



Connecticut Committee on Judicial Ethics

Informal Opinion Summaries

2016-05 (April 21, 2016)

Disclosure/Disqualification; Court Employees; Rules 1.2 & 2.11

Issue: Does a Judicial Official have a duty to disclose when a former temporary assistant clerk (hereinafter, TAC) who had been assigned to work specifically with the Judicial Official appears before the Judicial Official? The TAC last worked for the Judicial Official more than 4 years ago.

Response: Rule 1.2 of the 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 2.11 states, in relevant part, that a judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned.

In reaching its decision, the Committee considered two of its prior decisions concerning TACs. In Informal [JE 2015-11](#), this Committee considered whether a Judicial Official may provide a letter of reference to the AG’s Office in support of an applicant who works for the Judicial Official as a temporary assistant clerk. The Committee determined that the Judicial Official may provide a reference letter, subject to several conditions. One condition prohibited the applicant from having an appearance before the Judicial Official at the time (or reasonably close to the time) the recommendation was provided. It also noted that the applicant should not expect to have an appearance before the Judicial Official for a reasonable period of time.

At issue in Informal [JE 2009-36](#) was whether a Judicial Official should restrict a TAC from interacting with law firms to which the TAC has applied for a position. The Committee concluded that the Judicial Official must exercise his or her discretion in determining whether a TAC should be restricted when the TAC has been offered a position or is engaged in active employment negotiations with the law firm. If the Judicial Official determines that the TAC should be restricted, that restriction should be for a “reasonable period of time,” as determined by the Judicial Official. Opinions issued by this Committee have defined “reasonable period of time” to mean “not less than two years.” (See [JE 2008-21](#) & [JE 2015-21](#)).

Based upon the facts presented, in particular that the TAC last worked for the Judicial Official more than 4 years ago, the Committee concluded that the Judicial Official has no duty to disclose. Even in instances where the TAC has not only worked for the Judicial Official, but obtained letters of reference, the reasonable period of time for disclosure (and disqualification) was two years.

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