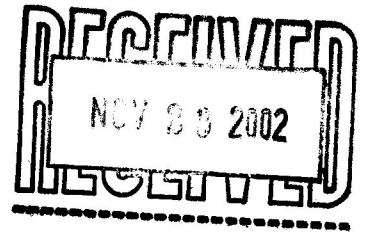


JUDICIAL ETHICS COMMITTEE
Advisory Opinion 02-7
Issued: 11/19/2002



Issue

May a Judge be a member of the Board of Directors of a nonprofit educational foundation or of a nonprofit home/school, or of a center which is the consolidation of a Boys/Girls club and YMCA?

Statement of Facts

The Judge in question serves on the Board of Directors of the Goodwill-Hinckley Home Association, which operates the Hinckley School. The Judge is also on the Board of Directors of the Foursquare Foundation, a community foundation which accepts donations and grants and distributes them to institutions to assist young boys and girls. He also serves on the Board of the Unity Foundation, a family foundation involved in philanthropic entrepreneurship providing education, training and resources to nonprofit organizations. In addition, he serves on the Board of the Alford Youth Center, a consolidation of the Waterville Boys/Girls Club and YMCA.

Discussion

The Judicial Canons, particularly Canon 4, provide that a judge shall conduct his/her extra-judicial activities as to minimize the risk of conflict with judicial obligations. Specifically, Canon 4(C) governmental, civic or charitable activity provides, in pertinent part, as follows:

“(3) A judge may serve as an officer, director, trustee or non-legal advisor, or be a member of an organization, or where permitted under subsection (2) of this section a governmental agency, devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this code.

(a) A judge shall not serve as an officer, director, trustee, or non-legal advisor if it is likely that the organization or agency:

(i) will be engaged in proceedings that would ordinarily come before the judge, or

(ii) will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

(b) A judge as an officer, director, trustee or non-legal advisor, or as a member or otherwise:

(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities, except that a judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority;

(ii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system, or the administration of justice;

(iii) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation. A judge should not be a speaker or the guest of honor at an event of the organization held primarily for fund-raising, but a judge may attend such events."

First, it would appear from the facts at hand that all of the positions described above fall within the definition "of an educational, religious, charitable, fraternal or civic organization not conducted for profit."

However, the inquiry does not stop at this point. From the information known to the Committee, it does not appear likely that the organizations in question will be engaged in proceedings that will come before the judge or that the organizations will be frequently engaged in litigation before the court of which the judge is a member. Therefore, Canon 4(C)(3) does not bar the judge's involvement. If an occasion ever presents itself where one or more of the organizations happens to be involved in litigation before the judge, the judge may disqualify himself pursuant to Canon 3(E).

Conclusion

Accordingly, it is the position of the Committee that from the facts presented, applying the existing Canons of Ethics, the Judge can continue the activities described, subject to the limitations expressed above.

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