

**Colorado Supreme Court
Judicial Ethics Advisory Board (C.J.E.A.B.)**

**C.J.E.A.B. ADVISORY OPINION 2008-01
(Finalized and effective January 25, 2008)**

ISSUE PRESENTED

A women's advocacy group has asked the requesting judge to meet with it on an individual basis so that the group can both share with the judge notes and statistics the group has compiled regarding the judge's rulings on protective orders and make recommendations to the judge on how she should handle cases involving domestic violence. The judge has raised a concern that meeting with the group could create an appearance of impropriety and give rise to the impression that the group is in a special position to influence her. May the judge meet with the advocacy group?

CONCLUSIONS

The judge may, at her discretion, meet with a special interest group, but the judge is not required to do so. In assessing whether to grant a request for a meeting, the judge should require the special interest group to submit a written request specifying the purpose of the meeting. If the purpose is not improper and the judge wishes to grant the request, she should send a written response laying out ground rules for the meeting. At the meeting itself, the judge should ensure that the group is not given any impression that it is in a special position to influence the judge, and the judge should not engage in any ex parte communications with the group regarding any pending or impending matters.

APPLICABLE CANONS OF THE CODE OF JUDICIAL CONDUCT

Canon 1 broadly sets forth that a judge should uphold the integrity and independence of the judiciary.

Canon 2 provides that a judge should avoid impropriety and the appearance of impropriety in all of the judge's activities. Canon 2B specifies that a judge should not lend the prestige of his or her office to advance the private interests of others, nor should a judge convey or permit others to convey the impression that they are in a special position to influence him or her.

Canon 3A1 directs that a judge should be unswayed by partisan interest, public clamor, or fear of criticism. Canon 3A4 establishes that a judge should neither initiate nor consider ex parte communications concerning a pending or impending proceeding. Canon 3A6 provides that a judge should abstain from public comment about a pending or impending

proceeding in any court; a judge is not prohibited, however, from explaining for public information the procedures of the court.

Canon 4A encourages a judge to educate the public concerning the law, the legal system, and the administration of justice.

DISCUSSION

Judges often are asked to meet with representatives of special interest groups. Such requests can place in tension two goals of the Canons: fostering transparency about the work of the courts, on the one hand, and maintaining the independence of the judiciary and avoiding the appearance of impropriety on the other hand.

Under the facts presented in this request, there is nothing in the Canons that would prohibit the judge from meeting with the advocacy group. There is no indication that the group wishes to discuss any pending or impending case, nor is there any suggestion that the judge will be swayed or intimidated by fear of public criticism. Thus, the judge may meet with the group if she so wishes. It should be emphasized, however, that nothing in the Canons requires a judge to entertain requests for private meetings.

In assessing whether to honor the request for a meeting with a special interest group, the judge should consider the following guidelines. *See* Wis. Ad. Op. 98-13 (laying out a series of guidelines on which the following material is modeled). First, the judge would be well advised to require the group seeking the meeting to submit a written request setting forth the specific purpose of the meeting. The request can be declined outright as a matter of chambers policy, or on an ad hoc basis, depending on the circumstances of the particular request. Alternatively, the request can be granted, in which case acceptable parameters for the meeting should be outlined in a written reply. A sample letter that judges might consider using is attached as Appendix A. Parameters include the specific subject of the meeting, the particular items to be discussed, a statement that the group will be in no special position to influence the judge by virtue of the meeting, and a clear explanation that the judge will terminate the meeting if the discussion includes an ex parte communication or otherwise strays out of bounds.

The judge also might consider whether, under the circumstances of the request, to include other interested individuals or groups, for example, a probation officer or lawyers for the defense and prosecution. Additionally, the judge should give careful thought to the location of the meeting and to whether to have a record made of the discussion. Documenting the discussion could avoid any future misunderstandings of what transpired in the meeting and protect the judge from embarrassment if he or she were later misquoted.

At the meeting itself, the judge must be careful to avoid taking a position on any policies advocated by the special interest group, and the judge must ensure that the group is not given the impression that it is in a special position to influence the judge. To avoid

giving the impression or appearance that the judge might be swayed, the judge would be well advised to keep the conversation on a general level. The judge must immediately terminate the discussion if a pending or impending case is mentioned.

In the context of the instant request, the judge here should consider the preceding guidelines in determining whether, in her discretion, to grant the advocacy group's request. In the event that she elects to meet with the advocacy group, she should make clear, given the advocacy group's stated purpose of making recommendations to the judge on how she should handle future domestic violence cases, that she will not be specially influenced or swayed by the group.

FINALIZED AND EFFECTIVE by the Colorado Judicial Ethics Advisory Board this 25th day of January, 2008.

Board member Dottie Wham does not participate in this opinion.

APPENDIX A: SAMPLE LETTER

Dear <SPECIAL INTEREST GROUP REPRESENTATIVE>,

I am in receipt of your letter dated <DATE> requesting a meeting with me regarding <SUBJECT OF MEETING>.

Promoting transparency in the work of the courts is an important part of my role as a judge. Meeting with groups and individuals provides me with an opportunity to educate the public about general court procedures and the complexity of judicial decision-making, and it can help to enhance my understanding of a range of community perspectives. To that end, I have decided to grant your request, provided that the following ground rules are observed.

Our discussion will be limited to <SUBJECT OF THE MEETING>. Under the Code of Judicial Conduct, the ethical canons by which I am bound, I cannot discuss with you any pending or impending cases, and I will terminate the meeting if our discussion strays into this territory. Additionally, I must also make clear that <GROUP NAME> will be in no special position to influence me by virtue of this meeting. Further, I may include other individuals or groups who might be interested in attending the meeting, and I reserve the right to have chambers staff in attendance or to record our discussion in order to avoid any future misunderstandings about the content of our discussion.

Provided that you agree to these conditions, it would be my pleasure to meet with you. I look forward to our discussion.

Sincerely,

<JUDGE>