

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

March 25, 1994

This is in response to your request for an advisory opinion from the Judicial Inquiry Commission. Your question is whether either a litigant or an attorney appearing in your court may donate or loan computer equipment to be used by the judge for legal research computer disk research.

While a litigant or an attorney may donate or loan computer equipment to a court, the question is whether such a transaction would cause the judge's disqualification or require his recusal.

Recently, this Commission stated:

"Canon 5C(4) provides: 'Neither a judge nor a member of his family residing in his household should accept a gift, bequest, favor, or loan from anyone if it reflects expectation of judicial favor.' Canon 2 requires a judge to avoid even the appearance of impropriety.

'Judges and their families may accept 'ordinary social hospitality,' as well as gifts and favors from relatives. J. Shaman, S. Lubet, J. Alfani, Judicial Conduct and Ethics § 7.28 at 200 (1990). Under the Alabama Canons of Judicial Ethics a judge may accept a gift from an attorney who practices before the judge where the gift does not reflect expectation of judicial favor and where the gift does not create the appearances of impropriety. In deciding whether or not to accept a gift, the judge should consider the nature of the gift as well as the circumstances under which and the time when the gift was given. For example, the gift of a smoked turkey at Christmas may not violate any Canon of Judicial Ethics. However, the gift of that same turkey on another date by an attorney who has a case pending before the judge may very well have all the appearances of an attempted bribe or an attempt to curry the judge's favor. The decision whether or not to accept the gift is one which must be made by the judge on a case by case basis after a consideration of all the surrounding circumstances.

"These same guidelines apply where the gift is from a clerk or confidential employee." Advisory Opinion 94-514.

It is the opinion of this Commission that the mere fact that an individual donates or loans computer equipment to a judge for the judge's use in his or her judicial capacity is not a basis for the judge's disqualification in any future case in which that litigant or attorney might appear. However, a judge should not accept such a donation or loan where the individual is a litigant or an attorney presently appearing in the judge's court as such acceptance would cause the judge's disqualification.

The appearance of impropriety involved in the acceptance of such a gift would be dispelled if the individual or attorney would donate or loan the computer equipment to the circuit judges of the county rather than to one individual judge.

This advisory opinion has been reviewed by and is the opinion of the entire Commission.