

Maryland Judicial Ethics Committee

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Expense-Paid Trip Is Substantial Gift from Entity Whose Interest Could Be Submitted To Judge At Any Time

A [Judge] seeks this Committee's opinion as to how ... receiving a gift of a trip "would be viewed from an ethical perspective."

The [Judge] received an invitation to join a mission to X Country from the Y Council. The letter of invitation recites the Council's history of sponsoring "missions to X Country in order to give prominent Marylanders an opportunity to see, feel and understand this unique country." The letter adds that the travelers will visit religious and historical sites, and meet with top political and community leaders from the region. Cost of the trip will be largely paid by the "generosity" of [a] Philanthropic Fund.

While we acknowledge the educational value the trip affords, we view the letter as essentially offering a gift.

Beyond the invitation's "gift" aspect, we find no other ethical issues raised by the proposed trip.

The subject of gifts to judges is addressed in the Maryland Code of Judicial Conduct, Canon 4F, as contained in Rule 16-813. There, it is stated that "A judge must be especially careful in accepting gifts, favors, and loans from persons not in the judge's immediate family. However innocently intended, gifts and favors from such persons, especially gifts and favors having substantial monetary value, may create an appearance that the judge could be improperly beholden to the donor."

This is a gift of substantial value from entities, resident in Maryland, whose interests could be submitted to the [Judge] in the future. Accordingly, to ethically participate in this trip, the [Judge] should pay [his/her] own expenses.

Moreover, even the appearance of impropriety is to be avoided under Canon 2 of the Code. And the appearance of being beholden to one whose interests could be before the judge in the future would appear improper under Canon 2. The Commentary to Canon 2 describes well the reason for our conclusion:

A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on his ... conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

For the foregoing reasons, the Committee concludes that [the Judge] should not accept the invitation unless [the Judge] pays [his/her] own expenses.