

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an advisory opinion concerning whether a judge may serve as a director for a non-profit corporation that will operate a juvenile correction wilderness-boot camp type facility. This matter is governed primarily by Canon 5B, which provides in pertinent part that a judge “may participate in civic or charitable activities that do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties,” and that a judge may serve as a director of an educational, charitable or civic institution not conducted for the economic advantage of its members, subject to the following limitations:

- (1) A judge should not serve if it is likely that the organization or institution will be engaged in proceedings that would ordinarily come before him or will be regularly engaged in adversary proceedings in any court.
- (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 office for that purpose, but he may be listed as an officer, director, or trustee of such an organization or institution.
- (3) A judge should not give investment advice to such an organization or institution, but he may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

A judge should ensure that he has no non-judicial connection to any non-governmental educational or rehabilitative program to which the judge makes referrals. It is the opinion of the Commission that a judge may not serve on the board of directors of a non-profit organization to which he regularly refers juveniles in disposition of cases over which he presides. Serving on such a board would create an appearance of impropriety and would not promote public confidence in the integrity and impartiality of the judiciary, contrary to Canons 1, 2A, and 5B. Advisory Opinions 93-468, 93-507, and 96-624. Serving on such a board also would violate the provision in Canon 5B(1) that a judge not participate in civic or charitable activities “if it is likely that the organization will be engaged in proceedings that would ordinarily come before him.” Advisory Opinion 93-507. If the judge will not be making referrals to the facility in the ordinary course of his judicial duties nor will the facility either be otherwise engaged in proceedings that

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would ordinarily come before him or be regularly engaged in adversary proceedings in any court, then the judge may serve as a director of the facility if doing so does not interfere with the performance of the judge's judicial duties. However, the judge should not solicit funds for the facility, use or permit the use of the prestige of his office for fund solicitation, or give any investment advice to the institution. See Advisory Opinions 89-389, 82-166, and 87-293.

Very truly yours,

JUDICIAL INQUIRY COMMISSION