

SUMMARY

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Community Rights Counsel
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Executive Director

The Community Rights Counsel notes that they have testified and numerous studies have detailed the fact that corporations and special interests use expenses-paid seminars to lobby the judiciary which result in serious conflicts of interest and perceptions of impropriety. The Community Rights Counsel views Federal Judicial Ethics Reform Act of 2006 (FJERA), that would establish a fund for continuing legal education and would prohibit judges from accepting gifts associated with certain private judicial seminars as the type of bright-line rule is the best solution to this problem.

Canon 4, Rule 4.11: Reimbursement or Waiver of Charges for Travel-Related Expenses of the Judge of the Judge's Spouse, Domestic Partner, or Guest

Rule 4.11 Comment [4](a)

Comment [4](a) states that, when deciding whether to attend a particular educational activity on an expenses-paid basis, a judge should consider:

“(a) whether the sponsor is an accredited educational institution or bar association rather than a for-profit entity or trade association”

The CRC finds this language is helpful, but critically incomplete. In prior comments the CRC noted the importance of distinguishing between judicial seminars run by and at law schools and bar associations on the one hand, and those run by private organizations seeking to advance a particular view on the law, on the other. These private organizations are frequently non-profit corporations that are funded by corporations and other special interests.

The Community Rights Counsel recommends that the Commission amend the language of Comment be amended to read as follows:

“(a) whether the sponsor is an accredited educational institution or bar association rather than a **corporation, law firm, attorney, other for-profit entity, or a non-profit organization not described above**”

Rule 4.11 Comment [4](e)

The Community Rights Counsel recommends that the language of the Comment be amended to encourage greater disclosure on the part of the seminar sponsor as follows:



“(e) whether information concerning the activity and its funding sources are **publicly** available.”

Rule 4.11 Comment [4](f)

The Community Rights Counsel Comment would amend Comment [4](f) to read:

“(f) whether the sponsor, **or a major source of funding (those contributing \$10,000 or more) for the sponsor or the activity,** ~~are~~ is generally associated with particular parties or interests likely to appear in the judge’s court”

4.11 Comment [4](h)

The CRC would add the following to the Comment.

“The judge should more carefully examine an invitation to a program designed specifically for judges or if there is not a broad range of non-judicial participants.”

Rule 4.11 Comment [2]

The Community Rights Counsel advises that Comment [2] should be amended to include this language.

“If the necessary additional information is not available, whether through public disclosure, disclosure from the sponsor upon inquiry, or other sources, the judge should not attend the seminar. If the information obtained by the judge does not resolve the question concerning the propriety of attendance, the judge should not attend.”

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