

MODEL CODE OF JUDICIAL CONDUCT FOR STATE UNEMPLOYMENT INSURANCE APPEALS OFFICERS©

NATIONAL ASSOCIATION OF UNEMPLOYMENT INSURANCE APPELLATE BOARDS

PREAMBLE

Our state unemployment insurance appeals process is based on the principle that independent, fair and competent appeals officers will interpret and apply unemployment insurance laws consistent with American concepts of justice. Intrinsic to all sections of this Code are the precepts that appeals officers, individually and collectively, must respect and honor their positions as a public trust and strive to enhance and maintain confidence in our legal system. The term “appeals officer” is used generically. It is meant to encompass all those in lower and higher authority appeals whose jobs are to decide questions of fact and law for the resolution of disputes under their jurisdictions’ unemployment insurance laws, no matter what title they are given by the jurisdictions in which they practice. Anyone employed by a state governmental agency or instrumentality who is empowered to preside over fact-finding hearings or appellate proceedings arising under a jurisdiction’s unemployment insurance law is an appeals officer for the purposes of this Code.

This Code of Judicial Conduct for State Unemployment Insurance Appeals Officers is intended to establish standards for ethical conduct. The Canons and Sections contained in this Code are rules of reason. They should be applied consistent with constitutional requirements, statutes, administrative rules and decisional law and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of the appeals officer in making judicial decisions.

The Code of Judicial Conduct for State Unemployment Insurance Appeals Officers is not intended as an exhaustive guide for the conduct of appeals officers. They should also be governed in their official judicial and personal conduct by general ethical standards. The Code is intended, however, to state basic standards which should govern the conduct of all appeals officers and to provide guidance to assist them in establishing and maintaining high standards of professional and personal conduct.

Except where modified, this Code follows the language of the American Bar Association Model Code of Judicial Conduct for Federal Administrative Law Judges. This Code is also based upon the American Bar Association Model Code of Judicial Conduct (1990). The American Bar Association Codes are copyrighted by the American Bar Association and are used with permission. This Code is also based upon the National Association of Administrative Law Judges Model Code of Judicial Conduct for State Administrative Law Judges. The NAALJ Code is copyrighted by the NAALJ and is used with permission.

Contents

CANONS

1. An Appeals Officer Shall Uphold the Integrity and Independence of the Appeals Process
2. An Appeals Officer Shall Avoid Impropriety and the Appearance of Impropriety in All of His or Her Activities
3. An Appeals Officer Shall Perform the Duties of His or Her Office Impartially and Diligently
4. An Appeals Officer Shall Conduct His or Her Extra-Judicial Activities so as to Minimize the Risk of Conflict With Judicial Obligations
5. An Appeals Officer Shall Refrain from Political Activity Inappropriate to His or Her Office

CANON 1

An Appeals Officer Shall Uphold the Integrity and Independence of the Appeals Process

An independent and honorable administrative judiciary is indispensable to justice in our society. An appeals officer should participate in establishing and enforcing high standards of conduct and shall personally observe and maintain those standards of conduct so that the integrity and independence of the unemployment insurance appeals process will be preserved. The provisions of this Code should be construed and applied to further that objective. An appeals officer should not be subject to the authority, direction or discretion of one who has served as investigator, prosecutor or advocate in a proceeding before the appeals officer or in its pre-adjudicative stage.

Commentary: Deference to the judgments and rulings of administrative proceedings depends upon public confidence in the integrity and independence of appeals officers. The integrity and independence of appeals officers depends in turn upon their acting without fear or favor. Although appeals officers should be independent, they must comply with the law, including the provisions of this code. Public confidence in the impartiality of the administrative judiciary is maintained by the adherence of each appeals officer to this responsibility. Conversely, violation of this code diminishes public confidence in the administrative judiciary and thereby does injury to the system of government under law.

CANON 2

An Appeals Officer Shall Avoid Impropriety and the Appearance of Impropriety in All of His or Her Activities

A. An appeals officer shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the appeals process.

B. An appeals officer shall not allow family, social, political or other relationships to influence his or her conduct or judgment. An appeals officer shall not lend the prestige of his or her office to advance the private interests of the appeals officer or others, nor convey or permit others to convey the impression that they are in a special position to influence him or her.

Commentary: Public confidence in the administrative judiciary is eroded by irresponsible or improper conduct by appeals officers. Appeals officers must avoid all impropriety and appearance of impropriety. Appeals officers must expect to be the subject of constant public scrutiny. Appeals officers must therefore accept restrictions on their conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

Appeals officers should distinguish between proper and improper use of the prestige of office in all of their activities. For example, it would be improper for appeals officers to allude to their office to gain a personal advantage such as deferential treatment when stopped by a police officer for a traffic offense. Similarly, it would be improper for an appeals officer to use official letterhead for conducting personal business.

C. An appeals officer shall not hold membership in any organization that practices invidious discrimination based on race, sex, religion or national origin.

Commentary: It is inappropriate for an appeals officer to hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or national origin. Membership of an appeals officer in an organization that practices invidious discrimination may give rise to perceptions by minorities, women and others that the appeals officer's impartiality is impaired. Whether an organization practices invidious discrimination is often a complex question to which appeals officers 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. 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. When a person who is a appeals officer on the date on which this Code becomes effective learns that an organization to which the appeals officer belongs engages in invidious discrimination that would preclude membership, he or she is permitted, in

Page 3

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 appeals officer's first learning of the practices), the appeals officer is required to resign immediately from the organization.

This provision relates only to membership in organizations that practice invidious discrimination on the basis of race, sex, religion, or national origin. The provision mirrors that of the American Bar Association's 1990 Code of Judicial Conduct. Limiting prohibited discrimination to these four enumerated categories is not to suggest a jurisdiction is not free to enact a more restrictive provision. Further, it should be noted that Canon 3A5, which prohibits an appeals officer from manifesting bias or prejudice in the performance of his or her official duties, is substantially broader. That provision prohibits an appeals officer from manifesting bias or prejudice, including but not limited to bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.

CANON 3

An Appeals Officer Shall Perform the Duties of His or Her Office Impartially and Diligently

The official duties of an appeals officer take precedence over other professional activities. Official duties include all the duties of the office prescribed by the agency by which the appeals officer is employed. In the performance of these duties, the following standards apply:

A. ADJUDICATIVE RESPONSIBILITIES

1. An appeals officer shall hear and decide matters assigned to him or her except those in which disqualification is required.
2. An appeals officer shall be faithful to the law and maintain professional competence in it. An appeals officer shall not be swayed by partisan interests, public clamor or fear of criticism.
3. An appeals officer shall maintain order and decorum in proceedings before him or her.
4. An appeals officer shall be patient, dignified, and courteous to parties, witnesses, lawyers and others with whom he or she deals in an official capacity and shall require similar conduct of lawyers or other representatives, staff members and others subject to his or her direction and control.

Commentary: *The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to promptly dispose of the business of the appeals officer. Appeals officers can be efficient and businesslike while being patient and deliberate.*

5. An appeals officer shall perform judicial duties without bias or prejudice. An appeals officer shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, and shall not permit staff members and others subject to the appeals officer's direction and control to do so.

Commentary: *An appeals officer must perform judicial duties impartially and fairly. An appeals officer who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the administrative judiciary into disrepute. Facial expression and body language, in addition to oral communication, can give the parties, lawyers or representatives in the proceeding, and others an appearance of bias. An appeals officer must be alert to avoid behavior that may be perceived as biased.*

6. An appeals officer shall accord to all persons who are legally interested in a proceeding and their representatives the full right to be heard according to law. An appeals officer shall not initiate, permit or consider *ex parte* communications or consider other communications made to him or her outside the presence of the parties concerning a pending or impending proceeding except that:

- a. Where circumstances require, *ex parte* communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:
 - i. the appeals officer reasonably believes that no party will gain a procedural or tactical advantage as a result of the *ex parte* communication, and
 - ii. the appeals officer notifies all other parties of the substance of the *ex parte* communication.
- b. An appeals officer may consult other appeals officers and support personnel whose function is to aid him or her in carrying out his or her adjudicative responsibilities.
- c. An appeals officer may initiate or consider any *ex parte* communications when expressly authorized by law to do so.

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

To the extent reasonably possible, all parties and their lawyers shall be included in communications with an appeals officer.

Whenever presence of a party or notice to that party is required, it is the party's lawyer, or if the party is unrepresented, the party, who is to be present or to whom notice is to be given. Certain ex parte communication is approved to facilitate scheduling and other administrative purposes and to accommodate emergencies. In general, however, an appeals officer must discourage ex parte communications and allow it only if all criteria stated are clearly met. An appeals officer must disclose to all parties all ex parte communications regarding a proceeding pending before him or her.

An appeals officer must make reasonable efforts, including the provision of appropriate supervision, to ensure that the prohibition against ex parte contact is not violated through law clerks or other personnel on his or her staff.

If communication between the appeals officer and the appellate tribunal involving the merits of the case is permitted, a copy of any written communication or the substance of any oral communication should be provided to all parties.

7. An appeals officer shall make decisions based exclusively on evidence in the record of the proceeding and material that has been officially noticed.

Commentary: *The proscriptions against communications in this provision pertain only to proceedings pending before an appeals officer. It is not intended to proscribe communications with law professors and other legal experts on the law in general and, in this regard, is consistent with Canon 3A2 which provides that an appeals officer shall maintain professional competence in the law.*

An appeals officer must not independently investigate facts in a case, unless authorized by law, and must consider only the evidence presented.

8. An appeals officer shall dispose of all judicial matters promptly, efficiently, and fairly.

Commentary: *Prompt disposition of the appeals officer's business requires an appeals officer to devote sufficient time to his or her duties, to be punctual in attending hearings and expeditious in determining matters under submission, and to insist that other subordinate officials, litigants and their lawyers or representatives cooperate with the appeals officer to that end.*

9. An appeals officer shall require participants in proceedings before him or her to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, against parties, witnesses, counsel or others. This subsection does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.

10. An appeals officer shall not, while a proceeding is pending, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair hearing. The appeals officer shall require similar abstention on the part of agency personnel subject to his or her direction and control. This subsection does not prohibit appeals officers from making public statements in the course of their official duties or from explaining for public information the procedures of the agency. This subsection does not apply to proceedings in which the appeals officer is a litigant in a personal capacity.

Commentary: This subsection is not intended to preclude participation in an association of appeals officers merely because such an association makes public comments about a pending proceeding in an agency where the appeals officer serves. The subsection is directed primarily at public comments by an appeals officer concerning a proceeding before another appeals officer in an agency where the commenting appeals officer serves.

11. An appeals officer shall not disclose or use for any purpose unrelated to judicial duties information acquired in a judicial capacity that by law is not available to the general public.

B. ADMINISTRATIVE RESPONSIBILITIES

1. An appeals officer shall diligently discharge assigned administrative responsibilities without bias or prejudice, maintain professional competence in judicial administration and facilitate the performance of the administrative responsibilities of other appeals officers.

2. An appeals officer shall require staff and other persons subject to his or her direction and control to observe the standards of fidelity and diligence that apply to him or her.

3. An appeals officer shall take appropriate action or initiate appropriate disciplinary measures against an appeals officer, lawyer, or other representative for unprofessional conduct of which he or she may become aware.

Commentary: Appropriate action may include communicating with the appeals officer, lawyer or representative who has committed the violation, taking other direct action if available, and

reporting the violation to the appropriate authority. The appeals officer should use sound discretion before reporting to an appropriate authority.

C. DISQUALIFICATION

1. An appeals officer shall disqualify himself or herself in any proceeding in which his or her impartiality might reasonably be questioned, including but not limited to instances in which:
 - a. the appeals officer has a personal bias or prejudice concerning a party or a party's lawyer or other representative involved in the proceeding;
 - b. the appeals officer has personal knowledge of disputed evidentiary facts concerning a proceeding;
 - c. the appeals officer served as lawyer or representative in the matter in controversy, or a lawyer with whom he or she practiced law served during such association as a lawyer concerning the matter, or he or she or such lawyer has been a material witness concerning it;

***Commentary:** A lawyer in a governmental agency does not necessarily have an association with other lawyers employed by that agency within the meaning of this subsection. This provision does not require recusal on the basis of a casual social relationship unless that relationship would raise a reasonable doubt as to the appeals officer's impartiality.*

- d. the appeals officer has served in other governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;
- e. the appeals officer, individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a more than de minimis financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;
- f. the appeals officer or his or her spouse or a person within the third degree of relationship to either of them or the spouse of such a person:
 - (i) is a party to the proceeding, or an officer, director or trustee of a party;
 - (ii) is acting as a lawyer or representative in the proceeding.
 - (iii) is known by the appeals officer to have an interest that could be substantially affected by the outcome of the proceeding;
 - (iv) is to the appeals officer's knowledge likely to be a material witness in the proceeding.

***Commentary:** The fact that a lawyer in a proceeding is affiliated with a law firm with which a lawyer-relative of the appeals officer is affiliated does not of itself disqualify the appeals officer.*

2. An appeals officer should be aware of his or her personal and fiduciary financial interests, and make a reasonable effort to keep informed about the personal financial interests of his or her spouse and minor children residing in his or her household.
3. For purposes of Canon 3 C, the following words or phrases shall have the meaning indicated:
 - a. “third degree of relationship” means someone who is the appeals officer’s or appeals officer’s spouse’s parent, grandparent, aunt, uncle, sibling, niece, nephew, child, or grandchild;
 - b. “fiduciary” includes relationships such as executor, administrator, trustee and guardian;
 - c. “de minimis” interest means an insignificant interest that could not raise a reasonable question as to the appeals officer’s impartiality
 - d. “financial interest” means ownership of more than a de minimis legal or equitable interest, however small, or a relationship as director, advisor or other active participant in the affairs of a party, except that:
 - (i) ownership in a mutual or common investment fund that holds securities is not a “financial interest” in such securities unless the appeals officer participates in the management of the fund;
 - (ii) an office in an educational, religious, charitable, fraternal or civic organization is not a “financial interest” in securities held by the organization;
 - (iii) the proprietary interest of a policyholder in a mutual insurance company or a depositor in a mutual savings association or a similar proprietary interest is a “financial interest” in the organization only if the outcome of the proceeding could substantially affect the value of the interest;
 - (iv) ownership of government securities is a “financial interest” in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.
 - e. “proceeding” includes pre-hearing or other stages of litigation.

D. REMITTAL OF DISQUALIFICATION

An appeals officer disqualified by means of Canon 3 C may, instead of withdrawing from the proceeding, disclose on the record the basis of the disqualification. If, following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers or representatives, independently of the appeals officer’s participation, all agree that the appeals officer should not be disqualified and the appeals officer is willing, the appeals officer may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

Commentary: A remittal procedure provides the parties an opportunity to proceed without delay if they wish to waive the disqualification. To assure that consideration of the question of remittal is made independently of the appeals officer, an appeals officer must not argue, attempt to convince, or otherwise attempt to persuade a party to waive disqualification. Rather, an appeals officer's responsibility is to inform parties of the remittal procedure and to

answer any reasonable questions concerning it. The decision whether to waive disqualification must be exclusively that of the parties. As a practical matter, an appeals officer may wish to have all parties sign the remittal agreement.

CANON 4

An Appeals Officer Shall Conduct His or Her Extra-Judicial Activities so as to Minimize the Risk of Conflict with Judicial Obligations

An appeals officer, subject to the proper performance of judicial duties, may engage in the following extra-judicial activities, if in doing so doubt is not cast on his or her capacity to decide impartially any issue that may come before him or her:

A. OUTSIDE ACTIVITIES IN GENERAL

An appeals officer shall conduct all of his or her extra-judicial activities so that they do not:

1. cast reasonable doubt on his or her capacity to act impartially as an appeals officer;
2. demean his or her office; or
3. interfere with the proper performance of his or her duties.

Commentary: *The complete separation of an appeals officer from extra-judicial activities is neither possible nor wise. An appeals officer should not become isolated from the community in which the appeals officer lives.*

Expressions of bias or prejudice by an appeals officer, even outside the appeals officer's judicial activities, may cast reasonable doubt on his or her capacity to act impartially as an appeals officer. 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.

B. AVOCATIONAL ACTIVITIES

1. An appeals officer may engage in activities to improve the law, the legal system and the administration of justice.
2. An appeals office may speak, write, lecture, teach and participate in other activities concerning the law, the legal system and the administration of justice.

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

3. An appeals officer may write, lecture, teach and speak on non-legal subjects and engage in the arts, sports and other social and recreational activities.

C. GOVERNMENTAL, CIVIC AND CHARITABLE ACTIVITIES

An appeals officer may participate in governmental, civic and charitable activities that do not reflect adversely upon impartiality or interfere with the performance of judicial duties. An appeals officer may serve as an officer, director, trustee or advisor of an educational, religious, charitable, fraternal or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

1. An appeals officer should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before him or her or will be regularly engaged in adversary proceedings before any agency in which he or she serves.

Commentary: The changing nature of some organizations and of their relationship to the law makes it necessary for an appeals officer regularly to reexamine the activities of each organization with which he or she is affiliated to determine if it is proper to continue his or her relationship with it.

2. An appeals officer shall not use or permit the use of his or her position for the purpose of soliciting funds for any educational, religious, charitable, fraternal or civic organization, but he or she may be listed as an officer, director or trustee of such an organization. An appeals officer should not be a speaker or the guest of honor at an organization's fund-raising events, but may attend such events.

Commentary: This subsection is not intended to discourage participation in the identified organizations or preclude the use of an appeals officer's name on stationery or other material used to solicit contributions, provided the appeals officer's name and office are in no way selectively emphasized. Appeals officers are permitted to solicit funds for charitable and other named organizations if they do not use the prestige of office in doing so.

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

Commentary: Valuable services have been rendered in the past to the states and the nation by appeals officers to undertake important extra-judicial assignments. The appropriateness of conferring these assignments on appeals officers must be assessed, however, in light of the demands on judicial manpower created by today's crowded dockets and the need to protect appeals officers from involvement in matters that may prove to be controversial and which may affect the appeals officer's impartiality.

4. An appeals officer may accept appointment to a governmental committee, commission or other position that is concerned with issues of policy on matters which may come before him or her if such appointment affects neither his or her independent professional judgment nor the conduct of his or her official duties.

Commentary: Appeals officers should not be expected or permitted to accept governmental appointments that could interfere with the effectiveness and independence of the administrative judiciary.

5. Appeals officers are permitted to appear at public hearings and consult with executive and legislative bodies and officials, if not prohibited by law, e.g., the federal Hatch Act or other similar laws, and no doubt is cast on the appeals officer's ability to decide impartially any issue that may come before him or her.

D. FINANCIAL AND BUSINESS ACTIVITIES

1. An appeals officer shall refrain from financial and business dealings that tend to reflect adversely on impartiality, interfere with the proper performance of official duties, exploit his or her official position or involve him or her in frequent transactions with lawyers or persons likely to come before the agency in which he or she serves.
2. Subject to the requirements of subsection (1), an appeals officer may hold and manage personal investments, including real estate, and engage in other remunerative activity.

Commentary: Involvement in a financial or business activity that neither affects the independent professional judgment of the appeals officer nor the conduct of his or her official duties is not prohibited.

3. Neither an appeals officer nor a member of his or her family residing in his or her household should accept a gift, bequest, favor or loan from anyone except as follows:
 - a. An appeals officer may accept a gift incident to a public testimonial to him or her, books supplied by publishers on a complimentary basis for official use, or an invitation to him

or her and his or her spouse to attend a function or activity devoted to the improvement of the law, the legal system or the administration of justice.

- b. An appeals officer or a member of his or her family residing in his or her household may accept ordinary social hospitality; a gift, bequest, favor or loan from a relative or close personal friend; a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not appeals officers; or a scholarship or fellowship awarded on the same terms applied to other applicants.
- c. An appeals officer or a member of his or her family residing in his or her household may accept any other gift, bequest, favor or loan only if the donor is not a party or other person whose interests have come or are likely to come before the appeals officer, or the gift is otherwise consistent with relevant agency rules and is reported to the extent required by such rules and other applicable laws.

Commentary: For purposes of this Section, “member of his or her family residing in his or her household” means any relative of the appeals officer by blood or marriage, or a person treated by the appeals officer as a member of his or her family, who resides in his or her household.

4. An appeals officer is not required by this Code to disclose income, debts or investments, except as provided by law.

Commentary: An appeals officer has the rights of an ordinary citizen, including the right to privacy of his or her financial affairs, except to the extent that limitations thereon are required to safeguard the proper performance of the appeals officer’s duties.

E. FIDUCIARY ACTIVITIES

An appeals officer shall not serve as an executor, administrator, trustee, guardian or other fiduciary if such service will interfere with the proper performance of judicial duties, or if it is likely that as a fiduciary the appeals officer will be engaged in proceedings that would ordinarily come before him or her, or if the estate, trust or ward becomes involved in adversary proceedings in an agency in which he or she serves or one under its appellate jurisdiction. While acting as a fiduciary, an appeals officer is subject to the same restrictions on financial activities that apply to him or her in his or her personal capacity.

Commentary: An appeals officer’s obligation under this Canon and the appeals officer’s obligation as a fiduciary may come into conflict. For example, an appeals officer should resign as trustee if it would result in detriment to the trust or divest it of holdings whose retention would place the appeals officer in violation of Canon 3 C.

F. ARBITRATION

An appeals officer may act as an arbitrator or mediator if such activity does not affect his or her independent professional judgment or the conduct of his or her official duties. An appeals officer shall not be an arbitrator or mediator in a matter over which he or she may later preside.

G. PRACTICE OF LAW

An appeals officer who is an attorney may practice law if such activity would affect neither his or her independent professional judgment nor the conduct of his or her official duties. An appeals officer shall not accept the representation of a client who is a litigant before the tribunal for which the appeals officer serves or if there is a likelihood that such person will appear before the appeals officer. An appeals officer shall not practice law before the administrative tribunal for which he or she serves.

H. COMPENSATION AND REIMBURSEMENT

An appeals officer may receive compensation and reimbursement of expenses for the outside activities permitted by this Code, if the source of such payments does not give the appearance of influencing him or her in his or her official duties or otherwise give the appearance of impropriety, subject to the following restrictions:

1. Compensation.
Compensation should not exceed a reasonable amount nor should it exceed what a person who is not an appeals officer would receive for the same activity.
2. Expense Reimbursement.
Expense reimbursement should be limited to the actual cost of travel, food and lodging reasonably incurred by the appeals officer and where appropriate to the occasion, by his or her spouse or guest. Any payment in excess of such an amount is compensation.

CANON 5

An Appeals Officer Shall Refrain from Political Activity Inappropriate to His or Her Position

Political Conduct in General

An appeals officer shall know and understand the limitations on his or her political activities imposed by applicable state and federal law and regulations. An appeals officer shall abide by state and federal law and regulations governing his or her political activities.

Commentary: Participation in political activities is a right of every person. Unless specified in these canons or otherwise prohibited by law, political activity that neither affects the

independent professional judgment of the appeals officer nor the conduct of his or her official duties is not prohibited.