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Transparency Takes Shape

The Judicial Conference adopted new policies on ethics and accountability in September 2006. Now policy is being put into practice with the use of automated conflict checking and the posting on the web of educational seminar sponsors.

Educational Seminars Sources

Beginning January 1, 2007, nongovernmental organizations inviting a federal judge to attend an educational program—a significant purpose of which is the education of federal or state judges—and that pay for or reimburse that judge over a certain dollar amount, will be required to disclose financial and program information on the Judiciary's website. The policy applies if the judge is invited as a speaker, panelist, or attendee. An automated system, which will be available at [www.uscourts.gov](#), is being developed for program providers to report their information.

"The Judiciary recognizes that judges' attendance at some educational seminars had posed concerns for some," said Judge D. Brock Hornby, chair of the Judicial Conference Committee on the Judicial Branch. "Our objective in making this policy was to give greater transparency and accountability, while allowing judges to continue their education. The Committee believes that judges' access to knowledge should be neither limited nor censored."

The Judicial Conference excludes certain organizations from the disclosure policy, including state and local bar associations; national, state and local subject-matter bar associations; judicial associations; the National Judicial College; and the Judicial Division of the American Bar Association. The reporting requirement is triggered when any payment or reimbursement is above the threshold at which judges must report gifts and reimbursements on their annual financial disclosure reports—currently \$305.

Under the new Judicial Conference policy, educational program providers are required to disclose the name of the program's sponsors; the name or title of the program; dates and location of the program; various presentation topics and the expected speakers; and all the program provider's sources of support, financial or otherwise. Judges are barred from accepting reimbursements unless they first determine that the program providers have made the required disclosures. In addition, judges who accept invitations from such program providers must, within 30 days of the end of the program, file a report with their court's clerk, disclosing the dates of attendance, the name of the program providers, and the title of the education program.

Mandatory Conflict Screening Policy

Judicial circuit councils are in the process of drawing up plans to implement mandatory conflict screening.

The new conflict screening policy, approved by the Judicial Conference in September 2006, requires courts and judges to use automated screening software to help identify cases in which they may have a financial conflict of interest and should disqualify themselves. The screening can also be used to check for nonfinancial conflicts. The software has been deployed by the Administrative Office as part of the Case Management/Electronic Case Files (CM/ECF) system used by nearly all district and bankruptcy courts. As appeals courts begin implementing the CM/ECF system over the next year, they'll also begin using the accompanying conflict checking software.

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As new matters are docketed in CM/ECF, the conflict checking software compares names of parties and attorneys to the names on a judge's recusal list.

However, the software cannot catch every conflict. And that's due in part to the ever-changing nature of big business.

"Keeping track of conflicts can be extremely complicated," said Judge Gordon J. Quist, chair of the Judicial Conference Committee on Codes of Conduct. "Especially when mergers and acquisitions lead to continual changes in investment portfolios. The parties are responsible for providing notice of corporate changes, and the courts need to make sure this happens. And judges should always perform a manual check for conflicts, in addition to the automated screening."

The AO, with the Judicial Conference Committee on Codes of Conduct and with input from judges, circuit executives and clerks of court, has prepared a model plan for conflict screening that addresses key issues and offers sample language spelling out the obligations of courts and judges. The model plan also offers a number of options for possible adoption by circuit councils or courts. For example, one option is to determine how frequently screening software will run. Circuit councils will report to the Judicial Conference on their preliminary plans by January 31, 2007



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