

# JUDICIAL INQUIRY COMMISSION

DATE ISSUED: MARCH 10, 2022

ADVISORY OPINION 22-949

## CIVIC & CHARITABLE ACTIVITIES

to come before the judge in those cases.

### ISSUE

### DISCUSSION

May a juvenile judge continue to serve as chair of the Children's Policy Council ("the Council") when the judge's spouse, who is a school counselor, oversees a peer-helper program administered by the school, that is funded by the Council? The juvenile judge has already contacted the Alabama Ethics Commission for advice and provided a copy of the advice to the Commission.

Canon 5B provides, "A judge may participate in civic and charitable activities that do not reflect adversely upon his [or her] impartiality or interfere with the performance of his [or her] judicial duties." Likewise, Canon 2A requires judges to "respect and comply with the law" and to "conduct himself [or herself] at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

**Answer:** Yes.

### FACTS

The juvenile judge serves as the chair of the local Children's Policy Council pursuant to Ala. Code § 24-34-33. The judge was appointed in 2019. The judge's spouse is a school counselor and is responsible for overseeing the school's peer-helper program which is funded by the Council. The judge's spouse has served in this position since 2015. The school is responsible for choosing the faculty-sponsor for the program and for administering the program. The Council is not involved with the program other than providing funding. Participants are not referred to the program by the judge. It is unlikely that those who are chosen by the school to participate in the program will come before the judge, but not impossible; however, the judge's spouse would not be required

In the situation presented, the judge was not involved in appointing or selecting his or her spouse to the position leading to her involvement with the Council. The judge's spouse was selected as the faculty-sponsor of the program by the school long before the judge took the bench. The judge's participation with the Council is pursuant to a statutory mandate as he is the juvenile judge of the county. *See* Ala. Code § 24-34-33. Furthermore, the Council is not responsible for the administration of the program and has no oversight authority over the program. The Council only provides funding for the program.

It is the opinion of the Commission that the judge's continued service on the Children's Policy Council does not present a conflict with the

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Alabama Canons of Judicial Ethics. There is no reasonable basis for questioning the judge's impartiality based solely on the service of the judge and the judge's spouse. However, the judge should recuse himself or herself from any of the Council's decisions regarding the program to avoid even the slightest appearance of impropriety and to preserve public confidence in the judge's integrity and the integrity of the judiciary.

## REFERENCES

Ala. Code § 26-34-33 (2008)