

Maryland Judicial Ethics Committee

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■ Published Opinion Unpublished Opinion Unpublished Letter of Advice

Limitations on Honoria

A judge has asked whether it would be permissible to accept an honorarium in the amount of \$500.00 for participating in a panel discussion on health care issues.

Canon 4A of the Maryland Code of Judicial Conduct provides in pertinent part that “A judge may speak, write, lecture, and teach on both legal and non-legal subjects. A judge may participate in other activities concerning the law, the legal system and the administration of justice. ...” The panel described by the judge falls within the ambit of the permissible activities delineated in Canon 4A.

The specific issue of the honorarium is addressed in Canon 4E, which sets forth the following restriction on the acceptance of compensation:

- (1) Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.

Therefore, the Code of Judicial Conduct would allow the judge to accept the honorarium, as long as the judge believes the amount is reasonable given the time required to prepare for and participate in the panel discussion and the honorarium does not exceed the amount paid to others who are not judges for the same work.

However, Maryland Code, State Government Article, Title 15 (hereinafter Public Ethics Law) is also applicable to judges pursuant to § 15-102(II) which includes judges and judicial appointees as “State officials”. “Honorarium” is defined in § 15-102(r) as “the payment of money or anything of value for: (i) speaking to, participating in, or attending a meeting or other function; or (ii) writing an article that has been or is intended to be published” but excludes “payment for writing a book that has been or is intended to be published.” Analysis of the provisions of the Public Ethics Law pertaining to the acceptance of an honorarium yields a result more restrictive than that contained in the Code of Judicial Conduct.

According to § 15-505(d)(2) and (3) of the Public Ethics Law, unless the gift would impair impartiality or independent judgment, a judge may accept an honorarium if the honorarium “is limited to reasonable expenses for the official’s meals, travel and lodging, and reasonable and verifiable expenses for care of a child or dependent adult, that are actually incurred.” An honorarium which is an unsolicited gift of minimal value or is a ceremonial gift or award of insignificant monetary value may also be accepted. Under no circumstance may an honorarium be accepted if the payor “has an interest that may be affected substantially and materially, in a manner distinguishable from the public generally, by the performance or nonperformance of the official’s ... duties; and ... the offering of the honorarium is related in any way to the official’s ... position.”

Therefore, the Committee concludes that acceptance of the honorarium in the amount of \$500.00 for participating in the panel discussion is prohibited by the Public Ethics Law and must be declined.