

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an advisory opinion with regard to two of your employees (your judicial assistant and one of your juvenile probation officers) who took the state bar exam this summer and hope to enter the private practice of law. You asked whether these employees could list their former association with either yourself or the court in their public announcements of the opening of their offices, and whether your recusal would be required in cases in which they are attorney of record.

The Judicial Inquiry Commission may only provide advisory opinions as to whether certain action proposed to be taken by a judge may constitute a violation of the canons of judicial ethics. Rule 17, Judicial Inquiry Commission Rules. Your first question concerns possible actions by former employees, not by a judge. As such, it is beyond the scope of inquiry which this Commission may address.

However, it is the opinion of the Commission that a judge should not give permission to an employee or former employee to use his name or office in a public announcement of the opening of a private practice of law. Canon 2C of the canons of judicial ethics states that a judge "should not lend the prestige of his office to advance the private interests of others; nor should he convey or permit others to convey that they are in a special position to influence him." In addition, Canon 3B(2) provides that a judge "should require his staff and court officials subject to his direction and control to observe the standards of fidelity and diligence that apply to him."

Under Canon 3C(l)(a), a judge is disqualified if he actually has a personal bias or prejudice concerning a party, for any reason. If a judge's relationship with a former employee causes him to have a bias or prejudice toward a party, disqualification is required by Canon 3C(l)(a). Other than such a situation, it is the opinion of the Commission that a judge is not disqualified from presiding over a case in which his former judicial assistant or juvenile probation officer represents a party unless the former employee participated in the case or a related controversy while in the employment of the court.