative Law Judges or judges;

(6) scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated persons who are not Administrative Law Judges or judges, based upon the same terms and criteria;

(7) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use; or

(8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner, or other family member of an Administrative Law Judge residing in the Administrative Law Judge's household, but that incidentally benefit the Administrative Law Judge.

(C) Unless otherwise prohibited by law or by paragraph (A), an Administrative Law Judge may accept the following items:

(1) gifts incidental to a public testimonial;

(2) invitations to the Administrative Law Judge and the Administrative Law Judge's spouse, domestic partner, or guest to attend without charge;

(a) an event associated with a bar-related function or other activity relating to the law, the legal system, or the administration of justice; or

b) an event associated with the Administrative Law Judge's educational, religious, charitable, fraternal or civic activities permitted by this Code, if the same invitation is offered to non-Administrative Law Judges and non-judges who are engaged in similar ways in the activity as is the Administrative Law Judge.

(D) An Administrative Law Judge shall, at all times, comply with the requirements of Idaho's Ethics in Government Act (Chapter 4, Title 74, Idaho Code) and Idaho's Bribery and Corrupt Influences Act (Chapter 13, Title 18, Idaho Code).

### ***Comment***

*An Administrative Law Judge should review and be familiar with the Idaho Attorney General's "Ethics in Government Manual."*

## **Section 3.14: Reimbursement of Expenses and Waivers of Fees or Charges**

(A) Unless otherwise prohibited by Sections 3.1 and 3.13 (A) or other law, an Administrative Law Judge may accept reimbursement, if necessary, and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition,

and similar items, from sources other than the Administrative Law Judge's employing entity, if the expenses or charges are associated with the Administrative Law Judge's participation in non-OAH activities permitted by this Code.

(B) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the Administrative Law Judge and, when appropriate to the occasion, by the Administrative Law Judge's spouse, domestic partner, or guest.

(C) An Administrative Law Judge shall, at all times, comply with the requirements of Idaho's Ethics in Government Act (Chapter 4, Title 74, Idaho Code) and Idaho's Bribery and Corrupt Influences Act (Chapter 13, Title 18, Idaho Code).

***Comment***

*An Administrative Law Judge should review and be familiar with the Idaho Attorney General's "Ethics in Government Manual."*

## CANON 4

***AN ADMINISTRATIVE LAW JUDGE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE ADMINISTRATIVE LAW PROCESS***

### **Section 4.1 Political and Campaign Activities of Administrative Law Judges in General**

(A) An Administrative Law Judge shall not hold, or be a candidate for, any federal, state, county, municipal, district, or other elective office. As a licensed and practicing attorney, an Administrative Law Judge's service on any committee, board, commission, section, or other position with the Idaho State Bar, which position is elected by members of the Idaho State Bar, is not a violation of this Section, provided that such elected position within the Idaho State Bar, and duties therewith, do not otherwise violate Section 3.1.

(B) An Administrative Law Judge shall not serve as the agent, representative, officer, political treasurer, or employee, whether for profit or otherwise, of any political party, political committee, or candidate, whether as defined in either Chapter 1, Title 34, or Chapter 66, Title 67, Idaho Code, or otherwise.

(C) An Administrative Law Judge shall not:

- (1) make speeches on behalf of a political organization;
- (2) publicly endorse or oppose a candidate for any partisan public office;
- (3) seek, accept, or use endorsements from a political organization;
- (4) make any public statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any tribunal; or
- (5) in connection with cases, controversies, or issues that are likely to come before the tribunal, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of office.

(D) An Administrative Law Judge shall take reasonable measures to ensure that other persons do not undertake, on behalf of the Administrative Law Judge, any activities prohibited under paragraph (C).

(E) An Administrative Law Judge who is an independent contractor with OAH may request that the Chief Administrative Law Judge waive application of Section 4.1(A)-(B) to them, to the extent such activity does not create a conflict of interest.

### ***Comment***

*An Administrative Law Judge who contracts with OAH may request waiver of the*

*statutory provisions restricting political activity as outlined in parts (A) and (B) of this Section and Idaho Code §67-5282(2), as per Idaho Code §67-5283(d). However, by statute, the granting of such waiver is discretionary in nature, and may be refused where such activities may impair, or appear to impair, the impartiality and/or the ongoing operations of the OAH, such as where such activities may lead to frequent disqualification of the Administrative Law Judge.*

#### **Section 4.2: Political and Campaign Activities of Administrative Law Judges in Public Elections**

[Reserved]

#### **Section 4.3: Candidates for Appointment to Administrative Law Judge Positions**

A candidate for appointment to an Administrative Law Judge position may:

- (A) Communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar organization, and
- (B) Seek endorsements for the appointment from any person or organization other than a partisan political organization.

#### **Section 4.4: Campaign Committees**

[Reserved]

#### **Section 4.5: Activities of Administrative Law Judges Who Become Candidates for Judicial or Nonjudicial Office**

- (A) Upon becoming a candidate for a judicial or non-judicial elective office, an Administrative Law Judge shall resign from the Administrative Law Judge office, unless such Administrative Law Judge is an independent contractor with OAH who has requested, and received, a waiver from the Chief Administrative Law Judge to continue serving as an Administrative Law Judge.
- (B) Upon becoming a candidate for a judicial or non-judicial appointive office, an Administrative Law Judge is not required to resign as an Administrative Law Judge, provided that the Administrative Law Judge complies with the other provisions of this Code.
- (C) Upon successful election or appointment to judicial or non-judicial appointive office, an Administrative Law Judge shall resign as an Administrative Law Judge prior to taking such office,

at a time and date as directed by the Chief Administrative Law Judge, unless the Administrative Law Judge is an independent contractor with OAH who has requested, and received, a waiver from the Chief Administrative Law Judge to continue serving as an Administrative Law Judge.

### ***Comment***

*“Elective office” does not appear to be defined by Idaho Code; however, for purpose of this Code of Conduct, Section 4.5(A) is intended to apply only to those Administrative Law Judges who become candidates in public elections, as generally governed by Title 34 of the Idaho Code.*

*Likewise, “appointive office” does not appear to be defined by the Idaho Code; however, for purposes of this Code of Conduct, Section 4.5(B) is intended to apply to those offices where the candidate’s selection is being made by means of appointment.*

*A successful candidate may continue to serve as an Administrative Law Judge up until the date they take office, as may be permitted by the Chief Administrative Law Judge. Considerations as to how long an Administrative Law Judge may continue to serve prior to taking office should include considerations to ensure an orderly transition of caseload, such as caseload transition memoranda and/or completion of outstanding cases.*

## **EFFECTIVE DATE OF COMPLIANCE**

This revised Idaho Code of Conduct for Administrative Law Judges shall be in full effect on August 1, 2025.

Thereafter, any person to whom this Code becomes applicable should arrange their affairs as soon as reasonably possible to comply with it.

This Code made be amended from time to time by the Chief Administrative Law Judge, or by his designee subject to final approval by the Chief Administrative Law Judge; an Administrative Law Judge shall be familiar with, and shall comply with, the most recently-updated version of this Code.