

# Ethics & Professionalism

American Bar Association Litigation Section

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## New Ethics Opinion Addresses Federal Judges' Public Engagement

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The U.S. Judicial Conference's Committee on Codes of Conduct has released a new advisory opinion ([Advisory Opinion No. 118, Feb. 12, 2026](#)) that addresses the increased criticism and attacks on the federal judiciary. The opinion explicitly provides that federal judges are now permitted to publicly defend their judicial independence and the rule of law, so long as they avoid partisan politics and preserve impartiality. For advocates of judicial independence, the opinion should come as a welcome affirmation of the judiciary's important role in our judicial system.

### Guidance for Judicial Independence

At its core, the opinion affirms a principle that might seem uncontroversial to those outside the judicial system: Federal judges have a role in publicly defending the institutions they serve. For decades, the code of conduct has reminded judges that their integrity, independence, and impartiality are indispensable to the rule of law and that they should avoid even the appearance of impropriety. However, until now, there has been limited formal guidance on whether and when judges may speak publicly in response to direct attacks on the judiciary.

The opinion allows judges to respond to illegitimate criticism and threats in ways that protect judicial independence and the rule of law. In doing so, judges now have the ability to discuss judicial security, the need for adequate funding, and the importance of maintaining public confidence in a coequal branch of government. It affirms that "judges may choose to engage in a wide range of civic engagement activities, including speaking and writing on core judiciary matters such as advocacy for the rule of law and judicial independence" but urges caution when judges are "expressing their personal views to preserve the integrity of the judiciary and to promote public confidence in the courts."

This is important guidance that addresses contemporary challenges. For example, the committee notes that judges can defend colleagues from unfounded attacks that risk

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undermining the judiciary's role. The opinion allows judges to make "public statements about the need for judicial security." These statements align with judicial duties and are supported by principles that also "permit judges to speak or write about the independence of the judiciary or advocate for the rule of law in general, including why both values are crucial to our system of government."

### **The Permission to Speak Comes with Guardrails**

The opinion reinforces the importance of remaining mindful of the code of conduct's enduring canons, and notes that there are "prudent limits" to judges' public remarks and civic engagement. Specifically, it points to sections of the code that warn judges not to "detract from the dignity of the judge's office" and to always act "in a manner that promotes public confidence in the impartiality of the judiciary." Thus, judges should avoid "demeaning, acrimonious, or partisan rhetoric," consider tone and context in their statements, and refrain from public commentary that could raise questions about their impartiality.

The opinion does not rewrite the code of conduct or allow political advocacy. Rather, it highlights a growing recognition of the judiciary's responsibility to uphold both the actual and perceived integrity of the courts. As debates about judicial ethics and independence continue, the true impact of this opinion will be measured ultimately by its influence on public trust and the conduct of those who serve on the federal bench.