

Guide to Judiciary Policy

Vol. 2: Ethics and Judicial Conduct

Pt. C: Ethics Statutes, Regulations, and Judicial Conference Resolutions

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§ 1010 Statutory Texts on Outside Earned Income, Honoraria, and Employment

The following statutes relate to Outside Earned Income, Honoraria, and Employment

- Government-Wide Limitations on Outside Earned Income and Employment ([5 U.S.C. §§ 13141-13146](#));
- Outside Earned Income Limitation ([5 U.S.C. § 13143](#));
- Limitations on Outside Employment ([5 U.S.C. § 13144](#));
- Administration ([5 U.S.C. § 13142](#));
- Civil Penalties ([5 U.S.C. § 13145](#));
- Definitions ([5 U.S.C. § 13141](#));
- Teaching Compensation of Retired Tax Court Judges ([26 U.S.C. § 7447\(k\)](#));
and
- Tax Treatment of Honoraria Donated to Charity ([26 U.S.C. § 7701\(k\)](#)).

§ 1020 Judicial Conference Regulations on Outside Earned Income, Honoraria, and Outside Employment

§ 1020.10 Authority

Ethics Reform Act of 1989, Pub. L. No. 101-194, §§ 601-603, 103 Stat. 1716, 1760-1763 (1989), as amended. The Judicial Conference of the United States issued these regulations under the authority of [5 U.S.C. § 13142\(3\)](#). **See:** [JCUS-SEP 1990](#), p. 64.

§ 1020.15 Purpose and Scope

- (a) These Regulations of the Judicial Conference of the United States Under Title VI of the Ethics Reform Act of 1989 Concerning Outside Earned Income, Honoraria, and Outside Employment implement Title VI of the Ethics Reform Act of 1989, [5 U.S.C. §§ 13141-13146](#), by prescribing:
 - (1) limitations on:
 - (A) the amount of outside earned income that certain officers and employees of the judiciary may receive, and
 - (B) the types of outside employment activities in which such officers and employees may engage; and
 - (2) a prohibition against the acceptance of honoraria for any appearance, speech, or article by certain officers or employees of the judiciary.
- (b) Nothing in these regulations alters any other standards or Codes of Conduct adopted by the Judicial Conference of the United States.
- (c) Any violation of any provision of these regulations will make the officer or employee involved subject to appropriate disciplinary action, which may be in addition to any penalty prescribed by statute or regulation.

§ 1020.20 Definitions

- (a) A “judicial officer or employee” means any:
 - (1) circuit judge,
 - (2) district judge,
 - (3) judge of the Court of International Trade,
 - (4) judge of the Court of Federal Claims,

- (5) judge and special trial judge of the Tax Court,
 - (6) judge of the Court of Appeals for Veterans Claims,
 - (7) bankruptcy judge,
 - (8) magistrate judge,
 - (9) commissioner of the Sentencing Commission, and
 - (10) any employee or officer of the judicial branch other than a part-time magistrate judge, or an officer or employee of the Supreme Court of the United States or the Federal Judicial Center.
- (b) A “covered senior employee” means an individual:
- (1) who is a noncareer officer or employee (defined for these purposes as the following officers and employees):
 - (A) circuit judges,
 - (B) district judges,
 - (C) judges of the Court of International Trade,
 - (D) judges of the Court of Federal Claims,
 - (E) judges and special trial judges of the Tax Court,
 - (F) judges of the Court of Appeals for Veterans Claims,
 - (G) bankruptcy judges,
 - (H) full-time magistrate judges,
 - (I) the commissioners and staff of the Sentencing Commission,
 - (J) the Director of the Administrative Office of the U.S. Courts (Administrative Office),
 - (K) the Deputy Director of the Administrative Office, or
 - (L) Administrative Office employees appointed by its Director to a position exempted under the [Administrative Office of the United States Courts Personnel Act of 1990, § 3\(a\)\(5\)\(B\)](#), or to a position paid under [28 U.S.C. § 603](#); and

- (2) whose rate of basic pay is equal to or greater than 120% of the minimum rate of basic pay payable for GS-15 of the General Schedule.
- (c) The terms “judicial officer or employee” and “covered senior employee” referenced in § 1020.20(a) and § 1020.20(b) do not include any special government employee as defined in [18 U.S.C. § 202](#).

§ 1020.25 Outside Earned Income Limitation

- (a) No covered senior employee may have outside earned income attributable to a calendar year that exceeds 15% of the annual rate of basic pay for Level II of the Executive Schedule under [5 U.S.C. § 5313](#) as of Jan. 1 of that calendar year.
- (b) “Outside earned income” means all wages, salaries, commissions, professional fees, and payments and compensation of any kind for services rendered or to be rendered by the covered senior employee, less the ordinary and necessary expenses paid or incurred in producing the income, provided, however, that the following do not constitute outside earned income:
 - (1) Funds received for services rendered to or for the United States government and income attributable to service with the National Guard;
 - (2) Pensions, annuities, deferred compensation (whether qualified or nonqualified) and other funds received for services rendered by the reporting individual before becoming a covered senior employee, or before Jan. 1, 1991;
 - (3) Funds received from investments to the extent not attributable to significant personal services of the covered senior employee;
 - (4) Funds received from a business totally owned by the covered senior employee, or his or her family, as defined in Canon 4D(2) of the Code of Conduct for United States Judges, to the extent that such funds do not result from significant personal services of the covered senior employee;
 - (5) Royalties, fees, and their functional equivalent, from the use or sale of copyright, patent, and similar forms of legally recognized intellectual property rights, when received from established users or purchasers of those rights;

- (6) Anything of value earned or received for services rendered that is not included as gross income in the relevant calendar year under controlling provisions of the Internal Revenue Code; and
- (7) Compensation received by a senior judge for approved teaching under § 1020.35(a)(5) if the senior judge:
 - (A) retired from regular active service under [§ 371\(b\)](#) and is certified as having met the requirements of [28 U.S.C. § 371\(e\)](#);
 - (B) retired from regular active service on permanent disability under [28 U.S.C. § 372\(a\)](#);
 - (C) retired under [26 U.S.C. § 7447\(b\)](#) (for judges of the Tax Court) and is certified as having met the requirements of [§ 7447\(c\)](#); or
 - (D) retired on permanent disability under [26 U.S.C. § 7447\(b\)\(4\)](#) (for judges of the Tax Court).
- (c) “Outside earned income” is attributed solely to the actual earner, even though under applicable community property law one-half of any personal service income earned by a covered senior employee may be deemed to belong to a spouse.

§ 1020.30 Prohibition on Receipt of Honoraria

- (a) No judicial officer or employee may receive any honorarium while that individual is a judicial officer or employee.
- (b) “Honorarium” means a payment of money or anything of value (excluding or reduced by travel expenses as provided in [5 U.S.C. §§ 13141\(2\) and \(5\)](#)) for an appearance, speech or article by a judicial officer or employee, provided that the following do not constitute an honorarium:
 - (1) Payment for a series of related appearances, speeches, or articles, provided that:
 - (A) the subject matter is not directly related to the officer’s or employee’s official duties, and
 - (B) the payment is not made because of the officer’s or employee’s status with the government.

- (2) Compensation received for teaching activity, provided that in the case of covered senior employees such teaching activity is approved under § 1020.35.
 - (3) Awards for artistic, literary, or oratorical achievement made on a competitive basis under established criteria.
 - (4) Compensation for any performance using an artistic, athletic, musical, or other skill or talent or any incidental oral presentation, provided that:
 - (A) the subject matter is not directly related to the officer's or employee's official duties, and
 - (B) the opportunity is not extended because of the officer's or employee's official position.
 - (5) Compensation for any writing more extensive than an article.
 - (6) Compensation for works of fiction, poetry, lyrics, script or other literary or artistic works.
 - (7) A suitable memento or other token in connection with an occasion or article, provided that it is neither money nor of commercial value.
- (c) Any honorarium prohibited by these regulations from being paid to a judicial officer or employee, but which is paid instead on behalf of such officer or employee to a charitable organization described in section 170(c) of the Internal Revenue Code of 1986, is deemed not to be received by such officer or employee, provided that:
- (1) such payment does not exceed \$2,000;
 - (2) is not made to a charitable organization from which such individual or a parent, sibling, spouse, child, or dependent relative of such individual derives any direct financial benefit separate from and beyond any general benefit conferred by the organization's activities; and
 - (3) no payment may be made to a charitable organization under this paragraph if the judicial officer or employee would be prohibited from receiving and retaining the honorarium by any applicable standards of conduct other than § 1020.25(a) or § 1020.30(a) (for example, where an appearance, speech or article is prepared as part of official duties).

§ 1020.35 Limitations on Outside Employment

- (a) No covered senior employee may:
 - (1) affiliate with or be employed by a firm, partnership, association, corporation, or other entity to provide professional services that involve a fiduciary relationship for compensation;
 - (2) permit the use of his or her name by any such firm, partnership, association, corporation, or other entity;
 - (3) practice a profession that involves a fiduciary relationship for compensation;
 - (4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or
 - (5) receive compensation for teaching without the prior notification and approval required by these regulations.
- (b) “Teaching” in these regulations includes:
 - (1) teaching a course of study at an accredited educational institution;
 - (2) participating in an educational program of any duration that is sponsored by such an institution and is part of its educational offering (e.g., a lecture, lecture series or symposia sponsored by a law school or college); or
 - (3) participation in:
 - (A) continuing legal education programs for which credit is given by licensing authorities, or
 - (B) programs that are sponsored by recognized providers of continuing legal education.
- (c) A covered senior employee who obtains prior approval from the chief judge of the circuit — or, in the case of the chief judge, from the judicial council — may engage in part-time teaching for compensation.
 - (1) Covered senior employees of the Court of International Trade or the Court of Federal Claims are required to obtain approval from the chief judge of their respective court.
 - (2) Covered senior employees of the Tax Court are required to obtain approval from its chief judge.

- (3) Covered senior employees of the Court of Appeals for Veterans Claims are required to obtain approval from its chief judge.
 - (4) Covered senior employees of the Sentencing Commission are required to obtain approval from its Chair.
 - (5) Covered senior employees of the Administrative Office are required to obtain approval from its Director.
- (d) The procedures for obtaining prior approval of teaching activities are as follows:
- (1) A request for approval for compensated teaching must be made:
 - (A) before the start of any compensated teaching;
 - (B) during the performance of a previously approved teaching commitment, before any material increase in the compensation or the time required; and
 - (C) during the performance of a previously approved long-term teaching commitment, before the start of teaching in any new academic year (i.e., the fall semester).
 - (2) A request for approval for compensated teaching must state:
 - the institution for which the teaching will be done;
 - the source and amount of compensation;
 - the time required, including travel; and
 - that the proposed activity will be consistent with the relevant Code of Conduct.
 - (3) The chief judges of the circuits, the Court of International Trade, the Court of Federal Claims, the Tax Court, and the Court of Appeals for Veterans Claims must approve or disapprove a request based on whether:
 - (A) the proposed activity will be consistent with the Codes of Conduct,
 - (B) the requester is current in his or her judicial work, and
 - (C) the proposed activity is unlikely to affect adversely the ability of the court in which the requester serves to conduct its operations efficiently.

- (4) A request by a circuit's chief judge must be approved or disapproved by the circuit's judicial council.
- (5) A request by the chief judge of the Court of Appeals for the Federal Circuit, Court of International Trade, Court of Federal Claims, Tax Court, or Court of Appeals for Veterans Claims must be approved or disapproved by a majority vote of the respective court.
- (6) In the case of a covered senior employee of a district court, the circuit's chief judge must consult with the district court's chief judge and, where appropriate, the bankruptcy court's chief judge before making the decision.
- (7) In the case of a senior judge, the chief judge must adjust the approval criteria to take account of the senior judge's status and decreased work assignments.
- (8) The chief judge's decision may be appealed to the judicial council, or the Court of Appeals for the Federal Circuit, Court of International Trade, Court of Federal Claims, Tax Court, or Court of Appeals for Veterans Claims as appropriate. A majority vote to approve or disapprove the request is final.
- (9) Reports of teaching requests and rulings covering the 12-month period ending June 30 must be sent by chief judges or others authorized to approve such requests to the Judicial Conference Committee on Codes of Conduct by July 31 of each year. That committee will monitor the submissions and report to the Conference.

§ 1020.40 Advisory Opinions

The Judicial Conference Committee on Codes of Conduct is authorized to render advisory opinions interpreting Title VI of the Ethics Reform Act of 1989 ([5 U.S.C. §§ 13142\(3\), 13145\(b\)](#)) and these regulations ([JCUS-MAR 1990](#), pp.14-15). Any person covered by the Act and these regulations may request an advisory opinion by writing to the Chair of the Committee on Codes of Conduct, in care of the Administrative Office of the U.S. Courts, One Columbus Circle NE, Washington, DC 20544.

§ 1020.45 Effective Date

These regulations became effective on Jan. 1, 1991.

§ 1020.50 Commentary on Regulations

- (a) Judges and judicial employees who are covered by Codes of Conduct

promulgated by the Judicial Conference of the United States may receive outside earned income, make speeches and appearances, write articles, and engage in extrajudicial activities only in conformity with the provisions of both the Codes of Conduct and these regulations.

- (b) Title VI of the Ethics Reform Act of 1989 (the Act) applies to officers and employees of the judicial branch. However, the Judicial Conference has delegated its administrative and enforcement authority under the Act for officers and employees of the Supreme Court of the United States to the Chief Justice of the United States and for employees of the Federal Judicial Center to its Board ([JCUS-MAR 1990](#), pp. 14-15). For this reason, the definitions of “judicial officer or employee” and “covered senior employee” exclude the judicial officers and employees of the Supreme Court and the Center. For purposes of Title VI and these regulations, employees of the Tax Court and the Court of Appeals for Veterans Claims are employees of the judicial branch.
- (c) “Outside earned income” includes anything of value received in consideration for the provision of services by a covered senior employee except as specified in § 1020.25(b).
 - (1) Under § 1020.25(b)(5), advance payment of permissible royalties, fees, or their functional equivalent is not outside earned income if it must be deducted from amounts that later become payable.
 - (2) Under § 1020.25(b)(6), a covered senior employee may determine outside earned income in a manner consistent with his or her income tax return, or may allocate any amount received in a calendar year over two or more years according to a good faith allocation reflecting the work done.
 - (3) The outside earned income limitation that applies to an individual who becomes a covered senior employee during a calendar year is determined on a pro rata basis by dividing the annual income limitation by 365 and multiplying it by the number of days in that calendar year that the individual serves as a covered senior employee.
 - (4) Income earned before an individual becomes a covered senior employee is not subject to this limitation.
- (d) A covered senior employee, in planning for compliance with the limitation on outside earned income, may be required to estimate in advance income producing expenses for a calendar year. Should the actual expenses turn out to be less than anticipated, causing the outside earned income to exceed the statutory limitation, the requirements of § 1020.25

are satisfied if the resulting excess is refunded to the payor promptly after the close of the year.

- (e) The Act prohibits a judicial officer or employee from accepting any “honorarium” and defines “honorarium” as “a payment of money or any thing of value for an appearance, speech, or article (including a series of appearances, speeches, or articles if the subject matter is directly related to the individual’s official duties or the payment is made because of the individual’s status with the Government).”
 - (1) The ban on the receipt of honoraria does not preclude a judicial officer or employee from accepting compensation for a series of thematically connected presentations, works, or articles not directly related to his or her official duties so long as the compensation is not being paid because of the individual’s status with the judicial branch.
 - (2) Payments for artistic and literary works or performances generally are not considered honoraria and are excluded from the ban.
 - (3) The ban also does not prohibit reimbursement of actual expenses such as typing, editing, and reproduction costs incurred in connection with an appearance, speech, or article.
- (f) The general prohibition standing alone could be read to foreclose the receipt of compensation for appearances, lectures, and speeches in the context of a *bona fide* educational program. This was clearly not the intent of Congress, however, since Title VI specifically approves teaching for compensation by judicial officers and senior employees so long as an appropriate entity designated by the Judicial Conference gives prior approval to such teaching and so long as the compensation received, together with other outside earned income, does not exceed the 15% limit on outside earned income. (Compensation received by senior judges for teaching is excluded from the 15% limit on outside earned income if the judge retired from regular active service under [28 U.S.C. § 371\(b\)](#) and is certified as having met the requirements of [§ 371\(e\)](#) or retired on permanent disability under [§ 372\(a\)](#).) Thus, the prohibition on receipt of honoraria does not foreclose teaching for compensation.
- (g) Compensation received from a law school for writing a law review article is an example of an honorarium.
 - (1) On the other hand, compensation received as the author or co-author of a *bona fide* legal treatise or book is an example of compensation for scholarly writing more extensive than an article and therefore is not an honorarium.

- (2) Of course, compensation for writing more extensive than an article is excluded from the definition of an honorarium only if it is *bona fide* compensation for the writing (e.g., compensation received from an established publisher according to usual and customary contractual terms).
- (h) The same rules apply whether the writing is legal or nonlegal, scholarly or otherwise. For example, compensation received for writing a nonlegal article for a newspaper or magazine is an honorarium. On the other hand, compensation received as the author or co-author of a nonlegal book is not an honorarium.
 - (i) The definition of a prohibited “honorarium” excludes a suitable memento or other token in connection with an occasion or article, provided it is neither money nor of commercial value.
 - (1) The test for “commercial value” is whether the memento would have commercial value in the recipient’s hands.
 - (2) Examples of “suitable mementos” include a plaque or letter opener.
 - (3) Examples of “other tokens” that are not honoraria include benefits incidental to attending the occasion or to an article’s publication, such as:
 - food and beverages consumed,
 - waiver of a registration fee,
 - copies of publications containing articles,
 - reprints of a law review article,
 - a free subscription provided to the article’s author, or
 - tapes of appearances or speeches and similar items that provide a record of the event.
 - (j) The prohibition against practicing a profession that involves a fiduciary relationship includes the provision of the following services when they involve such a relationship:
 - legal,
 - real estate,
 - consulting and advising,
 - insurance,
 - medicine,
 - architectural, or
 - financial.

- (1) The prohibition does not apply to service by a covered senior employee as an executor or trustee of a family estate or trust as permitted by the Codes of Conduct where the covered senior employee does no more than provide the service that would be provided by a lay person in the same capacity.
 - (2) Compensation received for such services is subject to the 15% limitation on outside earned income.
- (k) Covered senior employees must notify the authority designated to grant approvals and obtain approval *before* engaging in compensated teaching activities. Further, during the performance of a previously approved teaching commitment, approval is required before any material increase in the compensation or the time required. Those who have previously secured approval for compensated teaching under a long-term contract must reapply for approval before the start of any new academic year.
- (l) The Act does not define “teaching.” These regulations define it to include meaningful participation in *bona fide* components of an educational curriculum or plan, regardless of the duration or format of the particular program in which the covered senior employee participates. The statutory authority to “teach” for compensation thus includes permission to participate in the educational program of an accredited institution in the manner in which that institution plans and carries out its teaching function.
- (1) When speeches and lectures are sponsored by and presented within the overall educational program of an accredited institution, the Conference believes that they do not provide the occasion for any of the evils Congress was seeking to avert and should qualify as “teaching.” Lectures, symposia, moot courts, and jurist-in-residence programs may therefore be compensated as “teaching” so long as the strictures of the Codes of Conduct are met.
 - (2) Teaching may also include:
 - (A) participation in programs sponsored by bar associations or professional associations or other established providers of continuing legal education programs for practicing lawyers;
 - (B) participation in bar review courses; or
 - (C) preparation and grading of bar examinations.
- (m) The Codes of Conduct permit a covered senior employee to receive compensation for part-time teaching so long as:

- (1) the compensation received is reasonable in amount and does not exceed that normally received by others for the same activity,
- (2) the source of the compensation does not give the appearance of impropriety, and
- (3) the teaching activity does not interfere with the performance of judicial duties.

These requirements are continued as criteria for approval of teaching requests.

- (n) Covered senior employees who wish to participate in a symposium, lecture series, or other teaching activity of limited duration and receive compensation for it must secure the same prior approval as those who teach conventional courses for compensation.
 - (1) No such approval is required for teaching when no payment is received or when payment is received only to reimburse the ordinary and necessary expenses incurred in providing the teaching services, such as travel, lodging, and meals for the covered senior employee and a relative accompanying him or her. Such reimbursement of expenses is not “compensation.”
 - (2) No prior approval is required for compensated teaching activity of an employee of the judicial branch whose basic pay is less than 120% of the minimum rate of basic pay payable for GS-15 of the General Schedule.
- (o) In addition to the civil penalty provided in [5 U.S.C. § 13145\(a\)](#), a judge covered by the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 ([28 U.S.C. §§ 332\(d\)\(1\)](#), [351 to 364](#)) who violates these regulations is subject to discipline as provided in that Act, and any other judicial officer or employee who violates these regulations is subject to discipline according to with existing customary practices.

§ 1020.55 Notes on Regulations

- (a) On Aug. 15, 1990, the Judicial Conference adopted these regulations through its Executive Committee ([JCUS-SEP 1990](#), p. 64).
- (b) In 1991, the Conference amended them to exclude part-time magistrate judges from the ban against the receipt of honoraria ([JCUS-MAR 1991](#), p.14).

- (c) The Conference amended the regulations later that year to cover the Tax Court and the Sentencing Commission and to make certain technical corrections ([JCUS-SEP 1991](#), p. 54).
- (d) The Conference amended these regulations in 1992 and 1993 to:
- (1) cover judges and employees of the Court of Appeals for Veterans Claims,
 - (2) reflect Ethics Reform Act amendments relating to the definition of “honorary” and the exclusion from the limitation on outside earned income or compensation from approved teaching activities by certain senior judges (see: [JCUS-SEP 1993](#), p. 43), and
 - (3) clarify under what circumstances prior approval for compensated teaching activities must be obtained ([JCUS-MAR 1992](#), pp. 16-17).
- (e) In 1994, the Conference amended the definition of Administrative Office employees who are included in the term “judicial officer or senior employee.” [JCUS-MAR 1994](#), p. 15.
- (f) The Conference later that year ([JCUS-SEP 1994](#), p.46):
- amended the definition of outside earned income in § 1020.25(b)(1) to exclude income from National Guard service;
 - revised § 1020.30(b)(2) to clarify that the requirement for approval of teaching activities extends only to covered senior employees;
 - revised the definition of an honorarium in § 1020.30(b)(3), § 1020.30(b)(4), and § 1020.30(b)(6) to exclude compensation for various artistic and athletic endeavors;
 - amended § 1020.30(c) to clarify when honoraria may properly be donated to charitable organizations;
 - made additional editorial revisions; and
 - revised the Commentary.
- (g) The Conference added a new § 1020.20(c) in 1996 that excluded special government employees from these regulations ([JCUS-MAR 1996](#), p. 12).
- (h) Due to statutory changes, the Conference amended these regulations in 2024 to update the citations to the Ethics Reform Act and add that compensation received by senior judges of the Tax Court for approved

teaching is excluded from the outside earned income limitation. The Conference also replaced the word “shall” in the regulations and made other stylistic changes. JCUS-MAR 2024, p. ____.