

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 11-01
(October 12, 2011)

**Facilitation of Donations of Arbitration Fees
by Court to Law-Related Organizations**

Issues

1. Is it ethically permissible for a court to facilitate the donation by arbitrators of their arbitration fees to a law-related organization?

Answer: Yes.

2. If so, may a court provide an option or options as to the law-related organizations to which the arbitrators may designate their fees?

Answer: Yes, with qualification.

3. If so, may the court list only one or two options for donations?

Answer: No

Facts

The Superior Court appoints bar members to serve as arbitrators when civil cases are subject to compulsory arbitration. The arbitrators are entitled to a fee of \$75 per arbitration hearing day. In order to be paid this fee, the arbitrators must register as county vendors. Many arbitrators would rather donate their fees directly to a non-profit law-related organization. The presiding judge has asked if the court can ethically facilitate the desire of the arbitrators to donate their fees by providing a check box on a payment form by which the arbitrators can designate the law related organization(s) to which they choose to donate their fees. The judge would also like to know if the court can limit the number of optional law-related organizations to which the fees can be contributed. These questions relate to Rules 3.7(C)(2), 2.2 and 2.3(A) of the Arizona Code of Judicial Conduct.

Discussion

Issue 1

Rule 3.7(C)(2) states that judges may “endorse projects and programs directly related to the law, the legal system, the administration of justice, and the provision of services to those coming before the courts, and may actively support the need for funding of such projects and programs.” By offering the donation option, the court would arguably be endorsing law-related programs and actively supporting their need for funding, all of which is permitted by the rule.

Issue 2

Rule 2.2 requires that judges perform all duties of judicial office fairly and impartially, and Rule 2.3(A) requires judges to perform the duties of office, including administrative duties, without bias or prejudice. In order to avoid running afoul of these rules, the court should not limit the possible law-related organizations that could receive donations from the arbitrators. To avoid even the appearance of favoring or endorsing one organization over another, the court must permit any appropriate law-related organization that wishes to participate to be listed as a donation option.

It is beyond the scope of this opinion to determine whether it would be administratively advisable for the court to engage in such a program given the concomitant commitment of court resources that may be required to implement and maintain it.

Issue 3

See the discussion under issue 2.

Conclusion

It is ethically permissible for the Superior Court to facilitate the donation of arbitration fees to law-related organizations that request to be listed as candidates for such donations.

References

Arizona Code of Judicial Conduct, Rules 2.2, 2.3(A), and 3.7(C)(2) (2009).