

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 95-07
(April 19, 1995)

**Disclosing Political Party Affiliation When
Campaigning for Judicial Office**

Issue

May a candidate for superior court judge indicate his or her political party affiliation when campaigning?

Answer: Yes.

Discussion

Arizona law presents an anomaly in its method of electing judges to the superior court in all counties other than Maricopa and Pima. To win a place on the ballot for a general election, candidates must normally enter and win a partisan primary election. (There are other methods, but rarely used). For the general election ballot, however, candidates run without party designation. *See* Ariz. Const., Art. 6, § 12.

The question here is whether a candidate may use "Democrat," "Republican" or other party designation in campaign literature, on signs and in general campaigning.

Canon 5 of the Arizona Code of Judicial Conduct contains several prohibitions on political conduct, such as making pledges or promises implying other than impartial service and announcing opinions on matters likely to come before the court for decision. Canon 5 does not specifically prohibit announcing party affiliation. The codes in some states, such as Kentucky, Oregon, and Washington, do. Other states, such as Florida and Oklahoma, forbid it by statute.

Candidates for judicial and other office may reveal many things about themselves--such as the schools they attended, the clubs or churches they belong to, how many children they have, what branch of the military they served in and the hobbies they enjoy. How pertinent this information may be to the qualifications for judicial office is open to question. Political party affiliation may be questioned similarly. That a person is a Democrat or Republican does not make one better qualified to serve as a judge. However, given the necessity of running in a partisan primary, it is no secret either.

Canon 5A addresses political conduct in general. It states that a judge or candidate for judge should not act as a leader or hold office in a political party or make speeches for a political organization. Canon 5A is a general restriction on partisan political activity by judges, with various exceptions.

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We note that all candidates for justice of the peace run with party affiliation shown on the general election ballot as well as the primary. Also, candidates for superior court judge under the merit system in Maricopa and Pima counties must make their political party known to the nominating committee (so that a mixture is sent to the governor).

We find no clear provision in Arizona, such as in the Model Code of Judicial Conduct, that allows candidates for judicial office to identify themselves as members of a political party. *See* ABA Model Code, Canon 5C(1)(a)(ii). But neither do we find any clear provisions in Arizona, such as in other states, that prohibit campaigning by party affiliation. In the absence of any prohibition against stating party affiliation, it is permissible to do so especially when such identification is required at various stages of the electoral process.

Applicable Code Sections

Arizona Code of Judicial Conduct, Canon 5 (1993).

Other References

Arizona Constitution, Article 6, § 12.

American Bar Association, Model Code of Judicial Conduct (1990), Canon 5C(1)(a)(ii).