

United States Senate  
WASHINGTON, DC 20510

February 21, 2023

Hon. Roslynn R. Mauskopf  
Director  
Administrative Office of the United States Courts  
One Columbus Circle, NE  
Washington, D.C. 20544

Dear Judge Mauskopf:

I write to inquire about the status of the Committee on Financial Disclosure’s consideration of questions related to the federal judiciary’s interpretation of the Ethics in Government Act’s “personal hospitality” exemption. Last year, you informed me that you had referred these questions to the Committee on Financial Disclosure, in response to questions I raised about the potential for abuse of this exemption.

In your April 29, 2022, letter to me, you stated that you had asked the Committee on Financial Disclosure to provide guidance on two questions in particular. Those questions are “whether ‘personal hospitality’ may encompass hospitality extended at a commercial property such as a resort,” and whether a gift of hospitality would fall outside of the personal hospitality exemption “[i]f a third party reimburses the host for the costs” of the hospitality.”<sup>1</sup> Given the significant time that has elapsed since your referral, I would appreciate an update on the Committee on Financial Disclosure’s consideration of these matters.

I would also urge the Committee on Financial Disclosure to clarify that the “personal” nature of “personal hospitality” is not determined by the invitation being delivered personally, but by the personal nature of the judge’s relationship with the host. I understand the Committee to have already clarified this distinction in the standard for determining whether certain gifts must be disclosed even when not expressly required by the rule—specifically, in situations where “both the basis of the relationship between the grantor and the grantee and the motivation behind the gift are personal.”<sup>2</sup> This standard also applies to the solicitation and acceptance of hospitality under the Ethics in Government Act’s Gift Regulations.<sup>3</sup> If I understand this correctly, it should be easy to clarify that it is the personal nature of the relationship not the “personal” nature of the invitation that permits the “personal hospitality” exemption.

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<sup>1</sup> Letter from Hon. Roslynn Mauskopf to Sen. Sheldon Whitehouse (Apr. 29, 2022).

<sup>2</sup> *Guide to Judiciary Policy*, Vol. 2D, Ch. 3, § 333.60.

<sup>3</sup> *Guide to Judiciary Policy*, Vol. 2C, Ch. 6, § 620.25.

Additionally, as you know, the Committee on Codes of Conduct is authorized “to render advisory opinions about” the Code of Conduct for United States Judges “when requested by a judge to whom [that] Code applies.”<sup>4</sup> The Committee is authorized “to publish formal advisory opinions on ethical issues that are frequently raised or have broad application.”<sup>5</sup> The opinions published by the Committee refer to additional, unpublished opinions that may be relevant to these questions about the personal hospitality exemption. I therefore request that the Committee on Codes of Conduct provide any additional, undisclosed advisory opinions that are relevant to the personal hospitality exemption, redacted as appropriate to protect any sensitive or personal information within those opinions.

Sincerely,



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SHELDON WHITEHOUSE  
Chair, Senate Judiciary Subcommittee on  
Federal Courts, Oversight, Agency Action,  
and Federal Rights

cc: Hon. Henry C. “Hank” Johnson, Jr.

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<sup>4</sup> *Guide to Judiciary Policy*, Vol. 2A, Ch. 2.

<sup>5</sup> U.S. Courts, Ethics Policies, <https://www.uscourts.gov/rules-policies/judiciary-policies/ethics-policies>; see *Guide to Judiciary Policy*, Vol. 2B, Ch. 2, available at [https://www.uscourts.gov/sites/default/files/guide-vol02b-ch02\\_0.pdf](https://www.uscourts.gov/sites/default/files/guide-vol02b-ch02_0.pdf).