

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

March 2, 1981

The Judicial Inquiry Commission has considered your request for an opinion concerning whether or not a Circuit Judge would be required to recuse himself in a certain proceeding. You state in your letter that the daughter of a Judge is employed as a teacher by a local school system. The local school system has filed a lawsuit for declaratory judgment in connection with certain orders of proration issued by the Governor of Alabama. You further state in your letter that the Judge's daughter's salary as a teacher would be affected by the outcome of the proceeding.

Based upon the facts as you have stated them, it is the opinion of the Commission that the Judge should recuse himself in the case that you described. Recusal in this instance would be required under Canon 3C(l) (d) (ii). That Canon provides in pertinent part as follows:

- “(1) A Judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned, including but not limited to instances where: ...
 - (d) He or his spouse, or a person within the fourth degree of relationship to either of them, or the spouse of such a person: ...
 - (ii) Is known by the Judge to have an interest that could be substantially affected by the outcome of the proceeding;”

Since proration of state appropriations for local education agencies would, under the issues of the lawsuit, affect the Judge's daughter, the daughter “is known by the Judge to have an interest that could be substantially affected by the outcome of the proceeding.”

Sincerely,

JUDICIAL INQUIRY COMMISSION