

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an opinion concerning whether, under the Alabama Canons of Judicial Ethics, a judge is disqualified from sitting in a certain proceeding. The judge's wife is a public school teacher, whose employing Board of Education has intervened in an action presently pending before the judge. The action was initiated by another Board of Education which in cooperation with the employing Board operates a local Technical School. The action is a declaratory judgment wherein the court is requested to adjudicate certain disputed issues existing between the two Boards of Education on the one hand, and the director of the Technical School on the other.

It is the opinion of the Commission that the fact that a judge's wife is a teacher employed by a City Board of Education does not per se cause the judge's disqualification in all proceedings in which the City Board of Education is a party. Disqualification is required by the fact of such employment only where the judge's wife has an interest which could be affected by the outcome of the proceeding.

Judicial disqualification is governed primarily by Canon 3C of the Alabama Canons of Judicial Ethics. That canon provides in pertinent part that:

- "(1) A judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned, including but not limited to instances where:

* * *

- (c) He knows that he, individually or as a fiduciary, or his spouse ... has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;"

Thus, under the facts presented, the judge's wife's employment would cause the judge's disqualification only if that employment provides some interest which could be substantially affected by the outcome of the proceeding. This opinion is in accord with advisory opinion 80-73 wherein the Commission advised that the employment of a judge's daughter would not per se cause the judge's disqualification in proceedings involving the Board as a party unless the daughter had some direct interest in the proceedings.