



**NCSC**  
National Center for State Courts  
*Center for Judicial Ethics*

## 26<sup>th</sup> National College on Judicial Conduct and Ethics Center for Judicial Ethics – National Center for State Courts

October 23-25, 2019

EMBASSY SUITES by HILTON Chicago-Downtown/Magnificent Mile

### Program Schedule

#### **Wednesday**

2:00 p.m. to 6:00 p.m.      Registration      Ballroom Foyer

4:30 p.m. to 6:00 p.m.      Reception      Ballroom Foyer

#### **Thursday**

7:30 a.m. to 5:00 p.m.      Registration      Ballroom Foyer

#### **Thursday**

**8:30 a.m. to 10:00 a.m.      Plenary Session      Chicago River Ballroom**

##### **An Art, Not a Science: Sanctions for Judicial Misconduct**

Deciding on the appropriate sanction in a judicial discipline case presents special challenges of fairness, consistency, and accountability for supreme courts and conduct commissions. This plenary session will analyze the factors often used to reach that decision and discuss issues such as distinguishing between a vigorous defense and failing to cooperate with the commission, unpaid suspensions, and when private sanctions are appropriate. The session will look at the big picture and consider close cases from the past, leaving the discussion of recent cases to the “Determining the Appropriate Sanction” session, which will be later on the schedule.

*Moderators:* **Judge Louis Frank Dominguez**, Surprise City Court; Chair, Arizona Commission on Judicial Conduct • **Steven Scheckman**, Schiff, Scheckman & White LLP, New Orleans • **Cynthia Gray**, Director, Center for Judicial Ethics, National Center for State Courts.

**10:00 a.m. to 10:30 a.m.      Break**

## **Thursday**

### **10:30 a.m. to 12:00 p.m. Break-out Sessions**

#### **Salon ABC: Determining the Appropriate Sanction [repeated Friday at 10:30]**

Examining recent judicial discipline cases, participants will “vote” on what sanctions they would have imposed in actual judicial discipline cases and then discuss what factors influenced their vote. *Moderators:* **Judge John Erlick**, King County Superior Court; Member, Washington State Commission on Judicial Conduct • **David Sachar**, Executive Director, Arkansas Judicial Discipline & Disability.

#### **Salon D: Introduction to Judicial Ethics and Discipline for New Members of Judicial Conduct Commissions**

This session will give new members of judicial conduct commissions an overview of the ethical standards they will be enforcing, focusing on the misconduct that results in the most judicial discipline cases and discussing the types of complaints that are frequently made but usually dismissed. *Moderators:* **Judge George Foster**, Maricopa County Superior Court, Member, Arizona Commission on Judicial Conduct • **Adrienne Meiring**, Counsel, Indiana Commission on Judicial Qualifications.

#### **Salon EFG: Judges as Citizens and Reformers [repeated Friday at 8:30]**

Must judges avoid all involvement in hot-button issues and contentious public policy debates? Can judges join their family, neighbors, and friends in protests about climate change or abortion policies? How can judges address the social issues that inevitably find their way into court? What part can judges play in criminal justice reform? Can judges appear before a legislative committee about a bill that would increase penalties for domestic violence? Can judges, as private citizens, call their senators about an executive branch nominee? These types of issues about the role of judges as citizens and reformers will be addressed in this session. *Moderators:* **Raymond McKoski**, Retired Judge, 19th Judicial Circuit Court; Member, Illinois Judicial Ethics Committee • **Robert Tembeckjian**, Administrator and Counsel, New York State Commission on Judicial Conduct.

### **12:00 p.m. to 1:30 p.m. Luncheon Atrium**

## 1:30 p.m. to 3:00 p.m. Break-out Sessions

### Salon ABC: International and U.S. Regulation of Judges' Use of Social Media

Fundamental to the judiciary are principles of independence, impartiality, integrity, transparency, accountability, and professionalism. This is axiomatic to the Bangalore Principles of Judicial Conduct, the Charter of Fundamental Rights of the European Union, and the common law tradition common to the U.K. and Commonwealth countries and the United States. Use of social media has a particular impact on judges. On the one hand, it can lead to situations in which judges may be seen as biased or subject to outside influences; on the other hand, judges should not be isolated from society, should have an understanding of the communities they serve, and should strive to create an environment of transparency and doing justice both in fact and in appearance. A variety of international organizations, including the U.N., have embarked on a study of judges' use of social media and the ethical challenges presented thereby. Likewise, regulation of such social media use by the judiciary has increasingly been the subject of judicial advisory opinions, disciplinary proceedings, and even court decisions providing guidance for State court judges and a comprehensive advisory opinion providing guidance for Federal judges. This panel will review these developments, discuss the policy implications of social media use by judges, and identify different approaches to the topic internationally. *Moderator:* **Keith Fisher**, Principal Consultant & Senior Counsel for Domestic & International Court Initiatives, National Center for State Courts. *Panelists:* **Professor Lisa Taylor**, LL.M., Undergraduate Program Director, Ryerson School of Journalism, Toronto, Ontario • **Justice Robert Torres**, Associate Justice, Guam Supreme Court.

### Salon D: Investigating and Prosecuting Sexual Misconduct Charges against Judges [repeated Friday at 8:30]

Allegations of sexual harassment pose special challenges for judicial conduct commissions. This session will consider some of those issues, for example, how to investigate hostile environment claims when a courthouse is the workplace, how to try he-said/she-said cases, how to address common defenses, and the relationship between the code of judicial conduct and statutory definitions of sexual harassment. *Moderators:* **Todd Thompson**, Examiner, Kansas Commission on Judicial Qualifications • **Jeremiah VanHecke**, Executive Director, Wisconsin Judicial Commission.

### Salon EFG: Why do Judicial Conduct Commissions Dismiss so Many Complaints? [repeated Friday at 10:30]

Every year, all judicial conduct commissions dismiss most complaints — often over 90% — without any action. Many are dismissed based on the so-called “legal error rule” or “appealable error rule” because the complaints are about a judge’s decision. However, “something more” can transform legal error into judicial misconduct and subject a judge to discipline. This session will review caselaw on the rule and its exceptions. In addition, participants will discuss how commissions can effectively explain the limits of their authority to the public. *Moderators:* **Judge Erica Yew**, Superior Court Judge, County Clara County; Member, California Supreme Court Committee on Judicial Ethics Opinions; Former member, California Commission on Judicial Performance • **Cynthia Gray**, Director, Center for Judicial Ethics, National Center for State Courts.

3:00 p.m. to 3:30 p.m. Break

**3:30 p.m. to 5:00 p.m. Break-out Sessions**

**Salon ABC: How to Teach Judges about Sexual Harassment**

This session will consider how to plan and present effective training about sexual harassment when the courthouse is the workplace and the students are judges. It will not be the training itself, but a discussion among experienced educators with audience participation about the code of judicial conduct, responding to common questions asked by judges, and materials and techniques. The session will also consider training about the responsibility judges have not only to avoid sexual harassment themselves but to take appropriate action to ensure a non-hostile workplace for everyone at the courthouse. *Moderators:* **Ronald Adrine**, Former Administrative and Presiding Judge, Cleveland Municipal Court, Ohio • **Carolyn Dubay**, Executive Director, North Carolina Judicial Standards Commission • **Kimberly Riley**, Montgomery Jonson, LLP, Ohio.

**Salon D: Best Practices for Judicial Conduct Commissions [repeated Friday at 10:30]**

In this “crowd-sourced” session, participants will share experiences and ideas about what policies and procedures judicial conduct commissions can adopt that will ensure an effective, fair discipline system and promote public confidence in the integrity of the judiciary. *Moderator:* **Reiko Callner**, Executive Director, Washington State Commission on Judicial Conduct.

**Salon EFG: Ethical Judges on Social Media [repeated Friday at 8:30]**

Everyone agrees that judges should be extremely cautious when using Facebook and other social media, but so far only a dozen or so states have judicial ethics advisory opinions on the topic, and most of those opinions have addressed only one or two issues without providing comprehensive advice. This session will build on caselaw and advisory opinions to consider unresolved issues and ethical best practices for judges on social media. *Moderators:* **Judge Dana Kuehn**, Vice-Presiding Judge, Oklahoma Court of Criminal Appeals • **Randall Roybal**, Executive Director & General Counsel, New Mexico Judicial Standards Commission.

**Ohio River Room: The Role of Public Members**

Participants will share their experiences as public members of judicial conduct commissions and discuss what impact their perspective has on deliberations, training, and the perception of the commissions by the public and judges. *Moderators:* **Rick Morales**, Member, Florida Judicial Qualifications Commission • **Lisa Steindel**, Member, Pennsylvania Judicial Conduct Board.

## **Friday**

### **8:30 a.m. to 10 a.m. Break-out Sessions**

Salon ABC: **Judges as Citizens and Reformers** [see Thursday at 10:30]

Salon D: **Investigating and Prosecuting Sexual Misconduct Charges against Judges** [see Thursday at 1:30]

Salon EFG: **Ethical Judges on Social Media** [see Thursday at 3:30]

10:00 a.m. to 10:30 a.m. Break

### **10:30 a.m. to 12 p.m. Break-out Sessions**

Salon ABC: **Determining the Appropriate Sanction** [see Thursday at 10:30]

Salon D: **Best Practices for Judicial Conduct Commissions** [see Thursday 3:30]

Salon EFG: **Why do Judicial Conduct Commissions Dismiss so Many Complaints?** [see Thursday at 1:30]