

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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OPINION 89-28

Issued August 18, 1989

[Former CJC Opinion-provides advice under the former Ohio Code of Judicial Conduct which is superseded by the Ohio Code of Judicial Conduct, eff. 3/1/2009.]

[Not Current- subsequent rule amendments to Canons 1 through 6, Ohio Code of Judicial Conduct, eff. May 1, 1997 and to Chapter 102, Ohio Revised Code (See Op. 94-12)]

SYLLABUS: A judge is permitted under Canon 4A of the Code of Judicial Conduct to teach courses concerning the law, the legal system, and the administration of justice. A judge may receive compensation for such an activity provided the source of such payment does not give the appearance of influencing the judge or otherwise give the appearance of impropriety. Moreover, the amount of compensation should not exceed a reasonable amount nor exceed what someone who is not a judge would receive for the same activity. This opinion does not address any statutory or constitutional provisions which may apply, including Art. IV §6 of the Ohio constitution.

OPINION: We have before us several requests for advisory opinions on whether a judge may accept compensation for teaching courses at colleges and universities in various areas of the law.

Canon 4A of the Code of Judicial Conduct allows a judge to teach courses concerning the law, the legal system, and the administration of justice. The drafters of the Code felt that judges can contribute significantly to legal education. Thode, Reporter's Notes to Code of Judicial Conduct, 75 (1973). Without compromising the judge's capacity to decide an issue impartially, a judge may commend the present law or propose legal reform. Id. at 74.

In our view, teaching is not, in and of itself, a violation of any specific Code provision. However, Canon 5C encourages judges to refrain from financial and business dealings that tend to reflect adversely on the judges' impartiality. Furthermore, judges should not engage in quasi-judicial or extra-judicial activities which interfere with the proper performance of their judicial duties. Code of Judicial Conduct, Canon 5C. In addition, the judicial duties of a judge should take precedence over all other activities. Code of Judicial Conduct, Canon 3.

Canon 6 applies to the issue of whether a judge may receive compensation for teaching. A judge may receive compensation and reimbursement of expenses for the quasi-judicial activities permitted under the Code provided the source of such payment does not give the appearance of influencing the judge in his or her judicial duties or otherwise give the appearance of impropriety. The amount of compensation should not exceed a reasonable amount nor exceed what someone who is not a judge would receive for the same activity. Code of Judicial Conduct, Canon 6. A judge who receives such compensation should report it as required under Canon 6.

In conclusion, it is our opinion and you are so advised that a judge may teach courses on legal topics. However, the judge must avoid teaching at a college or university which would likely lead to the judge's disqualification or impair the judge's impartiality. A judge may receive reasonable compensation for the activity provided the payment does not give the appearance of influencing the judge or any appearance of impropriety.

This is an informal, non-binding advisory opinion based upon the facts presented and limited to questions arising under the Code of Judicial Conduct. This opinion does not address any statutory or constitutional provisions which may apply including Art. IV §6 of the Ohio constitution.