

Resolution 3
Urging Adoption of the Judicial Disqualification Resolution by the ABA and
Consideration of the Resolution and Report by Conference Members

WHEREAS, the American Bar Association (ABA) Standing Committee on Judicial Independence created the Judicial Disqualification Project to study issues regarding disqualification and recusal; and

WHEREAS, the Judicial Disqualification Project has produced a Judicial Disqualification Report and Resolution which will be presented to the ABA House of Delegates for consideration at the 2011 Annual Meeting; and

WHEREAS, the Conference of Chief Justices wishes to express appreciation to the Standing Committee on Judicial Independence for undertaking this important work because disqualification continues to be an important vehicle for ensuring both actual impartiality and the appearance of impartiality in the judicial process; and

WHEREAS, while the Conference of Chief Justices does not agree with every assertion or contention made in the accompanying Report, the Conference commends the committee for the thoughtfulness of its Report and the array of options it sets forth for addressing specific recusal and disqualification issues and for the committee's efforts in seeking participation and involvement by the Conference of Chief Justices in this process; and

WHEREAS, the Resolution urges each state to establish clearly articulated procedures for handling disqualification determinations and the Report offers background research and various options for consideration; and

WHEREAS, the development of the law via recent U.S. Supreme Court decisions such as *Republican Party of Minnesota*, *Caperton* and *Citizens United* indicates that disqualification is one means of protecting the compelling state interest in a fair, impartial and independent judiciary; and

WHEREAS, the information and options provided in the Report will be a helpful guide to states and will provide a basis for discussion of these important issues;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices urges the adoption by the ABA House of Delegates of the Judicial Disqualification Resolution as a useful tool for state judiciaries as they consider their disqualification practices and procedures; and

BE IT FURTHER RESOLVED that the Conference encourages its members to consider the Judicial Disqualification Resolution and Report when reviewing their disqualification practices and procedures.

Adopted as proposed by the CCJ Professionalism and Competence of the Bar Committee at the 2011 Annual Meeting on August 3, 2011.