

From: Francis J. Puskas [mailto:Francis.Puskas@jcbpa.org]
Sent: Friday, January 28, 2005 11:35 AM
To: Gallagher, Eileen
Subject: Comment Alternative Draft for Canon 2.07 Demeanor

Dear Ms. Gallagher:

I do hope I am not too late to submit a comment on the Draft Proposals for the revised Model Code of Judicial Conduct. I offer for the Joint Commission's consideration the following comment and alternative draft regarding Canon 2.07(b) Demeanor and Decorum.

As background, I am prosecuting attorney with the Pennsylvania Judicial Conduct Board. Our Board has received a number of complaints about judges displaying improper demeanor toward court personnel or staff. It would be helpful, and I thus recommend for the sake of clarity and consistency, that Canon 2.07(b) include reference to "staff" and "court officials" in the first clause of the sentence, just as it appears in the second clause.

It appears incongruous for this canon to provide that a judge may demand proper demeanor *from* staff or court officials, but not explicitly be required to display the same *to* staff or court officials. While I recognize the designation "others" may arguably encompass these persons in the first clause of the sentence, the noticeable failure to include them in the list of specific individuals preceding the term "others," particularly where the second clause of the sentence *does* explicitly mention such persons, leaves open to argument the question of the first clause's applicability to such persons. A judge who displays improper demeanor toward staff or court officials equally degrades the honor and integrity of the judiciary as the one who does so to a litigant, juror, witness, or attorney. I think including an explicit reference to "staff" and "court officials" in the first clause merits some consideration for the Draft Proposal.

Therefore, I recommend the following alternative draft, including the comma placement, for proposed Canon 2.07(b):

A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers, staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, ~~and~~ ~~of~~ staff, court officials, and others subject to the judge's direction and control.

I thank you for your kind consideration and hope this may be of some help to the ABA.

Very truly yours,

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