



## Connecticut Committee on Judicial Ethics

### Informal Opinion Summaries

**2017- 06 (July 20, 2017)**

**Use of Office; Promoting Public Confidence; Civic Activities**

**Rules 1.2, 3.1 & 3.7**

**Issue & Facts:** Judicial Officials have inquired whether they may serve on a United Way committee that is responsible for (1) allocating funds to recipient organizations, or (2) governance and strategic planning (but not fundraising). The United Way is a 501(c) (3) nonprofit charitable organization whose mission is to help meet the needs of Connecticut and its residents by providing information, education and connection to services. The United Way, on its web page, states that it connects people to services through the 2-1-1 call line, provides crisis intervention and emergency response, and is a partner with the state and various communities to implement strategies that lead to community and population-level impact, including efforts to improve education, income, health and access to basic needs for everyone in Connecticut.

According to the Judicial Branch's Case Lookup, the United Way of Connecticut or one of its local entities has been a party to two lawsuits over the past ten years in the court of which the inquiring Judicial Officials are a member. One of the suits, a mortgage foreclosure, is still pending. In that case, the United Way of Greater Hartford's interest is a parking agreement that is subordinate to the mortgage that is being foreclosed.

**Relevant Code Provisions:** 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 (a) 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 the following:

- (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;
- (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;
- (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;
- (4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, or the administration of justice;
- (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
- (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:** In [JE 2011-28](#), at issue was whether a Judicial Official could provide a letter of support to a law-related organization for the organization to use in soliciting donations. The Committee determined, in relevant part, as follows:

Rule 3.7(a)(5) permits a Judicial Official to make recommendations to a public or private fund-granting organization or entity in connection with its programs and activities if the organization or entity is concerned with the law, the legal system or the administration of justice, however, **Rule 3.7(a)(5) should be viewed as applying in the context of the Judicial Official serving on the Board of the fund-granting organization and the fund-granting organization (as opposed to the grant recipient) must be concerned with the law, the legal system or the administration of justice.** (Emphasis added.)

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).

Based on the facts presented, including that the United Way is a charitable or civic non-profit organization that is not concerned with the law, the legal system or the administration of justice, and it is not frequently involved in litigation, the Committee unanimously determined that (1) a Judicial Official may not serve on a committee responsible for the allocation of funds, and (2) a Judicial Official may serve on the governance and strategic planning committee subject to the same seven conditions imposed in JE 2012-28, as noted above.