

- (a) the Judge has actual bias against a party or party's counsel;
- (b) the Judge served as a counsel or was a witness in the case; or
- (c) a member of the family of the Judge is a party or is known to have an interest that is likely to be affected by the outcome of the case.

Waiver of disqualification

11. (1) Subject to subsection (2), a Judge disqualified under section 9 of this Code may, instead of withdrawing from the proceedings, disclose, on the record, the basis of the disqualification.

(2) If, based on a disclosure under subsection (1), the parties, their representatives and counsel, independently of the Judge's participation, all agree that the Judge's -

- (a) relationship is immaterial; or
- (b) financial interest, if any, is not substantial,

the Judge is no longer disqualified and may participate in the proceedings.

(3) The consent by the parties, their representatives and counsel, based on the provisions of subsection (2), shall be recorded and form part of the record of proceedings.

Necessity

12. (1) A Judge, who ordinarily ought to disqualify himself or herself from hearing and deciding a case, may, where extraordinary circumstances exist, hear and decide the case if failure to do so could result in an injustice.

(2) Extraordinary circumstances may exist where-

- (a) an adjournment or mistrial would cause undue hardship; or
- (b) no other Judge, who would not be similarly disqualified, is reasonably available.

Acting as executor

13. A Judge may serve as an executor of the estate of a friend or member of his or her family, if-

- (a) no remuneration is attached to the service;
- (b) he or she is not involved in the day-to-day administration of the estate; and
- (c) the required work does not interfere with his or her judicial duties.

Former clients

14. (1) A Judge who was in private practice before his or her appointment must not hear or decide any case in which the Judge or his or her former firm was directly involved, as a counsel of record or, in any other capacity, before his or her appointment.