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JUDICIAL PERFORMANCE EVALUATION PROGRAM ADVISORY PANEL SUBCOMMITTEE ON BIAS

Minutes of September 7, 2011 Meeting

On Wednesday, September 7, 2011, the Judicial Performance Evaluation Program Advisory Panel Subcommittee on Bias held its second meeting at the Superior Court Operations Administrative Office Building, 225 Spring Street, Room 4B, Wethersfield, Connecticut.

In attendance were: Hon. Robert J. Devlin, Chairperson, Hon. James W. Abrams, Hon. Patrick L. Carroll, III, Hon. Patrick J. Clifford, Attorney Kevin T. Kane, Hon. Kevin A. Randolph, Attorney James T. Shearin, Attorney Susan O. Storey, Hon. Hilary B. Strackbein

Others in attendance: Attorney Faith P. Arkin, Attorney Lee J. Helwig and a member of the public.

I. Opening

Judge Devlin called the meeting to order at 2:12 p.m.

II. Introduction

Judge Devlin reintroduced members of the subcommittee. Judge Devlin informed the subcommittee that this would likely be the final meeting of the subcommittee, since the subcommittee is expected to report its recommendations to the full Judicial Performance Evaluation Program (JPEP) Advisory Panel at a meeting which will be scheduled for October 2011.

III. Discussion

Judge Devlin briefly reviewed how questions on equal treatment and fairness had been incorporated into the Judicial Performance Evaluation Program questionnaires in the past. Judge Devlin stated that the subcommittee's efforts are purposed to collect information in a way that is fair to judges and the people who evaluate judges.

The subcommittee discussed the need for an evaluative tool that is appropriate in the era of blogging. The subcommittee discussed the possible misuse of questions on equal treatment and fairness by those who evaluate judges. The subcommittee discussed how questions on equal treatment and fairness might be enhanced, including potentially providing for the inclusion of comments, to provide information that supports the goal of improving the performance of judges and is also useful in the reappointment process.

The subcommittee considered different questions on equal treatment and fairness that may be integrated into Judicial Performance Evaluation Program questionnaires. The length of questions and the language used in phrasing questions was discussed. The subcommittee determined that it would recommend two questions with regard to equal treatment and fairness. The subcommittee determined that one question would address fairness and a "not applicable" response option to that question would not be provided. The second question would address both equal treatment and impartiality. With regard to the second question, the subcommittee discussed adopting language similar to that set forth by the ABA, which incorporates into the text of the question language illustrative of areas where a judge might demonstrate equal and impartial treatment, e.g., membership in a protected class. Alternatively, the subcommittee discussed using a general question regarding equal treatment and impartiality to be immediately followed by a request that any negative responses be supported with an additional response regarding a specific area of concern. Areas of concern include membership in a protected class, as set forth in the Connecticut General Statutes, and partiality toward either side in a proceeding. The majority of the subcommittee expressed a preference for a more general second question to be followed by the immediate request for an additional supporting response.

IV. Approval of Minutes of July 7, 2011 Meeting

The subcommittee unanimously approved the minutes of the July 7, 2011 meeting.

V. Next Steps

Draft questions which incorporate the discussion of the subcommittee, above, will be prepared and circulated among the subcommittee members.

VI. Adjournment

The meeting adjourned at 3:37 p.m.