

- Canon 3C(1)(d)(ii) The judge's relative is known by the judge to have an interest that could be substantially affected by the outcome of the case.
- Canon 3C(1)(d)(iii) To the judge's knowledge, the judge's relative is likely to be a material witness in the proceeding. E.g., Advisory Opinion 86-258 (relative is an expert witness). A judge should seek to be informed as to whether his/her relative will appear as a material witnesses. Advisory Opinion 86-286. A person is not a material witness unless (1) he/she will be testifying on a fact affecting the merits of the cause, and (2) there is no other witness who might testify to such fact. Advisory Opinion 99-735.
- Canon 3C(1) The judge's relative has some other personal involvement in the matter in controversy that casts the judge's impartiality into reasonable doubt.

Disqualification under Canon 3C(1)(d) may be remitted under the procedure in Canon 3D; disqualification under the other circumstances may not be remitted.

If the judge determines that none of the above circumstances are present, the Commission encourages the judge to disclose his/her familial relationship to the parties. Although the Canons do not expressly require disclosure of interests or relationships the judge does not deem disqualifying, disclosure would prevent any appearance of impropriety. It also puts the parties on notice so they can bring to the judge's attention any additional circumstances. Under Canon 3E, relationship information may conveniently be disclosed by filing a statement with the court clerk, or the judge may give notice in open court or cause written notice to be given to the parties.

REFERENCES

Alabama Canons of Judicial Ethics, Canons 3C(1); 3C(1)(a); 3C(1)(d); 3C(1)(d)(ii); 3C(1)(d)(iii); 3D; 3E.

Alabama Advisory Opinions 99-735; 92-426; 88-345; 88-322; 86-286; 86-258.

This opinion is advisory only and is based on the specific facts and question submitted by the judge who requested the opinion pursuant to Rule 18 of the Rules of Procedure of the Judicial Inquiry Commission. For further information, you may contact the Judicial Inquiry Commission, P. O. Box 303400, Montgomery, Alabama 36130-3400; tel.: (334) 242-4089; fax: (334) 353-4043.