

Maryland Judicial Ethics Committee

Opinion Request Number: 1979-08

Date of Issue: June 22, 1979

O Published Opinion **G** Unpublished Opinion **G** Unpublished Letter of Advice

Judge May Serve as Trustee of University Foundation

The Committee has considered your request for an opinion concerning the propriety of serving as a trustee, representing the interests of the School of ____ on the newly created University of Y Foundation. Your letter and the request from Mr. X., Dean of the School of _____, state that the Foundation will not be involved in the solicitation of funds. Instead, the Foundation will “serve as a depository for funds that have been obtained during fund raising programs, etc.” Its function will involve the investment and expenditure of these monies.

A review of the Articles of Incorporation and Bylaws of the University of Y Foundation reveals that the affairs of the corporation will be managed by a board of seven trustees, and that the corporation is organized to perform charitable and educational functions for the professional and graduate schools of the University of Y. The bylaws provide for a specific audit of the affairs of the corporation at least annually. One of the denominated officers is a treasurer and comptroller, whose specific duties are set forth and subject to review by the Board of Trustees.

The Committee believes that your service as trustee is compatible with the Canons and Rules of Judicial Ethics. Rule 6 proscribes the holding of any office or directorship in any listed business association or “other business corporation or enterprise or venture, which is affected with the public interest” or otherwise if it “interferes with the performance of [a judge’s] official duties or permits the exploitation of the prestige of his office or conflicts with the exercise of his official duties.” This Rule does not appear to constitute a bar to your service as trustee of the University of Y Foundation. The corporation is not a business. Instead, it is a non-profit corporation, organized for charitable and educational purposes.

Rule 9 similarly would not be violated. It provides: “A judge shall not directly or indirectly lend the influence of his name or the prestige of his office to aid or advance the welfare of any private business or permit others to do so. He shall not personally solicit funds for any purposes, charitable or otherwise.” The Committee note indicates that the rule is not intended to prohibit judges from serving without compensation on advisory or other committees, commissions or boards established for charitable, educational or religious purposes or for the purpose of the improvement of judicial administration. The University of Y Foundation clearly functions as a charitable or educational institution, and it is contemplated that there will be no solicitation of funds. See [Opinion Request Nos. 1971-05, 1977-09, and 1979-05].

It is not suggested that your participation as a trustee is in any way intended to make available legal advice. Nonetheless, if a question arises, you should decline counseling on any legal matter which may come before the corporation.

It is the opinion of the Committee that there is no impediment to your service as a trustee of the University of Y Foundation.