

Maryland Judicial Ethics Committee

Opinion Request Number: 2005-11

Date of Issue: September 23, 2005

Published Opinion Unpublished Opinion Unpublished Letter of Advice

Judge as Director of Non-Profit Organization for Soliciting Funds for Drug Courts

Issue: May a judge serve as a director of a non-profit corporation formed to solicit funds from the community to provide incentives for participants in a local Drug Court?

Answer: Yes, subject to qualifications set forth below.

Facts: The Committee established to implement a county drug treatment court intends to establish a non-profit corporation to solicit funds from the community to provide incentives to participants in the Drug Court such as gift certificates and to provide for essential needs for those participants, including dental and medical care, clothing and housing needs. The judge would like to serve on the board of the corporation and support its efforts to obtain funding.

Discussion: Maryland Code of Judicial Conduct (2005) (“Code”), Canon 4 governs extrajudicial activities of judges, and 4C specifically addresses charitable activities. Canon 4C(4) focuses on the question you raise.

The Code provides that “... a judge may be a director ... of a charitable, civic, educational, fraternal or sororal, law-related, or religious organization .”¹ A judge’s participation is circumscribed by other provisions of Canon 4C(4). A judge is prohibited from participating personally in “...solicitation of funds or other fund-raising activities... .”² Nor shall a judge “participate as a guest of honor or speaker at a fund-raising event”³ or otherwise “use or lend the prestige of judicial office for fund-raising... .”⁴ A judge may, however, “assist an organization in planning fund-raising”⁵ and may make recommendations “on programs and projects concerning the administration of justice”⁶.

Conclusion: Canon 4 authorizes your participation as a director of the organization you describe, provided your participation does not involve active or passive fund-raising activity. (The Committee

¹ 4C4(a).

² 4C(4)(d)(i)(A).

³ 4C(4)(d)(ii).

⁴ 4C(4)(d)(iii).

⁵ 4C(4)(d)(iv)(A).

⁶ 4C(4)(d)(iv)(C).

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has noted in the past that a judge should not allow his or her name to appear in the letterhead of any correspondence involving fund-raising.)

Application: The Judicial Ethics Committee cautions that this opinion/letter of advice is applicable only prospectively and only to the conduct of the requestor described in this opinion/letter of advice, to the extent of your compliance with this opinion/letter of advice. Omission or misstatement of a material fact in the written request for opinion negates reliance on this opinion/letter of advice.

Additionally, this opinion/letter of advice should not be considered to be binding indefinitely. The passage of time may result in amendment to the applicable law and/or developments in the area of judicial ethics generally or in changes of facts that could affect the conclusion of the Committee. If you engage in a continuing course of conduct, you should keep abreast of developments in the area of judicial ethics and, in the event of a change in that area or a change in facts, submit an updated request to the Committee.