

Committee on Judicial Ethics

Annual Report for January 1 - December 31, 2011

Membership. The Committee on Judicial Ethics, which began operating on August 1, 2008, continued its work throughout 2011. The membership remained constant during the first three months of the year, consisting of the following members: Hon. Barry R. Schaller, Chair; Hon. Linda K. Lager, Vice Chair; Hon. Edward R. Karazin; Hon. Francis X. Hennessy; and Professor Jeffrey A. Meyer. Attorney Martin R. Libbin continued to serve as Secretary to the Committee, and Attorney Viviana L. Livesay, as Assistant Secretary. After Judge Lager undertook additional judicial responsibilities, the Chief Justice appointed Hon. Maureen D. Dennis to a full three-year term.

The Chief Justice also reappointed Hon. Barry R. Schaller to a second three-year term. In addition, the Chief Justice appointed Hon. Thomas J. Corradino as an alternate member and Hon. Edward R. Karazin, as Vice Chair of the Committee. The members and staff of the Committee wish to commend Judge Lager for her outstanding contributions to the work of the Committee during her tenure. Her knowledge and appreciation of the ethical responsibilities of judges, together with her practical understanding of the role of judges, enabled her to play a major role as Vice Chair in the operation of the Committee from its inception. Her spirit of collegiality and her notable contributions to the drafting of opinions supported her principled approach to the ethical inquiries received by the Committee.

Policy and Rules. At the recommendation of the Committee, on February 14, 2011, the Chief Justice modified Section 10 of the Policy and Rules in order to clarify the process for the reconsideration of informal opinions.

Committee Webpage. During 2011, the Committee and its staff, with the assistance of Jennifer Ensign, undertook a major revision of the Committee's Webpage in order to enable judicial officials and others to locate pertinent opinions. The changes included adding a custom search function to give users the ability to search opinions by entering a key term, phrase or opinion number, adding introductory prologue language and organizing advisory opinions by year, as well as by subject, with links to corresponding opinions.

Activity. During 2011, the Committee received thirty-one requests for opinions, many of which consisted of multiple subjects. In response, the Committee issued twenty-nine informal opinions and one formal opinion. One request was withdrawn. Two of these opinions were issued on an emergency basis after the Secretary consulted with the Chair and Committee members circulated comments on the requests. In each instance, the Committee discussed and approved the opinions at subsequent meetings.

Approximately one-third of the requests concerned on-the-bench activities. All but one of those concerned recusal or disclosure of prior relationships with attorneys or others who were likely to appear before Judicial Officials. (2011-01, 2011-06, 2011-07, 2011-

08, 2011-11, 2011-16, 2011-18A, 2011-18B, 2011-20, 2011-22, 2011-24, 2011-25) The additional one concerned the permissibility of allowing a particular court employee to serve in the Judicial Official's courtroom. (2011-27)

The inquiries that concerned off-the-bench activities raised a wide variety of issues. Six matters, including the Formal Opinion, pertained to serving on governmental commissions. (2011-02, 2011-03, 2011-04, 2011-05, 2011-15, 2011-21) Six concerned the permissibility of participating in other types of extrajudicial organizations or activities. (2011-09, 2011-13, 2011-14, 2011-17, 2011-25, 2011-28) Three involved providing recommendation letters for individuals. (2011-01, 2011-19, 2011-30) One concerned the acceptance of an award or honor. (2011-29) One involved participating in a charitable activity. (2011-28) One concerned post-retirement employment (2011-18A and 18B) and one pertained to conduct as a judicial nominee. (2011-26) The remaining requests concerned matters including accepting discounted membership or admission fees. (2011-09, 2011-10, 2011-23) One involved the suitability of a method of compensation for participating in an educational program. (2011-31)

The Committee observed that the subjects of inquiries during 2011, as in the previous year, revealed that Judicial Officials continue to pay close attention to the growing body of formal and informal opinions and some seek clarification or expansion of matters covered in past opinions. Judicial Officials, for the most part, do not ask about matters that were prevalent in 2008 and 2009 but, rather, appear to rely on past opinions to guide their conduct. The requests during 2011 consist of increasingly nuanced and complex subjects, reflecting heightened sensitivity with respect to and concern for ethical conduct.

The Committee is encouraged that this development indicates that Judicial Officials are benefitting from access to the summaries of Informal and Formal opinions and the cross-referenced Subject Matter Index, as well as the minutes of Committee meetings. While encouraging Judicial Officials to consult the webpage regularly, the Committee continues to urge that Judicial Officials should not hesitate to present inquiries whenever they have concerns, regardless of the subject matter or the complexity of the issue.

Since several requests involved matters that could affect more than one Judicial Official, the Committee continued to make efforts to inform and coordinate with the Chief Court Administrator so that access to the requests and opinions would be maximized at the earliest time. All Committee members receive monthly updates from the ethics director of the American Judicature Society.

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. The Committee again recommends that ethics components be included on a regular basis in the CJI program. The Committee also welcomes

suggestions as to how it can further improve its website 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 maximizing the privacy of Judicial Officials who submit requests.

January 16, 2012

Respectfully submitted,

Barry R. Schaller, Chair