

(B) participate in activities that will lead to frequent disqualification of the judge;

(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 use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

Nevada Code of Judicial Conduct, Canon 3, Rule 3.1. The Supreme Court of Nevada has explained in connection with Rule 3.1 that:

Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing, teaching, or participating in scholarly research projects.

See Nevada Code of Judicial Conduct, Canon 3, Rule 3.1, *Comment [1]* to Rule 3.1.

Rule 3.7 also provides guidance. That rule states “a judge may participate in activities . . . sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations *not conducted for*

profit . . .” Nevada Code of Judicial Conduct, Canon 3, Rule 3.7(A)(emphasis added).

Rule 3.12 states that judges may – subject to the reporting requirements of Rule 3.15 – be compensated for permitted extrajudicial activities provided the compensation is “reasonable” and unless accepting compensation would “appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.” Nevada Code of Judicial Conduct, Canon 3, Rule 3.12. The Commentary for Rule 3.12 explains:

A judge is permitted to accept compensation for extrajudicial activities, provided the compensation is reasonable and commensurate with the task performed and the acceptance of the compensation does not violate NRS 281A.510 prohibiting honoraria.

....

The judge should be mindful, however, that judicial duties must take precedence over other activities. See Rule 2.1.

See Nevada Code of Judicial Conduct, Canon 3, Rule 3.12, *Comment [1]* to Rule 3.12.

As noted in the Commentary to Rule 3.1, jurists are “uniquely qualified” to speak, teach and write on “the law, the legal system, and the administration of justice.” The Committee has previously opined that this is an important extrajudicial activity for jurists provided the sponsor or institution is a nonprofit educational organization consistent with the mandates of Rule 3.7(A).

See Advisory Opinion No. JE10-002 (Jul. 6, 2010). For that reason, we conclude that a judge may serve on the faculty of an institution of the Nevada System of Higher Education, but may not be a faculty member or otherwise affiliated as an instructor with a private for-profit educational institution.

Rule 3.12 allows for judges to receive compensation for their participation in education-related extrajudicial activities. A judge may, therefore, consistent with the standards and requirements enumerated in Rules 3.12, 3.14 and 3.15, accept reasonable compensation for his or her service as an adjunct instructor at the state university. We observe that the amount of compensation must be reasonable given the tasks performed; consistent with other state statutes and the criteria identified in Rule 3.14 as applicable; and, be reported to the extent mandated by Rule 3.15. Based on the facts presented, the Committee concludes that the amount of compensation – approximately \$2,500.00 per course – appears reasonable under the standards specified in the NCJC.

In the facts posed to the Committee here, the topics of the courses taught by the judge are quite diverse. Most of the courses appear in substance to bear a reasonable relationship to the "law, the legal system, and the administration of justice" in accordance with the guidance provided by Comment [1] to Rule 3.1. We note that some of the courses identified have subject matters that could involve the municipal judge in instruction on topics (*e.g.* local government law and policy) or to teaching students with certain employment (*e.g.* local law enforcement officers) that could collide with the requirements of Rule 3.1. Thus, while nothing about the subject matter of the

courses immediately suggests that judicial independence, integrity or impartiality is risked, as well as the frequency of disqualification is increased, we admonish the judge to exercise care in evaluating these situations on an on-going basis. As we discussed in a 2008 advisory opinion under the previous version of the NCJC, a judge must avoid situations where impartiality may be questioned by instructing courses to law enforcement officers on certain aspects of the proper performance of their duties when these officers also may appear as witnesses before the judge. *See Advisory Opinion* No. JE08-011 (Sep. 9, 2008).

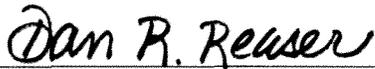
CONCLUSION

A Nevada municipal court judge may teach at a public college or university of the Nevada System of Higher Education as a continuing member of the institution's faculty provided the courses appear in substance to bear a reasonable relationship to the "law, the legal system, and the administration of justice" in accordance with the guidance provided by Comment [1] to Rule 3.1. The judge may accept reasonable compensation commensurate with the tasks involved for serving on the faculty consistent with the standards and requirements enumerated in the NCJC. The judge may not serve in a similar faculty position or as an instructor affiliated with a private for-profit college or university. A judge must, however, vigilantly assess whether the subject matter of a course or the composition of the students is such that the teaching assignment interferes with judicial independence, integrity, or impartiality, or it creates a risk of frequent disqualification.

REFERENCES

Rule 5 Governing Standing Committee On Judicial Ethics & Election Practices; Nevada Code of Judicial Conduct, Canon 3, Rule 3.1, 3.7(A), 3.12, 3.14 & 3.15 *Comment [1]* to Rule 3.1 & *Comment [1]* to Rule 3.12; *See Advisory Opinion* No. JE10-002 (Jul. 6, 2010); *See Advisory Opinion* No. JE08-011 (Sep. 9, 2008).

This opinion is issued by the Standing Committee on Judicial Ethics and Election Practices. It is advisory only. It is not binding on the courts, the State Bar of Nevada, the Nevada Commission on Judicial Discipline, any person or tribunal charged with regulatory responsibilities, any member of the Nevada judiciary, or any person or entity requesting the opinion.



Dan R. Reaser, Esq.
Committee Chairman