

**CONFERENCE OF CHIEF JUSTICES
CONFERENCE OF STATE COURT ADMINISTRATORS**

**Resolution 8
In Support of Modification of the Model Code of Judicial Conduct to Encourage
Judicial Leadership**

WHEREAS, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) understand and have long recognized the need and value of judicial leadership for the improvement of the administration of justice and that effective leadership is the common element in achieving systemic and community reform; and

WHEREAS, while leadership can come from different facets of the justice system or community, judges are well positioned to lead reform efforts because of their unique ability to convene stakeholders; and

WHEREAS, the American Bar Association (ABA) has undertaken an effort to update the Model Code of Judicial Conduct; and

WHEREAS, CCJ and COSCA commend the ABA Joint Commission to Evaluate the Model Code of Conduct for its work, the collaborative approach it has taken for developing the revision, and its recognition that the role of judges has changed over time to meet the needs of society and to improve the administration of justice; and

WHEREAS, portions of the current Model Code have been interpreted to discourage and limit judicial leadership; and

WHEREAS, CCJ and COSCA believe that the Model Code should be strengthened to acknowledge and recognize the leadership responsibility of judges to the extent that the leadership responsibilities do not interfere with the adjudication process; and

WHEREAS, CCJ and COSCA believe the following concepts would strengthen and provide the needed specificity to encourage judicial leadership:

- **Rule 2.10: Ex Parte Communications** ? language should be added similar to 2.10(A)(1)(2) that permits consultation with a problem-solving court team as long as the parties have consented and the practice is permitted by state law.
- **Rule 2.12: Disqualification** ? language should be added to clarify that official communications received in the course of performing a judicial responsibility and knowledge gained in training programs or from experience do not create per se a basis for disqualification;
- **Rule 2.14: Supervision of Staff** ? language should be added to recognize that a judge has responsibility to seek the necessary time, staff, expertise and resources needed to discharge the judge's judicial and administrative responsibilities;
- **Civic Responsibilities** ? language should be added to Canon 4 recognizing a judge's civic responsibilities, including (1) providing leadership in: (a) identifying and resolving issues of access to justice; (b) developing public education programs; (c) engaging in community outreach activities to promote the fair administration of justice; and (d) convening, participating or assisting in advisory committees and community collaborations devoted to the improvement of the law, the legal system, the provision of services and /or the administration of justice and (2) publicly or individually endorsing project goals concerning the law, the legal system, the

provision of services or the administration of justice, in principle, and actively supporting the need for funding of such organization or governmental agency;

NOW, THEREFORE, BE IT RESOLVED that CCJ and COSCA encourage the ABA Joint Commission to Evaluate the Model Code of Conduct to include the above described concepts in the revised Model Code; and

BE IT FURTHER RESOLVED that the respective chairs of CCJ and COSCA committees of court management and professionalism form a task force to draft recommended language to address the above concerns and others and timely submit their suggestions to the ABA Joint Commission to Evaluate the Model Code of Conduct.

Adopted as proposed by the Problem-Solving Courts Subcommittee of the CCJ/COSCA Court Management Committee at the 58th Annual Meeting on August 2, 2006.