

**AMERICAN BAR ASSOCIATION
CPR POLICY IMPLEMENTATION COMMITTEE**

COMPARISON OF ABA MODEL JUDICIAL CODE AND STATE VARIATIONS

RULE 3.14 Reimbursement of Expenses and Waivers of Fees or Charges

(A) Unless otherwise prohibited by Rules 3.1 and 3.13(A) or other law,* a judge may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the judge's employing entity, if the expenses or charges are associated with the judge's participation in extrajudicial activities permitted by this Code.

(B) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the judge and, when appropriate to the occasion, by the judge's spouse, domestic partner,* or guest.

(C) A judge who accepts reimbursement of expenses or waivers or partial waivers of fees or charges on behalf of the judge or the judge's spouse, domestic partner, or guest shall publicly report such acceptance as required by Rule 3.15.

COMMENT

[1] Educational, civic, religious, fraternal, and charitable organizations often sponsor meetings, seminars, symposia, dinners, awards ceremonies, and similar events. Judges are encouraged to attend educational programs, as both teachers and participants, in law-related and academic disciplines, in furtherance of their duty to remain competent in the law. Participation in a variety of other extrajudicial activity is also permitted and encouraged by this Code.

[2] Not infrequently, sponsoring organizations invite certain judges to attend seminars or other events on a fee-waived or partial-fee-waived basis, and sometimes include reimbursement for necessary travel, food, lodging, or other incidental expenses. A judge's decision whether to accept reimbursement of expenses or a waiver or partial waiver of fees or charges in connection with these or other extrajudicial activities must be based upon an assessment of all the circumstances. The judge must undertake a reasonable inquiry to obtain the information necessary to make an informed judgment about whether acceptance would be consistent with the requirements of this Code.

[3] A judge must assure himself or herself that acceptance of reimbursement or fee waivers would not appear to a reasonable person to undermine the judge's independence, integrity, or impartiality. The factors that a judge should consider when deciding whether to accept reimbursement or a fee waiver for attendance at a particular activity include:

- (a) whether the sponsor is an accredited educational institution or bar association rather than a trade association or a for-profit entity;
- (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 related or unrelated to the subject matter of litigation pending or impending before the judge, or to matters that 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;

	<p>(e) whether information concerning the activity and its funding sources is available upon inquiry;</p> <p>(f) whether the sponsor or source of funding is generally associated with particular parties or interests currently appearing or likely to appear in the judge’s court, thus possibly requiring disqualification of the judge under Rule 2.11;</p> <p>(g) whether differing viewpoints are presented; and</p> <p>(h) whether a broad range of judicial and nonjudicial participants are invited, whether a large number of participants are invited, and whether the program is designed specifically for judges.</p> <p>Seven (7) states have identical language (CO, KS, MS, NV, NH, NY, WY) Fifteen (15) states have similar language (AZ, AR, HI, IN, IA, MD, MN, MO, MT, NE, OK, OH, TN, UT) Two (2) states have different language (DE, WA)</p>
AL	
AK	
AZ Effective 9/1/09	[3]: replaces “assure himself or herself that” with “determine whether”
AR Effective 7/1/09	Adds [4A]: <i>Reimbursement of expenses from governmental entities need not be reported under Rule 3.14 [C] or Rule 3.15.</i>
CA (as pro- posed)	Comment [3] – CA Commentary to Canon 4H, 2 nd paragraph: The Committee proposes adoption of commentary based on the Model Rule comment.
CO Effective 7/1/10	(A)(2): Replaces “alone or in the aggregate...” to end with “ <i>does not exceed the statutory amount specified in Title 24, Article VI of the Colorado Revised Statutes; and</i> ” to end. (3) Deletes “...unless the amount of reimbursement or waiver...” to end.
CT Effective 1/1/11	Comment (2) Adds as second-to-last sentence: “Per diem allowances shall be reasonably related to the actual costs incurred.”
DE Effective 11/1/08	Rule: similar to 1990 Model Code Canon 4H(1)(b) but adds “domestic partner” Comment: <i>Reimbursement or direct payment of travel expenses may be a gift and, if so, its acceptance is governed by Rule 3.13. A judge or employee may receive as a gift travel expense reimbursement including the cost of transportation, lodging, and meals, for the judge and a guest incident to the judge’s attendance at a bar-related function or at an activity devoted to the improvement of the law, the legal system, or the administration of justice.</i>
DC (as pro- posed)	(C) Deletes “publicly” before “report”
FL	
HI Effective 1/1/09	Deletes (C) [3]: replaces “undermine” with “materially impair,” adds “temperament, or fitness to fulfill the duties of judicial office” after “impartiality” and adds “or recusal” after “disqualification” in (f)

ID	
IL	
IN Effective 1/1/09	Adds [4]: <i>Rule 3.14(C) does not require judges to report expenses paid by governmental entities, colleges and universities, or the following local, state, and national judicial and bar organizations or their subdivisions: Indiana Judges Association, Indiana State Bar Association, National Association of Women Judges, Indiana Continuing Legal Education Forum, American Bar Association, National Bar Association, National Center for State Courts, Conference of Chief Justices, National Conference of Bar Examiners, Seventh Circuit Bar Association, any Indiana city or county local bar association, or any other organization designated by the Indiana Supreme Court as an exempted source of reimbursement.</i>
IA Effective 5/3/10	Does not have MR (C)
KS Effective 3/1/09	Identical
KY	
MD Effective 7/1/10	Does not adopt (C).
MA	
MI	
MN Effective 7/1/09	(B): replaces “domestic partner” with “person with whom the judge has an intimate relationship” Deletes (C)
MO Effective 1/1/2012	(B) and (C) Deletes “domestic partner” [2] Replaces “not infrequently” with “frequently” in the beginning; Deletes the last sentence [3] Deleted
MS (as pro- posed)	Identical
MT Effective 1/1/09	Deletes (C)
NE Effective 1/1/2011	Adds to end of Rule: <i>NOTE: THE NEBRASKA SUPREME COURT HAS ADOPTED AS PART OF THIS CODE A “JUDICIAL FINANCIAL INTEREST STATEMENT,” AS SET FORTH AT APPENDIX C HEREIN, WHICH SHALL BE USED FOR REPORTING PURPOSES.</i>
NV Effective 1/19/10	Comment [3] (1), (2), (3)... is equivalent to Model Code comment [3] (a), (b), (c)...
NH Effective 4/1/2011	Identical
NJ	
NM	(A) and (C) Replaces references with corresponding Rules 21-301, 21-313(A) and 21-315

(as proposed)	NMRA, respectively.
NY (as proposed)	Identical
NC	
ND (as proposed)	(A) Replaces “Rules 3.1 and 3.13(A)” with “Rule 3.1” (B) Adds to the end: “Any reimbursement in excess of actual cost is compensation and must be publicly reported as required by Rule 3.15” (C): Deleted
OH Effective 3/1/09	(A) Deletes “Unless ... or other law,” in the beginning and replaces language after “and similar items” with: <i>with similar items if both of the following apply:</i> <i>(1) The expenses or charges are associated with the judge’s participation in activities permitted by this code;</i> <i>(2) The source of the reimbursement or waiver does not give the appearance of influencing the judge in his or her judicial duties or otherwise appear to a reasonable person to undermine the judge’s independence, integrity, or impartiality.</i> (B) Adds at the end: “Any reimbursement in excess of actual cost is compensation and shall be publicly reported as required by Rule 3.15.” [3]: replaces “assure himself or herself that” with “determine whether”
OK Effective 4/15/2011	(A) Adds “or (C)” after “Rules 3.1 and 3.13(A)” (B) Replaces “domestic partner” with “member of the judge’s household” Deletes (C) [2] Adds at the end “and the Rules of the Ethics Commission” Adds [3](i): <i>whether the sponsor or the source of funding is a member of one of the three restricted categories of givers described in paragraph (B) and in the Rules of the Ethics Commission.</i>
OR	
PA	
SD	
TN (as proposed)	Deletes (C)
TX	
UT Effective 4/1/10	Deletes (C)
VT	
VA	
WA Effective 1/1/11	(B) State Code deletes everything after “incurred by the judge.” Model Code (C) deleted.
WV	
WI	

As of September 6, 2011

WY Effective 7/1/09	Identical
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