

**Minutes of Public Access Task Force  
Committee on Access to Meetings and  
Judicial Branch Administrative Records  
June 21, 2006**

Members in attendance: Mr. Zach Lowe, Judge Aaron Ment, and Atty. Alan Neigher

Meeting called to order at 2:25 PM by Judge Ment.

Attorney Stephen Nevas, an attorney experienced in the areas of First Amendment and media access law, was invited to attend the committee meeting to provide input.

The first item on the agenda was the review and approval of the minutes, which were distributed to all members of the committee. After review, the minutes were approved.

A proposed definition of "meeting" was distributed to the members of the committee. (A copy of that definition is attached to and incorporated into these minutes.) This proposal is a working document. Atty. Nevas suggested that the committee include in its definition "and any subcommittee thereof" in connection with the listing of committees that the committee believes should be open to the public. In Section (a) (1) – (4) of the definition, committees were specifically listed; Sections (a) (5) and (6) listed types of meetings that were included. A discussion ensued and Atty. Neigher raised the question of including examples of the types of meetings that were generally described, specifically in connection with (a) (6) of the document. Judge Ment indicated that this section was intended to include the decision-making committees that are part of the Branch. If the committee approves this definition in whole or in part, Legal Services would add a series of notes and examples to elaborate on the definition and then seek the approval of the entire committee. This definition will be reviewed at the next meeting.

The second page of the handout (copy attached to and incorporated into these minutes) listed Judicial Branch Committees, Commissions and Boards that are not open to the public pursuant to statute or rule.

The third page of the document includes a list of Judicial Branch Committees, Commissions and Boards that are not specifically addressed in the statutes or rules. These are ad hoc committees that function at different times at the request of the chief court administrator. A discussion regarding the function of these committees and the issue of public access to the meetings of these groups ensued.

After discussion, it was determined that The Advisory Committee to the Judicial Department concerning Parenting Education Programs, the Annual Meeting of the Judges, the Appellate Court Rules Committee, the Bar Examining Committee, the Executive Committee, the Law Library Advisory Committee, the Legal Internship Committee, the Legal Specialization Screening Committee, the State Advisory Council to the Office of Victims Services, and the Superior Court Rules Committee should be open to the public. The Judicial Performance Evaluation Program Advisory Panel has no meetings.

The remaining committees, commissions, and boards were then discussed. A discussion ensued as to the functions of these groups, including the Board of Examiners for Court Reporters, the Civil Commission, the Civil Jury Instruction Committee, the Code of Evidence Oversight Committee, the Criminal Task Force, and the e-filing Judges Advisory Committee, and the Education Committee. The discussion also encompassed whether the functions would bring these groups into the definition of a meeting, and therefore, open to public access. Exceptions to openness of meetings would be narrow. The staff will provide the committee with a paragraph on the functions of each of these groups so that a meaningful discussion can take place at the next meeting.

There was then a discussion about the Education Committee which provides education and training for the judges. The consensus, after the discussion, was that this committee should not be open to the public.

The next item on the agenda was the administrative record. Attorney Neigher indicated that he would gather the various definitions of what is and is not an administrative record and prepare a draft for the committee to discuss at its next meeting. Reference was made to the discussion at the last meeting regarding what constitutes an administrative record. The general definition in the minutes states that an administrative record would relate to and arise out of the business of the judicial branch, and relate to its functions, including the budget, personnel, facilities, and physical operations of the branch.

A discussion ensued as to what administrative records would be open to public access. Essentially, as to records that do not involve the judges, everything is open, unless it is specifically closed by statutes. With respect to administrative records involving the judges, there is little disagreement except for two or three areas of uncertainty. The first area is judges' attendance records. These records should probably be available without question. The next area involves complaints against judges that are mailed to the Chief Court Administrator. Based upon past experience, there are two kinds of complaints received by the Chief Court Administrator: one, signed and specific; the other, anonymous and nonspecific. In the past, those that were specific were reviewed and resolved, but those that were nonspecific and anonymous could not be resolved and, therefore, were disposed of. The complaints were not retained once action was taken on them. The committee must consider how these complaints should be handled.

The current procedure is that approximately 99% of the complaints are handled by Judge Mack. These complaints might include complaints that a judge did not permit an individual enough time to talk or that the judge looked "distracted." Any complaint that rises to the level of misconduct is referred to the Judicial Review Council. These complaints are one issue to think about. The other issue is the Judicial Performance Evaluation Program forms. This program requests that lawyers anonymously file forms evaluating the judge after a trial or a hearing of more than one hour. The forms are not kept, but the data is entered into a program. Once there are a sufficient number of evaluations (more than 25), a report is generated and there is a meeting with the judge regarding the evaluations. Currently these forms are available only to ranking members and chairs of the Judiciary Committee at the time a judge is reappointed. No other constitutional officers have evaluations that are public. The evaluations are used for self-improvement, judicial education, and assignments. The argument against opening

these records to the public is that the forms are anonymous and there is potential for abuse because the evaluations are not provided by unbiased people. The question was raised as to whether there should be a difference in the treatment of the evaluation forms themselves and the record created from those evaluation forms. An additional point was made that these evaluations are currently done by the agreement of all sides. Since the evaluations are not made public, there is less pressure on the judges to please anyone; they simply do their jobs. These evaluations are a valuable tool in improving a judge's performance, but there is potential for abuse of the evaluations at the time of reappointment. The right decision might not result in favorable evaluations. The suggestion was made that complaints to the Chief Court Administrator might be made open, while the anonymous evaluation forms would remain closed to the public. This matter will be discussed further at the next meeting.

Attorney Neigher remarked that the committee working drafts must be finished by August 3<sup>rd</sup>. The next meetings of this committee will be on June 28<sup>th</sup> at 3:30 PM and on July 5<sup>th</sup> at 3:30 PM.

Judge Ment then reviewed the list of issues from the first meeting of the Task Force. A review of the issues indicated that the committee was responding to the questions raised as it proceeds with its discussions. Certain issues, including videoconferencing and privacy issues, will be discussed at subsequent meetings.

Francis Knize, a member of the public, briefly addressed the committee regarding various concerns about public access to meetings and records based on his own experiences. He said that complaints against judges should be open to the public, but he agreed that complaints without signatures should not be included for public access. Mr. Knize also suggested that the definition of "misconduct" be improved, and that where a judge is breaking the law, the records should be public. He also indicated that he was seeking the same kind of electronic access for pro se litigants as is provided to attorneys.

There was a motion to adjourn at 3:30 PM.

Definition of "Meeting"

- (a) For purposes of this provision, a "meeting" is defined as a hearing or other proceeding of (1) the Rules Committee of the Superior Court, (2) the Appellate Court Rules Committee, (3) the Annual Meeting of the Judges of the Superior Court, (4) the Executive Committee of the Superior Court, (5) any other meeting of the judges concerning an administrative function of the Judicial Branch, or (6) a multi-member Judicial Branch entity established by Practice Book rule or statute.
- (b) A meeting as defined in subsection (a) shall not include: any meeting of a personnel search committee for executive level employment candidates; any chance meeting, or a social meeting neither planned nor intended for the purpose of discussing matters relating to official business; strategy or negotiations with respect to collective bargaining; an administrative or staff meeting of a single-member public agency; and communications limited to notice of meeting of any public agency or the agendas thereof. A quorum of the members of a committee included within the definition of a meeting in subsection (a) who are present at any event other than a meeting of the committee of which they are a member shall not be deemed to be at a meeting of that committee provided that no discussion of official business related to their committee occurs.
- (c) Except as otherwise provided by statute or Practice Book rule, any meeting as defined in subsection (a) shall be open to the public. Notice of the time and place of such a meeting, as well as a copy of the agenda for such a meeting, shall be posted on the Judicial Branch Internet website at least 48 hours in advance of the meeting.

List of Judicial Branch Committees, Commissions and Boards

The meetings of the following are not public pursuant to statute or rule:

Client Security Fund Committee (Practice Book Section 2-72). Proceedings are confidential pursuant to Practice Book Section 2-76 until the committee authorizes a disbursement to the claimant.

Grievance Panels (C.G.S. § 51-90b; Practice Book Section 2-29). C.G.S. § 51-90b makes the proceedings confidential unless the attorney under investigation requests they be made public. Practice Book Section 2-35(c) provides that only hearings following a determination of probable cause shall be public.

Investigatory Grand Jury Panel (C.G.S. § 54-47b). C.G.S. § 54-47e requires that the panel's investigation be conducted in private, but the panel may order the investigation or any part of it to be public if the panel deems this to be in the public interest.

Lawyer's Assistance Program Advisory Committee (C.G.S. § 51-81d). C.G.S. § 51-81d (f) makes all information given or received, including the identity of any attorney seeking or receiving assistance, confidential.

Statewide Grievance Committee (C.G.S. § 51-90; Practice Book Section 2-33). Practice Book Section 2-35(c) makes only hearings following a determination of probable cause public.

Wiretap Panel (C.G.S. § 54-41a (8)). C.G.S. § 54-41j requires the panel to seal applications and orders.

Judicial Branch Committees, Commissions and Boards

With the exception of the FOIA, to the extent it applies to any particular branch committee, commission or board, statutes and rules do not address whether meetings of the following groups are open to the public:

Advisory Committee to Judicial Department Concerning Parenting Education Programs (C.G.S. § 46b-69c)

Annual Meeting of Judges (administrative authority)

Appellate Court Rules Committee (authority: Supreme Court Justices and Appellate Court Judges)

Bar Examining Committee (Practice Book Section 2-3)

Board of Examiners for Court Reporters (authority: Judges of the Superior Court)

Civil Commission (administrative authority)

Civil Jury Instruction Committee (administrative authority)

Criminal Jury Instruction Committee (administrative authority)

Code of Evidence Oversight Committee (administrative authority)

Criminal Task Force (administrative)

E-filing Judges' Advisory Committee (administrative authority)

Education Committee – CT Center for Judicial Education (administrative)

Executive Committee (administrative)

Judicial Performance Evaluation Program Advisory Panel (authority: administrative; directive from the Chief Justice)

Law Library Advisory Committee (authority: Supreme Court Policy)

Legal Internship Committee (Practice Book Section 3-19)

Legal Specialization Screening Committee (Rules of Professional Conduct 7.4B)

State Advisory Council to the Office of Victim Services (C.G.S. § 54-203)

Superior Court Rules Committee (authority: Judges of the Superior Court)