



Resolution

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Resolution to Approve an Amendment to Canon 3(D)

Prepared by

Ohio Judicial Conference Judicial Ethics and Professionalism
Committee

Approved by

Ohio Judicial Conference Executive Committee

February 24, 2006

The Executive Committee approved the following recommendation:

The Judicial Ethics and Professionalism Committee recommends that the Executive Committee concur in a change to the proposed amendment to Canon 3(D) that was approved at the November 18 meeting.

At the November 18 meeting, as part of its resolution to approve a recommendation to establish a Judicial Advisory Group to work with the Ohio Lawyers Assistance Program, the Executive Committee approved a proposal to seek to amend Canon 3(D) by adding the following section:

(4) Any knowledge obtained by a member of Ohio Lawyers Assistance Program (OLAP) and its Judicial Advisory Group (JAG) shall be privileged for all purposes under Canon 3(D), provided the knowledge was obtained while performing duties as a member or agent of OLAP or JAG

Upon review, the Judicial Ethics Committee believes the approved formulation is too narrow, and recommends that instead the following amendment be proposed:

(4) Any knowledge obtained by a member or agent of a committee or subcommittee of a bar or judicial association or by a member, employee, or agent of a nonprofit corporation established by a bar association, designed to assist lawyers and judges with substance abuse or mental health problems shall be privileged for all purposes under Canon 3(D), provided the knowledge was obtained while performing duties as a member, employee, or agent of the committee, subcommittee, or nonprofit corporation.

This revised language almost exactly mirrors the language in DR 1-103 and ensures that the provision covers (a) a judge who is not a member of the JAG but who works with OLAP/JAG on a particular case and (b) a judge who might serve on or work with a bar association committee established to assist lawyers.

