

Order

Michigan Supreme Court
Lansing, Michigan

October 2, 2024

Elizabeth T. Clement,
Chief Justice

ADM File No. 2023-26

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

Extension of the Comment Period
for the Proposed Amendments of
Canons 4 and 6 of the Michigan
Code of Judicial Conduct

On order of the Court, this is to advise that the Court is extending the comment period for the proposed amendments of Canons 4 and 6 of the Michigan Code of Judicial Conduct published for comment on July 10, 2024. The comment period was set to expire on November 1, 2024 and that date is now extended to February 1, 2025.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 2, 2024

Clerk

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Proposed Amendments of
Canons 4 and 6 of the
Michigan Code of Judicial
Conduct

On order of the Court, this is to advise that the Court is considering amendments of Canons 4 and 6 of the Michigan Code of Judicial Conduct. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and
deleted text is shown by strikeover.]

Canon 4. A Judge May Engage in Extrajudicial Activities.

As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that time permits, the judge is encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law. A judge should regulate extrajudicial activities to minimize the risk of conflict with judicial duties.

A judge may engage in the following activities:

A.-D. [Unchanged.]

E. Financial Activities.

(1)-(3) [Unchanged.]

(4) Neither a judge nor a family member residing in the judge's household should accept a gift, bequest, favor, or loan from anyone except as follows:

(a)-(b) [Unchanged.]

- (c) A judge or a family member residing in the judge's household may accept any other gift, bequest, favor, or loan only if the donor is not a party or other person whose interests have come or are likely to come before the judge, and if the aggregate value of gifts received by a judge or family member residing in the judge's household from any source exceeds ~~\$1,000~~\$375, the judge reports it ~~as required by~~in the same manner as compensation is reported in Canon 6C. For purposes of reporting gifts under this subsection, any gift with a fair market value of ~~\$500~~\$150 or less need not be aggregated to determine if the ~~\$1,000~~\$375 reporting threshold has been met.

(5)-(7) [Unchanged.]

F.-I. [Unchanged.]

Canon 6. A Judge May Receive Compensation and Expense Reimbursement and Must~~Should Regularly File Annual Financial Disclosure Reports of Compensation Received for Quasi-Judicial and Extra-Judicial Activities and of Monetary Contributions.~~

A judge may receive compensation and reimbursement of expenses for the quasi-judicial and extra-judicial activities permitted by this code, if the source of such payments does not give the appearance of influencing the judge in judicial duties or otherwise give the appearance of impropriety, subject to the ~~following~~restrictions described in this canon. A judge must file a financial disclosure report as provided in this canon.

A. Definitions. As used in this canon, the following definitions apply.

- (1) "Compensation" includes earned and unearned income.
- (2) "Creditor" means an entity to whom a judge owes a debt.
- (3) "Earned income" means salaries, wages, tips, bonuses, commissions, or other earnings from employment during the reporting period.
- (4) "Financial disclosure report" or "report" means the report described in Canon 6D, which must
 - (a) be on a form approved by the State Court Administrator,
 - (b) contain the required information from the reporting period, and

- (c) be signed and dated by the judge.
- (5) “Liabilities” means a debt owed to a creditor. For purposes of this canon, a debt does not include mortgages on personal residences, vehicle loans, student loans, a revolving debt, an unsecured debt that is from a financial institution or the federal government, or a debt owed by a business entity.
- (6) “Real property” means all land within this state, all buildings and fixtures on the land, and all appurtenances to the land, except as expressly exempted by law.
- (7) “Reporting period” means both of the following:
- (a) For the first financial disclosure report required to be filed under D(1), from [DATE] to [DATE].
- (b) For subsequent reports required to be filed under D(1), January 1 to December 31 of the preceding calendar year in which the report is filed.
- (8) “Spouse” means an individual who is lawfully married, as described under 26 CFR 301.7701-18, to a judge.
- (9) “Unearned income” means a judge’s income that is not earned from employment, including, but not limited to, financial prizes, net proceeds from rental properties, unemployment benefits, annuities, deferred compensation, pension, profit sharing, or retirement income. Unearned income does not include sales of security and commodity options.
- B. Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.
- CB. Expense Reimbursement. Expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge’s spouse. Any payment in excess of such an amount is compensation. Any payment that does not constitute compensation under this paragraph does not need to be included on a financial disclosure report.
- DC. Public Financial Disclosure Reports.
- (1) Except as otherwise provided in D(2), a judge must shall file with the State Court Administrative Office a financial disclosure report that includes a complete statement of all of the following for the applicable reporting period:

~~the date, place, and nature of any activity for which the judge received compensation, and the name of the payor and the amount of compensation so received.~~

- (a) The judge's full name, court name, court address, court telephone number, and position(s) with the court.
- (b) The name, occupation, and employer(s) of the judge's spouse.
- (c) A list of all positions that the judge held as an officer, director, or trustee of any organization, educational institution, association, or governmental agency other than the judge's court. The judge does not need to report positions that are solely of an honorary nature or that are held in any religious, social, or fraternal entity. If the judge reports a position under this paragraph, the judge must include the entity's name.
- (d) The source of earned income, other than income earned from the judge's personal salary, received by the judge if the judge received \$10,000 or more from that source. The judge must include the nature of any activity for which the judge received earned income, the name of the payor, and the amount of earned income received.
- (e) The source of unearned income received by the judge if the judge received \$10,000 or more from that source. The judge must include the nature of any activity for which the judge received unearned income, the name of the payor, and the amount of unearned income received.
- (f) A list of all liabilities permitted under these canons that exceed \$10,000 and that are owed by the judge to a creditor at any time during the reporting period. The list must include the name of the creditor, the month and year the liability was incurred, and the type of liability.
- (g) Except as otherwise provided in this paragraph, for each financial account, a list of any stocks, bonds, or other forms of securities held by the judge or held jointly with the judge's spouse, if the value of the security held at a given point in time is \$10,000 or more for an individual security or \$100,000 or more for aggregate securities. While a judge must list the name of all funds that exceed the required threshold set forth in this subparagraph, a judge is not required to list specific stocks in a publicly-traded index fund, mutual fund, or

exchange traded fund. A judge does not need to report holdings in a pension or deferred compensation plan.

- (h) A list of any real property in which the judge holds an ownership or other financial interest. For purposes of this paragraph, the judge is required to include a real property in the report only if that real property has a fair market value of \$50,000 or more during the reporting period. A judge need only include the county in which the parcel of real property is situated for purposes of identifying a parcel of real property disclosed under this paragraph.
 - (i) A description of any gifts required to be reported by the judge under Canon 4, including the name of the donor and recipient, the relationship between the donor and recipient, the nature of the gift, the value or amount of the gift, and the date received.
 - (j) Whether a detailed report of campaign contributions and expenditures was filed with the Secretary of State.
- (2) A judge filing a financial disclosure report may omit from the report the following:
- (a) Information that the judge reported to the Secretary of State under the Michigan Campaign Finance Act, MCL 169.201 et seq.
 - (b) An item otherwise required to be reported under D(1)(g) or D(1)(h) if all of the following apply:
 - (i) The item is not within the control of the judge because it represents the exclusive financial interest and responsibility of the judge's spouse or another member of the judge's household.
 - (ii) The item is not in any way derived from the judge's income, assets, or activities.
 - (iii) The judge does not derive, or expect to derive, financial benefit from the item.
 - (c) An item that concerns a spouse who is living separate and apart from the judge with the intention of terminating the marriage or maintaining a legal separation.

- (d) An item that concerns income of the judge that arises from the judge’s divorce or permanent legal separation.
- (e) Except for gifts reported under subdivision (1)(m), the value of any real property or property disclosed under paragraph (1).
- (3) A financial disclosure report must include the following certification: “I certify that the statements I have made in this report are true, complete, and correct to the best of my knowledge and belief, and that I have not moved assets during the reporting period for the purpose of avoiding disclosure under Canon 6 of the Michigan Code of Judicial Conduct.”.
- (4) The judge’s report ~~must~~ shall be made at least annually and ~~must~~ shall be filed as a public document in the office of the State Court Administrator or other office designated by law. These reports will be made available by the Michigan Supreme Court upon request.

Staff Comment (ADM File No. 2023-26): The proposed amendments of Canon 4E and Canon 6 of the Michigan Code of Judicial Conduct would expand the requirements of annual financial disclosure statements by judicial officers.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by November 1, 2024 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2023-26. Your comments and the comments of others will be posted under the chapter affected by this proposal.

VIVIANO, J., would have declined to publish the proposal for comment.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 10, 2024

Clerk