

**Connecticut Committee on Judicial Ethics  
Informal Opinion Summaries**

**2008-01 (August 5, 2008)**

**Recommendations; Court Employees; Canon 3B & C.G.S. § 51-39a**

**Issue:** May a Judicial Official provide a referral/recommendation to an existing court employee who is applying for another Judicial Branch position?

**Response:** Based upon the facts presented, the Committee unanimously agreed that the Judicial Official may write a letter of recommendation provided that the Judicial Official has personal knowledge of the person recommended and that the person recommended is not a relative of the Judicial Official within the meaning of Canon 3B or C.G.S. § 51-39a.

**2008-02 (September 2, 2008)**

**Disclosure/Disqualification; Canon 3**

**Issue:** Is a Judicial Official disqualified from presiding over a criminal case in which the defendant previously was before the Judicial Official in a juvenile matter either as a delinquent or parent in a child protection matter?

**Response:** In the absence of more specific facts, the Committee unanimously agreed that whether a Judicial Official is disqualified is governed by the following general rules: (1) a mere change of assignment or court location does not require recusal, (2) judges are routinely required to screen-out information that is inadmissible, (3) if, however, the judge believes his or her fairness is impaired by the prior knowledge, recusal is required, (4) the test for disqualification is an objective one, whether a reasonable person knowing all of the circumstances might reasonably question the judge's impartiality (see *Papa v. New Haven Federation of Teachers*, 186 Conn. 725 (1982)), and (5) Canon 3 (c) (1)(A) should be reviewed. If facts arise for which further guidance is sought, the Judicial Official should feel free to come back to the Committee for an opinion based on case-specific facts.

**2008-03 (September 10, 2008)**

**Recommendations; Court Employees; Canon 3B & C.G.S. § 51-39a**

**Issue:** May a Judicial Official complete a letter of reference form for a former legal research/law clerk applying for a position with the Attorney General's Office?

**Response:** Based upon the facts presented, the Committee unanimously agreed that the Judicial Official could complete a letter of reference form for a former legal research/law clerk applying for a position with the Attorney General's Office provided that the Judicial Official has personal knowledge of the person recommended and the person recommended is not a relative of the Judicial Official within the meaning of Canon 3B or C.G.S. § 51-39a.

**2008-04 (September 17, 2008)**

**Gifts; Social Activities; Ordinary Social Hospitality; Canons 2 & 5**

**Issue:** May a Judicial Official attend a sold-out baseball game with an attorney friend using tickets obtained by the attorney's law firm and in circumstances where the Judicial Official will pay for his/her ticket and where the firm (but not the attorney) has previously had cases and is expected to have future cases before the Judicial Official?

**Response:** Based upon the facts presented, including that the attorney friend does not appear before the Judicial Official, that other members of the firm will not be present with the attorney and Judicial Official at the game, and that there are not frequent transactions between the firm and the Judicial Official, the Committee unanimously agreed that the Judicial Official could attend the game if the Judicial Official purchased the ticket at the higher of the face-value or what the firm paid for the ticket.

**2008-05 (September 17, 2008)**

**Charitable Activities; Family; Financial Disclosure; Gifts; Ordinary Social Hospitality; Canons 2, 5 & 7**

**Issue:** May a Judicial Official be a guest of the Judicial Official's spouse's client at an expensive charity event?

**Response:** Based upon the facts presented, the Committee unanimously agreed that the Code did not prohibit a Judicial Official and his/her spouse being guests of the spouse's client at a charity event that costs \$1,000 per-person provided that neither the client nor his businesses have matters before the court and the gift is reported in the same manner as compensation in accordance with Canon 5(c)(4)(C). The Committee noted that if a political candidate is a speaker at this nonpolitical event, it would raise questions under Canon 2 (a). The Committee believed that this was a close issue but that attendance by the Judicial Official, even if a political candidate was speaking at the event, would not violate the Code. It was noted that even if it was a political event, the Judicial Official's spouse could accept the gift.

**2008-06 (September 26, 2008)**

**Fundraising; Soliciting Contributions; Social Activities; Law School Activities; Prestige of Office; Name, Use of; Canons 2 & 5**

**Issue:** May a Judicial Official serve on a law school reunion committee?

**Response:** Based upon the facts presented, the Committee unanimously agreed that the Judicial Official could join the law school reunion committee provided that he/she did not participate in any activity involving fundraising from others, including but not limited to (1) not allowing his/her name to be used on any letters or communications concerning fundraising activities, and (2) not participating in activities related to requesting participation in a class gift

campaign, thanking classmates who have made a gift or pledge, and contacting those that have not yet given to encourage their support.

**2008-07 (September 26, 2008)**

**Fundraising; Soliciting Contributions; Charitable Activities; Gifts; Family; Canons 2 & 5**

**Issue:** May a Judicial Official's spouse raise funds to enable the Judicial Official to qualify for participation in a charitable golf tournament?

**Response:** Based upon the facts presented, the Committee unanimously agreed that the Judicial Official's spouse could not solicit charitable donations that would be used to make-up a portion of the Judicial Official's minimum fundraising contribution to enable the Judicial Official to qualify for participation in a charity golf tournament. Although the facts did not reveal how it was contemplated that the Judicial Official's spouse would solicit such donations, the Committee determined that it would be improper for the spouse to (1) solicit funds without disclosing to donors that the purpose was to enable the Judicial Official to participate, (2) act as the Judicial Official's agent in soliciting funds for the charity, or (3) solicit a "gift" for the Judicial Official.

**2008-08 (October 1, 2008)**

**Post-retirement Employment; Advancing Private Interests; Disclosure/Disqualification; Canons 3 & 5**

**Issue:** May a Judicial Official, in preparing for post-retirement employment, communicate with law firms regarding future employment opportunities?

**Response:** Based upon the facts presented, the Committee unanimously agreed that the Judicial Official should not make it generally known that he/she is seeking a position, so as to avoid being solicited by a number of law firms or other entities that may appear before the Judicial Official prior to his/her leaving the Judicial Branch. With respect to initiating contact with law firms, the Judicial Official may do so on an individual basis; however, the Judicial Official should not contact any law firm currently before the Judicial Official or that was recently before the Judicial Official. Furthermore, because of the requirement in Canon 3 that judicial duties take precedence over all other matters, he/she must be selective in the firms that he/she contacts, so that the Judicial Official does not have to recuse him/herself from so many cases as to interfere with the proper performance of his/her judicial duties.

**2008-09 (October 1, 2008)**

**Charitable Activities; Gifts; Family; Ordinary Social Hospitality; Financial Disclosure; Canons 2 & 5**

**Issue:** May a Judicial Official and his/her spouse attend a charity award program as guests of an attorney?

**Response:** Based upon the facts presented, the Committee unanimously agreed that the Judicial Official may accept two tickets to a charity reception and dinner provided that the value (\$325) is reported pursuant to Canon 5 (c) (4) (C) and that neither the donor lawyer nor the donor lawyer's law firm has interests that have come or are likely to come before the Judicial Official.

**2008-10 (October 1, 2008)**

**Recommendations; Family; Canon 2, 3 & 4**

**Issue:** May a Judicial Official respond to a request from the Judicial Selection Commission requesting a letter of reference for a relative being considered for approval?

**Response:** Based upon the facts presented, the Committee unanimously agreed that the Judicial Official, in response to a request from the Judicial Selection Commission, should decline to write a letter of recommendation for a relative who is being considered for a judgeship, because to do so would be to "knowingly advocate or knowingly participate in the appointment . . . of a relative in or to a position in the judicial branch" in violation of Canon 3 (b) (5).

**2008-11 (October 10, 2008)**

**Advisory Opinions - Jurisdiction  
Policy and Rules of Committee, Paragraph 6**

The Committee received a request and determined that, in accordance with paragraph 6 of its rules (requiring the subject matter of a request not be the subject of a matter "pending before a court, agency or commission"), it lacked jurisdiction to issue an opinion.

**2008-12 (October 10, 2008)**

**Financial Activities; Stock Interest; Disclosure/Disqualification; Remittal;  
Canons 3 & 5**

**Issue:** Does the ownership of a small amount of stock in a bank require a Judicial Official to disqualify himself or herself from presiding over all foreclosure cases involving that bank?

**Response:** Based upon the facts presented, the Committee unanimously agreed that a Judicial Official's ownership of a small amount of stock in a bank that frequently appeared before the Judicial Official, unless held in a non-judge managed mutual fund, required the Judicial Official to disqualify himself or herself, subject to possible remittal in accordance with Canon 3(d). The Judicial Official was advised to consider whether divestment was feasible in the near future prior to considering whether to request a judicial re-assignment.

**2008-13 (October 30, 2008)**

**Family Support Magistrate Referee; Compliance with Code**

**Issue:** Does the Code of Judicial Conduct apply to a Family Support Magistrate Referee?

**Response:** The Committee unanimously agreed that a Family Support Magistrate Referee should comply with the Code of Judicial Conduct to the same extent that the Code applies to a Senior Judge or Judge Trial Referee.

**2008-14 (October 30, 2008)**

**Educational Activities; Gifts; Advertising; Canons 2, 3, 4, & 6**

**Issue:** May a Judicial Official participate as a panel member at a law-related educational seminar where attendees may ask questions of the panel members? If yes, may the Judicial Official (1) accept an honorarium of \$10-per-participant with a guaranteed minimum payment of \$50 and (2) allow the sponsor of the seminar to use the Judicial Official's photo and biographical information in advertising materials for the seminar?

**Response:** Based upon the facts presented, the Committee unanimously agreed that a Judicial Official may participate in a law-related educational program where questions may be asked by the audience provided that the Judicial Official (1) does not comment on a pending or impending matter, (2) does not cast doubt on his/her capacity to decide impartially any issue that may come before him or her, (3) does not offer advice as to how lawyers should handle specific matters, and (4) exercises caution as to questions that may seek to elicit such specific advice. With respect to compensation for participating in the seminar, the Committee unanimously agreed that a Judicial Official should either decline any honorarium or accept only the minimum honorarium of \$50. A Judicial Official should not accept an honorarium based upon the number of persons attending the program or tickets for staff to attend the program. Whether or not an honorarium is accepted, a Judicial Official may accept reimbursement of expenses for travel to the program. Finally, with respect to advertising the Judicial Official's participation in the educational program, the Committee unanimously agreed that the Judicial Official should retain the right to review and pre-approve the use of any biographical information or photograph to ensure that the information is presented in a tasteful and dignified manner. It was noted that control over the use of such information by the Judicial Official is needed to ensure that Canon 2 (b)'s prohibition against lending the prestige of judicial office to advance the private interests of others is not violated.

**2008-15 (November 6, 2008)**

**Recommendations; Canon 2**

**Issue:** May a Judicial Official who has personal knowledge of a law school graduate who is a candidate for admission to the bar of another state provide a letter of reference in the context of an adversarial character and fitness

proceeding stemming from concern that the candidate cheated on a college exam?

**Response:** Because the character and fitness proceeding involved in this ethics request is adversarial in nature and not the type ordinarily conducted for all bar applicants, the Committee unanimously agreed in accordance with Canon 2(b) and its commentary that the Judicial Official should not write a reference letter for this bar candidate unless specifically requested to do so by the bar authorities.

**2008-16 (November 20, 2008)**

**Social Activities; Appearance of Impropriety; Ordinary Social Hospitality; Canons 2 & 5**

**Issue:** May a Judicial Official attend a small family law firm's five-hour holiday party on board a river boat cruise ship?

**Response:** Based upon the facts presented, including that (1) the holiday party was by invitation only, (2) invitations were issued only to small family law firms, their guests and select Judicial Officials, (3) the party was sponsored/coordinated by family law attorneys with active court appearances, (4) it was likely that those attending the party would have cases pending before the invited Judicial Officials, and (5) the party was aboard a cruise ship and, therefore, if a Judicial Official believed that the nature of the event became compromising (i.e., created an appearance of impropriety), it would not be possible to leave, the Committee unanimously determined that attendance was not permitted.

**2008-17 (November 26, 2008)**

**Recommendations; Canons 2 & 3**

**Issue:** May a Judicial Official respond to a request from an individual for a recommendation of an attorney to represent a person in a specific legal matter?

**Response:** Based upon the facts presented, the Committee unanimously agreed that a Judicial Official may recommend an attorney to an individual provided that the individual given the recommendation has a sufficiently close relationship to the Judicial Official that the Judicial Official would automatically recuse himself or herself from a case involving that person independent of whether the Judicial Official provides a recommendation. If a Judicial Official provides a recommendation, he/she should recommend multiple names of counsel.

**2008-18 (November 26, 2008)**

**Financial Activities; Financial Disclosure; Canons 2, 3, & 5**

**Issue:** May a Judicial Official financially contribute to a legal aid society that has attorneys who may appear before the Judicial Official?

**Response:** Based upon the facts presented, the Committee unanimously agreed that contributions to a legal aid organization are permissible in accordance with Canon 5(b) and that disclosure of such contributions generally is not required unless the amount of the contribution is such that the Judicial Official's impartiality might reasonably be questioned under Canon 3.

**2008-19 (December 10, 2008)**

**New Judge; Transition to Bench; Former Law Firm; Compensation; Canons 2, 3(c) & 5(c); Rule 1.5(e) of the Rules of Professional Conduct**

**Issue:** May a Judicial Official accept payment from the Judicial Official's former law firm (1) for work done on contingency fee lawsuits that were pending at the time the Judicial Official was appointed to the bench, or (2) for cases initiated for clients that the Judicial Official brought to the firm prior to the Judicial Official's appointment to the bench?

**Response:** Based upon the facts presented, which involved a single payment to be made for a case the Judicial Official worked on and which was approved by his/her former law firm and the client, the Committee unanimously agreed that it is ethically permissible for the Judicial Official to accept payment provided the amount to be paid reasonably reflects the work the Judicial Official performed on the case. The Judicial Official should also consider whether the decision to accept payment may affect the Judicial Official's qualification to hear matters involving the client, opposing parties and the law firm.

**2008-19A (December 18, 2008)**

**New Judge; Transition to Bench; Former Law Firm; Compensation; Canons 2, 3(c) & 5(c); Rule 1.5(e) of the Rules of Professional Conduct**

**Issue:** May a Judicial Official accept payment from a former law firm for a case initiated on behalf of a client that the Judicial Official had brought to the firm as a "rainmaker" and for whom the Judicial Official had provided nominal legal services, where the fee arrangement was made in lieu of any payments for his/her interest in the practice?

**Response:** The facts presented included, inter alia, that (1) there was a verbal separation agreement that specified the percentage of fees that the Judicial Official would receive from the total legal fees the firm received for cases initiated on behalf of clients the Judicial Official brought to the firm prior to the Judicial Official's departure, and (2) the client was aware of the fee arrangement and approved the payment to the Judicial Official. The Committee unanimously approved the Judicial Official's receipt of payment when the sole remaining case is finally settled, although that will occur approximately four years later than the firm and Judicial Official had contemplated when the separation agreement was entered. The Committee noted that while the verbal pre-existing separation agreement was acceptable, it was preferable for such agreements involving Judicial Officials to be in writing. The Committee also noted that the Judicial Official should consider whether the decision to accept payment may affect the

Judicial Official's qualification to hear matters involving the client, opposing parties and the law firm.

**2008-20 (December 10, 2008)**  
**Off the Bench Conduct; Media; Canon 3**

**Issue:** May a Judicial Official, either individually or on behalf of a group of Judicial Officials, initiate communications with the media concerning another Judicial Official's years of service, that Judicial Officials are entitled to a presumption of innocence the same as everyone else, and that a case involving a Judicial Official should be decided in court based upon the evidence presented?

**Response:** Based upon the facts presented, the Committee unanimously decided that the proposed comments were not appropriate and would violate Canon 3(a)(6). It was noted that there was an absolute prohibition on initiating such comments and that qualifying the comments by noting that they were the personal opinion of the Judicial Official would not obviate the ethical prohibition.

**2008-21 (December 10, 2008)**  
**Disclosure/Disqualification; Canon 3**

**Issue:** Must a Judicial Official, who prior to appointment as a Judicial Official served as a part-time corporation counsel, recuse himself or herself from civil or criminal cases in which the former municipal employer is a party or the complaining witness, such as the arresting agency or the complaining party in a criminal housing matter?

**Response:** Based upon the facts presented, the Committee unanimously decided that provided the case is not one that was handled by the corporation counsel's office at the time the Judicial Official served as corporation counsel or otherwise involves a matter about which the Judicial Official acquired personal knowledge of disputed evidentiary facts due to prior service as corporation counsel, and the Judicial Official does not believe that he or she has any personal bias (favorable or unfavorable) involving the municipality or its counsel, the Judicial Official need not recuse himself or herself. The Judicial Official must, however, for a reasonable period of time, which is not less than two years, provide notice of the prior employment relationship in such cases.

**2008-22 (December 10, 2008)**  
**Off the Bench Conduct; Ex Parte Communications; Canons 2 & 3**

**Issue:** May a Judicial Official notify a federal judge who is hearing a parallel case of the Judicial Official's ruling in the state court matter?

**Response:** Based upon the facts presented, the Committee unanimously decided that the Judicial Official should not directly contact the federal

Judicial Official to bring to his or her attention the decision in the state court matter; however, the Judicial Official may suggest to the parties that they do so.

**2008-23 (December 10, 2008)**

**Educational Activities; Canons 2 & 4**

**Issue:** May a Judicial Official serve as the judge for a mock trial conducted as part of a training program for contract attorneys regarding direct and cross-examination, given that the training program is only open to attorneys that represent a single class of clients (i.e. plaintiffs or defendants)?

**Response:** Based upon the facts presented, the Committee unanimously decided that the Judicial Official could participate subject to the following conditions: (1) the Judicial Official had already decided not to accept questions from those attending the program, in order to limit his or her rulings to the hypothetical facts in the mock trial and to avoid commenting on a pending or impending matter, (2) the Judicial Official must be willing and available to participate in training for attorneys representing the other side in litigation, (3) the Judicial Official should not provide guidance on the “in-and-outs” of practice before the Judicial Official’s court, (4) the Judicial Official should not suggest a particular interpretation of a disputed legal issue, (5) the Judicial Official should not provide direct assistance in a particular case, (6) the Judicial Official should avoid the appearance of bias or favoritism in the content of the presentation, (7) the Judicial Official may not provide legal advice, and (8) the Judicial Official may not comment on pending or impending cases.

**2008-24 (December 18, 2008)**

**Governmental Commissions; Canons 2, 3 & 5**

**Issue:** May a Judicial Official serve as a member of a team appointed by one municipality to meet with a team appointed by a second municipality and a private mediator in an attempt to resolve a dispute between the municipalities?

**Response:** Based upon the facts provided, including that there is related pending federal litigation and it is foreseeable that there will be additional litigation if the mediation is unsuccessful, the Committee unanimously agreed that the Judicial Official was prohibited from serving on such a team by virtue of the prohibition in Canon 5 (g) barring a Judicial Official from accepting appointments to a governmental committee, commission or position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system or the administration of justice. The Committee also was concerned with potential violations of Canon 2’s prohibition on lending the prestige of judicial office to advance the private interests of others, Canon 3(a)(6)’s prohibition on public comments about a pending or impending proceeding in any court, and Canon 5(f)’s prohibition on the practice of law.

**2008-25 (December 18, 2008)**

**Off the Bench Conduct; Media; Canons 2, 3 & 4**

**Issue:** May a Judicial Official participate on a “Law Talk” segment of a local radio station program devoted to the Judicial Branch’s foreclosure mediation program?

**Response:** Based upon the facts presented, including that the request involves a single appearance for an educational program related to the law, the program will be hosted by a private attorney and also include a foreclosure mediator who is employed by the Judicial Branch, and that members of the public will be able to call-in to the show and ask questions, the Committee unanimously approved the Judicial Official’s participation subject to the following conditions: (1) the appearance does not interfere with the Judicial Official’s judicial duties, (2) the Judicial Official does not give opinions which would cast doubt on the Judicial Official’s impartiality, (3) the Judicial Official is careful not to express opinions or to present the topic in any way that would indicate that the Judicial Official has a predisposition with respect to particular cases, (4) the Judicial Official’s presentation is factual and instructive about the procedures and parameters of the subject matter but does not include comments about any pending matters, and (5) the Judicial Official retains the right to review and pre-approve the use of any biographical information about the Judicial Official used to advertise the segment in order to avoid a violation of Canon 2(b)’s prohibition against lending the prestige of judicial office to advance the private interests of others.

**2008-26 (January 2, 2009)**

**Recommendations; Court Employees; Canons 2 & 3; C.G.S. § 51-39a**

**Issue:** May a Judicial Official provide a recommendation to a court employee, about whom the Judicial Official has personal knowledge, who is seeking a position with the Judicial Branch in the judicial district where the Judicial Official is currently assigned?

**Response:** Based upon the facts presented, including that the employee does not currently work in the Judicial Official’s judicial district, the court employee is not a relative of the Judicial Official within the meaning of Canon 3B or C.G.S. § 51-39a, and the Judicial Official is not an administrative judge, assistant administrative judge or presiding judge, and for the reasons cited in Opinion 2008-1, the Committee unanimously agreed that the Judicial Official may provide a letter of recommendation specific to the position being applied for. The letter may be on Judicial Branch stationery or personal stationery, on which the Judicial Official identifies his or her title. The letter should indicate that the recommendation represents the personal opinion of the Judicial Official.

**2009-01 (January 21, 2009)**  
**Off the Bench Conduct; Media; Canons 2, 3 & 4**

**Issue:** May a Judicial Official be interviewed on camera concerning the impact of broadcasting court proceedings of the Judicial Branch, the possible future role of television coverage of the courts, and related issues?

**Response:** Based upon the facts provided, including that the video is being produced by a public television network as part of its anniversary commemoration of the founding of the network, and that the video will not be used in advocacy, fundraising or any other activity from which the network may derive benefits, the Committee unanimously agreed that the Judicial Official may participate subject to the following restrictions: (1) the appearance does not interfere with the Judicial Official's judicial duties, (2) the Judicial Official does not give opinions that would cast doubt on the Judicial Official's impartiality, (3) the Judicial Official is careful not to express any predisposition with respect to any particular case, (4) the presentation is factual and instructive, i.e., it explains the procedures used for televising court proceedings, but does not contain comments about pending or impending cases, and (5) the Judicial Official retains the right to review and pre-approve the use of any biographical information concerning the Judicial Official used to advertise the segment, in order to avoid a violation of Canon 2 (b)'s prohibition against lending the prestige of judicial office to advance the private interests of others. In discussing the matter it was noted that Canon 4 (1) specifically states that a Judicial Official "may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice" so long as the Judicial Official acts in the proper performance of judicial duties and does not cast doubt on his or her capacity to impartially decide any issue that may come before the Judicial Official. The Committee wished to emphasize that Judicial Officials retain the right to express personal opinions provided that they comply with these provisions as well as others set forth in the Code.

**2009-02 (January 27, 2009)**  
**Off the Bench Conduct; Charitable Activities; Gifts; Family;**  
**Canons 2, 3, 5 & 7**

**Issue:** May a Judicial Official attend a fundraising charity dinner at which a relative will be presented with an award for the relative's years of public service?

**Response:** The information provided concerning this request indicates the following facts: the Judicial Official contemplates attending a fundraising charity dinner hosted by a nonprofit organization to honor the Judicial Official's relative, the Judicial Official will not be a speaker or a guest of honor, the funds raised will go towards various charities, the nonprofit organization does not engage in political activity or contribute to any political party or candidates, the nonprofit has no connection with a political party except its founding membership, the organization has recognized or given awards to individuals from the other major political party, the organization is neither a party to nor has stated a public

position on the merits or resolution of any matter pending before the Judicial Official, and the award recipient is not presently before and is not likely to come before the Judicial Official. The Committee unanimously agreed that the Judicial Official may attend the event subject to the following restrictions: (1) the Judicial Official may accept a ticket to the event from his or her relative pursuant to Canon 5 (c) (4) (B) unless the honoree is not a “relative” as that term is defined in Canon 3 (b) (5), in which case the Judicial Official must report the gift pursuant to Canon 5 (c) (4) (C) if the value of the ticket exceeds \$100; and (2) the Judicial Official shall not act in a manner that would cause doubt as to his or her impartiality.

**2009-03 (January 30, 2008)**

**Attorney Conflict; Disclosure/Disqualification; Advisory Opinions- Jurisdiction; Reporting Misconduct; Canons 1, 2 & 3; Policy and Rules of Committee, Paragraphs 5 & 6**

**Issues:**

(1) May a Judicial Official inquire of an attorney concerning the attorney’s potential involvement in drafting a complaint against the Judicial Official?

(2) Does a Judicial Official have a duty to recuse himself or herself in matters in which the same attorney appears before the Judicial Official?

(3) Does a Judicial Official have an obligation to report alleged misconduct involving the attorney to appropriate disciplinary authorities?

**Response:** Based upon the facts presented, the Committee unanimously decided the issues as follows. While the issue of whether a Judicial Official can inquire of an attorney about his or her involvement in drafting a complaint is not an issue that is currently pending before a court, agency or commission, in accordance with paragraph 5 of the Committee’s Rules, the Committee declines to answer this inquiry, which involves non-ethical as well as ethical concerns, beyond noting that the use of judicial office to question an attorney in order to investigate the source of a complaint would be in violation of Canons 1, 2 and 3. The Judicial Official has correctly decided to recuse him or herself from hearing matters in which the attorney appears during the pendency of the complaint. Following the disposition of the complaint, the Judicial Official should be guided by Canon 3(c)(3), which provides that a judge is not automatically disqualified from sitting on a proceeding merely because a lawyer to the proceeding has filed a lawsuit against the judge or filed a complaint with the judicial review council. In such instances, the judge is required to disclose on the record that fact to the lawyers and parties to the proceeding before the judge. In addition, the Judicial Official should be guided by the principle enunciated in *Consiglio v. Consiglio*, 48 Conn. App. 654 (1998) that “[t]he matter of a judge’s recusal is in the reasonable discretion of that judge.... The decision to recuse oneself is an intrinsic part of the independence of a judge.” *Id.* at 561-562. Finally, with respect to whether the Judicial Official has a duty to refer the attorney to a disciplinary authority for alleged misconduct during a proceeding, Canon 3(b)(3) and its Commentary note

that, although a judge should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge becomes aware, the judge has discretion to report the matter depending upon the seriousness of the conduct and the circumstances involved. The Judicial Official should be guided by these provisions in exercising his or her own discretion as to whether to report the attorney's conduct.

**2009-04 (January 27, 2009)**

**Gifts; Ordinary Social Hospitality; Canons 2, 3 & 5**

**Issue:** May a Judicial Official and the Judicial Official's family accept an invitation to spend several days with another couple, with whom they are close personal friends, both of whom are lawyers, at the friends' vacation home?

**Response:** Based upon the facts presented, the Committee unanimously agreed that two families vacationing together at one of the family's homes, in view of the fact that the families regularly socialize together, is part of ordinary social hospitality and should be permitted subject to the following conditions: (1) the Judicial Official continues to recuse him or herself when either of the friends or the business that employs the friend who serves as house counsel appear before the Judicial Official, (2) such recusals are infrequent and do not interfere with the orderly processing of the court's business, and (3) the Judicial Official and his or her family staying with their friends at the friends' vacation home is consistent with the social hospitality that the Judicial Official and his or her family have extended to their friends.

**2009-05 (January 27, 2009)**

**Recommendations; Disclosure/Disqualification; Canons 2 & 3B;  
C.G.S. § 51-39a**

**Issue:** May a Judicial Official provide a letter of support for an attorney who has been nominated to receive a professional service award from a private organization?

**Response:** Based upon the facts presented, the Committee unanimously approved the request subject to the following conditions: (1) the Judicial Official has personal knowledge of the candidate's qualifications that are relevant to the particular award, (2) the candidate is not, as noted in the inquiry, a relative within the meaning of the Code or C.G.S. § 51-39a, (3) the Judicial Official indicates that the opinions expressed represent the personal opinions of the Judicial Official, (4) neither the nominated attorney nor members of his or her law firm or the organization giving the award have an appearance before the Judicial Official at the time the recommendation is provided or for a reasonable period, under the circumstances, before or after the submission of the letter of support, and (5) if the Judicial Official believes that recusal would be required in order to comply with condition (4) because his or her fairness would be impaired, and that recusal is likely to be frequent, the Judicial Official should not provide the letter of support.

**2009-06 (Emergency Staff Opinion issued January 28, 2009)  
Political Activity; Canon 7**

**Issue:** May a Judicial Official attend a public event at which a friend of the Judicial Official plans to announce his or her candidacy for political office?

**Emergency Staff Opinion:** The Judicial Official was advised that attendance at the event is prohibited by Canon 7.

**2009-07 (February 5, 2009)  
Political Activity; Family; Canon 7**

**Issue:** May a Judicial Official attend a political gathering/fundraiser at which a member of the Judicial Official's family residing in the Judicial Official's household (as that term is defined in the Code of Judicial Conduct) is to receive an award?

**Response:** The Committee unanimously decided that Canon 7 of the Code of Judicial Conduct prohibits attendance at any portion of the political gathering.

**2009-08 (February 13, 2009)  
Recommendations; Disclosure/Disqualification; Canons 2 & 3;  
C.G.S. § 51-39a**

**Issue:** May a Judicial Official serve as a reference for a person applying for a position as a police officer with one or more municipal police departments?

**Response:** Based upon the facts presented, the Committee unanimously approved the request subject to the following conditions: (1) the Judicial Official has personal knowledge of the candidate that is relevant to the position for which the candidate is applying; (2) the candidate is not a relative within the meaning of the Code or C.G.S. § 51-39a; (3) the Judicial Official indicates that the opinions expressed represent the personal opinions of the Judicial Official; (4) neither the police department nor the decision makers (the hiring authority) have cases pending as named parties before the Judicial Official nor are they likely to have any cases pending for a reasonable period of time after the submission of the letter of recommendation; (5) if the Judicial Official believes that recusal would be required in order to comply with condition (4) because his or her fairness would be impaired, and that recusal is likely to be frequent, the Judicial Official should not provide the letter of recommendation; and (6) if the candidate is successful in securing employment with the police department, the Judicial Official should be alert to considering the possibility of recusal in accordance with Canon 3(c)(1) in future cases in which the Judicial Official knows the candidate is involved.

**2009-09 (February 18, 2009)**

**Event, attendance/appearance; Civic Activities; Fundraiser; Speaking  
Canons 2, 4 & 5**

**Issue:** May a Judicial Official be a guest speaker at a breakfast hosted and paid for by a legal aid organization when the specified purpose of the event is to thank those who have already financially supported the organization during its annual giving campaign?

**Response:** Based upon the facts presented, including that the participants are limited to lawyer donors, some of whom have appeared in the past and are likely to continue to appear before the judicial official and that, although no additional requests for contributions will be made at the event, the specified purpose of the event is to thank the donors who have already financially supported the organization during its annual giving campaign, a majority of the Committee's members (three) determined that the breakfast served a fundraising purpose and therefore was a fundraising activity or event within the meaning of Canon 5(b)(2). The majority believed that the breakfast constituted the final event of the fundraising campaign and that the Judicial Official's public participation was tantamount to endorsing the donors' contributions and encouraging them to contribute in the future. The majority concluded that because the event is a fundraiser within the meaning of the Code, serving as a speaker at the event would violate Canon 5(b)(2). The majority determined that this inquiry should be governed by Canon 5(b), which specifically references legal aid organizations in its commentary to subsection (b)(1), rather than Canon 4. The majority was also concerned that serving as a speaker at this event could be perceived as a violation of Canon 2(b) although it may not be a technical violation of that provision. The majority concluded, however, that the Judicial Official could attend the breakfast but should not serve as a speaker.

The majority considered advisory opinions from other jurisdictions, including Alabama, Indiana, Maryland and New York, as well as by this Committee's informal opinion JE 2008-06 which advised a judicial official not to participate in fundraising for a law school reunion, thank classmates who had made gifts to the reunion fund or encourage future support.

Two members did not believe that, on the facts presented, the breakfast constituted a public fundraising activity or fund raising event in violation of Canon 5(b)(2) and instead determined that the controlling requirement is the general proviso of Canon 5(b) that "[a] judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of his or her judicial duties." The minority considered advisory opinions from Indiana, Maryland and Michigan. The minority believed that, even if the breakfast qualifies as a "fund raising event," Canon 5(b)(2) does not apply because the judicial official is not "an officer, director, trustee, or non-legal advisor" of the organization. The minority further concluded that the event was not a "fund raising event" within the meaning of Canon 5(b)(2), because no funds are to be collected or requested at the breakfast event, and the judicial

official does not intend to speak on a matter related to fund raising. The minority also noted Canon 4(1) which encourages judges to “speak, write, lecture, teach and participate in other activities concerning the law, the legal system, and the administration of justice.”

**2009-10 (March 20, 2009) - [Formal Opinion](#)**

**Civic Activities; Board of Directors, Nonprofit Organization; Service on Board; Appearance of Impropriety; Canons 2 & 5**

**2009-11 (March 20, 2009)**

**Event, attendance/appearance; Awards & Honors; Fundraiser; Advertising; Name, Use of; Canons 2 & 5**

**Issues:** May a Judicial Official accept an award for excellence in mediation given by a nonprofit organization that receives referrals from courts and communities in the region of Connecticut where the Judicial Official sits? The award is to be presented during a ceremony at a dinner event. Also, if the Judicial Official were to accept the award, may the Judicial Official permit his or her name to be used in advertising the event?

**Response:** Based upon the facts presented, including that the Judicial Official does not impact or influence the mediation program selected by the parties, that the ticket pricing structure includes three different levels of patronage (Benefactor \$250, Patron \$100 and Friend \$50), that information obtained regarding last year’s event suggests that sponsorship opportunities may be available to individuals and organizations, that the organization indicated to ticket purchasers that all but \$20 of the ticket price could be considered an income tax-deductible contribution, and that the organization uses fundraising terminology in describing the event, the Committee unanimously determined that it is impermissible under Canon 5(b) for the Judicial Official to accept the award because the event appears to be a fundraiser, in addition to the stated purpose of the event as "designed to increase awareness of mediation for both the general public and legal professionals".

With respect to the issue raised regarding the use of the Judicial Official’s name in advertising, the Committee unanimously determined that, to avoid any implication that the Judicial Official, who would be the sole guest of honor, is lending the prestige of the judicial office to this particular organization, since it engages in mediating a substantial number of court-based cases in the area in which the Judicial Official is assigned, the Judicial Official should not allow the use of his or her name for purposes of advertising such an event. See Canon 2(b).

**2009-12 (March 5, 2009)**

**Family, Practice of Law; Disclosure/Disqualification; Canons 2, 3 & 5;  
C.G.S. § 51-47**

**Issues:** May a Judicial Official act as a legal advisor to a close family member? If a Judicial Official holds an administrative position and a close family member has a case pending in the judicial district where the judicial official is assigned, must the Judicial Official transfer the case to another judicial district?

**Response:** Based upon the facts presented, including that the Judicial Official would like to accompany the family member to meet with the family member's attorney and discuss any potential settlements with the family member and the family member's attorney, the Committee unanimously determined that Canon 5(f) prohibits judges from engaging in the "practice of law," as that term is defined in Practice Book § 2-44A, and agreed that the Judicial Official should not act as a legal advisor to the family member or engage in any potential settlement discussions. The Committee also determined that Code does not prohibit a Judicial Official from providing family members with emotional or moral support, or personal advice based on common sense and good judgment. The Judicial Official may attend meetings with the attorney for those purposes alone. With respect to the second inquiry, the Committee determined that Canon 3's obligation that judges perform the duties of the office impartially requires the Judicial Official to disqualify him or herself for at least the duration of the family member's representation. The Code does not, however, require other judges in the judicial district to recuse themselves just because a judge with administrative responsibilities is disqualified. Each Judicial Official must make his or her own determination based upon the provisions of the Code. Should the relative's attorney or the opposing party move for a change of venue, the inquiring Judicial Official should not preside over that motion.

It is important to note that this informal opinion is based on the existing version of the Code of Judicial Conduct which is based on the ABA's 1972 Model Code language. Connecticut did not adopt the 1990 amendment to the Model Code which would have permitted judges, without compensation, "to give legal advice to and draft or review documents for a member of the judge's family." Proposals to amend Connecticut's current Code of Judicial Conduct are presently under consideration.

**2009-13 (March 20, 2009)**

**Recommendations; Disclosure/Disqualification; Name, Use of; Canons 2 & 3; C.G. S. § 51-39a**

**Issue:** May a Judicial Official provide a letter of recommendation to the state's two United States Senators with respect to a person applying for a position with the federal court system?

**Response:** Based upon the facts presented, the Committee determined that the Judicial Official may not provide a letter of recommendation, but may offer to

have his or her name listed as a reference. If the Judicial Official is contacted and asked to provide a letter of recommendation, he or she may do so, subject to the following conditions: (1) the Judicial Official has personal knowledge of the candidate's qualifications that are relevant to the particular position for which the candidate is applying, (2) the candidate is not a relative within the meaning of the Code or C.G.S. § 51-39a, (3) the Judicial Official indicates that the opinions expressed represent the personal opinions of the Judicial Official, (4) neither the candidate nor the U.S. Senators have cases pending before the Judicial Official at the time the recommendation is provided or for a reasonable period of time after the submission of the letter of recommendation, and (5) if the Judicial Official believes that recusal would be required in order to comply with condition (4) because his or her fairness would be impaired, and that recusal is likely to be frequent, the Judicial Official should not provide the letter of recommendation. See JE 2009-05 & JE 2009-08.

**2009-14 (April 30, 2009)**

**Event, attendance/appearance; Awards & Honors; Fundraiser  
Canons 2 & 5**

**Issues:** May a Judicial Official accept, on behalf of the entire Judicial Branch, an award for excellence in mediation in recognition of the Judicial Branch's Housing Mediation Program? The award is to be presented at a fund-raising reception by a nonprofit organization.

**Response:** This Committee has previously concluded that a Judicial Official may not accept an award as a guest of honor at a mediation fund-raising event (JE 2009-11). Taking into account our opinion in JE 2009-11, the Committee found no distinction arising from the facts that the recipient of the award is the Judicial Branch as an institution and that the Judicial Official would be accepting the award on its behalf as an individual. Notwithstanding those circumstances, the Judicial Official would still be appearing as the featured guest of honor at the fund-raising event. The Committee also noted that the organization's publicity indicated that it would also "recognize...[unnamed] representatives from the Judicial Branch." Based upon the facts presented, the Committee unanimously determined that, although it is permissible for the Judicial Branch to receive an award, it is impermissible under Canon 5(b) for the Judicial Official to accept an award even though the appearance would be in a representative capacity. The Committee cautioned that a Judicial Official should not participate in any fund-raising event in which the Judicial Official could be perceived as being a featured guest or as promoting the fund-raising activity, even if he/she is not a direct award recipient or guest speaker. The Committee noted that, although Judicial Officials may properly accept awards or honors, individually or in a representative capacity, they are not permitted to do so at fund-raising events.

**2009-15 (April 30, 2009)**

**Recommendation; Attorneys; Disclosure/Disqualification; Canon 2**

**Issues:** May a Judicial Official provide references consisting essentially of performance evaluations in response to form questionnaires for attorneys seeking contracts with the Commission on Child Protection to provide representation to children and indigent respondents in neglect and termination of parental rights proceedings in juvenile court?

**Response:** The inquiring Judicial Official has posed a series of questions in connection with this issue. Because some of the questions fall outside the scope of this Committee's jurisdiction, the Committee limits its response to answering those which are dispositive of the main issue.

This Committee has previously advised that a Judicial Official may serve as a reference or provide a letter of recommendation in the following circumstances: an existing court employee applying for another position within the Judicial Branch (JE 2008-01); a former legal research/law clerk applying for a position with the Attorney General's Office (JE 2008-03); a current Judicial Branch employee applying for a position in the Judicial Official's judicial district, where the judicial official was neither an administrative, assistant administrative or presiding judge (JE 2008-26); an attorney nominated for a professional service award from a private organization (JE 2009-05); a person applying for a position as a police officer with a municipal police department (JE 2009-08); and a person applying to United States Senators for recommendation of nomination to a federal law enforcement position (JE 2009-13). In each case, the Committee approved the activity subject to the following conditions:

1. The Judicial Official must have personal knowledge of the candidate's qualifications that are relevant to the particular position for which the candidate is applying;
2. The candidate is not a relative of the Judicial Official within the meaning of the Code or C.G.S. § 51-39a;
3. The Judicial Official indicates that the opinions expressed represent the personal opinions of the Judicial Official;
4. Neither the candidate nor the hiring authority have cases pending or appearances before the Judicial Official at the time the recommendation is provided or for a reasonable period of time after the submission of the letter of recommendation; and
5. If the Judicial Official believes that recusal would be required in order to comply with condition (4) because his or her fairness would be impaired, and that recusal is likely to be frequent, the Judicial Official should not provide the reference or letter of recommendation.

Based upon the facts presented, including that the Commission's reference/evaluation forms were sent to virtually all Judicial Officials assigned to hear juvenile matters, that many juvenile courts in the state only have one judge assigned to each court location, that the applicants appear regularly before the

Judicial Officials, and that the process is not likely to remain confidential, the Committee unanimously determined that Judicial Officials who serve as juvenile judges should decline, under Canon 2, to serve as evaluators or references in response to the form request from the Child Protection Attorney because participation in this process would require recusal both presently and in the future with respect to any case handled by the contract attorneys, directly implicating the fifth condition that the Committee specified in earlier opinions. Although the Committee appreciates the need for the Commission on Child Protection to evaluate attorneys on the basis of merit in the process of awarding contracts, compliance with the current process would put Judicial Officials in the untenable position of violating the Code.

**2009-16 (Emergency Staff Opinion issued May 15, 2009)  
Advertising; Name, Use of; Fundraiser; Canon 5**

**Issue:** May a Judicial Official and his/her spouse place an advertisement in an ad journal that is part of a fund raiser by the Judicial Official's house of worship? The ad would list the name of the business that the Judicial Official and spouse operate from their home. If permissible, it would also list the name of the Judicial Official and spouse, but it would not indicate the judicial position.

**Emergency Staff Opinion:** The Judicial Official was advised that placing the ad in the journal was not improper under the circumstances. The Judicial Official should evaluate the propriety of the inclusion of his/her name in light of the caveats in Canon 5 (c) (1) and (2).

**2009-17 (May 26, 2009)  
Appearance of Impropriety; Membership; Canons 2, 3, 4 & 5**

**Issue:** May a Judicial Official join the American Board of Trial Advocates (ABOTA) in the "Judge" category?

**Response:** ABOTA is an organization whose stated purposes include, inter alia, elevating the standards of integrity, honor and courtesy in the legal profession, aiding in the education and training of trial lawyers, preserving the jury system, and promoting the efficient administration of justice and constant improvement of the law. ABOTA has adopted over 40 resolutions on a variety of topics, as well as taking a position with respect to certain legislation and filing briefs as amicus curiae in various cases. Membership in ABOTA is limited to those who have attained certain levels of jury trial experience and who are approved by the membership and board of the local chapter and the national board. (Judges only need meet the experience criteria and be approved by the national board.)

Based upon the information available, four of the Committee's members determined that ABOTA is a Canon 4 organization devoted to the improvement of the law, the legal system, and the administration of justice and that membership is permissible subject to the following conditions: (1) if there is a sponsoring member and that member appears before the Judicial Official, the

Judicial Official must disclose the relationship for a reasonable period of time, but not less than one year from the date on which the sponsoring member recommends the Judicial Official; (2) the Judicial Official is cautioned that, consistent with the Commentary to Canon 5 (b), due to the changing nature of some organizations and of their relationship to the law, the Judicial Official should regularly reexamine the activities of ABOTA to determine whether it is proper for the Judicial Official to continue his or her relationship with it; and (3) if an issue comes before the Judicial Official for decision that involves a matter on which ABOTA has taken a public position (such as by adopting a resolution or filing an amicus curiae brief), the Judicial Official should consider whether recusal is necessary.

One member of the Committee expressed strong reservations about whether it would be prudent for a Judicial Official to accept a membership invitation to ABOTA, even if not a technical violation of the Code of Judicial Conduct. The reservations were based on ABOTA's prerequisites for membership, which effectively preclude many attorneys/judges from being invited to join, and its lobbying and advocacy. These facts may create a perception that ABOTA is a partisan organization that does not reflect the many different segments of the bar or represent various sides of professional issues. In addition, as an ABOTA member the Judicial Official may have to devote a fair amount of time to monitoring the organization's lobbying and advocacy activities and may have to avoid particular assignments, for example in complex litigation, as a civil presiding judge or a civil trial judge, to avoid a conflict with either Canons 2 or 3.

**2009-18 (Emergency Staff Opinion issued June 1, 2009)  
Event, attendance/appearance; Civic Activities; Speaking; Canon 5**

**Issue:** May a Judicial Official attend and speak at a non-political, non-fundraising, flag-raising ceremony to mark the beginning of an annual cultural celebration?

**Emergency Staff Opinion:** The Judicial Official was advised that participation was not improper under the circumstances. Under Canon 5 (a) and (b), judges may participate in civic activities and may speak on nonlegal subjects provided that the activities do not reflect adversely upon the judge's impartiality, interfere with the performance of his or her judicial duties, or detract from the dignity of the judicial office. Participation in this type of cultural celebration does not appear to violate Canon 5. In rendering this opinion, staff considered New York Opinions 98-37 and 00-102.

**2009-19 (June 9, 2009)  
Name, Use of; Canons 2 & 5**

**Issue:** May a Judicial Official authorize the inclusion of his or her name on a list of officials willing to perform same sex marriages that is maintained on the website of a nonprofit advocacy organization?

**Response:** The organization currently maintains a list of justices of the peace who are willing to officiate at such marriages on its website under a heading that indicates that the justices of the peace “have asked us to publicize their names as friends of the LGBT community who would be happy to perform a ceremony.” The organization indicated that if a Judicial Official authorizes adding his or her name to the list, it probably would rephrase the heading, although exact replacement wording has not yet been determined. The organization anticipates that it may transfer the list to another advocacy organization for that organization to maintain. The organization engages in community education, grassroots organizing, legislative advocacy and lobbying.

Based upon the information provided, the four participating Committee members unanimously determined that a Judicial Official may authorize a listing on such a website of his or her willingness to officiate at a same sex marriage without violating the Code of Judicial Conduct, provided that the Judicial Official complies with the following conditions: (1) to ensure compliance with Canon 2, the Judicial Official must review, in advance, the actual heading language that will be used to make sure that the listing does not create an impropriety, appearance of impropriety, or lend the prestige of judicial office to advance the interests of the organization; (2) consistent with the Commentary to Canon 5 (b), due to the changing nature of some organizations and of their relationship to the law, the Judicial Official must regularly reexamine the activities of organization and the website listing to determine whether it is proper to continue his or her listing; and (3) the Judicial Official must monitor any transfer of the listing to another organization and review the new listing to determine whether it is appropriate to authorize the listing of his or her name on the new organization’s website in accordance with conditions (1) and (2).

Notwithstanding the foregoing, the participating Committee members unanimously expressed prudential concerns that (1) the listing of a Judicial Official’s name in this or other similar contexts on the website of any advocacy organization carries some risk of creating a perception that the Judicial Official may be affiliated with the advocacy organization or may endorse the organization or its political agenda; and (2) a Judicial Official who agrees to such a listing may have to devote a significant amount of time to comply with his or her ongoing duty to maintain control over how his or her name is used, including monitoring any website on which the Judicial Official’s name appears, as well as the wording used, to prevent the misuse of the Judicial Official’s name and to ensure compliance with the above noted conditions in order to avoid violating Canons 2 and 5.

**2009-20 (Emergency Staff Opinion issued June 16, 2009)  
Court Employees; Disclosure/Disqualification; Canon 3**

**Issue:** A member of a Judicial Official’s staff is seeking to apply for a position with a law firm that is either in the midst of a trial before the Judicial Official or recently had a trial before the Judicial Official. Does the Judicial Official have an obligation to prohibit the court employee from applying or if the employee is

permitted to apply, does the Judicial Official have an obligation to remove the employee from any cases involving the law firm or take any other measures (a) at the time of the application, (b) if the employee receives an interview or (c) if the employee receives an offer that is to start at a future date?

**Emergency Staff Opinion:** The Judicial Official was advised not to prohibit the court employee from applying for the position. However, should the court employee apply for the position with the law firm, whether the firm is appearing presently before the court or not, the Judicial Official should not allow the employee to work on any cases involving that law firm and should ensure that the employee has no further dealings on the Judicial Official's behalf with that firm for a reasonable period of time under the circumstances. If necessary, the Judicial Official may need to arrange a temporary reassignment of the staff person. In rendering this opinion, staff considered JE 2008-08 and Florida Opinion 2006-32.

**2009-21 (July 1, 2009)**

**Ex Parte Communication; Attorney Conflict; Appearance of Impropriety; Disclosure/Disqualification; Reporting Misconduct; Canons 2 & 3; C.G.S. §§ 51-39 & 51-84; P.B § 2-44; and Rule 3.5 of the Rules of Professional Conduct**

**Issue:** May a Judicial Official, who received an ex parte letter that was highly critical of the Judicial Official from an attorney whose client the Judicial Official had ruled against on a motion, continue to preside over another case in which the attorney is representing a different client and, if so, does the Judicial Official have a duty to inform the client in the second case of the attorney's conduct in the first case. The Judicial Official stated that he or she did not harbor any hard feelings toward the attorney.

**Response:** The Committee unanimously agreed that the Judicial Official may continue to preside over the second case. Following extended discussion, the Committee unanimously agreed that there is no ethical requirement to notify the client in the second case of the attorney's conduct in the first case; however, as a matter of prudence, the Judicial Official should consider disclosing the attorney's conduct, particularly if the attorney continues to represent the client in the second matter. The Judicial Official did not inquire, and therefore the Committee did not address, whether the Judicial Official should report the conduct of the attorney to the client or opposing counsel in the first case or whether the Judicial Official had a duty to take or initiate appropriate disciplinary measures against the attorney for the ex parte communication.

**2009-22 (July 1, 2009)**

**Recommendations; Canon 2; C.G.S. § 51-39a**

**Issue:** May a Judicial Official provide a letter of recommendation to the director of a law school admission's office on behalf of an employee of a former business client?

**Response:** Based upon the information provided, including that the law school requires a letter of reference that discusses the applicant's academic and intellectual abilities, that the Judicial Official had worked with the applicant, who is not a relative within the meaning of the Code of Judicial Conduct or Conn. Gen. Stat. § 51-39a, on various cases that the Judicial Official had handled for the client and that the client is not an entity that is likely to appear before the Judicial Official, the Committee unanimously agreed that the Judicial Official could provide a letter of recommendation. The Judicial Official also was advised that he or she could identify the office that he or she holds and that while the Judicial Official could use Judicial Branch letterhead, if he or she did so, the letter needed to indicate that the opinions expressed were the personal opinions of the Judicial Official.

**2009-23 (July 9, 2009)**

**Event, attendance/appearance; Educational Activities; Name, Use of; Soliciting Contributions; Canons 2 & 4**

**Issue:** May a Judicial Official organize and participate in a law related educational program on behalf of a general membership bar association if the bar association intends to solicit corporate sponsors to underwrite some or all of the costs of the program? The solicited sponsors would include law firms and businesses that currently are, or are likely to be, engaged in litigation in the Connecticut courts.

**Response:** The participating members of the Committee unanimously determined that the Judicial Official could organize and participate in the law related education program provided by a general membership bar organization where sponsors, including law firms and businesses appearing or likely to appear before the Judicial Official are solicited, subject to the following conditions: (1) the Judicial Official should prohibit the bar association from using the Judicial Official's name or title in soliciting sponsors, (2) the Judicial Official should not personally participate in soliciting donors, (3) the Judicial Official should not discuss any pending or impending cases in his or her presentation, and (4) the Judicial Official should be satisfied, after considering all the circumstances, that a reasonable person would not believe either that the Judicial Official had lent the prestige of office to advance the private interests of others or that the donor was in a special position to influence the Judicial Official. The Judicial Official's consideration should include, among other circumstances, an evaluation of (a) the nature of the sponsorships, e.g. whether there is one or multiple sponsors, whether the total value of the sponsorship(s) defray expenses or exceed the cost of the program, etc., (b) whether the donors will be present at the event, and (c) whether the donors are to be recognized and if so by what method.

**2009-24 (July 27, 2009)**

**Educational Activities; Speaking; Canons 2, 3, 4 & 6**

**Issue:** May a Judicial Official teach a course at a state university regarding the legislative process and, if so, are there any restrictions other than not discussing

current or pending cases? If teaching is permitted, the Judicial Official plans to decline any compensation for teaching the class.

**Response:** The participating members of the Committee unanimously determined that the Judicial Official is not ethically restricted from teaching a course about legislative process at a state university. The Committee noted that Canon 4(1) specifically allows a judge to speak, write, lecture, teach, and participate in activities concerning the law, the legal system, and the administration of justice, subject to the proper performance of judicial duties. The Commentary emphasizes that, because a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, a judge is encouraged to contribute to those goals. In addition, Canon 5(a) allows a judge to write, lecture, teach, and speak on nonlegal subjects, provided the activities do not so interfere with the performance of judicial duties or detract from the dignity of the judicial office. Although Canon 3(a)(6) prohibits a judge from commenting publicly on cases pending or impending in any court, the Committee holds the opinion that a Judicial Official who is engaged in teaching a course is not precluded in a classroom setting from identifying and describing pending or impending cases in Connecticut that are relevant to the subject matter under instruction. In addition, the Judicial Official, in that context, may *discuss* relevant cases pending or impending in other jurisdictions without being deemed to be making “public comment” on such cases. The Judicial Official should refrain from making gratuitous and unnecessarily controversial statements about statements about such pending cases. The Committee determined that the following conditions should apply to the proposed teaching activity: (1) the Judicial Official should ensure that teaching the class does not interfere with the proper performance of the Judicial Official’s duties or cast doubt on the Judicial Official’s impartiality; (2) the Judicial Official should ensure that the class is scheduled at a time that is not during customary court hours; (3) the Judicial Official should refrain from any inappropriate comment (as indicated above) about pending or impending cases; and (4) the Judicial Official should disclose to the parties his or her teaching relationship in the event that a matter is assigned to the Judicial Official that involves the university. With respect to the last of these conditions, if the conflict is not remitted by consent of all parties concerned or if the circumstances are such that it is not possible to seek remittal (e.g., an ex parte matter, a short calendar matter), then the Judicial Official should recuse him/herself. If teaching the class will lead to frequent disqualification of the Judicial Official, he/she should decline to teach the class. The Committee noted that, although the Judicial Official plans to decline compensation, accepting compensation is not prohibited under the Code of Judicial Conduct subject to certain conditions that are not necessary to set forth in this opinion.

**2009-25 (August 19, 2009)**

**Service on Board; Prestige of Office; Canons 2, 4 & 5**

**Issue:** May a Judicial Official serve on the advisory board of an organization, operated by a for-profit business, designed to serve as a referral and information

sharing organization for “prominent and experienced” attorneys in private practice where membership in the organization is limited to attorneys who meet certain specified criteria and where the goal of the organization is to assist the members to obtain and retain good clients and profitable business.

**Response:** The parent business that operates the organization is a for profit entity that provides consulting for the legal profession in the areas of business and growth solutions. The organization is not only a referral and information sharing network but also offers “webinars” for a fee regarding business development and practices. The advisory board assists with programming, advises regarding whether attorneys should be granted membership in the organization and advises regarding the organization’s expansion into other countries. Membership in the organization currently is limited to attorneys in private practice but, if the Judicial Official joins the advisory board, the Judicial Official would become a member of the organization.

Based upon the information provided, the four participating Committee members determined that the organization does not qualify as a Canon 4 entity devoted to the improvement of the law, the legal system or the administration of justice because it is a private organization conducted for the benefit of its members, specifically designed to develop business and referrals, and to conduct fee-producing programs. The organization, therefore, is within the ambit of Canon 5 activities. Based upon the facts relating to the organization that is the subject of this inquiry, in particular the fact that the Judicial Official would be supporting and promoting the obtaining and retaining of good clients and profitable business of a group of lawyers in private practice, the Committee determined that serving on the advisory board would violate Canon 2’s proscription on lending the prestige of judicial office to advance the private interests of others. In addition, the activity does not fall within the scope of permitted activities under Canon 5 and, accordingly, would violate the spirit, if not the letter, of Canon 5’s restrictions on extrajudicial activities. The Committee noted that the activity of information-sharing among members alone would not necessarily violate the Canons. Finally, the Committee observed that, consistent with its decision in this matter, Rule 3.11 of the proposed revised Code of Judicial Conduct explicitly would ban service as an officer, director, manager, general partner, or advisor of any business except for a business closely held by the judge or members of the judge’s family or a business entity primarily engaged in investment of the financial resources of the judge or members of the judge’s family.

**2009-26 (Emergency Staff Opinion issued August 11, 2009)  
Practice of Law; Canon 5**

**Issue:** A Judicial Official, many years ago when in private practice, prepared a document for a client. The client signed the document, as did various witnesses, but the Judicial Official failed to take the acknowledgment of the witnesses with respect to their signatures. The Judicial Official has now been asked to sign the acknowledgment and inquires whether signing an acknowledgment or providing

an affidavit with respect to their signatures would constitute the practice of law in violation of Canon 5 (f).

**Emergency Staff Opinion:** The Judicial Official was advised that furnishing an acknowledgment or equivalent affidavit would not constitute the practice of law, but that he/she should take care to ensure that the post hoc circumstances of the acknowledgment are not concealed or implicitly misrepresented. If the Judicial Official has a clear recollection of witnessing the signatures, the Judicial Official was advised that he/she could sign the acknowledgment, dating it with the present date, provided it is accompanied by an affidavit explaining the time gap and the basis of the recollection.

**2009-27 (September 4, 2009)**

**Charitable Activities; Fundraising; Name, Use of; Prestige of Office; Soliciting Contributions; Speaking; Canon 5**

**Issue:** May a Judicial Official serve as honorary co-chair of a charitable organization's goods drive?

**Response:** A charitable organization conducts an annual goods drive for donations of food, clothing or similar items and seeks to have the Judicial Official serve, with his or her spouse, as an honorary co-chair; the Judicial Official would be publicly identified as an honorary co-chair and his/her name would appear on the organization's letterhead, possibly with identification of the Judicial Official's title in the letterhead or on the organization's website. Although the Judicial Official would not directly solicit goods or funds, the Judicial Official would intend to speak, in his/her role as an honorary co-chair, to various church and rotary groups about the needs in the community and the special health and related issues affecting young children. Based on these facts, the participating Committee members found no tenable distinction between directly soliciting funds and indirectly soliciting in-kind goods donations by publicly speaking about the needs in the community in the context of the Judicial Official's capacity as honorary co-chair of the goods donation drive. The Committee determined that participation as honorary co-chair under the stated facts would be a violation of Canon 5 (b) (2) in two respects. First, because the Judicial Official's judicial title may be disclosed or could be readily known to potential donors, it would violate Canon 5 (b) (2)'s prohibition of "us[ing] or permit[ting] the use of the prestige of his or her office for that [fund-raising] purpose." Second, the scope of the Judicial Official's public and highly visible involvement in the organization's charitable goods drive (unlike the more general involvement in charitable organizations permitted by Canon 5 (b)) could objectively be perceived as encouraging contributions to the charitable drive in violation of the Canon 5 (b) (2)'s proscription against "solicit[ing] funds" because the exclusive purpose of the honorary co-chair title would be for the public purpose of soliciting the equivalent of funds. Notwithstanding the Judicial Official's salutary intent, under Canon 5 (b) the Judicial Official's conduct must be evaluated by an objective, reasonable person standard.

The Committee also observed that while, on these facts, serving as honorary co-chair of a charitable drive is a violation of Canon 5, the following would be permissible: (1) the Judicial Official may participate anonymously in the planning of the charitable drive in a way that is not directly involved with any acts of solicitation, and (2) the Judicial Official may speak to groups about the social and human needs that may form the basis for a charitable contribution drive provided the Judicial Official does not solicit donations or associate his or her name with any donation/fund-raising efforts.

**2009-28 (September 16, 2009)**  
**Service on Board; Canon 2**

**Issue:** May a Judicial Official serve on the board of directors of a publicly-held company?

**Response:** A Judicial Official has inquired about the propriety of serving on the board of directors of a publicly-held company engaged in business having no connection to the legal profession. The Judicial Official's duties as director would include, but not be limited to, attending quarterly board meetings, serving on committees, completing financial reviews of the company, evaluating compensation packages and voting on actions. The Judicial Official would receive compensation, as well as stock options, in exchange for his or her service.

Based on these facts, the participating members of the Committee agreed that the Judicial Official should not accept a position on a publicly-held company's board of directors, because to do so would effectively "lend the prestige of judicial office to advance the private interests of others," in violation of Canon 2 (b) for the following reasons: As a member of the board of a publicly traded company, it appears clear that the Judicial Official's name and biographical information would have to be disclosed to the SEC and in other publicly available regulatory filings. A shareholder could reasonably attach investment significance to the fact that a sitting judge is a member of the corporate board, thereby increasing the likelihood that the Judicial Official's service on the board could objectively be perceived as improper. The Committee noted, however, that the current Code of Judicial Conduct allows a Judicial Official to operate a business, subject to financial reporting requirements. The Committee also observed that proposed Rule 3.11 of revised Code of Judicial Conduct, when enacted, would ban service as an officer, director, manager, general partner, or advisor of any business except for a business closely held by the judge or members of the judge's family or a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

**2009-29 (September 16, 2009)**  
**Educational Activities; Canons 2 & 4**

**Issue:** May a Judicial Official appear in an Executive Branch agency's employment recruitment video?

**Response:** A Judicial Official has been asked to appear in a Department of Children and Families' "job preview" video. The purpose of the video is to improve recruitment and retention of social workers by providing candidates with a realistic overview of a social worker's expectations. The Department has asked the Judicial Official to appear in the video to speak about the judge's expectations of social workers, the role social workers play in the legal process, and the impact they have on cases.

Based on the information provided, the participating Committee members determined that it is ethically permissible for the Judicial Official to participate in the DCF recruitment video, subject to the following conditions: (1) the filming/appearance does not interfere with the proper performance of the Judicial Official's official duties, nor create grounds upon which the Judicial Official may have to recuse him/herself, (2) the Judicial Official does not give opinions that would cast doubt on the Judicial Official's impartiality or indicate that the Judicial Official has a predisposition with respect to a particular case, (3) the presentation is factual and instructive and does not contain any comment about pending or impending matters, (4) the Judicial Official does not offer legal advice as to how social workers should handle specific matters or provide guidance regarding the social workers' appearance in his/her court, (5) the Judicial Official retains the right to review the content of the script and approve that portion pertaining to him/her, and (6) the Judicial Official retains the right to review any biographical information that may be published in connection with the release of the video.

**2009-30 (Emergency Staff Opinion issued September 9, 2009)**  
**Disclosure/Disqualification; Attorneys; Canon 2 & 3**

**Issue:** (A) May a Judicial Official preside over a case where a party is represented by an attorney the Judicial Official has retained in the past for a personal matter and whose spouse retains on an ongoing, ad hoc basis? (B) Does the Judicial Official have a duty to disclose and/or recuse him/herself in a case involving an attorney with whom the Judicial Official and his/her immediate family have a close social relationship?

**Emergency Staff Opinion:** (A) The attorney's ongoing, ad hoc representation of the Judicial Official's spouse's business makes recusal the proper action. Recusal, however, would not be necessary if a different attorney from the same firm were to handle the matter. (B) The close social relationship between the families of the Judicial Official and the attorney and the regular one-on-one social breakfasts requires recusal. Recusal would not be necessary if a different

attorney from the same firm were to handle the matter. Should the Judicial Official decide not to accept the advice to recuse in either case, the Judicial Official would be well-advised to disclose the full range of contacts/relationships (past and present) with the attorney to all the parties involved and entertain any motion to recuse.

**2009-31 (Emergency Staff Opinion issued September 9, 2009)  
Gifts; Ordinary Social Hospitality; Canons 2 & 5**

**Issue:** May a Judicial Official accept a ticket from a doctor to attend a charity fundraiser to benefit a hospital? Neither the doctor nor the hospital has any cases pending before the judge, although the hospital has cases pending in the superior court. The fair market value of the ticket is \$150.

**Emergency Staff Opinion:** The Judicial Official can be a guest of the doctor at the charity fundraiser, but must report the gift in accordance with Canon 5 (c) (4) (C), since the value exceeds \$100.

**2009-32 (October 7, 2009)  
Event, attendance/appearance; Awards & Honors; Fundraiser; Canon 5**

**Issue:** May a Judicial Official be recognized by an advocacy organization as one of the 100 most influential community leaders in Connecticut?

**Response:** A Judicial Official has inquired about the propriety of being recognized by an advocacy organization as one of the 100 most influential community leaders in Connecticut. The recognition will take place during the organization's annual convention. This Committee has previously expressed its opinion regarding participation in fundraising events. See JE 2009-09 (speaking at a legal aid breakfast); JE 2009-11 (award recipient at a nonprofit fundraising dinner); and JE 2009-14 (accepting award, in a representative capacity, at a fundraiser). Based upon the information provided, including the fact that the nonprofit organization acknowledges that the event is a fundraiser and that it engages in litigation, advocacy and political action, the Committee unanimously determined that it is impermissible under Canon 5 (b) for the Judicial Official to be honored at the fundraising event.

**2009-33 (November 6, 2009)  
Civic Activities; Service on Board; Canons 2 & 5**

**Issue:** May a Judicial Official serve on the Advisory Board of a program devoted to refugee and immigrant services, including resettlement, job assistance, case management, education and immigration legal services? The program is operated under the auspices of a religious entity by means of the Board of Directors of its social services organization.

**Response:** On the facts presented, including that the organization's staff regularly provides legal representation to persons with matters before federal

agencies and the Immigration Court, the Committee unanimously concluded that the Judicial Official may not accept the appointment to the Advisory Board. Service on the Advisory Board would contravene the proscription contained in Connecticut's current Canon 5 (b) (1) that a judge not serve as an officer, director, trustee or nonlegal advisor of an educational, religious, charitable, fraternal or civic organization not conducted for the economic or political advantage of its members "if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court." The term "any court" includes courts outside the Connecticut judicial system. This Committee has previously decided that the foregoing proscription applies regardless of whether the organization is a litigant or is providing legal representation to a litigant. See Formal Opinion 2009-10. Since the organization regularly represents clients in Immigration Court, the Judicial Official is prohibited from serving on the Advisory Board.

**2009-34 (October 7, 2009)**  
**Educational Activities; Canon 4**

**Issue:** May a Judicial Official serve as a judge for a mock trial conducted as part of an informal continuing education program for a group consisting of a psychologist, psychiatrists, resident/students in child psychiatry and two attorneys?

**Response:** A Judicial Official has been asked to serve as a judge for a mock trial conducted as part of an education program for a group consisting of one psychologist (the individual who requested the Judicial Official's participation), various psychiatrists (some of whom are in private practice), residents/students in child psychiatry, and two attorneys. The program is part of a seminar on Forensic Psychiatry in which during the course of a month the students take turns testifying. Only the residents/students attend regularly. It is believed that one of the attorneys, not the requesting psychologist, is responsible for conducting the seminar. The requesting psychologist, the only doctor in the group who provides services in juvenile matters, is on the approved list of court appointed evaluators and may have occasion to testify before the Judicial Official. The mock trial will involve examinations of two expert witnesses in the context of a custody dispute. The Judicial Official was advised that the group would like feedback from the Judicial Official regarding what a judge wants to know from an expert witness and "testifying techniques". The Judicial Official does not know the names of any of the psychiatrists or students who will attend. Two attorneys, who do not practice before the Judicial Official, will participate. The mock trial is not open to the general public.

Based on the specific information provided, the Committee members determined that it was ethically permissible in accordance with Canon 4(1) for the Judicial Official to participate in the mock trial educational program, subject to the following conditions:

(1) The Judicial Official should be generally willing to participate in appropriate educational exercises for other groups of court appointed evaluators or expert witnesses, if requested and available.

(2) The Judicial Official should limit his or her rulings and discussion to the hypothetical facts in the mock trial example and should not accept questions beyond the scope of those matters from those attending the program. In addition, the Judicial Official should not comment on a pending or impending matter in the courts.

(3) The Judicial Official should not provide legal advice or give training on “testifying techniques” (such as training regarding a witness’s tone of voice, hesitation or readiness to answer, the look of the witness, the witness’ carriage, gestures, zeal, expressions, use of eyes, shrugs, pitch of voice, air of candor, etc.), but may comment on proper courtroom attire and the processes and procedures followed in the courtroom.

(4) The Judicial Official should not suggest a particular interpretation of a disputed legal issue or give opinions that would cast doubt on the Judicial Official’s impartiality or indicate that the Judicial Official has a predisposition with respect to a particular case or with the resolution of any particular issue.

(5) The Judicial Official should avoid any appearance of bias or favoritism concerning the content of the presentation, the presenters or the participants in the continuing education program.

(6) The Judicial Official should ensure that his/her participation does not interfere with the proper performance of the Judicial Official’s official duties or create grounds upon which the Judicial Official may have to recuse him/herself.

**2009-35 (October 29, 2009)**

**Event, attendance/appearance; Awards & Honors; Speaking; Canons 2 & 5**

**Issue:** May a Judicial Official be included on a “Wall on Honor” for distinguished high school alumni at a ceremony sponsored by the Judicial Official’s former high school alumni association?

**Response:** A Judicial Official has been invited by the Judicial Official’s high school alumni association (hereinafter, “Association”) to be included on the high school’s “Wall of Honor”. The Judicial Official is one of nine alumni who will be presented with a plaque to be added to the “Wall of Honor” at an induction ceremony. Each inductee is permitted to speak for a few minutes and a reception follows. The Association does not charge the inductees, the person who nominated the inductee, and one guest of the inductee to attend the reception. However, each additional guest is requested to make a ten dollar donation to help cover the cost of the food provided at the reception. The Association pays for the food and all other costs from its treasury, including the cost of the plaques, custodial staff, flowers, etc. and keeps any donations to help

offset the cost of the food. Each year the Association incurs a net expense for the program. Based upon the information provided, the participating members of the Committee unanimously determined that it was ethically permissible for the Judicial Official to attend the Association's induction ceremony and reception because the event is not a fundraising event within the meaning of Canon 5 and will not otherwise compromise the Judicial Official's duty under Canon 2 to promote confidence in the integrity and impartiality of the judiciary.

**2009-36 (December 23, 2009)**

**Court Employees; Disclosure/Disqualification; Canons 2 & 3**

**Issue:** A Judicial Official, seeking clarification of JE 2009-20, has inquired whether he/she must restrict a Temporary Assistant Clerk ("TAC"), who performs purely administrative and non-discretionary duties from interacting with law firms to which the TAC has applied for a position. The Judicial Official notes that TACs often submit applications to numerous law firms without getting responses. The Judicial Official asks the following:

- 1) Must a TAC be restricted from recording dispositions and other orders in the Judicial Official's courtroom during a short calendar session with respect to cases in which a party is represented by a law firm to which the TAC applied for a position?
- 2) Must the TAC be restricted from communicating with such a law firm regarding scheduling issues, advising of notices, etc.?
- 3) Is there a distinction between a TAC who applies for a position and one who, at a minimum, has an interview?
- 4) If the TAC who has applied to a law firm is restricted by the Judicial Official from working on any cases involving the firm, how long does the ban last?
- 5) What guidance can be offered with respect to the meaning of "a reasonable period of time" as that phrase is used in opinion JE 2009-20?

**Response:** Based upon the facts presented, including that the duties of the TAC are purely administrative and non-discretionary, the participating Committee members unanimously concluded that the answers to the questions are as follows: (1) No, (2) No, (3) There is a distinction between a TAC who is an applicant and one who has been offered an interview. The TAC's status as an applicant does not necessitate restriction of the TAC. However, upon becoming aware that a TAC has received or has been offered an interview or is otherwise engaged in active employment negotiations with a law firm or a lawyer who has a matter pending before the Judicial Official, the Judicial Official must exercise his or her discretion, in accordance with the obligations of Canons 2 and 3, to determine whether the TAC should be restricted from participating in any case involving the lawyer or law firm, whether disclosure on the record, or recusal is necessary or whether no action is required, (4) If the Judicial Official determines

that the TAC should be restricted, the restriction should be for a reasonable period of time, as determined by the Judicial Official based on the circumstances, and should terminate once a decision is made regarding the employment application of the TAC, and (5) Because the underlying facts in Opinion 2009-20 were different from those presented by the inquiring Judicial Official, in that they did not involve a staff member who was involved exclusively in administrative matters that did not involve the exercise of discretion, the Committee declined to address this issue.

**2009-37 (December 3, 2009)  
Recommendation; Canon 2**

**Issue:** May a Judicial Official may complete a recommendation form for a student seeking admission to a preparatory school?

**Response:** The Committee unanimously determined that the Judicial Official may complete the recommendation form based on the Judicial Official's personal knowledge of the student and should make clear in the recommendation that the basis for the Judicial Official's opinion is his or her personal knowledge of the applicant.

**2009-38 (December 3, 2009)  
Fundraising; Name, Use of; Canon 2**

**Issue:** May a Judicial Official and his or her spouse pay to be listed as sponsors in a fundraising program journal for the benefit of an individual who is seeking funds to launch a musical career? The Judicial Official will not be soliciting other donors but merely wishes to make a contribution, which would be reflected in the program journal, to be distributed at an upcoming out of state performance. The Judicial Official is not related, within the meaning of the Code of Judicial Conduct, to the musician. If the judicial official may not be listed with his or her spouse, may the judicial official's spouse be listed without the judicial official?

**Response:** Based on the information provided, the Committee unanimously determined that the Judicial Official may make a contribution in honor of the musician and may have his or her name listed along with his or her spouse in the program of contributors. The Judicial Official should consider the propriety of using his or her judicial title in the program journal to determine whether it implicitly lends the prestige of judicial office to advance the private interests of others in violation of Canon 2.

**2009-39 (January 29, 2010)  
Event, attendance/appearance; Awards & Honors; Fundraiser; Speaking  
Canons 2 & 5**

**Issue:** May a Judicial Official receive an award and be recognized as a guest of honor at an annual awards banquet for student athletes and others involved with sports?

**Response:** A Judicial Official has inquired about the propriety of accepting an award at an annual awards banquet for student athletes. The facts presented are as follows. Approximately 30 student athletes and 4-5 adults will receive awards. The sponsoring organization is a non-profit entity. Those being recognized are not charged for attending the dinner. The catering hall charges \$10 less, per person, than the sponsoring organization will charge for regular dinner tickets. There also will be patron tickets at a higher fee. In addition to ticket sales, there will be an ad journal and sponsorships. Typically, 300 – 400 people attend the awards banquet, basically all of whom are associated with the athletic programs/schools the student athletes attend or are friends/family of the award recipients. This year the organization is celebrating an anniversary and has invited prior year's award recipients to attend, which may result in an increase in attendance.

The organization gives out scholarships, which are supported, in part by funds collected in connection with the annual awards banquet. While the fees and prices normally are set so that the banquet program breaks even (including the cost of the dinner, scholarships, program book, etc.), in some years the organization has realized a slight net profit while in other years the organization has had to subsidize the event. Last year the organization incurred a net expense of approximately \$350. This year the organization has budgeted \$5,000 of its funds toward the cost of the event. It is anticipated that these additional funds will be needed because the organization is planning to have one or more nationally recognized speakers at the banquet, whereas in the past the organization has used local personalities as speakers.

Publicity for the event generally consists of press releases and photographs of the award recipients. Last year a press release was forwarded to area newspapers approximately six weeks prior to the awards banquet. The press release identified the 4-5 adults receiving an award and the award that he or she would receive. It is anticipated that, in this instance, although the press release would not identify the recipient as a Judicial Official, the program book distributed on the day of the banquet would include a write-up about each award recipient and would include what the recipient does professionally.

The Committee has previously expressed on several occasions its opinion regarding participation in fundraising events. See JE 2009-09 (speaking at a legal aid breakfast); JE 2009-11 (award recipient at a nonprofit fundraising dinner); JE 2009-14 (accepting award, in a representative capacity, at a fundraiser); and JE 2009-32 (accepting recognition at an advocacy organization fundraiser). Based upon the information provided, the Committee unanimously determined that the event qualifies as a fund-raising event because the funds that would be collected from ticket sales, including higher priced patron tickets and the program book, would be applied, not only to the specific costs associated with the banquet, but also to support the scholarship program. The Committee concluded that, although the Judicial Official may attend the banquet, Canon 5(b) prohibits the Judicial Official from accepting an award or being recognized as a guest of honor at the fundraising event.

**2009-40 (December 23, 2009)**

**Disclosure/Disqualification; Writing; Canons 2 & 3**

**Issue:** Several years ago a Judicial Official, at the request of the co-author of a hornbook on a particular area of Connecticut law, wrote a prologue to the hornbook. The prologue basically provides a general description of how a judge views that particular field of law. In the prologue, the Judicial Official made some very laudatory remarks about the other co-author, who is a partner in a law firm that handles a significant number of cases involving the subject matter of the book, and also described the hornbook as having been for years the authoritative source on its subject. The Judicial Official inquired whether, if either of the co-authors or members of their respective firms appear before the Judicial Official, he or she is outright disqualified from hearing the case or, alternatively, is obligated to disclose to all parties that he or she wrote the prologue.

**Response:** Based upon the facts presented, the Committee members present unanimously concluded that Canon 3's objective test for disqualification did not require the Judicial Official to disqualify himself or herself automatically when either co-author or members of his or her respective law firm should appear before the Judicial Official provided that the Judicial Official has determined that he or she can be impartial. Canon 2's directive to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, however, requires the Judicial Official to disclose his or her authorship of the prologue to all appearing counsel/parties when either of the co-authors or members of their respective firms appear before the Judicial Official. If a party or counsel thereafter moves to disqualify the Judicial Official based upon the disclosure, the Judicial Official, after considering the facts, law and argument of counsel, must exercise his or her discretion in deciding whether to grant the motion. Issues to consider in determining such a recusal motion include, but are not necessarily limited to, the nature of the proceeding or docket, whether reference to or reliance upon the hornbook is foreseeable, whether the Judicial Official is the sole decision maker (i.e. whether the matter is to the court or a jury) and whether self-represented parties or lawyers are involved.

**2010-01 – Inquiry Withdrawn**

**2010-02 (February 5, 2010)**

**Event, attendance/appearance; Charitable Activities; Fundraising; Soliciting Contributions; Name, Use of; Writing; Speaking  
Canons 2 & 5**

**Issue:** A Judicial Official is on the board of a tax exempt non-profit organization and serves as the organization's historian. The organization raises funds by holding an annual sporting event. In addition to collecting admission fees in connection with the event, the organization solicits and receives contributions from sponsors, as well as producing a program book that is distributed at the event. An independent contractor designs and edits the program book and solicits the ads that appear in the program book. The ads in the program book

normally exceed the cost of the publication (distributed free on the day of the event), including the independent contractor's fee. The Judicial Official's title is not mentioned, but the Judicial Official's name appears with the articles. The Judicial Official does not solicit any of the sponsors or the ads for the program book. Each year, the net proceeds raised by the organization are given to various charities.

(1) The Judicial Official has been asked to co-author a book about the history of the sporting event the charity sponsors. The Judicial Official would not accept any payment; however, the co-author, who is unrelated to the Judicial Official, and who will design and produce the book, will be compensated. It is possible that the non-profit organization will be the publisher of the book and would retain any net profits after costs for the co-author, printing, etc. The Judicial Official's official title would not be used. May the Judicial Official serve as a co-author consistent with Canon 5 of the Code of Judicial Conduct? (2) May the Judicial Official author articles to be included in the program book in the Judicial Official's capacity as the organization's historian? (3) May the Judicial Official serve as emcee at the awards ceremony following the conclusion of the annual sporting event?

**Response:** Based upon the information provided, the Committee members unanimously determined as follows: (1) The Judicial Official may co-author the book about the sporting event. There is no indication that the book would detract from the dignity of the judicial office or interfere with the performance of judicial duties. Co-authoring the book does not constitute fund raising. The Judicial Official should be aware that if his or her co-author appears before the Judicial Official, the Judicial Official may have a duty to recuse himself or herself. Finally, the Judicial Official should retain the right to review any biographical information that may be published in connection with the book even though in this case his/her official title will not appear in the book. (2) The Judicial Official may author articles to be included in the program book, even though the program book is used as a fund-raiser. On the facts presented, the submission of the articles and their inclusion in the program book do not constitute "soliciting funds" within the meaning of Canon 5 (b) (2). Furthermore, with the understanding that the Judicial Official's title will not appear in conjunction with his authorship of any articles, there is no indication that the articles would detract from the dignity of the judicial office or interfere with the performance of judicial duties. (3) The Judicial Official may not serve as the emcee at the awards ceremony. The awards ceremony is the culmination of the annual fund raising activities. Serving as the emcee is the functional equivalent to being a guest of honor or speaker at a fund raising event, which is prohibited by Canon 5 (b) (2).

**2010-03 (January 29, 2010)**

**Post-Retirement Employment; Advancing Private Interests;  
Canons 2, 3 & 5; C.G.S. § 51-39a**

**Issue:** May a Judicial Official, anticipating post-retirement employment outside the Judicial Branch, but prior to the effective date of resignation, (1) have his or

her name listed with a private alternative dispute resolution (ADR) service, such as the American Arbitration Association (AAA), as available on a specified date after the Judicial Official's resignation to provide mediation and arbitration services, and (2) advertise in newspapers or provide general notices to attorneys of the Judicial Official's future availability to provide such services?

**Response:** Based upon the facts presented, the Committee unanimously determined that Canons 2, 3 and 5 prohibit the Judicial Official, in advance of resignation, from listing his or her name with a private ADR service, such as the AAA, advertising in newspapers or providing general notices to attorneys regarding the Judicial Official's availability to provide mediation and arbitration services after his/her resignation. The Committee previously determined in JE 2008-08 that it would not be proper for a Judicial Official, who was seeking post-retirement employment with a law firm, to make it generally known that he/she was seeking such a position, in order to avoid being solicited by a number of law firms that may appear before the Judicial Official before his/her departure. In this case, the Judicial Official's proposed issuance of a general notice of availability for employment of various means is prohibited by the Code as constituting general solicitation of future employment by means of contacting or notifying attorneys and parties that may have pending, recently pending, or future matters before the Judicial Official. Such conduct would not promote public confidence in the integrity and impartiality of the judiciary (Canon 2), and could raise doubts about the Judicial Official's impartiality (Canon 3). It could also interfere with the proper performance of his/her duties while still a Judicial Official, exploit his/her position, and could involve the Judicial Official in frequent transactions with attorneys or parties likely to come before the court (Canon 5).

The Committee distinguished this case from JE 2008-08 in which the Committee opined that a Judicial Official could initiate selective individual contacts with prospective employers in ways that did not cause recusals or that would interfere with the proper performance of his/her judicial duties. The Committee notes that it may be proper under circumstance to be determined on a case by case basis, for a Judicial Official contemplating resignation to make discreet, selective, individual inquiries about post-judicial employment in order to make an informed decision about whether to resign. However, the types of notice proposed in this case are prohibited by the Code. It should be noted that this opinion does not apply to Judicial Officials who participate in the Court Annexed Mediation program created under General Statutes § 51-5a.

**2010-04 (February 5, 2010)  
Disclosure/Disqualification; Canon 3**

**Issue:** Must a Judicial Official, who served as an assistant attorney general (AAG) approximately 15 years ago, recuse him/herself from presiding over any cases in which his/her former client is a party or, at a minimum, disclose the prior relationship.

**Response:** Based on the facts presented, the participating members of the Committee unanimously determined that the Judicial Official is not disqualified from presiding over the case involving a former client subject to the following conditions: (1) the case is not one that was handled by the Attorney General's Office at the time the Judicial Official served as an AAG, (2) the Judicial Official does not believe that he or she has any personal bias (favorable or unfavorable) involving the client or the Attorney General's Office, and (3) the former client will not be defending policies or practices that the Judicial Official helped to formulate or defend. In addition, the Committee concluded that the Judicial Official does not have any affirmative obligation to provide notice to the litigants of the prior relationship. See *also* JE 2008-21.

**2010-05 (March 2, 2010)**

**Government Commissions; Senior Judges/Judge Trial Referees  
Canon 5**

**Issue:** May a Judicial Official who is not a senior judge or judge trial referee serve as a non-voting member or observer on the State Post-Employment Benefits Commission, and if not, may a Judicial Official, as part of the Judicial Branch's cooperation and provision of support to that Commission, attend meetings and volunteer information for consideration by the Commission?

**Response:** Based upon the information presented, the Committee members unanimously determined as follows:

(1)(a) Canon 5(g) provides that a "judge should not accept appointment to a governmental committee, commission or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice." Based upon the foregoing, a judge is not permitted to serve as either a voting or non-voting member of the Commission.

(1)(b) While a judge is not permitted to serve on the Commission, a senior judge or judge trial referee may serve as a member because the Compliance section of the Code of Judicial Conduct states that senior judges and judge trial referees "are not required to comply with Canon 5 (d) and (g)." However, a senior judge or judge trial referee is required to comply with other applicable provisions of the Code of Judicial Conduct and may serve on a governmental commission only if: (1) such participation is consistent with Canon 2(a)'s mandate to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary"; (2) service on the Commission does not take precedence over the judicial activities of the senior judge or judge trial referee, see Canon 3; and (3) legal advice is not provided to the Commission by the senior judge or judge trial referee, see Canon 5(f).

(2) A judge who may not otherwise serve on the Commission may attend the Commission's meetings as a representative of the Judicial Branch, in order

to respond to questions and provide information on matters related to the Judicial Branch, including but not limited to the role that pensions and post-employment benefits play in attracting and retaining qualified members of the judiciary. See Canon 4(a)(2). Any judge so appearing must be careful not to engage in or create the appearance of engaging in political advocacy or create the appearance that he/she is effectively a member of the Commission.

**2010-06 (March 2, 2010)**

**Attorneys; Reporting Misconduct; Canons 1, 2 & 3**

**Issue:** Does a Judicial Official have a duty to report unprofessional conduct of an out-of-state attorney who testified under oath in a Connecticut case that the attorney had commingled funds in the attorney's single law office account which he holds in a state in which commingling of funds is an ethical violation and, if so, how the Judicial Official should report the misconduct?

**Response** Based upon the information provided, the Committee members unanimously determined that the Judicial Official should report the misconduct. Commingling of funds is an ethical violation in Connecticut and in the jurisdiction in which the attorney maintains an office. The Judicial Official's duty to report such conduct is based upon the requirements in Canon 1 (a judge should participate in establishing, maintaining, and enforcing, and should observe, high standards of conduct), Canon 2(a) (a judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary), and Canon 3(b)(3) (a judge should take or initiate appropriate measures against a judge or lawyer for unprofessional conduct of which the judge may become aware). The Commentary to Canon 3(b)(3) states that a judge may report a lawyer's misconduct to an appropriate authority. The Committee noted that a commonly used method to report misconduct that occurs on the record is to forward a copy of a transcript to the appropriate disciplinary authority with a cover letter noting that the matter is being referred for such consideration as the disciplinary authority deems appropriate. However, the Judicial Official may report the misconduct to the appropriate authority in any manner that he/she determines is appropriate under the circumstances.

**2010-07 (March 17, 2010)**

**Recommendations; Canon 2; C.G.S. § 51-39a**

**Issue:** May a Judicial Official provide a letter of recommendation to his/her former private practice secretary to attend a graduate program at a college?

**Recommendation:** This Committee has previously advised that a Judicial Official who has personal knowledge of an applicant, who was not a relative, could serve as a reference or provide a letter of recommendation in the following circumstances: an existing court employee applying for another position within the Judicial Branch (JE 2008-01); a former legal research/law clerk applying for a

position with the Attorney General's Office (JE 2008-03); a current Judicial Branch employee applying for a position in the Judicial Official's judicial district, where the judicial official was neither an administrative, assistant administrative or presiding judge (JE 2008-26); an employee of a former business client applying to law school (JE 2009-22) and a student seeking admission to a preparatory school (JE 2009-37). Based upon the information provided, including that the Judicial Official has personal knowledge of the individual seeking admission to the graduate program and the person is not a relative of the Judicial Official within the meaning of the Code or C.G.S. § 51-39a, the Committee unanimously determined that the Judicial Official may provide a letter of recommendation, either on Judicial Branch or personal stationery, but must indicate that the recommendation represents the personal opinion of the Judicial Official.

**2010-08 (April 12, 2010)**  
**Social Activities; Canon 5**

**Issue:** May a Judicial Official attend a retirement party for a prosecutor that is held prior to the effective date of the prosecutor's retirement? Among the facts reported, the Judicial Official has known the prosecutor since before the Judicial Official's appointment to the bench and the retirement party is open to the public.

**Recommendation:** Canon 5(a) states, inter alia, that a Judicial Official may engage in social and recreational activities provided that they do not detract from the dignity of the office or interfere with the performance of judicial duties. Based upon the facts presented, the Committee members present unanimously determined that the Judicial Official's attendance at the retirement party would be consistent with the foregoing requirements.

**2010-09 (May 3, 2010)**  
**Disclosure/Disqualification; Canons 2 & 3**

**Issue:** Must a Judicial Official *sua sponte* recuse from presiding in a family case on the basis that a party to the case has testified before the legislature in opposition to the Judicial Official's reappointment?

**Response:** Based upon the information provided, the Committee unanimously determined that a Judicial Official is not automatically disqualified from a case merely because a party to the proceeding has testified against a Judicial Official at his/her legislative reappointment hearing. The Committee determined that the following Canons are applicable: Canon 2(a) (requiring a judge to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary) and Canon 3(c)(1)(A) (requiring a judge to disqualify him/herself in a proceeding in which the judge's impartiality might reasonably be questioned, including instances where a judge has a personal bias or prejudice concerning a party). Pursuant to Canon 3(c)(1)(A), the Judicial Official should consider, in light of all the circumstances, whether he/she harbors an actual bias against the party. If so, the Judicial Official must disqualify him/herself from the case. If the Judicial

Official determines that he/she is not actually biased, the Judicial Official should consider, pursuant to Canon 3(c)(1), whether to recuse on the ground that the Judicial Official's impartiality might reasonably be questioned. In the Committee's view, the fact that a party to a case before a judge has testified before the legislature to oppose a judge's reappointment does not automatically mean that the judge will harbor actual bias or that his/her impartiality might reasonably be questioned. Cf. Canon 3(c)(3) (stating that "[a] judge is not automatically disqualified from sitting on a proceeding because a lawyer or party to the proceeding has filed a lawsuit against the judge or filed a complaint against the judge with the judicial review council"). Instead, the Judicial Official should consider the issue of *sua sponte* recusal in light of all the facts and circumstances of the case and the party's actions. Finally, if the Judicial Official continues on the case and a motion to disqualify the Judicial Official is filed by a party, the Judicial Official should undertake the appropriate steps to determine the disqualification issue as presented.

**2010-10 (May 6, 2010)**  
**Reporting Misconduct; Canons 1, 2 & 3**

**Issue:** Does a Judicial Official have a duty to report the possible misconduct of another judge?

The underlying facts of the inquiry are as follows: Judicial Official #1 ("JO #1") reports to Judicial Official #2 ("JO #2") that JO #1 learned from a reliable and trustworthy attorney that Judicial Official #3 ("JO #3") acted in a manner that may have violated the Code of Judicial Conduct. In particular, the attorney reported to JO #1 that JO #3 attended a tape recorded meeting with JO #3's spouse, who is an attorney, the spouse's client, and a consulting state agency. The purpose of the meeting was to discuss voluntary custody issues. JO #1 did not listen to the recording. According to the information conveyed to JO #2 by JO #1, JO #3 can be clearly heard on the tape recording stating that JO #3 is the spouse of the attorney who is representing a client at the meeting. It was also reported that JO #3 "may have said something else at the meeting."

The inquiring Judicial Official in this case, JO #2, states that it is "highly foreseeable" that the representative from the state agency knew that JO #3 was, in fact, a judicial official. JO #3 was subpoenaed to a subsequent court proceeding that was related to the recorded meeting, although the case settled and JO #3 did not need to testify. JO #2 has supervisory and administrative responsibilities over both JO #1 and JO #3. JO #2 indicates that s/he has not listened to the tape recording of the meeting and prefers not to undertake measures to investigate the matter.

The inquiring Judicial Official asks the following: (1) does JO #2, who has administrative responsibilities, have a duty to report JO #3's conduct to a disciplinary authority, and (2) does JO #1 have a duty to report JO #3's conduct

to a disciplinary authority? In reviewing this case, JO #2 asks this Committee to limit its inquiry to the “duty to report” issue.

**Response:** Based upon the information provided, the Committee unanimously determined that, while there is no specific requirement under Canon 3(b)(3) to report JO #3’s conduct to a disciplinary authority, both JO #1 and JO #2 have a duty under that Canon to “take or initiate appropriate disciplinary measures” against JO #3 if, based on the quality of the information they receive, they believe that JO #3 acted unprofessionally and in violation of the Code of Judicial Conduct. The appropriate disciplinary measures to take depend on the seriousness of the conduct and the circumstances involved. Appropriate disciplinary measures may include, but not be limited to, communicating directly with the judicial official who may have violated the Code, communicating with a supervising judge, or reporting the suspected violation to the Judicial Review Council. The Committee agreed that under the factual circumstances here JO #1 took appropriate measures by reporting the alleged misconduct to his/her supervisor and, as a result, has no further duty to report. With respect to JO #2, the Committee concluded that JO #2 has discretion to decide whether to take or initiate disciplinary measures, as noted above, including reporting to the appropriate disciplinary authority. If, after evaluating the quality of the information received, JO #2 is satisfied that there is a sufficient, credible factual basis to conclude that JO #3’s conduct constitutes a substantial violation of the Code, JO #2 has a duty to take or initiate disciplinary measures. If, however, JO #2 decides otherwise, no such duty exists. In that latter event, however, if the information that JO #2 has is sufficient to warrant further reasonable investigation with respect to obvious and readily available sources, JO #2 should undertake such reasonable investigation in order to clarify the situation.

**2010-11 (May 6, 2010)**

**Event, attendance/appearance; Educational activities; Speaking  
Canons 1, 2 & 4; C.G.S. § 54-142a**

**Issue:** May a Judicial Official speak before a group of doctors, lawyers and others at an out-of-state conference hosted by a non-profit organization regarding the Judicial Official’s personal views of the particular scientific evidence that was presented in a case that the Judicial Official presided over? If so, may the Judicial Official accept an honorarium and reimbursement of expenses for the cost of the conference, travel and lodging?

**Response:** Based upon the information provided, including that the underlying case that the Judicial Official has been asked to discuss is a criminal case which resulted in a judgment of not guilty and the Judicial Official has been asked to discuss his/her personal views of the scientific evidence in the case, the Committee members determined as follows:

1:

Pursuant to C.G.S. § 54-142a (a), all police and court records pertaining to such a judgment of not guilty were required to be erased upon the expiration of the period of time to file a writ of error or an appeal, since no such writ or appeal was filed. Furthermore, pursuant to C.G.S. § 54-142a (e), “The clerk of the court or any person charged with the retention and control of such records in the records center of the Judicial Department or any law enforcement agency having information contained in such records shall not disclose to anyone, except the subject of the record ... information pertaining to any charge erased under any provision of this section ....” While C.G.S. § 54-142a (h) excludes transcripts from the definition of “court records” that are subject to erasure and the case law makes clear that the erasure of a charge does not serve to obliterate a person’s memories<sup>1</sup>, consistent with the foregoing statutes and Canon 1 (a judge should participate in establishing, maintaining, and enforcing, and should observe, high standards of conduct) and Canon 2(a) (a judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary), a Judicial Official should not discuss specific information that is attributable to an identifiable erased case. Since the Judicial Official has been requested to present his/her views of the scientific evidence presented in a particular erased case in which a not guilty judgment was rendered, the Judicial Official should not do so. Based upon the foregoing, the Committee declined to address the question regarding an honorarium and reimbursement of fees.

**With respect to the issue as to whether the Judicial Official may discuss his/her personal views of the particular evidence presented in the case, the Committee members determined as follows:**

2:

Canon 2 (a) directs that a judge respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. It was the unanimous opinion of the Committee that discussion of a Judicial Official’s personal views of the scientific evidence that was presented in a particular case and elaborating beyond what is specifically stated in an oral or written ruling would impugn the integrity of the judicial office in violation of Canon 2 and, in the event of any future civil litigation stemming from the criminal case, may cast doubt on the Judicial Official’s capacity to impartially decide a related issue that may come before him/her in violation of Canon 4. Based upon the foregoing, the Committee declined to address the question regarding an honorarium and reimbursement of fees.

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<sup>1</sup> “The Erasure Act was not intended to obliterate memory or to exclude any testimony not shown to have been derived from erased records. See *Rawling v. New Haven*, 206 Conn. 100, 109, 537 A.2d 439 (1988); *State v. Marowitz*, supra, 453 (Shea, J., concurring).” *Rado v. Board of Education*, 216 Conn. 541, 550 (1990).

The Committee noted that the foregoing opinion does not apply to a general discussion of forensic evidence. If the Judicial Official wishes to seek an opinion concerning speaking on that topic generally, the Committee will gladly provide a supplemental opinion.

*Editor's Note: On June 30, 2010, the Committee considered a request to reconsider its opinion in Informal JE 2010-11. The reconsideration request was denied because it was submitted more than 30 days after the distribution of the opinion and because the request was not formally submitted by the person who requested the opinion. The Committee declined to reconsider JE 2010-11 sua sponte because the request sets forth different facts from those initially presented. The Committee emphasized that the opinion in JE 2010-11 was in response to the facts of the inquiry of the Judicial Official, namely, that the Judicial Official had been asked to discuss his or her personal views of scientific evidence in a particular case beyond what the Judicial Official had stated on the record orally or in writing.*

**2010-12 (Emergency Staff Opinion issued April 30, 2010)  
Oath of Office; C.G.S. §§ 1-24, 1-25 & 51-85**

**Issue:** A Judicial Official would like his/her spouse, who is a commissioner of the superior court to administer the judicial oath of office should he/she be confirmed by the legislature. Are there any statutory or ethical prohibitions that would prevent a Judicial Official from being sworn by his/her spouse?

**Emergency Staff Opinion:** Provided that the spouse is statutorily qualified to administer the oath of office, there is no ethical or statutory bar to the spouse administering the oath to the Judicial Official upon confirmation of appointment.

**2010-13 (May 25, 2010)  
Awards & Honors; Canons 2, 3, 4 & 5**

**Issue:** May a Judicial Official receive an award from a public agency that represents the interests of a distinct segment of the criminal justice field for services that the Judicial Official provided prior to his or her appointment as a Judicial Official?

**Response:** Based upon the information provided, the Committee unanimously determined that the Judicial Official may receive the award provided that (1) it is made clear at the ceremony and in any promotional materials that the award is strictly for the Judicial Official's exemplary service prior to becoming a Judicial Official and (2) the Judicial Official takes care to avoid any possible appearance of ongoing affiliation with or partiality toward his/her former place of employment within the criminal justice field or toward the interest represented by the public agency giving the award.

**2010-14 (June 3, 2010)**  
**Guardianship; Family; Canon 5**

**Issue:** May a Judicial Official continue to serve as guardian for the estate and person of a disabled “member of the judge’s family” (within the meaning of Canon 5(d)) who resides in a group home?

**Response:** Based upon the facts presented, the Committee unanimously concluded that the Judicial Official may continue to serve as guardian for his/her sibling subject to the following conditions:

1. The Judicial Official must cease service if it is likely that he/she will be engaged in proceedings that would ordinarily come before the Judicial Official or if the sibling becomes involved in an adversary proceeding in the court on which the Judicial Official serves or one under its appellate jurisdiction (Canon 5 (d) (1));
2. While serving as guardian, the Judicial Official is subject to the same restrictions on financial activities that apply to the Judicial Official in his or her personal capacity (Canon 5 (d) (2));
3. The Judicial Official must refrain from financial and business dealings on behalf of the ward that tend to reflect adversely on the Judicial Official’s impartiality, interfere with the proper performance of the judicial position, or involve the Judicial Official in frequent transactions with lawyers or persons likely to come before the court on which the Judicial Official serves (Canon 5 (c) (1)); and
4. The Judicial Official may not practice law on behalf of the ward (Canon 5 (f)).

**2010-15 (June 3, 2010)**  
**Writing; Disclosure/Disqualification**  
**Canons 2, 3 & 4**

**Issue:** May a Judicial Official author a foreword to a book written by a police officer on the subject of child safety and the Internet? The Judicial Official has been requested to write the foreword because of his/her association with the author in the course of the Judicial Official’s work in the field of law enforcement prior to the Judicial Official’s becoming a judge, and the Judicial Official plans to reference this past experience and association with the author but not to identify his/her current judicial position in the foreword to the book.

Based upon the facts presented, the Committee unanimously concluded that the Judicial Official may author the foreword subject to the following conditions:

1. The Judicial Official should maintain editorial control over the content of the foreword and should retain the right to review any biographical

- information that may be published in connection with the book even though in this case his/her official title will not appear in the book;
2. The Judicial Official should review the entire contents of the book and satisfy him/herself that authoring a foreword to the book would not cast doubt on his/her impartiality in future cases or reflect a predisposition with respect to particular cases or issues or regarding any party or witness that may appear before the Judicial Official; and
  3. In accordance with the obligations of Canons 2 & 3, if the author appears as a party or witness before the Judicial Official or if the Judicial Official presides over a case concerning the subject matter of the book, the Judicial Official should disclose that he or she wrote the foreword and what it states. Thereafter, if a party requests that the Judicial Official recuse himself or herself, the Judicial Official, after considering the facts, law and argument of counsel, must exercise his or her discretion in deciding whether to grant the motion. Issues to consider in determining such a recusal motion, include, but are not necessarily limited to, the nature of the proceeding or docket, whether reference to or reliance upon the book is foreseeable, whether the Judicial Official is the sole decision maker (i.e. whether the matter is to the court or a jury) and whether self-represented parties or lawyers are involved.

**2010-16 (June 10, 2010)**  
**Membership; Canons 2, 3 & 5**

**Issue:** May a Judicial Official accept an honorary lifetime membership in a law enforcement alumni association?

**Response:** The Committee determined that the Judicial Official should decline to accept an honorary lifetime membership in the alumni association, in view of the high likelihood of members of the association appearing before the Judicial Official and, in general, the impression of partiality to law enforcement that may be unintentionally created.

**2010-17 (June 10, 2010)**  
**Event, attendance/appearance; Speaking; Canons 2, 4 & 5**

**Issue:** May a Judicial Official be a speaker at a private reception celebrating the anniversary of a for-profit, law-related business?

**Response:** The Committee considered the following information that was provided : (1) the Judicial Official has been asked to speak on a topic of the Judicial Official's choice at a private reception presented by and honoring the anniversary of a publisher of law-related materials; (2) attendance at the reception will be by invitation only and free of charge to those invited; (3) it is anticipated that the guests will consist of "select" judges and attorneys; (4) the business intends to solicit a few donors to sponsor the event, one of which is likely to be a law firm; (5) there will be a program book in which people can

purchase ads of a congratulatory nature; (6) the business plans to break even or make a slight profit from the sponsors and program book; (7) in addition to the host company briefly discussing the business and having the Judicial Official speak for a few minutes, the business plans to issue an award to someone in the legal community and have the award recipient make some remarks; and (8) while the Judicial Official's name and position would not appear on the invitation, that information would be included in the program book. Based upon the foregoing, the Committee unanimously determined that the Judicial Official should decline the invitation to speak at the for-profit company's private anniversary celebration since to do so would lend the prestige of office to advance the private interests of the business in violation of Canon 2 (b). The Committee concluded however, that the Judicial Official may attend the reception as a guest of the business provided that, if the value of the gift exceeds one hundred dollars, in accordance with Canon 5 (c) (4) (C), it must be reported in the same manner as compensation. In light of the foregoing conclusion, the Committee did not determine whether the Judicial Official's appearance as a speaker would implicate the prohibition of Canon 5 (b) (2) relating to a judge's appearance as a speaker at a fund raising event.

**2010-18 (June 10, 2010)**

**Event, attendance/appearance; Appearance of Impropriety; Ordinary Social Hospitality; Weddings**

**Canons 2, 3 & 5; C.G.S. §§ 46b-22, 51-39a, 51-46a**

**Issue:** May a Judicial Official who officiates at the wedding of a former co-worker attend the reception as a guest of the wedding party?

**Response:** Based upon the information provided, including the fact that the Judicial Official has not worked with the person for many years and is not a close personal friend, and that the Judicial Official will decline any compensation for officiating the ceremony, the Committee unanimously determined that, as long as (1) officiating at the wedding does not create an appearance of impropriety (e.g., neither the bride nor groom are currently appearing before the Judicial Official), and (2) the wedding is not during normal work hours or, if so, the Judicial Official uses authorized leave time to be away from his or her judicial duties, Canon 5 (c) (4) (B)'s definition of "ordinary social hospitality" applies to the Judicial Official's attendance at the reception as a guest of the wedding party and it is permissible. Because the Judicial Official has declined any compensation, the Committee did not consider whether the acceptance of a payment would raise any ethical issues.

**2010-19 (June 23, 2010)**

**Disclosure/Disqualification; Canons 1, 2 & 3; C.G.S. § 51-39**

**Issue:** While a member of the board of directors of a condominium association, a Judicial Official recommended an attorney to represent the association. The Judicial Official ceased to be a member of the condominium association at least fifteen years ago and no longer lives in or owns the condominium that was the

basis for his membership in the condominium association. The attorney has continuously represented the condominium association. Does the Judicial Official have a present duty of recusal and/or disclosure when the attorney appears before the Judicial Official?

**Response:** Based upon the information provided, including that the Judicial Official originally recommended the attorney to the condominium association board, that the attorney has continuously represented the association with respect to its legal matters ( including foreclosures for unpaid common charges), that the Judicial Official has no personal or social relationship with the attorney, that the attorney has never personally represented the Judicial Official, and that the Judicial Official has in prior cases disclosed the above information (which has resulted in only two requests for recusal, both of which occurred in the past year), the four Committee members present unanimously determined that the Judicial Official does not have a duty in future cases to recuse himself or herself or to notify parties of the Judicial Official's role as a former condominium owner, former director of the condominium association, or in recommending that the attorney be hired by the condominium association subject to the following conditions: (1) that the Judicial Official does not believe that he or she has any personal bias involving the attorney or the condominium association if the attorney is representing that entity, (2) that the representation is not with respect to a matter involving the condominium association that was pending when the Judicial Official was a member of its Board of Directors, and (3) that the representation does not involve a policy or practice of the condominium association that the Judicial Official helped to formulate. In rendering its decision, the Committee considered Canons 1, 2, and 3 of the Code of Judicial Conduct, C.G.S. § 51-39, as well as opinion in JE 2008-21 (holding that a Judicial Official who had served as a part-time corporation counsel did not have to recuse himself or herself from civil or criminal cases in which the former municipal employer is a party provided specified conditions are met and further noting that the Judicial Official needed to disclose for a reasonable period of time, which was not less than two years, the prior employment relationship). Finally, the Committee noted that even under Rule 2.11 of the Code of Judicial Conduct that will take effect on January 1, 2011, recusal and disclosure are not required on the facts of this inquiry provided that the conditions set forth above are complied with.

### **2010-20 (June 30, 2010)**

#### **Gifts; Discounts; Canons 2 & 5**

**Issue:** May a Judicial Official accept a one-year subscription to the Connecticut Law Tribune (CLT) at a "special discounted government rate"?

**Response:** For the past four years, the Judicial Branch has purchased copies of the CLT at a special discounted group rate (\$60/year) for judges, JTRs, state law libraries and other judicial branch officials. Judicial Officials have received a letter from CLT advising that, due to financial cutbacks, the Judicial Branch will no longer be purchasing individual CLT subscriptions for judges, JTRs and other

judicial branch officials. The CLT is offering judges, JTRs, and other judicial branch officials a one year subscription at the same group rate (\$60/year) previously made to the Branch. According to the CLT, a basic annual subscription is \$425 per year, although group rates may apply. Based on the information provided, the four Committee members present unanimously determined that a Judicial Official may ethically accept the discounted rate as long as the publication is for official use. The Committee construed the CLT's discounted rate offer as falling within Canon 5 (c)(4)(A). Accordingly, Judicial Officials may take advantage of the discounted rate and do not have to report it as a gift under Canon 5 (c)(4)(C), provided the intent is to receive the publication for official use.

**2010-21 (July 16, 2010) - [Formal Opinion](#)**

**Event, attendance/appearance; Educational activities; Speaking**

**Canons 2, 3, 4, & 5; C.G.S. § 51-39**

**New Code of Judicial Conduct (effective 1-1-11): Canons 1 & 2; Rules 1.1, 1.2, 1.3, 2.4, 2.10, 3.1, 3.5, 3.10 & 3.14**

**2010-22 (July 22, 2010)**

**Event, attendance/appearance; Educational activities; Speaking;**

**Compensation; Canons 2, 3, 4, 5 & 6; C.G.S. § 51-46a**

**New Code of Judicial Conduct (effective 1-1-11): Canons 1 & 2; Rules 1.1, 1.2, 1.3, 2.4, 2.10, 3.5, 3.10, 3.14 & 3.15**

**Issue:** May a Judicial Official speak before a group of doctors, lawyers and others at an out-of-state conference hosted by a non-profit organization regarding the general use and presentation of forensic and scientific evidence in a criminal trial? If so, can the Judicial Official receive an honorarium as well as reimbursement for the costs of the conference, travel, lodging and meals?

**Response:** The inquiring Judicial Official in JE 2010-11 has resubmitted his/her inquiry with modified facts. Under the revised information provided, the Judicial Official indicated that if permitted to speak at the out-of state conference, he/she would not discuss his/her views of the evidence presented at the criminal trial he/she presided over beyond what was articulated in the ruling from the bench. Instead, the Judicial Official would discuss the general use and presentation of forensic and scientific evidence in a criminal trial. The idea would be to explain to those steeped in the science the challenges they face presenting such evidence to a judge or jury who does not have the same background or knowledge. Based on the revised facts presented, the participating Committee members determined as follows:

The Judicial Official may speak at the conference regarding “the general use and presentation of forensic and scientific evidence in a criminal trial” subject to the limitations set forth in JE 2010-11 and the conditions set forth in Formal Advisory Opinion JE 2010-21 which were premised on Canons 2, 3 and 4 of the existing Code of Judicial Conduct (hereinafter, “CJC”) and Rule 3.1 of the Code of Judicial Conduct which takes effect on January 1, 2011 (hereinafter, “New CJC”):

(1) The Judicial Official should not comment on a pending or impending matter or make any statement that might reasonably be expected to impair the fairness of a pending or impending matter (see also CJC Canon 3(a)(6) and New CJC Rule 2.10(A));

(2) The Judicial Official's participation should not be such as to lead a reasonable person to question his/her capacity to decide impartially any issue under discussion that may come before the Judicial Official (see also CJC Canon 4 and New CJC Rule 2.10(A)), and specifically:

(A) the Judicial Official should not suggest that he/she would adopt a particular interpretation of disputed legal issues,

(B) the Judicial Official should not make statements that indicate a predisposition regarding any particular case, issue or witness that may come before the Judicial Official, and

(C) the Judicial Official should ensure that his/her participation will not interfere with the proper performance of his/her judicial duties or create grounds for disqualification;

(3) The Judicial Official should not offer legal or other advice to the conference participants as to how they should handle specific matters and should exercise caution in answering any questions that seek to elicit such advice (see also CJC Canon 5(f) and New CJC Rule 3.10);

(4) In the event that the Judicial Official chooses to comment on a case that he/she presided over, any such commenting is subject to the following restrictions:

(A) if the case involves a confidential juvenile matter, it would not be proper to reveal information that would lead to the identity of the juvenile involved (see also CJC Canon 2(a) and New CJC Rule 1.1 and 1.2),

(B) if the case is now an erased matter, it would not be proper to discuss any specific information that is attributable to it (see also CJC Canon 2(a) and New CJC Rule 1.1),

(C) disclosure of any confidential information acquired in the Judicial Official's judicial capacity would not be proper (see also CJC Canon 2 and New CJC Rule 3.5), and

(D) it would not be proper to state personal views that may go beyond what was specifically stated in oral or written rulings or on the record of the particular case (see also CJC Canon 2 and New CJC Rule Canons 1 and 2);

- (5) The Judicial Official must be willing and available to participate in appropriate educational activities for other groups, if requested and available (see also CJC Canon 2 and New CJC Canons 1 and 2); and
- (6) The Judicial Official should retain the right to review and pre-approve the use of any biographical information or other material used to describe the Judicial Official's participation in the program and to review any post-presentation publications (see also CJC Canon 2(b) and New CJC Rules 1.3 and 2.4(C)).

To the extent compensation is involved, the Committee determined that this single instance of speaking at an out-of-state seminar attended by doctors, lawyers and others does not appear to violate the general provisions of Canon 5 (c)(1) in that it does not reflect adversely upon the Judicial Official's impartiality, interfere with judicial duties (provided the time away from the Judicial Official's job is approved) and does not involve frequent transactions with persons who are likely to come before the court on which the Judicial Official serves. The payment of travel, hotel, meals and conference fees qualify as reimbursement of expenses pursuant to Canon 6. A \$300 honorarium does not exceed a reasonable amount and, therefore, provided that other keynote speakers receive a similar honorarium, acceptance of the payment is permitted by Canon 6. The Judicial Official would need to verify that the honorarium is comparable to what is provided to non-judge keynote speakers. Furthermore, the Judicial Official should report the honorarium as income to the extent required by law. (See also Conn. Gen. Stat. § 51-46a and New CJC Rules 3.14 & 3.15)

The Committee noted that this opinion should not be construed to repudiate the conclusions reached in Informal JE 2010-11, especially the determination regarding the prohibition against discussing scientific evidence presented in an erased case.

**2010-23 (July 22, 2010)**

**Disclosure/Disqualification; Family; Stock Interest**

**Canons 2 & 3; C.G.S. § 51-39**

**New Code of Judicial Conduct (effective 1-1-11): Canons 1 & 2; Rules 1.2 & 2.11**

**Issue:** Does a Judicial Official have a duty to disclose and/or recuse himself or herself when the Judicial Official's spouse is the beneficial owner of a small amount of stock in a corporation that is the majority partner in a second business that appears as a party or intervener before the Judicial Official?

**Response:** A Judicial Official's spouse is the beneficial owner of a small amount of stock (valued at less than \$1,000 with annual dividends of less than \$100) in a multi-billion dollar corporation that does business in Connecticut. The corporation is the majority partner in a second business. The Judicial Official has inquired about his or her duty to recuse himself or herself or to disclose the fact of the spouse's beneficial ownership of the

stock of the corporation to the parties in a case if the partnership (but not the corporation) appears before the Judicial Official either as a party or intervener. Based upon the facts presented, the participating Committee members unanimously determined that the JO's spouse has a financial interest in a party to the proceeding within the meaning of Canon 3(c)(1) of the existing Code of Judicial Conduct and, therefore, the Judicial Official should recuse himself or herself subject to a remittal of disqualification by the parties in accordance with Canon 3(d). The participating Committee members noted that under the Code of Judicial Conduct effective January 1, 2011, Rule 2.11 provides that disqualification is required in any proceeding in which a judge's impartiality might reasonably be questioned, which includes the judicial official or his or her spouse having more than a de minimis interest that could be affected by the proceeding or having an economic interest in the subject matter of the controversy or in a party to the proceeding. For purposes of Rule 2.11, "de minimis" means "an insignificant interest that could not raise a reasonable question regarding the judge's impartiality" while "economic interest" means "ownership of more than a de minimis legal or equitable interest..." Based upon the foregoing, the participating members of the Committee unanimously determined that under the Code that will be in effect on January 1, 2011, the spouse's beneficial interest of less than \$1,000 in stock in a multi-billion dollar corporation appears to fall within the definition of "de minimis".

**2010-24 (July 28, 2010)**

**Political Activity**

**Canon 7; New Code of Judicial Conduct (effective 1-1-11): Rule 4.1**

**Issue:** Does the prohibition in Canon 7 (a) (3) on a Judicial Official making a contribution to a political organization or candidate apply to contributions to candidates for federal office or to office in another state?

**Response:** Based on the information provided, the Committee determined that both the current and the new Code of Judicial Conduct (effective January 1, 2011) prohibit a Judicial Official from making contributions to federal and non-Connecticut, as well as Connecticut, political organizations and candidates.

**2010-25 (August 6, 2010)**

**Disclosure/Disqualification; Canon 3; New CJC (effective 1-1-11): Rule 2.11**

**Issue:** Must a Judicial Official disclose his/her prior professional relationship with a law firm, prior relationship with various municipal clients or prior relationship with an attorney with whom the Judicial Official had a sublease arrangement?

The Judicial Official's inquiries are as follows:

- (1) The Judicial Official was an associate of a law firm approximately 30 years ago. Must the Judicial Official disclose the prior relationship when

- members of the successor firm appear before the Judicial Official? Two members of the firm with whom the Judicial Official practiced are still members of the successor firm. When any member of the successor firm has appeared before the Judicial Official in the past, the Judicial Official has disclosed the prior relationship. The Judicial Official, however, has never been asked to recuse him/herself as a result of such disclosure.
- (2) The Judicial Official, while in private practice, represented various municipalities with respect to tax foreclosures. The Judicial Official has not represented the municipalities in approximately 30 years. Must the Judicial Official disclose the prior relationship when the municipalities appear as parties before the Judicial Official?
- (3) The Judicial Official, while in private practice, subleased office space to another attorney. The sublease arrangement lasted two to three years and ended approximately 20 years ago. Must the Judicial Official disclose the prior relationship when the subleasing attorney or members of that attorney's current law firm appear before the Judicial Official?

**Response:** Based upon the facts presented, including that 20 years or more have elapsed since the prior affiliations existed, the participating Committee members unanimously decided that the Judicial Official does not have an affirmative obligation to provide notice to litigants of these prior relationships, provided the following conditions are met: (1) the case is not one that was handled by the Judicial Official while in practice, and (2) the Judicial Official does not believe that he or she has any personal bias (favorable or unfavorable) involving the municipality, his/her former law firm (and successor), or the subleasing attorney and his/her law firm. In rendering its decision, the Committee considered Canon 3 (c) (1) (B) and New CJC Rule 2.11 (5) (a), as well as its opinions in JE 2008-21, JE 2010-04, and JE 2010-19.

**2010-26 (September 8, 2010)**

**Disclosure/Disqualification; Family; Canon 2; New CJC (effective 1-1-11):  
Rules 1.2 & 2.11**

**Issue:** Should a Judicial Official disclose pertinent information regarding his or her relationship with a sibling, who is an attorney, and a second attorney in any case involving an appearance by the other attorney, who has an ongoing subleasing relationship and an occasional case referral, with referral fee, relationship with the Judicial Official's sibling?

**Response:** Based upon the facts presented, the Committee unanimously decided that pursuant to Canon 2's proscription with respect to avoiding the appearance of impropriety, the Judicial Official should disclose the close, ongoing financial relationship involving subleasing and occasional case referrals between the Judicial Official's sibling and the attorney in any case in which the attorney appears before the Judicial Official.

**2010-27 (September 8, 2010)**

**Fundraiser; Event, attendance/appearance; Name, Use of; Canons 2 & 5;  
New CJC (effective 1-1-11): Rules 1.2 & 3.7**

**Issue:** A union is sponsoring a golf tournament fundraiser for the benefit of a judicial branch employee who was tragically injured in a motorcycle accident. The event will not occur during normal work hours and the employee is not a litigant who has come or is likely to come before the inquiring Judicial Officials. The cost to attend the tournament is \$150 per person and includes lunch, dinner and a \$5 credit at the pro shop. Hole, tee and cart sponsorships are available at the cost of \$150, \$100, and \$50, respectively. All proceeds from the tournament will go to the injured employee. The Judicial Officials indicate that they will not participate in the solicitation of funds for the event.

(1) May the Judicial Officials attend and participate in the fundraiser?

(2) May the Judicial Officials make a contribution or sponsor a hole, tee or cart at the fundraiser?

**Response:** Based upon the facts presented, the Committee unanimously determined that the Judicial Officials (1) may attend the tournament at their own expense and participate (play golf) in the fundraising event and (2) may contribute money and sponsor a hole, tee or cart to help the injured judicial branch employee. The Judicial Officials, however, should consider the propriety of using their judicial title in connection with the fundraiser to determine whether it implicitly lends the prestige of the judicial office to advance the private interests of others in violation of Canon 2. If judicial titles are used in connection with the fundraiser, the Judicial Officials should retain the right to review and pre-approve the use of any biographical information about the Judicial Officials to ensure that the information is not used for any solicitation purposes in potential violation of Canon 5(b)(2).

**2010-28 (September 8, 2010)**

**Disclosure/Disqualification; Canons 2 & 3;  
New Code of Judicial Conduct (effective 1-1-11): Canons 1 & 2; Rules 1.2 & 2.11**

**Issue:** A Judicial Official presided over a trial to the bench and rendered a judgment. The “losing” party retained a new attorney, and the new attorney has filed a motion to reconsider, which is currently pending. The new attorney is a member of a small law firm, and the Judicial Official has a close personal relationship with a named partner in this small law firm and the partner visited the Judicial Official in his home within the past year. To the best of the Judicial Official’s knowledge, the close friend is basically retired but still goes into the law office a little each week. It is not known to what extent, if any, that the close friend of the Judicial Official benefits from any new business of the law firm that is handled by other attorneys at the firm. Is the Judicial Official disqualified from presiding over the motion to reconsider?

**Response:** Based upon the facts presented, including that (1) the Judicial Official does not believe that he or she has a personal bias or prejudice in favor or opposed to counsel, (2) the Judicial Official believes that he or she can be fair and impartial, (3) the friend was last at the Judicial Official's home within the past year, and (4) the Judicial Official has stated that he or she would have recused him or herself from any case involving the friend's law firm when the friend was actively practicing, the Committee unanimously determined as follows: consistent with Canons 2 and 3 of the Code of Judicial Conduct, the Judicial Official does not have a duty to automatically disqualify himself or herself; however, the Judicial Official has a duty to disclose the relationship with counsel to the parties and their counsel. Thereafter, if a motion to disqualify is filed, the Judicial Official must exercise his or her discretion in deciding the motion based upon the information provided in the motion and the accompanying affidavit, as provided for in Connecticut Practice Book § 1-23, as well as the particular circumstances of the case. The same result would be reached under the new Code, effective January 1, 2011.

**2010-29 (September 23, 2010)**

**Service on Board; Canons 2, 5, & 6**

**New Code of Judicial Conduct (effective 1-1-11): Rules 1.2, 3.1, 3.7, 3.12 & 3.15; Conn. Gen. Stat. § 51-46a**

**Issue:** A Judicial Official is a member of the Board of Directors of a private 501(c)(3) charitable foundation that provides financial grants to various entities, generally nonprofit organizations such as schools, libraries, etc. May the Judicial Official be paid for his or her service on the Board of the foundation?

**Response:** Based upon the facts presented, including that the charitable foundation is not involved in litigation, the Judicial Branch is not a grant applicant or recipient, the Judicial Official's compensation is both reasonable and the same as that paid to non-Judicial Official Board members, and service on the Board does not interfere with the performance of Judicial duties, the Committee members in attendance unanimously agreed that the Judicial Official could accept payment for service on the Board of the charitable foundation subject to the following conditions:

1. The Judicial Official should regularly reexamine the activities of the foundation to determine if it is proper to continue his or her relationship with the charitable foundation. See Commentary to Canon 5(b)(1).
2. The Judicial Official may not engage in fundraising or use or permit the use of his or her name for that purpose. See Canon 5(b)(2). Effective January 1, 2011, a judge may solicit contributions for a charitable organization "but only from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority." See Rule 3.7(A)(2).

3. The Judicial Official may not give investment advice. See Canon 5(b)(3). Effective January 1, 2011, a judge may participate in the management and investment of an organization's funds. See Rule 3.7(A)(1).
4. The Judicial Official may not use Judicial Branch resources in connection with the charity, other than incidental use. See Canon 2 and Rule 3.1(E).
5. The Judicial Official should resign from the Board if such service would require the Judicial Official to be involved in frequent transactions with lawyers or persons likely to come before the court on which he or she serves. See Canons 5(b)(1), 5(c) and Rules 3.1, 3.7(A)(6).
6. The Judicial Official reports the compensation paid for service on the board of the charity as income on his or her financial disclosure form. See C.G.S. § 51-46a and Rule 3.15.

**2010-30 (October 7, 2010)**

**Event, attendance/appearance; Awards & Honors; Gifts; Name, Use of; Appearance of Impropriety**

**New Code of Judicial Conduct (effective 1-1-11): Rules 1.2, 3.7, 3.13 & 3.15**

**Issue:** May a Judicial Official be honored at an event hosted by a law related organization that provides legal services to people qualifying under its standards of indigency and be featured in its advance publicity if the organization intends to solicit law firm sponsors to underwrite some or all of the cost of the event?

The organization would like to honor approximately 15 judges who began their careers with the organization at an event scheduled for the fall of 2011. The cost of the event will be between \$75-100 per person with the ticket fee waived for each honoree and one guest of his/her choice. Written invitations will be sent to all members of the Connecticut judiciary and their staff, the Connecticut Bar Association, a local bar association, and persons listed as supporters in the organization's database, but the event will be open to anyone who wishes to purchase a ticket. In order to help defray the cost of the event, the organization plans to offer sponsorship opportunities ranging from \$250-\$2,500. Sponsors will be recognized (1) in a program book, (2) orally at the event, (3) on the organization's website and/or Facebook page, and (4) at the event itself via a banner or welcome board. If permitted, the program book would include "well wishes" separate from the sponsorships. Because this event is planned for 2011, the proposed conduct is governed by the new Code of Judicial Conduct (effective 1-1-11).

**Response:** Based upon the facts presented, including that the event appears to be designed to honor Judicial Officials for their service in the administration of justice and to enhance the reputation of the legal aid organization in a general way, the Committee unanimously determined that the event was one that "concerns the law, the legal system, or the administration of justice" under new Code of Judicial Conduct Rule 3.7 (A) (4). The Committee agreed that the

Judicial Officials may be honored and also featured in advance publicity under Rule 3.7 (A) (4), but that special care must be taken to ensure that the Judicial Officials' names are not being used to encourage law firm participation and that no appearance is created that any of the donors or the legal aid organization is in a special position to influence the Judicial Officials. The Judicial Officials may accept the award and the free tickets, provided the value is reported pursuant to Rule 3.15. Notwithstanding the foregoing, the Committee expressed prudential concerns that if attorneys for the legal aid organization or the major sponsoring law firms regularly appear in the court in which the Judicial Official sits, the Judicial Official, in making a determination as to whether to accept the honor, should consider whether receipt of the award/tickets would create an appearance of impropriety which would require the Judicial Official to recuse him/herself from matters involving the organization or the sponsoring firms. See New Code Rule 1.2 and Commentary (2) to Rule 3.7.

**2010-31 (November 9, 2010)**

**Soliciting Contributions; Fundraising; Name, Use of  
Canons 2 & 4**

**New Code of Judicial Conduct (effective 1-1-11): Rules 1.2, 1.3, 3.1 & 3.7**

**Issue:** May a Judicial Official lend his or her name to a campaign whose purpose is to solicit existing members of a law related organization to provide additional funds to become sustaining members of the organization?

**Response:** Based upon the facts presented, including that the solicitation is directed to existing members of the organization to request they provide additional funds to the organization, the solicitation was deemed to be a request to make a contribution of funds and not a membership solicitation. Under the existing Code, such requests are proscribed. Effective January 1, 2011, Rule 3.7(A)(2) of the new Code will permit a Judicial Official to solicit contributions for such an organization, but only from members of the Judicial Official's family, as defined in the new Code,<sup>2</sup> or from Judicial Officials over whom the soliciting Judicial Official exercises no supervisory or appellate authority. As a result, under the new Code the Judicial Official may not engage in a general solicitation of funds on behalf of the organization.

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<sup>2</sup> "Member of the judge's family" is defined in the new Code as meaning "any relative of a judge related by consanguinity within the third degree as determined by the common law, a spouse or domestic partner or an individual related to a spouse or domestic partner within the third degree as so determined, including an individual in an adoptive relationship within the third degree."

**2010-32 (November 15, 2010)**

**Awards & Honors; Name, Use of; Advertising; Disclosure/Disqualification  
Canons 2 & 5; New Code of Judicial Conduct (effective 1-1-11): Canon 1,  
Rules 1.3, 3.7 & 3.13**

**Issue:** May a Judicial Official accept an honorary degree from a college located in Connecticut in connection with a speaking appearance at the college by the Judicial Official? The college has been a party to approximately 20 superior court lawsuits over the past ten years.

**Response:** Based upon the facts presented, the Committee unanimously determined that the Judicial Official may accept the honorary degree subject to the following conditions: (1) The Judicial Official should inform the college that it should not promote or advertise the awarding of the honorary degree for the purpose of any fundraising activities (see Canon 2 and new Rule 1.3) and (2) The Judicial Official should be satisfied that the college is not likely to appear regularly as a party before the Judicial Official. In the event that the college is a party in a case before the Judicial Official the Judicial Official should, for a reasonable period of time, recuse him/herself or disclose to all parties the fact of his/her receipt from the college of an honorary degree. The Committee noted that new Rule 3.7 permits judges to participate in various activities of educational organizations, including receiving an award, under certain conditions.

**2010-33 (November 29, 2010)**

**Event, attendance/appearance**

**Canons 2 & 5**

**New Code of Judicial Conduct (effective 1-1-11): Rules 1.2 & 3.7**

**Issue:** May a Judicial Official purchase tickets and attend a dinner sponsored solely by the University of Hartford to raise funds for the Governor M. Jodi Rell Center for Public Service? While it is anticipated that politically active individuals will be at the dinner, no political parties are involved in co-sponsoring the event. Tickets to attend the fundraiser cost \$150. Information was obtained suggesting that "sponsorship opportunities" may be available.

**Response:** Based upon the facts presented, including that the University of Hartford is the sole sponsor of the event, the Committee unanimously determined that the Judicial Official may purchase tickets and attend the fundraising dinner. A majority of the Committee's members (3) cautioned that to the extent there may be "sponsorship opportunities" or a program journal or something similar for this event in which a judicial title may be published, the Judicial Official should consider the propriety of participating in those opportunities and consider whether the use of the judicial title might implicitly lend the prestige of judicial office to advance the private interests of the university in violation of Canon 2. In rendering its decision, the Committee considered its opinion in JE 2009-38.

**2010-34 (November 30, 2010)**

**Soliciting Participation**

**Canons 2, 3 & 5**

**New Code of Judicial Conduct (effective 1-1-11): Rules 1.2, 1.3, 2.1, 2.11, 3.1 & 3.7.**

**Issue:** May a Judicial Official participate in organizing and soliciting people to participate in a blood drive, to be conducted by a blood collection agency, in honor of an attorney who was an accident victim and required multiple surgeries?

**Response:** Based upon the facts presented, including that (1) the solicitation is for blood donations and not for funds, (2) the injured attorney had appeared before the inquiring Judicial Official on multiple occasions in the past and may appear before the Judicial Official when the attorney is able to return to work, and (3) the attorney supervises other attorneys that regularly appear before the Judicial Official, it was unanimously determined that under the existing Code organizing and soliciting people to participate in a blood drive in honor of the injured attorney would violate Canons 2 (avoiding the appearance of impropriety and lending the prestige of office to advance the private interests of others) and 5 (solicitation of in-kind donations; see JE 2009-27) and may lead to the need for frequent recusal or, at a minimum, disclosure of the judge's role in organizing and soliciting blood donations in honor of the injured attorney, as well as appear to a reasonable person to be coercive. The new Code, effective January 1, 2011, likewise prohibits the Judicial Official from organizing and soliciting people to participate in a blood drive in honor of the injured attorney. See Rule 1.2 (appearance of impartiality), Rule 1.3 (use of office for the benefit of others), Rule 2.1 (extrajudicial activities shall not be conducted in such a way as to interfere unduly with the duties of judicial office), Rule 2.11 (disqualification), and Rule 3.1 (a judge shall not engage in extrajudicial activities that (1) interfere with the proper performance of judicial duties, (2) lead to frequent disqualification, (3) appear to a reasonable person to undermine the judge's independence, integrity or impartiality, or (4) appear to a reasonable person to be coercive).

Notwithstanding the foregoing, effective January 1, 2011 and in accordance with Rule 3.7(A)(2) of the new Code, the inquiring Judicial Official may solicit members of the judge's family (as that term is defined in the Code) and judges over whom the inquiring Judicial Official does not exercise supervisory authority or appellate jurisdiction if the Judicial Official determines that organizing and soliciting the donations from such individuals does not necessitate the Judicial Official to recuse himself or herself when the attorney (or members of the attorney's office) appear.

**2010-35 (December 14, 2010)**

**Writing; Use of Office**

**New Code of Judicial Conduct (effective 1-1-11): Rules 1.2, 1.3, 2.1.**

**Issue:** May a Judicial Official write a testimonial/endorsement for a Connecticut legal practice guide that is being published in 2011 by a non-profit, bar-related legal organization?

**Response:** Based upon application of the new Code of Judicial Conduct and the facts presented, including that the Judicial Official was asked to provide a testimonial/endorsement for a Connecticut legal practice guide, that the Judicial Official was asked to review only the table of contents, indices and select chapters (but not the entire publication) in preparation for writing the testimonial/endorsement, and that the Judicial Official's name and judicial position would be identified in connection with the testimonial/endorsement, the Committee (with one member absent) unanimously concluded that the requested testimonial/endorsement would violate Rule 1.3 of the Code (use of office to advance the private interests of others). The Committee further determined that the requested testimonial/endorsement may violate Rule 1.2 (appearance of impartiality) and Rule 2.1 (extrajudicial activities shall not be conducted in such a way as to interfere unduly with the duties of judicial office), because the testimonial/endorsement may create an appearance that the Judicial Official was not impartial or had prejudged an issue in the case before the Judicial Official and because the testimonial/endorsement may result in the Judicial Official having to recuse in cases where the practice guide's authors appeared before the Judicial Official.. See Informal Opinions 2009-40, 2010-15.

**2010-36 (December 17, 2010)**

**Event, attendance/appearance; Civic Activities; Gifts**

**New Code of Judicial Conduct (effective 1-1-11): Rules 3.13 and 3.15.**

**Issue:** May a Judicial Official, along with a guest, attend a gubernatorial inaugural ball and dinner at no cost?

**Response:** Several Judicial Officials on the same court have been invited by the Board of Trustees of the First Company Governor's Foot Guard ("Board of Trustees") to attend the Governor's Inaugural Ball including a sit-down dinner scheduled for January 5, 2011. The invitation indicates the judicial official may bring a guest. Like invitations have been extended to all judicial officials on the same court and to certain non-judicial state elected and appointed public officials without regard to political affiliation. The admission for the sit-down dinner costs \$225 per person. No judicial official will be seated on the dais with the governor-elect, but at least one judicial official will be sitting at a table near the dais. The stated purpose of the inaugural ball is two-fold: "to honor the Inauguration of our elected State Officers and in particular the Governor, and to raise funds to support and maintain [the] armory located at 159 High Street in Hartford."

In planning for this event, the Board of Trustees sought and obtained an advisory opinion from the Connecticut Office of State Ethics regarding whether the Board of Trustees could offer complimentary tickets to the inaugural ball to state elected and appointed officials. The Office of State Ethics concluded that “public officials invited by the Board of Trustees to attend the Inaugural Ball by virtue of their state positions may accept admission to the event, including any food or beverage provided there, under the charitable/civic-event gift exception in General Statutes § 1-79 (e)(14).” State of Connecticut Office of State Ethics Advisory Opinion 2010-3.

Because this event is planned for 2011, the proposed conduct is governed by the new Code of Judicial Conduct (effective 1-1-11). Rule 3.13 permits a judicial official to accept an invitation extended to the official and a guest to attend events associated with civic activities subject to the reporting requirements of Rule 3.15. Based upon the facts presented, including that the inaugural ball is not a fundraising event for a political organization, but rather a civic event that marks the orderly transition of an elected official, the Committee concluded that the Judicial Officials may attend this civic event and accept the two complimentary tickets, provided the value is reported pursuant to Rule 3.15.

**2010-37 (Emergency Staff Opinion December 17, 2010)**

**Oath of Office; Use of Office**

**New Code of Judicial Conduct (effective 1-1-11): Rules 1.2, 1.3, 2.1, 3.2 & 4.1.**

**Issue:** During 2011, may a Judicial Official administer the oath of office to an elected legislative official with respect to a leadership position to which the official was elected by the members of the legislative body of which the official is a member?

**Response:** Based upon the facts presented, including that the position involves leadership of the entire legislative body and the legislative official was elected to the position by a vote of the entire body, and considering this Committee’s conclusion in JE 2010-36 that a gubernatorial inaugural ball that is not a fundraising event for a political organization is a civic event, administration of the oath of office constitutes a civic, rather than a political, act. Pursuant to the Committee’s rule on emergency opinions and following receipt of input from the members, the Judicial Official was advised that he/she may administer the oath of office.

**2010-38 (December 30, 2010)**

**Event, attendance/appearance; Civic Activities; Fundraiser;**

**Speaking; Use of Office**

**New Code of Judicial Conduct (effective 1-1-11): Rules 3.1 & 3.7.**

**Issue:** During 2011, may a Judicial Official serve as the keynote speaker for a nonprofit civic organization’s fund-raising program?

**Response:** Based upon the facts presented, including that the organization is not concerned with the law, the legal system or the administration of justice, the Committee members in attendance unanimously determined that speaking at the fund-raising program would violate Rule 3.7(A)(4).

**2011-01 (January 19, 2011)**

**Recommendations; Disclosure/Disqualification; Rules 1.2 & 1.3;  
Conn. Gen. Stat. § 51-39a**

**Issue:** If a Judicial Official is contacted by the Judicial Selection Commission (JSC) because his or her name has been listed as a reference by an attorney who has submitted an application, whether the judicial official has consented to be listed or not, what restrictions, if any, apply to the Judicial Official when responding to such inquiry from the JSC about the attorney?

**Additional facts:** Question 42 of the JSC application states, in relevant part, as follows: “State the names and complete mailing addresses of six lawyers and/or judges who know you and your work and who can be interviewed about your legal qualifications as a judge. (The Commission will contact these people directly and a non-response from any of them will be considered to be an unfavorable response.)”

**Response:** Based upon the facts presented, the Committee unanimously agreed that the Judicial Official may supply specific information about the attorney, unless the candidate is the Judicial Official’s spouse, the Judicial Official’s domestic partner, the Judicial Official’s child or child’s spouse, the Judicial Official’s parent, or the Judicial Official’s brother or sister where providing a reference would be prohibited (see JE 2008-10), if requested by the JSC subject to the following conditions. See Rule 1.3 comments 2 & 3.

1. The Judicial Official’s recommendation should be based on the Judicial Official’s personal knowledge of the candidate’s qualifications. See Rule 1.3 comment 2.
2. The Judicial Official should disclose to the Judicial Selection Committee any familial or material personal relationship that the Judicial Official has to the candidate. See Rule 1.2 (judge must act at all times in a manner that promotes public confidence in the integrity of the judiciary); Conn. Gen. Stat. § 51-39a (familial conflict-of-interest prohibition).
3. If the Judicial Official’s recommendation is furnished in writing on official letterhead, the Judicial Official should indicate that the recommendation constitutes the Judicial Official’s personal opinion of the candidate’s qualifications. See Rule 1.3 comment 2.
4. If the Judicial Official provides information to the Judicial Selection Committee, the Judicial Official should consider whether his or her impartiality might reasonably be questioned on the ground of personal

bias based on the information provided (favorable or unfavorable). If so, if the candidate appears before the judicial official for a reasonable time after providing the information, the Judicial Official should voluntarily recuse him/herself, disqualify him/herself *sua sponte* or seek remittal of the disqualification from the parties in the case in which the candidate appears before the Judicial Official. See Rule 1.2 (judge must act at all times in a manner that promotes public confidence in the judiciary); Rule 2.11(A)(1) (judge who has a personal bias concerning a party's lawyer should disqualify himself or herself).

**2011-02 (February 3, 2011)**

**Government Commissions; Appearance of Impropriety; Extrajudicial Activities**

**Rules 1.2; 3.1; 3.2; 3.4**

**Issue:** May a Judicial Official serve on a statute-created advisory committee to an Executive Branch official in the following circumstances: (1) the Executive Branch official's department or agency regularly participates in proceedings in state courts, both as a litigant and as a service provider, and specifically participates in proceedings before the Judicial Official (2) the statute creating the advisory committee does not mandate or specifically provide for the inclusion of a Judicial Official as a member, and (3) the advisory committee has broad responsibilities, including inter alia, providing recommendations to the Executive Branch official regarding programs, services and legislation to improve the department or agency's performance; providing policy interpretation and guidance to the public; assisting and monitoring the department or agency with its planning and the implementation of its plans; and issuing reports to the Executive Branch official and the Governor as the advisory committee deems appropriate?

**Additional Facts:** The Executive Branch official's department or agency is responsible for a wide range of programs and services including, but not limited to, providing services for mentally ill and emotionally disturbed clients, establishing work programs, performing data collection, auditing and outreach, as well as providing services to persons involved with the courts. The department or agency has also been the subject of federal litigation and federal court supervision for many years. A significant percentage of the advisory committee members are family members of current or former clients of the Executive Branch department or agency.

**Response:** Three of the four Committee members in attendance determined that the Judicial Official's service on the advisory committee would be prohibited by Rule 3.4 of the Code of Judicial Conduct, which provides that "[a] judge shall not accept appointment to a governmental committee, board, commission or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice."

The Committee majority emphasized that, however salutary for the public a judicial official's service on governmental committees or commissions may be, Rule 3.4 prohibits such service unless the commission "is one that concerns the law, the legal system or the administration of justice." Comment (3) to the rule states that it is "intended to prohibit a judge from participation in governmental committees, boards, commissions or other governmental positions that make or implement public policy unless they concern the law, the legal system or the administration of justice."

The Committee majority adopted the position, as articulated in ethics opinions from other jurisdictions, that in order for a governmental committee or commission to qualify as one that concerns the law, the legal system or the administration of justice, "there must be a direct nexus between what a governmental commission does and how the court system meets its statutory and constitutional responsibilities – in other words, how the courts go about their business." Massachusetts Advisory Opinion 98-13. See also Utah Informal Advisory Opinion 98-11; Florida Advisory Opinion 2001-16; U.S. Advisory Opinion 93 (1998); Indiana Advisory Opinion 2-01. Applying the "direct nexus" standard to the facts presented, the Committee majority concluded that the scope of the advisory committee's responsibilities (as described above) far exceeds the range of activities within the scope of the exception to Rule 3.4.

The Committee majority also expressed concern about the possibility of an appearance of impropriety under Rule 1.2, as well as conflict with the provisions of Rule 3.1(1), (2) and (3), that could arise from the Judicial Official's service on the advisory committee, based upon the following factors: the membership of the advisory committee, the Executive Branch department's or agency's role as a frequent litigator and service provider in proceedings in the state courts and in proceedings before the inquiring Judicial Official, and the fact that the Executive Branch department or agency is the subject of federal litigation and federal court supervision. See generally JE 2008-24, JE 2009-10 and JE 2010-05.

One of the Committee members dissented from the view of the majority of Committee members. The dissenting Committee member supported a broader interpretation of the phrase "the law, the legal system, or the administration of justice", as has been adopted by some jurisdictions, and would have found the advisory committee to fall within the exception provided by Rule 3.4. That member cited Comment (1) to Rule 3.4, which acknowledges the value of judges accepting appointments to entities that concern the law, the legal system or the administration of justice, and the approach taken by such states as South Carolina, Utah and Alaska, which on occasion have permitted a judge to serve on a governmental commission with a mission that extended beyond the law, the legal system or the administration of justice to issues of a legislative or executive nature, only if the judge is able to limit his or her involvement narrowly to those matters dealing with the administration of justice by, for example, just serving on a subcommittee or limiting participation to matters directly concerning the courts or the administration of justice. See generally South Carolina Opinion 8-1996, Utah Informal Opinion 94-2 and Alaska Opinion 2001-01.

The Committee noted that this opinion involves conduct subject to Rule 3.4, not Rule 3.2, and that its opinion does not necessarily reflect how the Committee may construe Rule 3.2.

**2011-03 (February 3, 2011)**

**Government Commissions; Appearance of Impropriety; Extrajudicial Activities**

**Rules 1.2; 3.1; 3.2; 3.4**

**Issue:** May a Judicial Official serve on a statute-created advisory committee to an Executive Branch official in the following circumstances: (1) the Executive Branch official's department or agency regularly participates in proceedings, both as a litigant and as a service provider, in state courts, and specifically participates in proceedings before the Judicial Official, (2) the statute creating the advisory committee does not mandate or specifically provide for the inclusion of a Judicial Official as a member, and (3) the advisory committee is responsible for providing on-going review and recommendations to the Executive Branch official for improvements to a specific program or facility including, inter alia, the clients served, the programs provided and their effectiveness in serving the needs of the clients, the policies in effect at the facility, and the cost of operating the facility?

**Additional Facts:** The Executive Branch official's department or agency is responsible for a wide range of programs and services including, but not limited to, providing services for mentally ill and emotionally disturbed clients, establishing work programs, performing data collection, auditing and outreach, as well as providing services to persons involved with the courts. The department or agency has also been the subject of federal litigation and federal court supervision for many years. The particular program or facility that is the subject of the work of the advisory committee provides services for court-involved clients.

**Response:** Three of the four Committee members in attendance determined that the Judicial Official's service on the advisory committee would be prohibited by Rule 3.4 of the Code of Judicial Conduct, which provides that "[a] judge shall not accept appointment to a governmental committee, board, commission or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice."

The Committee majority emphasized that, however salutary for the public a judicial official's service on governmental committees or commissions may be, Rule 3.4 prohibits such service unless the commission "is one that concerns the law, the legal system or the administration of justice." Comment (3) to the rule states that it is "intended to prohibit a judge from participation in governmental committees, boards, commissions or other governmental positions that make or implement public policy unless they concern the law, the legal system or the administration of justice."

The Committee majority adopted the position, as articulated in ethics opinions from other jurisdictions, that in order for a governmental committee or commission to qualify as one that concerns the law, the legal system or the administration of justice, “there must be a direct nexus between what a governmental commission does and how the court system meets its statutory and constitutional responsibilities – in other words, how the courts go about their business.” Massachusetts Advisory Opinion 98-13. See also Utah Informal Advisory Opinion 98-11; Florida Advisory Opinion 2001-16; U.S. Advisory Opinion 93 (1998); Indiana Advisory Opinion 2-01. Applying the “direct nexus” standard to the facts presented, the Committee majority concluded that the scope of the advisory committee’s responsibilities (as described above) far exceeds the range of activities within the scope of the exception to Rule 3.4.

The Committee majority also expressed concern about the possibility of an appearance of impropriety under Rule 1.2, as well as conflict with the provisions of Rule 3.1 (1), (2) and (3) that could arise from the Judicial Official’s service on the advisory committee, based upon the following factors: the Executive Branch department’s or agency’s role as a frequent litigator and service provider in proceedings in state courts and in proceedings before the inquiring Judicial Official, and the fact that the Executive Branch department or agency is the subject of federal litigation and federal court supervision. See generally JE 2008-24, JE 2009-10 and JE 2010-05.

One of the Committee members dissented from the view of the majority of Committee members. The dissenting Committee member supported a broader interpretation of the phrase “the law, the legal system, or the administration of justice”, as has been adopted by some jurisdictions, and would have found the advisory committee to fall within the exception provided by Rule 3.4. That member cited Comment (1) to Rule 3.4, which acknowledges the value of judges accepting appointments to entities that concern the law, the legal system or the administration of justice, and the approach taken by such states as South Carolina, Utah and Alaska, which on occasion have permitted a judge to serve on a governmental commission with a mission that extended beyond the law, the legal system or the administration of justice to issues of a legislative or executive nature, only if the judge is able to limit his or her involvement narrowly to those matters dealing with the administration of justice by, for example, just serving on a subcommittee or limiting participation to matters directly concerning the courts or the administration of justice. See generally South Carolina Opinion 8-1996, Utah Informal Opinion 94-2 and Alaska Opinion 2001-01.

The Committee noted that this opinion involves conduct subject to Rule 3.4, not Rule 3.2, and that its opinion does not necessarily reflect how the Committee may construe Rule 3.2.

**2011-04 (February 3, 2011)**

**Government Commissions; Appearance of Impropriety; Extrajudicial Activities**

**Rules 1.2; 3.1; 3.2; 3.4**

**Issue:** May a Judicial Official serve on an ad hoc advisory committee to an Executive Branch official in the following circumstances: (1) the Executive Branch official's department or agency regularly participates in proceedings in Connecticut's courts, both as a litigant and as a service provider, (2) the advisory committee is not required by statute or regulation and will be in existence only for a limited period of time, and (3) while the advisory committee is responsible for seeking input and providing recommendations to the Executive Branch official on how the official's department or agency can more effectively meet its mission by working together with public and private entities that serve the same people under the department or agency's jurisdiction, the Judicial Official would not participate directly in deciding or providing policy advice and basically would limit his or her role to facilitating the advisory committee's discussions?

**Additional Facts:** The Executive Branch official's department or agency is responsible for a wide range of programs and services including, but not limited to, providing services for mentally ill and emotionally disturbed clients, establishing work programs, performing data collection, auditing and outreach, as well as providing services to persons involved with the courts. The department or agency has also been the subject of federal litigation and federal court supervision for many years. The Judicial Official is disqualified from presiding over cases involving the Executive Branch department or agency.

**Response:** Three of the four Committee members in attendance determined that the Judicial Official's service on the advisory committee would be prohibited by Rule 3.4 of the Code of Judicial Conduct, which provides that "[a] judge shall not accept appointment to a governmental committee, board, commission or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice."

The Committee majority emphasized that, however salutary for the public a judicial official's service on governmental committees or commissions may be, Rule 3.4 prohibits such service unless the commission "is one that concerns the law, the legal system or the administration of justice." Comment (3) to the rule states that it is "intended to prohibit a judge from participation in governmental committees, boards, commissions or other governmental positions that make or implement public policy unless they concern the law, the legal system or the administration of justice."

The Committee majority adopted the position, as articulated in ethics opinions from other jurisdictions, that in order for a governmental committee or commission to qualify as one that concerns the law, the legal system or the administration of justice, "there must be a direct nexus between what a governmental commission does and how the court system meets its statutory

and constitutional responsibilities – in other words, how the courts go about their business.” Massachusetts Advisory Opinion 98-13. See also Utah Informal Advisory Opinion 98-11; Florida Advisory Opinion 2001-16; U.S. Advisory Opinion 93 (1998); Indiana Advisory Opinion 2-01. Applying the “direct nexus” standard to the facts presented, the Committee majority concluded that the scope of the advisory committee’s responsibilities (as described above) far exceeds the range of activities within the scope of the exception to Rule 3.4.

The Committee majority also expressed concern about the possibility of an appearance of impropriety under Rule 1.2 as well as conflict with the provisions of Rule 3.1 (3), that could arise from the Judicial Official’s service on the advisory committee, based upon the following factors: the Executive Branch department’s or agency’s role as a frequent litigator and service provider in proceedings in Connecticut’s courts, and the fact that the Executive Branch department or agency is the subject of federal litigation and federal court supervision. See generally JE 2008-24, JE 2009-10 and JE 2010-05.

One of the Committee members dissented from the view of the majority of Committee members. The dissenting Committee member supported a broader interpretation of the phrase “the law, the legal system, or the administration of justice”, as has been adopted by some jurisdictions, and would have found the advisory committee to fall within the exception provided by Rule 3.4. That member cited Comment (1) to Rule 3.4, which acknowledges the value of judges accepting appointments to entities that concern the law, the legal system or the administration of justice, and the approach taken by such states as South Carolina, Utah and Alaska, which on occasion have permitted a judge to serve on a governmental commission with a mission that extended beyond the law, the legal system or the administration of justice to issues of a legislative or executive nature, only if the judge is able to limit his or her involvement narrowly to those matters dealing with the administration of justice by, for example, just serving on a subcommittee or limiting participation to matters directly concerning the courts or the administration of justice. See generally South Carolina Opinion 8-1996, Utah Informal Opinion 94-2 and Alaska Opinion 2001-01.

The Committee noted that this opinion involves conduct subject to Rule 3.4, not Rule 3.2, and that its opinion does not necessarily reflect how the Committee may construe Rule 3.2.

**2011-05 (February 3, 2011)**

**Government Commissions; Appearance of Impropriety; Extrajudicial Activities**

**Rules 1.2; 3.1; 3.2; 3.4**

**Issue:** May a Judicial Official serve on an ad hoc advisory committee to an Executive Branch official in the following circumstances: (1) the Executive Branch official’s department or agency regularly participates in proceedings in Connecticut’s courts, both as a litigant and as a service provider, (2) the advisory committee is not required by statute or regulation and will be in existence only for

a limited period of time, and (3) while the advisory committee is responsible for seeking input and providing recommendations to the Executive Branch official on how the official's department or agency can more effectively meet its mission by working together with public and private entities that serve the same people, the Judicial Official would not participate directly in deciding or providing policy advice and basically would limit his or her role to connecting the Executive Branch official to people in some of the constituencies that the official's department or agency serves?

**Additional Facts:** The Executive Branch official's department or agency is responsible for a wide range of programs and services including, but not limited to, providing services for mentally ill and emotionally disturbed clients, establishing work programs, performing data collection, auditing and outreach, as well as providing services to persons involved with the courts. The department or agency has also been the subject of federal litigation and federal court supervision for many years. The Judicial Official would recuse himself or herself from presiding over cases involving the Executive Branch department or agency during the period that he or she served on the committee.

**Response:** Three of the four Committee members in attendance determined that the Judicial Official's service on the advisory committee would be prohibited by Rule 3.4 of the Code of Judicial Conduct, which provides that "[a] judge shall not accept appointment to a governmental committee, board, commission or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice."

The Committee majority emphasized that, however salutary for the public a judicial official's service on governmental committees or commissions may be, Rule 3.4 prohibits such service unless the commission "is one that concerns the law, the legal system or the administration of justice." Comment (3) to the rule states that it is "intended to prohibit a judge from participation in governmental committees, boards, commissions or other governmental positions that make or implement public policy unless they concern the law, the legal system or the administration of justice."

The Committee majority adopted the position, as articulated in ethics opinions from other jurisdictions, that in order for a governmental committee or commission to qualify as one that concerns the law, the legal system or the administration of justice, "there must be a direct nexus between what a governmental commission does and how the court system meets its statutory and constitutional responsibilities – in other words, how the courts go about their business." Massachusetts Advisory Opinion 98-13. See also Utah Informal Advisory Opinion 98-11; Florida Advisory Opinion 2001-16; U.S. Advisory Opinion 93 (1998); Indiana Advisory Opinion 2-01. Applying the "direct nexus" standard to the facts presented, the Committee majority concluded that the scope of the advisory committee's responsibilities (as described above) far exceeds the range of activities within the scope of the exception to Rule 3.4.

The Committee majority also expressed concern about the possibility of an appearance of impropriety under Rule 1.2, as well as conflict with the provisions of Rule 3.1(1), (2) and (3) that could arise from the Judicial Official's service on the advisory committee, based upon the following factors: the Executive Branch department's or agency's role as a frequent litigator and service provider in proceedings in Connecticut's courts, and the fact that the Executive Branch department or agency is the subject of federal litigation and federal court supervision. See generally JE 2008-24, JE 2009-10 and JE 2010-05.

One of the Committee members dissented from the view of the majority of Committee members. The dissenting Committee member supported a broader interpretation of the phrase "the law, the legal system, or the administration of justice", as has been adopted by some jurisdictions, and would have found the advisory committee to fall within the exception provided by Rule 3.4. That member cited Comment (1) to Rule 3.4, which acknowledges the value of judges accepting appointments to entities that concern the law, the legal system or the administration of justice, and the approach taken by such states as South Carolina, Utah and Alaska, which on occasion have permitted a judge to serve on a governmental commission with a mission that extended beyond the law, the legal system or the administration of justice to issues of a legislative or executive nature, only if the judge is able to limit his or her involvement narrowly to those matters dealing with the administration of justice by, for example, just serving on a subcommittee or limiting participation to matters directly concerning the courts or the administration of justice. See generally South Carolina Opinion 8-1996, Utah Informal Opinion 94-2 and Alaska Opinion 2001-01.

The Committee noted that this opinion involves conduct subject to Rule 3.4, not Rule 3.2, and that its opinion does not necessarily reflect how the Committee may construe Rule 3.2.

**2011-06 (February 25, 2011)**  
**Disclosure/Disqualification**  
**Rules 1.2 & 2.11, Comment (1) to Rule 2.11**

**Issue:** A Judicial Official has known Attorney General George Jepsen for more than twenty years. They speak on the telephone periodically, and they have socialized at each other's home, most recently approximately one and one-half to two years ago. If Attorney General Jepsen personally appeared in a case before the Judicial Official, the Judicial Official would recuse himself or herself. Does the Judicial Official have a duty to disqualify himself/herself or disclose his/her personal relationship with the Attorney General in any proceeding in which a member of the Office of the Attorney General has filed an appearance?

**Response:** The facts presented included the fact that when an attorney in the Office of the Attorney General files an appearance in a case, the appearance form customarily is prepared using the following format:

Defendant/Plaintiff  
Represented Party's Name  
George Jepsen  
Attorney General  
By: /s/ signature of Assistant Attorney General  
Name of Assistant Attorney General  
Office Address of Assistant Attorney General  
Telephone Number of Assistant Attorney General  
E-mail Address of Assistant Attorney General  
Juris # of Individual Assistant Attorney General

Based upon the information provided, the Committee members in attendance unanimously determined as follows: consistent with Rule 1.2 of the Code of Judicial Conduct, which requires Judicial Officials to act at all times in a manner that promotes public confidence in the impartiality of the judiciary and sets forth the test for "appearance of impropriety", Rule 2.11(a), which requires a judge to disqualify himself or herself "in any proceeding in which the judge's impartiality might reasonably be questioned", and Comment (1) to Rule 2.11, which notes that "a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of subsection (a)(1) through (5) apply", the Judicial Official does not have a duty to automatically disqualify himself or herself when a member of the Attorney General's Office appears; however, the Judicial Official has a duty to disclose his or her personal relationship with the Attorney General to the parties and their counsel. Thereafter, if a motion to disqualify is filed, the Judicial Official must exercise his or her discretion in deciding the motion based upon the information provided in the motion and the accompanying affidavit, as provided for in Connecticut Practice Book § 1-23, as well as the particular circumstances of the case.

**2011-07 (April 19, 2011)**  
**Disclosure/Disqualification; Rule 2.11**

**Issue:** May a Judicial Official preside over a case involving a financial institution seeking to collect on a debt of less than \$100,000 if the Judicial Official owns approximately \$25,000 worth of stock or bonds in the financial institution?

**Response:** Additional facts include that the \$25,000 investment represents a miniscule percentage of the stock or bonds that are issued by the financial institution and that the financial institution is regularly involved in collection litigation. Based upon the information provided, the majority of the Committee concluded that the \$25,000 investment was a prohibited economic interest in a party, because this investment amount was more than an insignificant interest that could not raise a reasonable question regarding the Judicial Official's impartiality. See Code of Judicial Conduct, Rule 2.11(a)(3) (requiring disqualification if a judge has "an economic interest ... in a party to the proceeding"); *Id.*, Terminology (defining an "economic interest" to mean

“ownership of more than a de minimis legal or equitable interest” and defining “de minimis” to mean “an insignificant interest that could not raise a reasonable question regarding the judge’s impartiality.”). The Committee observed that ethics opinions from other jurisdictions in such cases have taken into account diverse factors including the amount, and proportion of the Judicial Official's investment in the institution, the importance of the investment to the Judicial Official, and the potential impact of the proceeding on its value. See Virginia Ethics Advisory Committee Opinion 00-05; Arkansas Judicial Ethics Advisory Committee Opinion 94-08 and Florida Judicial Ethics Advisory Opinion 2010-25. At least two other jurisdictions have set a fixed limit on investments. See Colorado Code of Judicial Conduct (defining “economic interest” as ownership of more than a 1% legal or equitable interest in a party, or a legal or equitable interest in a party of a fair market value exceeding \$5,000, or a relationship as a director, advisor, or other active participant in the affairs of a party) and California Code of Judicial Ethics, Canon 3E (trial judges are disqualified if they have an interest over \$1,500 in a party and appellate judges are disqualified if they have an interest in excess of 1 % or \$1,500, whichever is less.). Although the majority did not consider such factors, the majority did consider relevant the provisions of C.G.S. section 51-46a which require Judicial Officials and others to identify specifically on an annual basis any securities owned that are valued in excess of \$5,000. Based on the information in this case, the majority concluded that, despite the fact that the Judicial Official's investment represented a miniscule percentage of the stock issued, the amount is such that a reasonable question could be raised about impartiality. The Committee further concluded that the Judicial Official may seek remittal of the disqualification in accordance with Rule 2.11(c).

The remaining Committee member believed, based on the facts provided and applying factors from other jurisdictions noted by the majority, that objectively the Judicial Official’s investment interest in the financial institution is de minimis within the terminology of the Code, unless it represents a substantial portion of the Judicial Official’s portfolio. However, that member believed that the Judicial Official should disqualify him/herself from presiding over a case involving the financial institution due to concerns regarding an appearance of impropriety under Rule 1.2 in that reasonable minds, under these facts, may perceive that the ownership interest could influence the Judicial Official’s conduct in the case. Further, if the Judicial Official would receive a direct pecuniary benefit from determining the proceeding, disqualification is required under General Statutes § 51-39(a).

**2011-08 (April 19, 2011)**  
**Disclosure/Disqualification; Rule 2.11**

**Issue:** May a Judicial Official preside over a case involving a financial institution if the Judicial Official owns between \$6,500 and \$7,000 worth of stock or bonds in the financial institution?

**Response:** Additional facts include that the investment represents a miniscule percentage of the stock or bonds that are issued by the financial institution, the financial institution is regularly involved in collection and other litigation, and the investment has generated annual income from less than \$100 to over \$1,000. The Committee considered the foregoing information, the requirement in Conn. Gen. Stat. § 51-46a to specifically identify any securities valued in excess of \$5,000 and the standards adopted in other jurisdictions as to what constitutes de minimis. In order to provide guidance for Judicial Officials as to when an investment is de minimis and, therefore, does not require a Judicial Official to recuse himself or herself, the Committee adopted the following standard: An investment that is (a) five thousand dollars (\$5,000) or less and also (b) one percent (1%) or less in an entity, shall be deemed de minimis, whereas an interest in excess of that amount or that percentage shall be deemed an economic interest unless exempted by the definition of “economic interest” in the Terminology section of the Code of Judicial Conduct. The Committee noted that even when a Judicial Official has a de minimis interest, the Judicial Official must consider whether factors, such as an investment that holds special significance to the Judicial Official, requires disqualification. Furthermore, while an economic interest in the subject matter in controversy or in a party to a proceeding requires disqualification pursuant to Rule 2.11(a)(3), the Committee noted that pursuant to Rule 2.11(a)(2), an economic interest that is not in a party or the subject matter in controversy does not require automatic disqualification unless that interest could be substantially affected by the proceeding. Finally, the Committee concluded that a Judicial Official disqualified in accordance with the above provisions may seek remittal of disqualification in accordance with Rule 2.11(c).

**2011-09 (April 27, 2011)**

**Membership; Event, attendance/appearance; Appearance of Impropriety  
Rule 1.2 and 3.6**

**Issue:** May a Judicial Official serve as a delegate at the annual meeting of an organization that promotes, inter alia, a particular national origin and religious belief, and receive a stipend to offset partially the cost of attending the meeting? As a delegate, the Judicial Official would be expected to vote on policy matters, fiscal outlays, and the election of a new president and new board members.

**Additional Facts:** The Committee considered the following information: (1) the organization has a mission to promote a particular national or ethnic origin and culture, education, philanthropy, and civic responsibility, (2) the organization limits membership to a certain sex a certain age category, and to those who subscribe to a particular religious belief, (3) the organization and/or affiliated entities manage scholarship and charitable foundations, provide leadership and development programs, and run a non-profit housing corporation, (4) the organization and/or affiliated entities engage in political advocacy, both at the national and international level, and (5) the organization and/or its affiliates have approximately one dozen pending cases in Connecticut state courts.

**Response:** Based on the facts presented, including that: (1) the organization practices discrimination because it excludes certain categories of individuals from full membership on the basis of sex and religion, (2) the organization and/or its affiliates are involved in political advocacy, and (3) the organization and/or its affiliates have a significant number of pending cases in Connecticut courts, the Committee concluded that serving as a delegate at the annual meeting would violate Rule 1.2, which states that a judge “should act at all times in a manner that promotes public confidence in the...impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”

The Committee was not specifically asked to determine whether the organization practices or “engages in unlawful discrimination” under Rule 3.6 and no such determination with respect to Rule 3.6 was necessary in light of the other grounds for the response in this instance. The Committee notes, however, that the Committee is not equipped and has not been charged to undertake the kind of fact-finding investigation into the history, background, policies and internal membership that would be required to make such determination. Accordingly, the Committee believes it is the obligation of each Judicial Official to make his or her own determination as to whether an organization to which the Judicial Official belongs practices or engages in “unlawful discrimination.” See New York Advisory Committee on Judicial Ethics Opinion 96-82 (Mar. 13, 1997). Although the Code of Judicial Conduct does not define the meaning of “unlawful discrimination,” the Committee concluded that the Judicial Official may wish to consider the commentary to Rule 3.6 of the ABA Model Code of Judicial Conduct, which in part prohibits “invidious discrimination” on the grounds of sex, religion, national origin, or ethnicity. Comment 2 to Rule 3.6 of the ABA Model Code of Judicial Conduct states as follows

An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization’s current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited.

See *also* New York Advisory Committee on Judicial Ethics Opinion 96-82 (Mar. 13, 1997) (noting that “[i]f the exclusionary practice is reasonably related to a legitimate purpose (i.e., the ‘preservation of religious, ethnic, cultural or other values of legitimate common interest to its members’), membership is not prohibited” but that if “the discriminatory practice is one in which the policy of exclusion is arbitrary, and excludes persons or categories of persons solely on the basis of the characteristic in question, and by reason of such exclusion

stigmatizes such persons or categories of persons solely on the basis of the characteristic in question, ... then the judge must conclude that the discrimination is invidious.”).

Although not included in the inquiry, the Committee observed that the Judicial Official may attend the annual meeting if the Judicial Official determines that his/her membership is permissible under Rule 3.6 as read in the context above noted.

**2011-10 (April 27, 2011)**  
**Extrajudicial Activities; Waiver of Dues;**  
**Rules 1.2, 1.3, 2.4, 3.1, 3.13, 3.14, and 3.15**

**Issue:** A Judicial Official was selected to be a member of a national legal honorary society prior to his or her appointment as a Judicial Official. The society offers to waive the annual dues for all members who are Judicial Officials. May the Judicial Official accept the offer to have his or her dues waived?

**Response:** Additional facts include that the honorary society is highly selective in its membership, is open to practitioners in diverse areas of the law, and is not limited to those that represent a particular class of client (i.e. not limited to plaintiff or defense attorneys). Membership is generally offered as the result of nomination by an existing member and in-house research of potential candidates, followed by a vetting to determine the potential candidate's qualifications. The purposes of the organization are to recognize highly qualified lawyers, provide a forum for scholarly articles of interest to the membership, professional development, promotion of excellence in advocacy and ethics, and excellence in the judiciary by taking positions on issues that impact the litigation process. Membership dues for Judicial Officials are under \$75, while private attorneys pay significantly more. The Committee unanimously determined that membership in the organization did not violate Rules 1.2, 1.3, 2.4 or 3.1. With respect to the waiver of dues, the Committee unanimously determined that it was not a gift, benefit or other thing of value prohibited by Rule 3.13, but rather was a permitted waiver or partial waiver of fees or charges within the meaning of Rule 3.14(a) and, since the value did not exceed \$250, did not have to be publicly reported provided the value of the dues waiver when combined with the value of any other gifts or waivers from that society during the calendar year do not exceed \$250. See Rule 3.15(a)(3). Finally, the Committee noted that (1) if there was a sponsoring member for the Judicial Official to become a member of the society and that member appears before the Judicial Official, the Judicial Official should disclose the relationship for a reasonable period of time, but not less than one year from the date of the recommendation of the Judicial Official for membership in the society; and (2) the Judicial Official should regularly reexamine the activities of the society to determine if it is proper to continue his or her relationship with it.

**2011-11 (May 27, 2011)**  
**Disclosure/Disqualification**  
**Rules 1.2 & 2.11, Comment (1) to Rule 2.11**

**Issue:** As part of an ongoing program launched by a nonprofit entity in partnership with educational institutions, the Judicial Branch and community-based social service agencies, the Judicial Official periodically meets with particular students (one at a time), together with the student's case manager, an attorney provided by the nonprofit entity and sometimes other social service personnel, in an informal setting (typically the student's school) to discuss school related matters and suggest revisions to the individualized plan of services, if necessary. The goal of the program is to address issues early so that the student is not referred to the court.

The Judicial Official recuses himself or herself if a student with whom the Judicial Official has worked appears before him/her in a court case. Does the Judicial Official have a duty to disqualify or disclose to counsel his or her relationship with a nonprofit agency and their attorneys in any proceeding in which a nonprofit attorney has filed an appearance?

**Response:** Based upon the information provided and consistent with JE 2011-06, JE 2010-28, Rule 1.2, Rule 2.11(a), and Comment (1) to Rule 2.11, the Committee agreed that the Judicial Official does not have a duty to automatically disqualify himself or herself when an attorney affiliated with the nonprofit appears. However, the Judicial Official has a duty to disclose the nature of his or her relationship with the nonprofit agency and the nonprofit attorney to the parties and their counsel. Thereafter, if a motion to disqualify is filed, the Judicial Official must exercise his or her discretion in deciding the motion based upon the information provided in the motion and the accompanying affidavit, as provided for in Connecticut Practice Book § 1-23, as well as the particular circumstances of the case. In rendering its decision, the Committee also considered its opinions in JE 2009-40 and JE 2010-35.

**2011-12 (May 24, 2011) – Inquiry Withdrawn**

**2011-13 (June 10, 2011)**  
**Event, attendance/appearance; Bar Association Functions; Gifts**  
**Rules 1.2, 3.1, 3.7, 3.13, and 3.15**

**Issue:** May a Judicial Official attend a bar association's annual meeting and dinner, as a guest of the bar association, if part of the cost of the event is paid for by sponsors one or more of whom regularly appear before the Judicial Official?

**Response:** Additional facts include that the event is not a fundraiser, that attorneys pay a fee to attend, that attendance of more than one hundred people (including several Judicial Officials) is expected, and that business conducted at the annual meeting includes, at a minimum, the election of officers and board members. Notice of the meeting indicates that a former court employee will be

recognized for his service to the bench and bar. The Committee unanimously determined that attendance at the meeting and dinner as a guest of the bar association would not violate Rule 1.2 because it would not create in reasonable minds a perception that the Judicial Official had violated the Code of Judicial Conduct or engaged in other conduct that reflected adversely on the Judicial Official's honesty, impartiality, temperament or fitness to serve as a Judicial Official. The Committee further concluded that attendance at the event was consistent with Rules 3.1 (extrajudicial activities), 3.7 (participation in education, religious, charitable, fraternal or civic organizations and activities), and 3.13(c)(2)(A), which specifically permits a Judicial Official to "attend without charge ... an event associated with a bar related function or other activity relating to the law, the legal system, or the administration of justice," provided that acceptance of the gift is not otherwise prohibited by law and would not appear to a reasonable person to undermine the Judicial Official's independence, integrity or impartiality. Based upon the foregoing, the Committee concluded that the Judicial Official may attend the annual meeting and dinner as a guest of the bar association subject to the following conditions: (1) the Judicial Official does not discuss any pending or impending cases in any court, (2) the Judicial Official does not personally believe that attendance as a guest of the bar association would create an appearance of impropriety, and (3) if required to do so pursuant to Rule 3.15, the Judicial Official reports the gift.

**2011-14 (June 24, 2011)**

**Website Answer Board Expert; Name, Use of Rules 1.3, 2.10, 2.11, 3.1, 3.7, 3.10**

**Issue:** May a Judicial Official serve and be listed as a subject matter expert for an electronic "answer board" operated by a nonprofit and non-partisan organization and, if so, may the Judicial Official (1) provide quotes and (2) include his or her judicial position as part of the personal description of the expert that is posted on the answer board?

**Response:** Additional facts include that the answer board was established to provide general information on various legal and constitutional subjects to journalists and to explain procedural issues to help journalists understand the law and report more accurately. The answer board experts may be asked to provide quotes on subjects such as particular aspects of the Constitution and constitutional law.

The Committee members in attendance, having considered this Committee's opinion in JE 2008-25, unanimously determined that the Judicial Official may serve as a subject matter expert for the electronic "answer board" and may include his or her judicial position in his or her personal description on the answer board, subject to the following conditions:

- the participation does not interfere with the Judicial Official's judicial duties (see Rule 3.1(1));

- the Judicial Official does not give opinions which would cast doubt on the Judicial Official's impartiality (see Rule 3.1(3));
- the Judicial Official is careful not to express opinions or answer questions in a way that would indicate that the Judicial Official has a predisposition with respect to particular cases (see Rule 2.11(a));
- the Judicial Official's responses are factual and instructive about the subject matter but do not include comments about any pending or impending matters (see Rule 2.10);
- the Judicial Official does not provide legal advice (see Rule 3.10);
- the Judicial Official monitors the website to ensure that it does not link to commercial (or advocacy group) websites (see Rule 1.3);
- the Judicial Official stays abreast of the features of the answer board website for new developments that may impact his or her duties under the Code of Judicial Conduct; and
- the Judicial Official retains the right to review and pre-approve the use of any biographical information about the Judicial Official listed on the answer board or used to promote it (see Rule 1.3).

Finally, with respect to the Judicial Official's inquiry about the propriety of providing quotes that are attributed to the Judicial Official, the Committee determined that the Judicial Official may do so provided that he or she complies with the above noted conditions.