



Ethics and Professionalism Committee
January 20, 2012
Meeting Minutes

- I. Judge Welch called the meeting to order at 1:33 p.m.

Attendees: Judge Heather Welch, Chair, Mag. Larry Bradley, Judge Richard Culver, Ms. Adrienne Meiring, Judge Timothy Oakes, Judge Rex Reed, Judge Michael Robbins, Judge Evan Roberts (via teleconference), Mag. John Sedia, and Judge Gary Smith.

- II. The August 19, 2011 meeting minutes were unanimously approved.

- III. Mission Statement

The Committee reviewed the mission statement and discussed the need for revision to meet current need. Staff will gather additional information to facilitate further discussion on this issue.

- IV. Discussion Items

- A. Old Business

The Committee continued discussion on the issue of disqualification of judicial officers who were former prosecutors in certain criminal cases in accordance with Rule 2.11. Letter from Judge Humphrey distributed. Committee members acknowledged that Rule 2.11 can be problematic in smaller communities and discussed several approaches to amending this rule. Members would like to survey judicial officers to determine the extent of the concern regarding Rule 2.11 requirements and to obtain general data on this issue statewide. Staff will determine the available method(s) for surveying judicial officers and report back to the Committee.

- B. New Projects

- (1) Education materials for new judges – the Committee expressed an interest in developing an ethics benchbook for new judges. Staff will consult with the IJC Education Division staff to determine how the Committee may be helpful with ethics education/materials and report back to the Committee.
- (2) Survey of judicial officers – the Committee agreed to survey judicial officers to determine best how to focus the Committee's efforts to meet

the needs of judicial officers. Staff will determine the available method(s) for surveying judicial officers and report back to the Committee.

- (3) Guidance on the use of social media – the Committee has expressed an interest in developing best practice guidelines for judicial officers on the use of social media in compliance with the Code of Conduct. Judge Welch will compile ethics opinions on this issue from other states for the Committee.
- (4) Application of Rule 2.17 and AR 9 – the Committee is interested in how judicial officers are complying with Rule 2.17 and AR 9. Judge Oakes will consult with Mr. Remondini and report back to the Committee.
- (5) Guidance on Rule 2.9 – the Committee expressed an interest in developing best practice guidelines for courts utilizing the services of CASA/GAL and receivers to ensure the rule prohibiting ex parte communications is followed. Judge Oakes will research the use of receivers and report back to the Committee.
- (6) Guidance for problem-solving courts – the Committee expressed an interest in developing best practice guidelines for judicial officers presiding over problem-solving courts to help avoid ethical issues. Staff will provide the Committee with a copy of the problem-solving court statutes and rules and the “The Drug Court Judicial Benchbook” published by the National Drug Court Institute at the next meeting.
- (7) Materials on fitness to serve – the Committee expressed an interest in providing best practice guidelines for dealing with fitness to serve issues. Judge Robbins and Magistrate Sedia will work on this project and report back to the Committee.

V. 2012 Meeting Schedule – the Committee tentatively agreed to meet on the second Friday of April, July, September and December. A firm schedule will be developed by Judge Welch and distributed to the Committee.

VI. Judge Welch adjourned the meeting at 3:30 p.m.



Ethics and Professionalism Committee
April 13, 2012
Meeting Minutes

- I. Judge Welch called the meeting to order at 1:30 pm.

Attendees: Judge Heather Welch, Chair; Mag. Larry Bradley; Judge Marc Kellams (via teleconference); Judge James Kirsch; Ms. Adrienne Meiring; Judge Timothy Oakes; Judge Evan Roberts; Mag. John Sedia; Judge Gary Smith and Judge Terry Snow.

- II. The January 20, 2012 meeting minutes were unanimously approved.

- III. Discussion Items

A. Judicial Performance Evaluation Program

Indiana has been selected to participate in a pilot project for appellate judicial performance evaluation in collaboration with AJS and Justice at Stake, IAALS and CED. Judge Kirsch summarized the IAALS conference on evaluating appellate judges that he attended in August 2011 by providing an overview of current judicial evaluation programs nationally and detailing the four purposes of judicial evaluation:

- Judicial self-improvement
- Providing relevant, objective information for the purposes of re-election
- Improve the design and content of judicial education
- Enhance public confidence in the courts

Handouts: Judge Kirsch memo, August 17, 2011
AJS/Justice at Stake letter, December 16, 2011

Members discussed need to identify funds to support this project long-term and will seek advice from Justice Dickson to that end.

B. Revision of the Mission Statement

The current mission statement was developed by IJC staff and was revised to reflect current Committee efforts as follows:

The Ethics and Professionalism Committee meets regularly and at the request of the Supreme Court to give a judicial perspective on ethical and

professionalism issues. In addition, this committee makes recommendations for education programs on ethics and professionalism topics.

- C. Members further discussed the need to develop a proposed amendment to Rule 2.11 in light of Advisory Opinion #3-89 on disqualification of judicial officers who were former prosecutors. Judges Smith and Snow will draft proposed language for the Committee's review at the next meeting.
- D. Ethics and professionalism education for judges was further discussed. The Committee proposes to present at the 2012 Annual Meeting and the 2013 Spring Judicial College on ethics and professionalism. Diane will contact Vicki to explore the options and report back to the Committee at the next meeting.
- E. A draft survey intended to determine the ethics needs of judges was reviewed and approved. Diane will compile the survey using SurveyMonkey and report the survey results to the Committee at the next meeting.
- F. Best practice guidance on the use of social media was tabled for further review and discussion.
- G. The application of Rule 2.17 and AR 9 was tabled for further research.
- H. Best practice guidance on ex parte communications with CASA/GAL and receivers was tabled to allow Judge Oakes to assign this issue to a summer law clerk for research.
- I. Best practice guidance for problem-solving court judges in the area of ex parte communication was tabled for further review and discussion.
- J. Magistrate Sedia presented two articles to the Committee on fitness to serve indicating that the current sentiment is against mandatory retirement of judicial officers. This issue ties in nicely with the judicial performance evaluation program pilot project.

Articles: Report on Candidates for Judge at the International Criminal Court, October 29, 2011

IBA: Trial Judges No Longer Required to Retire by Judge Timothy Oakes, August 3, 2011.

- K. Application of Rule 4.2(B)(4) was tabled for further review and discussion.

IV. 2012 Committee Meeting Schedule

July 13, 2012 at 1:30 pm at the Indiana Judicial Center

September 14, 2012 at 1:30 pm at the Indiana Judicial Center

December 14, 2012 at 1:30 pm at the Indiana Judicial Center

- V. Judge Welch adjourned the meeting at 3:17 pm.



Staff Agency for the Judicial Conference of Indiana

Ethics and Professionalism Committee
Meeting Minutes
August 9, 2012

- I. Judge Welch called to order at 12:05 pm. The meeting was held via conference call.

Meeting participants were: Judge Heather Welch, Chair; Mag. Larry Bradley; Judge Marc Kellams; Judge Evan Roberts; Mag. John Sedia; and Judge Gary Smith.

Staff: Diane Mains

- II. The April 13, 2012, meeting minutes were approved.

- III. Discussion Items

- A. Judicial Performance Evaluation Program

Judge Welch reported that Judge Kirsch discussed this issue with the COA judges who are supportive of the concept but concerned about providing for the costs of the program, particularly for the fast approaching 2014 election cycle. Judge Welch also reported that Justice Dickson is supportive of the concept. Judge Welch will contact Bert Brandenburg, Executive Director of the Justice at Stake Campaign to discuss funding options.

- B. Revision of the Mission Statement

The Committee adopted revisions to the mission statement as follows: "The Ethics and Professionalism Committee meets regularly and at the request of the Supreme Court to give a judicial perspective on ethical and professionalism issues. In addition, this committee makes recommendations for education programs on ethics and professionalism topics."

- C. Indiana Commission on Judicial Qualifications referral on disqualification of judicial officers who were former prosecutors in certain criminal cases

Judge Smith provided draft Rule 2.11 amendment language that was distributed to the Committee for consideration. This issue was tabled for further discussion at the next meeting.

- D. Survey results and 2012 Annual Meeting

The Committee will present a session on ex parte communication and SRLs at the Annual Workshop on Wednesday, September 12, 2012, from 3:00 – 4:00 pm. Judge Welch will serve as the moderator and Mag. Bradley, Mag. Sedia and Judge Smith will serve as panelists for the discussion. The presenters will meet on August 24, 2012, to put together discussion material for the session.

E. Best practice guidance on the use of social media

Judge Welch reported that six states have issued ethics opinions on the use of social media by judicial officers – California, Florida, Kentucky, New York, Ohio and Massachusetts. These states provide a range of advice from prohibiting to authorizing the “friending” on Facebook of attorneys who appear before the judge. The Committee discussed the need to provide Indiana judges with guidance in this area. Judge Welch will draft language for best practices on the use of social media by judicial officers for the Committee to review.

F. Application of Rule 2.17 and AR 9

Issue was tabled for further discussion at a later time.

G. Best practice guidance on ex part communications with CASA/GAL and receivers

Issue was tabled for further discussion at a later time.

H. Best practice guidance for problem-solving court judges on ex parte communication

Issue was tabled for further discussion at a later time.

I. Application of Rule 4.2(B)(4)

Issue was tabled for further discussion at a later time.

IV. 2012 Committee Meeting Schedule

September 14, 2012 at 1:30 pm at the Indiana Judicial Center
December 14, 2012 at 1:30 pm at the Indiana Judicial Center

V. The meeting was adjourned at 12:50 pm.



Staff Agency for the Judicial Conference of Indiana

Ethics and Professionalism Committee
Meeting Minutes

September 14, 2012

1:30 pm

- I. Judge Welch called the meeting to order at 1:30 pm.

Meeting participants were: Judge Heather Welch, Chair; Mag. Larry Bradley; Judge Richard Culver; Judge Marc Kellams; Judge James Kirsch; Ms. Adrienne Meiring; Judge John Potter; Judge Evan Roberts; Judge John Sedia; Judge Gary Smith; and Judge Terry Snow.

Staff: Diane Mains

- II. The August 9, 2012, meeting minutes were approved.

- III. Discussion Items

- A. Judicial Performance Evaluation Program

Judge Kirsch reported that the Court of Appeals judges referred the issue of judicial performance evaluation to a Task Force for review. A draft report from the Task Force was provided to the Committee. This report will be provided to COA judges at their annual meeting this month. General concerns were raised regarding funding for the JPE project and the lack of detail in the proposal received from AJS/Justice at Stake Campaign. Judge Welch reported Justice Dickson's support of JPE. Judge Kirsch offered to obtain information on JPE program costs for the Committee. Judge Sedia will draft a Committee resolution supporting the concept of JPE.

- B. Indiana Commission on Judicial Qualifications referral on disqualification of judicial officers who were former prosecutors in certain criminal cases

Judge Smith provided the Committee with draft revisions to Rule 2.11 for review and discussion. Judge Roberts will revise the draft to reflect the discussion as well as draft a sample waiver of conflict form. Diane will determine the rule amendment process and report back to the Committee.

- C. Best practice guidance on the use of social media

Judge Welch distributed a draft “Best Practices and Tips Regarding the Use of Social Media” for Committee review and discussion. Members will review this document and provide comments to Judge Welch.

D. Application of Rule 2.17 and AR 9

Issue was tabled for further discussion at the next meeting.

E. Best practice guidance on *ex parte* communications with CASA/GAL and receivers

Judge Oakes provided the Committee with the GAL/CASA Code of Ethics that includes a provision that these individuals are not to engage in *ex parte* communications with judges. He also provided the Committee with a paper written by Kids’ Voice and Children’s Law Center of Indiana on *ex parte* communication in dissolution, guardianship and other non-CHINS proceedings involving GAL/CASA. Committee members were asked to review these documents and be prepared to discuss this issue at the next meeting.

F. Best practice guidance for problem-solving court judges

Issue was tabled for further discussion at a later time.

G. Application of Rule 4.2(B)(4)

The Committee determined that the current language does not need amending and that no further discussion is needed on this issue.

IV. Next Meeting: December 6, 2012 at 4:00 pm at the Indiana Judicial Center

V. Judge Welch adjourned the meeting at 3:03 pm.



Ethics and Professionalism Committee
Meeting Minutes

December 6, 2012
3:00 pm

- I. Judge Welch called to the meeting to order at 3:00 pm. Introductions were made.

Meeting participants were: Judge Heather Welch, Chair; Mag. Larry Bradley; Judge Jane Craney; Judge Marc Kellams; Ms. Adrienne Meiring; Judge John Potter; Judge Michael Robbins; Judge Evan Roberts (telephone); and Judge John Sedia (telephone).

Staff: Diane Mains, IJC.

- II. The September 14, 2012, meeting minutes were approved.

- III. Discussion Items

- A. Judicial Performance Evaluation Program

The Committee discussed the draft resolution supporting a judicial performance evaluation program in Indiana. The resolution was approved unanimously by the Committee subject to the approval of Judge Kirsch and the other members of the Court of Appeals. Diane will follow-up with Judge Kirsch and report back to the Committee.

- B. Indiana Commission on Judicial Qualifications referral on disqualification of judicial officers who were former prosecutors in certain criminal cases

The Committee discussed the draft Rule 2.11(A) amendment proposing a new subsection 7 regarding the waiver of disqualification of judicial officers by joint agreement of the parties. Two minor changes were made and the Committee unanimously approved both the draft Rule 2.11(A)(7) language and sample waiver disqualification form. The Committee also approved the draft proposal form to the Supreme Court Rules Committee for this proposal. Diane will forward these documents onto the Rules Committee and report back to the Committee.

- C. Best practice guidance on the use of social media

The Committee discussed and approved the proposed best practice guidelines on the use of social media by judicial officers. Judge Welch will

contact Jim Maguire to discuss using these guidelines for a future Court Times article. Diane will post the guidelines on the Committee's web page and contact Vicki Davis to propose including these guidelines in the new judge orientation packet.

D. Application of Rule 2.17 and AR 9

The Committee discussed the potential problems with the joint application of these two rules. Members discussed drafting a written advisement for any person who receives a copy of a recorded court proceeding to sign indicating that person has been of the prohibition on broadcasting these proceedings. Further discussion on this topic is needed. Judge Potter will contact the Inspector General for input on this issue. Dave Remondini will be invited to attend the next meeting to participate in further discussion on this issue.

E. Best practice guidance on ex part communications with CASA/GAL and receivers

The Committee discussed the need for guidance in this area, particularly with GALs because there are no standards regulating these individuals. A concern arises when a GAL is an attorney who ends up serving in both a representative and GAL capacity in a case. Continued discussion on this issue will occur at the next meeting.

F. Best practice guidance for problem-solving court judges

Ms. Meiring indicated that she is concerned that the authority for ex parte communications in the problem-solving court setting is being extended beyond its authority. Judge Welch will contact Judge Surbeck to discuss this issue further.

G. New business discussion items:

- Legislative issues and General Assembly composition.
- Campaign dos and don'ts under Canon 4 will be further explored at the next meeting.

IV. 2013 Meeting Schedule

- February 8, 2013, IJC office, Indianapolis at 1:00 pm
- April 19, 2013 – during the Spring Judicial Conference at the Marriott East, Indianapolis, time TBD
- September 18 or 19, 2013 – during the Annual Meeting in Ft. Wayne, date and time TBD
- December 4, 2013 upon conclusion of the Winter Conference, Indianapolis

V. Judge Welch adjourned the meeting at 4:05 pm.