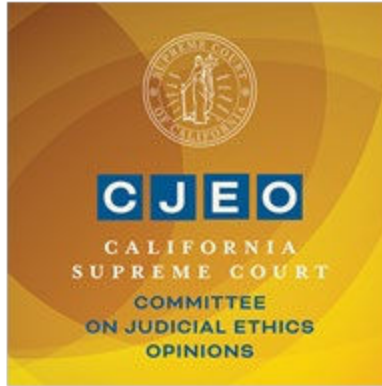




**CALIFORNIA SUPREME COURT
COMMITTEE ON JUDICIAL ETHICS OPINIONS**

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CJEO *Draft* Formal Opinion 2025-030

PARTICIPATION IN INNS OF COURT

Public Comments Submitted with a Waiver of Confidentiality

Comments from members of the public submitted in response to an Invitation to Comment on a CJEO Draft Formal Opinion are confidential communications to the committee that may not be disclosed unless confidentiality is affirmatively waived (Cal. Rules of Court, rule 9.80(h)(3); Cal. Com. Jud. Ethics Opns., rule 5(b)(1), (e)).

The following comments received by the committee on CJEO Draft Formal Opinion 2025-030 were submitted with a statement waiving confidentiality or consenting to disclosure.

Comment No. 1

Submitted by: Judge Barbara Kronlund

To: Judicial Ethics

Received on: May 29, 2025

Confidentiality waived.

This Opinion seems consistent with CJEO's advice that when a judge is a mentor in the CJMP, California Judicial Mentorship Program, they must DQ if their mentee attorney appears before them.

And I think this Opinion, 2025-030, recognizes that there can be varying levels of interaction between an Inn mentor and Inn mentee, necessitating a case-by-case evaluation of the relationship to determine whether or not DQ is necessary or not. This advice seems appropriate.

But it does strike me that the language on page 13, cited from the National Inn promotional materials, is likely mere puffery on the part of National. The Draft Opinion states that the Inn promotional materials say that Inn mentorship provides “unparalleled career support and life-long mentoring.” Extremely doubtful.

Having started our county's chapter of the Inn, The Judge Consuelo M. Callahan Inn of Court, and having served not only as its first president, Bylaws drafter, and as a mentor every year since we formed our mentorship program, I have never had an Inn mentorship experience that provided to any Inn mentee, “unparalleled career support and life-long mentoring.” In fact, the mentees are all night students with day jobs, so trying to meet with them outside of the monthly Inn meeting is close to impossible in reality. My mentees typically will “stop by” any evening scheduled Inn mentoring mixer, on their way to class, which is on their way from work. So I continue to attend these, which there are usually 2-3 per Inn season, so I can “visit” with whoever happens to show up. But it's almost never “my assigned Inn mentee”.

However, I can't speak to how other Inn mentorship programs work, so it seems this advice in Opinion 2025-030 is flexible enough to cover all situations and provide the ethics guidance needed.

Thank you for considering my Comment.

Comment No. 2

Submitted by: Stephanie Kuo, Legislative Analyst

On behalf of: Superior Court of Los Angeles County

To: Judicial Ethics

Received on: June 17, 2025

Confidentiality waived.

The following comments are representative of the Superior Court of California, County of Los Angeles, and do not represent or promote the viewpoint of any particular officer or employee.

Thank you for the opportunity to comment. We have two suggestions to offer.

First, in the paragraph beginning on the bottom of page 14 and continuing to page 15, as well as on page 19, the draft formal opinion uses the term “neutrality.” We suggest the more appropriate term under the canons is “impartiality.” The terms “impartial” and “impartiality” appear throughout the canons; “neutrality” does not. Further, prior ethics opinions and the Rothman text discuss neutrality (and specifically neutral commentary on legal issues) as a means to an end (impartiality), not as an end in itself.

We propose rewriting the paragraph at pages 14 to 15 to state (new language underlined):

“Although the Code permits judges to participate in Inns of Court education-related activities, there are a number of ethics-related concerns that may be relevant. A judge must ensure that when discussing prior attorney experience, the judge remains impartial, particularly if the judge is addressing former colleagues or attorneys from the judge’s previous practice area. (Cal. Judges Assn., Jud. Ethics Com., Opn. No. 47 (1997), *Propriety of Judges Associating with Attorneys at Social and Educational Settings*.) A judge may discuss legal issues in neutral terms, including addressing legal matters of interest to both sides of the issue in a manner that does not benefit one side over the other or advocate for one position on unsettled areas of law. (Rothman, *supra*, § 9:20, p. 602.) . . .”

Similarly, we recommend revising the fourth and fifth sentences of the full paragraph on page 19 to say (new language underlined): “Judges must remain impartial in their educational activities. A judge may discuss legal issues in neutral terms, including addressing legal matters of interest to both sides of the issue in a manner that does not

benefit one side over the other or advocate for one position on unsettled areas of law. . . .
.”

Second, at the bottom of page 13, the draft formal opinion states that participation as a mentor “may necessitate disqualification from matters involving a mentee if the judge and the mentee have had frequent and substantial one-on-one contact and the judge feels personally invested in the mentee’s professional success.” We note that CJEO Expedited Opinion 2022-045 reached a more definitive conclusion about judges serving as mentors, at least in the context of the Judicial Mentor Program. That opinion stated at page 2, “Judicial officers participating in the CJMP as mentors should disqualify from hearing matters in which their mentee attorneys appear” because “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” and the judge “may become personally invested in a mentee’s success.” We suggest that the draft formal opinion address this difference in conclusions and reconcile the two opinions.

Comment No. 3

Submitted by: Judge Jeffrey Galvin

On behalf of: Anthony M. Kennedy Inn of Court

To: Judicial Ethics

Received: June 23, 2025

Confidentiality Waived

Dear Ms. Vakili:

We write on behalf of the Executive Committee of the Anthony M. Kennedy American Inn of Court regarding the CJEO’s Draft Formal Opinion addressing judicial participation in the Inns of Court.

Established in 1988, the Kennedy Inn is a leading chapter of the American Inns of Court, one of approximately 36 chapters based in California. We are committed to excellence, civility, ethics, and professionalism in the legal profession. Our members are a diverse and collegial group of federal and state judicial officers, experienced attorneys, new attorneys, and law students. We meet on the campus of McGeorge School of Law, where Justice Kennedy taught before joining the federal bench.

We appreciate the thoughtful work that went into drafting this opinion, and we strongly support its reaffirmation that judicial participation in the Inns of Court is not only permissible but encouraged under the Code of Judicial Ethics. We offer the following comments and suggestions in the spirit of strengthening the opinion’s clarity and encouraging judicial engagement, while upholding the highest ethical standards.

I. General Considerations

We encourage the committee to consider how the opinion may be perceived by judges who are newly appointed or unfamiliar with the Inns of Court. While the opinion rightly underscores that participation is permitted and valuable, some of the current language could be interpreted as overly cautionary. This may inadvertently discourage judges from engaging in Inn activities.

We believe the opinion would be strengthened by adopting a tone that is both clear and welcoming—affirming that ethical considerations are part of responsible participation, but not so frequent or unpredictable as to warrant hesitation about involvement.

II. Suggested Clarifications and Revisions

To that end, we respectfully recommend the following:

1. Clarify that participation in Inn activities is presumed ethically appropriate. The opinion should state more directly that there is nothing inherently disqualifying about being a member of an Inn, serving on a pupillage team, or serving on an Inn leadership body. These are normal and expected forms of legal community engagement.
2. Frame ethical considerations as context-dependent and manageable. The opinion should emphasize that when ethical issues do arise—such as in the context of a close mentorship or board nomination—they are typically addressed in the same way they would be outside of participation in the Inns of Court, through well-established tools such as disclosure or recusal. These issues do not arise automatically, nor are they insurmountable.
3. Promote judicial engagement as a positive expression of professional responsibility. The opinion should underscore the value of Inn participation as part

of a judge’s commitment to fostering professionalism, civility, and mentorship within the legal community. Ethical boundaries should be highlighted where appropriate—for example, in areas such as mentoring, educational programming, and membership solicitation—but without suggesting that these functions are presumptively problematic.

III. Request for Clarification Regarding Board Nominations

The draft opinion references a 2016 California Judges Association Judicial Ethics Update, which states:

“A judge who is on the board of an Inn of Court composed of judges and attorneys does not have to disqualify or disclose if an attorney who has been nominated to the board appears before the judge as long as the nomination is from the Inn and not from the judge.”

Further clarification of this language would be helpful. Specifically, it is unclear what constitutes a nomination “from the Inn and not from the judge.” We read this to mean that as long as an invitation to join an Inn chapter’s leadership body – whether described as a “board” or “executive committee” – results from a nomination process of that body or a subcommittee, and is not solely made by a judge acting individually, neither disclosure nor disqualification would be required. This clarification would align with the spirit of the guidance and provide helpful direction for Inns with judicial members in leadership roles, such as our own.

* * *

We appreciate the opportunity to provide these comments and would be happy to answer any questions or provide additional input at the Committee’s request.

Respectfully,

The Executive Committee of the
Anthony M. Kennedy American Inn of Court
www.kennedyinn.org
info@kennedyinn.org

Comment No. 4

Submitted by: Justice Arthur Scotland

On behalf of: American Inns of Court

To: Judicial Ethics

Received: June 23, 2025

Confidentiality Waived

Dear Ms. Vakili:

As Executive Director of the American Inns of Court and as judicial officer members of local Inns of Court who know firsthand the value of the American Inns of Court, we thank the California Supreme Court Committee on Judicial Ethics Opinions for the invitation to comment on CJEO Draft Formal Opinion 2025-030, Participation in Inns of Court.

In 1977, Chief Justice of the United States Warren E. Burger and other judges and attorneys were impressed by the role of the English Inns of Court in promoting professionalism, ethics, civility, and excellence in the practice of law. This recognition led Chief Justice Burger to create the American Inns of Court, an organization of federal, state, and administrative law judges, attorneys, legal scholars, and law students in local Inns throughout our nation to “shape a culture of excellence in American jurisprudence by promoting a commitment to professionalism, ethics, civility and legal skills in the practice of law, and transmitting these values from one generation of lawyers to the next.”

As Justice Sandra Day O'Connor noted in her forward to “The American Inns of Court: Reclaiming a Noble Profession,” the American Inns of Court movement has been a success story “strongly endorsed” by the Judicial Conference of the United States, the National Center for State Court’s Conference of Chief Justices, the American Bar Association Commission on Professionalism, and the American Bar Association Judicial Administration Division.

Accordingly, we commend the draft formal opinion for declaring “Judicial membership in Inns of Court is not only permitted, but encouraged, under the provisions of the Code of Judicial Ethics[.]”

Our other comments address the potential negative consequences of parts of the draft opinion that are unnecessary and the changes that the committee should consider in deciding whether to withdraw the draft formal opinion or adopt it with revisions.

I. Potential negative consequences of the draft formal opinion

Local Inns of Court are most successful promoting ethics, civility, professionalism, and excellence in the law when their members include multiple judicial officers.

We are concerned that, by raising and addressing “ethical concerns” that in our experience do not occur or are general guidelines not specifically related to or generated by judicial membership in American Inns of Court, the draft formal opinion will discourage some judicial officers from joining local Inns of Court.

Such a result would be unfortunate as well as inconsistent with the draft’s recognition of the important and positive role American Inns of Court with judicial officer members has in promoting “civil and legal professionalism, principles that are affirmatively encouraged by the Code [of Judicial Ethics].”

II. Some of the “ethical concerns” addressed in the draft do not arise; others are highly unlikely to occur; and some are not related to or generated by judicial membership in American Inns of Court.

Soliciting Membership [pp. 10–11]

As the draft opinion acknowledges, the Advisory Committee Commentary regarding California’s Code of Judicial Ethics Canon 4C(3)(d) allows judicial officers to “solicit membership or endorse or encourage membership efforts for an organization devoted to the improvement of the law, the legal system, or the administration of justice . . . as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fundraising mechanism.”

In our collective experience as longtime judicial officer members of local Inns and the Executive Director of our organization, judicial solicitation of membership in American Inns of Court has never been coercive or perceived as such. Such coercion is unnecessary and would be self-defeating by undermining the mission and goals of the American Inns of Court and harming a local Inn of Court. And judicial solicitation of Inn of Court

membership is not a fundraising mechanism. As the draft opinion recognizes, membership fees simply cover the cost of members' meals and an Inn's administrative fees; thus, "solicitation of membership is just that and not fundraising."

Thus, the last paragraph of that section should say: "American Inns are generally self-supporting through membership fees. These fees simply cover the cost of members' meals and an Inn's administrative fees. As such, solicitation of membership is just that and not fundraising; and, because Inns of Court membership solicitation cannot reasonably be perceived as coercive, it does not violate the Code."

Mentoring [pp. 11–14]

Recognizing that mentoring is an important aspect of the American Inns of Court's mission to "inspire the legal community to advance the rule of law by achieving the highest level of professionalism through example, education, and mentoring," the draft formal opinion states "judicial mentoring is permitted" in local Inns.

Acknowledging that the "Inns of Court mentorship relationship" including judicial member participation is a "more straightforward professional relationship or acquaintanceship that would normally not warrant disqualification," the draft opinion believes the mentorship program "has the potential for moving beyond a more basic, professional relationship to a level of familiarity that may require disqualification or, at a minimum disclosure" because a "life-long Inns of Court mentorship could run the risk of undermining public confidence in a judicial officer's impartiality in cases involving the mentee." Thus, "participation as a mentor in the Inns of Court may necessitate disqualification from matters involving a mentee if the judge and the mentee have had frequent and substantial one-on-one contact and the judge feels personally invested in the mentee's professional success. Further, to the extent that a judge develops a relationship with a mentee lawyer – one that might impact, or appear to impact, a judge's impartiality – the judge should consider disclosing the relationship on the bench if that attorney appears before the judge."

Based on our collective experiences as American Inns of Court judicial officer members and Executive Director, we question the draft's belief that Inns of Court mentorship relationships have the potential to cause a judicial officer to become so personally invested in an attorney mentee's professional success that the judicial officer would lack impartiality if the attorney "appears before the judge."

Nonetheless, we do not urge that the discussion be deleted from the draft formal opinion. We ask, however, that the opinion acknowledge the reality that such relationships are unlikely to occur. Without such an acknowledgment, the opinion could dissuade judicial officers from participating in American Inns of Court mentorship programs that, as the draft opinion recognizes, “inspire the legal community to advance the rule of law by achieving the highest level of professionalism through example, education, and mentoring.”

Education [pp. 14–15]

The draft opinion wisely states, “a judge’s involvement in educational activities in an Inn, without more, does not violate the Code [of Judicial Ethics].”

It then warns that a “judge must ensure that when discussing prior attorney experience, the judge maintain neutrality, particularly if the judge is addressing former colleagues or attorneys from the judge’s previous practice area.” And the judge’s “presentation should be offered ‘from a judicial perspective, [and should] avoid coaching or providing a tactical advantage to the audience, and [] statements that might cast doubt on the judge’s capacity to act impartially’ . . . in pending or future proceedings.” In addition, “to avoid the appearance of bias, a judge must be equally available to give educational presentations to audiences with opposing views and interests.”

In our decades of experience as members of American Inns of Court, we have not observed a judicial member violate those commonsense precepts that judicial officers take very seriously.

Networking & Socializing [pp. 15–17]

The draft opinion acknowledges again the “fact that a judge and an attorney are members of the same professional organization [e.g. an American Inn of Court] . . . does not normally require the judge to recuse or disclose when the attorney appears before the court” even if the judge and the attorney serve on the Inn’s board “so long as the nomination of the attorney [to serve on the board] is from the Inn, and not the judge personally.”

This repetition is unnecessary because it is addressed under the heading Holding a Leadership Position [p.11]; and the other ethical concerns expressed by the draft formal opinion regarding “social networking” are general guidelines not specifically related to or generated by judicial membership in an American Inns of Court.

Therefore, iv. Networking & Socializing should not be included in the formal opinion.

Gifts & Awards [pp. 17–18]

We have no concerns about the draft opinion’s discussion of gifts and awards related to Inns of Court.

Conclusion [pp. 18-19]

As explained in our comments about Soliciting Membership [pp. 10–11], membership solicitation cannot reasonably be perceived as coercive or essentially a fundraising mechanism. Thus, the last paragraph of the conclusion should not include membership solicitation as an “ethical concern”; or it should say: “First, because Inn of Court membership solicitation cannot reasonably be perceived as fundraising or coercive, it does not violate the Code.”

For reasons stated above, the draft formal opinion’s ethical concerns about “Networking & Socializing” are general guidelines not specifically related to or generated by judicial membership in Inns of Court and, thus, should not be included in the CJEO formal opinion and its Conclusion. Lastly, the draft’s concerns about judicial member participation in educational programs and mentoring already is summarized in the preceding paragraph of the Conclusion and, thus, need not be repeated in the last paragraph.

We end our comments by reiterating that raising and addressing “ethical concerns” that in our experience do not occur or are general guidelines not specifically related to or generated by judicial membership in American Inns of Court, the draft formal opinion will discourage some judicial officers from joining local Inns of Court.

Simply stated, there is nothing about a judge’s membership in an American Inn of Court that creates or exacerbates ethics issues judges already are accustomed to addressing. Cataloging possible or theoretical problems creates an impression that membership in an Inn of Court is fraught with unique dangers that judges should avoid. Such a result would be unfortunate and inconsistent with the draft formal opinion’s recognition of the positive role judicial officer members of American Inns of Court have in promoting “civil and

legal professionalism, principles that are affirmatively encouraged by the Code” of Judicial Ethics.

Thank you, Chief Counsel and the California Supreme Court Committee on Judicial Ethics Opinions for considering our comments as longtime judicial members of local American Inns of Court and as the Executive Director of the American Inns of Court Foundation.

Respectfully,

Brigadier General Malinda Dunn (ret.); Executive Director of the American Inns of Court (AIC)

Hon. Consuelo Callahan, Judge, U.S. Court of Appeals for the Ninth Circuit; President, AIC

Hon. Cheryl Krause, Judge, U.S. Court of Appeals for the Third Circuit; Vice President, AIC

Hon. Tani Cantil-Sakauye, Chief Justice, California Supreme Court (ret.)

Hon. Mark Martin, Chief Justice, North Carolina Supreme Court (ret.); Dean, High Point University School of Law

Hon. Ruth McGregor, Chief Justice, Arizona Supreme Court (ret.); Past President AIC

Hon. Collins J. Seitz, Jr., Chief Justice, Delaware Supreme Court

Hon. Martin Jenkins, Justice, California Supreme Court

Hon. William Koch, Justice, Tennessee Supreme Court (ret.); Dean, Nashville School of Law; Past President AIC

Hon. Kent A. Jordan, Judge, U.S. Court of Appeals for the Third Circuit (ret.); Past President AIC

Hon. Barbara Lynn, Judge, U.S. District Court for the Northern District of Texas; Past President AIC

Hon. Carl Stewart, Judge, U.S. Court of Appeals for the Fifth Circuit; Past President AIC

Hon. Deanell Tacha, Judge, U.S. Court of Appeals for the Tenth Circuit (ret.); Past President AIC

Hon. M. Margaret McKeown, Judge, U.S. Court of Appeals for the Ninth Circuit

Hon. J. Clifford Wallace, Judge, U.S. Court of Appeals for the Ninth Circuit

Hon. Arthur Scotland, Presiding Justice, Court of Appeal, Third Appellate District (ret.); AIC Board of Trustees

Hon. Jan M. Adler, Judge, U.S. District Court for the Southern District of California (ret.)

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