

Tuesday 2nd November, 2004.

It is ordered that Section III of the Rules for Integration of the Virginia State Bar, Part Six of the Rules of Court, be amended, to become effective immediately, by adding the following commentary to Canon 2 and Canon 5:

Canon 2. A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities.

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Comment on subdivision A. -

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A judge may vote in a primary election conducted by the State Board of Elections that is open to all registered voters qualified to vote pursuant to Code § 24.2-530. Voting in such a primary election does not constitute an act of partiality by a judge as prohibited by subdivision A. The act of a judge voting in a primary election is the discharge of an honorable civic duty, an obligation of responsible citizenship, and does not give the "appearance of impropriety."

The statutory requirements for voting in a primary election reflect voting in a primary election by a judge as an act of "impartiality" as used in subdivision A(1)(c) because there is no registration by political affiliation, no loyalty or political party oath required to vote, and no pledge of support for any person or political group. It is the impartial nature of such a primary election that enables judges to avoid an "appearance of impropriety."

See also Commentary under Canon 5A.

Canon 5. A Judge Shall Refrain From Political Activity Inappropriate to the Judicial Office.

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Comment on subdivision A. -

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A judge may vote in a primary election conducted by the State Board of Elections that is open to all registered voters qualified to vote pursuant to Code § 24.2-530. Voting in such a primary election does not constitute attending a "political gathering" as prohibited by subdivision A(1)(c) or constitute engaging "in any other political activity" as prohibited by subdivision A(3). The act of a judge voting in a primary election is the discharge of an honorable civic duty and an obligation of responsible citizenship.

The statutory requirements for voting in a primary election distinguish voting in a primary election by a judge from a "political gathering" as used in subdivision A(1)(c) because there is no registration by political affiliation, no loyalty or political party oath required to vote, and no pledge of support for any person or political group. For the same reasons, voting in a primary election by a judge is not engaging "in any other political activity" as used in subdivision A(3).

See also Commentary under Canon 2A.

A Copy,

Teste:

Clerk