

Maryland Judicial Ethics Committee

Opinion Request Number: 2017-14

Date of Issue: June 20, 2017

■ Published Opinion □ Unpublished Opinion □ Unpublished Letter of Advice

A Judge's Attendance at Fund-Raising Events

Issue: May a judge attend fund-raising events sponsored by not-for-profit charitable and education organizations of which the Requestor is a board member?

Answer: Yes, with conditions.

Facts: The Requestor is a judge who serves on the boards of directors of several not-for-profit charitable and educational organizations. The Requestor asks for guidance as to whether he/she can attend: (1) ticketed fund-raising events sponsored by those organizations, and (2) non-ticketed events that combine fund-raising with other social, educational, or community purposes. We understand that the organizations in question are not “concerned with the law, the legal system, or the administration of justice.”

Discussion: Rule 18-103.7 of the Maryland Code of Judicial Conduct (the “Code”) states (emphasis added):

Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities.

(a) Subject to the requirements of Rules 18-103.1^[1] and 18-103.6,^[2] a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious,

¹ RULE 18-103.1. Extra-Official Activities in General.

Except as prohibited by law or this Code, a judge may engage in extrajudicial activities. When engaging in extrajudicial activities, a judge shall not:

- (a) participate in activities that will interfere with the proper performance of the judge's judicial duties;
- (b) participate in activities that will lead to frequent disqualification of the judge;
- (c) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;
- (d) engage in conduct that would appear to a reasonable person to be coercive; or
- (e) make inappropriate use of court premises, staff, stationery, equipment, or other resources.

² Rule 18-103.6 prohibits affiliation with discriminatory organizations.

charitable, fraternal, or civic organizations not conducted for profit, including the following activities:

(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.

(b) A judge may encourage but not coerce attorneys to provide pro bono publico legal services.

The broad language in subsection (a)(4) is given some additional context in two of the comments to Rule 18-103.7.

Comment [3] states (emphasis added):

Mere attendance at an event, whether or not the event serves a fund-raising purpose, does not constitute a violation of subsection (a)(4) of this Rule. It is also generally permissible for a judge to serve as an usher or a food server or preparer, or to perform similar functions, at fund-raising events sponsored by

educational, religious, charitable, fraternal, or civic organizations. Such activities are not solicitation and do not present an element of coercion or abuse the prestige of judicial office.

Comment [4] states (emphasis added):

Identification of a judge's position in educational, religious, charitable, fraternal, or civic organizations on letterhead used for fund-raising or membership solicitation does not violate this Rule. The letterhead may list the judge's title or judicial office if comparable designations are used for other individuals.

The rule and the comments should be read together.³ When read together, the rule and the comments indicate that the terms “appearing,” “speaking,” and “receiving . . . recognition” in Rule 18-103.7 have meanings that are narrower than their literal dictionary definitions. For the purposes of Rule 18-103.7, a judge “appears” at a fund-raising event when the judge is part of the event’s formal program. A judge “speaks” at such an event when the judge gives a speech to those who attend. A judge is “recognized” at a fund-raising event if the judge receives a plaque or some other tangible manifestation of esteem.

When we consider the Requestor’s inquiry in light of the rule and the comments, we conclude that Requestor will not violate Rule 18-103.7 by merely attending a function sponsored by an organization of which he or she is a director, even if the function has a fund-raising purpose. Speakers at such events often note the attendance of prominent persons. A judge is not required to conceal his/her judicial identity nor is a judge required to ask others to do so. Therefore, a judge is not “recognized” (as the term is used in Rule 18.103.7) at a fund-raising event if a speaker points out the judge’s presence, as long as the speaker also points out the presence of other prominent persons and identifies those persons by their appropriate honorifics.

Application: The 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 an opinion negates

³ See Md. Rule 18-100.1((b)(2)(A) “The Comments that accompany the Rules contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct.”

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