



**NEWS RELEASE**

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**FOR IMMEDIATE RELEASE**

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## Public Comment Sought on Draft Judicial Ethics Advisory Opinion

*Supreme Court Committee on Judicial Ethics Opinions invites comment on a draft opinion providing guidance on disqualification of judges who previously “served as a lawyer in the proceeding.”*

SAN FRANCISCO—The California Supreme Court Committee on Judicial Ethics Opinions (CJEO) invites public comment on a [draft advisory opinion](#) discussing whether a trial judge is disqualified from presiding over a criminal case if the judge appeared in that case as a deputy district attorney, but only for a brief, nonsubstantive matter such as a scheduling conference.

The draft opinion advises that a judge who previously appeared in a case as a deputy district attorney on a nonsubstantive matter, without active participation in the prosecution, is not disqualified to hear the case because such an appearance would not raise a reasonable doubt as to impartiality. The opinion concludes that disqualification where there is no perception of impartiality impedes the administration of justice and defeats the purposes of the statutes.

In CJEO Draft Formal Opinion 2014-007, the committee examines:

- The language and legislative history of the disqualification statutes and concludes that the term “served as a lawyer in the proceedings” is intended to include any active participation as an attorney for a party that could create a reasonable doubt as to impartiality.
- Case law from California and other jurisdictions and concludes that active participation does not include a brief appearance on a scheduling or uncontested matter where special knowledge about the case is not gained and no opinion or bias about the matter could be formed.

The draft opinion and [invitation to comment](#) are posted on the committee’s website at <http://www.JudicialEthicsOpinions.ca.gov/itc>. The deadline for comment is **December 31, 2014**.

The committee invites the public to comment on this draft advisory opinion. All comments submitted to the committee are confidential communications and precluded from disclosure

unless confidentiality is waived. (Cal. Rules of Court, rule 9.80(h); CJEO Internal Operating Rules and Procedures, rule 5(b), (e).) Those comments submitted with a waiver of confidentiality will be posted for public view on the CJEO website at the close of the comment period. All of the comments the committee receives will be carefully considered by the CJEO members when finalizing and approving CJEO Formal Opinion No. 2014-007.

After considering the public's comments on the draft opinion, the committee will decide whether or not to publish an opinion in final form. Comments are due by **December 31, 2014**, and may be submitted in any of the following ways:

- Online using this [Comment Form](#);
- By email to [Judicial.Ethics@jud.ca.gov](mailto:Judicial.Ethics@jud.ca.gov); or
- By mailing comments to Ms. Nancy Black, Committee Counsel, The California Supreme Court Committee on Judicial Ethics Opinions, 350 McAllister Street, San Francisco, California 94102.

CJEO is an independent committee appointed by the Supreme Court to help inform the judiciary and the public concerning judicial ethics topics. CJEO was established as part of the court's constitutional responsibility to guide the conduct of judges and judicial candidates (Cal. Const., art. VI, § 18, subd. (m)). In making appointments to serve on CJEO, the court selects members of the bench with a strong background in judicial ethics and diverse courtroom experience. The current twelve CJEO members are justices, judges, a commissioner, and a retired bench officer who have served in courts of various sizes throughout the state.

CJEO publishes formal opinions, issues confidential informal opinions, and provides oral advice on proper judicial conduct pursuant to the California Code of Judicial Ethics and other authorities (Cal. Rules of Court, rule 9.80(e)(1)). CJEO acts independently of the Supreme Court, the Commission on Judicial Performance, the Judicial Council, the Administrative Office of the Courts, and all other entities (rule 9.80(b)).

For more information about CJEO, visit the [CJEO website](#) and [view the members' page](#), call toll-free at 1-855-854-5366, or email [Judicial.Ethics@jud.ca.gov](mailto:Judicial.Ethics@jud.ca.gov).

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*The Supreme Court established the Committee on Judicial Ethics Opinions (CJEO) to help inform the judiciary and the public concerning judicial ethics topics. (Cal. Rules of Court, [rule 9.80](#).) CJEO publishes formal advisory opinions, issues confidential written opinions, and provides oral advice on proper judicial conduct pursuant to the [California Code of Judicial Ethics](#) and other authorities. In providing its advisory opinions, the committee acts independently of the Supreme Court, the Commission on Judicial Performance, the Judicial Council, and all other entities. (Cal. Rules of Court, rule 9.80(b).)*

*The Supreme Court is responsible for adopting the Code of Judicial Ethics, which guides the conduct of judges on and off the bench (Cal. Const., Art.VI, § 18, subd. (m).)*