

JUDICIAL INQUIRY COMMISSION

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ADVISORY OPINION 25-967

CIVIC & CHARITABLE ACTIVITIES: SERVING AS DEAN OF A LAW SCHOOL

ISSUE

May a judge serve part-time as the dean of a law school?

Answer: No.

FACTS

A recently-appointed judge holds a part-time position as the interim dean of a law school. The law school is within the judicial circuit in which the judge serves. As interim dean, the judge is required to engage in a variety of interactions across different organizations including, fundraising activities and networking efforts to secure professional development opportunities for students (i.e., internships and externships with local firms and government offices). Additionally, the dean serves on the Alabama Fair Ballot Commission pursuant to an appointment by the law school.

DISCUSSION

The first issue that must be decided is whether serving part-time as the dean of a law school would be considered as a quasi-judicial activity governed by Canon 4 or as any other extra-judicial activity governed by Canon 5. Canon 4 allows a judge, subject to the proper performance of

his or her judicial duties, to engage in “quasi-judicial activities”—such as teaching, speaking, writing, consulting with executive and legislative officials, and serving as a member, officer, or director of an organization or governmental agency—to improve the law, the legal system, or the administration of justice, provided that the judge may do so without reasonably casting doubt on the judge’s impartiality to decide any issue that may come before him or her. Canon 5 allows a judge to engage in many of those same activities, with a few additional restrictions and limitations, with respect to “extrajudicial activities” that are not focused on improving the law, the legal system, or the administration of justice.

It is the opinion of the Commission that this would be an extrajudicial activity governed by Canon 5. As stated above, Canon 4 governs activities dedicated to the specific purpose of “improv[ing] the law, the legal system, and the administration of justice.” While the training of future lawyers is certainly an important and laudable enterprise, the circumstances presented here are too far removed from the improvement of the law, the legal system, and the administration of justice so as to fall under the blanket of Canon 4.¹ In defining the types of

¹ This opinion should not be construed to limit a judge’s ability to speak, write, lecture, or teach on subjects concerning the law, the legal system, and the

administration of justice which are specifically allowed under Canon 4A.

activities that may be considered “quasi-judicial activities,” other jurisdictions have advised that these activities must have a “direct, readily articulable nexus” with “the courts’ core mission of . . . delivering unbiased, effective justice to all and their statutory and constitutional responsibilities—in other words, how the courts go about their business.” *See generally* Cynthia Gray, *Nexuses and Tangents*, 57 CT. REV. 120 (Am. Judges Ass’n 2021) (internal quotation marks and footnotes omitted) (collecting and summarizing opinions). In sum, “a concern with justice in a broader sense is not enough and[, thus,] activities with [only] a tangential, incidental, partial connection to the courts stay within the code’s restrictions.” *Id.* Here, the duties of the interim dean go far beyond simply teaching or lecturing. Rather, the interim dean must also solicit funds for the law school and cultivate new opportunities for students of the law school. While these duties broadly relate to the legal system by providing for the training of future lawyers, they do not present a sufficient nexus to the law, the legal system, or the administration of justice so as to fall under Canon 4. Therefore, the judge’s service as interim dean is governed by Canon 5.

As stated above, Canon 5 governs a judge’s extrajudicial activities. Canon 5B, specifically, 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. A judge may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization or institution not conducted for the economic or political advantage of its members, subject to the following limitations:

. . . .

- (2) It is desirable that a judge not solicit funds for any educational, religious, charitable, fraternal, or civic organization or institution, or use or permit the use of the prestige of his [or her] office for that purpose, but he [or she] may be listed as an officer, director, or trustee of such an organization or institution.

When analyzed under the relevant provisions of the Canons, it seems that some of the actions that the judge would undertake as dean of the law school are undesirable or even prohibited.

One of the primary duties of the dean is to solicit funds on behalf of the law school. Thus, the inquiring judge would be responsible for

identifying potential donors and soliciting and accepting funds for the law school. This activity is strongly discouraged because Canon 5B(2) deems such activity by a judge to be undesirable.

Additionally, it is the opinion of the Commission that the judge may not solicit law firms or government agencies to provide internship or externship opportunities for students of the law school. Canon 2C generally prohibits a judge from “lend[ing] the prestige of his [or her] office to advance the private interests of others” in all of the judge’s activities. The inquiring judge serves in the judicial circuit in which the law school is located. Thus, it can be reasonably expected that much of the judge’s outreach on behalf of the law school in this regard would be to law firms and government offices, e.g., the district attorney’s office, within the judge’s own circuit. Though the judge would be interacting with these organizations as the interim dean of the law school, the power dynamic between judge and lawyer would still be present in the background of those interactions and could cause the attorneys being solicited to feel coerced or pressured into complying with the judge’s request. This presents an untenable appearance that the prestige of the judge’s office, even though unintentional, might be used to advance the private interests of the law school.

Lastly, it is undesirable for the judge to serve on the Alabama Fair

Ballot Commission. Canon 5G provides, in pertinent part, “It is desirable that a judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice or unless required by law.” The purpose of the Fair Ballot Commission “is to provide to the public a fair and accurate explanation of what a vote for and what a vote against a statewide ballot measure represents.” Ala. Code § 17-6-81(a)(1). The Fair Ballot Commission is responsible for crafting “ballot statements.” *Id.* at (b). Those ballot statements are to include:

- (1) The text of a statewide ballot measure, including sponsors, cosponsors, and the text of the question that will appear on the statewide ballot.
- (2) A summary of and the text of any implementing legislation directly related to the statewide ballot measure.
- (3) The placement of the statewide ballot measure on the statewide ballot.
- (4) A plain language summary of the statewide ballot measure, which shall include, at a minimum, the legal or constitutional authority for its passage, the effect of the statewide ballot measure if it is

passed, including its cost and source of funding, and the effect of the statewide ballot measure if it is defeated.

Id. Because the Fair Ballot Commission is a governmental commission “concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice,” it is the opinion of the Commission that it is undesirable for the judge to continue to serve on the Fair Ballot Commission.

In sum, fulfilling the duties of the interim dean would require the judge to engage in activities that are undesirable or prohibited under the Canons. It is the opinion of the Commission that serving in a position that would require the judge to engage in activity that is at odds with the directives of the Canons would interfere with the judge’s judicial duties. Therefore, the judge is prohibited under Canon 5B from continuing to serve as the interim dean of a law school.

REFERENCES

Alabama Canons of Judicial Ethics
2C, 4, 5, 5B, 5G.

Ala. Code § 17-6-81.

Cynthia Gray, *Nexuses and Tangents*,
57 CT. REV. 120 (Am. Judges Ass’n
2021).

This opinion is advisory only and is based on the specific facts and questions submitted by the judge who requested the opinion pursuant to Rule 18 of the Alabama Rules of Procedure of the Judicial Inquiry Commission. For further information, you may contact the Judicial Inquiry Commission, P.O. Box 303400, Montgomery, Alabama 36130-3400; tel.: (334) 242-4089; email: jic@jic.alabama.gov.