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**Terminology**

**“Gift” means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, bequest, or anything of monetary value, but does not include:**

- (a) **Ordinary social hospitality extended for a non-business purpose by an individual, not a corporation, limited to the provision of modest items, such as food and refreshments, that is so common among people in the judge’s community that no reasonable person would believe that the donor was intending to or would obtain any advantage;**<sup>1</sup>
- (b) **items with little intrinsic value intended solely for presentation, such as plaques, certificates, trophies and greeting cards;**
- (c) **a loan loans from a lending institution in its regular course of business banks and other financial institutions on the same terms generally that are available to persons who are not judges based on factors other than judicial status;**<sup>2</sup>
- (d) **opportunities and benefits, including favorable rates and commercial discounts, that are available based on factors other than judicial status;**
- (e) **rewards and prizes given to competitors in contests or events, including random drawings, that are open to the public and that are available based on factors other than judicial status; or**
- (f) **~~a scholarship or fellowship~~ scholarships and fellowships awarded on the basis of the same terms and based on the same criteria applied to other non-judge applicants, and based on factors other than judicial status;**
- (g) **reimbursement or waiver of charges for travel-related expenses governed by Rule 4.14;**
- (h) **compensation for extra-judicial activities that is governed by Rule 4.14.**

**“Widely attended event” means a convention, conference, symposium, forum, panel discussion, dinner, viewing, reception or similar event at which more than 25 persons are expected to attend.**

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**4.13 Solicitation and Acceptance of Gifts.**

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<sup>1</sup> Canon 4D(5)(c)  
<sup>2</sup> Canon 4D(5)(f)

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1 (a) A judge shall not solicit or accept and shall urge members of the judge's  
2 family residing in the judge's household\* not to solicit or accept a gift,\* bequest,  
3 ~~favor, or loan~~ from anyone except that a judge may accept for.<sup>3</sup>

- 4 1. a gift\* incident to a public testimonial;
- 5 2. books, magazines, journals, audio-visual materials ~~tapes~~ and  
6 other resource materials supplied by publishers or  
7 organizations on a complimentary basis for official use;
- 8 3. an invitation to the judge and the judge's spouse or guest to  
9 attend without charge a widely attended event or a bar-  
10 related function or any activity devoted to the improvement of  
11 the law,\* the legal system or the administration of justice;<sup>4</sup>
- 12 4. a gift\*, award or benefit incident to the business, profession or  
13 other separate activity of a spouse or other family member of  
14 a judge residing in the judge's household, including gifts,  
15 awards and benefits for the use of both the spouse or other  
16 family member and the judge (as spouse or family member),  
17 provided the gift, award or benefit could not reasonably be  
18 perceived as intended to influence the judge in the  
19 performance of judicial duties;<sup>5</sup>

20 ~~(e) Ordinary social hospitality~~<sup>6</sup>

- 21 5. a gift\* from a relative or friend, for a special occasion, such as  
22 a wedding anniversary or birthday, if the gift is fairly  
23 commensurate with the occasion and the relationship;<sup>7</sup>
- 24 6. a gift\*, ~~bequest, favor or loan~~ from a relative or close personal  
25 friend whose appearance or interest in a case would in any  
26 event require disqualification under Rule 2.12;<sup>8</sup> or

27 ~~(f) a loan from a lending institution in the regular course of its~~  
28 ~~business on the same terms generally available to persons who are not~~  
29 ~~judges.~~<sup>9</sup>

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<sup>3</sup> Canon 4D(5)

<sup>4</sup> Canon 4.D.(5)(a).

<sup>5</sup> Canon 4.D.(5)(b).

<sup>6</sup> A slightly modified variation of deleted Canon 4.D.(5)(c) has been moved to the terminology section, where social hospitality is excluded from the definition of gift altogether.

<sup>7</sup> Canon 4.D.(5)(d).

<sup>8</sup> Canon 4.D.(5)(e).

<sup>9</sup> A slightly modified version of deleted Canon 4.D.(5)(f) has been moved to the terminology section, where commercial loans are excluded from the definition of gift altogether.

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1                   ~~(g) a scholarship or fellowship awarded on the same terms and based~~  
2                   ~~on the same criteria applied to other applicants.~~<sup>10</sup>

3                   7.       any other individual gift\*, ~~bequest, favor or loan~~ valued at  
4                   [\$50] or less, or series of gifts from the same source whose  
5                   value in the aggregate does not exceed [\$150], ~~only if the~~  
6                   donor is not:

7                   a.       a lawyer, party, or third person who has come before  
8                   the judge, or a person or entity whose interests have come  
9                   before the judge, within the preceding five years ~~and if the~~  
10                  ~~value exceeds \$150.00, or~~

11                  b.       a lawyer, party, or third person who is likely to come  
12                  before the judge, or a person or entity whose interests are  
13                  likely to come before the judge, in the foreseeable future. ~~The~~  
14                  ~~judge reports it in the same manner as the judge reports~~  
15                  ~~compensation in Section 4H.~~<sup>11</sup>

16  
17                  **(b)   and, if its For any gift, other than a gift from a member of the judge's**  
18                  **family, that -which** alone or in the aggregate with other gifts received  
19                  **from the same source in the same calendar year exceeds \$250.00 in**  
20                  **value exceeds \$150.00, the judge reports must publicly report in the**  
21                  **same manner as the judge reports compensation, reimbursement or**  
22                  **waiver of charges pursuant to Rule 4.16.**<sup>12</sup>

23  
24 **Commentary:**

25 [1] A judge may accept a public testimonial or a gift incident thereto only if the donor  
26 organization is not an organization whose members comprise or frequently represent the  
27 same side in litigation, and the testimonial and gift are otherwise in compliance with  
28 other provisions of this Code. See Rules 4.01 and 2.09.<sup>13</sup>

29 [2] Because a gift, ~~bequest, favor or loan~~ to a member of the judge's family residing in  
30 the judge's household might be viewed as intended to influence the judge, a judge must  
31 inform those family members of the relevant ethical constraints upon the judge in this  
32 regard and discourage those family members from violating them. A judge cannot,

<sup>10</sup> A slightly modified leted Canon 4.D.(5)(g) has been moved to the terminology section, where scholarships and fellowships are excluded from the definition of gift altogether.

<sup>11</sup> Canon 4D(5)(h) partial

<sup>12</sup> Canon 4D(5)(h) partial

<sup>13</sup> Canon 4D(5)(a) Commentary.

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1 however, reasonably be expected to know or control all of the financial or business  
2 activities of all family members residing in the judge's household.<sup>14</sup>

3 [3] A gift to a judge, or to a member of the judge's family living in the judge's  
4 household, that is excessive in value raises questions about the judge's impartiality and  
5 the integrity of the judicial office and might require disqualification of the judge where  
6 disqualification would not otherwise be required. ~~See, however, Section 4.13.~~<sup>15</sup>

7 [4] Rule 4.13 prohibits judges from accepting gifts, ~~favours, bequests or loans~~ from  
8 lawyers or their firms if they have come or are likely to come before the judge; it also  
9 prohibits gifts, ~~favours, bequests or loans~~ from clients of lawyers or their firms when the  
10 clients' interests have come or are likely to come before the judge. Rule 4.13(a)(5)  
11 prohibits a judge from accepting gifts, even of a nominal value, from people who are or  
12 will be substantively involved in a matter before the judge. The rule requires a judge to  
13 consider whether a donor, or the donor's interest, might come before the judge in the  
14 foreseeable future. In making the assessment, the judge must consider whether there is a  
15 pending or impending proceeding that may be assigned to the judge.<sup>16</sup>

16 [5] Rule 4.13 does not apply to contributions to a judge's campaign for judicial office, a  
17 matter governed by Canon 5.<sup>17</sup> Rule 4.13 likewise does not apply to the reimbursement  
18 for or waiver of charges for travel-related expenses, which is governed by 4.14. See the  
19 Terminology section, for the definition of gift and its exclusions.

20  
21 [6] Acceptance of an invitation to a law-related function is governed by Rule 4.13(a)(1);  
22 acceptance of an invitation paid for by an individual lawyer or group of lawyers is  
23 governed by Rule 4.13(a)(5).<sup>18</sup>

24 [7] Regardless of whether Rule 4.13 directly prohibits receipt of a particular gift by a  
25 judge or a member of the judge's family residing in the judge's household, other Rules  
26 may prohibit the gift. For example, Rule 4.01(b) would apply if the gift would cast  
27 reasonable doubt on the judge's capacity to act with impartiality, integrity and  
28 independence.

29 **Rule 4.14 Reimbursement or Waiver of Charges for Travel-Related Expenses of the**  
30 **Judge or the Judge's Spouse or Guest.:**

31 **(a) A judge may receive ~~compensation and reimbursement or accept a~~**  
32 **waiver of charges from sources other than the judge's employing**  
33 **entity for the ~~of~~ expenses of necessary travel, food and lodging**  
34 **associated with the judge's participation in ~~for the~~ extra-judicial**

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<sup>14</sup> Canon 4.D.(5).

<sup>15</sup> Canon 4.D.(5)(d) commentary.

<sup>16</sup> Canon 4.D.(5)(h) commentary.

<sup>17</sup> Canon 4.D.(5) commentary.

<sup>18</sup> Canon 4.D.(5)(a) commentary.

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1 activities permitted by this Code, if ~~the source of such payments~~  
2 such receipt or acceptance does not cast reasonable doubt on the  
3 judge's capacity to act with give the appearance of influencing the  
4 judge's performance of judicial duties or otherwise give the  
5 appearance of impropriety impartiality, integrity, or  
6 independence.<sup>19</sup>

7 (b) Expense reimbursement and waiver of charges shall be limited to  
8 the actual cost of travel, food and lodging reasonably incurred by  
9 the judge and, where appropriate to the occasion, by the judge's  
10 spouse or guest. Any reimbursement or waiver of charges which  
11 alone or in the aggregate with other costs reimbursed from the  
12 same source in the same calendar year exceeds \$100 shall be  
13 publicly disclosed and the information relating to such  
14 reimbursement and/or waiver of charges shall be reported as  
15 required by section 4.16 and made accessible to the general  
16 public at least quarterly."<sup>20</sup>

17  
18  
19 **Commentary**

20 [1] Judicial education in law-related and academic disciplines is in keeping with  
21 a judge's duty to remain competent in the law and is consistent with the provisions of  
22 Canon 4. Attendance at educational seminars where the expenses are underwritten by  
23 individuals or entities other than the judge, the judicial system, or a government entity,  
24 should be evaluated by the judge to determine whether attendance is consistent with the  
25 judge's obligations under the Canons, particularly the duty to preserve impartiality and  
26 independence, and the appearance of impartiality and independence.

27  
28 [2] A variety of factors may affect the propriety of attendance at such seminars,  
29 including the educational nature of the seminar, the sources of funding, the identity of the  
30 seminar sponsor, and the reasonableness of the expenses paid or reimbursed. The judge  
31 should consider whether the sponsor or the funding source of the seminar is currently  
32 appearing, or likely to appear, before the judge in a matter. In addition, the judge should  
33 determine whether attendance may create a conflict of interest, may result in  
34 disqualification or recusal in matters coming before the judge, may give rise to a judge's  
35 independence being questioned, or may interfere with the judge's performance of his or  
36 her judicial duties. A judge's decision whether to attend should be based on an  
37 assessment of all of the circumstances and the judge should undertake a reasonable  
38 inquiry to obtain the information necessary to make an informed judgment.

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<sup>19</sup> Canon 4.H.1.

<sup>20</sup> Canon 4.H.1(b).

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1 [3] Consistent with Rules 4.13(b) and 4.16, a judge should take reasonable steps to  
2 ensure that information concerning his or her participation in seminars and other events,  
3 as well as reasonable information regarding the nature and circumstances of such events,  
4 are available to the public. A judge should therefore promptly and publicly disclose  
5 participation in extra-judicial events at which the judge's expenses are paid by sources  
6 other than the judge's employing governmental entity.

7 **4.15. Compensation for Extrajudicial Activities**

8 (a) A judge may receive compensation ~~and reimbursement of expenses,~~  
9 ~~for the extra-judicial activities permitted by this Code, if the source of such~~  
10 ~~payments such receipt or acceptance does not cast reasonable doubt on the~~  
11 ~~judge's capacity to act with give the appearance of influencing the judge's~~  
12 ~~performance of judicial duties or otherwise give the appearance of~~  
13 ~~impropriety~~ impartiality, integrity, or independence.<sup>21</sup>

14 (b) Compensation shall not exceed a reasonable amount nor shall it  
15 exceed what a person who is not a judge would receive for the same  
16 activity.<sup>22</sup>

17 **Commentary:**

18 [1] The Code does not prohibit a judge from accepting honoraria or speaking fees  
19 provided that the compensation is reasonable and commensurate with the task performed.  
20 A judge should ensure, however, that no conflicts are created by the arrangement. A  
21 judge must not appear to trade on the judicial position for personal advantage. Nor  
22 should a judge spend significant time away from court duties to meet speaking or writing  
23 commitments for compensation. In addition, the source of the payment must not raise  
24 any question of undue influence or the judge's ability or willingness to be impartial.<sup>23</sup> See  
25 Rule 4.01.

26 **4.16 Reporting of Compensation, Reimbursement and Waiver of Charges.** A judge  
27 **shall report the date, place and nature of any activity for which the judge received**  
28 **compensation, reimbursement or waiver of charges, and the name of the payor or**  
29 **waivor and the amount of compensation, reimbursement, or waiver of charges so**  
30 **received. Compensation or income of a spouse attributed to the judge by operation**  
31 **of a community property law is not extra-judicial compensation to the judge. The**  
32 **judge's report shall be made at least quarterly annually and shall be filed as a**  
33 **public document in the office of the clerk of the court on which the judge serves or**  
34 **other office designated by law\* and when technically feasible, posted on the website**  
35 **of that court or office.**<sup>24</sup>

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<sup>21</sup> Canon 4.H.1.

<sup>22</sup> Canon 4.H.1(a).

<sup>23</sup> Canon 4.H.(2) commentary.

<sup>24</sup> Canon 4H(2)

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1 **Commentary:**

2 ~~[1] See Section 4D(5) Rule 4.13 regarding reporting of gifts, bequests and loans.~~<sup>25</sup>

3 ~~[2] Canon 6, new in the 1972 Code, reflected concerns about conflicts of interest and~~  
4 ~~appearances of impropriety arising from compensation for the off the bench activities.~~  
5 ~~Since 1972, however, reporting requirements that are much more comprehensive with~~  
6 ~~respect to what must be reported and with whom reports must be filed have been adopted~~  
7 ~~by many jurisdictions. The Committee believes that Although reports of compensation~~  
8 ~~for extra judicial activities should be required, reporting requirements preferably should~~  
9 ~~be developed to suit the respective jurisdictions, not simply adopted as set forth in a~~  
10 ~~national model code of judicial conduct. Because of the Committee's concern that~~  
11 ~~deletion of this Canon might lead to the misconception that reporting compensation for~~  
12 ~~extra judicial activities is no longer important, the substance of Canon 6 is carried~~  
13 ~~forward as Section 4H Rule 4.16 in this Code for adoption in those jurisdictions that do~~  
14 ~~not have other reporting requirements. In jurisdictions that have separately established~~  
15 ~~reporting requirements, Section 4H(2) (Public Reporting) Rule 4.16 may be deleted and~~  
16 ~~the caption for Section 4H modified appropriately. Regardless, this Code requires~~  
17 ~~prompt and public disclosure of any reimbursements or waiver of charges in connection~~  
18 ~~with extra judicial activities.~~<sup>26</sup>

19 **[Reporter's Note: Move the following material back to financial activities rule]**

20 ~~Public disclosure of a judge's gifts, reimbursements, income, debts, investments or other~~  
21 ~~assets is required only to the extent provided in this Canon and in Section 2.11, or as~~  
22 ~~otherwise required by law.\*<sup>27</sup>~~

23 **Commentary:**

24 ~~[1] Section 3E requires a judge to disqualify himself or herself in any proceeding in~~  
25 ~~which the judge has an economic interest. See economic interest<sup>27</sup> as explained in the~~  
26 ~~Terminology Section. Section 4D requires a judge to refrain from engaging in business~~  
27 ~~and from financial activities that might interfere with the impartial performance of~~  
28 ~~judicial duties; Section 4H requires a judge to report all compensation the judge received~~  
29 ~~for activities outside judicial office. A judge has the rights of any other citizen, including~~  
30 ~~the right to privacy of the judge's financial affairs, except to the extent that limitations~~  
31 ~~established by law are required to safeguard the proper performance of the judge's~~  
32 ~~duties.<sup>28</sup>~~

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<sup>25</sup> Canon 4H Commentary

<sup>26</sup> Canon 4G Commentary

<sup>27</sup> Canon 4I

<sup>28</sup> Canon 4I Commentary