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LDF Issues Statement on Newly-Adopted Code of Conduct for Supreme Court Justices

On November 13, 2023, the U.S. Supreme Court adopted a first-of-its-kind [Code of Conduct](#) for Supreme Court justices. The document establishes ethical rules and principles for members of the country's highest court and was signed by all nine justices.

In response to this announcement, LDF President and Director-Counsel Janai Nelson issued the following statement:

“While the Supreme Court’s adoption of a Code of Conduct appears to acknowledge the urgent need to restore public confidence in the court, it lacks the meaningful reforms and enforcement procedures necessary to restore that confidence.

Unlike the [Code of Conduct for United States Judges](#) that covers the rest of the federal judiciary, which can be enforced by filing a complaint under the Judicial Conduct and Disability Act of 1980, the Supreme Court’s Code of Conduct includes no mechanisms for enforcement or investigation of code breaches. It also departs from the Code of Conduct for United States Judges by describing, in many instances, what justices ‘should’ do, rather than what they ‘shall’ do. In fact, the word ‘shall’ does not appear anywhere in the Supreme Court’s new code, giving the impression that complying with the code is a suggestion rather than a critical mandate.

The Code of Conduct’s brief introduction likewise implies that the Supreme Court does not recognize the scope and gravity of the legitimate concerns the public has raised about the court’s current mode of operations. Instead, it states that the code was developed to ‘dispel’ the ‘misunderstanding’ that justices believe they are not governed by ethics rules. The public’s concerns about Supreme Court ethics are based on real — not imaginary — problems. They should be met by a Code of Conduct that veritably ensures the strongest possible commitment to ethics in our nation’s highest court, not a document that merely pays them lip service.

An independent, ethically responsible judiciary is fundamental to our democracy’s strength and longevity. Yesterday’s announcement is an important first step toward addressing the need for a written Code of Conduct for the Supreme Court. However, we strongly urge the court to make certain principles clearer and binding and to create a robust enforcement mechanism. These are the minimum additional steps needed to improve the public’s confidence in the court’s commitment to the highest ethical standards, which should be a top priority for the Supreme Court and the country.”

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