

TITLE 1: GOVERNMENT
DIVISION 3: JUDICIAL BRANCH

§ 3308. Disqualification of Judges.

(a) A justice or judge of the Commonwealth shall disqualify himself or herself in any proceeding in which his or her impartiality might reasonably be questioned.

(b) A justice or judge shall also disqualify himself or herself in the following circumstances:

(1) Where he or she has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he or she served as a lawyer in the matter in controversy, or a lawyer with whom he or she previously practiced law served during that association as lawyer concerning the matter, or the judge or such lawyer was or is a material witness concerning that matter;

(3) Where he or she has served in governmental employment and in that capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion regarding the merits of the particular case in controversy;

(4) He or she, individually or as a fiduciary, or his or her spouse or minor child residing in the household, 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;

(5) He or she, or his or her spouse, or a person within the second degree of relationship to either of them, or the spouse of such person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Is known by the judge or justice to have an interest that could be substantially affected by the outcome of the proceeding; or

(iv) To the knowledge of the judge or justice is likely to be a material witness in the proceeding.

(c) A judge or justice should inform himself or herself about his or her personal and fiduciary financial interests, and make a reasonable effort to inform himself or herself about the personal financial interests of his or her spouse and minor children residing in the household.

(d) For the purposes of this section the following words or phrases shall have the meaning indicated:

(1) "Fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(2) The degree of relationship is calculated according to the civil law system;

(3) "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

(i) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge or justice participates in the management of the fund;

TITLE 1: GOVERNMENT
DIVISION 3: JUDICIAL BRANCH

(ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a “financial interest” in securities held by the organization;

(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in mutual savings association, or a similar proprietary interest, is a financial interest in the organization only if the outcome of the proceeding could substantially affect the value of the interest; and

(iv) Ownership of government securities is a “financial interest” in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(4) “Proceeding” includes pretrial, trial, appellate review, or other stages of litigation.

(e) No justice or judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b) of this section. Where the ground for disqualification arises only under subsection (a) of this section, waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.

Source: PL 6-25, § 3, ch. 3 (§ 3308).

Commission Comment: See also the Code of Judicial Conduct for the Commonwealth Judiciary and Procedure for Filing Grievances Involving Members of the Judiciary.