

Committee on Judicial Ethics  
Teleconference  
Monday, July 27, 2009

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Linda K. Lager, Vice Chair, Judge Socrates Mihalakos and Associate Professor Jeffrey A. Meyer. Staff present: Martin R. Libbin, Esq., Secretary, Viviana L. Livesay, Esq., Assistant Secretary.

**MINUTES**

- I. With a quorum present, Justice Schaller called the meeting to order at 9:31 a.m. One member of the public attended after the start of the meeting.
- II. The participating members of the Committee unanimously approved the draft Minutes of the July 9, 2009 meeting.
- III. The participating members of the Committee considered Judicial Ethics Informal Opinion 2009-24 and 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.

IV. The meeting adjourned at 9:37 a.m.