



Connecticut Committee on Judicial Ethics

Informal Opinion Summaries

2018-05 (Emergency Staff Opinion Issued March 9, 2018)

Service on Board of Non-Law-Related Nonprofit Organization; Extrajudicial Activities; Appearance of Impropriety; Rules 1.2, 3.1 & 3.7

Issue: May a Judicial Official participate in the Girl Scouts of Connecticut ("GSC") by serving on its Board of Directors?

Facts: The GSC is a non-profit Connecticut corporation chartered by the Girl Scouts of America. According to the GSC website, the Girl Scouts are "the preeminent leadership development organization for girls" with the following mission statement: "Girl Scouting builds girls of courage, confidence, and character, who make the world a better place." See <https://www.gsofct.org/en/about-girl-scouts/who-we-are.html>. The GSC Board of Directors is responsible for, among other things, providing leadership, oversight and policy direction to the GSC, including fundraising strategy and development. A search of the Judicial Branch's online case lookup revealed one pending case in which the GSC is a party. It is the Judicial Official's understanding that membership on the GSC Board of Directors would entail a minimal time commitment.

Relevant Code Provisions: Rule 1.2 states that a judge "should act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge."

Rule 3.1 of the Code concerns extrajudicial activities and sets forth general limitations on such activities, such as not using court premises, staff or resources, except for incidental use or for activities that concern the law, the legal system, or the administration of justice unless otherwise permitted by law, and not participating in activities that (1) interfere with the proper performance of judicial duties, (2) lead to frequent disqualification, (3) appear to a reasonable person to undermine the judge's independence, integrity or impartiality, or (4) appear to a reasonable person to be coercive.

Rule 3.7 of the Code deals specifically with participation with educational, religious, charitable, fraternal and civic organizations and activities. It provides that, subject to the general requirements in Rule 3.1, a judge may participate in activities sponsored by or on behalf of organizations not conducted for profit including, but not limited to (a)(2) soliciting contributions for such an organization or entity, but only from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority; (a)(3) soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity but only if the organization or entity is concerned with the law, the legal system, or the administration of justice ... (a)(6) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity: (A) will be engaged in proceedings that would ordinarily come before the judge; or (B) will frequently be engaged 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.

Response: This inquiry was circulated to the Committee members and their input was solicited and received. The Committee considered a similar inquiry in [JE 2015-15B](#). In that opinion, the Committee determined that a Judicial Official could serve on the executive board of a regional council of the Boy Scouts of America. The Committee's opinion was premised on the fact that the Boy Scouts of America had recently rescinded a policy that excluded individuals from leadership positions in the organization based upon their sexual orientation. Internet research has revealed that the Girl Scouts of America has not, at least in recent history, maintained a comparable policy of discrimination or exclusion. The GSC's current nondiscrimination policy prohibits discrimination on the basis of a number of protected classes, including sexual orientation and marital/civil union status.

Also relevant are the Committee's opinions in [JE 2015-22](#) (Judicial Official could serve on the board of directors of organization of non-profit public charter schools, subject to nine conditions); [JE 2014-22](#) (same for service on board of advisors to nonprofit higher education institution); and [JE 2014-18](#) (Judicial Official could serve as an officer and on Board of Directors of a non-profit country club, subject to several conditions).

Based upon the foregoing, including that the GSC is a nonprofit corporation that is not concerned with the law, the legal system or the administration of justice and that the GSC is not frequently involved in litigation in Connecticut courts, the Committee concluded that the Judicial Official may serve on the Board of Directors of the GSC, subject to the following conditions adopted from the opinions referenced above:

1. The Judicial Official should regularly reexamine the activities of the board to determine if it is proper to continue his or her relationship with the board. Rule 1.2;
2. The Judicial Official may not use Judicial Branch resources for activities that concern the board. Rule 3.1(5);

3. The Judicial Official may not continue to serve on the board if the institution participates in activities that lead to frequent disqualification of the Judicial Official or otherwise becomes frequently engaged in adversary proceedings in the court on which the Judicial Official serves. Rules 3.1 & 3.7(a)(6);
4. The Judicial Official may assist the organization in planning related to fundraising and may participate in the management and investment of its funds. Rule 3.7(a)(1);
5. The Judicial Official may not engage in a general solicitation of funds on behalf of the organization. Rule 3.7(a)(2). The Judicial Official only may solicit contributions for the organization from members of the Judicial Official's family (as that term is defined in the Code) or from Judicial Officials over whom the soliciting Judicial Official does not exercise supervisory or appellate authority. Rule 3.7(a)(2);
6. The Judicial Official may appear or speak at, be featured on the program of, and permit his/her title to be used in connection with an organization event, but not if the event serves a fund-raising purpose. Rule 3.7(a)(4);
7. The Judicial Official may permit his/her name and position with the organization to appear on letterhead used by the organization for fund-raising or membership solicitation but may permit his/her judicial title to appear on such letterhead only if comparable designations are used for other persons. Rule 3.7, cmt (4);
8. Service on the board may not interfere with the proper performance of judicial duties. Rule 3.1(1); and
9. The Judicial Official may not solicit membership in the GSC, as the GSC is not an organization concerned with the law, the legal system or the administration of justice. Rule 3.7(a)(3).