



Connecticut Committee on Judicial Ethics

Informal Opinion Summaries

2016-03 (Emergency Staff Opinion Issued April 1, 2016)

Recommendations; Disclosure/Disqualification; Rules 1.2 & 1.3.

Issue: May a Judicial Official provide a letter of recommendation directly to the Office of the Chief Public Defender (“OCPD”) for an attorney who regularly appears before the Judicial Official? The Judicial Official indicated that although the OCPD is the recipient of the letter, the Public Defender Services Commission (“Commission”) is the appointing authority.

Additional Facts: The Judicial Official knows the attorney and has personal knowledge of his/her qualifications. If the attorney is hired for the supervisory public defender position, it is anticipated that the attorney will continue to appear before the Judicial Official in the future. The Judicial Official sits in one of the smaller Judicial Districts and handles criminal matters. Public defenders regularly appear before the Judicial Official.

According to the Public Defender Services Division’s 2015 Annual Report, “[a]s established by statute, the Division is made up of three separate components: a Commission responsible for policy-making, appointments of all personnel and compensation matters; an Office of the Chief Public Defender charged with statewide administration of the public defender system and the provision of specialized legal representation; and the individual public defender offices providing legal services throughout the State to indigent persons accused of crimes as required by both the United States and Connecticut Constitutions.”

The Division’s policy on “Recruitment/Hiring/Advancement” (Section 205 of OCPD’s Administrative Policy and Procedures Manual) is included in [Appendix – 2016-03](#).

Relevant Code Provisions: Rule 1.2 of the Code 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 test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge’s honesty, impartiality, temperament, or fitness to serve as a judge.”

Rule 1.3 of the Code states that a judge “shall not use or attempt to use the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.” The Commentary to Rule 1.3 states, in relevant part, as follows:

(2) A Judge may provide a reference or recommendation for an individual based on the judge’s personal knowledge. The judge may use official letterhead if the judge indicates that the reference is personal and if the use of the letterhead would not reasonably be perceived as an attempt to exert pressure by reason of judicial office.

Response: This inquiry was circulated to the Committee members and their input was solicited and received. Based upon the facts presented, including that the applicant and public defenders regularly appear before the Judicial Official, the applicant is likely to continue to appear before the Judicial Official if he/she is hired for the new position, the Judicial Official handles criminal matters in a small Judicial District, and the OCPD and the Commission are intricately involved in the employment selection and interview process and confer with each other on the selection of candidates, as described in Policy 205, the Judicial Official was advised that he/she should not provide the letter because its submission would require frequent recusal, both presently and in the future with respect to any case handled by the Division Public Defender Services.

In reaching this decision, the Committee considered its prior opinions in: [JE 2012-27](#) (Judicial Official may, with conditions, provide a letter of recommendation directly to the Office of the Chief Public Defender for an attorney who was applying for a

supervisory public defender position. The attorney applicant did not currently appear before the Judicial Official, nor did the Judicial Official anticipate that the appointment of the attorney to the position sought would result in the attorney appearing before the Judicial Official in the future): [JE 2009-15](#) (Judicial Officials who serve as juvenile matters judges should decline to serve as evaluators or references in response to a form request from the Child Protection Attorney because participation in this process would require recusal both presently and in the future) and [JE 2013-32](#) (Judicial Official should not consent to the use of his/her name as a reference because the employee and employee's current agency regularly appear before the Judicial Official in adversarial proceedings.)

Appendix – 2016-03

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