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JANETTE M. BLOOM  
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STATE OF NEVADA

STANDING COMMITTEE ON  
JUDICIAL ETHICS AND ELECTION PRACTICES

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OPINION: JE07-008

PROPRIETY OF A JUDGE  
PARTICIPATING AND CONTINUING  
MEMBERSHIP IN CLUBS AND  
COMMITTEES AFFILIATED WITH A  
POLITICAL PARTY.

Section of this Code, (ii) on  
behalf of measures to  
improve the law,\* the legal  
system or the administration  
of justice, or (iii) as  
expressly authorized by law.

ISSUE

May a judge participate in, and  
continue to be a member of, clubs and  
committees affiliated with a political  
party?

No other relevant section of the  
Code authorizes judges to be members of,  
or to participate in, clubs and committees  
of a political party. In fact, the Code  
sections which touch on the political  
activities of judges suggest that it would be  
inappropriate for a judge to continue to be a  
member of and to participate in such clubs  
and committees.

ANSWER

No.

FACTS

A recently elected judge asks  
whether it is appropriate for the judge to  
continue as a member of, and to continue  
to participate in, a club of a political party  
and the central committee of a political  
party.

Canon 5 provides that a judge shall  
refrain from inappropriate political  
activities. Its Sections then provide some  
specific examples of inappropriate political  
activities. Canon 5A(1) includes a list of  
political activities in which a judge may not  
engage. They include acting as a leader or  
holding office in a political organization,  
publicly endorsing or publicly opposing  
another candidate for public office, making  
speeches on behalf of a political  
organization, or soliciting funds for a  
political organization or candidate.  
Although one might contend that, by  
implication, those provisions would allow a  
judge to be a member of a club or  
committee of a political party so long as he  
or she did not act as a leader or hold an  
office, the Code does not provide, and is

DISCUSSION

Canon 5B of the Nevada Code of Judicial  
Conduct provides:

A judge shall not  
engage in any political  
activity except (i) as  
authorized under any other

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not written to provide, a rule to cover every activity in which a judge might engage. The Canons and Sections are to provide general guidance and to state basic standards. See, Preamble. Thus, the fact that some activities are expressly prohibited does not mean that all others are permitted. The more general standards of other Canons must be considered.

For example, Canon 2 provides that a judge shall avoid the "appearance of impropriety in all of the judge's activities." The Commentary to Canon 2A notes that:

The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.

Canon 3B(2) provides in part that a judge "shall not be swayed by partisan interests." Canon 4 requires that a judge conduct all of the judge's extrajudicial activities so that they do not (1) cast reasonable doubt on the judge's capacity to act impartially as a judge; (2) demean the judicial office; or (3) interfere with the proper performance of judicial duties. It is the Committee's opinion that the membership and participation contemplated here would, at the least, create the appearances and doubt which those Canons and Sections are intended to prevent.

Although the Commentary to Canon 5A(1) states that a judge retains the right to participate in the political process as a voter, and to privately contribute to a candidate or political organization, the

remainder of the Commentary to that section makes it clear that what a judge may do must be done privately. Finally, Canon 5C(1)(a)(ii) provides that a judge may at any time "upon request, identify himself or herself as a member of a political party". [Emphasis added]. A judge's continued participation or membership in clubs and committees of a political party are, in the judgment of the Committee, the equivalent of the judge's identifying himself or herself as a member of a political party without a request for such an identification. See, Nevada Advisory Opinion JE06-016, October 6, 2006 (A judge or a judicial candidate may not participate in a parade as part of an entry sponsored by a political party because it identifies the judge as a member of a political party without a request).

#### CONCLUSION

It is the opinion of the Committee that under the facts as presented, a judge may not be a member of a club or a committee of a political party.

#### REFERENCES

Nevada Code of Judicial Conduct, Canon 2; Canon 3B(2); Canon 4; Canon 5; Canon 5A(1); Canon 5B; Canon 5C(1)(a)(ii); Nevada Advisory Opinion JE06-016, October 6, 2006.

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*any member of the Nevada judiciary, or  
any person or entity which requested the  
opinion.*

*Gordon H. DePaoli*

**Gordon H. DePaoli, Esq.**  
*Committee Chairman*