



*Office of President – Cabinet du President*

March 5, 2020

Norman Sabourin  
Executive Director and Senior General Counsel  
Canadian Judicial Council  
Ottawa, ON K1A 0W8

Dear Mr. Sabourin:

**Re: Draft *Ethical Principles for Judges***

Thank you for your letter dated November 22, 2019, wherein you invited CAPCJ to submit comments to the draft *Ethical Principles for Judges*. I understand that the Canadian Judicial Council conducted initial consultations with partners, stakeholders, and members of the public, and that the Judicial Independence Committee produced the current document for which the CJC is soliciting feedback.

While CAPCJ appreciates the invitation to provide feedback regarding the draft, it is our view that the principles were developed by, and are applicable to, federally-appointed judges and not provincial and territorial judges. As such, our membership is not directly impacted by the proposed principles and it would not be appropriate for CAPCJ to provide feedback in that capacity.

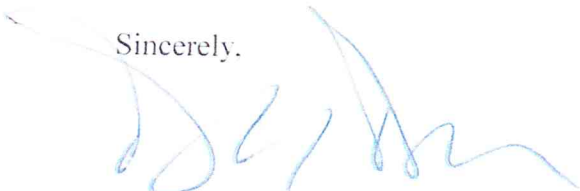
We do recognize that, while the principles purport to govern federally-appointed judges only, the provincial courts in some jurisdictions have voluntarily adopted these in the past. To that extent, there may be an indirect impact on our membership. For that reason, we will comment broadly that we have some process concerns regarding both development and consultation were these principles to apply to provincial and territorial judges. As you know, CAPCJ is a federation of associations. A robust consultation process would have involved provincial and territorial judges in the creation of the principles, and consultation with our organization would have further allowed us sufficient time to gather input from all of our member associations.

The Board did have some substantive concerns about the principles as well, including, but not limited to, the principles surrounding post-retirement work for judges. It was raised that this is a matter for the various law societies to regulate. There were questions surrounding whether the reasoning supporting the strict limitations was sound in relation to provincial and territorial judges, and also questions regarding the authority to regulate this issue in an aspirational ethical principles framework. However, as the principles do not relate directly to us, we believe it is unnecessary for us to parse the principles more than this.

We commend CJC on trying to update its current ethical guidelines for federally-appointed judges. Without question, CAPCJ acknowledges the importance of ethical guidelines for judges. We continue to explore what role CAPCJ ought to play to assist our membership in this regard. As you are aware, this is complicated by the fact that each province and territory is unique in terms of how it has addressed judicial ethics. In some jurisdictions, for example, ethical codes have been established in subordinate legislation.

Again, thank you again for reaching out to CAPCJ, and seeking our input.

Sincerely,



Judge Danielle Dalton  
President, CAPCJ