

New Hampshire Supreme Court
Professional Conduct Committee

a committee of the attorney discipline system

Margaret H. Nelson, Chair
Benette Pizzimenti, Vice Chair
Toni M. Gray,* Vice Chair
Susan R. Chollet*
David N. Cole
Thomas P. Connair
Alan J. Cronheim

4 Chenell Drive, Suite 102
Concord, New Hampshire 03301
603-224-5828 ♦ Fax 228-9511

Gerald A. Daley*
Richard H. Darling*
James R. Martin
Jaye L. Rancourt
Richard D. Sager
* non attorney member
Holly B. Fazzino, Administrator

On February 21, 2012, the Professional Conduct Committee voted in favor of the following policy:

New Hampshire Attorney Discipline System Recusal Policy¹

I. A member shall disqualify himself or herself in any proceeding in which the member's impartiality might reasonably be questioned, including but not limited to the following circumstances:

A. The member has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

B. The member knows that the member, the member's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is:

1. a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;
2. acting as a lawyer in the proceeding;
3. a person who has more than a de minimus interest that could be substantially affected by the proceeding, or
4. likely to be a material witness in the proceeding.

C. The member knows that he or she, individually or as a fiduciary, or the member's spouse, domestic partner, parent, or child, or any other member of the member's family residing in the member's household, has an economic interest in the subject matter in controversy or in a party to the proceeding.

D. The member has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the member to reach a particular result or rule in a particular way in the proceeding or controversy.

¹ Sections I, II and III of this policy are derived from and substantially mirror Sup. Ct. R. 38, Canon 3.E.

E. The member:


1. served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;
2. served in governmental employment, and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy, or
3. was a material witness concerning the matter.

II. A member shall keep informed about the member's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the member's spouse or domestic partner and minor children residing in the member's household.

III. A member subject to disqualification under this Rule, other than for bias or prejudice under paragraph I(A), may disclose on the record the basis of the member's disqualification and may ask the parties and their lawyers to consider, outside the presence of the member and attorney discipline system personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the member or attorney discipline system personnel, that the member should not be disqualified, the member may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

IV. "Member" is defined as any person who serves in a judicial or quasi-judicial role on the Professional Conduct Committee, the Hearings Committee, or the Complaint Screening Committee.

March 9, 2012


Alan J. Cronheim
Professional Conduct Committee

Distribution:

Thomas V. Trevethick, Acting General Counsel
Janet F. DeVito, Assistant General Counsel
Julie A. Introcaso, Disciplinary Counsel
James L. Kruse, Assistant Disciplinary Counsel
Complaint Screening Committee
Hearings Committee
File