

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 04-03
December 6, 2004

**Soliciting or Accepting Contributions to Support
a Court-Sponsored Symposium**

Issues

1. May a court accept contributions from a non-profit organization to assist the court in presenting a court-run symposium on mental health issues in the courts?

Answer: No.

2. May a for-profit organization, e.g., a drug company, help with sponsorship?

Answer: No.

3. May the court actively solicit sponsorship funding, e.g., by distributing letters asking organizations to sponsor the event?

Answer: No.

4. May a for-profit or non-profit organization sponsor a specific activity, e.g., the keynote speaker, rather than simply provide an undefined sponsorship?

Answer: No.

5. If the court is unable to accept financial sponsorship because of ethical restraints, may it relinquish the symposium to another group and assist it in organizing a symposium sponsored by other organizations?

Answer: Yes.

Facts

A superior court has received a federal grant to sponsor a symposium on mental health issues dealt with by the courts. The funds available in the grant fall short of the amount needed to cover the costs of the entire event, and the court would like to find ways to supplement the grant by recruiting non-profit and for-profit organizations as contributing sponsors.

Discussion

Issues 1 through 4

The first four issues all necessarily involve the court in organizing the symposium and soliciting organizations for supplemental funding. Whether the court is contacting a for-profit organization or non-profit organization does not change the analysis. We therefore address the first four issues together.

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We begin by recognizing that “[j]udicial support for fund-raising of any kind . . . is significantly circumscribed under the code.” Op. 96-08, Issue 5. Canon 4C(3) prevents a judge from “personally participat[ing] in public fund-raising activities.” The prohibition against judicial fund-raising “extends to judicial staff, court officials and administrators and others subject to the judge’s discretion and control.” Op. 97-10.

We have cautioned against judicial fund-raising for a variety of law-related purposes, from donations for courthouse furniture, Op. 00-06, to support for public communication of judicial reform proposals, Op. 96-08. Also, judges may not personally solicit funds from private sources for any purpose, even if the purpose is law-related. As we have previously stated:

Privately, judges may encourage their colleagues to join judges’ associations and solicit support from their peers for judicial colleges or judicial education activities and programs. They may also invite judges to support organizations dedicated to court administration or improvement. It would not be appropriate under this canon, however, for judges to engage in public fund-raising or to contact attorneys or others to request their support of these organizations

Op. 95-20. It would therefore be inappropriate for the court to solicit funds for the proposed symposium, even though the event is law-related and administered by the court. Of course, the court may apply for and accept grants from established programs funded by other government entities. It is conceivable in this instance that a supplemental grant could be obtained from a local, state or federal agency to make up the difference in the symposium’s budget.

We also note that court employees may not solicit contributions on behalf of the court. The prohibition against judicial fund-raising extends to all judicial staff, both immediate and non-immediate. We have previously noted that the Code of Judicial Conduct prohibits solicitation by judicial employees. Op. 96-08. This prohibition extends to the judge’s immediate staff, including law clerks, secretaries or judicial assistants, and bailiffs. *Id.* Also, the Code of Conduct for Judicial Employees prohibits the use of a judicial employee’s position or office to solicit funds. Canon 4D. Consequently, although non-immediate court staff, as private persons, may solicit funds for non-court-related activities, they may not solicit funds as court employees for the court’s use because any such solicitation would necessarily be premised upon their positions.

Finally, Op. 97-10 helps guide our analysis of this issue. In that opinion, we concluded that judicial officers of the juvenile court could not solicit contributions for a statutorily-created restitution fund for victims of juvenile crime because it ran afoul of the prohibition against judicial fund-raising. Although an advisory board was to do much of the solicitation, the legislature intended to have the advisory board work closely with the juvenile court. We therefore concluded that “judges cannot accomplish through surrogates what they cannot

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themselves do.” Op. 97-10. Similarly, here, neither a judge nor a court employee may solicit contributions to supplement a federal grant, even though such funds would be in furtherance of a law-related seminar.

Our conclusion does not change in the event a non-court organization merely sponsors a specific portion of this symposium, such as a keynote speaker. Soliciting organizations to sponsor a specific activity is no different in effect than soliciting funds for the entire activity. The code’s prohibition applies whether such funds will be used as a general funding source or for a specific function.

Issue 5

The court also asks whether it may relinquish control over the symposium to another group that will organize a symposium cosponsored by others. Whether the federal grant in this case and state law allows the court to relinquish control of the funds presents a legal issue outside this committee’s jurisdiction, which we will not address.

As we have previously noted, funding of court programs “remains primarily the responsibility of the legislative and executive branches of government.” Op. 97-10. However, without commenting upon the terms of the specific grant, we conclude that a court may generally relinquish control over a symposium and still participate. While the court is prohibited from soliciting funds from organizations, this prohibition “does not extend to the appropriate assistance and education” of others who may properly solicit funding. Op. 97-10. Judges may participate in balanced seminars as speakers. In fact, Canon 4B encourages judges to “speak, write, lecture, teach and participate” in both legal and non-legal avocational activities, subject to other requirements of the code. A judge may serve as either an officer or director of such an activity, so long as the judge does not participate in fund-raising. Canon 4C(3); *see also* Op. 00-06. Therefore, while the court must avoid fund-raising activities in court with private organizations, its judges may help organize and present such a law-related seminar.

Applicable Code Sections

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

Arizona Code of Conduct for Judicial Employees, Canon 4D (1997).

Other References

Arizona Judicial Ethics Advisory Committee, Opinions [95-20](#) (Oct. 27, 1995); [96-08](#) (Aug. 5, 1996); [97-10](#) (Aug. 8, 1997); [00-06](#) (Dec. 18, 2000).

New York Advisory Committee on Judicial Ethics, Opinion 97-10 (April 29, 1997).