

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 78-01
(March 2, 1978)

**Organization and Commencement of Fund
Raising by Campaign Committees**

Issues

1. Is there any problem generally with an early start to campaign for retention in office?

Answer: Yes.

2. Is it necessary for a judge who is seeking re-election and who intends to solicit appearances to speak on behalf of his or her own candidacy to account for personal transportation costs incurred in attending the speaking engagements?

Answer: No specific answer given.

3. May a judge organize a campaign committee to raise money for campaign purposes in January of the year of the general election?

Answer: Yes, subject to certain limitations.

Discussion

Issue 1

There should be no campaigning for office unless the judge reasonably believes that he or she has or will have substantial active opposition, which may be defined generally as "substantial public opposition to a judge's retention in office or re-election competing against another candidate." The opposition should be in the form which advocates that the judge should not be retained in office or re-elected to office. If the judge reasonably believes that he or she has or will have substantial active opposition, then he or she may start campaigning regardless of how early it may be.

Issue 2

In this instance, the judge requesting the opinion intends to provide and personally pay for transportation costs, i.e., car, gas and maintenance, to attend speaking engagements. Since the judge is going to solicit these appearances, as opposed to simply accepting offers to speak which the judge generally receives during other non-election years, the judge wants to know if it is necessary to account for transportation costs for the campaign period in light of Canon 7B(2) and A.R.S. §16-451 *et seq.*

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It is the committee's opinion that Canon 7B(2) as it relates to the period prior to an election requires, among other things, that a judge comply with Arizona law concerning the financial aspects of the judge's candidacy but is otherwise inapplicable to this inquiry. The committee does not feel it is within its authority to comment on or to construe A.R.S. § 16-451 *et seq.*, or other legal propositions. However, it is the committee's opinion that a judge may utilize a campaign committee which may collect and expend funds and advocate his retention or re-election.

Issue 3

If a judge has not drawn active opposition, the judge may select persons to act as a campaign committee but they should remain inactive and not solicit funds on behalf of the judge's campaign until the judge has drawn active opposition. If the judge has drawn active opposition (as set forth in the discussion of Issue 1), then the committee may collect funds immediately and the judge and the committee may campaign on the judge's behalf. No funds should be solicited except through the campaign committee but the judge may suggest sources of contributions to the committee.

Applicable Code Sections

Arizona Code of Judicial Conduct, Canon 7B(2) (1975).

Other References

Arizona Revised Statutes §16-451, *et seq.*

Notice

This opinion was partially revoked in Opinion 05-03 on October 26, 2005.