

**2019 Joint Conference of the Supreme Court of Illinois Judicial College  
and the American Judges Association  
September 15-18, 2019 – Chicago, Illinois**

***“Social Media & Judicial Independence”***

Responding to Criticism – Provisions of the ABA Model Codes of Judicial Conduct

2007 ABA Model Code of Judicial Conduct

Rule 2.10(A): A 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 court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.

Rule 2.10(E): Subject to the requirements of paragraph (A), a judge may respond directly or through a third party to allegations in the media or elsewhere concerning the judge’s conduct in a matter.

Comment [3] to Rule 2.10: Depending upon the circumstances, the judge should consider whether it may be preferable for a third party, rather than the judge, to respond or issue statements in connection with allegations concerning the judge’s conduct in a matter.

Rule 4.1(A)(12): [A judge or judicial candidate shall not] make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court; or

Comment [9] to Rule 4.1: Subject to paragraph (A)(12), a judicial candidate is permitted to respond directly to false, misleading, or unfair allegations made against him or her during a campaign, although it is preferable for someone else to respond if the allegations relate to a pending case.

1990 ABA Model Code of Judicial Conduct

Canon 5A(3)(e): [A judicial candidate] may respond to personal attacks or attacks on the candidate’s record as long as the response does not violate Section 5(A)(3)(d).

Canon 5(A)(3)(d): [prohibits candidates for judicial office from (1) making pledges or promises other than the faithful and impartial performance of judicial duties; (2) making statements that commit or appear to commit the candidate with respect to cases, controversies or issues; and (3) knowingly misrepresent facts about the candidate or opponent.]