

481—15.5(10A) Scope, definitions, and application.**15.5(1) Scope.**

a. The Iowa Code of Administrative Judicial Conduct consists of four canons, each of which is codified as the introductory paragraph of an administrative rule, and numbered rules under each canon, which are codified as subrules. Subrule 15.5(3) establishes when the various rules apply to a presiding officer or an administrative law judge.

b. The canons state overarching principles of judicial ethics that all administrative law judges and presiding officers, as applicable, must observe. Although an administrative law judge or presiding officer may be disciplined only for violating an applicable 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 presiding officer in question, and no disciplinary action should be taken for action or inaction within the bounds of such discretion.

c. Consistent with the requirement of Iowa Code section 10A.801(7)(d), this Code is similar in function and substantially equivalent to the Iowa Code of Judicial Conduct adopted by the Iowa Supreme Court and contained in Chapter 51 of the Iowa Court Rules. The Iowa Code of Judicial Conduct includes accompanying comments to the rules that may provide useful guidance regarding the purpose, meaning, and proper application of the corresponding rule in this Code. The comments contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. The comments may also identify aspirational goals for administrative law judges and presiding officers. To implement fully the principles of this Code as articulated in the canons, administrative law judges and presiding officers should strive to exceed the standards of conduct established by the rules, holding themselves to the highest ethical standards and seeking to achieve those aspirational goals, thereby enhancing the dignity of the administrative judicial position.

d. The rules of this Code are rules of reason that should be applied consistent with constitutional requirements, statutes, administrative 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 and presiding officers in making administrative judicial decisions.

e. 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 by the presiding officer’s appointing authority 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 administrative judicial system or others.

f. This Code is not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for parties to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a presiding officer.

15.5(2) Definitions. For purposes of this chapter, the following definitions apply:

“*Administrative law judge*” means a person who acts as a presiding officer under the authority of Iowa Code section 17A.11(1) who is not an agency head or a member of a multimembered agency head. This includes, but is not limited to, administrative law judges employed by the administrative hearings division of the department of inspections and appeals, the unemployment insurance appeals bureau of Iowa workforce development, the public employment relations board, and the board of parole, as well as deputy workers’ compensation commissioners in the division of workers’ compensation of Iowa workforce development.

“*Affiliate*” and “*affiliated*” mean any person, domestic or foreign, that controls, is controlled by, or is under common control with any other person.

“*Appropriate authority*” means the authority having responsibility for the initiation of disciplinary process in connection with the violation to be reported.

“*Associate*” and “*associated*” means any person who employs, is employed by, or is under common employment with another person; any person who acts in cooperation, consultation, or concert with, or at

the request of, another person; and any spouse, domestic partner, or person within the third degree of relationship of any of the foregoing.

“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.

“Control” and *“controlled”* each refers to the power of one person to exercise, directly or indirectly or through one or more persons, a dominating, governing, or controlling influence over another person, whether by contractual relationship (including without limitation a debtor-creditor relationship), by family relationship, by ownership, dominion over, or power to vote any category or voting interest (including without limitation shares of common stock, shares of voting preferred stock, and partnership interests), or by exercising (or wielding the power to exercise) in any manner dominion over a majority of directors, partners, trustees, or other persons performing similar functions. See definition of *“affiliate”* and *“affiliated.”*

“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.

“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.

“Economic interest” means ownership of more than a de minimis legal or equitable interest. Except for situations in which the presiding officer 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 a presiding officer, 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 presiding officer or the presiding officer’s 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 presiding officer 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 presiding officer.

“Fiduciary” includes relationships such as executor, administrator, trustee, or guardian.

“Impartial,” “impartiality,” and *“impartially”* mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a presiding officer or administrative law judge.

“Impending matter” is a matter that is imminent or expected to occur in the near future.

“Impropriety” includes conduct that violates the law, court rules, or provisions of the Iowa Code of Administrative Judicial Conduct, and conduct that undermines a presiding officer’s or administrative law judge’s independence, integrity, or impartiality.

“Independence” means a presiding officer’s or administrative law judge’s freedom from influence or controls other than those established by law.

“Integrity” means probity, fairness, honesty, uprightness, and soundness of character.

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

“Law” encompasses administrative rules and regulations, court rules, ordinances, statutes, constitutional provisions, and decisional law.

“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.

“Member of the presiding officer’s family” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the presiding officer maintains a close familial relationship.

“Member of a presiding officer’s family residing in the presiding officer’s household” means any relative of a presiding officer by blood or marriage, or a person treated by a presiding officer as a member of the presiding officer’s family, who resides in the presiding officer’s household.

“Nonpublic information” means information that is not available to the public. “Nonpublic information” may include, but is not limited to, information that is confidential or sealed by statute or court or administrative order or impounded or communicated in camera.

“Pending matter” is a matter that has commenced. A matter continues to be pending through any appellate process, including director review and judicial review, until final disposition.

“Person” means any natural or juridical person, including without limitation any corporation, limited liability company, partnership, trust, union, or other labor organization; any branch, division, department, or local unit of any of the foregoing; any political committee, party, or organization; or any other organization or group of persons.

“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.

“Presiding officer” means a person who acts as a presiding officer of a contested case proceeding under the authority of Iowa Code section 17A.11(1).

“Third degree of relationship” includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece.

15.5(3) Application.

a. The provisions of the Iowa Code of Administrative Judicial Conduct apply to all persons who act as presiding officers under the authority of Iowa Code section 17A.11(1), except as specified in paragraph 15.5(3) “b” for agency heads or members of multimembered agency heads. Canons and rules that apply to all presiding officers use the terminology “presiding officer” in their text. This Code only applies to an agency head or a member of a multimembered agency head who actually acts as a presiding officer and does not apply merely because the agency head or member of a multimembered agency head is authorized to serve as the presiding officer when another person serves as the presiding officer.

b. The provisions of rules 481—15.3(10A) and 481—15.4(10A) of this Code do not apply to agency heads or members of multimembered agency heads. These provisions apply only to administrative law judges and thus the terminology “administrative law judge” is used in their text.

c. This Code does not apply to persons who participate only in the making of a final decision in a contested case without serving as a presiding officer pursuant to Iowa Code section 17A.11(1) in that contested case unless a statute or administrative rule requires such a person to abide by this Code or a particular provision of this Code. This Code may nevertheless provide useful ethical guidance for a person participating in the making of a final decision in a contested case.

[ARC 3524C, IAB 12/20/17, effective 1/24/18]