

## ENTERTAINMENT OF JUDGES AND OTHER PUBLIC OFFICIALS

By  
Michael J. Hoover, Director  
Minnesota Office of Lawyers Professional Responsibility

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During the last several years, the Lawyers Professional Responsibility Board has received a number of complaints concerning the entertainment by lawyers of judges and other public officials. Holiday parties, summer picnics and law office open houses have been among the functions which have been the subject of complaints. The guest lists for such functions have included clients, personal friends, judges and public officials.

As a result of one complaint, the attorney general's office requested that the Board issue a formal opinion concerning the propriety of such functions. The Board did establish a committee to study the issue and debated the problem at several Board meetings. Attempting to delineate precise guidelines proved to be impossible. Whether such conduct is unethical really depends on all the facts and circumstances of each such event and will have to be determined on a case-by-case basis by the Director, the Board and possibly the supreme court in the context of disciplinary proceedings.

The Board did, however, at its March 4, 1983 meeting, approve the following policy statement regarding entertainment of judges and public officials:

The Lawyers Professional Responsibility Board has received several complaints about parties and other functions to which lawyers invite their friends and clients, as well as judges and other public officials. Problems have arisen in determining whether such parties and other entertainment constitute "ordinary social hospitality" within the meaning of the Code of Professional Responsibility and the Code of Judicial Conduct. In addition, there have been problems concerning the invitations and other public communications issued in connection with such events.

The latter issue is most easily dealt with by reminding the bar that communications and invitations should refrain from any false or misleading statements or claims. See DR 2-101, Code of Professional Responsibility. Without attempting to delineate all the possible forms of misleading statements or claims, lawyers should be aware that invitations advertising the presence of judges and other public officials could possibly cause the public to be misled in violation of the code.

The question of who are proper invitees to entertainment sponsored by lawyers is more difficult and can only be resolved on a case-by-case basis with reference to all the attendant facts and circumstances. Some factors of importance when judges and other public officials are invitees include the following:

1. Whether the function is purely social or whether it has a partial or substantial business purpose.
2. Whether the function is financed by personal or business funds.
3. The total cost of the function and the cost per invitee.
4. Whether the function is restricted solely to members of the profession or whether it will also be open to other members of the public.
5. Whether there is a bona fide personal relationship between the invitor and the judicial or other public official invitee such as a relative, personal friend, or former associate.

The foregoing factors are offered for the guidance of the bar as it is impossible to list with specificity all the facts and circumstances which could affect the propriety of an individual party or other similar entertainment. Lawyers would be advised to proceed cautiously when contemplating entertainment which includes public officials and judges. There has been at least one case in recent years where lawyers have been warned for providing entertainment to judges and public officials which went beyond the meaning of "ordinary social hospitality." Obviously, even if it is otherwise appropriate to include judges and other public officials as invitees to parties and other similar entertainment, the lawyer or law firm must scrupulously refrain from any actual impropriety including, but not limited to, in-person solicitation of business, ex-parte communications concerning pending matters, and express or implied implications that the law firm is in a special position to influence courts and other public bodies.

The Board also reiterates its prior policy statement that it is always inappropriate to give a gift or anything of value to judges, public officials or employees of courts and other public offices unless the recipients are personally related to the giver.