

Advisory Committee on the Code of Judicial Conduct

Hon. James J. Wechsler, Chair
Hon. Marie A Baca
Hon. Kevin L. Fitzwater
Paul L. Biderman, Esq.
Thaddeus Bejnar, Esq.

August 24, 2005

Re: Judicial Advisory Opinion No. 05-05

Dear Judge

You have asked the Advisory Committee on the Judicial Code of Conduct for an opinion concerning your teaching a class on the Fundamentals of Evidence at the T.V.I. Legal Assistance Program. You advised that you will teach the class in the early evenings, that your duties will not conflict with your regular work hours at the court, and that you will be compensated for your work.

Judicial Advisory Opinion No. 01-08, a copy of which is attached, addresses your request. As stated in that opinion, Rule 21-500(B) NMRA permits a judge to "teach and participate in other extra-judicial activities concerning the law." As further discussed in that opinion, Rule 21-500(A) provides that 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." Provided that you do

not perform responsibilities related to the teaching at the court, during court hours, or using court resources, the Committee does not believe that the teaching you described raises a problem under Rule 21-500 (A).

In Advisory Opinion 01-08, we stated:

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."

You have not provided information concerning the amount of compensation you will receive. Rule 21-600 (B) NMRA allows you receive reasonable compensation for your teaching responsibilities in the amount that a non-judge would receive for the same work. As we stated in Advisory Opinion 01-08, we caution "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." In addition, as noted in Opinion 01-08, you must report the compensation you receive. Rule 21-600(B).

Very truly yours,

James J. Wechsler
Chair

JJW:ow

cc:

Hon. Marie A. Baca
Hon. Kevin L. Fitzwater
Paul L. Biderman, Esq.
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