

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 92-14
(September 11, 1992)

**Restrictions on Employment of Part-time
Superior Court Commissioners**

Issues

1. Are there any ethical considerations that would prevent a part-time superior court commissioner from teaching a community college course on a regular basis, either with or without compensation?

Answer: No.

2. Are there any ethical considerations that would prevent a superior court judge or full-time commissioner from teaching on the same basis.

Answer: Yes, as far as the judge is concerned.

Facts

A local community college intends to offer a college course to superior court staff. The class will be a two-credit constitutional law class, and court staff would receive both college credit and judicial education credit (by the Committee on Judicial Education and Training) for attendance and completion of the course. The proposed instructor is presently employed as a pro tem superior court commissioner in a permanent, part-time position, which position is shared with another part-time commissioner. The part-time commissioner and proposed instructor is compensated by the court only for the hours actually worked and receives no employment benefits from the county or state. All classes would be taught at times other than during the part-time commissioner's normal court hours.

Discussion

Issue 1

The Code of Judicial Conduct is silent on these issues, except to indicate generally that judges may "speak, write, lecture, teach, and participate in other activities concerning the law, the legal system and the administration of justice." *See* Canon 4A. Any possible prohibition involved here is based not on ethical concerns, but on constitutional grounds. Article 6 § 28 of the Arizona Constitution provides that: "Justices and judges of courts of record shall not be eligible for any other public office or for any other public employment during their term of office."

Whether this constitutional section applies to superior court commissioners is purely a legal question that is outside of the Advisory Committee's jurisdiction. From an ethical standpoint, however, we see no problem with a part-time commissioner teaching, with or without compensation, at any public or private educational institution.

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Issue 2

As noted in the preceding discussion, there is a *constitutional* prohibition against "justices and judges of courts of record" receiving compensation for any other public employment. This does not prevent a judge from teaching without compensation. In Advisory Opinion 79-02, this committee concluded that a superior court judge can teach at a publicly funded college or university on a regular basis as long as there is no employer-employee relationship between the judge and the institution; the judge does not receive a salary or equivalent compensation; the courses or classes are not taught during the instructor's normal court hours; and the activity does not interfere with or violate other provisions of Canon 4.

Again, for the reason stated above, we do not see an ethical problem with a full-time commissioner teaching, with or without compensation, at a public college or university. Whether or not full-time commissioners are subject to the same restraints as superior court judges is a legal question that cannot be answered by this committee. *See* Ariz. Const., Art. 6 § 24; A.R.S. § 12-211, *et seq.*; Rule 91(i), Rules of the Supreme Court.

Applicable Code Sections

Arizona Code of Judicial Conduct, Canon 4 (1985).

Other References

Arizona Constitution, Article 6, §§ 24 and 28.

Arizona Revised Statutes, § 12-211, *et seq.*

Arizona Supreme Court, Rule 91(i), Rules of the Supreme Court.

Arizona Judicial Ethics Advisory Committee, Opinion [79-02](#) (Oct. 24, 1979).