

## Committee on Judicial Ethics

### Annual Report for January 1 – December 31, 2009

**Membership.** The Committee on Judicial Ethics, which began operating on August 1, 2008, continued its work throughout 2009. The membership remained constant for the first eleven months of the year, consisting of the following: Hon. Barry R. Schaller, Chair; Hon. Linda K. Lager, Vice Chair; Hon. Robert J. Devlin; Hon. Socrates H. Mihalakos; and Professor Jeffrey A. Meyer, members. Attorney Martin R. Libbin served as Secretary to the Committee, and Attorney Viviana L. Livesay, as Assistant Secretary. After Judge Mihalakos, who was appointed by the Chief Justice to a new term in September, submitted his resignation in December, the Chief Justice appointed Judge Francis X. Hennessy to fill the unexpired portion of the three-year term. The members and staff of the Committee wish to commend Judge Mihalakos for his vital contributions to the work of the Committee during his tenure. His knowledge of and sensitivity to the ethical responsibilities of judges, combined with his practical understanding of the role of a judge, was important beyond measure as the Committee did its work during the first year and a quarter of its existence. His collegiality and energy brightened the Committee's meetings as his wisdom illuminated its decision-making.

**Policy and Rules.** No changes were made to the Committee's Policy and Rules during 2009.

**Webpage and Other Means of Publicizing the Work of the Committee.** During 2009, the Committee and its staff developed a Subject Index of Advisory Opinions for all opinions. The Index, which is posted on the webpage, contains cross-referenced subject matter keywords to facilitate search of all the Committee's opinions. The Index is updated and maintained regularly upon approval of the Minutes of each meeting.

The Committee participated in the 2009 Connecticut Judges Institute with presentations by Hon. Barry R. Schaller and Hon. Linda K. Lager that informed the attendees about the Committee's procedures and substance of its decisions to that point. In addition, the Committee, working with the Connecticut Judges Institute, arranged for a lecture by Attorney Cynthia Gray, director of the Center for Judicial Ethics of the American Judicature Society, one of the country's leading experts on judicial ethics. Attorney Gray presented a lecture highlighting leading issues in judicial ethics with particular reference to Connecticut issues. The Committee and staff met informally with Attorney Gray for a discussion following the presentation.

**Activity.** During 2009, the Committee received forty requests for opinions. In response, the Committee issued thirty-eight informal opinions and one formal opinion; one request was tabled awaiting further information from the Judicial Official. Seven of those were issued on an emergency basis. In each instance of an emergency opinion, Committee members circulated comments on the request and the Secretary consulted with the

Chair regarding the informal opinion to be conveyed to the Judicial Official.

As with the preceding year, most requests, by far, involved off-the-bench activities. In fact, all but six requests concerned off-the-bench activities. Of the six requests that related to on-the-bench conduct, two concerned conduct of courtroom staff matters and four involved present or prior relationships with attorneys potentially appearing before the Judicial Official. Of the thirty-three requests involving off-the-bench activities, seven involved letters of recommendation or other references of individuals; six involved participation in fundraising events; five involved issues pertaining to serving on boards of public or private organizations; five involved inquiries involving public appearances and/or attending social or political events; four involved educational activities; and two involved acceptance of awards or honors or gifts. The remaining requests concerned a variety of matters including issues arising out of prior law practice, legal advice to a family member, purchasing an ad in a charitable program, and appearing on a list of Judicial Officials willing to perform marriages. The formal opinion concerned membership on the board of a non-profit organization. Many of the requests involved more than one subject and also involved recusal issues along with other subjects.

With its expanding base of opinions, the Committee began to draw on its prior opinions in responding to requests, in addition to drawing on the opinions of ethics advisory committees of other jurisdictions. The Committee noted, in addition, that the subjects of inquiries during 2009 revealed that Judicial Officials are paying close attention to the body of past opinions and some are seeking elaboration or clarification as to the application of prior opinions. The requests demonstrated a growing sophistication on the part of our Judicial Officials in seeking opinions as to increasingly nuanced and complex issues, reflecting sensitivity with respect to and concern for ethical conduct. The recent request concerning Temporary Assistant Clerks, 2009-36, for example, was specifically based on clarification and extension of a prior opinion, 2009-20. The Committee is hopeful that this development indicates that Judicial Officials are benefiting from ready access to the Summaries of Informal and Formal Opinions and the cross-referenced Subject Matter Index, as well as the minutes of Committee meetings.

Since several requests concerned matters that involved more than one Judicial Official, such as invitations to participate in educational programs, the Committee made efforts to inform and coordinate with the Chief Court Administrator so that access to the existence of pending requests in addition to the opinions themselves would be maximized at the earliest possible time. In addition, the Committee has made administrative suggestions to the Chief Court Administrator concerning matters affecting all members of the bench. All Committee members receive monthly updates from the ethics director of the American Judicature Society. The Committee intends in the future to create and post on the webpage a section highlighting Frequently Answered Questions in order to increase ease of access to the body of knowledge about common situations that Judicial Officials encounter.

The members of the Committee join in thanking and commending the Secretary and Assistant Secretary for their excellent professional assistance in the work of the

Committee.

**Recommendations.** Due to the importance of continuing education as to ethical issues, the Committee recommends that ethics components be included on a regular basis in the CJI program. The Committee welcomes suggestions as to how it can improve its website in order to insure effective access to the growing body of ethical opinions.

**Conclusion.** The Committee is dedicated to providing accurate, timely, and effective ethics opinions for the guidance of Judicial Officials while also paying close attention to maximizing the privacy of Judicial Officials who submit requests.

January 13, 2010

Respectfully submitted,  
Barry R. Schaller, Chair