

Rule 2.05
Bias and Discrimination
National Judicial Education Program
Lynn Hecht Schafran, Director
April, 2004

The National Judicial Education Program (NJEP) endorses the following proposals to the Commission by the American Judicature Society (AJS) respecting biased behavior and sexual harassment:

- Addition of four enumerated grounds of bias (marital status, parenthood, language, and ethnicity) in Rule 2.05 and AJS's proposed comment that the Commission has included at Comment 3 to Rule 2.05. NJEP observes that some judges do not grasp what many consider the most basic concepts of appropriate judicial behavior, and that some judicial disciplinary committees trivialize this misconduct when it is brought to their attention. Providing specific examples of manifestations of bias is a valuable aid in judicial education programs and in sanctioning judges who manifest these and similar biased behavior.
- Addition of a new section focused solely on sexual harassment with detailed commentary about the behaviors that constitute this kind of misconduct.

Canon 4C(2) [Rule 4.03]
Appointments to Governmental Bodies
National Judicial Education Program
Lynn Hecht Schafran, Director
April, 2004

The National Judicial Education Program (NJEP) endorses the proposal to the Commission by the American Judicature Society (AJS) to add new Comment to Canon 4C(2) to clarify judicial involvement in government commissions.

Rule 4.04
Civic or Charitable Activities
National Judicial Education Program
Lynn Hecht Schafran, Director
April, 2004

The National Judicial Education Program (NJEP) endorses the proposals to the Commission by the American Judicature Society (AJS) in response to the Commission's inquiry about the involvement of judges in problem-solving courts with community organizations. NJEP suggests that the Commission consider use of positive language to affirm that judges can and should be active in both community outreach and membership in or assistance to specific commissions, within the parameters of the Code of Judicial Conduct. Such affirmative language is needed to clarify that there are many contexts in which judges' participation in community education, process-oriented conferences, court-convened and community roundtables and similar efforts is

not only appropriate but essential. NJEP offers examples of studies and work by several state court task forces and commissions that indicate the compromise to courts' effectiveness when judges are not allowed to participate in multidisciplinary court/community approaches to problems such as domestic violence.

Canon 2
Official Conduct
National Judicial Education Program
Lynn Hecht Schafran, Director
April, 2004

The National Judicial Education Program (NJEP) commends to the Commission a code of judicial conduct amendment adopted by the Washington Supreme Court that requires continuing judicial education (CJE). While many judges find mandatory CJE insulting, NJEP points out that public trust and confidence in the courts are undermined by judges who lack the necessary background for particular cases. As an alternative, the Commission could encourage judges to understand ongoing participation in judicial education as an essential aspect of their official duties.

NJEP points out that inclusion of judicial education in the Code of Judicial Conduct has important implications for judicial branch funding in view of state budget cuts which typically result in lack of funds for judicial education. Making participation in judicial education a part of the Code of Judicial Conduct will help court systems obtain adequate funding for this essential court system function.

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The National Judicial Education Program (NJEP) urges the Commission to comment on the need for every state to make the language in its code of judicial conduct gender neutral. NJEP points out task force reports and the work of state implementation committees that demonstrate the use of gender neutral language as a means of eliminating gender bias. In NJEP's view, gender neutral, inclusive language that acknowledges that women as well as men are judicial officers, court personnel, lawyers and users of the court system is as important in codes of judicial conduct as in all other court and court-related documents.