

SUPREME COURT OF PENNSYLVANIA

In Re: Amendment of Rule 4.4 of the Rules Governing Standards of Conduct of Magisterial District Judges

Supreme Court of Pennsylvania (December 18, 2014)

SUMMARY

This document amends Rule 4.4 of the Rules Governing Standards of Conduct of Magisterial District Judges. The rule addresses campaign committees for judicial candidates, including campaign contributions, fundraising periods, endorsements, and disclosure requirements.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
JURISDICTION	Pennsylvania
DECIDED	December 18, 2014
DISPOSITION	approved
PROCEDURAL POSTURE	Supreme Court rulemaking proceeding amending Rule 4.4 of the Rules Governing Standards of Conduct of Magisterial District Judges.
PRECEDENTIAL VALUE	Published rulemaking order; establishes the governing text of Rule 4.4 rather than resolving an adversarial case.

TOPICS

campaign finance election law

PRACTICE AREAS

election law judicial ethics campaign finance

QUESTIONS PRESENTED

1. What activities may a campaign committee of a magisterial district judge candidate subject to public election undertake?
2. What restrictions govern the timing, legality, disclosure, and reporting of campaign contributions received by such a campaign committee?

HOLDINGS

1. A judicial candidate subject to public election may establish a campaign committee to manage and conduct the campaign, including seeking, accepting, and using endorsements, subject to the Conduct Rules and other applicable law; the candidate must take reasonable steps to cause the committee to comply with those requirements.
2. A magisterial district judge candidate's campaign committee may solicit and accept only contributions permitted by law or rule; may not begin soliciting or accepting contributions before immediately after the general election in the preceding year or continue fundraising after the last calendar day of the judicial-election year; and must comply with applicable disclosure and divestiture requirements, including specified post-election reporting of contributions.
3. Judicial candidates are prohibited from personally soliciting or personally accepting campaign contributions; those activities may be conducted through a campaign committee in accordance with the Conduct Rules and applicable law.

FACTUAL BACKGROUND

The rule amendment addresses the operation of campaign committees for judicial candidates subject to public election. It permits campaign committees to manage campaigns, seek and use endorsements, and solicit and accept lawful contributions, while imposing timing, contribution, disclosure, and divestiture requirements.

PROCEDURAL HISTORY

The Supreme Court of Pennsylvania promulgated an amended Rule 4.4 governing campaign committees for magisterial district judge candidates subject to public election. The document sets out the amended rule and accompanying comments; no lower-court proceeding is identified.

DISPOSITION

approved

OPINION

PER CURIAM.

RULE 4.4 Campaign Committees (A) A judicial candidate subject to public election may establish a campaign committee to manage and conduct a campaign for the candidate, including seeking, accepting, and using endorsements from any person or organization, subject to the provisions of these Conduct Rules.

The candidate shall take reasonable steps to cause his or her campaign committee to comply with applicable provisions of these Conduct Rules and other applicable law. **(B)** A judicial candidate subject to public election shall take reasonable steps to cause the magisterial district judge's campaign committee: (1) to solicit and accept only such campaign contributions as are permitted by law or Rule; (2) not to solicit or accept contributions earlier than immediately after the General

Election in the year prior to the calendar year in which a person may become a candidate for such office, and all fundraising activities in connection with such judicial campaign shall terminate no later than the last calendar day of the year in which the judicial election is held; and (3) to comply with all applicable statutory requirements for disclosure and divestiture of campaign contributions, and to file with the [Secretary of the Commonwealth] appropriate county board of elections a report stating the name, address, occupation, and employer of each person who has made campaign contributions to the committee in an aggregate value exceeding \$250 and the name and address of each person who has made campaign contributions to the committee in an aggregate value exceeding \$50.

The report must be filed not later than thirty days following an election, or within such other period as is provided by law. COMMENT: [1] Judicial candidates are prohibited from personally soliciting campaign contributions or personally accepting campaign contributions. See Rule 4.1(A) (7). This Rule recognizes that in Pennsylvania, judicial campaigns must raise campaign funds to support their candidates, and permits candidates, other than candidates for appointive judicial office, to establish campaign committees to solicit and accept reasonable financial contributions or in-kind contributions.

[2] Campaign committees may solicit, accept, and use campaign contributions and endorsements, and may generally conduct campaigns. Candidates are responsible for compliance with the requirements of election law and other applicable law, and for the activities of their campaign committees.

[3] At the start of a campaign, the candidate should instruct the campaign committee to solicit or accept only such contributions as are in conformity with applicable law. Although lawyers and others who might appear before a successful candidate for judicial office are 1 permitted to make campaign contributions, the candidate should instruct his or her campaign committee to be especially cautious in connection with such contributions, so they do not create grounds for disqualification or recusal if the candidate is elected to judicial office.

See Rule 2.11. 2