Committee on Judicial Ethics
Teleconference
Monday, May 3, 2010

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Linda K. Lager, Vice Chair, Judge Robert J. Devlin, Jr., Judge Francis X. Hennessy and Associate Professor Jeffrey A. Meyer. Staff present: Viviana L. Livesay, Esq., Assistant Secretary.

MINUTES

I. With the above noted members present, Justice Schaller called the meeting to order at 1:03 p.m. Although publicly noticed, no members of the public attended.

II. The Committee members present unanimously approved the draft Minutes of the April 12, 2010 meeting.

III. The Committee considered Judicial Ethics Informal Opinion 2010-09 concerning whether a Judicial Official must recuse him/herself from presiding in a family case on the basis that a party has testified before the legislature in opposition to the Judicial Official’s reappointment. Based upon the information provided, the Committee unanimously determined that a Judicial Official is not automatically disqualified from sitting on a proceeding merely because a party to the proceeding has testified against a Judicial Official at his/her legislative reappointment hearing. 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 whether to recuse, sua sponte, if under the circumstances the Judicial Official concludes that his/her impartiality could reasonably be questioned. Finally, if the Judicial Official continues on the case and a motion to disqualify is filed, the Judicial Official will, of course, have to undertake the appropriate steps to determine the disqualification issue as presented.

IV. The Committee tabled consideration of Judicial Ethics Informal Opinion 2010-10 until the next meeting.

V. The Committee scheduled the next teleconference meeting for Thursday, May 6, 2010 at 9:30 a.m.

VI. The meeting adjourned at 1:15 p.m.