

National Association for Court Management

RESOLUTION 8

Urging Adoption of Procedures for Deciding Judicial Disqualification/Recusal Motions: Ensuring a Fair and Impartial Process

WHEREAS, the National Association for Court Management recognizes that a fair and impartial judiciary is indispensable to preserving justice and the Rule of Law; and

WHEREAS, the Association is committed to preserving due process as one of the most basic values of our justice system; and

WHEREAS, fair and impartial justice requires that judges act without regard to the identity of parties or their attorneys, the judge's own interests or likely criticism; and

WHEREAS, judges should disqualify/recuse themselves when there is actual conflict or bias or other impropriety or when a reasonable disinterested person would conclude that an appearance of impropriety exists; and

WHEREAS, certain campaign expenditures and contributions made during judicial elections have raised concerns about the possible effects on judicial impartiality and independence; and

WHEREAS, the development of the law through U.S. Supreme Court decisions such as *Caperton v. A.T. Massey Coal Co., Inc.*, indicates that judicial disqualification/recusal is one means of protecting the compelling state interest in a fair, impartial, and independent judiciary; and

WHEREAS, states have chosen diverse means of judicial selection; and

WHEREAS, all states and territories should have flexibility to accommodate different legal cultures and practices, and all states and territories should have in place clearly articulated procedures for handling disqualification/recusal motions which provide for an independent review of denials of such motions; and

WHEREAS, disqualification/recusal rules may require different procedures for trial courts, intermediate appellate courts, and courts of last resort; and

WHEREAS, states and territories should provide guidance and training to judges in deciding disqualification/recusal motions;

NOW, THEREFORE, BE IT RESOLVED that the National Association for Court Management urges its members to establish procedures that incorporate a transparent, timely, and independent review for determining a party's motion for judicial disqualification/recusal.