

*Arizona Supreme Court  
Judicial Ethics Advisory Committee*

ADVISORY OPINION 76-02  
(March 16, 1976)

**Responsibilities When Spouse Is Active in  
Political Offices and Organizations**

**Issues**

1. Does Canon 7B(1)(a) require a judge, although not at the present time a candidate for judicial office, to "encourage" his wife to resign any or all of her political offices?

**Answer:** Yes, with two exceptions. (See the notice at the end of this opinion.)

2. If Canon 7B(1)(a) does not require the judge at this time to "encourage" his wife to resign any of the offices that she presently holds, at what time does he become a "candidate" as that term is used in Canon 7B(1), assuming he does seek reelection?

**Answer:** See discussion.

3. Does Canon 7 permit a judge to attend political meetings that his wife should or is required to attend as a result of one or more of the offices that she holds, if he does not take any part in the proceedings?

**Answer:** Yes, under certain conditions.

4. At many of the functions referred to in the preceding issue, the members, their spouses and guests are introduced. If the judge is permitted to attend any of these functions, may he be introduced or is he the only one in the crowd who can not be introduced, which would perhaps attract more attention to him?

**Answer:** The judge can be introduced along with other dignitaries.

**Discussion**

**Issue 1**

Canon 7B(1)(a) provides that a candidate, including an incumbent judge, for a judicial office that is filled by public election between competing candidates, as is the case in the judge's county, should maintain the dignity appropriate to judicial office and should encourage members of his family to adhere to the same standards of political conduct that apply to him.

The judge had informed the Advisory Committee that his wife holds the following offices relating to Republican Party politics: precinct committeeman; secretary to the County Republican Central Committee; member, budget committee, Republican State Central Committee; president, Republican Women's Club; vice-chairman of the nominating committee and vice-chairman of the program committee, Arizona Federation of Republican Women.

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Canon 7B(1)(a) was taken without modification from the Code of Judicial Conduct adopted by the House of Delegates of the American Bar Association August 16, 1972, except as to the addition of "judicial" in the Arizona caption of Canon 7B. Therefore, the *Reporter's Notes to the American Bar Association Code of Judicial Conduct* lends significance to the Code of Judicial Conduct adopted by the Supreme Court of Arizona on October 22, 1975. At page 98 of the *Reporter's Notes* appears the following paragraph:

Subsection (1)(a) requires a candidate while campaigning to maintain the dignity appropriate to judicial office. He must also encourage members of his family to adhere to the same standards of political conduct that apply to him. Although a candidate's spouse as a matter of legal right can hold an office in a political organization and can make speeches for other candidates for political office, the candidate has the duty to try to dissuade his spouse from doing so. The committee considered setting mandatory political conduct standards for members of the candidates family, but rejected the idea because of lack of a means of enforcement.

Although the Advisory Committee recognizes the problems arising from the various political offices held by the judge's wife, it is the opinion of the committee that he should *encourage* her to resign from all political *offices*. On the other hand, she may remain a *member* of the local Republican Women's Club and the Arizona Federation of Republican Women.

### **Issue 2**

It is the opinion of the Advisory Committee that an incumbent judge is always a candidate until such time as he declares his intention not to seek reelection.

### **Issue 3**

It is the opinion of the Advisory Committee that the judge may attend political functions with his wife, provided she is only a member of the organization and not attending as an officer.

### **Issue 4**

It is the opinion of the Advisory Committee that, if a judge accompanies his wife to any function, political or otherwise, where public officials and other dignitaries are recognized, he should accept such recognition along with any other recipient of that courtesy.

### **Applicable Code Sections**

Arizona Code of Judicial Conduct, Canons 7B(1)(a) and (b) (1975).

### **Other References**

E. Wayne Thode. *Reporter's Notes to the Code of Judicial Conduct*, American Bar Association, 1973.

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**Notice**

**The limitations imposed by the 1975 Code of Judicial Conduct on the political activities of a judge's spouse and family were relaxed in the 1993 version of the code. Judges are advised to read the commentary to Canon 5B (1)(a) of the 1993 code for clarification of this issue. In addition, Issue 1 of this opinion, in which the committee opined that a judge should encourage his or her spouse to resign from all political offices, was retracted in Issue 5 of Opinion 03-05 (October 30, 2003).**