



**CALIFORNIA SUPREME COURT
COMMITTEE ON JUDICIAL ETHICS OPINIONS**

350 McAllister Street, Room 1144A

San Francisco, CA 94102

(855) 854-5366

www.JudicialEthicsOpinions.ca.gov

CJEO Draft Formal Opinion No. 2017-011

JUDICIAL SERVICE ON A NONPROFIT CHARTER SCHOOL BOARD

Comments from the Public Submitted with a Waiver of Confidentiality

Comments from members of the public submitted in response to an Invitation to Comment on a CJEO Draft Formal Opinion are confidential communications to the committee that may not be disclosed unless confidentiality is affirmatively waived (Cal. Rules of Court, rule 9.80(h)(3); CJEO Rules, rule 5(b)(1), (e)).

The following are the comments received by the committee on CJEO Draft Formal Opinion 2017-010 that were submitted with a statement waiving confidentiality or consenting to disclosure.

Sent: Wednesday, March 15, 2017 12:09 PM

To: Judicial Ethics

Subject: CJEO Draft Opinion Comment - Draft Formal Opinion 2017-011 Judicial Service on a Nonprofit Charter School Board

From: Ken Torre

Draft Opinion: Draft Formal Opinion 2017-011 Judicial Service on a Nonprofit Charter School Board

Comment: Charter schools are at the forefront of the national political scene. In addition to the public office legal issue, the time is not right for judges to serve on charter school boards. Simply the appearance of partisanship would lead to a perception of the judges party affiliation and philosophy

The CA educational system does need reform but any alternatives are steeped in politics.

Waiver of Confidentiality: Yes

From: Barbara Kronlund

Date: April 5, 2017 at 4:31:09 PM PDT

To: "Black, Nancy"

Subject: CJEO Draft Formal Opinion 2017-011

Hi Ms. Black. I would like to submit my individual comments re: CJEO Draft Formal Opinion 2017-011, below. I waive confidentiality and consent to CJEO's public disclosure of my comments.

I agree with the Opinion and think CJEO did a nice job. It is practical and helpful to judges who are confronted with this issue. I would suggest that CJEO consider adding to the Opinion that since Canon 4C(2) does not apply to retired judges in the assigned judges program, such retired judges would not be violating Canon 4C(2) by membership on the board of a charter school. Even if this information were contained in a footnote, I think it would be a useful addition to include.

Thank you for considering my comments.

Barbara A. Kronlund, Civil Judge

From: Los Angeles County Superior Court
Submitted on Monday, April 10, 2017

Draft Opinion No. 2017-011 Response Form

TITLE: Committee on Judicial Ethics Opinions Draft Formal Opinion 2017-011;
Judicial Service on a Nonprofit Charter School Board

X Agree with proposed changes
Agree with proposed changes **only if modified**
Do not agree with proposed changes

Comments:

The Los Angeles Superior Court agrees with the CJEO's conclusion that "Given the grave risk of *automatic resignation* from judicial office upon acceptance of a charter school board position, if such a position is ultimately found to be a public office, the committee advises against service on a charter school board." Like the CJEO, our court recognizes the uncertain, unsettled status of charter schools. They may be governmental entities, or they may be nonprofit organizations. Appellate decisions have gone both ways. For that reason, the CJEO is prudent and correct in urging the California bench to be careful. If a judge guesses wrong and joins a charter school board, the consequences could produce much graver consequences than a stinger letter or an admonishment from the Commission on Judicial Performance. The judge may be flirting with forced resignation from judicial office.

Thank you for your attention. We waive confidentiality and consent to the CJEO's public disclosure of our comments.

ORGANIZATION: **LOS ANGELES SUPERIOR COURT**
111 N. Hill Street, Los Angeles, California 90012

RESPONSE TO: Supreme Court of California
350 McAllister Street, Room 1144A
San Francisco, California 94102-3688

DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, April 12, 2017

Your comments may be written on this Response Form or as a letter. Make sure your letter includes all of the above identifying information. All comments will become part of the public record for this proposal.

Circulation for comment does not imply endorsement by the Judicial Council.

The Los Angeles Superior Court requests that these comments be publicly available and we do not request confidentiality. Please indicate that these comments are from the **Los Angeles Superior Court** and not from any one person in particular.



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Ms. Nancy Black
Committee Counsel
Supreme Court of California Committee on
Judicial Ethics Opinions
350 McAllister Street, Room 1144A, San
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April 10, 2017

Re: CJEO Draft Formal Opinion 2017-011

The California Judges Association (CJA) hereby comments on draft formal opinion 2017-011 submitted for public comment by the Supreme Court of California Committee on Judicial Ethics Opinions (CJEO). The draft formal opinion addresses a topic that has been a regular subject of inquiries to our ethics hotline, and we believe the opinion will be valuable to our members.

While we generally agree with the draft opinion conclusions, we believe the following additional question should be analyzed in the opinion: would the conclusion be different for a retired judge sitting by assignment? Our ethics committee has opined that Canon 4C(2) does not apply to retired judges in the assigned judges program and a retired judge would not be violating Canon 4C(2) by membership on the board of a charter school. But one of our retired members notes that a retired judge and a sitting judge are on the state payroll discharging the same duties when they work. Although a retired judge is not required to stand for election, the concern is that a retired judge may be deemed to have automatically resigned his or her assignment by accepting the board appointment. Given the apparent difference of opinion within our membership and the calls to our ethics hotline on the subject, we believe it would benefit the judiciary to add to the draft opinion an analysis on this question.

CJA waives confidentiality for these comments. Thank you for considering our comments and for your important work on this matter.

Sincerely,

C. Todd Bottke President