



Connecticut Committee on Judicial Ethics

Informal Opinion Summaries

2018-15 (July 19, 2018)

Service on Board of Non-Law-Related Nonprofit Organization

Rules 1.2, 3.1 & 3.7

Issue: May a Judicial Official serve as the President of a local chapter of a Connecticut college's alumni association?

Facts: Membership in the alumni association is open to alumni, parents and friends of the college living in the local area. There are annual dues and a solicitation with the dues for contributions to other funds (i.e. scholarship fund) related to the college. The alumni association provides scholarships and works with the college to plan events to connect alumni to the college, region and each other. The college has a couple of lawsuits pending and has had a limited number of suits over the past 10 years.

Relevant Code Provisions: Rules 1.2 (Promoting Confidence in the Judiciary), 3.1 (Extrajudicial Activities in General), and 3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities).

Response: Rule 1.2 of the Code of Judicial Conduct states that a judge "should act at all times in a manner that promotes public confidence in the ... 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, (4) appear to a reasonable person to be coercive or (5) make use of court premises, staff, stationery, or other resources, except for incidental use.

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 educational organizations not conducted for profit including, but not limited to:

(a)(1) assisting such an organization or entity in planning related to fund-raising and participating in the management and investment of the organization's or entity's funds;

(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)(5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities but only if the organization or entity is concerned with the law, the legal system or the administration of justice; and

(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.

Previously, the Committee has been asked about the propriety of a Judicial Official serving on an advisory board of a college program. In [JE 2012-28](#), at issue was whether a Judicial Official may accept an appointment to serve on a community advisory board of a nonprofit, non-law-related division within a higher education institution. According to the facts, the entity was not frequently involved in litigation in Connecticut courts and service on the advisory board would not interfere with the performance of judicial duties. The Committee members unanimously concluded that the Judicial Official may serve on the advisory board subject to the following seven conditions:

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

raising and may participate in the management and investment of its funds. Rule 3.7(a)(1);

5. The Judicial Official may solicit contributions for the organization, but only 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. The Judicial Official may not engage in a general solicitation of funds on behalf of the organization. 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); and
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).

Similarly, in [JE 2014-24](#) at issue was whether a Judicial Official could serve on the advisory board of a particular program of studies at a nonprofit educational institution. The Judicial Official had taught at the school in the past and noted that he/she would make it clear that he/she could not do any fund raising while a member of the board, although the Judicial Official's name would appear on college stationery promoting the program. The Committee unanimously determined that the Judicial Official could serve on the advisory board subject to the 7 conditions set forth in [JE 2012-28](#) and the following additional condition:

8. The Judicial Official may not issue letters of support to any public or private fund-granting organization. Rule 3.7(a)(5).

Based on the facts presented, including that the institution is not frequently involved in litigation, the Committee unanimously determined that the inquiring Judicial Official may serve as President of the local alumni chapter subject to the following conditions:

1. The Judicial Official should regularly reexamine the activities of the advisory board to determine if it is proper to continue his or her relationship with the advisory board. Rule 1.2;
2. The Judicial Official may not use Judicial Branch resources for activities that concern the advisory board. Rule 3.1(5);
3. The Judicial Official may not continue to serve on the advisory 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 fund-raising and may participate in the management and investment of its funds. Rule 3.7(a)(1);

5. The Judicial Official may solicit contributions for the organization, but only 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. The Judicial Official may not engage in a general solicitation of funds on behalf of the organization. Rule 3.7(a)(2);
6. The Judicial Official may attend fundraising events, but may not appear or speak at, be featured on the program of, and permit his/her title to be used in connection with 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); and
8. The Judicial Official may not issue letters of support to any public or private fund-granting organization. Rule 3.7(a)(5).

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