

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 97-05
(May 12, 1997)

**Participating in Educational Seminars Where Opinions May Be
Solicited from Candidates for Judicial Office**

Issues

May candidates for judicial office participate in continuing legal education seminars where opinions of disputed legal and political issues may be solicited?

Answer: Yes, with limitations.

Discussion

Canon 5B(1)(d)(iv) specifies that “a candidate, including an incumbent judge, for a judicial office . . . shall not . . . announce the judge’s views on disputed political or legal issues.” The commentary to this rule reasons that statements of this sort appear to commit a judicial candidate to predetermined positions on cases, controversies or issues likely to come before the court. The candidate, however, must emphasize in any public statement that he or she has a duty to uphold the law regardless of personal views. Recognizing this, we construed in Opinion 96-11 that this language prohibits judicial candidates from responding to a questionnaire requesting opinions on disputed legal and political issues.

As framed, the question raised in this opinion invites us to fashion an exception to an otherwise clear rule. This we will not do. By announcing a position on a disputed legal or political issue, the judge or judicial candidate may compromise the ability to sit on a future case in which the issue is raised. If permitted, this practice would seriously reflect on the impartiality of the judiciary. The Florida advisory commission dealt with this issue by prohibiting judges or candidates from announcing positions on the issues of gun control, abortion, the Equal Rights Amendment, condominium matters, and the right to work. Fla. Op. 80-13. Another reason that judges and judicial candidates are prohibited from announcing their views on disputed political or legal issues is that such comments might give voters the impression that after the election the successful candidate would not support prior appellate court decisions nor follow the fundamental doctrine of *stare decisis*.

This committee does not wish to discourage judges from participating in continuing legal or judicial education programs. Judges and candidates may speak on topics involving the law, the legal system, and the administration of justice. If questioned about a disputed legal or political issue, a judge or candidate could summarize the pros and cons of the issue without taking a particular position. This would assist the audience in understanding the issue without compromising the impartiality of the judiciary or violating ethical prohibitions. By the same token, a judge or candidate can participate in and lecture to continuing legal and judicial education programs but should decline to offer opinions on disputed legal or political questions.

Advisory Opinion 97-05

Applicable Code Sections

Arizona Code of Judicial Conduct, Canon 5B(1) (d)(iv) (1993).

Other References

Arizona Judicial Ethics Advisory Committee, Opinion [96-11](#) (Oct. 3, 1996).

Florida Committee on Standards of Conduct Governing Judges, Opinion 80-13 (Sept. 3, 1980).

Notice

Advisory Opinion 97-05 was superseded by Opinion 06-05 to the extent that a judicial candidate's comments in an educational context cannot be restricted in light of *Republican Party v. White*, 536 U.S. 765, 122 S. Ct. 2528 (2002).