



Connecticut Committee on Judicial Ethics

Informal Opinion Summaries

2018-08 (April 19, 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 serve as a member of the Board of Trustees of a local university (hereinafter the "University")?

Facts: The University is a private, independent, non-profit, non-sectarian educational institution with a litany of undergraduate and graduate programs. It has a comprehensive nondiscrimination policy that prohibits discrimination in admissions and employment on the basis of a number of protected classes in accordance with Connecticut and federal law, and further represents that it is compliant with federal Title IX regarding sex discrimination in educational programs that receive federal assistance. The University's Board of Trustees, which at present has seven officers and twenty-three board members, is responsible for the general governance and administration of the University. The Judicial Official indicated that he/she will not participate in fundraising activities and that his/her service will not interfere with the performance of his/her judicial duties. A search of the Judicial Branch's online case lookup revealed seven cases filed in the past six years in which the University is a party, three of which remain pending.

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 in 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: The Committee considered two similar requests in [JE 2012-28](#) and [JE 2014-22](#), which involved service on the boards of non-law related, non-profit, higher education institutions. In both cases, the Committee members unanimously concluded that the Judicial Official may serve on the boards subject to various conditions. Also relevant are the Committee's opinions in [JE 2015-22](#) (Judicial Official could serve on the Board of Directors of a nonprofit educational institution consisting of public charter schools, subject to several conditions) and [JE 2014-24](#) (same for service on an advisory board for a particular program of studies at a nonprofit educational institution). Outside of the education context, the Committee generally has approved of service on the governing boards of non-law related, non-profit institutions, subject to similar conditions. See, e.g., [JE 2018-05](#).

Based upon the foregoing, including that the University is a non-profit institution not concerned with the law, the legal system or the administration of justice and that service on the Board will not interfere with the judicial responsibilities of the Judicial Official, the Committee concluded that the Judicial Official may serve on the Board of Trustees of the University, subject to the following conditions drawn from the above-cited opinions:

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 University 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 University in planning related to fund-raising 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 University. Rule 3.7(a)(2). The Judicial Official only may solicit contributions for the University 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 a University 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 University 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 students to attend the University, as that is the functional equivalent of soliciting membership in an organization that is not concerned with the law, the legal system or the administration of justice. Rule 3.7(a)(3).

[Connecticut Committee on Judicial Ethics](#)