

Committee on Judicial Ethics
Teleconference
Thursday, July 12, 2012

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: Attorney Martin R. Libbin, Secretary and Attorney Viviana L. Livesay, Assistant Secretary.

MINUTES

- I. With the above noted Committee 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 June 1, 2012 meeting.
- III. The Committee ratified Emergency Staff Opinions JE 2012-08, JE 2012-09, JE 2012-17, JE 2012-19 and JE 2012-20. (Justice Schaller abstained from voting on Emergency Staff Opinion JE 2012-20.)
- IV. The Committee discussed Judicial Ethics Informal 2012-18 concerning whether a Judicial Official may attend a luncheon meeting and accept a meal paid for by a Judicial Branch non-profit contractor who is participating in the meeting.

The Judicial Branch's Court Support Services Division (CSSD) organizes and conducts luncheon meetings at various courthouses at which it provides updates regarding various CSSD services. In addition, local nonprofit contractors for CSSD which provide services for court clients are present and provide updates on their services.¹ Those invited to the meetings include CSSD personnel, prosecutors, public defenders and judges. CSSD's contractors pay for the lunch (sandwich, etc.) that is offered to all participants. CSSD has estimated the cost of the lunch at approximately ten dollars.

While the Judicial Official does not ordinarily direct that a party attend a program offered by a specific CSSD contractor, the Judicial Official has the authority to do so. In addition, if the Judicial Official directs that a party be evaluated and receive services in accordance with the evaluation, depending upon the issue for which the client is evaluated, there may only be a single contractor that services clients in that judicial district. The

¹ The contractors are selected pursuant to an open and competitive process administered by the Materials Management Unit of the Judicial Branch. The Judicial Official is not involved in determining which bidders are awarded a contract.

contractor's employees may be required to appear in court to testify with respect to services provided to a client.

The Committee unanimously determined that attendance at the meeting and acceptance of a lunch paid for by nonprofit contractors would not violate Rule 1.2 because it would not create in reasonable minds a perception that the Judicial Official had violated the Code of Judicial Conduct or engaged in other conduct that reflected adversely on the Judicial Official's honesty, impartiality, temperament or fitness to serve as a Judicial Official. The Committee further concluded that attendance at the event and acceptance of the lunch was consistent with Rules 3.1 (extrajudicial activities), 3.7 (participation in education, religious, charitable, fraternal or civic organizations and activities), and 3.13(c)(2)(A), which specifically permits a Judicial Official to "attend without charge ... an event associated with a bar related function or other activity relating to the law, the legal system, or the administration of justice," provided that the activity is not otherwise prohibited by law and that acceptance of any benefit in connection with the event would not appear to a reasonable person to undermine the Judicial Official's independence, integrity or impartiality. Based upon the foregoing, the Committee concluded that the Judicial Official may attend the luncheon meeting and accept the lunch that is paid for by nonprofit contractors subject to the following conditions: (1) the Judicial Official does not discuss any pending or impending cases in any court, (2) the Judicial Official does not personally believe that attendance and acceptance of the lunch would create an appearance of impropriety, and (3) if required to do so pursuant to Rule 3.15², the Judicial Official reports the gift.

V. The meeting adjourned at 9:42 a.m.

² Rule 3.15 requires a Judicial Official to publicly report the amount or value of, inter alia, "gifts and other things of value as permitted by Rule 3.13(c), unless the value of such items, alone or in the aggregate with other items received from the same source in the same calendar year, does not exceed \$250".