
**E-88-3 Nonincumbent judicial candidates’
compliance with rules of judicial conduct**

Question

May a nonincumbent candidate for judicial office retain his or her membership and office(s) in a political party during the campaign?

Opinion

No. SCR 20:8.2(b) requires lawyers who are candidates for judicial office to “comply with the applicable provisions of the code of judicial conduct.” One provision of the Wisconsin Judicial Code, SCR 60.14, prohibits judges from belonging to or participating in a political party. The prohibitions contained in SCR 60.14 have been held “applicable” to nonincumbent judicial candidates prior to the adoption of SCR 20:8.2(b). *See, e.g.*, Committee on Professional Ethics Formal Op. E-73-4 and ABA Committee on Professional Ethics Formal Op. 312 (8/9/64).

The continued applicability of these prohibitions to nonincumbent candidates also is supported by part of the comment to SCR 20:8.2: “When a lawyer seeks judicial office, the lawyer should be bound by applicable limitations on political activity.” However, this committee would reemphasize that its opinions are advisory only and nonbinding on anyone and would respectfully urge the Wisconsin Supreme Court to clarify the relationship between SCR 20:8.2(b) and chapter 60 of the Wisconsin Supreme Court Rules to facilitate compliance with and recognition of “applicable” rules of conduct for nonincumbent judicial candidates.