

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
1.	Hon. Ignazio J. Ruvolo Presiding Justice State of California Court of Appeal First Appellate District Division Four	AM	My first comment relates to proposed Rule 1(b). Subdivisions (2) through (4) authorize the committee to make certain recommendations to the Supreme Court. I suggest that you add specific reference to the California Rules of Professional Conduct. There are a number of rules of professional conduct for lawyers promulgated by the state bar which apply to circumstances where lawyers essentially act as judicial officers. The most obvious are rules 1-700 (Member as Candidate for Judicial Office) and 1-710 (Member as Temporary Judge, Referee or Court-Appointed Arbitrator). In addition, rules in Chapter 5 dealing with lawyers as advocates often apply to interactions between judicial officers and lawyers, which are also the subjects of several canons. For example, both sets of rules impose limitations on ex parte communications with the parties and counsel (RPC 5-300—contact with officials, and canon 3B(1)), and contact with jurors (RPC 5-320 and canon 38(10)). There are a number of other rules of professional conduct which judicial officers must apply to lawyers' conduct in adjudicating cases, and in fulfilling statutory reporting requirements to the state bar. It may come to pass that the work of the committee reveals an operational inconsistency between the rules of professional conduct and the Code of Judicial Ethics, or a perceived practical defect in a rule of professional conduct that should be resolved or clarified by an proposed	The committee agrees that making recommendations to the Supreme Court for amending the California Rules of Professional Conduct may be appropriate in the examples given, as well as in other circumstances. The rules of professional conduct, while formulated by the State Bar, ultimately are approved by the Supreme Court, and a specific authorization to recommend amendments would fall within the committee's broad authority under rule 9.80(e) of the California Rules of Court to make any recommendations to the court that the committee deems appropriate. The committee has amended CJEO rule 1 (b) as follows: (2) Make recommendations to the Supreme Court for amending the Code of Judicial Ethics, <u>the California Rules of Professional Conduct</u> , or California Rules of Court, rule 9.80;

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
		AM	<p>amendment. The committee should retain the authority to make such a recommendation to the Supreme Court as it does for recommending amendments to the Code of Judicial Ethics Rule or the California Rules of Court (Rule 1(b)(2)), and changes to educational programs offered by CJER (Rule 1(b)(3)).</p> <p>Secondly, Rule 4 dealing with how referrals are handled contains a default procedure by which requests for oral advice are referred to the CJA Committee on Judicial Ethics for answering, subject to several exceptions enumerated in subdivisions (a)(1)-(3). What is omitted is an exception for circumstances where members of CJEO disagree with CJA's advice previously given on the same subject as that involved in the current request (on record in its Formal Opinions and its annual Ethics updates, or privately in IRs which CJEO will have by virtue of proposed rule 9). There may be other instances where the CJEO has expressed an opinion in some form different from the advice given by the CJA Ethics Committee. In such cases, CJEO should retain the authority to decline to refer the matter to CJA committee, and to answer the inquiry itself.</p>	<p>The commentator suggests providing another exception to referring requests for oral advice to CJA in two circumstances: (1) in which a prior CJEO opinion conflicts with a CJA opinion or advice, and (2) in which CJEO disagrees with a CJA opinion or advice when considering a current request to CJEO for oral advice. The committee believes an additional exception is not necessary because both circumstances are provided for under rule 9.80 and the CJEO rules.</p> <p>The first circumstance falls within the exception in CJEO rule 4(a)(1) which allows CJEO to give oral advice when a prior or pending CJEO opinion in any form answers the request. The second circumstance falls within the committee's broad authority to determine what issues to address using the various options for response provided for in the rules, including oral advice (rule 9.80 (e) and (j); CJEO rules 1(b) and 7(b)). The committee believes that the exercise of this broad authority in the circumstance suggested (where CJEO disagrees with a prior CJA opinion or advice) properly falls within the discretion of the full committee, and should not be a question</p>

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
		AM	<p>Rule 4(b) offers the promise of an expeditious communication of an authoritative answer to inquirers. The price paid for expedition in Rule 4(b) is that there is no chance for full committee input where an inquiry is particularly difficult to answer. Why not retain the three-member review process, but allow for any one member to call for an email vote of the full committee? If invoked, the inquiry can be resolve quickly yet with the assurance that a broader spectrum of the committee has considered and approved the advice. This is similar to Rules and procedures of the CJA Ethics Committee (Rule 2A1) which allow the chair or vice-chair to call for an email vote of approval by the full committee ‘[i]n instances where the inquirer needs a final answer before the next Committee meeting. . .’</p>	<p>determined only by the oral advice subcommittee under rule 4. Should the circumstance arise through a request to CJEO for oral advice, the amendment to CJEO rule 4(b) discussed immediately below will allow the oral advice subcommittee to call for a meeting of the full committee to discuss and vote on the request.</p> <p>CJEO rule 3(b) allows the chair to call for a meeting of the full committee, including by email or conference call, to conduct business or resolve opinion requests. This is similar to the CJA rule quoted by the commentator, but is broader and not limited by the time constraints of the requester.</p> <p>The committee agrees with the commentator that a member of the oral advice subcommittee should have express authority to call a meeting of the committee for purposes of an email vote or conference call discussion and vote on an oral advice request. The committee has amended CJEO rule 4(b) to add the following language:</p> <p style="text-align: center;"><u>Any serving member may request full committee discussion and vote on a determination, to be held at a time and by such means as determined by the chair.</u></p>
		AM	<p>Finally, I found proposed rules 6 and 7 to be confusing and out of order. First, I suggest that you change the order by moving the discussion of what types of inquiries CJEO can answer, and how, up ahead of rules 4 (Referrals to CJA), and 5 (Confidentiality). Second, I suggest you</p>	<p>While the commentator’s confusion is regrettable, the committee declines to follow the suggestion to reorder or restructure the CJEO rules. The order of the CJEO rules tracks rule 9.80 and reflects the logic and priorities of the court. The types of inquiries CJEO will address are discussed in</p>

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
			<p>consider restructuring proposed rules 6 and 7 to discuss oral inquiries, requests for informal opinion, and requests for formal opinions in separate rules, rather than combining them.</p>	<p>CJEO rule 1, ahead of the CJEO rule 4 discussion of referrals to CJA, contrary to the commentator’s suggestion. CJEO rule 1 (b) states that the committee is authorized by rule 9.80 to provide ethics advice to judges in the form of formal written opinions, informal written opinions, and oral advice, and to consider topics for opinions suggested by individuals and entities. The discussion of oral advice and CJA follows this statement logically as one of the authorized forms of inquiries CJEO will consider.</p> <p>Placement of the oral advice referral policy in rule 4 reflects the high priority the court and CJEO place on coordination with CJA. Confidentiality is also a high priority, as reflected by its placement in rule 5. The procedures for making and responding to requests for formal and informal written opinions are similar and are best addressed together in rules 6 and 7. The procedures for responding to requests for oral advice are unique and are discussed separately in rule 4.</p> <p>Rules 6 and 7 are organized by how users will make written requests for opinions (rule 6) and how the committee will respond to such requests (rule 7). The rules allow the committee to determine the best response to each request based on all of its discretionary options (rule 9.80(j)(1); CJEO rule 7(b)). Restructuring rules 6 and 7 according to the types of responses (formal opinions and informal opinions), as suggested by the commentator, would require separate procedures for each and would require the</p>

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
				committee to decide on the form of the response before a substantive analysis of a written request or topic suggestion has been undertaken.
2.	Victoria B. Henley Director-Chief Counsel State of California Commission on Judicial Performance (CJP)	AM	<u>Rule 1(a) and 6(e)(2)</u> : These sections address the limitation that the committee will not provide opinions regarding matters that are the subject of CJP or State Bar disciplinary proceedings and the requirement that a requester disclose to the committee whether the issue is the subject of a CJP or State Bar disciplinary proceedings. “Disciplinary proceedings” is not defined in the rules. It seems likely that some judges might interpret the term as limited to formal proceedings and not including staff inquiries or preliminary investigations. A definition would be helpful for clarification and to avoid undermining the intent of the provisions.	<p>The committee agrees that clarification is needed. CJEO rule 1(a) states that CJEO will not provide opinions or advice in matters known by the requester or the committee to be the subject of a pending CJP or State Bar disciplinary proceeding. CJEO rule 6(e)(2) requires a requester to disclose to the committee whether the issue of a request is also the subject of pending CJP or State Bar disciplinary proceeding. CJEO rule 6 requires self-reporting by the requester. In those circumstances posed by the commentator involving informal proceedings, such as confidential staff inquiries and preliminary investigations, CJEO rule 1(a) necessarily relies on self-reporting. Without a definition of disciplinary proceedings, a requester could interpret these rules not to require disclosure of confidential proceedings about which CJEO would have no independent knowledge.</p> <p>The CJEO implementation committee’s rationale for the disclosure requirement in rule 9.80(i)(5) was “ ... to avoid a situation in which a CJEO opinion conflicts with a subsequent formal disciplinary finding or court ruling in the same matter.” (Implementation Committee Final Report (Feb. 2009), p. 9). This rationale could potentially be thwarted in the circumstances described by the commentator where a judge did not disclose an informal proceeding that resulted</p>

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
		AM	<p><u>Rule 5(d)</u>: This section, regarding confidentiality, prohibits the release within the committee of "any identifying information" about the requestor. It is not clear whether the prohibition on identifying information extends to information about the size or location of the court. In some instances, such information could be pertinent to the committee's consideration of an issue.</p>	<p>in a subsequent formal disciplinary finding or ruling on a matter considered by CJEO.</p> <p>To further the implementation committee's intent and the court's directives in rule 9.80, the committee has amended CJEO rule 2 to add the following definition:</p> <p style="text-align: center;"><u>(o) "Disciplinary proceedings" means any formal or informal matters that are being conducted by the Commission on Judicial Performance or the State Bar, including hearings, inquiries, and investigations.</u></p> <p>To clarify, CJEO rule 5(d) prohibits disclosure within the committee of only that information which would identify the requester. Under CJEO rule 5(d)(1), specific information concerning size or location would only be removed in those rare circumstances where the requester could be identified by such information alone. In those cases, pertinent but non-specific information would not be excluded from the committee's deliberations. For example, the fact that the circumstances under consideration occurred in a small-sized or rural court would be disclosed within the committee rather than the actual location of the court if to do so would, by process of elimination, identify the requesting judge.</p> <p>The committee believes it's purpose is to determine the ethics of conduct, not individuals. The rules for internal confidentiality reflect that purpose and allow for consideration of pertinent</p>

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
		AM	<p><u>Rule 5(e)</u>: This section addresses waivers of confidentiality and provides that a requesting judge may waive confidentiality or assert reliance on committee advice in judicial or attorney discipline proceedings, in which case "such opinion or advice is no longer confidential under the rules." For the Commission on Judicial Performance to evaluate a claim of reliance on advice from CJEO or CJA, is it essential that the commission have both the request for advice and the advice given. Unless the committee's advice or opinion will always include verbatim the request from the judge and all information furnished regarding the issue, the committee should consider amending rule 5(e) to provide that when there is a waiver or asserted reliance on committee advice, both the full text of the request and the advice or opinion are no longer confidential.</p>	<p>information without disclosure of identity. Where size and location, for example, effect the conduct under consideration, that information will be disclosed within the committee to the extent possible without identifying the individual.</p> <p>The committee agrees that requests for advice should be included in the confidentiality waiver provision. CJEO rule 5(e) directly implements rule 9.80(h)(3), which is based on the CJEO implementation committee's recommendation that "[a] judge may waive confidentiality as to his or her ethics inquiry and CJEO's response...." (Implementation Committee Final Report (Feb. 2009), p. 9.) The committee has amended CJEO rule 5(e) to specify that the request as well as CJEO's opinion or advice are no longer confidential when waived, in keeping with this recommendation.</p>

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
3.	Hon. David M. Rubin President California Judges Association (CJA)	A	Proposed Rule 1(a) provides the CJEO ‘will not provide opinions or advice in matters known by a requester or the committee to be the subject of pending litigation or a pending Commission on Judicial Performance or State Bar disciplinary proceeding.’ We believe this is a good policy that will avoid inconsistent outcomes.	The committee notes that the amendment discussed above defining “disciplinary proceedings” to include informal matters (CJEO rule 2(o)) furthers the policy of avoiding inconsistent outcomes and is in keeping with this comment.
		A	Proposed Rule 4(a) provides that requests for oral advice will be referred to the CJA Judicial Ethics Committee, with certain exceptions. We commend the proposal to refer oral advice requests to the Ethics Committee. The Ethics Committee was formed in 1949 and has been serving the judicial officers of this state since formation. Our first Formal Ethics Opinion was published in 1951. For over 20 years we have maintained a database of Informal Responses (IRs), preserving the Committee’s ethics advice to its constituents in an accessible and searchable format for our Committee’s use. During this entire period, the Ethics Committee has provided confidential responses to inquiries from anyone (including those who are not members of CJA) whose conduct is governed by the Code of Judicial Ethics. The Ethics Committee responds to over 400 requests a year, often within 24 hours of inquiry. For each inquiry, a written response is prepared, initially approved by the author and vice-chair, and then subject to approval by the entire committee at regular meetings. The Ethics Committee anticipates continuing this service to the	The committee recognizes and appreciates CJA’s long history of serving the California judiciary by providing prompt oral advice on judicial ethics to all members of the bench through its hotline. Reliance on CJA’s experience and acquired knowledge is an integral part of CJEO’s rules. CJEO looks forward to a relationship of cooperation and coordination with CJA in fulfilling their mutual goals. To further the mutual goal of providing all bench officers with prompt oral advice, CJEO will remind callers of CJA’s history of providing advice, often within 24 hours. In those circumstances where CJEO determines that an exception to a CJA referral applies, and if the request is time-sensitive and an expedited response is sought, CJEO anticipates it is unlikely to be able to provide a similarly rapid response, and will so notify the caller.

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
		N	<p>judiciary for years to come and looks forward to coordinating its efforts with CJEO.</p> <p><u>Rule 4(a)(1)</u> provides an exception when a ‘definitive answer’ to the request is found in a ‘pending or prior formal or informal opinion’ of CJEO. We suggest that if a formal or informal opinion is ‘<i>pending</i>’ it cannot provide a definitive answer and should not be part of the exception.</p>	<p>The committee declines to follow this suggestion and anticipates being able to respond with oral advice regarding a pending formal or informal CJEO opinion by informing the requester that a definitive answer is imminent. This exception avoids duplication of efforts on the part of CJA in those circumstances where CJEO is in the process of addressing an issue.</p>
		N	<p><u>Rule 4(a)(2)</u> provides an exception when the requestor ‘declines’ to contact CJA. We suggest this should not be the basis of an exception for several reasons:</p> <p>First, membership in CJA is not required for access to the Ethics Hotline. The service is available to all who are bound by the Canons.</p> <p>Second, a requester may be aware of what the Ethics Committee has been advising on a particular issue and may be ‘shopping’ for different advice. The seeking of inconsistent advice should not be encouraged.</p> <p>Third, in bypassing the CJA Ethics Committee, the CJEO will be providing oral advice without the benefit of the databank resources available to the Ethics Committee. Although CJEO and CJA anticipate sharing confidential information from CJA’s Informal Responses going into the future (see Proposed Rule 9), the purpose is discrete. As described</p>	<p>The committee declines to follow this suggestion and believes CJA’s informational database will not be affected by the exception authorizing CJEO to provide oral advice when a requester declines to contact CJA. The fact that CJA receives and responds to over 400 requests for oral advice a year supports the continued strength of its database. CJEO rule 8(b) provides for periodic posting of CJEO’s informal written opinions and oral advice, which will allow CJA to maintain a comprehensive database.</p> <p>CJEO rule 9 also provides for CJA to share its oral advice summaries with CJEO, which will further the implementation committee’s intent that CJEO have a complete record of inquiries to “effectively evaluate the areas and issues of concern so that it can determine whether a formal opinion should be provided...” (Implementation Committee Final Report (Feb. 2009), p. 13).</p> <p>The committee believes that these rules and procedures for sharing and posting will fully</p>

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
		N	<p>by the Implementation Committee, a complete record of inquiries is essential for CJEO to ‘effectively evaluate the areas and issues of concern so that it can determine whether a formal opinion should be provided, or whether other avenues, such as a request for action by the Advisory Committee on the Code of Judicial Ethics, should be pursued.’ (Implementation Committee Final Report (Feb. 2009), p. 12.) If all requests for oral advice are directed to CJA, it can continue to maintain a complete, accurate database reflecting <u>all</u> of the issues for which judicial officers are seeking advice. Allowing judicial officers to ‘opt out’ of seeking oral advice through the CJA Hotline will diminish the informational value of the 20-year databank.</p> <p><u>Rule 4(a)(3)</u> provides a procedure by which a requester may be referred to a statute, rule of court, canon or other source, which may resolve the issue, but that CJEO will not provide oral advice. If the requestor wishes additional advice he/she will be referred to the CJA Ethics Committee. We commend the apparent goal of quickly providing citations that may easily answer a requestor’s question. However, it is not unusual that a requester to the Hotline will believe he or she has an easy question that may be answered by referral to a source, yet upon questioning by the judge receiving the Hotline call, underlying ethical issues arise. We believe it would serve a requestor’s interests best to refer all calls, whether they appear easy on the</p>	<p>inform both CJA and CJEO of the advice California judges are receiving and will reveal rather than encourage potential advice shopping.</p> <p>The committee declines to follow the suggestion to refer requests for oral advice to CJA even if they might be answered by citation to authority. In addition to the exception where a caller declines to contact CJA, the implementation committee identified two broad categories of requests in which CJEO would give oral advice: (1) those which can be resolved by reference to authority, and (2) those which may require greater analysis (Implementation Committee Final Report (Feb. 2009), p. 12.). After much deliberation, including consideration of public comments, the implementation committee concluded that in those instances where authority cited by CJEO did not answer the caller’s question, the caller should be referred to CJA’s hotline (Implementation</p>

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
		AM	<p>surface or not, to the CJA Ethics Committee so that the inquiry may be fully addressed.</p> <p>We commend the proposals for confidentiality [in proposed CJEO rule 5], designed to implement California Rule of Court, rule 9.80(h). The assurance of confidentiality is critical to the success of CJEO. Confidentiality is also of great importance to inquiring judges who ask the Ethics Committee for oral advice and receive an Informal Response. The Confidentiality Policy of the CJA Ethics Committee protects the identities of inquiring judges and the text of the individual inquiries. When the Ethics Committee begins to share information regarding its advice to judges, it will be critical for judges to know that this information will be treated with as much confidence as any internal documents of the CJEO. Although confidentiality is appropriately addressed in proposed CJEO rule 9, we suggest that because CJEO rule 5 deals with confidentiality, that CJEO rule 5(b) be</p>	<p>Committee Final Report (Feb. 2009), p. 13.). This approach provides the foundation for CJEO rule 4(a)(3).</p> <p>In those circumstances described in the comment where deeper ethical issues underlie a seemingly simple question, the caller will be referred to CJA for analysis and advice. For those questions that can be resolved by citation to authority alone, the committee believes the interests of requesters who choose to call CJEO will be best served by obtaining that authority rather than a referral.</p> <p>As the commentator notes, the confidentiality of information shared with CJEO by CJA is addressed in CJEO rule 9, which states that “[a]ll communications and documents regarding opinions and advice of CJA forwarded by CJA to the committee are confidential.” Confidentiality of shared CJA information is also ensured by CJEO rule 5(b)(1), which states that all records, documents, writings, and communications with the committee and its staff are confidential. CJEO rules 5(c) and (d) provide further protections by prohibiting disclosure of all confidential information outside of the committee, and by prohibiting disclosure of names and identifying information within the committee.</p> <p>The committee agrees with CJA that confidentiality is of great importance to inquiring judges and has amended CJEO rule 5(b) as follows to further ensure that judges know the information shared with CJEO by CJA will be</p>

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
		<p>A</p> <p>AM</p>	<p>amended to add a new paragraph to specifically include that communications and documents containing opinions and advice of CJA forwarded by CJA to CJEO are confidential.</p> <p>We commend the procedure for disclosure of whether an issue is the subject of pending litigation or CJP/State Bar proceeding [in proposed CJEO rule 6] for the purpose of avoiding inconsistent results. We also commend the disclosure of whether the inquiry is the subject of ‘[a]n inquiry to, or an opinion provided by or pending from, the CJA Ethics Committee.’ We would anticipate that if an inquiry is pending resolution by the Ethics Committee, CJEO would ordinarily await the result before considering further action.</p> <p>We look forward to working with CJEO to develop procedures for delivering to CJEO information contained in future Ethics Committee Informal Responses (IRs). For purposes of this information_exchange [pursuant to proposed CJEO rule 9], a summary of each IR written by the Ethics Committee would be provided to CJEO. This summary of information, including the guiding authorities, will help ensure that consistent ethical advice is given by both committees to the inquiring judges. Further, the summaries will inform</p>	<p>maintained as strictly confidential:</p> <p><u>(4) All communications and documents regarding the opinions and advice of CJA forwarded by CJA to the committee pursuant to CJEO rule 9 are confidential as provided in these rules.</u></p> <p>The committee is committed to coordinating with CJA and will work with CJA to avoid duplication of efforts and to discourage forum-shopping. The committee anticipates it will defer action on a request under consideration by CJA unless it appears imprudent to do so.</p> <p>CJEO agrees that summaries of CJA Ethics Committee IRs may be a workable solution to meet the needs and concerns of both committees. CJEO’s need for information about CJA’s IRs was expressed by the CJEO implementation committee, which concluded that having complete information about the questions asked and the answers given by CJA on its ethics hotline is essential for CJEO to meet its responsibilities and determine which topics merit formal written opinions (Implementation Committee Final Report, (2009), pp. 3, 7, 13). The implementation</p>

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
			<p>CJEO of the subject matters of concern to our constituents and any “cutting edge” inquiries sparked by new or revised legislation. Providing summaries, instead of the actual IRs, will also preserve the expected and longstanding reputation of the Ethics Committee for its discretion and confidentiality.</p> <p>Immediate past Ethics Chair Judge Robert Trentacosta has discussed this issue with Justice Ron Robie, chairperson of CJEO, and both agree that providing summaries of Ethics Committee IRs, instead of the actual IRs, is a workable solution to meet the needs and concerns of both committees. We suggest the date to begin the sharing of IR summaries not be set in the rule. CJA will need to amend its confidentiality procedures for IRs before summaries are shared with CJEO. Both organizations may wish to engage in a period of education for the judiciary so that judges fully understand the role of both organizations and the confidentiality protections that have been developed. The goal is to fully maintain the confidence of judges seeking advice on ethics so that judges will continue to be comfortable seeking CJA’s ethics assistance. We propose the rule simply provide that the date to begin sharing IR summaries will be determined in the procedures to be developed by CJEO and CJA.</p>	<p>committee recommended, and the court approved, a model under which CJA would provide CJEO with its IRs, defined as the written records of the CJA Ethics Committee that contain a recitation of the oral inquiry and the response, but which would not include the name of the inquiring judge (Final Report, at p. 13).</p> <p>Working together to coordinate procedures for implementing this recommendation, CJEO and CJA have agreed that CJA will provide CJEO with summaries rather than the actual IRs for a period of six months, and that the summaries will contain all the necessary information about the oral inquiries and the responses given but will not include the name of the inquiring judges. CJA has agreed to begin providing CJEO with summaries at the date of the court’s approval of the CJEO rules and procedures. After six months, CJEO will evaluate the summaries and report to the court on whether the information provided allows it to perform its duties and fulfill its responsibilities, as envisioned by the implementation committee and directed by the court. Based on its evaluation and report, CJEO may recommend any necessary amendments to its rules for the court’s approval.</p> <p>CJEO has amended CJEO Rule 9 as follows to reflect these agreements and procedures:</p> <p style="text-align: center;">Rule 9. California Judges Association</p> <p style="text-align: center;">The CJEO, working with the California Judges Association and its Ethics</p>

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
				<p>Committee, will develop procedures for the delivery to CJEO, on a continuing and timely basis, <u>summaries</u> of all “informal responses” issued by CJA. “Informal responses” are the written records maintained by the CJA Ethics Committee that contain a recitation of the oral inquiry and the response. <u>The summaries provided by CJA to CJEO will not include the name of the inquiring judicial officer but will contain: (1) a full description of the inquiry; (2) all of the relevant circumstances; (3) a full description of the answer provided; (4) the reasoning in support of the answer; and (5) any relevant information that would be helpful to CJEO. CJA will begin providing CJEO with summaries on the date of the approval of these rules. After six months of such deliveries, CJEO will evaluate whether the information provided is sufficient to enable it to meet its responsibilities, including determining which topics merit formal written opinions. At that time, CJEO will report to the Supreme Court on its evaluation and may propose any amendments necessary to these rules to reflect the policies and procedures it determines are needed to provide the full scope of service intended by the court. All communications and documents regarding opinions and advice of CJA forwarded by</u></p>

Proposed CJEO Internal Operating Rules and Procedures (pursuant to Cal. Rules of Court, rule 9.80(m))

All comments are verbatim.

	Commentator	Position	Comment	Committee Response
				<p>CJA to the committee are confidential.</p> <p>CJEO looks forward to working with CJA on further coordination under CJEO rule 9, including CJA’s suggestion to coordinate on judicial education about CJEO and CJA so that judges are aware of the services provided and the confidentiality protections both committees have developed.</p>