JPC 1990-1
October 23, 1990

This will confirm the oral opinion that the Committee gave to you in a telephone conversation during its meeting on Wednesday, September 19, 1990. In that regard, you have advised us of the following facts:

You are the Alderman for the town of Newark, Delaware, and have been so since July 18, 1986. You are reappointed annually by the City Council of Newark. An ordinance has been proposed to allow a Deputy Alderman to sit for up to 120 days in a calendar year. You intend to add additional morning court sessions to more effectively handle the increasing case load and assign the Deputy Alderman to sit for the additional sessions. The lawyer you have selected, while qualified in all other respects, is a part-time instructor at the University of Delaware, whose main campus is located in Newark. It can fairly be said that the University has a significant "presence" in the town. You are concerned about an appearance of a conflict or impropriety because of the large number of University of Delaware students who come in contact with the Court, and because the University of Delaware police prosecute cases in that tribunal.

From our telephone conversation with you we further understand that only about 15-20% of the cases coming before the Alderman's Court involve students, faculty, or others associated with the University of Delaware. As we understand it, you can take administrative action to prevent such cases from coming before the Deputy Alderman.

Based upon the forgoing we have advised you that the Committee has unanimously concluded that it would be imprudent for the Deputy Alderman to hear the following matters: (1) cases prosecuted by the University of Delaware police, (2) cases involving University of Delaware related matters or interests including cases in which the University is the victim, and (3) the Deputy Alderman's own students.

A majority of the Committee further concludes that it would be imprudent for the Deputy Alderman to hear any cases involving University of Delaware students or personnel. In all other matters, not specified above, the Committee concludes that there would be no appearance of conflict or impropriety for the Deputy Alderman to hear and determine them. However, we add the caveat that there may be unforeseen circumstances involving matters relating to the interests of the University or its personnel which could create an appearance of impropriety. Both you and the Deputy Alderman should remain sensitive to such possibilities and judge them on a case-by-case basis.

We trust that the foregoing answers your inquiry.

Justice Andrew G.T. Moore, II Chairman
Chancellor William T. Allen
Judge Vincent A. Bifferato
Juddge Clarence W. Taylor
Judge Robert W. Wakefield
Judge Paul E. Ellis
Judge A1f red Fraczkowski