

Judiciary Personnel Serving on the Governor's Council on Alcoholism and Drug Abuse and Related Committees

Directive #9-91
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Administrative Director

At its Administrative Conferences of January 17, 1990 and May 6, 1991, the Supreme Court determined that, subject to certain limitations, members of the Judiciary may serve on the Governor's Council on Alcoholism and Drug Abuse, and on various committees acting pursuant to the authority of the Council, or working in the area of alcohol and drug abuse prevention, education and treatment. The Council and these committees are created by statute. *N.J.S.A. 26:2B-1*. This Directive specifies who may serve, the attendant limitations on such service, and the procedures to be followed in the appointments of appropriate Judiciary personnel.

1) Governor's Council on Alcoholism and Drug Abuse

The Governor's Council is an independent body in the Department of Treasury empowered to review and coordinate state efforts in the treatment and prevention of alcohol and drug abuse. At the state level, the Council has the power and duty to review and coordinate all State departments' efforts in regard to the planning and provision of treatment, prevention, research, evaluation and education services for, and public awareness of, alcoholism and drug abuse, and to prepare the State government component of the Comprehensive Statewide Alcoholism and Drug Abuse Master Plan in these areas.

The Administrative Director of the Courts can serve as an *ex officio* member of the Governor's Council as specified in the legislation, and can participate in the review of programs and in preparation of the Master Plan at the state-wide level. This includes the apportionment of funds among areas of effort. However, the Administrative Director cannot engage in discussions or recommendations of those portions of the Master Plan that appropriate specific allocations of state and federal funds to state departments, local governments, and local agencies and service providers for treatment, prevention, research, evaluation and education regarding alcohol and drug abuse where there is a choice of providers.

The Governor's Council is further empowered to review each County Annual Alliance Plan and the recommendations of the Division of Alcoholism and Drug Abuse for awarding the Alliance grants and to return the plan to each Local Advisory Committee on Alcoholism and Drug Abuse with the Council's proposed recommendations forwarding Alliance grants. Here, again, the Administrative Director may review the County Alliance plans and Division of Alcoholism and Drug Abuse plans for awarding grants, from the general point of view of allocation of resources to various types of efforts. But it is not appropriate to become engaged in any aspect of the discussion or decision to allocate funds to specific providers where there is any issue of choice of provider.

2) Alliance to Prevent Alcoholism and Drug Abuse

The legislation creates in the Governor's Council an Alliance of all New Jersey communities that choose to participate in a coordinated and comprehensive effort against alcoholism and drug abuse. The Alliance is intended to be a means both for implementing policies to reduce alcoholism and drug abuse at the municipal level, and

for providing funds, including monies from mandatory penalties on drug offenders, to member communities to support appropriate county and municipality-based alcohol and drug abuse education and public awareness activities. Under rules adopted by the Council, the Alliance is to award grants to municipalities and counties to develop school education programs; procedures for intervention, treatment and discipline of students abusing alcohol or drugs; drug abuse education; support and outreach efforts for parents; community awareness programs; and coordinated efforts involving schools, law enforcement, business groups and other community organizations.

The legislation does not specify membership on the Alliance. However, as the essential feature of the Alliance is the awarding of funds to individual municipalities and funds for specific programs and projects, no Judiciary representative may serve as a member or participate in the Alliance's work.

3) Local Advisory Committees on Alcoholism and Drug Abuse

The Local Advisory Committees on Alcoholism and Drug Abuse (LACADAs) assist the governing body of each county in developing an annual comprehensive plan for the provision of community services to meet the needs of alcoholics and drug abusers.

Included within these plans are specific programs addressing alcoholism and drug abuse by youths, women, drivers, and the disabled. Special attention is also to be given to the connection between alcoholism, drug abuse, and crime; and on alcoholism and drug abuse at work. Public information and education are specifically cited as means to address these problems.

The membership on LACADAs include representatives from public and private organizations involved in the treatment of alcohol and drug related problems, and other individuals with interest or experience in issues concerning alcohol and drug abuse. While the legislation does not specify appointment of Judiciary representatives, members of the Judiciary may serve on LACADAs based on the above categories.

LACADAs are the successor organizations to the County Advisory Committees on Alcoholism Planning. The Court previously determined that administrative personnel, but not judges, could participate as non-voting members of these committees. At the time these restrictions were imposed, County Advisory Committees were the only bodies at either the county or local level providing planning assistance for dealing with problems of alcohol abuse. The present statutory scheme, however, is more complex - involving considerable interaction among various committees at all levels of government - and addresses a broader range of problems (e.g., drug abuse).

In light of these factors, the Court has decided to rescind the restrictions previously imposed on members of the County Advisory Committees, and to permit Judiciary representatives on LACADAs to vote on matters involving the development of a county's annual comprehensive plan, and the specific programs and services designed to meet the needs of alcohol and drug abusers. However, LACADA members may not vote on specific allocations of funds nor choose among service providers.

4) County Alliance Steering Subcommittees

In each county, a County Alliance Steering Subcommittee is appointed by the LACADA. Its purposes are to develop a plan for the expenditure of Drug Enforcement and Demand Reduction (DEDR) funds and other funds available for drug and alcoholism programs; identify community programs that could be expanded and

replicated throughout the county; and coordinate municipal projects to ensure cost effectiveness and avoid duplication.

The legislation provides that a representative of the Family Part of the Chancery Division shall be a member of the Alliance Subcommittee. The Court has determined that this should be administrative personnel only, not judges. Membership, however, is not limited solely to categories specified in the legislation and could include representatives of Probation and other employees of the Judiciary interested in alcohol and drug abuse.

To the extent that the Alliance Subcommittee develop plans and programs, participation by Judiciary representatives is appropriate and such representatives may discuss and vote on them. They must refrain, however, from discussions and decisions on all budgetary issues and funding allocations.

5) Municipal Alliance Committees

Municipal Alliance Committees, appointed by municipal governing bodies, identify local drug and alcoholism prevention, education and community needs in consultation with LACADAs. They also implement the programs funded by the Governor's Council through the County Alliance plans.

The legislation includes municipal court judges in its list of possible members for Municipal Alliance Committees. The Court has decided that judges of the municipal court may serve because their participation will provide a means for learning about the kinds of programs to which defendants can be referred for help or sentenced to community service. Their participation will further allow them to advise the committees about the substance abuse problems that come before their courts and suggest the kinds of programs necessary to the administration of justice that might work in the community.

However, municipal court judges may not vote on matters coming before Municipal Alliance Committees. Nor may they engage, or otherwise become associated with fund raising for the municipality in order to secure matching funds from the Alliance to Prevent Alcoholism and Drug Abuse, as specified in the legislation. Finally, they cannot make decisions regarding the allocation of funds to specific providers or services.

Other Judiciary personnel with expertise and experience relevant to the identification of community needs may also serve on the Municipal Alliance Committees. They may vote on matters coming before the Committee, but shall not engage or otherwise become associated with fund raising for the municipality, nor with funding and allocation decisions.

6) Appointment Process

Rule 1:17-1 prohibits persons in or serving the judicial branch of government from having any public office, position or employment without prior written approval of the Supreme Court. The long-standing policy of the Court is to prohibit Judiciary personnel, including judges, from service with other branches except in special situations and then only with specific advance approval. This policy reflects the Court's concern to preserve the independence of the Judiciary as a separate branch of government.

In assessing the propriety of requests for approval to serve, the Court determines whether the proposed service benefits or advances the interests of the Judiciary, and

whether the person being offered the opportunity to serve has particular expertise or skills which would enhance the ability of the body to which the appointment is being made to perform its functions. Under the terms and conditions of this Directive, there is explicit recognition of the benefits to the Judiciary and to the Governor's Council and the other committees of permitting Judiciary personnel to serve as members.

There may be circumstances, however, where service by an individual on a particular committee is not appropriate. This may be because of the individual's position in the Judiciary, or the nature of the committee's work, or for other reasons that compromise the independence of the Judiciary.

Accordingly, to ensure the appropriateness of proffered appointments to the committees discussed in this Directive the Assignment Judges have agreed, in consultation with the Chief Justice at the April 25, 1991 CJ/AJ meeting, that vicinage-level and municipal-level employees who are offered positions on these committees must receive the approval of their Assignment Judge prior to accepting such appointments. Judiciary personnel presently serving should so advise their Assignment Judge if they have not already done so.

EDITOR-S NOTE

No change has been made to this Directive.