

California Judges Association
OPINION NO. 31

(Originally issued: July 1983)

SERVICE ON BOARD OF LEGAL AID SOCIETY

AUTHORITY: Canon 4C3(a)

I. Background

Two judges have made inquiry whether it is permissible to serve as members of a board of directors of a legal aid society. Information was provided to the Ethics Committee concerning the duties of a board member and the sources of funds for the operation of the legal aid society.

II. Question

May a judge serve as a member of a board of directors of a legal aid society?

III. Answer

No.

IV. Discussion

Facts

The legal aid society involved is funded in large part by tax funds from the federal Legal Services Corporation which also, by random audit, reviews the legal work done for individual clients of attorneys paid by the society. The Regional Counsel of the Legal Services Corporation states the applicable federal law and regulations permit a judge to serve on the board of directors of a legal aid society. The society also solicits and accepts private charitable contributions.

The entity authorized to appoint a judge to the board of directors of the society is a local bar association. The board of directors is responsible for establishing and enforcing policies governing the operation of the society. More specifically, the board selects the executive director, guards the fiscal integrity of the society, handles public relations and fund raising, promulgates policies, and periodically evaluates the society's programs and the performance of its executive director. The board determines the types of cases to be undertaken by the society, but does not directly review the legal work done by an attorney for any individual client.

Analysis

Canon 4C(3)(a) allows a judge to serve "... as a director, trustee or nonlegal adviser of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice..."

However, Canon 4C(3)(c) provides:

(c) a judge shall not serve as an officer, director, trustee, or nonlegal advisor if it is likely that the organization

(i) will be engaged in judicial proceedings that would ordinarily come before the judge, or

(iii) will be engaged frequently in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction of the court of which the judge is a member;

In addition to the restriction imposed by Canon 4C(3)(c) we note that Canons 2A and 2B require that a judge's conduct promote public confidence in the integrity and impartiality of the judiciary and prohibits use of the prestige of the judicial office to advance the interest of others and prohibits conveying the impression that others are in a special position to influence the judge.

Membership of the judge on such a board is rife with opportunities for the public, and the legal profession to interpret the judge's conduct in a manner which impairs confidence in the integrity and impartiality of the judiciary, and which conveys the impression that the prestige of the office is being used to advance the interest of legal aid, and that some attorneys are in a special position to influence the judge. Simply stated, a judge's conduct must be above suspicion and service on a legal aid board of directors presents too many opportunities for the seed of suspicion to be sown and flourish.

Conclusion

It is the opinion of the Ethics Committee that a judge's membership on such a board of directors would not at all times promote public confidence in the integrity and impartiality of the judiciary, and would constitute using the prestige of the judicial office to advance the interests of others, and would convey the impression that others are in a special position to influence the judge. Therefore, Canon 2 prohibits a judge from serving as a member of the board of directors of a legal aid society whose attorneys appear before the court on which the judge serves and which is funded by and subject to the policies of the Legal Services Corporation and which solicits and receives private charitable contributions.

This opinion is advisory only. The Committee acts on specific questions submitted, and its opinion is based on facts as set forth in the questions submitted.

COMMITTEE ON JUDICIAL ETHICS
July 1983