

Advisory Committee on the Code of Judicial Conduct

Hon. Frank H. Allen, Jr., Chairman
Hon. Marie A. Baca
Hon. James J. Wechsler
Prof. William MacPherson

November 29, 2001

The Honorable

Re: Judicial Advisory Opinion 01-08

Dear Judge

You have requested an opinion from the Advisory Committee on the Code of Judicial Conduct concerning compensation for teaching a class on juvenile justice at a local four year college. The class will meet three to four times on Saturday morning. You estimate that you would spend twelve to sixteen hours in the classroom and have additional class preparation time. You would not perform any of the work related to the teaching activity at the courthouse or during the working hours of the court, and you would not use any court material or sources in connection with the teaching activity. You further state that you would not be an employee of the college.

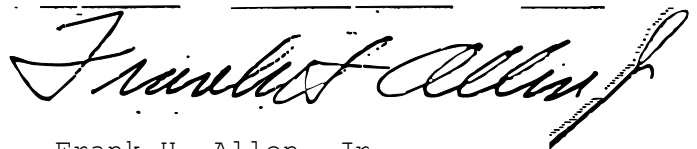
Rules 21-500(A) and 21-600(A) and (B) NMRA 2001 of the Code of Judicial Conduct specifically address a judge's extra-judicial activities and compensation therefor. Under Rule 21-500(A), a judge must conduct the judge's extra-judicial activities so as not to: "(1) cast doubt on the judge's capacity to act impartially as a judge; (2) demean the judicial office; (3) interfere with the proper performance of judicial duties; or (4) violate the judge's oath and obligation to uphold the laws and constitutions of the United States and the State of New Mexico." The teaching that you have described does not on its face violate these provisions. You will be teaching a subject that relates to the law, and you will not be performing responsibilities related to the teaching at the

court, during court hours, or using court resources. We assume that the manner in which you will be performing your teaching responsibilities would not cast doubt on your capacity to act impartially as a judge or violate your oath and obligation to uphold the laws and constitutions. Moreover, Rule 21-500(B) specifically permits a judge to "teach and participate in other extra-judicial activities concerning the law."

Rule 21-600(A) permits a judge to receive compensation for extra-judicial activities which are permitted by the Code of Judicial Conduct. This permission is expressly conditioned upon the requirements that "neither the source nor amount of such [compensation] gives the appearance of influencing the judge's official duties, or otherwise gives the appearance of impropriety." Id. You have advised that you would be compensated approximately \$750 for your teaching responsibilities. You have not provided us with any information that indicates that such an amount or the fact that you would be paid by the college gives an improper appearance. Rule 21-600(B) states that extra-judicial compensation should not exceed "a reasonable amount for the activities performed," and "what a person who is not a judge would receive for the same activity." We caution, therefore, that prior to accepting any compensation, you satisfy yourself that the amount of compensation you are to receive is reasonable and does not exceed the amount that another teacher who is not a judge would receive for comparable teaching responsibilities.

Lastly, we point out that Rule 21-600(B) requires a judge to report extra-judicial compensation.

Very truly yours,

A handwritten signature in cursive script, reading "Frank H. Allen, Jr.", written over a horizontal line.

Frank H. Allen, Jr.
Chairman
Judicial Advisory Committee