

Committee on Judicial Ethics
Teleconference
Thursday, July 19, 2018

Committee members present via teleconference: Judge Christine E. Keller (Acting Chair), Professor Sarah F. Russell, Judge Robert B. Shapiro and Judge James T. Graham (Alternate). Staff present: Attorney Viviana L. Livesay, Assistant Secretary, and Attorney Adam P. Mauriello, Assistant Secretary.

MINUTES

- I. Judge Keller called the meeting to order at 9:34 a.m. Although publicly noticed, no members of the public were present.
- II. The Committee approved the minutes of the April 19, 2018 regular meeting with minor revisions.
- III. The Committee discussed **Informal JE 2018-07 – Request for Reconsideration**. The Committee granted the request for reconsideration and approved a motion to re-draft the opinion to narrow its scope. The Committee requested that the matter be placed on the August 2018 meeting agenda for further discussion and approval.
- IV. The Committee discussed **Informal JE 2018-09** concerning whether a Judicial Official may resell tickets to a sporting event to friends or a ticket reseller for more than the Judicial Official paid for the tickets.

For many years a Judicial Official has purchased a partial season ticket for a sports team. The Judicial Official only attends a portion of the games for which tickets are purchased and sells the remaining tickets to friends, including attorneys, and other tickets are sold through a ticket reseller. The friends to whom the Judicial Official sells tickets are ones for whom the Judicial Official would disqualify himself or herself if they were to appear before the Judicial Official.

Rule 1.2 of the Code of Judicial Conduct (hereinafter, Code) states that a judge “should act at all times in a manner that promotes public confidence in the ... impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge’s honesty, impartiality, temperament, or fitness to serve as a judge.”

Rule 1.3 of the Code states that “A judge shall not use or attempt to use the prestige of judicial office to advance the personal or economic interests of the judge or others or allow others to do so.”

Rule 2.1 of the Code states that “The duties of judicial office, as prescribed by law, shall take precedence over all of a judge’s personal and extrajudicial activities.”

Rule 2.11 of the Code states, in relevant part, “(a) A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might be reasonably questioned including, but not limited to, the following circumstances: (1) The judge has a personal bias or prejudice concerning a party or a party’s lawyer”

Rule 3.1 of the Code concerns extrajudicial activities and sets forth general limitations on such activities, such as not using court premises, staff or resources, except for incidental use or for activities that concern the law, the legal system, or the administration of justice unless otherwise permitted by law, and not participating in activities that (1) interfere with the proper performance of judicial duties, (2) lead to frequent disqualification, (3) appear to a reasonable person to undermine the judge’s independence, integrity or impartiality, (4) appear to a reasonable person to be coercive or (5) make use of court premises, staff, stationery, or other resources, except for incidental use.

Rule 3.12 of the Code states “A judge may accept reasonable compensation for extrajudicial activities permitted by law unless such acceptance would appear to a reasonable person to undermine the judge’s independence, integrity, or impartiality.”

Rule 3.15 of the Code states, in relevant part, “(a) A judge shall publicly report the amount or value of: (1) compensation received for extrajudicial activities as permitted by Rule 3.12.”

While this Committee has not opined on this issue in the past, in [JE 2008-04](#), this Committee considered the propriety of a Judicial Official attending a sold-out baseball game with an attorney friend using a ticket obtained by the attorney’s firm in circumstances where the Judicial Official would pay for the ticket. In that opinion, the Committee noted that the Judicial Official should pay the higher of the face-value of the ticket or what the firm paid for the ticket.

If the tickets are sold to a commercial ticket reseller and the Judicial Official does not identify himself or herself in any way as a Judicial Official, then there should not be any appearance of impropriety or use of office for private financial gain, or need to recuse himself or herself unless, perhaps, the ticket reseller appears before the Judicial Official. To the extent that reselling tickets is deemed an extrajudicial activity, the Judicial Official can accept reasonable compensation in accordance with Rule 3.12 but must report that pursuant to Rule 3.15.

With respect to selling tickets to friends, including attorneys, in whose cases the Judicial Official would nevertheless disqualify himself or herself if they appeared or had an interest in a matter before the Judicial Official, permitting the sale of such tickets appears to be consistent with Rule 3.13(b)(2). That Rule states that a Judicial Official may accept gifts, loans, bequests, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending or impending before the judge would in any event require disqualification pursuant to Rule 2.11.

Based on the facts presented, including that the Judicial Official will either be selling tickets to a commercial ticket reseller or to friends, including attorneys whom the Judicial Official would disqualify himself or herself if they appeared before the Judicial Official, the Committee concluded that the inquiring Judicial Official may sell the tickets to a commercial reseller or friend whose appearance or interest would require disqualification of the Judicial Official, subject to the following conditions:

1. The Judicial Official does not use his or her title or in any way identify his or her position when selling the tickets. See Rules 1.2 and 1.3.
 2. The price of the tickets is reasonable. See Rule 3.12.
 3. The Judicial Official reports the sales in accordance with Rule 3.15.
 4. The Judicial Official does not use court premises, staff or resources in connection with the sale of the tickets. See Rule 3.1.
 5. If the Judicial Official has any case before him or her involving the ticket reseller and the Judicial Official is not disqualified from hearing the matter, the Judicial Official should disclose that he or she has used the ticket reseller's services. If disqualification is frequent, the Judicial Official may not sell the tickets through the ticket reseller. See Rule 2.11.
 6. The Judicial Official should be mindful of the restrictions in Conn. Gen. Stat. §§ 53-289b and 53-289c regarding ticket resales.
- V. The Committee discussed **Informal JE 2018-11** concerning whether a Judicial Official may provide training in collaborative divorce. The training is provided through the Connecticut Council for Non-Adversarial Divorce (CCND) and is provided by attorneys, mental health and financial professionals. The Judicial Official and colleagues (psychologist and financial professionals) developed the training for CCND and have been providing the annual training for several years. The Judicial Official is paid by CCND and all advertising for the program is done by CCND to members of its organization. The Judicial Official does not plan to be a provider, but wants to transition his/her role to another attorney who can take it over. The Judicial Official was asked to train the attorney and perhaps play some role in the training scheduled for later this year.

The Connecticut Council for Non-Adversarial Divorce (CCND) is the statewide non-profit professional organization of Connecticut mediators and

collaborative divorce practitioners. The CCND's mission is to change the way people divorce or separate in Connecticut by reducing conflict and improving the lives of family members – especially children.

Rule 1.2 of the Code of Judicial Conduct states that a judge “should act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.”

Rule 1.3 states that a judge “shall not use or attempt to use the prestige of judicial office to advance the personal or economic interests of the judge or others or allow others to do so.”

Rule 2.10 (a) of the Code provides that “[a] judge shall not make any public statement that might reasonably be expected to affect the outcome or to impair the fairness of a matter pending or impending in any court or make any nonpublic statement that might substantially interfere with a fair trial or hearing.” Rule 2.10 (d) recognizes certain exceptions to this prohibition, including an exception for a judge's public statement to “explain court procedures.”

Rule 2.11 of the Code requires disqualification “in any proceeding in which the judge's impartiality might reasonably be questioned” due to personal bias or prejudice.

Rule 3.1 states that a judge may engage in extrajudicial activities, except as prohibited by law, however, a judge shall not participate in activities that (1) will interfere with the proper performance of judicial duties, (2) lead to frequent disqualification, (3) appear to a reasonable person to undermine the judge's independence, integrity or impartiality, (4) appear to a reasonable person to be coercive, or (5) make use of court premises, staff or resources except for incidental use or for activities that concern the law, the legal system or the administration of justice, or if the use is permitted by law. The rule's commentary encourages judges to participate in appropriate extrajudicial activities and observes that “[j]udges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing, teaching, or participating in scholarly research projects. In addition, judges are permitted and encouraged to engage in educational, religious, charitable, fraternal or civic extrajudicial activities not conducted for profit, even when the activities do not involve the law.” Rule 3.1, cmt. (1).

Rule 3.7(a)(4) states that “[s]ubject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations ... concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit,” including “appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity,...

Rule 3.10 contains the Code’s prohibition against the practice of law.

The issue of whether a judge may participate in law-related educational activities has previously been considered by this Committee:

- In [JE 2008-14](#), this Committee determined that a Judicial Official may participate in a law-related educational program where questions may be asked by the audience, subject to certain conditions, and agreed that the Judicial Official should retain the right to review and pre-approve the use of any biographical information.
- In [JE 2008-25](#), this Committee unanimously approved a Judicial Official’s participation on a “Law Talk” segment of a local radio station program devoted to the Judicial Branch’s foreclosure mediation program, subject to certain conditions.
- In [JE 2009-24](#), this Committee determined that a Judicial Official is not ethically restricted from teaching a course about legislative process at a state university, but set forth several conditions.
- In [Formal Opinion JE 2010-21](#), this Committee advised Judge Trial Referee Gill that he could speak to a group of Department of Public Health employees who are engaged in the licensing, investigation and quality improvement of daycare facilities subject to, inter alia, the follow conditions:
 - (1) The Judicial Official should not comment on a pending or impending matter or make any statement that might reasonably be expected to impair the fairness of a pending or impending matter,
 - (2) The Judicial Official’s participation should not be such as to lead a reasonable person to question his capacity to decide impartially any issue under discussion that may come before him, and specifically (a) he should not suggest that he would adopt a particular interpretation of disputed legal issues, (b) he should not make statements that indicate a predisposition regarding a particular case, issue or witness that may come before him, and (c) he should ensure that his participation will not interfere with the proper performance of his judicial duties or create

- grounds for disqualification,
- (3) He should not offer legal or other advice to employees as to how they should handle specific matters, and
 - (4) He should retain the right to review and pre-approve the use of any biographical information or other material used to describe his participation in the program and to review and post-presentation publications.
- This Committee determined in [JE 2013-39](#) that a Judicial Official is not ethically restricted from speaking to a class of law school students about the legislative and state budget process, alone or on a panel with current or former legislators (some of whom may be lawyers), subject to the following conditions:
 - (1) The Judicial Official's participation does not interfere with the proper performance of the Judicial Official's duties nor create grounds upon which the Judicial Official may have to recuse him/herself;
 - (2) The Judicial Official does not give opinions that would cast doubt on the Judicial Official's impartiality or indicate that the Judicial Official has a predisposition with respect to a particular case; and
 - (3) The Judicial Official should refrain from any inappropriate comment (as indicated above) about pending or impending matters.
 - In [JE 2013-42](#), this Committee concluded that a JO may serve as a panelist speaker at a foreclosure seminar hosted by the Connecticut Mortgage Bankers Association, with conditions.
 - This Committee determined, in [JE 2013-43](#), that a JO may speak on a panel at a non-profit trade media organization's annual meeting and share comments relating to the topic of "Media & the Law," subject to several conditions.

Based on the facts presented, the Committee determined that the Judicial Official may provide training in collaborative divorce through the Connecticut Council for Non-Adversarial Divorce, subject to the following conditions:

- (1) The Judicial Official's participation does not interfere with the proper performance of the Judicial Official's duties nor create grounds upon which the Judicial Official may have to recuse him/herself. Rule 3.1.
- (2) The Judicial Official does not give opinions that would cast doubt on the Judicial Official's impartiality or indicate that the Judicial Official has a predisposition with respect to a particular case. Rules 3.1(3) & 2.11(a).

(3) The Judicial Official should refrain from any inappropriate comment (as indicated above) about pending or impending matters. Rule 2.10(a).

(4) The Judicial Official should not offer legal advice as to how specific matters should be handled and should exercise caution in answering questions that seek to elicit such advice. Rule 3.10.

(5) The Judicial Official should retain the right to review and pre-approve the use of any biographical information or other material used to describe his or her participation in the program. Rule 1.3.

- VI. The Committee discussed **Informal JE 2018-12** concerning whether a Judicial Official, who is a former municipal official, may march in a municipal parade with other former municipal officials.

Rule 1.2 of the Code of Judicial Conduct states that a judge “should act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge’s honesty, impartiality, temperament, or fitness to serve as a judge.”

Rule 1.3 states that a judge “shall not use or attempt to use the prestige of judicial office to advance the personal or economic interests of the judge or others or allow others to do so.”

Rule 3.1 states that a judge may engage in extrajudicial activities, except as prohibited by law; however, a judge shall not participate in activities that will interfere with the proper performance of judicial duties, lead to frequent disqualification or appear to a reasonable person to undermine the judge’s independence, integrity or impartiality.

Rule 3.7 concerns participation in educational, religious, charitable, fraternal, or civic organization and activities. Subject to the requirements in Rule 3.1, a judge is permitted to participate in various activities sponsored by or on behalf of such entities. Subject to the requirements in Rule 3.1, subsection (a)(4) specifically authorizes judges “appearing or speaking at, receiving an award or other recognition at, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system or the administration of justice.”

Rule 4.1 of the Code of Judicial Conduct prescribes general guidelines limiting the involvement by judges with political activities. Rule 4.1(c) states that “a judge should not engage in any other political activity except on behalf

of measures to improve the law, the legal system, or the administration of justice.”

The issue of whether a judge may participate in a community parade has been considered in CT, as well as in several other jurisdictions. In [JE 2015-18](#), this Committee concluded that a judge may serve as a Grand Marshal in a municipality’s ethnic day parade because (1) the event was a community event and not a fund-raiser, (2) the judge’s name would not be used in connection with soliciting sponsors, and (3) the judge would retain the right to review any material used to solicit contributions to fund the parade. In reaching its decision, this Committee considered [New York Advisory Opinion 04-144](#) (a judge may serve as the Grand Marshal of a St. Patrick’s Day Parade, provided the judge’s name is not used in connection with any fund-raising activities or materials.)

The Ohio Board of Professional Conduct concluded, in [Ohio Opinion 2017-8](#), that a judge may participate in a community parade, but that he or she should consider whether the participation will adversely reflect on his or her independence, integrity, or impartiality based on the sponsor and purpose of the parade, should not appear with non-judicial candidates or elected officials in the parade or on their floats/vehicles (to avoid the appearance of an endorsement), and should not permit any banner or signage displaying his or her name and office to appear on floats or vehicles of political parties, candidates, or officeholders. The Ohio Board advised that before participating in any parade, a judge should consider the type of organization that is organizing or sponsoring the parade and the purpose of reason the parade is being held. “For example, participation in a parade primarily organized by an entity to promote a particular position on a controversial political or social issue may later call into question the judge’s impartiality in cases involving the same or related issues. The same conclusion is reached if a judge participates in a parade sponsored by an organization that practices invidious discrimination.”

The New York Advisory Committee on Judicial Ethics determined that it was permissible for a judge to serve as master of ceremonies for a community parade sponsored by a non-profit organization. [New York Opinion 12-59](#).

While a judge may attend a local parade or community fair, the judge should not march beside the judge’s spouse under a campaign banner or work the crowd with the spouse, [Maine Advisory Opinion 94-3](#). See also [New York Advisory Opinion 06-147](#) (judge may march in a parade with other dignitaries and judges but not with his campaigning spouse).

Based on the facts presented, including that the municipal parade is not a fundraiser or a political event, but rather a ceremonial community event, the Committee determined that the Judicial Official may march in a municipal

parade with other former municipal officials, subject to the following conditions:

- (1) The Judicial Official's name shall not be used in connection with soliciting sponsors and the Judicial Official shall not permit any banner or signage displaying his or her name and office to appear on floats or vehicles promoting political parties or candidates.
- (2) The Judicial Official retains the right to review any material used to solicit contributions to fund the parade.
- (3) Before participating in any parade, the Judicial Official should consider whether the participation will adversely reflect on his or her independence, integrity, or impartiality based on the sponsor and purpose of the parade.
- (4) To avoid the appearance of an endorsement, the Judicial Official should not appear with political candidates in the parade or on their floats/vehicles.

- VII. The Committee discussed **Informal JE 2018-13** concerning whether a Judicial Official who holds a real estate broker's license may continue to receive referral fees consistent with the real estate industry if he connects buyers and sellers of real estate.

The Judicial Official has indicated that his/her business is strictly word of mouth with no advertising. If the Judicial Official knows people (friends, associates, business contacts from prior to appointment to the bench, etc.) who are looking to buy or sell property and he/she knows someone who may be interested, he/she will advise the buyer's or seller's realtor of the possible interested party. Prior to the Judicial Official's appointment, if such a referral was made and the sale consummated, the Judicial Official as a real estate broker would receive a portion of the real estate commission consistent with the real estate industry practice.

In Connecticut, real estate brokers are licensed and regulated by the Department of Consumer Protection. Licensure is by examination with certain educational and experiential prerequisites. See General Statutes § 20-314. The duties of a real estate broker are defined by statute to include, among other things, "any person...which acts for another person or entity and for a fee, commission or other valuable consideration, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of, an estate or interest in real estate...." General Statutes § 20-311(1).

Rule 1.2 states that a judge "should act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged

in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge."

Rule 1.3 of the Code states that a judge "shall not use or attempt to use the prestige of judicial office to advance the personal or economic interests of the judge or others or allow others to do so."

Rule 3.1 of the Code concerns extrajudicial activities and sets forth general limitations on such activities, such as not using court premises, staff or resources, except for incidental use or for activities that concern the law, the legal system, or the administration of justice unless otherwise permitted by law, and not participating in activities that (1) interfere with the proper performance of judicial duties, (2) lead to frequent disqualification, (3) appear to a reasonable person to undermine the judge's independence, integrity or impartiality, or (4) appear to a reasonable person to be coercive.

Rule 3.8 states in relevant part that a judge "shall not accept appointment to serve in a fiduciary position, such as executor, administrator, trustee, guardian, attorney in fact, or other personal representative, except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties."

Rule 3.11 limits the circumstances under which a judge may serve as an officer, director, manager, general partner or advisor to a business entity, to a business closely held by the judge or members of the judge's family or a business entity primarily engaged in investments of the financial resources of the judge or members of the judge's family. A judge is further prohibited from engaging in the foregoing otherwise permissible activities if it will interfere with the proper performance of judicial duties, lead to frequent disqualifications, involve the judge in frequent transactions with lawyers or others likely to come before the court on which the judge serves, or result in a violation of other provisions of the Code.

This Committee has not previously considered whether a Judicial Official can engage in business as a real estate broker. There are, however, a number of opinions from other jurisdictions addressing this or similar topics, with the weight of authority concluding that a judge should not actively participate in the real estate business either as a broker, see New York Opinion 05-130(A); Florida Opinion 90-11; Georgia Opinion 11; or as an agent/salesperson, see Ohio Opinion 2006-1; Delaware Opinion 2005-1; Arizona Opinion 94-05; Alabama Opinion 78-34.

Although some of the foregoing opinions are based upon rules that are more restrictive than Connecticut's Rule 3.11 regarding a judge's participation in business activities; see e.g., Delaware Opinion 2005-1 (relying, in part, on Delaware rule that prohibits a judge from being employed by a business that

is not closely held by the judge or his/her family); the Committee nevertheless concluded that the proposed activity is inconsistent with the Code for at least two reasons.

First, a real estate broker is a fiduciary to his/her client under Connecticut law. See *New England Retail Properties, Inc. v. Mauro*, 102 Conn. App. 476, 486-87, cert. denied, 284 Conn. 912 (2007). Therefore, a Judicial Official acting as a real estate broker generally would run afoul of Rule 3.8, which prohibits a judge from serving in a fiduciary position "except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties." See Ohio Opinion 2006-1; Delaware Opinion 2005-1.

Moreover, it may be difficult for a Judicial Official moonlighting as a real estate broker to escape the appearance that he/she is exploiting his or her office for personal gain or the gain of others, in violation of Rules 1.2 and 1.3. Given that the Judicial Official's business is conducted by word of mouth involving people known to him or her, it seems likely that many, if not most, existing and prospective clients will be aware of the Judicial Official's position. As such, there is a risk that the Judicial Official's position and status may unintentionally influence the transaction and/or the decision of whether to utilize the Judicial Official's services as a real estate broker. Therefore, the Committee concluded that the Judicial Official may not continue to receive fees for referrals made in his/her capacity as a real estate broker.

- VIII. The Committee discussed **Informal JE 2018-14**. The issue submitted is as follows. Prior to a Judicial Official's appointment to the bench, the Judicial Official ("JO") served as a Criminal Justice Act ("CJA") panel attorney, representing indigent defendants when there was a conflict with the federal public defender's office. The Judicial Official's former law firm contacted the JO and asked the JO to complete form CJA 26 (copy attached) in support of the firm's request for additional compensation beyond the standard maximum, which the court can approve basically for good cause shown. As noted on the form, the appointed attorney must be the person who completes it. May the JO complete the form?

Rule 1.2 of the Code of Judicial Conduct provides that a judge "shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge."

Rule 1.3 prohibits a Judicial Official from using the prestige of office to advance the Judicial Official's personal or economic interests.

Rule 2.11 states that a judge “shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned.”

The issue of whether a JO may complete an affidavit in support of a fee award was previously considered by the Committee. In [JE 2013-34](#) this Committee determined that a JO could prepare and sign an affidavit regarding time spent and work performed on a lawsuit and the hourly rate requested in connection with a motion for payment of attorney’s fees being submitted by successor counsel to whom a case was referred when the JO was appointed, subject to the following conditions:

1. The amount to be paid should reasonably reflect the time spent and work performed;
2. Full disclosure should be made to the client;
3. The Judicial Official should not refer to his or her judicial position in the affidavit; and
4. The Judicial Official should consider whether the decision to accept payment may necessitate the Judicial Official’s disqualification to hear matters in the future involving the client or attorney to whom the case was referred.

In the instant matter, the JO will not be receiving the compensation, but rather his or her former law firm will receive the additional compensation, if approved.

Based upon this Committee’s decision in [JE 2013-34](#) and the opinions cited therein, the Committee determined that it is ethically permissible for the JO to complete form CJA 26, subject to the following conditions:

1. The time claimed reasonably reflects the work performed;
2. Full disclosure should be made to the client; and
3. The JO should not refer to his or her judicial position on the form; and

The Committee noted that disqualification issues may arise should the client or the JO’s former firm appear before the JO. The Committee is available should the JO have any questions about the duty to disqualify himself or herself in such a circumstance.

- IX. The Committee discussed **Informal JE 2018-15** concerning whether a Judicial Official may serve as the President of a local chapter of a Connecticut college’s alumni association. Membership in the alumni association is open to alumni, parents and friends of the college living in the local area. There are annual dues and a solicitation with the dues for contributions to other funds (i.e. scholarship fund) related to the college. The alumni association provides

scholarships and works with the college to plan events to connect alumni to the college, region and each other. The college has a couple of lawsuits pending and has had a limited number of suits over the past 10 years.

Rule 1.2 of the Code of Judicial Conduct states that a judge “should act at all times in a manner that promotes public confidence in the ... impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge’s honesty, impartiality, temperament, or fitness to serve as a judge.”

Rule 3.1 of the Code concerns extrajudicial activities and sets forth general limitations on such activities, such as not using court premises, staff or resources, except for incidental use or for activities that concern the law, the legal system, or the administration of justice unless otherwise permitted by law, and not participating in activities that (1) interfere with the proper performance of judicial duties, (2) lead to frequent disqualification, (3) appear to a reasonable person to undermine the judge’s independence, integrity or impartiality, (4) appear to a reasonable person to be coercive or (5) make use of court premises, staff, stationery, or other resources, except for incidental use.

Rule 3.7 of the Code deals specifically with participation with educational, religious, charitable, fraternal and civic organizations and activities. It provides that, subject to the general requirements in Rule 3.1, a judge may participate in activities sponsored by or on behalf of educational organizations not conducted for profit including, but not limited to:

- (a)(1) assisting such an organization or entity in planning related to fund-raising and participating in the management and investment of the organization’s or entity’s funds;
- (a)(2) soliciting contributions for such an organization or entity, but only from members of the judge’s family, or from judges over whom the judge does not exercise supervisory or appellate authority;
- (a)(3) soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity but only if the organization or entity is concerned with the law, the legal system, or the administration of justice; ...
- (a)(5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities but

only if the organization or entity is concerned with the law, the legal system or the administration of justice; and

(a)(6) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:

(A) will be engaged in proceedings that would ordinarily come before the judge; or

(B) will frequently be engaged in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

Previously, the Committee has been asked about the propriety of a Judicial Official serving on an advisory board of a college program. In [JE 2012-28](#), at issue was whether a Judicial Official may accept an appointment to serve on a community advisory board of a nonprofit, non-law-related division within a higher education institution. According to the facts, the entity was not frequently involved in litigation in Connecticut courts and service on the advisory board would not interfere with the performance of judicial duties. The Committee members unanimously concluded that the Judicial Official may serve on the advisory board subject to the following seven conditions:

1. The Judicial Official should regularly reexamine the activities of the advisory board to determine if it is proper to continue his or her relationship with the advisory board. Rule 1.2;
2. The Judicial Official may not use Judicial Branch resources for activities that concern the advisory board. Rule 3.1(5);
3. The Judicial Official may not continue to serve on the advisory board if the institution participates in activities that lead to frequent disqualification of the Judicial Official or otherwise becomes frequently engaged in adversary proceedings in the court on which the Judicial Official serves. Rules 3.1 & 3.7(a)(6);
4. The Judicial Official may assist the organization in planning related to fund-raising and may participate in the management and investment of its funds. Rule 3.7(a)(1);
5. The Judicial Official may solicit contributions for the organization, but only from members of the Judicial Official's family (as that term is defined in the Code) or from Judicial Officials over whom the soliciting Judicial Official does not exercise supervisory or appellate authority. The Judicial Official may not engage in a general solicitation of funds on behalf of the organization. Rule 3.7(a)(2);
6. The Judicial Official may appear or speak at, be featured on the program of, and permit his/her title to be used in connection with an

organization event, but not if the event serves a fund-raising purpose. Rule 3.7(a)(4); and

7. The Judicial Official may permit his/her name and position with the organization to appear on letterhead used by the organization for fund-raising or membership solicitation but may permit his/her judicial title to appear on such letterhead only if comparable designations are used for other persons. Rule 3.7, cmt (4).

Similarly, in [JE 2014-24](#) at issue was whether a Judicial Official could serve on the advisory board of a particular program of studies at a nonprofit educational institution. The Judicial Official had taught at the school in the past and noted that he/she would make it clear that he/she could not do any fund raising while a member of the board, although the Judicial Official's name would appear on college stationery promoting the program. The Committee unanimously determined that the Judicial Official could serve on the advisory board subject to the 7 conditions set forth in [JE 2012-28](#) and the following additional condition:

8. The Judicial Official may not issue letters of support to any public or private fund-granting organization. Rule 3.7(a)(5).

Based on the facts presented, including that the institution is not frequently involved in litigation, the Committee unanimously determined that the inquiring Judicial Official may serve as President of the local alumni chapter subject to the following conditions:

1. The Judicial Official should regularly reexamine the activities of the advisory board to determine if it is proper to continue his or her relationship with the advisory board. Rule 1.2;
2. The Judicial Official may not use Judicial Branch resources for activities that concern the advisory board. Rule 3.1(5);
3. The Judicial Official may not continue to serve on the advisory board if the institution participates in activities that lead to frequent disqualification of the Judicial Official or otherwise becomes frequently engaged in adversary proceedings in the court on which the Judicial Official serves. Rules 3.1 & 3.7(a)(6);
4. The Judicial Official may assist the organization in planning related to fund-raising and may participate in the management and investment of its funds. Rule 3.7(a)(1);
5. The Judicial Official may solicit contributions for the organization, but only from members of the Judicial Official's family (as that term is defined in the Code) or from Judicial Officials over whom the soliciting Judicial Official does not exercise supervisory or appellate authority. The Judicial Official may not engage in a general solicitation of funds on behalf of the organization. Rule 3.7(a)(2);

6. The Judicial Official may attend fundraising events, but may not appear or speak at, be featured on the program of, and permit his/her title to be used in connection with a fund-raising purpose. Rule 3.7(a)(4);
7. The Judicial Official may permit his/her name and position with the organization to appear on letterhead used by the organization for fund-raising or membership solicitation but may permit his/her judicial title to appear on such letterhead only if comparable designations are used for other persons. Rule 3.7, cmt (4); and
8. The Judicial Official may not issue letters of support to any public or private fund-granting organization. Rule 3.7(a)(5).

X. The meeting adjourned at 9:56 a.m.