

**Colorado Supreme Court  
Judicial Ethics Advisory Board (C.J.E.A.B.)  
C.J.E.A.B. Advisory Opinion 2007-04  
(Finalized and effective February 21, 2007)**

**ISSUE PRESENTED**

The requesting judge sits on the district bench in a rural district. The district attorney in his district has hired as a deputy an attorney who worked in the DA's office with the judge fourteen years ago. When the judge and the attorney worked in the DA's office, they were close friends who exercised and went on camping trips together. After the attorney left the DA's office, he asked the judge to be the godfather of his oldest child. After the christening, the judge and the attorney had a disagreement; their relationship became estranged, and the judge's only contact with the attorney in the intervening thirteen or fourteen years has been a few telephone calls. The judge has had no contact with his god child during this time. The judge states that he has made these facts known to other attorneys who appear in his court, but he has not yet had the attorney appear in any case before him. He asks whether his role as godfather to one of the attorney's children creates a conflict that requires him to disqualify himself or disclose the relationship when the attorney or another member of the DA's office appears before him.

**CONCLUSION**

The judge is not required to disqualify himself when his estranged godchild's father appears before him, solely because of that relationship, but disqualification may nevertheless be appropriate depending on the judge's subjective and objective analysis of the circumstances. The judge should, however, disclose the godparent relationship to each party when his godchild's father appears in his court.

**APPLICABLE CANONS OF THE CODE OF JUDICIAL CONDUCT**

Canon 2 provides that a judge should avoid impropriety and the appearance of impropriety in all of the judge's activities. Subsection B specifies that a judge should not allow family, social, or other relationships to influence the judge's judicial conduct or judgment. It further states that a judge should not convey or permit others to convey the impression that they are in a special position to influence the judge.

Canon 3 provides that a judge should perform his or her duties impartially and diligently. Subsection C governs disqualification and specifies that a judge should disqualify himself or herself from a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where a judge has a personal bias or prejudice concerning a party. It also directs a judge to disqualify himself or herself when

the judge or the judge's spouse, or a person within the third degree of relationship to either of them, is involved in the proceedings.

## DISCUSSION

This request asks the Board to apply the disqualification and disclosure framework set out in two recent opinions, 2006-05 and 2007-01. As in those requests, here the Board is asked to consider whether, pursuant to Canons 2 and 3, the judge should disqualify himself in proceedings in which his impartiality might reasonably be questioned or an appearance of impropriety is raised. The Board is also asked to consider whether, and to what extent, the same disclosure considerations set out in the previous opinions apply here.

In applying the framework set forth in those opinions to this request, we first conclude that, under the facts presented here, the judge is not required to disqualify himself *sua sponte* when the attorney appears before him. Here, the godchild is not related to the judge within the third degree of relationship and, in any case, it is the godchild's father who will be appearing before the judge. Thus, the judge need not *sua sponte* disqualify himself under Canon 3C(1)(d).

Nevertheless, a godparent-godchild relationship between a judge and the child of an attorney who appears before the judge could make disqualification appropriate. The depth of every godparent-godchild relationship differs, with some maintaining only historical significance after the obligation was perfunctorily assumed, and others held sacred by the godparent, developing into a close bond or nearly familial tie. *Cf.* Fed. Ad. Op. No. 11. A judge involved in such a relationship should examine all of the facts and circumstances of the relationship in considering whether to disqualify.

As we discussed in 2006-05, in deciding whether to disqualify, the judge should first consult his own emotions and conscience to determine whether he is free from disabling prejudice. The facts of this request do not suggest that the judge maintains a disabling prejudice for or against the attorney, but only the judge can determine his own ability to be impartial. In addition to the subjective analysis of his own conscience, the judge also should consider whether an objective, disinterested person aware of all the circumstances would reasonably question the judge's impartiality within the meaning of Canon 3C(1) because of the godfather relationship. *See* CJEB 2006-05 & 2007-01; Az. Ad. Op. 90-08; Ma. Ad. Op. 2002-09. Again, the facts of this request do not suggest that an objective, disinterested person would reasonably question the judge's impartiality given that the judge has not created or maintained a godparent relationship with his godchild.

Although disqualification is not mandatory, the judge should disclose the godfather relationship to each party in cases in which the attorney appears before the judge. Although here the judge and his godchild have had very limited, if any, contact, the relationship remains, at least in theory, an ongoing and personal one. Disclosure of the relationship will promote confidence in the impartiality of the judiciary and will inform the parties of any basis on which disqualification may be sought. *See* CJEB 2007-01.

Because the godfather-godchild relationship is a special and personal one, we conclude that the judge should continue to make the disclosure for as long as the attorney appears before him. In light of the personal nature of the relationship, however, the disclosure obligation does not extend to the DA's office as a whole, and is personal only to the godchild's father. *Cf.* CJEAB 2006-05.

Finally, we note that if the judge and his godchild reestablish contact, the disqualification analysis would have to take this circumstance into account.

FINALIZED AND EFFECTIVE by the Colorado Judicial Ethics Advisory Board this 21 day of February, 2007.