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COMMITTEE ON JUDICIAL ETHICS OPINIONS**
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Compendium of CJEO Opinions and Advice
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I. CJEO Formal Opinions

- **Providing Feedback on Attorney Courtroom Performance**
[CJEO Formal Opinion 2021-018](#) provides guidance on whether it is ethically permissible for a judicial officer to provide feedback on an attorney's courtroom performance when requested by the attorney or the attorney's supervisor. In the opinion, the committee concludes that the Code of Judicial Ethics does not specifically prohibit providing such feedback; however, judicial officers must take into account several canon restrictions and ethical risks. When providing feedback on courtroom performance, a judicial officer may not: (1) engage in prohibited ex parte communications; (2) make a public comment on a pending proceeding or nonpublic comment that may interfere with a fair trial or hearing; (3) create an appearance of favor or bias; (4) suggest that anyone is in a special position to influence the judicial officer; or (5) engage in coaching by advising on tactics or strategies that give one side an advantage in litigation or by providing legal advice. This means judicial officers must refrain from providing feedback relating to matters still pending in their own or any other court. To preserve the impartiality of the judiciary, judicial officers who provide

feedback must ensure the feedback is neutral and make themselves equally available to attorneys having opposing interests or viewpoints. Due to the significant ethical risks involved, the opinion advises that judicial officers should avoid acting as evaluators of attorney job performance in the context of employment evaluations for promotion or discipline.

- **Providing Close Family Members with Advice that Implicates Legal Matters**

[CJEO Formal Opinion 2021-017](#) discusses the fact that judges may not practice law under both the California Constitution and the Code of Judicial Ethics and offers guidance about what advice is permissible to give close family members when asked for legal assistance. The opinion relies on case law that defines certain activities as constituting the practice of law, but where there is no clear precedent, the opinion concludes that judges may not advise their family members if doing so would interfere with the performance of official judicial duties or erode the integrity of the judiciary. The opinion specifically advises that judges are not permitted to: (1) accept compensation for help with legal matters; (2) neglect official duties in favor of a matter involving a family member; (3) provide advice that would cause a reasonable person to question the judge's independence or integrity; or (4) act, or appear to act, as an advocate. As guidance for what assistance judges may provide to close family members, the opinion concludes that they may give general legal information, provide statements of law, explain court procedures and court rules, and provide guidance about legal requirements. Examples are discussed involving assistance with demand letters and help with employment offers, for reference in other factual circumstances judges might encounter.

- **Independent Investigation of Information Contained in Electronic Court Case Management Systems**

[CJEO Formal Opinion 2021-016](#) provides guidance on initiating and conducting independent searches using electronic court case management systems (CMS). In the opinion, the committee recognizes judges are expected to and do use CMS searches to assist them in performing their judicial duties. The California Code of Judicial Ethics, however, prohibits the use of a CMS to independently investigate adjudicative facts unless the investigation is authorized by law or the information is the proper subject of judicial notice. The opinion advises judges to use a CMS with awareness that search results could include adjudicative information, and they should attempt to avoid reviewing adjudicative information unless it is legally authorized or judicially noticeable. For judges who inadvertently review court records or other information that contain adjudicative facts as part of an otherwise permissible CMS search, the opinion advises them to consider whether: (1) they are allowed by law or judicial notice to review the information; (2) the information they viewed raises actual or reasonable doubt about impartiality; or (3) they should disclose the CMS search and the information reviewed and provide the parties with an opportunity to respond.

- **Supervising Judge's Duties When a Party Complains About a Judge in a Pending Matter**

[CJEO Formal Opinion 2020-015](#) provides guidance about the steps a supervising judge can take to investigate the allegations of a meritorious complaint. It advises that, when there is no other way to properly investigate and respond to the complaint, a supervising judge may communicate with a trial court judge about the complaint, including referring to specific facts or circumstances related to

the proceeding as part of their oversight duty. The opinion concludes that if disclosure is required, the supervising judge should only reveal to the trial judge what is necessary to investigate the allegations, remediate any harm, or improve the trial judge's future conduct. If an ex parte communication is disclosed, the supervising judge remains responsible to take reasonable measures to ensure that the trial judge follows proper procedures that may be required by the disclosure of the ex parte communication to the trial judge.

- **Judicial Participation in Public Demonstrations and Rallies**

[CJEO Formal Opinion 2020-014](#) advises judges that their ethical duties to maintain impartiality are paramount over extrajudicial activities such as public demonstrations, including those supporting racial justice and equality. Judges are advised to refrain from participation at a public demonstration or rally if (a) participation might undermine public confidence in the judiciary, (b) the event relates or is likely to relate to a case that may come before the courts, (c) participation might violate the law, (d) participation would create the appearance of lending the prestige of office to a political candidate or organization, or (e) participation would interfere with judicial duties. The committee's advice includes a recommendation of details judges should examine before deciding to attend a public demonstration or rally, including the event's stated mission, its sponsors, its organizers, the message other participants in the event intend to deliver, and the likelihood that the event will depart from its mission. Judicial officers attending such an event are advised to be vigilant and to be prepared to leave if attendance at the demonstration or rally might result in a violation of ethical duties or interfere with their judicial obligations. The committee advises judges to assume they can be identified and their presence at demonstrations or rallies will be scrutinized or publicized. Finally, the committee suggests that since written statements are more subject to judges' control than demonstrations are, judges should consider expressing their views on racial justice and equality in writing, which presents fewer ethical risks. By fulfilling their role to ensure equal justice under the law to all, judicial officers may manifest their commitment to the ideals of our constitutional democracy.

- **Disclosure of Campaign Contributions by Trial Court Judges**

[CJEO Formal Opinion 2019-013](#) provides guidance to trial court judges regarding campaign contribution disclosures during and following a judicial campaign. Canon 3E(2)(b)(i) of the California Code of Judicial Ethics and Code of Civil Procedure section 170.1, subdivision (a)(9)(C) require a trial court judge to disclose a campaign contribution of \$100 or more from a party, lawyer, or law office or firm in a matter before the judge. The committee advises that a judge also should disclose contributions of \$100 or more from a witness or other person whose credibility the judge will evaluate. Other campaign-related assistance, such as many smaller contributions from individual lawyers in a firm, certain indirect or third party contributions, volunteer work for the judge's campaign, and other relationships to the judge or campaign may also warrant disclosure. In the opinion, the committee provides guidance on the details of a campaign contribution disclosure. A disclosure must include the contributor's or lender's name, the amount and date of each contribution or loan, and the cumulative amount of the contributions or loans. The disclosure must be made on the record and should not create an appearance that the judge is soliciting campaign

contributions. The campaign contribution disclosure obligation begins no later than one week after a judge receives his or her first campaign contribution and continues for at least two years after the judge is sworn in or receives the last contribution, whichever is later.

- **Providing Educational Presentations at Specialty Bar Events**

[CJEO Formal Opinion 2018-012](#) advises that a judge may speak about and teach legal subject matters through specialty bar associations, subject to the requirements of the California Code of Judicial Ethics. These requirements include that a judge avoid creating an appearance of bias and avoid an appearance that the specialty bar association is in a special position to influence the judge. To maintain an appearance of impartiality, the opinion advises that a judge must be equally available to give educational presentations to audiences with opposing interests or views and ensure the frequency of presentations before a particular specialty bar association or type of association does not create an appearance of bias. The opinion also advises a judge should be able to give the same presentation to audience members that represent opposing or competing interests. The presentation must be neutral, presented from a judicial perspective, and avoid coaching or providing a tactical advantage that would benefit the members of one specialty bar association to the disadvantage of members of another. The opinion recommends that a judge should inform event organizers of the judge's ethical obligations and request to review promotional materials describing the presentation before they are circulated. If the promotional materials or title of the presentation create an appearance of bias or influence or fail to accurately reflect the neutral, educational nature of the presentation, the judge has a duty to take corrective action, which may include reprinting corrected materials or giving an oral disclosure at the presentation.

- **Judicial Service on a Nonprofit Charter School Board**

[CJEO Formal Opinion 2017-011](#) advises judges against service on a nonprofit charter school board. The committee examines the nature of charter schools and evaluates whether service on a charter school board is a permissible activity pursuant to canon 4C(3)(b) of the California Code of Judicial Ethics, which allows a judge to serve as an officer of an educational organization not conducted for profit, or whether service on a charter school board constitutes a governmental position that is prohibited by canon 4C(2). The committee also evaluates the risk of automatic resignation from judicial office if a charter school board position is found to be a public office pursuant to article VI, section 17 of the California Constitution. The committee concludes that, based on the unsettled case law regarding whether service on a charter school board is a governmental position or public office, judges are advised against service on a charter school board.

- **Extrajudicial Involvement in Marijuana Enterprises**

[CJEO Formal Opinion 2017-010](#) advises judges against investment in marijuana-related enterprises. The committee examines state and federal laws regarding marijuana and concludes that holding a financial interest in an enterprise involving the sale or manufacture of marijuana that is in compliance with state and local law is still in violation of current federal law. The committee advises that maintaining any interest in an enterprise that involves the cultivation, production, manufacture,

transportation or sale of medical or recreational marijuana is incompatible with a judge's obligation pursuant to canon 2A of the California Code of judicial Ethics, which requires a judge to comply with the law. The committee also concludes that a judge's disregard of federal law would create an appearance of impropriety and cast doubt on the judge's ability to act impartially, particularly in marijuana-related cases. Judges are therefore advised against making or maintaining such investments.

- **Judges Meeting with Vendors**

[CJEO Formal Opinion 2018-009](#) examines whether judges may meet with private vendors, including private vendors providing remote alcohol monitoring services to parties under a court order, to discuss services the vendors provide to courts or parties. The opinion provides guidance on how the ethical rules and standards apply depending on whether a meeting with a vendor is for procurement, investigation, or development and promotion of services. The opinion concludes that a judge may meet with private vendors if such meetings are authorized by law, would aid the judge in discharging administrative responsibilities, and would not violate the California Code of Judicial Ethics by creating a conflict of interest, conveying influence or favoritism, advancing the pecuniary interests of others, or involving the judge in business relationships with potential litigants. The opinion recommends that a judge who meets with private vendors obtain assistance from court administrative staff where possible to ensure compliance with administrative rules, public contracting laws, and compliance with the code. The opinion further recommends that when meeting with vendors for purposes of investigating services or products, a judge obtain the approval of their presiding judge or justice and involve court administrative staff. Finally, the opinion cautions that the Standards of Judicial Administration encourage judges in specified assignments to determine and investigate the availability of services for those appearing in their courts, but the standards do not authorize interactions with vendors that would otherwise violate the code.

- **Attending Political Fundraising or Endorsement Events**

[CJEO Formal Opinion 2016-008](#) examines the language of canon 5 of the California Code of Judicial Ethics, which generally prohibits any political activities that create the appearance of political bias, and specifically prohibits public endorsements and personal solicitations for nonjudicial candidates or political parties. Canon 5 also permits activities concerning the law and legal system improvement, so long as those activities are consistent with the code, including the general and specific prohibitions on political activities. Given these prohibitions and permissions, the opinion provides guidance to judges on how to decide whether to (1) attend, (2) speak, or (3) appear as the guest of honor or receive an award at a political fundraising or endorsement event. It also advises judges who are campaigning that they may be introduced and speak on their own behalf or on behalf of another candidate for judicial office, so long as they do not commit to a position on an issue that is likely to come before the courts and they do not endorse or solicit funds for a candidate for nonjudicial office or a political organization. Finally, the opinion advises judges who have accepted a personal invitation to attend a political fundraising or endorsement event to assess the likelihood that their attendance will be known to the event organizers and possibly used to promote the event. If so, judges are advised to make reasonable efforts to ensure that their judicial title will

not be used for promotion. Such efforts may include informing promoters in advance of ethical restrictions or reviewing promotional materials.

- **Disqualification for Prior Appearance as a Deputy District Attorney in a Nonsubstantive Matter**
[CJEO Formal Opinion 2015-007](#) discusses the statutory disqualification requirements of a trial judge who appeared in a case as a deputy district attorney for a brief, non-substantive matter such as a scheduling conference. The opinion concludes that a judge who previously appeared in a case as a deputy district attorney on a nonsubstantive matter—without active participation in the prosecution—is not disqualified to hear the case because such an appearance would not raise a reasonable doubt as to impartiality. Disqualification where there is no perception of impartiality impedes the administration of justice and defeats the purposes of the statute.
- **Judicial Comment at Public Hearings and Consultation with Public Officials and Other Branches of Government**
[CJEO Formal Opinion 2014-006](#) provides guidance to judges about appearing at public hearings and consulting with the other branches of government. The opinion clarifies what comments judges are authorized to make when commenting on matters concerning the law, the legal system, or the administration of justice under canon 4C(1) of the California Code of Judicial Ethics. Judges may comment and consult on the court system or matters of judicial administration, which are inherently within judicial experience and perspective. Judges may also speak about legal matters when their experience and perspective as judges uniquely qualifies them to assist the other branches of the government in fulfilling their responsibilities to the public. The opinion cautions, however, that even when making permitted statements, judges still must take care not to violate any other provisions of the code, for example, by commenting on pending or future proceedings in any court, or by taking a position with respect to the outcome of cases.
- **Accepting Gifts of Little or Nominal Value Under the Ordinary Social Hospitality Exception**
[CJEO Formal Opinion 2014-005](#) discusses small value gifts or de minimis items that are sometimes offered to judges as tokens of esteem or appreciation, such as tickets to local events and food items. The opinion concludes that these items are gifts under the California Code of Judicial Ethics and subject to the absolute ban on gifts from parties, and subject to the ban on gifts from nonparties if they create an appearance of influence, favor, or advantage. The opinion advises that gifts of little or nominal value that are not otherwise banned may be accepted if they are ordinary by community standards, offered for social traditions or purposes, and hospitable in nature.
- **Judicial Screening of Ex Parte Applications for Non-Domestic-Violence Emergency Family Law Orders**
[CJEO Formal Opinion 2014-004](#) provides guidance to family law judges on reviewing applications for non-domestic-violence emergency orders. The opinion concludes that a screening process under a local rule that allowed judges to consider ex parte communications not authorized under the family law rules of court violates canon 3B(7) the California Code of Judicial Ethics. The opinion discusses

how requests for waiver of notice can be efficiently identified by court staff so that judges may review those applications and ensure the parties are provided with the protections available under the rules of court.

- **Disqualification Based on Judicial Campaign Contributions from a Lawyer In The Proceeding**
[CJEO Formal Opinion 2013-003](#) discusses the statute that prohibits trial court judges from hearing cases where one of the lawyers in the case contributed more than \$1,500 to the judge's campaign. The opinion concludes that disqualification is not mandated by the statute if a lawyer in the proceeding practices law with other lawyers who, collectively, have made campaign contributions exceeding \$1,500 or when a lawyer in the proceeding practices in a private law firm which has made a campaign contribution that exceeds \$1,500. In either circumstance, however, the judge must consider whether those aggregated or law firm contributions might nevertheless cause a reasonable person to doubt the judge's impartiality for purposes of discretionary disqualification. (Cal. Code Civ. Pro., §§ 170.1, subd. (a)(6)(A) & (a)(9)(A).)
- **Disclosure on the Record When There Is No Court Reporter or Electronic Record of the Proceedings**
[CJEO Formal Opinion 2013-002](#) discusses what constitutes an on the record disclosure by a trial judge when there is no court reporter or electronic recording of the proceedings. The opinion concludes that oral and implied disclosures that are not made part of the court record do not satisfy the requirement of on the record disclosures contained in canon 3E(2)(a) of the California Code of Judicial Ethics. In circumstances where there is no court reporter, a judge must take steps to ensure that a document describing the nature of any information being disclosed is made part of the case file and must also make the disclosure orally in open court or otherwise notify the lawyers and parties of the written disclosure. [Cited by *Hayward v. Superior Court* (2016) 2 Cal.App.5th 10, 40, fn. 32, review dismissed and cause remanded *sub nom. Hayward v. S.C. (Osuch)* (2017) 214 Cal.Rptr.3d 291; *id.* at pp. 74-75 (dis. opn. of Richman, J.).]
- **Requesting Assistance from Attorneys**
[CJEO Formal Opinion 2013-001](#) discusses meeting with attorneys and requesting their assistance in communicating with the public and the Legislature about the impacts of proposed budget cuts on court operations. The opinion concludes that it is ethical for judges to invite attorneys to attend a meeting at which the judge makes a presentation concerning potential budget cuts to the court(s) and asks the attorneys to assist the court in dealing with the impacts of those cuts. In deciding with whom to meet and what to say, the opinion advises that judges should consider all of the ethical factors generally applicable to meetings with attorneys, including whether the manner of the invitation or requests might convey an impression of favor or influence, appear to be coercive, or reasonably lead to disqualification or implicate disclosure requirements.

II. CJEO Expedited Opinions & Oral Advice Summaries

- **Disqualification When a Judge's Spouse May be a Material Witness**

[CJEO Expedited Opinion 2022-046](#) advises on the point at which a judge must disqualify from hearing a capital case when defense counsel has expressed an intent to call the judge's spouse as a witness during the sentencing phase of the case. The opinion concludes that a judge must disqualify as soon as, to the judge's knowledge, the judge's spouse is likely to be called as a material witness. If the spouse's documents and testimony are ruled admissible at an evidentiary hearing conducted by a different judicial officer, this is a clear indication that the spouse is likely to be called as a material witness and the judge must immediately disqualify upon such a ruling. A judge may be required to disqualify prior to the evidentiary hearing if, based on the facts of the case, the judge determines earlier that the spouse is likely to be called as a witness. As in any case, a judge must also consider whether disqualification is required because a reasonable person aware of the facts would have cause to doubt the judge's impartiality. A judge's rulings prior to the point of disqualification are valid and need not be set aside unless the grounds for disqualification arose earlier and the judge failed to timely disqualify.

- **Disqualification Obligations for Participants in the California Judicial Mentor Program (CJMP)**

[CJEO Expedited Opinion 2022-045](#) advises that judicial officers participating in the California Judicial Mentor Program (CJMP) as mentors should disqualify from hearing matters in which their mentee attorneys appear. The opinion explains that the nature of the mentor-mentee relationship created through the CJMP is such that a reasonable person aware of the facts would have cause to doubt impartiality in a case in which a mentee attorney appears before the mentor judge. Separate from how it may appear to a reasonable observer, a mentor judicial officer may become personally invested in a mentee's success to the point where the judicial officer substantially doubts his or her own capacity to be impartial. For the same reasons, appellate justices acting as mentors to trial court judge mentees should disqualify from hearing matters involving a review of their mentee's adjudicatory decisions. Because the committee advises that judicial officers acting as mentors disqualify from hearing matters in which their mentees appear, it does not reach the question of whether and to what extent trial judge mentors are required to disclose information related to participation in the CJMP on the record.

- **Disqualification for Civics Education Activities in Matters Involving School District Mask and Vaccine Mandates**

[CJEO Expedited Opinion 2021-044](#) advises that involvement in civics education programs does not constitute mandatory grounds for disqualification from cases involving school district mask or vaccine mandates. However, the opinion explains that judicial officers must consider whether additional facts require disqualification, such as gaining personal knowledge regarding the reasons for a school district's mask or vaccine policies. Even when there are no mandatory grounds for disqualification, judicial officers must consider discretionary grounds and disqualify if they believe they cannot be impartial or if, based on facts specific to their circumstances, a reasonable observer would doubt their impartiality. In the committee's view, a reasonable person would not doubt a

judicial officer's impartiality based on participation in civics education programs alone. The analysis changes if there are other facts warranting disqualification, for example, if someone with whom the judicial officer is closely associated is personally named as a defendant in a case. Judicial officers must balance public perception of impartiality against the duty to hear all cases from which they are not disqualified. Trial judges must disclose on the record all facts reasonably relevant to disqualification determinations.

- **Service on the California Access to Justice Commission or Child Welfare Council**

[CJEO Expedited Opinion 2021-043](#) advises that judges may serve on the California Access to Justice Commission (Access Commission) or Child Welfare Council. The opinion explains that judicial service in either organization is permitted under the Code of Judicial Ethics and encouraged by the Standards of Judicial Administration. Judges may engage in extrajudicial activities related to improvement of the law, the legal system, or the administration of justice provided they comply with other code requirements, such as ensuring public confidence in the judiciary and avoiding involvement in partisan matters. The Standards of Judicial Administration expressly encourage judges to take a leadership role in issues related to access to justice and services for children in the court system. The Access Commission and Child Welfare Council are both organizations devoted to improving the legal system and enhancing services for court users rather than broader policy matters that may involve the judiciary in controversies or create the appearance of impartiality.

- **Social Media Posts About the Law, the Legal System, or the Administration of Justice**

[CJEO Expedited Opinion 2021-042](#) provides guidance for judges using social media to post comments about the law, the legal system, or the administration of justice. The opinion explains that the same ethical standards that apply in face-to-face settings apply with equal force to online communications and social media posts. Due to lack of control over the dissemination and permanence of online statements, judges should exercise caution and restraint and assume the widest possible audience. While statements related to the law, the legal system, or the administration of justice are generally permissible, judges must not engage in prohibited political commentary or make any other statements that suggest bias or demean the judicial office. Judges should carefully evaluate what they intend to post and continually monitor social media communications to ensure public confidence in the integrity, independence, and impartiality of the judiciary.

- **Service on a Governmental Task Force**

[CJEO Expedited Opinion 2021-041](#) advises that a judge may not serve as a member of a governmental task force when the stated purposes of the task force are so broad and varied that a judge cannot reasonably limit participation to those topics within the judicial branch's purview. The committee explains that judges may serve as members of governmental bodies provided that membership does not constitute holding public office, which is constitutionally prohibited, and involvement is limited to topics concerning the law, the legal system, or the administration of justice. In the case of a governmental task force created to address hate crimes with a broad-based

agenda, including legal, educational, social, and policy reforms, it is not reasonable to expect a judge acting as a member to limit involvement to permissible topics. However, a judge could support the task force in other ways, such as by appearing before, providing information to, or advising the task force on issues within the judicial branch's purview and relating to the judge's experiences and unique perspective as a judge.

- **Acceptance of Campaign Contributions Donated by a Court Employee Political Action Committee to a Judicial Political Action Committee**

[CJEO Expedited Opinion 2021-040](#) advises judges to exercise caution when accepting campaign contributions that originated as donations from court employees, in order to avoid violating limitations on solicitation and the prohibition on coercion. The committee advises that a judge may accept a campaign contribution from a judicial political action committee of funds from another political action committee organized and funded by court employees, so long as there was no direct or indirect solicitation of the funds from the employees or from the employee political action committee, and there was no coercion. The committee notes that coercion is less likely to occur when the identities of the court employees who made the original donation remain unknown to the judge.

- **Gift Exchanges Between Judges and Their Staff**

[CJEO Expedited Opinion 2021-039](#) advises judges how to participate in gift exchanges with courtroom staff without running afoul of their ethical duties. The committee notes that gift exchanges can help judges maintain good relations with their courtroom staff and foster a healthy work environment, but cautions that gifts should not be extravagant, and that staff cannot be pressured into exchanging gifts. The committee also advises judges to: (1) treat their staff equally, to the extent reasonably possible, when giving or receiving gifts; (2) consider the different backgrounds and traditions of their staff when deciding what kinds of gift exchanges would be appropriate; and (3) avoid potentially troublesome gifts that would be offensive, demeaning, inappropriate, or perceived as harassment.

- **Acceptance of Attorney Services from a Law Firm**

[CJEO Expedited Opinion 2021-038](#) advises that a justice may not allow a law firm attorney to work for the justice because the attorney's services are a prohibited gift from the law firm under the Code of Judicial Ethics and could appear to lend judicial prestige to advance the law firm's reputation. The committee notes that justices are generally prohibited from accepting gifts and that gifts from lawyers are especially suspect. Even if a justice were to disqualify when the law firm appeared, the attorney's presence might still create an appearance of influence or endorsement of one law firm over others. The committee further notes that accepting attorney services from a law firm is distinguishable from accepting services of judicial externs, who are not licensed attorneys and who work in exchange for law school credit.

- **Judicial Obligations Relating to Social Media Comments by Appellate Court Staff**

[CJEO Oral Advice Summary 2020-037](#) advises that when a justice becomes aware that a staff member has used social media to post a comment that violates the canons, the justice should immediately take steps to remedy the ethical violation. The committee notes that appellate justices are required to exercise reasonable direction and control over the conduct of their staff to prevent them from making public comments that would violate the canons. Once a justice becomes aware that a staff member has posted a comment on social media that violates the canons, the justice must, at a minimum, instruct the staff member to take all reasonable steps to delete or to have removed from public view any improper comment that violates the canons, and then follow up with the staff member to ensure that they have done so. Depending on the circumstances, the justice may need to instruct the staff member to correct or repudiate the comment on social media, particularly if the comment is demeaning or offensive, or otherwise undermines the dignity of the court. The committee concludes that appropriate training will assist appellate court staff in understanding the vital role that they play in maintaining public confidence in the integrity of the judicial system, as well as the importance of maintaining confidentiality and impartiality and of upholding the dignity of the court in their postings to social media.

- **Appellate Disqualification for Judicial Service in Matters Challenging COVID-19 Emergency Rules**
[CJEO Oral Advice Summary 2020-36](#) advises that an appellate justice's service as a nonvoting Judicial Council member and as a voting member of the council's Rules Committee, standing alone, would not require the justice to be disqualified from hearing matters challenging COVID-19 rules and orders adopted and approved by the council. The committee reasons that the justice's service on the council and the rules committee does not raise a reasonable belief that the justice's discussion of emergency COVID-19 rules and orders with the council were statements committing the justice to a particular outcome in matters challenging those rules or orders. The committee concludes that in matters naming the Judicial Council as a party in direct challenges to the emergency rules and orders, the justice is disqualified. However, in matters where the Judicial Council is not a named party, the justice is not disqualified because law drafting is expressly not a ground for disqualification and because a person aware of the justice's administrative role and duties would not reasonably doubt the justice's ability to reconsider the validity of a rule or order as part of his or her judicial function.
- **Appellate Disqualification for a Peremptory Challenge as a Trial Judge in the Matter**
[CJEO Oral Advice Summary 2020-035](#) advises that an appellate justice, who had been removed from sitting as a trial court judge in a matter through a peremptory challenge, should be disqualified on the same matter on appeal due to the appearance of impartiality. The committee notes that a peremptory challenge is a party's right to remove a judge based on a party's belief of bias without proof. Disqualification is considered irrevocable and a disqualified judge is prevented from discussing the matter with any other judge. The committee concludes that a reasonable person aware of the justice's previous removal through a peremptory challenge would doubt the justice's ability to be impartial were the justice to sit in review on the same matter.

- Judges Working Remotely After Court Reopening During the COVID-19 Pandemic**

[CJEO Oral Advice Summary 2020-034](#) considers the ethical concerns regarding a judge's desire to work remotely as courts reopen during the COVID-19 pandemic. The committee advises that all judicial officers have a duty to hear all matters assigned unless disqualified, and judges must provide a forum for fair adjudication of party disputes. The duty to hear matters is not confined to hearing a matter in a courtroom. Presiding officers are able to offer reasonable accommodations for disabilities, before the pandemic and because of the pandemic. Judicial assignments, balancing the needs of the public, the parties and the court, are a matter for court administration and court management, not judicial ethics. Since the committee was established to provide ethics advice to judicial officers and judicial candidates, the committee declines to offer advice about how to balance factors relevant to court administration and management questions.
- Party Reimbursement of Judicial Expenses**

[CJEO Oral Advice Summary 2020-033](#) advises that reimbursement of a judge's travel, lodging and meals by a party or attorney appearing before the judge would constitute a prohibited gift to the judge. Judges are recommended to seek payment for travel related expenses through provisions within the Government Code, where procedures to monitor expenditure accountability are included. The committee advises that complying with the statutory procedures avoids the appearance of bias that may arise if the payment had been accepted from a party and the same parties or lawyers appear before the judge in future proceedings.
- Judicial Obligations Regarding Witness Face Masks During the COVID-19 Pandemic**

[CJEO Oral Advice Summary 2020-032](#) considers whether a judge must order a witness to remove his or her face mask, during a proceeding, when the witness fears the consequences. The question arose in anticipation of the reopening of courts after the shutdown precipitated by the COVID-19 pandemic. The committee advises that judges are required to provide litigants with an opportunity to have their matters fairly adjudicated in accordance with law. Since the committee was established to provide advice on ethical issues, the committee declines to offer specific advice on the legal due process and confrontation clause issues raised by the face mask question.
- Extrajudicial Service as a Rotary District Youth Protection Officer**

[CJEO Oral Advice Summary 2019-031](#) advises a retired judge assigned to the Temporary Assigned Judges Program to discontinue extrajudicial work as a Youth Protection Officer (YPO) for a civics organization. While work for a nonprofit organization as a nonlegal advisor is permissible, as YPO, the judge was asked to monitor changes in and give advice on the law, which is prohibited as the improper practice of law. The position of YPO also includes responsibilities that make it likely the judge would be called as a witness, suggesting an appearance of impartiality that is disallowed in a judge's extrajudicial activities. The committee cautions judges to avoid leadership positions with organizations that litigate frequently, in order to avoid the appearance of impartiality. The committee also advises that the judge's work would impermissibly advance the interests of the

organization through use of his or her judicial title and by lending the prestige of the judge's office to the organization.

- **Acceptance of a Private Testimonial Dinner and Honors**

[CJEO Oral Advice Summary 2019-030](#) advises a judge about honors to be given at a retirement dinner held by an executive committee of a civics organization. The judge had served on the committee for decades, considered the executive committee members to be friends, and always disqualified when any of the members had matters assigned to the judge. The committee advises the dinner was a private testimonial dinner and a permissible gift, received from people whose preexisting relationship with the judge would prevent the judge from hearing the person's matter under disqualification rules. The judge was advised to report receipt of the gift's value. The committee also advises that an achievement award in the judge's name, in the form of a plaque, could be presented to a law student. The honor of the award's name was a permissible use of the judge's office and title, as no pecuniary gain nor advantage flowed from the award. Additionally, the committee advises the judge could accept a commemorative framed replica of the student's personalized plaque. The committee observes that the commemoration is exempted from the statutory definition of a gift due to its minimal value, and it is exempted from the code's definition of a gift as the personalization eliminates the replica's value as consideration on the open market. Finally, the committee advises the judge could accept the framed commemoration even if it is considered a gift, as it is another permissible gift from the same personal friends who hosted the retirement dinner.

- **Appellate Disqualification for Prior Assignment as Coordinated Proceedings Judge**

[CJEO Oral Advice Summary 2019-029](#) advises against mandated appellate disqualification for having heard or tried a matter when the justice had served as trial judge. Prior to become an appellate justice, the justice had served as the coordinated proceedings judge on the same matter, but because the case had been stayed or was pending appeal during the time the judge served in that capacity, the judge had no jurisdiction to act in the matter and had not ruled on any issue relevant to the appeal. The committee further advises that discretionary disqualification due to the appearance of impartiality was not necessary, because the judge did not actively participate in the case below. Finally, the committee set forth circumstances that would prompt a reasonable person to doubt impartiality due to a judge's active participation in other cases: (1) a ruling on a contested issue of law or facts relevant to the appeal; (2) a ruling that is referenced or implicated in the appeal; (3) a ruling on the case in chief or affirmative defenses; (4) a procedural ruling that substantially affected the outcome; or (5) a ruling about which a claim of error is raised on appeal.

- **Service on a Civil Liberties Program Advisory Panel for the State Library**

[CJEO Oral Advice Summary 2019-028](#) answers a question about whether an appellate justice may accept appointment by the Governor to serve as a member of the California Civil Liberties Public Education Program, an advisory panel of the California State Library. Assuming that there are no constitutional impediments under article VII, sections 7 and 17 of the California Constitution, oral advice was provided that gubernatorial appointment to the advisory panel is an extrajudicial activity

related to the law, the legal system, and the administration of justice, which is an activity that canon 4C of the California Code of Judicial Ethics encourages. The goals of the advisory panel's work also promote the obligations required of judicial officers pursuant to canon 2C, which prohibits membership in organizations that practice invidious discrimination. The justice was advised that he or she may serve on the advisory panel but should continually assess the appropriateness of ongoing service and examine whether the advisory panel's activities are consistent with the obligations of judicial office required by the code.

- **Service on a Nonprofit Advisory Board Involved in Criminal Justice Issues**

[CJEO Oral Advice Summary 2019-027](#) advises that a judge may serve on the advisory board of a nonprofit organization involved in criminal justice issues, as judicial participation in activities involving the law, the legal system, and the administration of justice is encouraged by the California Code of Judicial Ethics. A judge may address matters that fall within the judge's judicial experience, such as providing commentary or consultation regarding revisions of substantive and procedural law if speaking from a judicial perspective, but cannot participate as a legal advisor. The judicial officer must also consider the other code restrictions when evaluating service on an advisory board and continually reassess the appropriateness of ongoing service based on the organization's activities.

- **Soliciting Endorsements from Trial Court Judges for Other Appellate Court Justices Subject to Retention Elections**

[CJEO Oral Advice Summary 2018-026](#) answers a question about whether a presiding appellate court justice may solicit campaign endorsements from superior court presiding judges within the justice's appellate district on behalf of other justices facing retention elections. The presiding justice intends to also ask the presiding judges to solicit endorsements from other trial court judges. Oral advice was provided that a judge may solicit endorsements on behalf of a candidate for judicial office, subject to certain limitations: (1) a judge may not solicit campaign contributions from certain subordinate judicial officers or state court personnel; and (2) if the judge solicits endorsements from anyone else, including other judges, the judge cannot use the prestige of judicial office in a manner that would reasonably be perceived as coercive. A judge must also comply with other obligations within the California Code of Judicial Ethics, including that any solicitation of an endorsement or endorsements will promote judicial independence, integrity, and impartiality. In most instances, these concerns do not prohibit an appellate court justice from soliciting endorsements from trial court judges. They do raise concerns in the narrower question of whether a presiding justice may solicit campaign endorsements from trial court judges within his or her district, due to the presiding justice's supervisory responsibilities related to and leadership position within the court, as well as his or her oversight over trial court decisions. Concerns of coercion and potential harm to judicial independence, integrity, and impartiality prohibit a presiding justice from making the proposed mass solicitation to the trial court presiding judges within his or her appellate district that includes a request that the presiding judges solicit their colleagues on the presiding justice's behalf.

- Disqualification and Disclosure Duties of a Trial Judge Assigned as an Appellate Justice**

[CJEO Oral Advice Summary 2018-025](#) provides guidance to trial court judge who was assigned to hear a matter in an appellate court regarding the judge's disqualification or disclosure obligations related to: (1) campaign contributions from parties in the appellate matter that the judge received during the judge's recent judicial election; (2) a campaign contribution from a super political action committee that accepted contributions from named parties in the appellate matter; and (3) the judge's membership in an organization devoted to the law, the legal system, and the administration of justice, which includes parties to the appellate matter as other members of the organization. The summary advises that disqualification and disclosure rules apply based on the type of proceeding rather than the judicial officer's formal title or status. Oral advice was provided that a trial court judge serving as an appellate justice pro tempore has the same ethical obligations as an appellate justice and, based on the facts provided by the judge, the judge does not have a mandatory duty to disqualify or disclose. The judge must make a discretionary decision to disqualify in the matter and should consider whether a reasonable person aware of the contributions, which are publicly available in the judge's Fair Political Practices Commission filings, or any other circumstances related to the campaign, would doubt the judge's impartiality in the matter.
- Reporting Misconduct by a Superior Court Research Attorney in a Pending Matter**

[CJEO Oral Advice Summary 2018-024](#) answers a question about whether a presiding justice has an ethical obligation to report a superior court research attorney to the attorney's presiding judge or to the State Bar when the justice determines that the research attorney engaged in misconduct related to an appellate matter. The oral advice was requested while there was sufficient time for a party to petition for a writ of certiorari to the United States Supreme Court. As such, the matter was still pending within the meaning of the California Code of Judicial Ethics and any communication to the attorney's presiding judge regarding the matter would constitute an improper ex parte communication. Oral advice was provided that if the justice had personal knowledge of facts that constituted attorney misconduct, the justice had an affirmative obligation to take appropriate corrective action, which could include reporting the attorney to the State Bar.
- Disqualification Responsibilities of Appellate Court Justices**

[CJEO Oral Advice Summary 2018-023](#) provides guidance on an appellate court justice's disqualification obligations and advises that a justice does not have the same disclosure obligations as a trial court judge. A justice may, but is not required to, disclose information relevant to the question of disqualification. If a justice determines that he or she is disqualified, the justice may request that the parties waive disqualification. A request for waiver should be limited to exceptional circumstances, such as when the appellate court would have difficulty creating a panel without the disqualified justice's participation, and there should be no reasonable doubts concerning the justice's impartiality. If the justice requests or accepts a waiver of disqualification, the request and acceptance should be in writing and made a part of the appellate record. The oral advice also states that where a justice determines that the circumstances that necessitated disqualification are no longer present, the justice may revoke his or her disqualification. The justice

should revoke disqualification only in exceptional circumstances and should consider the circumstances that initially caused the justice's disqualification, if there is an appearance of bias, and the justice's other ethical obligations contained in the California Code of Judicial Ethics. If the justice revokes his or her disqualification, that decision should be in writing and made a part of the appellate record.

- **Disclosure Requirements for a State Bar Court Review Department Judge**

[CJEO Oral Advice Summary 2018-022](#) advises that a State Bar Court Review Department judge is not required to disclose information that is reasonably relevant to disqualification so long as the judge has determined that he or she is not disqualified. In trial court proceedings, a judge must disclose on the record information relevant to disqualification, even if the judge believes there is no actual basis for disqualification. A Review Department proceeding is not a trial court proceeding that requires disclosure. Thus, a Review Department judge is not required to, but may, disclose information that is reasonably relevant to the question of disqualification.

- **Disqualification for Acquaintance with Leaders of an Amicus Curiae**

[CJEO Oral Advice Summary 2017-021](#) advises that an appellate justice may make a discretionary decision to disqualify him or herself when the justice is an acquaintance of leading members of an association that has filed an amicus curiae brief (amicus leaders) in a matter being heard by the justice. In the factual scenario provided, the justice's relationship with the amicus leaders was a professional relationship that included greetings at events and lunches, the most recent such event occurring over two years ago. The justice's acquaintance did not cast reasonable doubt as to the justice's impartiality. Further, because appellate justices are not obligated to make disclosures, the justice has discretion to disclose his or her acquaintance with the amicus leaders.

- **Judicial Service on a Nonprofit Credit Union Advisory Council**

[CJEO Oral Advice Summary 2017-020](#) advises that a judge may not serve on an advisory council of a nonprofit credit union. Judges are prohibited from judge serving "as an officer, director, management, or employee of a business affect with a public interest, including, without limitation, a financial institution." (Cal. Code Jud. Ethics, canon 4D(3).) Such an advisory role could (1) reflect adversely on the judge's impartiality, (2) reasonably be perceived as lending judicial title to the advancement of the credit union's interests, or (3) potentially involve the judge in frequent transactions with a party likely to appear before the court on which the judge serves, all in violation of the code. Support for this conclusion is found in other states with similar canon restrictions. Moreover, the judicial ethics advisory committees in a majority of other states have also concluded that judges may not serve in advisory positions for banking institutions and the judicial ethics advisory committees in several other states have concluded that judges may not serve in positions with nonprofit credit unions.

- Accepting Compensation For Performing A Marriage After January 1, 2017**
[CJEO Oral Advice Summary 2016-019](#) was superseded by amendment to Family Code section 400, effective July 10, 2017. The committee's updated conclusion is that judges may again accept compensation for performing marriages on weekends or holidays. The inconsistency with the California Code of Judicial Ethics and Penal Code section 94.5, as discussed in this oral advice summary, was eliminated.
- Administering the Oath of Office to a Recently Elected District Attorney**
[CJEO Oral Advice Summary 2016-018](#) provides advice that a judge may administer the oath of office to a recently elected district attorney. Judicial officers are among those authorized by law to administer the oath of office required to be taken by all public office holders, which is necessarily an official function of judicial office. While judges must take caution to avoid any activities that might convey an appearance of bias towards individuals or groups that appear before the court, a person aware of the fact that a judge is performing an official function would not entertain doubt as to the judge's impartiality. Thus, a judicial officer may administer the oath of office at a ceremony to swear in a public official, including a newly elected district attorney, without violating of the California Code of Judicial Ethics.
- Disqualification for a Prior Appearance as a District Attorney in Another Proceeding**
[CJEO Oral Advice Summary 2016-017](#) discusses the U.S. Supreme Court decision in *Williams v. Pennsylvania* (June 9, 2016) 195 L.Ed.2d 132, and answers a question about whether a judge is disqualified from hearing a criminal matter if the judge served as the prosecutor in a prior conviction alleged as a strike for sentencing enhancement in the current matter. Based on *Williams*, CJEO Formal Opinion 2015-007, and California law, CJEO concludes that the critical factor is whether there are overlapping issues of law or fact between the prior matter and the current matter, which occurs when an alleged prior governs the punishment in the current matter. The committee specifically advised that: (1) a judge is disqualified from hearing a criminal arraignment if the judge served as the district attorney at the preliminary hearing in an alleged prior conviction because such an appearance involves active involvement in the prosecution of a prior that will govern punishment and a person aware of the facts would reasonably doubt impartiality; and (2) if the judge appeared at a nonsubstantive hearing, such as a continuance or other ministerial matter, and did not actively participate in the prosecution of the alleged prior, reasonable doubt as to impartiality would not be likely and disqualification would not be required. As guidance, the committee also explained why the judge's memory, whether a guilty plea was entered, the length of time since the prior service, and the nature of the hearing in the current matter are not determinative factors.
- Disqualification of a Pro Tem Appellate Justice Under Active Consideration**
[CJEO Oral Advice Summary 2016-016](#) answers a question about whether a superior court judge who is sitting as a pro tem appellate justice while under active consideration by the Governor for appointment to the Court of Appeal has disqualification obligations in a habeas corpus matter in which the Governor's decision to affirm, modify, or reverse the parole board is at issue. The

committee advised that the pro tem justice should disqualify himself or herself in those circumstances. In light of the Governor's constitutional authority to review personally all decisions of the parole board granting, denying, revoking, or suspending parole, and in light of the substantial interest a judicial officer under active consideration for permanent elevation to an appellate court may have in maintaining the Governor's favor during service as a pro tem appellate justice, a reasonable person aware of the facts would likely doubt the justice's ability to be impartial.

- **Full Bench Disqualification**

[CJEO Oral Advice Summary 2016-015](#) answers a question about whether a presiding judge may disqualify the entire bench without polling each judge, such as when a local judge's family member is involved in a criminal case. The advice states the ethical rule that each judge decides for himself or herself whether disqualification is required, and therefore, a presiding judge may not decide if another judge should be disqualified. (*Kaufman v. Court of Appeal* (1982) 31 Cal.3d 933, 937-940; Code Civ. Proc., § 170.1, subd. (a)(6)(A)(i)-(iii).) Given this ethical rule, a presiding judge must poll all of the local judges about their individual disqualification before seeking assignment of the matter to a judge from another court under the disqualification statute. (Code Civ. Pro., § 170.8; Cal. Judges Assn., Jud. Ethics Com., Advisory Opn. No. No. 62, p. 3.) However, there are two administrative alternatives for relying on outside judges without polling the local bench. Presiding judges may assign the case to a retired bench officer serving in the local court through the Assigned Judges Program. (Cal. Const., art. VI, § 6(e) [the Chief Justice has authority to assign a retired judge to any court]; Cal. Rules of Court, rule 10.603(a) [presiding judges have authority to make assignments within their court].) Presiding judges also may assign the case to a judge in another county if permitted by a reciprocal assignment order issued by the Chief Justice. (Cal. Const., art. VI, § 6(e) [the Chief Justice has authority to assign any judge to another court within the judicial branch]; Cal. Rules of Court, rule 10.630 [a "reciprocal assignment order" issued by the Chief Justice permits judges in courts of different counties to serve in each other's courts]; Gov. Code, § 69740, subd. (b) [allows presiding judges to agree to hold sessions of court outside of a county while maintaining venue].)

- **Judicial Membership in a Church-Sponsored Boy Scouts of America Troop**

[CJEO Oral Advice Summary 2015-014](#) discusses whether a judge may continue to be a scoutmaster of a local Boy Scouts of America (BSA) troop that is sponsored by the judge's church after the amendment to canon 2C of the California Code of Judicial Ethics becomes effective in January, 2016, and the "youth organization" exemption is eliminated from the ban on membership in organizations that practice invidious discrimination. The committee declined to provide an opinion as to whether the requesting judge's troop, or any BSA troop, has a bona fide open-membership policy or is dedicated to shared religious values. The judge was advised that he must investigate his troop's policies, practices, and values of common interest to the troop members. The judge was advised that canon 2C, effective January, 2016, will permit the judge's membership in his church-sponsored BSA troop if he is satisfied that the troop does not exclude members based on sexual orientation, or if he is satisfied that the troop is an organization dedicated to the preservation of religious values of legitimate common interest to the troop members. (Canon 2C; Advisory Com. commentary, foll.

canon 2C.) The judge was also advised that his challenges to the constitutionality of the canon 2C amendment are legal questions beyond the scope of CJEO's authority and are nonetheless moot given the advice provided.

- **Judicial Membership in a Boy Scouts of America-Sponsored Eagle Scout Alumni Group**

[CJEO Oral Advice Summary 2015-013](#) discusses whether a judge may be a member of a local Boy Scouts of America (BSA) after the amendment to canon 2C of the California Code of Judicial Ethics becomes effective in January, 2016, and the "youth organization" exemption is eliminated from the ban on membership in organizations that practice invidious discrimination. Oral advice was provided that membership will not be prohibited because the current BSA policy precludes invidious discrimination on the basis of sexual orientation for non-unit-serving volunteers such as eagle scout alumni members. The fact that BSA's policy may result in discriminatory practices by some chartering organizations in the selection of local troop leaders does not prohibit membership in a BSA-sponsored eagle scout alumni organization that does not discriminate. (Rothman et al., Cal. Judicial Conduct Handbook (3d ed. 2007) § 10.25, pp. 539-540 [a judge to be a member of a local group that does not discriminate against women even if the group is part of a national or international organization that allows invidious discrimination based on gender], citing Cal. Judges Assn., Jud. Ethics Com., Advisory Opn. No. 34, pp. 3-4 [where an organization has made a formal decision to end discriminatory membership practices, but those previously excluded have not in fact yet been admitted, the judge who wishes to remain a member must hold a conscious belief that the open-membership policy is bona fide and will be implemented in the ordinary course of events].)

- **Inviting Attorneys to Provide Legal Education to Appellate Justices**

[CJEO Oral Advice Summary 2015-012](#) discusses whether appellate attorneys may be invited to speak on law-related topics at a legal education program held for the justices of the appellate district court where the attorneys practice. Oral advice was provided that a presiding justice is permitted to invite attorneys to speak on law-related topics at a legal education program held for the justice of the appellate district court where the attorneys practice, so long as precautions are taken to avoid the appearance of impartiality or diminish the public's confidence in the impartiality of the court. The presiding justice was advised to consider the following precautions to ensure confidence in the impartiality of the court: (1) invite the attorney to discuss legal issues but not specific cases, issues, or controversies pending in the courts; (2) review the curriculum and content of the attorney's remarks before the educational program to ensure that it is not designed to advocate a particular point of view or the merits of the attorney's cases; (3) invite attorneys representing opposing positions or parties to speak to the justices or otherwise be available to hear additional viewpoints; and (4) prohibit use of the speaking engagement in the attorney's advertising or to otherwise promote the attorney's practice.

- **Use of Judicial Title on a Scholarship Fund**

[CJEO Oral Advice Summary 2015-011](#) discusses whether a law school may name a scholarship after a sitting judicial officer and raise donations to fund the scholarship in the judge's name. Oral advice

was provided that canons 2B(2) & 4C(d)(i) of the California Code of Judicial Ethics preclude a judge from allowing his or her name to be used in any manner that involves a fundraising activity for the direct benefit of another, including the use of judicial title in scholarship fundraising activities. While naming a scholarship after a judge is an honor, the solicitation of donations to fund the scholarship will necessarily use the judge's name in a manner that amounts to personal solicitation that is prohibited under canon 4C(d)(iv). In the event that the honor is bestowed without the judge's prior authorization, the judge is advised to take reasonable steps to correct the impermissible use of judicial title for fundraising activities.

- **Service by an Appellate Justice as a Compliance Officer in Pending Federal Proceedings**
[CJEO Oral Advice Summary 2015-010](#) discusses whether a recently nominated Associate Justice of the California Court of Appeal may continue serving as a Prison Compliance Officer in pending federal proceedings concerning overcrowding conditions in the California prison system. The appellate justice was advised that CJEO has no authority to provide legal advice and it is the justice's responsibility to obtain a legal opinion about whether simultaneous service is permissible under article 7, sections 7 & 17, of the California Constitution. With regard to the ethics issues, and assuming there are no constitutional impediments for purposes of providing oral advice, the justice was advised that simultaneous would not be strictly prohibited under canons 1 & 2 of the California Code of Judicial Ethics because a person aware of the federal court position would not have reason to doubt the justice's impartiality or independence in state appellate matters generally. Similarly, continued service would not be precluded under canons 3E(5)(f)(ii) & 4A(4) until the justice makes a disqualification decision in a specific matter before the justice.
- **Prohibition on Fundraising While a Subordinate Judicial Officer**
[CJEO Oral Advice Summary 2014-009](#) discusses whether a subordinate judicial officer may engaging in fundraising activities as the Chief Justice of a sovereign nation's tribal court and judicial system. Oral advice was provided that a commissioner is prohibited from fundraising for a tribal court or tribal justice system while employed as a state court subordinate judicial officer, even if the funds are solicited without use of state court judicial title.
- **Application of the Rule of Necessity**
[CJEO Oral Advice Summary 2014-008](#) discusses whether an appellate justice may author an opinion deciding an issue on appeal that would disqualify all sitting and retired appellate justices. Oral advice was provided that the rule of necessity permits a sitting justice to decide a constitutional question about public employment during the remainder of a retired judge or justice's judicial term. [Cited in *Gilbert v. Chiang* (2014) 227 Cal.App. 4th 537, 543.]
- **Judicial Review of Ex Parte Applications for Family Law Contempt Orders**
[CJEO Oral Advice Summary 2014-007](#) discusses a request to clarify whether a CJEO Formal Opinion regarding ex parte applications for emergency family law orders applies to ex parte applications for family law contempt orders. Oral advice was provided that CJEO Formal Opinion 2014-004 is

expressly limited to ex parte emergency orders and not to contempt orders, which are governed by laws pertaining to general civil and family law contempt proceedings. A legal opinion interpreting the contempt statutes was not provided.

- **Disqualification for Membership in a Specialty Women’s Bar Association**

[CJEO Oral Advice Summary 2014-006](#) discusses whether judges or justices who are members of a specialty women’s bar association dedicated to the advancement of women in law and society are disqualified from hearing matters involving female litigants, such as family law matters. Oral advice was provided that disqualification is not required because a person aware of the women’s bar association’s mission and membership would reasonably conclude that its male and female judicial members share an interest in the goal of advancing women’s participation in law and society as attorneys and judges. Such an aware person would not reasonably doubt a judicial member’s ability to be impartial towards female litigants.

- **Disqualification for Membership in an Amicus Curiae**

[CJEO Oral Advice Summary 2014-005](#) discusses the disqualification obligations of an appellate justice who is a member of a regional, environmental, non-profit organization that has filed an amicus curiae brief in a matter being heard by the justice. Oral advice was provided that disqualification was not required because a person aware of the fact that the non-profit organization filed an amicus brief and was not a party would have no reason to doubt the justice’s ability to be impartial in deciding *the interests of the parties*.

- **Use of a Testimonial Letter to Promote a National Bar Association Program**

[CJEO Oral Advice Summary 2014-004](#) discusses whether a judge may serve as signatory to a testimonial letter for a national bar association program that coordinates judicial internships for law students. Oral advice was provided that a judge may sign a testimonial letter using judicial letterhead that will be mailed directly to sitting federal and state judges. However, the letter may not be sent to law firms as part of program materials intended to solicit funds because the letter could reasonably be perceived as part of that solicitation even if the letter does not request funds or otherwise seek to raise money for the program. The testimonial letter may be posted on the national bar association’s website as part of informational material available to all viewers, including judges, law firms, and the public, but may not be posted on an area of the website devoted to solicitation and funding.

- **Fundraising Among Judges for a Civics Education Project of a Nonprofit National Legal Association**

[CJEO Oral Advice Summary 2013-003](#) discusses whether a judicial officer may engage in direct, individual solicitation of money from other judges to fund a civics education project by a nonprofit national legal association. Oral advice was provided that an appellate justice may solicit funds from other judges to fund the civics education project of a nonprofit association devoted to the improvement of the law, the legal system, and the administration of justice. However, an appellate

justice may not solicit trial judges within the justice's appellate district because of ethical concerns about the use of superior judicial office.

- **Attending a Private Foundation Meeting to Speak about National and State Civics Education Work**
[CJEO Oral Advice Summary 2013-002](#) discusses whether a judicial officer may meet with the board of a private foundation to discuss national and state civics education and a project the judicial officer is developing with a national legal association. Oral advice was provided that a judicial officer may meet with the board of the private foundation to discuss matters concerning the law, the legal system, or the administration of justice.
- **Disclosure when a Judge's Spouse Serves on a City Commission**
[CJEO Oral Advice Summary 2013-001](#) discusses the disclosure requirements when a judge's spouse has been appointed as a city utility commissioner and the judge hears cases involving the city. Oral advice was provided that disclosure is required when a judge's spouse has been appointed as an unpaid commissioner of a city utility and the judge hears cases involving the city. Disqualification would be required when the city is a party only if the judge's spouse were employed by the city or if the spouse had a relationship with the city as a director, advisor or other active participant in city affairs. Disqualification would not be required if the judge's spouse is not a city employee nor an active participant in the affairs of the city itself.

III. CJEO Informal Opinion Summaries

- **Disqualification for Spouse's Political Campaign Services**
[CJEO Informal Opinion Summary 2018-005](#) advises that, in most instances, a reasonable person aware that the judge's spouse is providing political campaign services to reelect the head of a government legal office and that attorneys from that office, but not the head of the office, appear as counsel in the proceeding, would not doubt the judge's impartiality. Therefore, the informal opinion concludes that the judge may decline to disqualify himself or herself unless the judge subjectively believes that he or she is unable to act impartially. The judge should also evaluate the facts and circumstances surrounding the campaign and the proceeding to determine whether there are specific circumstances, such as the source of campaign funds, publicity surrounding the proceeding, and size of the government legal office, that could cause a person aware of the facts to reasonably doubt the judge's impartiality and necessitate disqualification. The informal opinion also advises that the spouse's campaign services to the head of the government legal office constitute information that is reasonably relevant to the question of disqualification. A trial court judge should disclose this information on the record while the spouse is engaged in such services, and should continue to disclose this information for a reasonable period of time after the spouse's services end or after the last payment related to the services is received, whichever occurs later.

- Judicial Appearance in an Educational Documentary**

[CJEO Informal Opinion Summary 2014-004](#) discusses whether judges may appear in an educational documentary being produced for public television that focuses on justice systems in California, where the judges would appear in the documentary in a minor or secondary capacity, be interviewed, and be identified by judicial title but not wear robes, except in any filmed court proceeding. The informal opinion concluded that an appearance in the described documentary film would not justify a reasonable suspicion that the prestige of office was being utilized to promote a commercial product. The informal opinion further advised that judges are permitted to appear in filmed interviews in which they explain their work with the courts, including discussing court procedures and legal issues that would promote public understanding and confidence in the administration of justice. However, they may not answer questions in such a way that discusses the substance of pending cases, creates the appearance of political bias or prejudice, or otherwise reveals facts from confidential proceedings. The informal opinion also concluded that trial court proceedings could be filmed as permitted under California Rules of Court, rule 1.150, and any applicable local rules.
- Disqualification and Disclosure: University Representation of a Party in a Matter Before a Justice Employed by the University**

[CJEO Informal Opinion Summary 2012-003](#) discusses a justice's disqualification and disclosure duties where the justice is employed by a university that represents a party appearing before the justice. The informal opinion concluded that disqualification was not required where a clinical program at a university's law school represented a party and the justice was employed by the same university to teach an undergraduate law-related course. A person aware of the fact that there was no substantive relationship between the justice's teaching and the law school clinic would not reasonably doubt impartiality. Because disclosure is not required for appellate justices, there was no duty to disclose.
- Assignment and Disqualification of a Judge when Counsel for a Party is The Landlord Of The Law Firm that Employs the Judge's Spouse**

[CJEO Informal Opinion Summary 2012-002](#) discusses whether a presiding judge was required to refrain from assigning cases to a judicial officer where counsel for a party is the landlord of the law firm that employs the judicial officer's spouse as an associate attorney, and if not, whether the judicial officer must disqualify him or herself in such cases. The informal opinion concluded that a court is not required to refrain from assigning cases to a judicial officer at the request of a law firm, or under any circumstances, until the judicial officer has made a personal determination that he or she is disqualified to hear an assigned matter and notifies the presiding judge. The informal opinion also concluded that the judge in question was not required to disqualify because a person aware of the facts would not reasonably doubt the judge's ability to be impartial where there was no direct connection, whether social, financial, or otherwise, between the judge or the spouse and the landlord-law firm.

- **Employment of an Appellate Court Justice's Spouse as a Staff Attorney in that Justice's Chambers**
[CJEO Informal Opinion Summary 2012-001](#) discusses whether an appellate court justice's spouse may work as the justice's chambers attorney and whether a presiding justice may approve the time sheets of a chambers attorney of another justice. The informal opinion concluded that where an intimate personal relationship, including but not limited to marriage, develops between an appellate justice and one of the attorneys assigned to his or her chambers, the continued service of the attorney in that chambers would violate the California Code of Judicial Ethics by failing to avoid nepotism and favoritism and by creating an appearance of impropriety. The informal opinion also concluded that a presiding justice may verify the time sheet of another justice's chambers attorney for administrative convenience, so long as the presiding justice is in a position to know whether the attorney was present or absent on the days represented on the time sheet.