

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 03-02
(Reissued October 27, 2003)

Sponsoring a Judge for a Day Program

Issues

1. May a judge sponsor an educational program that allows participants to wear judicial robes and sit with the judge on the bench?

Answer: No.

2. Are there educational programs a judge can sponsor to bring students and other members of the community into the courthouse?

Answer: Yes.

3. Can a participant in a court-related educational program administer an oath to witnesses in a judicial proceeding?

Answer: No.

4. May a court solicit contributions from service clubs and other civic organizations to help fund court-related educational programs?

Answer: No.

Facts

A justice of the peace would like to sponsor a “Judge for a Day” program designed to educate high school students and adult members of the community about the court system. Those interested in participating in the program would be required to submit essays on why they would like to be Judge for a Day. Once chosen, participants would spend a day with the judge and sit with the judge behind the bench as the judge adjudicates misdemeanor cases and felony matters. Participants would also wear judicial robes, swear in witnesses and inform the audience to be seated. A plaque with each participant’s name would be displayed next to the judge’s nameplate. An outside service club would provide money to purchase robes and fund the program. The justice of the peace has inquired whether it would be appropriate to sponsor such a program and solicit funds for it.

Discussion

Although the justice of the peace’s goal in sponsoring the program is laudable, allowing members of the public to perform the anticipated activities goes beyond education and violates the Code of Judicial Conduct. Canon 4A of the Code requires a judge to conduct extra-judicial activities so they do not “cast reasonable doubt on the judge's capacity to act

Advisory Opinion 03-02

impartially,” “demean the judicial office” or “interfere with the proper performance of judicial duties.” Canon 4B authorizes a judge to teach and participate in extra-judicial activities concerning the law, the legal system and the administration of justice subject to the requirements of the judicial code. The commentary to Canon 4B notes that: "As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice" It also observes that "[j]udges may participate in efforts to promote the fair administration of justice, the independence of the judiciary and the integrity of the legal profession"

Canon 1 of the Code of Judicial Conduct provides that a judge shall uphold the integrity and independence of the judiciary, and Canon 2A provides that a judge shall respect and comply with the law and act in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Canon 2 further provides that a judge must avoid the appearance of impropriety, the test for which “is whether the conduct would create in reasonable minds a perception that the judge’s ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.” *See* Canon 2A, commentary. Canon 3B(3) provides that proceedings in court should be conducted with fitting dignity and decorum.

A program that permits members of the public to partake in judicial and quasi-judicial roles, such as wearing judicial robes, sitting behind the bench during courtroom proceedings, swearing in witnesses, and informing the audience to be seated, goes beyond education and could imply to parties and outside observers that the participants have a role in judicial decision-making. *See* Canon 4A and B. Moreover, to the extent that a judge permits members of the public to engage in these activities, the judge would place into jeopardy the appearance of an independent judiciary and would compromise proper decorum. *See* Canons 1, 2 and 3B(3). Also, permitting members of the public to wear judicial robes inappropriately lends the prestige of office to these persons. *See id.* Therefore, to the extent the program would allow the “Judge for a Day” to be a participant, rather than an observer, the program violates Canons 1, 2, 3B(3), and 4A.

By comparison, a program that permits members of the community to observe the courtroom process without allowing them to participate in the proceedings or to give the appearance of participating in proceedings is educational and does not give rise to an appearance of impropriety. For example, members of the public may “shadow” a judge for a day, in order to gain insight into the judge’s day-to-day duties, to observe courtroom proceedings from designated public seating areas, or to tour the court facilities. Likewise, judges may allow members of the public to submit objective, academic-type essays regarding the role of the courts and judges may reward members of the public with certificates of achievement. Such programs do not interfere with court proceedings or undermine the public’s confidence in the judicial process.

With regard to administering oaths, A.R.S. § 12-2222 empowers certain officers, clerks and all notaries public to administer oaths under the laws of Arizona. Thus, permitting members of the public who are participating in court-related educational programs to administer such oaths by swearing in witnesses would be a violation of this statute.

Advisory Opinion 03-02

Finally, with regard to fund-raising, Canon 4C(4)(b) expressly prohibits a judge from soliciting funds for any civic organization, a category that includes the courts, or using the prestige of judicial office for that purpose. While it is permissible for a service club to contribute funds to the court for special programs, a judge may not solicit contributions from such an organization. *See id.* Thus, soliciting money from the service club to fund the program would be a violation of the Code.

Applicable Code Sections

Arizona Code of Judicial Conduct, Canons 1, 2, 2A, 3B(3), 4A, 4B and 4C(4)(b) (1993).

Other References

Arizona Revised Statutes § 12-2222 (2003).

Revision History

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