

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 96-06
(June 18, 1996)

**Endorsing or Contributing to the Campaign
Of a Candidate for Judicial Office**

Issues

1. Under Canon 5 A(1)(c), may a judge contribute money to the campaign of a candidate for judicial office?

Answer: Yes.

2. May a judge write a letter to a newspaper editorial board regarding the qualifications of a judicial candidate? If not, does it make a difference if the judge informs the board that the letter is a private communication?

Answer: No, as to both questions.

Discussion

Issue 1

The American Bar Association's 1990 Model Code of Judicial Conduct contains language that would prohibit the type of contribution suggested here. Canon 5 A(1)(c) of the Model Code provides that a judge or judicial candidate shall not "make a contribution to a political organization or *candidate*" (emphasis added). This provision limits a judge's exposure to the political arena.

Arizona, on the other hand, adopted a less restrictive requirement. In the process of considering the 1990 Model Code, the supreme court rejected an absolute prohibition of political contributions in favor of the more flexible policy followed in previous versions of the Arizona code. Thus, Arizona Canon 5 A(1)(c) states that a judge shall not "make contributions to a political party or organization or to a non-judicial candidate in excess of a combined total of Two Hundred Fifty Dollars per year."

The clear import of this language is that Arizona judges are allowed to make contributions to political candidates. The restriction of \$250 applies only to non-judicial candidates. Accordingly, a contribution to a judicial candidate is not only authorized but unlimited.

Issue 2

The commentary to Canon 5A indicates that a judge retains the right to participate in the political process as a voter and can privately express his or her views on judicial candidates or other candidates for public office.

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Except as permitted in Opinion 87-01, we believe that a judge's expression of views on judicial or other candidates should be restricted to those with whom the judge has private conversations or communications. We assume, for the most part, that this means a judge's close friends or associates. Sending a letter to the editorial board of a newspaper, or any other segment of the media, is not a private activity, regardless of how the communication is characterized.

Applicable Code Sections

Arizona Code of Judicial Conduct, Canon 5A(1)(c) (1993).

Other References

Arizona Judicial Ethics Advisory Committee, Opinion [87-01](#) (May 4, 1987).