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COMMITTEE ON JUDICIAL ETHICS OPINIONS**
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CJEO Formal Opinion 2017-009

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JUDGES MEETING WITH VENDORS

I. Question Presented

The Committee on Judicial Ethics Opinions (CJEO) has been asked to provide an opinion on the following questions:

May a judge meet with a private company providing remote alcohol monitoring services to parties under court order?

More broadly, may judges ethically meet with private vendors to discuss services the vendors provide to courts or to parties?

II. Summary of Conclusions

Presiding judges and justices are responsible for procurement and decisionmaking with respect to products and services used by the court and may delegate their authority to other judges or court administrative staff. (Cal. Rules of Court, rules 10.603(a), (c)-(d), 10.1004(c), 10.1020(a), (c).) This may require judges to meet with vendors in order to diligently discharge administrative duties related to court operations or matters before

them. Similarly, judges may want to meet with vendors to evaluate products to be used by parties pursuant to court orders. The committee concludes that a judge may meet with private vendors, including private vendors providing remote alcohol monitoring services to parties under court order, if such meetings are authorized by law, would aid the judge in discharging administrative responsibilities, and would not violate the California Code of Judicial Ethics by creating a conflict of interest, conveying influence or favoritism, advancing the pecuniary interests of others, or involving the judge in business relationships with potential litigants. (Cal. Code Jud. Ethics, canons 2B(1)-(2), 3C(1)-(2), 4D(1).)

Meetings with vendors for purposes of procuring court services or products are also governed by administrative rules and public contracting laws. The committee recommends that judges involved in such meetings enlist the assistance of court administrative staff to ensure compliance with those laws, guarantee impartiality, and avoid the appearance of improper use of judicial office to advance the pecuniary interests of the vendors. Where reliance on court staff is unavailable or impractical, judges may meet directly with vendors so long as the judges have delegated authority to do so and they take precautions to avoid the appearance of favoritism, conflicts of interest, improper use of judicial office, and business relationships with likely parties.

Meeting with vendors for purposes of investigating services or products to be used by the court or parties pursuant to court orders may also be necessary for the diligent and cooperative discharge of administrative duties. The committee recommends that judges only do so with the approval of their presiding judge or justice and with court administrative staff involvement to avoid conflicts or the appearance of partiality. However, meeting directly with the vendors for the purposes of investigation is ethically permissible so long as the above precautions are taken.

Finally, while judges in specified assignments such as family and juvenile courts are encouraged by the Standards of Judicial Administration to determine and investigate the availability of services for those appearing in their courts, the standards do not authorize interactions with vendors that would otherwise violate the canons, such as

meetings to develop or promote services. The standards encourage those judges to support children and families by active judicial involvement and leadership in community networks, which may independently engage with vendors to develop, maintain, and promote services. (Cal. Stds. Jud. Admin., stds. 5.30(f)(1)-(2), (5), 5.40(e)(1)-(3), (4)-(5).)

III. Authorities

A. Applicable Canons¹

Preamble: “The canons should be read together as a whole, and each provision should be construed in context and consistent with every other provision.”

Canon 2A: “A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”

Advisory Committee commentary following canon 2A: “The test for impropriety is whether a person aware of the facts might reasonably entertain a doubt that the judge would be able to act with integrity, impartiality, and competence.”

Canon 2B(1): “A judge shall not allow family, social, political, or other relationships to influence the judge’s judicial conduct or judgment, nor shall a judge convey or permit others to convey the impression that any individual is in a special position to influence the judge.”

Canon 2B(2): “A judge shall not lend the prestige of judicial office or use the judicial title in any manner, including any oral or written communication, to advance the pecuniary or personal interests of the judge or others.”

Advisory Committee commentary following canon 2B: “A judge should distinguish between proper and improper use of the prestige of office in all of his or her activities. . . . [¶] A judge must avoid lending the prestige of judicial office for the advancement of the private interests of the judge or others.”

Canon 3C(1): “A judge shall diligently discharge the judge’s administrative responsibilities impartially, on the basis of merit, without bias or prejudice, free of

¹ All further references to canons and to Advisory Committee commentary are to the California Code of Judicial Ethics unless otherwise indicated.

conflict of interest, and in a manner that promotes public confidence in the integrity of the judiciary.”

Advisory Committee commentary following canon 3C(1): “In considering what constitutes a conflict of interest under this canon, a judge should be informed by Code of Civil Procedure section 170.1, subdivision (a)(6).”

Canon 3C(2): “A judge shall maintain professional competence in judicial administration, and shall cooperate with other judges and court officials in the administration of court business.”

Canon 4D(1): “A judge shall not engage in financial and business dealings that [¶] (a) may reasonably be perceived to exploit the judge’s judicial position, or [¶] (b) involve the judge in frequent transactions or continuing business relationships with . . . persons likely to appear before the court on which the judge serves.”

B. Other Authorities

California Code of Civil Procedure, section 170.1 subdivision (a)(6)(A)

California Public Contract Code, sections 100, 19204 subdivision (a)

California Rules of Court, rules 1.5(c), 10.603(a), (c)(6)(A), (D), (d), 10.1004 (c)(5), (6), 10.1020(a), (c)(3)

California Standards of Judicial Administration, standards 5.30(f)(1), (2), (4)-(5), 5.40(e)(1)-(5), (f)(5)

Judicial Council of California, Judicial Branch Contracting Manual, Revised Effective July 1, 2016, section 8.1

Rothman, California Judicial Conduct Handbook (3d ed. 2007), section 6.07, Appendix L, pp. 1-2

California Judges Association, Judicial Ethics Update (1995) III.H, (2008) II.C.2, (2012) V.2

IV. Discussion

A. Introduction

Private companies provide a wide variety of goods and services directly to courts and to effectuate court orders. For example, private companies provide case management systems, legal research products, global positioning systems (GPS) surveillance technology, anger management courses, anti-theft courses, domestic violence prevention courses, parenting courses, and ignition interlock devices to prevent drunk driving. Because judges must remain impartial and may not advance the pecuniary interests of others, ethical concerns may arise when judges interact directly with the vendors of these products and services.²

This opinion first discusses the canons, statutes, Rules of Court, and Standards of Judicial Administration that govern judicial interactions with vendors generally. The opinion subsequently discusses meetings judges may consider having with specific vendors who provide services or products for court operations or to parties pursuant to court orders. Guidance is provided on how the ethical rules and standards apply depending on whether the purpose of the meeting is for procurement, investigation, or development and promotion of services.

² The committee has been asked to address whether judges may meet with a vendor from a private company that provides products or services for use by the court or by parties. Thus, the vendors discussed in this opinion are representatives of private, for-profit organizations who seek to meet with judges directly concerning their products or services. The scope of the opinion does not include meetings with public service providers, nor does it address the evaluation processes used by courts to appoint panels of experts or investigators. The opinion also does not address attending educational gatherings, judicial training, or other informational investigations such as facility visits or ‘ride-alongs.’ Finally, the opinion does not address independent research that does not involve an interaction with a vendor, such as online searches for product information or resource availability.

B. Ethical and Administrative Rules Governing Interactions with Vendors

Presiding judges and justices and their designees are often responsible for decisionmaking with respect to products and services used by the court and the parties. This may necessitate meeting with vendors to diligently discharge administrative duties related to court operations or matters before them.³ Multiple canons, statutes, Rules of Court, and Standards of Judicial Administration govern or address these interactions with vendors.

1. Canons

While specific canons require judges to diligently and cooperatively perform administrative duties, others prohibit judges from engaging in conduct that creates a conflict of interest, conveys influence or favoritism, advances the pecuniary interests of others, or involves the judge in business relationships with potential litigants. Fulfilling administrative duties must therefore be performed in a manner that does not violate these prohibitions.

Specifically, canon 3C(1) requires that judges discharge their administrative duties “impartially, on the basis of merit, without bias or prejudice, free of conflict of interest, and in a manner that promotes public confidence in the integrity of the judiciary.” Canon 3C(2) further requires judges to “maintain professional competence in judicial administration, and . . . cooperate with other judges and court officials in the administration of court business.”

The Advisory Committee commentary explains that “[i]n considering what constitutes a conflict of interest under [canon 3C(1)], a judge should be informed by Code of Civil Procedure section 170.1, subdivision (a)(6),” which contains subjective and

³ For example, judges working on family law cases may wish to use products provided by vendors to calculate spousal and child support. These judges, who have the most detailed knowledge about their specific cases and needs, may wish to investigate and evaluate such products by directly engaging with the vendors who provide them.

objective grounds for disqualification. (Advisory Com. com. foll. canon 3C(1).) Consequently, judges must consider whether any meeting with a vendor to discharge administrative duties under canon 3C(1) would create a conflict of interest by actually biasing the judge in favor of the vendor's service or by creating a reasonable appearance of favoritism. (See Code Civ. Proc., § 170.1(a)(6)(A)(iii) [objective disqualification ground based on whether a person aware of the facts might reasonably entertain doubt as to impartiality] & (B) [subjective disqualification ground based on whether a judge has actual bias or prejudice].)

In the California Judicial Conduct Handbook, Judge Rothman further explains that the diligent discharge of administrative duties under canon 3C(1) requires "high standards, with ethical grounding," and to avoid conflicts of interest, judges acting in administrative capacities "must not use the position to advance . . . the pecuniary interests of others." (Rothman, Cal. Judicial Conduct Handbook (3d ed. 2007) § 6.07, p. 261 (Rothman).)

Other canons also apply and underscore the importance of impartiality and maintaining the public's confidence in all aspects of judicial decisionmaking, including decisions to meet with and engage vendors. Canon 2B(1) prohibits allowing family or social relationships to influence a judge's judgment, and also prohibits "convey[ing] or permit[ting] others to convey the impression that any individual is in a special position to influence the judge." Canon 2B(2) prohibits "lend[ing] the prestige of judicial office or us[ing] the judicial title in any manner, including any oral or written communication, to advance the pecuniary or personal interests of the judge or others." And canon 4D(1) prohibits a judge from engaging in financial and business dealings that (a) "may reasonably be perceived to exploit the judge's judicial position," or (b) "involve the judge in . . . continuing business relationships with . . . persons likely to appear before the court on which the judge serves."

Read together, these canons preclude any interactions with a vendor that would create a conflict of interest or an appearance of favoritism, even when diligently performing administrative duties. (Cal. Code Jud. Ethics, Preamble ["[t]he canons should

be read together as a whole, and each provision should be construed in context and consistent with every other provision.”]) These canons also prohibit meetings that would convey the use of judicial office to advance the pecuniary interests of others or engage a judge in business relationships with likely litigants in the local court.

2. Administrative Statutes and Rules

Because courts require a variety of products and services from the private sector in order to conduct day-to-day operations, administrative statutes and rules provide the means for judicial decisionmaking with regard to court management. Those statutes and rules combine authority and delegation to facilitate procurement of services in a manner that eliminates conflicts of interest and promotes fairness.

Specifically, the Rules of Court charge trial court presiding judges with the management and administration of their court, making them responsible for resource allocation, with the assistance of the court executive officer. (Cal. Rules of Court, rule 10.603(a).) Presiding judges are authorized to “[a]pprove procurements, contracts, expenditures, and the allocation of funds in a manner that promotes the implementation of state and local budget priorities and that ensures equal access to justice and the ability of the court to carry out its functions effectively.” (Cal. Rules of Court, rule 10.603(c)(6)(D).) Appellate administrative presiding justices are similarly charged with supervising the court’s day-to-day operations and have sole authority over “execution of purchase orders, obligation of funds, and approval of payments.” (Cal. Rules of Court, rule 10.1004(c)(5), (6).) Thus, procurement and contracting authority is placed in the hands of presiding judges, who may delegate their authority to other judges or the court executive officer, and in the hands of administrative presiding justices, who may employ the clerk/administrator to “negotiate[] contracts on the court’s behalf in accord with established contracting procedures and applicable laws.” (Cal. Rules of Court, rules 10.603(d), 10.1020(a), (c)(3).)

Numerous public contracting laws and procedures apply to the trial and appellate courts in exercising their procurement authority. Like the canons applicable to

interactions with vendors, these laws and procedures are designed to eliminate conflicts of interest or favoritism and to promote fairness and public confidence. (Public Contract Code, §§ 100 [intent of public contracting law includes elimination of the favoritism and fairness in the bidding process], 19204, subd. (a) [compliance by judicial branch entities required for the procurement of goods and services]; Judicial Council of Cal., Judicial Branch Contracting Manual, eff. July 2016, p. 3 [judicial branch contracting objectives include ensuring fair opportunities in bidding, elimination of favoritism, and compliance with the Public Contract Code], § 8.1 [contracts should be prepared and negotiated only by persons with appropriate skill and experience who are free from conflicts of interest, and must be executed only by persons with legal authority to do so].) Consequently, the ability of presiding judges and justices to delegate procurement duties involving vendors to court staff who are familiar with public contracting laws ensures compliance with those laws, which themselves are designed to ensure fairness and eliminate favoritism and conflicts of interest.

Judicial officers who are delegated by presiding judges and justices to be involved in administrative decisionmaking by procuring or investigating services from vendors must also follow the complex public contracting laws, and would similarly benefit from doing so with the assistance of court professionals who are well versed in the laws that obligate the courts to perform contracting with fairness and impartially.

3. Standards of Judicial Administration

The Standards of Judicial Administration provide “guidelines or goals recommended by the Judicial Council.” (Cal. Rules of Court, rule 1.5(c).) For example, judges assigned to hear specific matters, such as family law and juvenile matters, are encouraged by the standards to provide leadership within the community in obtaining and developing services for the parties they serve. (Cal. Stds. Jud. Admin., stds. 5.30(f)(1), 5.40(e)(1), (4).) They are also encouraged to investigate the availability of services and actively take part in forming community-wide networks to promote and coordinate

private-sector efforts to focus attention on the needs of litigants. (Cal. Stds. Jud. Admin., stds. 5.30(f)(2), (5), 5.40(e)(2), (5).)

Unlike statutes and rules of court, however, the standards are nonbinding and do not independently authorize activities that might include procurement or decisionmaking about services provided by vendors. (Cal. Rules of Court, rule 1.5(c) [the nonbinding nature of the standards is indicated in the language of the goals and guidelines recommended by the Judicial Council].) The goals in the standards must be undertaken at the direction of or in consultation with the presiding judge. (Cal. Rules of Court, rule 10.603(c)(6)(D); Cal. Stds. Jud. Admin., stds. 5.30(f), (5), 5.40(e)). Like any delegated authority, meetings with a vendor by a specialty court judge must be conducted in a manner that is consistent with the canons prohibiting conflicts of interest, favoritism, improper use of title, or business relationships with likely parties. (Rothman, *supra*, appendix L, pp. 1-2 [ethical considerations are the same regardless of assignment and despite community outreach obligations that might be more significant for juvenile or family law assignments].)

C. Meetings with Specific Vendors

It is clear from the governing canons and administrative rules that the question of whether a judge may meet with any specific vendor will depend on the purpose and circumstances of the meeting. While the canons apply to all interactions with vendors, different administrative rules and standards apply when the meeting is for the purpose of (1) procuring services or products for use by the court, (2) investigating services or products for use by the court or parties pursuant to court order, or (3) developing and promoting services for use by parties in specialty courts. The ethical considerations of meeting with specific vendors are discussed below in the context of these three purposes.

1. Meetings for Procurement or Contracting

Judges engage in administrative or management work for their courts as presiding judges, supervising judges, or members of court executive committees or other court committees, and in these roles, “are called upon to enter into contracts with providers of goods and services to the court or in other ways make decisions that could provide financial benefit to others.” (Rothman, *supra*, § 6.07, pp. 260-261.) The Code of Judicial Ethics, however, requires judges to avoid conflicts of interest when performing their administrative duties: “it would be a breach of judicial ethics for a judge acting in such a capacity to confer, or approve of, a financial benefit to himself or herself, family members, or others where there is a conflict of interest.” (*Id.*, at p. 261.)

The administrative rules provide the means for judges engaging in procurement activities to avoid violating the canons. Under these rules, presiding judges and justices may delegate contract negotiations to court executives or administrative staff and involve these court professionals in direct meetings with vendors to ensure that the public contracting laws will be followed and that the procurement process will be fair and impartial. Relying on the expertise of appropriate administrative personnel to convene and participate in procurement meetings will also help to safeguard against conveying the impression that judges are promoting the vendors’ services or advancing their interests.

For example, administrative staff could determine the purposes of the meeting in advance, alert other judicial officers who may also have supervisory or administrative responsibilities related to the product at issue, attempt to schedule panel meetings with competing vendors, gather all necessary information by meeting with the vendors in lieu of judicial officers where possible, or attend any meetings where practical or necessary. Court administrative staff, some of whom have specific duties and responsibilities under the public contracting laws and are experienced with the soliciting and bidding requirements, will also help ensure compliance with these laws and procedures.

Thus, the committee recommends that any judge attending a meeting with a vendor for the purpose of procurement do so only with direct or delegated contracting

authority and with the assistance of court administrative staff to ensure compliance with public contracting law and impartiality.

While such meetings may be undertaken directly by a judicial officer without the assistance or presence of court staff, precautions must be taken by such a judge to avoid bias or the appearance favoritism, conflicts of interest, use of judicial office to advance pecuniary interests, or engagement in business relationships with likely parties.

As guidance, the committee recommends the following precautions be taken by any judge who intends to meet with a vendor for purposes of procurement with delegated authority but without the presence of court staff: (1) meet or be available to meet with vendors providing competing products or services; (2) ensure that the vendor is not a family member, close personal friend, or financial associate; (3) clarify with the vendor the purpose of the meeting so that unintended favoritism or contractual commitments on behalf of the court are not presumed or communicated;⁴ and (4) avoid meeting with vendors who are, or whose products are, reasonably likely to be the subject of litigation in the judge's court.

2. Meetings to Investigate Services or Products

The diligent discharge of administrative duties may also require judges to meet with vendors to provide decisionmaking input regarding products for potential use by the courts. For example, judges may be asked or invited to meet with vendors offering legal research tools, books, or case management systems designed to carry out judicial branch functions. Judges and their legal staff may sometimes be better equipped than administrators or other non-legal personnel to evaluate the desirability of particular goods

⁴ Corrective steps may be required in the event that a vendor improperly uses judicial title in the promotion of services or products as the result of such meetings. See for example, California Judges Association (CJA) Judicial Ethics Update (2008) II.C.2. [judge must immediately direct a group providing rehabilitation services to remove from its website and not further reproduce or circulate a letter from the judge properly wrote in support of the group's original grant application, and the judge should send a corrective letter to attorneys and judges known to have received the grant application letter].

or services. Meetings for the purpose of allowing vendors to demonstrate their product or services would be, in the committee's view, permissible and practical for judicial officers and staff to attend, so long as precautions are taken to avoid ethical concerns.⁵ Such meetings must be convened in a manner that would not convey or permit others to convey the impression that the vendor is in a special position to influence a judge or judges. (Canon 2B(1) & (2).) Judges must refrain from such meetings with vendors if to do so would result in a conflict of interest, lend the prestige of judicial office to the vendor, or if a person aware of the facts would reasonably doubt the judge's impartiality. (Canons 2B(2) & 3C(1); Advisory Com. com., foll. canon 3C(1); canon 2(A); Advisory Com. com., foll. canon 2A.)

A conflict of interest might arise, for example, if a judicial officer engages in discussions for the benefit of vendors or others rather than for the benefit of the court and the overall administration of law. Specifically, a judge may not "accept an expense paid trip to attend a seminar from a vendor attempting to market a product or service to the court," because "acceptance would have the appearance of impropriety and would create a conflict of interest." (CJA Judicial Ethics Update (Feb. 1995) III.H., p. 3, citing canons 2A, 4H(1), and (2).)

Judges may also be asked or interested in meeting with vendors to ensure that products subject to court orders are reliable and effective. Alcohol monitoring services, private mediation services, interlock systems, GPS tracking, and defensive driving programs are just a few of examples of products and services that provide parties with the means to carry out judicial officers' rulings. Judges may wish to investigate the quality of these products and services in order to diligently discharge administrative

⁵ But see, CJA Judicial Ethics Update (Jan. 2012) § V.2., p. 7 [a judge may not set up a meeting at the courthouse for the representative of a legal publishing company to meet with the judges to promote the publishing company's products]. The committee is of the opinion that such meetings may be permissible if precautions are taken, as recommended *post*, p.15.

responsibilities.⁶ (Canon 3C(1).) Since the vendors will be contracting with the parties, such meetings would not involve court procurements or be governed by the public contracting laws and procedures. However, judges considering meeting with vendors in these circumstances have an overarching duty to do so in cooperation with other judges and court officials (canon 3C(2)) and in a manner that does not otherwise violate the Code of Judicial Ethics. Indeed, heightened caution is advisable because meeting with vendors who provide services that are linked to court orders may create the appearance that a judge is endorsing the product or otherwise allowing the prestige of the office to be used to benefit the vendor. (Canon 2B(2).)

For these reasons, whether a judge is investigating the quality of goods or services that might be procured by the court or is evaluating the efficacy of products or services that will be used by parties under court order, the committee recommends enlisting the assistance of court administrative staff. The participation of staff can help eliminate the appearance of partiality or improper use of judicial title by, for example, determining the purposes of the meeting in advance, involving other interested judicial officers, scheduling meetings with competing vendors, or gathering in advance as much information from the vendors as necessary. Meetings with vendors may be undertaken directly by a judicial officer without the assistance or presence of court staff, so long as precautions are taken to avoid favoritism or the appearance of favoritism, conflicts of interest, use of judicial office to advance pecuniary interests, or engagement in business relationships with likely parties.

Judges should also consider whether a possible communication with or about a private organization providing services to parties could reasonably “be perceived as

⁶ Because neither judges themselves nor court personnel rely on these services as they would case management or legal research tools, and because appropriate agencies sometimes provide lists of licensed or approved vendors for the punitive and rehabilitative services used in court orders, interactions between judges and vendors of this kind may not be necessary. For example, the California Department of Motor Vehicles provides a link to a list of licensed ignition interlock device installers on its website.

allowing the organization to convey the impression that [it is] in a special position of influence.” (Canon 2B(1).) Because of the highly competitive nature of many industries providing services to parties under court orders, some vendors may seek advantage among parties by mentioning meetings with judges. When meeting with vendors of these types of products and services, judges should take steps to meet with or be available to meet with competing vendors, and should clarify the investigative and evaluative purposes of the meetings to ensure that the vendors will not presume favoritism or commitment on the part of the judge and use the meeting for promotion or advertising.⁷

As guidance, the committee recommends the following precautions for any meetings with vendors to investigate services or products to be provided to the court or parties: (1) cooperate with other judges and court officials by notifying those with responsibilities related to the vendors’ products or services of the possible meetings; (2) consider whether the product or service is likely to be the subject of litigation in the court; (3) meet or be available to meet with vendors providing competing products or services; (4) ensure that the vendor is not a family member, close personal friend, or financial associate; and (5) clarify with the vendor the purpose of the meeting so that unintended favoritism or commitments in court orders are not presumed or communicated.

3. Meetings to Develop or Promote Services

Judges in specified assignments such as family and juvenile courts are encouraged by the Standards of Judicial Administration to investigate and determine the availability of services for the benefit of the individuals in their courts, so long as they do so under the direction of the presiding judge and in a way that would not otherwise violate the canons. (Canon 3C(2); Cal. Stds. Jud. Admin., stds. 5.30(f)(2), 5.40(e)(2).) In the committee’s view, direct meetings for the purposes of development or promotion of services would clearly violate the canons by favoring and advancing the pecuniary

⁷ See *ante*, p. 12, fnt. 4.

interests of the vendor. (Canons 2A, 2B(2), 3C(1).) While the precautions advised above may ensure ethical meetings with vendors for the purposes of *investigation* and *determining availability*, there are no precautions that would eliminate the appearance of favoritism or the improper use of judicial title to advance interests were a judge to meet directly with a sole vendor for the purpose of *developing* that vendor's services for use by the parties or *promoting* use of the vendor's services through court orders. (Rothman, *supra*, appendix L, pp. 1-2 [despite community outreach obligations that may be more significant for juvenile or family law judges, community activities must nevertheless be analyzed for potential ethical problems such as the appearance of impropriety, public perception of fairness, and judicial impartiality].)

The goal of developing and promoting services may be achieved under the standards, however, by judicial involvement and leadership in *community networks*. (Cal. Stds. Jud. Admin., stds. 5.30(f)(1), (4)-(5), 5.40(e)(1), (4)-(5).) Those networks may independently develop, maintain, and promote private sector services, without judicial participation in meetings with vendors for those purposes.

V. Conclusions

Judges may be asked to meet with vendors in order to diligently discharge their administrative duties. (Canon 3C(1).) In doing so, they have a duty to cooperate with other judges and court officials in the administration of court business. (Canon 3C(2).) Any interaction with a vendor must be conducted in a manner that does not violate the Code of Judicial Ethics by creating a conflict of interest, conveying influence or favoritism, advancing the pecuniary interests of others, or involving the judge in business relationships with potential litigants. (Canons 2B(1), 2B(2), 3C(1) & 4D(1).)

Judges involved in meetings with vendors for the purpose of procuring court services or products must comply with administrative rules and public contracting laws, as well as the canons. Enlisting the assistance of court administrative staff, which may be required to facilitate compliance with contracting laws and procedures, would also ensure

impartiality and eliminate the appearance of improper use of judicial office to advance the pecuniary interests of the vendors.

Such meetings may, however, be undertaken directly by a judicial officer without court staff so long as the judge ensures that the meetings are conducted in a manner that avoids the appearance of favoritism, conflicts of interest, use of judicial office to advance the vendor's interests, or business relationships with likely parties. Best practices for doing so include the following precautions when meeting directly with vendors: (1) meet or be available to meet with vendors providing competing products or services; (2) ensure that the vendor is not a family member, close personal friend, or financial associate; (3) clarify with the vendor the purpose of the meeting so that unintended favoritism or commitments are not presumed or communicated; and (4) avoid meeting with vendors who are, or whose products are, reasonably likely to be the subject of litigation in the court.

The committee also recommends enlisting the assistance of court administrative staff when meeting with vendors for the purpose of investigating products or services to be provided to the court or to parties. Judges may, however, meet directly with such vendors to investigate or evaluate their products so long as the above precautions are taken. Finally, while the Standards of Judicial Administration encourage judges in specified assignments such as family and juvenile courts to determine and investigate the availability of services for the parties in their courts, they do not authorize procurement or interactions with vendors that would violate the canons. The canons do not permit judges to meet directly with vendors to develop or promote services, but specialty court judges are encouraged by the standards to support programs that serve children and families by leading and directing community networks, which may independently develop and promote private sector services without judicial participation.



This opinion is advisory only (Cal. Rules of Court, rule 9.80(a), (e); Cal. Com. Jud. Ethics Opns., Internal Operating Rules & Proc. (CJEO) rule 1(a), (b)). It is based

on facts and issues, or topics of interest, presented to the California Supreme Court Committee on Judicial Ethics Opinions in a request for an opinion (Cal. Rules of Court, rule 9.80(i)(3); CJEO rule 2(f), 6(c)), or on subjects deemed appropriate by the committee (Cal. Rules of Court, rule 9.80(i)(1); CJEO rule 6(a)).