



February 4, 2021

The Honorable John G. Roberts
Chief Justice
Supreme Court of the United States
One First St. NE
Washington, D.C. 20543-0001

The Honorable Scott S. Harris
Clerk of the Court
Supreme Court of the United States
One First St. NE
Washington, D.C. 20543-0001

Dear Mr. Chief Justice and Mr. Harris:

The Ethics in Government Act of 1978, as amended by the Ethics Reform Act of 1989, requires senior government officials—including the President and Vice President, officers and high-level employees of the Executive Branch, Members of Congress, and judicial officers—to annually disclose outside income, gifts, and reimbursements. The Executive branch and both chambers of Congress have issued implementing regulations and/or rules that require disclosures beyond what the statute requires.¹ For example, executive and legislative branch disclosure rules require descriptions (and, in Congress’s case, documentation) of reimbursed expenditures; narrowly construe the Ethics in Government Act’s “personal hospitality” exception; restrict officials’ receipt of certain gifts and travel; and require prompt online publication of, and easy public access to, financial disclosures.

The Judicial Conference Committee on Codes of Conduct has also issued financial disclosure regulations, but these are significantly less stringent than the executive and legislative branch rules. Even those requirements, however, do not apply to the Justices of the Supreme Court. As a result, the Justices of our highest court are subject to the lowest standards of transparency of any senior officials across the federal government.

¹ See, e.g., 5 C.F.R. 2634 (Executive Branch Financial Disclosure, Qualified Trusts, And Certificates of Divestiture), <https://ecfr.federalregister.gov/current/title-5/chapter-XVI/subchapter-B/part-2634>; U.S. House of Representatives, Committee on Standards of Official Conduct, House Ethics Manual, 110th Congress, 2nd Session (2008), https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf; U.S. Senate, Select Committee on Ethics, Senate Ethics Manual, 108th Congress, 1st Session (2003), <https://www.ethics.senate.gov/downloads/pdffiles/manual.pdf>.

We believe a legislative solution may be in order to bring the judiciary's financial disclosure requirements in line with other branches of government if the Court does not address the issue itself. Please be good enough to provide answers to the following inquiries:

1. What plans, if any, does the Court have to adopt a code of ethics, or to bring its gift, travel, and hospitality restrictions and disclosure policies in line with those of the Executive Branch and Congress? If it has no such plans, what justifies the Court having a lower disclosure standard than the other branches of government?
2. Does the Court (or do the individual Justices) maintain records of emoluments in the nature of gifts, travel, hospitality, and reimbursements received by members of the Court? Do such records include the dollar value and descriptions of the emoluments?
3. What steps does the Court take to identify or prevent the Justices' receipt of gifts, travel, or hospitality from those who may have business before the Court?
4. For purposes of the Justices' disclosures, how does the Court define the term "personal hospitality" that appears in the Ethics in Government Act? See 5a U.S.C. §102(a)(2)(A) (exempting from disclosure any gifts in the form of "food, lodging, or entertainment received as personal hospitality").
5. What plans, if any, does the Court have to make the Justices' financial disclosure reports more accessible to the public?

Thank you for your consideration of our views and your attention to this matter.

Sincerely,



Sheldon Whitehouse
United States Senator



Lindsey O. Graham
United States Senator