



Connecticut Committee on Judicial Ethics

Informal Opinion Summaries

2015-22 (December 17, 2015)

Service on Board of Non-Law-Related Nonprofit Organization

Rules 1.2, 3.1 & 3.7

Issue: May a Judicial Official serve on the Board of Directors of a Connecticut nonprofit 501(c)(3) institution?

Additional Facts: The institution consists of four public charter schools in a particular community. The institution's primary goal is to work to close the achievement gap and deliver on the promise of equal educational opportunities for all children, regardless of race, economic status or zip code. The institution's parent organization is comprised of a network of 30 schools in five cities.

The board meets approximately 8 times per year, generally in the evenings from 5:00-6:30 p.m. There is very little additional work, other than attending the meetings and reading board documents in advance of meetings.

Applicable Rules of Judicial Conduct: Rule 1.2 of Code 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, or (4) appear to a reasonable person to be coercive.

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)(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: This Committee considered two very 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. Based upon the facts presented, including that the board is part of a public, non-profit, educational institution that is not concerned with the law, the legal system or the administration of justice and that the institution is not frequently involved in litigation in Connecticut courts, the Committee concluded that the Judicial Official may serve on the board and adopted the same 9 conditions imposed in JE 2014-22, which are set forth below:

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 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 not engage in a general solicitation of funds on behalf of the organization. Rule 3.7(a)(2). The Judicial Official only may solicit contributions for the organization 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 an organization 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 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);
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 school, as that is the functional equivalent to 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).