

## Maryland Judicial Ethics Committee

**Opinion Request Number:** 2024-43

**Date of Issue:** January 10, 2025

Published Opinion     Unpublished Opinion     Unpublished Letter of Advice

### Judge's Participation as a Speaker at a Bar Association Event

**Issue:** May a judge serve as a lecturer/speaker at a bar association conference if persons who attend are charged a fee?

**Answer:** Yes.

**Facts:** The Requestor, a judge, seeks guidance on whether they may serve as a speaker at a one-day conference offered by a local bar association “where all the sessions would be taught by judges” and attendees would be charged a fee. The Requestor references a similar model, the Maryland State Bar Association’s Annual Legal Summit, where judges teach various continuing legal education seminars and the attendees, typically members of the Maryland bar, pay to attend the conference. According to the Requestor, the local bar association may solicit and obtain sponsors to “offset the cost of lunch” and other incidentals. The Requestor does not mention whether the speakers would receive compensation. For purposes of this opinion, the Committee assumes that they will not.

**Discussion:** The Maryland Code of Judicial Conduct (the “Code”), Title 18, Chapter 100 of the Maryland Rules, establishes the standards for the ethical conduct of judges. Specifically applicable in this request are the following:

Rule 18-101.2 provides:

- (a) **Promoting public confidence.** — A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.
- (b) **Avoiding perception of impropriety.** — A judge shall avoid conduct that would create in reasonable minds a perception of impropriety.

Rule 18-102.1 confirms that the “duties of judicial office...shall take precedence over a judge’s ...extrajudicial activities.”

Rule 18-103.1 concerns “Extra-Official Activities in General”:

Except as prohibited by law or this Code, a judge may engage in extrajudicial activities. When engaging in extrajudicial activities, a judge shall not:

- (a) participate in activities that will interfere with the proper performance of the judge’s judicial duties;
- (b) participate in activities that will lead to frequent disqualification of the judge;

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- (c) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;
- (d) engage in conduct that would appear to a reasonable person to be coercive; or
- (e) make inappropriate use of court premises, staff, stationery, equipment, or other resources.

Rule 18-103.7 pertains to a judge's participation in certain organizations and activities and provides in relevant part:

- (a) Subject to the requirements of Rules 18-103.1 and 18-103.6, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice ..., including the following activities:

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- (4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, or the administration of justice;

- (5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice.

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Relevant to the current inquiry, Rule 18-101.2(a) provides that “[a] judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.” Rule 18-101.2(b) states that “[a] judge shall avoid conduct that would create in reasonable minds a perception of impropriety.” The comments to Rule 18-101.2 clarify that “[p]ublic confidence in the judiciary is eroded by . . . conduct that creates the appearance of impropriety.” Rule 18-101.2 cmt. 1. “The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge’s ability to carry out judicial responsibilities with competence, impartiality, and integrity is impaired.” Rule 18-101.2 cmt. 5.

As the Code makes clear, judges may participate in extrajudicial activities as long as the participation will not appear to a reasonable person to undermine the judge’s independence, integrity, or impartiality. Rule 18-103.1(c). Indeed, “[j]udges are encouraged to engage in appropriate extrajudicial activities” and are “uniquely qualified to engage in ...activities that concern the law, the legal system, and the administration of justice.” Examples include

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“speaking, writing, teaching, or participating in scholarly research projects.” Rule 18-103.1 cmt. 1. Participation in law-related activities “helps integrate judges into their communities and furthers public understanding of and respect for courts and the judicial system.” Rule 18-103.1 cmt. 2. To be sure, bar associations are “organizations . . . concerned with the law, the legal system, or the administration of justice.” Md. Rule 18-103.7(a). Judges are permitted to engage in bar association activities and are encouraged to be active in bar associations.

In Opinion 2021-19, the Committee addressed whether, as a member of a panel comprised of community leaders, a judge may participate in a discussion with police recruits as part of an entry level training program. We discussed Rules 18-103.1 and 18-103.7, which provide that a judge may participate in activities sponsored by “organizations or governmental entities concerned with the law.” *Id.* at 2. We stated that “the instant request raises the question of identifying the often difficult to discern line between teaching the law and compromising impartiality. Even if a request is by a law-related organization, a judge should ‘refrain from activities that would reflect adversely upon a judge’s independence, integrity, and impartiality.’” *Id.* (quoting Rule 18-103.7 cmt 2).

The specific issue in this request is whether a judge may teach at a conference offered by a local bar association where an admission fee is charged. We previously concluded in Opinion 2010-01 that a judge could teach a course in law to a class of Maryland State Police recruits without running afoul of the Code. We also have opined that a judge could speak at a large gathering of attorneys considering ethical issues and legal malpractice, where the event was co-hosted by Bar Counsel and a law firm and sponsored by a legal liability insurance company. *See* Opinion 2008-18 (noting that event would include breakfast for all attendees and the insurer’s name and logo would be included on the materials). Here, a bar association is clearly an organization “concerned with the law, the legal system, or the administration of justice,” Rule 18-103.7(a), and whether the cost for the event is absorbed (in whole or in part) by attendees or possible sponsors does not change the ultimate conclusion that it is acceptable for a judge to participate in such an event as long as it is open to all attorneys—regardless of practice area. Again, the critical question is whether participation would undermine the Requestor’s independence, integrity or impartiality.<sup>1</sup>

Based on the information provided, the Committee concludes that a judge may participate as a speaker at a bar association conference where attendees are charged a fee. If the Requestor ultimately chooses to participate, the Requestor must be ever mindful of the Requestor’s obligations pursuant to the Code and must not provide any comments,

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<sup>1</sup> The Committee is of the opinion that participation at a one-day conference will not raise concerns vis-a-vis Rule 18-103.1.

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suggestions and/or advice that might reasonably call into question the Requestor's independence, integrity, or impartiality. The Requestor, similarly, must not make any statements on pending or impending cases. *See* Rule 18-102.10.

**Application:** The Judicial Ethics Committee cautions that this Opinion is applicable only prospectively and only to the conduct of the Requestor described herein, 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 the request for advice involves a continuing course of conduct, the Requestor 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.