

Maryland Judicial Ethics Committee

Opinion Request Number: 2025-18

Date of Issue: June 3, 2025

☒ Published Opinion ☐ Unpublished Opinion ☐ Unpublished Letter of Advice

Judge may solicit attorneys for pro bono representation of juveniles in delinquency proceedings

Issue: May a trial court judge solicit attorneys to represent juveniles, pro bono, in delinquency proceedings?

Answer: Yes, as long as it is not coercive and does not abuse the prestige of judicial office.

Facts: The Requestor asks if a judge on a trial court may send a letter to law firms soliciting attorneys willing to serve, pro bono, as appointed or panel counsel in juvenile delinquency matters. The Requestor's stated reason for the solicitation is the shortage of available attorneys, both from the Office of the Public Defender and from private practice. The Requestor explains further that, because of statutory timelines, delays caused by the unavailability of counsel can adversely impact the administration of justice and the rights of juveniles. Lastly, the Requestor states that the Office of the State's Attorney, the Office of the Public Defender, and the Department of Juvenile Services would provide comprehensive training to ensure that participating attorneys are well-prepared for the representation.

Discussion: Judges are subject to the Maryland Code of Judicial Conduct (the "Code"). Title 18, Chapter 100 of the Maryland Rules.

Rule 18-101.3 prohibits a judge from "lend[ing] the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so."

Rule 18-102.4 provides, in relevant part, that "[a] judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment" and "shall not convey or permit others to convey the impression that any person is in a position to influence the judge."

In accordance with Rule 18-103.1, judges are permitted to engage in extrajudicial activities as long as those activities (1) do not "interfere with the proper performance of the judge's judicial duties;" (2) will not result in frequent disqualification of the judge; (3) would not "appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;" (4) would not "appear to a reasonable person to be coercive;" or (5) would not "make inappropriate use of court premises, staff, stationery, equipment, or other resources."

Comment [4] cautions that "judges must not coerce others or take action that would reasonably be perceived as coercive." By way of example, the Comment offers that

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“depending upon the circumstances, a judge’s solicitation of contributions or memberships for an organization, even as permitted by Rule 18-103.7 (a), might create the risk that the person solicited would feel obligated to respond favorably, or would do so to curry favor with the judge.”

Rule 18-103.7 (b) makes clear that “[a] judge may encourage but not coerce attorneys to provide pro bono publico legal services.”

In Opinion No. 1996-20, issued by this Committee on October 22, 1996, under then Canon 4C(2) of the Code, we concluded that a judge may write to attorneys to encourage them to provide pro bono services to indigent persons.

In Opinion No. 2013-29, issued by this Committee on February 12, 2014, under then Rule 1.3 of the Code, the recodified version of Canon 4C(2), we reaffirmed our earlier opinion.

In Opinion No. 2017-35, issued by this Committee on December 8, 2017, we concluded that a judge may encourage attorneys to provide pro bono services through nonprofit legal clinics. As we noted in that Opinion, Rule 18-103.7(b), added June 6, 2016, and effective July 1, 2016, provides that “[a] judge may encourage but not coerce attorneys to provide pro bono publico legal services.” Comment [5] to the Rule states that “a judge may promote broader access to justice by encouraging attorneys to participate in pro bono publico legal services, if in doing so the judge does not employ coercion, or abuse the prestige of judicial office.” The Comment further states the encouragement may take many forms.

Nevertheless, the solicitation must not be such that “the person[s] solicited would feel obligated to respond favorably, or would do so to curry favor with the judge.” Rule 18-103.1, Comment [4]. Thus, the solicitation should not be overly selective with respect to the identity of recipients and should not contain language that would reasonably create a perception that a positive response would result in any preferential treatment.

This Committee concludes that a judge may send a letter to law firms consistent with the above.

Application: The Maryland Judicial Ethics Committee cautions that this Opinion is applicable only prospectively and only to the conduct of the Requestor described herein, to the extent of the Requestor’s compliance with this opinion. Omission or misstatement of a material fact in the written request for opinion negates reliance on this Opinion. Additionally, this Opinion 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 the request for advice involves a continuing course of conduct, the Requestor should keep abreast of developments in the area of judicial ethics and, in the

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event of a change in that area or a change in facts, submit an updated request to the Committee.