

Rule 65

CANON 5

A Judge Should Regulate His or Her Extrajudicial Activities to Minimize the Risk of Conflict With the Judge's Judicial Duties

A. Avocational Activities. A judge may write, lecture, teach, and speak on nonlegal subjects, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of the judge's office or interfere with the performance of the judge's judicial duties.

B. Civic and Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of the judge's judicial duties. A judge may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

(1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.

(2) A judge should not solicit or permit his or her name to be used in any manner to solicit funds or other assistance for any such organization. A judge should not allow his or her name to appear on the letterhead of any such organization where the stationery is used to solicit funds and should not permit the judge's staff, court officials or others subject to the judge's direction or control to solicit on the judge's behalf for any purpose, charitable or otherwise. However, a judge may be a speaker or the guest of honor at an organization's fund-raising events and may allow event-related promotional materials, invitations, and other communications to mention such participation by the judge.

C. Financial Activities.

(1) A judge should refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of the judge's judicial duties, exploit the judge's judicial position, or involve the judge in frequent transactions with lawyers or persons likely to come before the court on which the judge serves.

(2) Subject to the requirements of subsection (1), a judge may hold and manage investments, including real estate, and engage in the activities usually incident to the ownership of such investments, but a judge should not assume an active role in the management or serve as an officer, director, or employee of any business.

(3) A judge should manage his or her investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge should divest himself or herself of investments and other financial interests that might require frequent disqualification.

(4) Neither a judge nor a member of the judge's family residing in the judge's household should accept a gift, bequest, favor, or loan from anyone except as follows:

(a) a judge may accept a gift incident to a public testimonial to the judge; books

supplied by publishers on a complimentary basis for official use; or an invitation to the judge and the judge's spouse to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice;

(b) a judge or a member of the judge's family residing in the judge's household may accept ordinary social hospitality; a gift, bequest, favor, or loan from a relative; a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; or a scholarship or fellowship awarded on the same terms applied to other applicants;

(c) a judge or a member of the judge's family residing in the judge's household may accept any other gift, bequest, favor, or loan only if the donor is not a party or other person whose interests have come or are likely to come before the judge, including lawyers who practice or have practiced before the judge.

(5) Information acquired by a judge in the judge's judicial capacity should not be used or disclosed by the judge in financial dealings or for any other purpose not related to the judge's judicial duties.

D. Fiduciary Activities. A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of the judge's judicial duties. As a family fiduciary a judge is subject to the following restrictions:

(1) The judge should not serve if it is likely that as a fiduciary the judge will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.

(2) While acting as a fiduciary a judge is subject to the same restrictions on financial activities that apply to the judge in his or her personal capacity.

E. Arbitration. A judge should not act as an arbitrator or mediator.

F. Practice of Law. A judge should not practice law.

G. Extrajudicial Appointments. A judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. A judge, however, may represent his or her country, State, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

Adopted December 2, 1986, effective January 1, 1987; amended October 15, 1993, effective immediately; amended May 24, 2006, effective immediately; amended December 7, 2011, effective immediately.

This canon governs the permissible scope of a judicial officer's extrajudicial activities. Avocational, civic and charitable, financial, and fiduciary activities are regulated as well as practice as an arbitrator or lawyer and the propriety of accepting extrajudicial appointments. ABA Canon 5(C)(6), which provides that "[a] judge is not required by this Code to disclose his income, debts, or investments except as provided in this Canon and Canons 3 and 6," was deleted as inconsistent with the present Illinois disclosure requirements which are retained in this code. The remaining subparagraphs were renumbered. In adapting the ABA canons to Illinois, certain adjustments were required in this canon because of the impact of article VI, section 13(b), of the Illinois Constitution, which prohibits a judicial officer from holding "a position of profit."

Paragraph (A). Complete separation of a judge from extrajudicial activities is neither possible nor wise; he should not become isolated from the society in which he lives.

Paragraph (B)(1). The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine if it is proper for the judge to continue the judge's relationship with it. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

Paragraph (B)(2). This subparagraph is largely based on Illinois Supreme Court Rule 64. The major difference is that the ABA canon would allow a judicial officer to be listed on the letterhead of such an association as an officer, director or trustee. This canon will not allow that where the letterhead is used to solicit funds. The provision prohibiting a judge from allowing judicial staff to solicit on the judge's behalf for any purpose, charitable or otherwise, is a replacement for the provision of the ABA canon that provides that the judge should not use or permit the use of "the prestige of his office for that purpose."

Paragraph (C)(2). This subparagraph retains the language of Illinois Supreme Court Rule 63. See also 705 ILCS 60/1.

Paragraph (C)(3). This is ABA Canon 5(C)(3). The committee noted that this canon requires divestment of an investment only when it would cause frequent disqualification, and, even in that case, the divestment need not be made until the asset can be disposed of without serious financial detriment.

Paragraph (C)(4). This subparagraph combines ABA Canon 5(C)(4)(c) and the requirements of present Illinois Supreme Court Rule 61(c)(22). The ABA provisions regarding reporting are deleted since that is covered by Canon 6 of this code and by the Illinois Governmental Ethics Act (5 ILCS 420/1-101 *et seq.*).

Paragraph (D)(2). A judge's obligation under this canon and his or her obligation as a fiduciary may come into conflict. For example, a judge should resign as trustee if it would result in detriment to the trust to divest it of holdings whose retention would place the judge in violation of Canon 5(C)(3).

Paragraphs (E), (F) and (G). Valuable services have been rendered in the past to the States

and the nation by judges appointed by the executive to undertake important extrajudicial assignments. The appropriateness of conferring these assignments on judges must be reassessed, however, in light of the demands on judicial manpower created by today's crowded dockets and the need to protect the courts from involvement in extrajudicial matters that may prove to be controversial. Judges should not be expected or permitted to accept governmental appointments that could interfere with the effectiveness and independence of the judiciary.