

Committee on Judicial Ethics  
Teleconference  
Friday, October 21, 2011

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Edward R. Karazin, Jr., Vice Chair, Professor Jeffrey A. Meyer, Judge Maureen D. Dennis and Judge Thomas J. Corradino, Alternate. Staff present: Viviana L. Livesay, Assistant Secretary.

**MINUTES**

- I. With the above noted members present, Justice Schaller called the meeting to order at 9:33 a.m. Although publicly noticed, no members of the public attended.
- II. The Committee members present unanimously approved the Minutes of the October 7, 2011 meeting.
- III. The Committee considered Judicial Ethics Informal 2011-25. The facts are as follows: A Judicial Official has been asked by an executive branch staff agency to provide information regarding the Judicial Official's prior service as an employee of the agency. The agency is seeking to create a historical record on its website for purposes of documenting the leadership the agency has had over the years. In addition to basic biographical questions, the agency has requested the Judicial Official to "to add a paragraph or two about some of the significant issues you faced, or anything else that you consider important during your service." May the Judicial Official provide information regarding his/her tenure with a state agency for publication on the agency's website without violating the Code of Judicial Conduct? If it is permissible to provide the requested information, are there any restrictions the Judicial Official must follow?

Based on the facts presented, including that the historical information serves an educational purpose not conducted for profit and consistent with the limitations of Rules 1.2, 1.3, 2.11 and 3.1, the Committee members present unanimously concluded that the Judicial Official may answer the agency's questions regarding the Judicial Official's prior state service subject to the following conditions:

1. The Judicial Official maintains editorial control over the content of his/her responses and retains the right to review and pre-approve any biographical information about the Judicial Official that may be published on the agency's website;
2. The Judicial Official takes care not to express political opinions or statements, or answer questions in a way that would cast doubt on the Judicial Official's impartiality or fairness or undermine public confidence in the independence, integrity, or impartiality of the judiciary;
3. The Judicial Official's responses are factual and instructive but do not

include comments about any pending or impending matters that would run counter to the proscriptions of Rule 2.10;

4. In addition, when the agency appears before the Judicial Official, the Judicial Official should disclose for a reasonable period of time, which is not less than two years from the date of the Judicial Official's commencement of service as a judge, that he or she was previously employed by the agency and has written historical information which appears on the agency's website. See JE 2008-21. Also, where the historical information includes a discussion of the Judicial Official's perspective on significant issues which he or she faced while at the agency, that fact should be disclosed to the litigants in any case that comes before the Judicial Official that raises the same or similar issues.

Furthermore, if a party requests that the Judicial Official recuse himself or herself, the Judicial Official, after considering the facts, law and argument of counsel, must exercise his or her discretion in accordance with Rule 1.2 and 2.11 in deciding whether to grant the motion.

IV. The meeting adjourned at 9:51 a.m.