

COMMENT

[1] Judges are encouraged to participate in educational programs in law-related and academic disciplines, in furtherance of their duty to remain competent in the law. Attendance at educational activities where the expenses are paid for by persons or entities other than the judge, however, must be evaluated by the judge to determine whether attendance is consistent with the requirements of this Code.

[2] A judge's decision whether to accept the gift of expenses or a waiver of fees in attending an educational activity should be based on an assessment of all of the circumstances, and the judge must undertake a reasonable inquiry to obtain the information necessary to make an informed judgment. The judge should, for example, consider whether the sponsor or the funding source of the educational activity is currently appearing or likely to appear before the judge in a matter, thus possibly requiring disqualification of the judge. See Rule 2.12. If the necessary information is not available, whether through public disclosure, disclosure from the sponsor upon inquiry, or other sources, the judge should not attend the seminar. If the information obtained by the judge does not resolve the question concerning the propriety of attendance, the judge should not attend.

[3] A judge also should not attend educational activities sponsored by organizations with which the judge may not properly be associated, such as organizations that practice invidious discrimination; to do so would violate Rule 1.01 if the judge's attendance might be perceived as manifesting approval of the organization's policies. See Rule 3.04, Comment [2].

[4] The factors that a judge should consider when deciding whether to attend a particular educational activity on an expenses-paid basis include:

- (a) whether the sponsor is an accredited educational institution or bar association rather than a corporation, law firm, attorney, other for-profit entity, or a non-profit organization not described above~~for-profit entity or trade association~~;
- (b) whether the funding comes largely from numerous contributors rather than from a single entity and is earmarked for programs with specific content;
- (c) whether the content is unrelated to the subject matter of litigation before the judge or is related to matters that are, or are likely to come before the judge;
- (d) whether the activity is primarily educational rather than recreational, and whether the costs of the event are reasonable and comparable to those associated with similar events sponsored by the judiciary, bar associations, or similar groups;

(e) whether information concerning the activity and its funding sources are publicly available~~upon inquiry~~;

(f) whether ~~the~~a sponsor, or ~~the~~a major source of funding (those contribution \$10,000 or more) for the sponsor or the activity, ~~are~~is generally associated with particular parties or interests likely to appear in the judge's court;

(g) whether differing viewpoints are presented; and

(h) the number of participants, whether a broad range of judicial and non-judicial participants are invited, and whether the program is designed specifically for judges. The judge should more carefully examine an invitation to a program designed specially for judges or if there is not a broad range of non-judicial participants.

In addition, the judge should determine whether attendance may create a conflict of interest, may result in disqualification or recusal in matters coming before the judge, may give rise to a judge's independence being questioned, or may interfere with the judge's performance of his or her judicial duties.

[5] In addition to disclosure required by paragraph (B) and Rule 4.13, a judge must take reasonable steps to ensure that information concerning the judge's participation in educational activities and other events, as well as reasonable information regarding the nature and circumstances of such events, is made available to the public. A judge should therefore promptly and publicly disclose participation in extra-judicial events at which the expenses are paid by persons or entities other than the judge.