



JUDICIAL CONFERENCE OF THE UNITED STATES

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EXECUTIVE COMMITTEE STATUS REPORT ON JUDICIAL CONFERENCE ACTION ON JUDICIAL ETHICS AND ACCOUNTABILITY

Chief Justice John G. Roberts, Jr., directed the Executive Committee of the Judicial Conference of the United States to report on actions taken and in process by the Conference's relevant committees and the Administrative Office of the United States Courts (AO) in response to the recent reports of instances in which federal judges may not have complied with established ethical obligations. Specifically, several judges may have participated in matters in which they had a financial interest, and some did not report their attendance at private educational seminars for which their expenses were paid. This is the first report in a series to be made by the Executive Committee. The second and third reports will be made following Executive Committee and Judicial Conference meetings.

First, the Executive Committee has undertaken a comprehensive review of all Judicial Conference policies on ethical obligations, and will be meeting in August and September to assess efforts already underway to aid judges' compliance with those obligations, and to consider whether further action is necessary.

Second, the Judicial Conference Committees on Financial Disclosure and Codes of Conduct are considering additional administrative rules and reporting requirements for recusals and seminar attendance. Furthermore, these committees are providing to judges additional training sessions, video presentations, written reminders, and regular updated information on current ethical obligations.

Third, judges who have been cited in the above reports are taking appropriate steps to address the concerns that have been raised and put procedures in place to avoid any errors.

Fourth, the AO recently deployed conflict-checking software in almost every district and bankruptcy court, and is in the process of doing so in the courts of appeals. Moreover, the AO is continuously working on improving the software by, among other things, refining the name-matching function to increase the accuracy of results and thereby assist judges in identifying potential recusal situations. The AO and the Federal Judicial Center are also devoting substantial resources to educate judges on how to use the conflict-checking technology. Additional measures to promote, track and utilize the CM/ECF conflict-checking application are expected.

Fifth, the Judicial Branch Committee of the Judicial Conference is working on an expanded disclosure policy for private seminar attendance by judges, which is expected to be considered by the Judicial Conference in September.

Sixth, the AO has been working with Congress to include in the tax laws a capital gains rollover provision that will enable judges who sell property in order to avoid conflicts of interest to defer capital gains taxes until the substitute financial interests are subsequently liquidated. Members of the executive branch are already covered by such a provision. Language extending it to the judiciary has been passed by the House of Representatives and is under consideration by the Senate, and such a provision would significantly assist judges in avoiding conflicts of interest.

Seventh, the special committee established by the late Chief Justice Rehnquist to examine the implementation of the Judicial Conduct and Disability Act of 1980, chaired by Justice Stephen Breyer, will deliver its report to Chief Justice Roberts in the fall.

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The federal judiciary has a long record of high ethical standards and continuing efforts to assure that all judges comply with those standards. The great increase in workload and multiplication of detailed reporting obligations make occasional slips inevitable but the Judicial Conference is committed to achieving compliance by all judges with all obligations and reporting requirements relating to ethics.

To preserve the independence of the judiciary, Congress has traditionally agreed that the responsibility for enforcement of ethical conduct should be that of the judiciary itself, and the Conference continues firmly to oppose deviations from this wise principle. Proposals in Congress to create an inspector general to oversee the judiciary are unnecessary, unprecedented and may violate judicial independence and the separation of powers. Ethical violations of the nature recently reported are, and should be, managed, regulated and addressed by the judiciary itself. We take these matters very seriously and will continue to do everything we can to assure that the conduct of all judges remains above reproach.

The Judicial Conference of the United States will meet on September 19, 2006, at which time it will consider the actions taken and proposed by its committees.

Thomas F. Hogan, Chairman
Michael Boudin
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