



Ethics and Professionalism Committee
Meeting Minutes

February 15, 2013
1:00 pm

- I. The meeting was held via conference call. Judge Welch called to the meeting to order at 1:03 p.m.

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

Staff: Diane Mains, IJC.

- II. The December 6, 2012, meeting minutes were approved.

- III. Discussion Items

- A. Old Business

- Judicial Performance Evaluation Program

- Judge Kirsch reported that the members of the Court of Appeals approved the Committee's proposed Resolution with the proviso that the project be adequately funded. The Committee discussed the need to determine an estimated cost for the project as well as a funding source. Judge Kirsch volunteered to contact the State of Tennessee to obtain information on its JEP costs and to speak with Chief Justice Dickson regarding the feasibility of funding a JEP in Indiana. Article – Judicial Evaluation: The Devil-and the Opportunity-Is in the Details by Judge James Hoolihan was distributed.

- B. New Business

- 2013 Legislative Session

- Judge Welch provided an update on HB 1393 pertaining to JTAC and SB 103 regarding the composition of the Judicial Nominating Commission. SB 103 has been passed by the Senate. HB 1393 was amended and adopted by the House Ways and Means Committee and is expected to pass out of the House. Judge Welch reported that SJR 6 and SJR 9 regarding the selection of appellate judges have not been heard to-date.

- IV. Next Meeting: April 17, 2013 at 12:00 pm (lunch break)
Marriott East Indianapolis Hotel

- V. Judge Welch adjourned the meeting at 1:20 p.m.



Ethics and Professionalism Committee
April 17, 2013
Meeting Minutes

I. Judge Welch called the meeting to order at 12:25 p.m.

Members present: Judge Heather Welch, Chair, Magistrate Larry Bradley, Judge Jane Craney, Judge James Kirsch, Judge Timothy Oakes, Judge John Potter, Judge Michael Robbins, Judge Evan Roberts, Judge Gary Smith, and Judge Terry Snow.

Guest: David Remondini, STAD.

Staff: Diane Mains, IJC.

II. Discussion Items

Old Business

A. Judicial Performance Evaluation Program

Judge Kirsch reported that there is a tremendous range in program costs across the states: Colorado spends more than \$1.2 million, Arizona spends \$600,000, Alaska spends \$300,000 and Tennessee spends \$100,000 annually. Judge Kirsch also reported that he met with Chief Justice Dickson seeking guidance from the Supreme Court on project next steps. The Chief Justice stated that he would like to discuss this matter with his colleagues at a meeting which he wanted Judge Kirsch to attend and requested that the Committee put this project on hold until further notice.

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

Diane reported that the proposed rule and sample document were submitted to the Rules for Practice and Procedure Committee in early December. Subsequently, she received a question whether or not the Board of Directors of the Judicial Conference approved this rule.

C. Best practice guidance on the use of social media

Judge Welch reported that the practice guidelines were published as an article in the January/February 2013 issue of the Court Times magazine. Diane reported that these practice guidelines have been posted on the Committee's web page and will be distributed to new judicial officers at the new judge orientation training.

D. Application of Rule 2.17 and AR 9

Committee members discussed ways to comply with the requirements of both rules. Mr. Remondini reported that court proceedings are public records accessible under AR 9 and must be provided upon request. Judge Potter reported that Mr. Fischer, the Inspector General is concerned about media requests and the increased

potential for publication in these situations. Mr. Remondini suggested that the court issue an order when an audio copy of a proceeding is provided pursuant to AR 9 to advise the recipient not to republish the audio recording to avoid a violation of Rule 2.17. Judge Potter summarized the research he conducted on how other states handle this issue, reporting that several states have an administrative rule limiting the use of recorded court proceedings. Judge Oakes and Judge Potter, with Mr. Remondini's assistance, will draft a proposal to address this issue for the Committee's consideration.

- E. Best practice guidance on *ex parte* communications with CASA/GAL and receivers
Judge Oakes agreed to write an article on this topic by the end of the summer to provide best practice guidance to other judicial officers.
- F. Best practice guidance on *ex parte* communication for problem-solving court judges
Judge Welch reported that she along with Ms. Meiring met with Judge Surbeck, Chair of the Problem-Solving Courts Committee and Mary Kay Hudson, Director of Courts Services for IJC, to discuss *ex parte* communication in the problem-solving court context. Diane will draft practice guidelines for the Committee's consideration.

New Business

September Annual Meeting

Members agreed to present an ethics session at the 2013 Annual Meeting on political activity.

- IV. Judge Welch adjourned the meeting at 12:55 p.m.

Next Meeting: September 19, 2013

Grand Wayne Convention Center, Fort Wayne (time TBD)



Ethics and Professionalism Committee
December 4, 2013
Meeting Minutes

- I. Judge Welch called the meeting to order at 4:00 p.m.

Members present: Judge Heather Welch, Chair, Magistrate Larry Bradley, Judge Gary Smith and Judge Tim Oakes.

Staff: Diane Mains, IJC.

- II. The February 15, 2013 and April 17, 2013 meeting minutes were approved.

- III. Discussion Items

Old Business

- A. Judicial Code of Conduct, Rule 2.11 amendment update
Judge Welch reported that she presented the Committee's proposal to amend Rule 2.11 again to the Judicial Conference Board of Directors at the December 3, 2013 meeting. Several Board members asked questions, including why the proposed amendment was so narrowly applicable. The Board unanimously approved the proposed amendment, and the Committee was instructed to submit this proposal to the Supreme Court. Diane will determine the procedures for submission to the Supreme Court and report back to the Committee.
- B. Application of Rule 2.17 and AR 9
Judge Oakes led the review and discussion of Judge Potter's report and sample records request form. The Committee agreed with Judge Potter's recommendations and suggested some minor amendments to the sample form. A best practices guideline, to include the sample form, will be put together. Diane will make the modifications to the form for consideration by the Committee at the next meeting.
- C. Best practice guidance on ex part communications with CASA/GAL and receivers
Judge Oakes reported that he previously circulated a draft of a best practices article on this issue to the Committee members seeking feedback. He will resend the draft article for additional feedback and then finalize it for submission to STAD for publication in Court Times.

New Business

- A. Campaign Dos and Don'ts Guide for judicial candidates
Judge Welch reported that California has a required on-line course for all judicial candidates and suggested that the Committee consider a similar process for Indiana

judicial candidates. The Committee decided to put together a checklist for judicial candidates covering the common issues, questions and concerns that new candidates have. Judge Welch agreed to begin gathering this information and to report back to the Committee.

B. Lack of professionalism, civility and experience of young lawyers

The Committee discussed the best course of action to address these concerns. Given the numerous agencies and organizations already working on these issues, the Committee decided to put together a reference source for quick referral to existing sources.

C. 2014 Committee meeting schedule

The Committee will meet in conjunction with the 2014 Annual Meeting in French Lick and Winter Conference in Carmel. Additionally, the Committee would like to explore meeting on Mondays or Wednesdays afternoon in March and July at the Indiana Judicial Center office. Diane will seek input from other Committee members and finalize the 2014 schedule.

IV. Judge Welch adjourned the meeting at 4:40 p.m.