

Maryland Judicial Ethics Committee

Opinion Request Number: 2010-01

Date of Issue: February 4, 2010

Published Opinion Unpublished Opinion Unpublished Letter of Advice

Judge May Be Compensated for Teaching Law Course to Maryland State Police Recruits

Issue: May a judge teach a law course to Maryland State Police recruits and be compensated therefor?

Answer: Yes.

Facts: The requesting judge (the “Requestor”) is a judge who sits in Maryland’s courts. The Requestor has inquired regarding the propriety of teaching a course in the law to a class of Maryland State Police recruits and receiving compensation therefor.

Discussion: Canon 4A of the Maryland Code of Judicial Conduct (Md. Rule 16-813) provides:

A judge shall conduct all extra-judicial activities so that they do not:

- (1) cause a substantial question as to the judge’s capacity to act impartially as a judge;
- (2) demean the judicial office; or
- (3) interfere with the proper performance of judicial duties.

In turn, Canon 4B provides that “[s]ubject to other provisions of this Code, a judge may lecture, speak, teach, write, and otherwise participate in other extra-judicial activities.”

Finally, Canon 4H provides:

Unless otherwise prohibited by law, a judge may receive compensation and reimbursement of expenses for extra-judicial activities permitted by this Code if:

- (1) the source of compensation or reimbursement does not give the appearance of impropriety;
- (2) the compensation does not exceed a reasonable amount and does not exceed the amount a person who is not a judge ordinarily would receive for the same activity; and
- (3) the expense reimbursement is limited to the actual cost of food, lodging, and travel reasonably incurred by a judge. ...

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Based upon the Committee’s review of Canon 4, the Committee does not believe that such an extra-judicial activity would “cause a *substantial* question as to the judge’s capacity to act impartially as a judge” or that it would “*demean* the judicial office” or “interfere with the proper performance of judicial duties,” as addressed in Canon 4A (emphasis added.) On the contrary, in the Committee’s estimation, the sharing, in an academic context, of a judge’s expertise in the law with members of the public, the legal profession and with those who may one day be responsible for enforcing the laws of the State is *edifying*, not demeaning to the judicial office. The Committee also does not believe that “the source of the compensation ...[in this particular case would] give the appearance of impropriety.” The Committee does not believe that the judge’s being compensated through the budget of the Maryland State Police, as opposed to, for example, being compensated by a community college, university or law school or some other non-profit academic institution, funded in whole or in part by the State, would in itself “give the appearance of impropriety.”

Accordingly, the Committee believes that the Requestor’s potential service as a compensated instructor for a course attended by Maryland State Police recruits is permitted by the Code. Consistent with Canon 4H(2), the Committee’s opinion is, however, premised upon assumptions that the course could be taught by either an attorney or one who otherwise possesses the requisite expertise in the subject and that the compensation received by the Requestor will “not exceed a reasonable amount ... a person who is not a judge ordinarily would receive for the same activity[.]”

Application: The Judicial Ethics Committee cautions that this opinion is applicable only prospectively and only to the conduct of the requestor described in this opinion, to the extent of the requestor’s compliance with this opinion. Omission or misstatement of a material fact in the written request for opinion negates reliance on this opinion.

Additionally, this opinion should not be considered to be binding indefinitely. The passage of time may result in amendment to the applicable law and/or developments in the area of judicial ethics generally or in changes of facts that could affect the conclusion of the Committee. If you engage in a continuing course of conduct, you should keep abreast of developments in the area of judicial ethics and, in the event of a change in that area or a change in facts, submit an updated request to the Committee.