迴避規定及說明

Regulations and Descriptions for Disqualification

為了維護法院審理案件的公正，中華民國相關法規設有法院人員應「迴避」的規定，包括：(一)自行迴避，也就是說法官等人員，如果與案件的當事人或案件有特定關係，就應自行迴避，不得執行職務；(二)當事人聲請迴避，也就是當事人知悉、發現法官等人員有應自行迴避而未迴避之情形，或有其他明顯事證，足以認為他們有偏頗的可能，可用書面敘明理由後向法院聲請迴避。

To ensure fair trials, the conditions for "disqualification" are stipulated in laws and regulations for court personnel, including: (1) voluntarily disqualification, which refers to the condition in which a judge or other personnel shall voluntarily disqualify himself/herself from the execution of his/her duties if a specific relationship with the involved parties or the case is present; (2) an involved party's filing of a "disqualification motion" , which refers to the condition of disqualifying a judge or other personnel with a written statement when an involved party learns or discovers that such an above-mentioned personnel who should voluntarily disqualify himself/herself but does not or when there is obvious evidence supporting the possibility of partiality.

此外，如果通譯人員就傳譯案件有法定應自行迴避事由，也不得執行職務；且通譯就傳譯案件如有利益衝突或其他影響其忠實、中立執行職務之情形，應主動告知法院。

In addition, a court interpreter may not perform his/her assigned interpreting duty if he/she learns about any existing condition pursuant to the laws of voluntary disqualification. Moreover, a court interpreter shall take the initiative to report to the court if there is a conflict of interest or condition that may potentially affect the faithfulness or neutrality of an interpreter in performing the assigned duties concerning the case.

如您發現案件中的法官或通譯人員，有上述情況，請即時向法院反應，以確保您的權益。

If a judge or a court interpreter is found to be involved in any condition described above, please immediately report the details to the court to protect your rights and interests.

相關的民事訴訟法及行政訴訟法規定如下：
The related regulations in Code of Civil Procedure and Code of Administrative Procedure are as follows:

民事訴訟法第 32 條
法官有下列各款情形之一者，應自行迴避，不得執行職務：
一、法官或其配偶、前配偶或未婚配偶，為該訴訟事件當事人者。
二、法官為該訴訟事件當事人八親等內之血親或五親等內之姻親，或曾有此親屬關係者。
三、法官或其配偶、前配偶或未婚配偶，就該訴訟事件與當事人有共同權利人、共同義務人或償還義務人之關係者。
四、法官現為或曾為該訴訟事件當事人之法定代理人或家長、家屬者。
五、法官於該訴訟事件，現為或曾為當事人之訴訟代理人或輔佐人者。
六、法官於該訴訟事件，曾為證人或鑑定人者。
七、法官曾參與該訴訟事件之前審裁判或仲裁者。

Article 32 of Code of Civil Procedure
Any judge shall voluntarily disqualify himself/herself in the following circumstances:
1. When the judge, or the judge's spouse, former spouse, or fiancé is a party to the proceeding;
2. When the judge is or was either a blood relative within the eighth degree or a relative by marriage within the fifth degree, to a party to the proceeding;
3. When the judge, or the judge's spouse, former spouse, or fiancé is a co-obligee, co-obligor with, or an indemnitor to, a party to the proceeding;
4. When the judge is or was the statutory agent of a party to the proceeding, or the head or member of the party's household;
5. When the judge is acting or did act as the advocate or assistant of a party to the proceeding;
6. When the judge is likely to be a witness or expert witness in the proceeding;
7. When the judge participated in making either the prior court decision or the arbitration award regarding the same dispute in the proceeding.

民事訴訟法第 33 條
遇有下列各款情形，當事人得聲請法官迴避：
一、法官有前條所定之情形而不自行迴避者。
二、法官有前條所定以外之情形，足認其執行職務有偏頗之虞者。
當事人如已就該訴訟有所聲明或為陳述後，不得依前項第二款聲請法官迴避。但迴避之原因發生在後或知悉在後者，不在此限。

Article 33 of Code of Civil Procedure

A party may move for the disqualification of a judge in the following circumstances:

1. When the judge does not voluntarily disqualify himself/herself in the circumstances prescribed in the preceding Article;
2. When there exist circumstances other than those prescribed in the preceding Article suggesting that the judge may not perform his/her functions impartially.

A party cannot move for the disqualification of a judge in accordance with the provision of the second subparagraph of this Article after such party has made any motions or statements concerning the action, except where the grounds for disqualification arise or become known thereafter.

行政訴訟法第 19 條

法官有下列情形之一者，應自行迴避，不得執行職務：

一、有民事訴訟法第三十二條第一款至第六款情形之一。

二、曾在中央或地方機關參與該訴訟事件之行政處分或訴願決定。

三、曾參與該訴訟事件相牽涉之民刑事裁判。

四、曾參與該訴訟事件相牽涉之法官、檢察官或公務員懲戒事件議決或裁判。

五、曾參與該訴訟事件之前審裁判。

六、曾參與該訴訟事件再審前之裁判。但其迴避以一次為限。

Article 19 of Code of Administrative Procedure

A judge shall recuse himself or herself in any of the following circumstances:

1. Where there is one of the circumstances provided for in Subparagraphs 1 to 6 of Article 32 of the Code of Civil Procedure;
2. Where the judge participated in the decision-making of the administrative act or the petition-and-appeal decision at an agency at the central government or local government regarding the same case in dispute;
3. Where the judge participated in the civil adjudication or criminal adjudication relating to the same dispute;
4. Where the judge participated in the deliberation or adjudication of the cases concerning disciplinary measures against officials, judges, or prosecutors relating to the same dispute;
5. Where the judge participated in the earlier instances of the adjudication of the same dispute; or
6. Where the judge participated in earlier instances prior to rehearing of the same dispute. However, the recusal in such circumstance is limited to only once.