



COMMONWEALTH OF KENTUCKY
ETHICS COMMITTEE OF THE KENTUCKY JUDICIARY
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JUDICIAL ETHICS OPINION JE-101

October 14, 2002

Question 1: Where the judge's secretary is married to an attorney appearing in a case before the judge, is the judge required by the terms of Canon 3(E)(1) to disqualify?

Answer 1: Yes. Because of the appearance of impropriety, the judge is required to disclose the fact of the relationship between his secretary and the attorney of record and to disqualify. However, the disqualification may be waived according to the procedures of Canon 3(F).

Question 2: Where the judge's law clerk is married to a local assistant county attorney, do the terms of Canon 3(E)(1) require the judge to disqualify any time the County Attorney's office is involved in a case before the judge?

Answer 2: Yes. Because of the appearance of impropriety, the judge is required to disclose on the record the fact of the relationship between his law clerk and the assistant county attorney and to disqualify. However, the disqualification may be waived according to the procedures of Canon 3(F).

Because these parallel situations were presented to the Committee at approximately the same time, the Committee elected to consider them together. In neither situation did the Committee believe that any real impropriety by way of improper influence was being exercised. Rather, the disqualification is required simply because of public perception. In order to preserve the independence of judiciary and the public perception of impartiality, whenever the judge's secretary or law clerk is married to one of the attorneys of record, the judge should disqualify and following the procedures of Canon 3(F), permit the attorneys leave to waive the disqualification if they choose.

Hon. James L. Bowling, Circuit Judge

Chairman

The Ethics Committee of the
Kentucky Judiciary