

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 92-07
(May 14, 1992)

**Membership on Advisory Commission for
Board of Legal Specialization**

Issue

May a judge serve as a member of an advisory commission to the State Bar of Arizona's Board of Legal Specialization?

Answer: Yes.

Facts

The Board of Legal Specialization is responsible for administering the State Bar of Arizona's legal specialization program. The board has created advisory commissions for each area of specialization which review and evaluate individual applications and then make recommendations to the Board of Specialization with respect to whether or not an applicant should be certified. The commission members are volunteer lawyers that practice in the specific area of specialization, but are not necessarily certified themselves. The advisory commission in the area of injury and wrongful death litigation would like to include judges as members.

Discussion

Canon 4C specifically provides that a judge may:

Serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice," and as stated in the introductory clause to Canon 4 may do so as long as it does not "cast doubt on his capacity to decide impartially any issue that may come before him.

Canon 2A provides that:

A judge should . . . conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Although there may be legitimate concerns that judges who serve as members of an advisory commission making recommendations with respect to certification of injury and wrongful death litigation specialists might have some difficulty in remaining impartial in court proceedings involving applicants for certification, it is the opinion of this committee that such concern is not of sufficient gravity to preclude judges from serving on such advisory commissions. Many of the State Bar's programs, committees and sections would

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not function at their current high level of performance without the significant effort of many volunteer lawyers and judges. Judges are a valuable resource for the State Bar and have served on and, indeed, chaired a number of important State Bar committees over the years. They have traditionally provided a necessary and valuable point of view which may not otherwise be provided. It is important to encourage their continued participation in these various State Bar programs and activities.

In any event, a judge serving on a commission would still have an obligation under Canon 3C(1)(a) to: Disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to instances where he has a personal bias or prejudice concerning a party.”

Judges might also be required to disqualify themselves where they believe they have a personal bias or prejudice concerning a lawyer practicing before them, which bias and prejudice may have been the result of their service on an advisory commission to the State Bar's Board of Legal Specialization.

Applicable Code Sections

Arizona Code of Judicial Conduct, Canons 2A, 3C(1)(a) and 4C (1985).