

**AMERICAN BAR ASSOCIATION
CPR POLICY IMPLEMENTATION COMMITTEE**

COMPARISON OF ABA MODEL JUDICIAL CODE AND STATE VARIATIONS

RULE 3.12 Compensation for Extrajudicial Activities	
<p>A JUDGE MAY ACCEPT REASONABLE COMPENSATION FOR EXTRAJUDICIAL ACTIVITIES PERMITTED BY THIS CODE OR OTHER LAW* UNLESS SUCH ACCEPTANCE WOULD APPEAR TO A REASONABLE PERSON TO UNDERMINE THE JUDGE’S INDEPENDENCE,* INTEGRITY,* OR IMPARTIALITY.*</p> <p>COMMENT</p> <p>[1] A judge is permitted to accept honoraria, stipends, fees, wages, salaries, royalties, or other compensation for speaking, teaching, writing, and other extrajudicial activities, provided the compensation is reasonable and commensurate with the task performed. The judge should be mindful, however, that judicial duties must take precedence over other activities. See Rule 2.1.</p> <p>[2] Compensation derived from extrajudicial activities may be subject to public reporting. See Rule 3.15.</p> <p>Ten (10) states have identical language (AZ, AR, CO, IN, MN, MO, MS, NE, WA, WY) Eleven (11) states have similar language (HI, IA, KS, MD, MT, NH, NV, NY, OH, TN, UT) Two (2) states have different language (DE, OK)</p>	
AL	
AK	
AZ Effective 9/1/09	Identical
AR Effective 7/1/09	Identical
CA (as pro- posed)	Comment [1] – CA Canon 4: The Committee proposes expanding the canon to include <i>prohibition</i> of honorarium, definition of the term and adding “honoraria” to the title.
CO Effective 7/1/10	Identical
CT Effective 1/1/11	Changes “permitted by this Code or other law” to “permitted by law.”
DE Effective 11/1/08	First paragraph: similar to 1990 Model Code Canon 4H(1) but adds “law-related and” before “extra-judicial” (A): similar to 1990 Model Code Canon 4H(1)(a) up to “nor” but replaces “shall” with “should” Adds (B): <i>A judge should not solicit or accept a fee, reimbursement of expenses, or a gift for solemnizing a marriage, except that a judge may accept a non-monetary gift, if the gift is fairly commensurate with the occasion and the judge’s relationship with the persons involved.</i>

	Deletes Comment
DC (as pro- posed)	Identical
FL	
HI Effective 1/1/09	Rule: replaces “undermine” with “materially impair” and adds “temperament, or fitness to fulfill the duties of judicial office” to end
ID	
IL	
IN Effective 1/1/09	Identical
IA Effective 5/3/10	Does not have MR Comment [2]
KS Effective 3/1/09	[1]: adds “and does not exceed what a person who is not a judge would receive for the same activity” to end of first sentence
KY	
MD Effective 7/1/10	[1] Adds to end: “ <i>See</i> Rule 2.1, Code, Family Law Article, §§ 2-406 and 2-410 , and Md. Rules 16-821 through 16-824 . “
MA	
MI	
MN Effective 7/1/09	Identical
MO Effective 1/1/2012	Identical
MS (as pro- posed)	Identical
MT Effective 1/1/09	Deletes Comment
NE Effective 1/1/2011	Identical
NV Effectiv e 1/19/10	[1]: deletes language between “accept” and “compensation” and “for” and “extrajudicial” and adds, “and the acceptance of the compensation does not violate NRS 281A.510 prohibiting honoraria. A judge may, however, accept reimbursement for expenses incurred in connection with speaking engagements as provided in Rule 3.14,” after “performed.” Adds [1A]: <i>Retired judges subject to recall, continuing part-time judges, and pro tempore part-time judges may accept a reasonable honorarium for supplemental employment such as teaching,</i>

	<i>lecturing and speaking.</i>
NH Effective 4/1/2011	Adds at the beginning: “Subject to Rule 3.1(B), a judge may accept...” [1] Adds at the beginning: “Subject to Rule 3.1(B), a judge is permitted...”
NJ	
NM (as pro- posed)	[1] Replaces reference with corresponding Rule 21-201 NMRA [2] Replaces reference with corresponding Rule 21-315 NMRA Adds [3]: <i>No judge may receive any remuneration, including a gratuity, for performing a marriage ceremony. For reasonable travel expenses, See Rule 21-314 NMRA.</i>
NY (as pro- posed)	Adds “full time” before “judge;” adds “or reimbursement of reasonable and necessary expenses” after “reasonable compensation;” Adds to end: <i>“Reasonable compensation” shall mean an amount that does not exceed a reasonable amount and does not exceed what a person with similar qualifications, who is not a full time judge, would receive for the same activity. A judge receiving compensation under this provision must comply with the reporting requirements in Rule 3.15(A).</i>
NC	
ND (as pro- posed)	Identical
OH Effective 3/1/09	Rule: deletes “reasonable” and “this code or other” and adds “The compensation shall be reasonable and commensurate to the task performed” to end. [1]: changes first sentence to “Unless otherwise prohibited by law, a judge is permitted to accept compensation for extrajudicial activities.” Adds [1A]: <i>A judge is prohibited by R.C. 102.03(H) from receiving an honorarium, including any payment made in consideration for a speech given, article published, or attendance at a public or private conference, convention, meeting, social event, meals, or similar gathering. See R.C. 102.01(H).</i> [1B]: <i>Compensation for an extrajudicial activity shall not exceed a reasonable amount or what a person who is not a judge would receive for the same activity.</i> [2]: replaces “may be” with “is”
OK Effective 4/15/2011	OK Rule: <i>The compensation for extrajudicial activities of a judge is controlled and regulated by the Rules of the Ethics Commission or other applicable law. If a judge is permitted to accept extrajudicial compensation under those rules the judge should refrain from accepting such compensation if it would appear to a reasonable person to undermine the judge’s independence, integrity or impartiality. (See Rules of Ethics Commission 20-1-9(h).</i> [1] Replaces first sentence with: “A judge may only accept compensation as provided by the Rules of the Ethics Commission or other applicable law. Any compensation that is permitted must be reasonable and commensurate with the task performed.”
OR	
PA	

SD	
TN (as proposed)	Adds: “Unless prohibited by law” before “a judge”; adds “for personal or” before “extrajudicial activities” [1]: Adds “ <i>Other law may prohibit the accepting of such compensation. See, e.g. Tenn. Code Ann. § 2-10-116.</i> ”
TX	
UT Effective 4/1/10	Adds (B): <i>A judge shall not receive compensation for performing a marriage ceremony during regular court hours. A judge may receive compensation for performing a marriage ceremony during non-court hours.</i> Deletes [2]
VT	
VA	
WA Effective 1/1/11	Identical
WV	
WI	
WY Effective 7/1/09	Identical

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