

West's Annotated Code of Maryland
Maryland Rules (Refs & Annos)
Title 16. Courts, Judges, and Attorneys
Chapter 800. Miscellaneous
Rule 16-813. Maryland Code of Judicial Conduct
Section 3. Rules Governing Extrajudicial Activity

MD Rules, Rule 16-813, CJCR 3.13

RULE 3.13. ACCEPTANCE OF GIFTS, LOANS, BEQUESTS, BENEFITS, OR OTHER THINGS OF VALUE

Currentness

(a) A judge shall not accept any **gifts**, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the judge's **independence**, integrity, or **impartiality**.

(b) Unless otherwise prohibited by law, or by paragraph (a), a judge may accept the following:

- (1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;
- (2) **gifts**, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending or impending before the judge would in any event require disqualification of the judge under Rule 2.11;
- (3) ordinary social hospitality;
- (4) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not judges;
- (5) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not judges;
- (6) scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated persons who are not judges, based upon the same terms and criteria;
- (7) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use;
- (8) **gifts**, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a **domestic partner**, or other family member of a judge residing in the judge's household, but that incidentally benefit the judge;

(9) **gifts** incident to a public testimonial; or

(10) invitations to the judge and the judge's spouse, **domestic partner**, or guest to attend without charge:

(A) an event associated with a bar-related function or other activity relating to the law, the legal system, or the administration of justice; or

(B) an event associated with any of the judge's educational, religious, charitable, fraternal or civic activities permitted by this Code, if the same invitation is offered to nonjudges who are engaged in similar ways in the activity as is the judge.

COMMENT

[1] Whenever a judge accepts a **gift** or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as intended to influence the judge's decision in a case. Rule 3.13 imposes restrictions upon the acceptance of such benefits, according to the magnitude of the risk. Paragraph (b) identifies circumstances in which the risk that the acceptance would appear to undermine the judge's **independence**, integrity, or **impartiality** is low. As the value of the benefit or the likelihood that the source of the benefit will appear before the judge increases, the judge is prohibited under paragraph (a) from accepting the **gift**.

[2] Gift-giving between friends and relatives is a common occurrence, and ordinarily does not create an appearance of impropriety or cause reasonable persons to believe that the judge's **independence**, integrity, or **impartiality** has been compromised. In addition, when the appearance of friends or relatives in a case would require the judge's disqualification under Rule 2.11, there would be no opportunity for a gift to influence the judge's decision-making. Paragraph (b)(2) places no restrictions upon the ability of a judge to accept **gifts** or other things of value from friends or relatives under these circumstances.

[3] Businesses and financial institutions frequently make available special pricing, discounts, and other benefits, either in connection with a temporary promotion or for preferred customers, based upon longevity of the relationship, volume of business transacted, and other factors. A judge may freely accept such benefits if they are available to the general public, or if the judge qualifies for the special price or discount according to the same criteria as are applied to persons who are not judges. As an example, loans provided at generally prevailing interest rates are not **gifts**, but a judge could not accept a loan from a financial institution at below-market interest rates unless the same rate was being made available to the general public for a certain period of time or only to borrowers with specified qualifications that the judge also possesses.

[4] Rule 3.13 applies only to acceptance of **gifts** or other things of value by a judge. Nonetheless, if a **gift** or other benefit is given to the judge's spouse, **domestic partner**, or **member of the judge's family** residing in the judge's household, it may be viewed as an attempt to evade Rule 3.13 and influence the judge indirectly. Where the **gift** or benefit is being made primarily to such other persons, and the judge is merely an incidental beneficiary, this concern is reduced. A judge should, however, remind family and household members of the restrictions imposed upon judges and urge them to take these restrictions into account when making decisions about accepting such **gifts** or benefits.

[5] Rule 3.13 does not apply to contributions to a judge's campaign for judicial office.

Source: This Rule is derived from Rule 3.13 of the 2007 ABA Code, except that paragraph (c)(3) is eliminated, paragraphs (c) (1) and (2) are added to paragraph (b) and provisions relating to the reporting of **gifts** are covered in Rule 3.15. The Comments are derived from the ABA Comments to Rule 3.13 of the 2007 ABA Code.

Credits

[Adopted March 9, 2010, eff. July 1, 2010.]

MD Rules, Rule 16-813, CJCR 3.13, MD R CTS J AND ATTYS Rule 16-813, CJCR 3.13
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