

## Maryland Judicial Ethics Committee

**Opinion Request Number:** 2022-32

**Date of Issue:** September 01, 2022

Published Opinion    Unpublished Opinion    Unpublished Letter of Advice

### **Ability of a Judicial Appointee to Accept Donations through a GoFundMe Account**

**Issue:** May a Judicial Appointee accept donations through a GoFundMe account?

**Answer:** No.

**Facts:** The Requestor is a judicial appointee who was diagnosed with a serious illness and will be undergoing extensive treatment. The Requestor's relative would like to create a GoFundMe account to help with the expenses that have accrued and will continue to accrue. The Requestor seeks an opinion on whether he/she would be required to report money received from a GoFundMe account on the Requestor's Financial Disclosure Statement for next year.

**Analysis:** While the Requestor poses the question as whether money received from a GoFundMe account is required to be reported on a Financial Disclosure Statement, the threshold question is whether the Requestor may accept money raised through a GoFundMe account. GoFundMe is a crowdfunding platform where people raise money for various events, including to help pay expenses associated with illnesses. According to GoFundMe's website, "GoFundMe is the best place to fundraise, whether you are an individual, group, or organization." There is a three - step process during which a person: 1) starts the fundraiser by describing the reason for the fundraiser and the amount they hope to raise, including photos or videos; 2) shares the project through email and integrated social network links such as Facebook, Twitter, etc.; and 3) manages the donations.<sup>1</sup>

The Code of Conduct for Judicial Appointees (the "Code"), Title 18, Chapter 200 of the Maryland Rules, establishes the standards for the applicable conduct of judicial appointees, which applies in its entirety to District Court Commissioners, full-time standing magistrates, examiners and auditors. *See* Rule 18-200.2(a). The Code also applies in its entirety to part-time standing magistrates, examiners, and auditors except as otherwise

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<sup>1</sup> The Code limits the ability of judicial appointees to fundraise, although it specifically refers to doing so on behalf of organizations and entities. *See* Rule 18-203.7. Additionally, a judicial appointee, similar to a judge, may engage in fundraising activities if he/she is a candidate for a judicial office. *See* Opinion Request Number 2019-30 (judicial candidates may use websites to fundraise). The foregoing exceptions, however, do not apply to the facts in this Request.

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provided in a specific rule. *See* Rule 18-200.2(b).<sup>2</sup> Several rules of the Code potentially are implicated in this Request.

Rule 18-201.2 provides that “[a] judicial appointee shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary . . .” and “avoid conduct that would create in reasonable minds a perception of impropriety.”

Rule 18-201.3 provides that “[a] judicial appointee shall not lend the prestige of the judicial appointee's position to advance the personal or economic interests of the judicial appointee or others, or allow others to do so.”

Rule 18-203.13 addresses the acceptance of gifts and provides in pertinent part:

(a) A judicial appointee shall not accept any gifts, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the judicial appointee’s independence, integrity, or impartiality.

(b) Unless otherwise prohibited by law, or by section (a) of this Rule, a judicial appointee may accept the following:

\* \* \* \* \*

(2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including attorneys, whose appearance or interest in a proceeding pending or impending before the judicial appointee would in any event require disqualification of the judicial appointee under Rule 18-202.11 . . . .<sup>3</sup>

While, as indicated above, Rule 18-203.13(b)(2) permits judicial appointees to accept gifts from specific categories of individuals, the GoFundMe account would not limit the source of the donations. Organizers share the project through integrated network links, which could extend to persons who are not friends or relatives of the Requestor or otherwise permitted under the Rule.

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<sup>2</sup> All of the Rules discussed in this Opinion apply to part-time standing magistrates, examiners, and auditors. This Opinion does not address the applicability of the Rules to special magistrates, examiners, and auditors. *See* Rule 18-200.2(c).

<sup>3</sup> Rule 18-202.11 provides that “[a] judicial appointee shall disqualify himself or herself in any proceeding in which the judicial appointee’s impartiality might reasonably be questioned” and sets forth a non-inclusive list of examples.

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An important part of the GoFundMe platform is providing information on the purpose for which the funds are being raised, which includes the name of the person and photos or videos. Even if the Requestor is not identified as a judicial appointee, if the Requestor's name and photo are included, information concerning the Requestor's employment could be obtained by anyone, including those who have appeared, or will appear, before him/her. Persons may feel a desire to contribute to the GoFundMe account based on the Requestor's position. Any donations received from persons who do not fall within the small category of persons for whom gifts are permitted risks creating an appearance of impropriety. Because persons are given the option to donate anonymously, the Requestor may not know the source of every donation and, therefore, would not recuse from matters that the Requestor would be disqualified from handling.

In summary, we interpret the Code as limiting the ability of a judicial appointee to fundraise to cover personal expenses as a result of an illness – even if a relative sets up and manages the fundraising account. While the Code permits the Requestor's friends, family and certain others to donate funds to offset the expenses that the Requestor has incurred or will incur as a result of medical treatment, we do not believe that the Code permits a GoFundMe or similar account to be set up for this purpose, inasmuch as the account would not limit who could donate and donations could be anonymous.

**Application:** The Maryland Judicial Ethics Committee cautions that this opinion is applicable only prospectively and only to the conduct of the Requestor described in this opinion, 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 amendments 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 Requestor engages in a continuing course of conduct, he or she 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.