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STATE OF NEVADA

STANDING COMMITTEE ON
JUDICIAL ETHICS AND ELECTION PRACTICES

DATE ISSUED: March 7, 2008

OPINION: JE08-003

PROPRIETY OF A CANDIDATE FOR ELECTION TO JUDICIAL OFFICE WHO IS NOT PRESENTLY SERVING IN A JUDICIAL CAPACITY ON A FULL- OR PART-TIME BASIS CONTINUING TO SERVE AS AN OFFICER IN A BAR ASSOCIATION.

ISSUE

May a candidate for election to judicial office who is not presently serving in a judicial capacity on a full- or part-time basis continue to serve as an officer of a Bar Association?

ANSWER

Yes.

FACTS

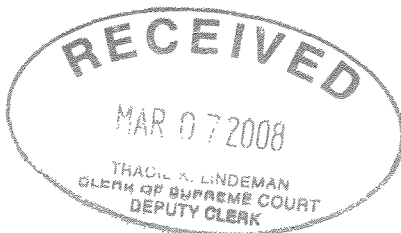
A candidate for election to judicial office asks whether the candidate may continue to serve as an officer of a Bar Association. The candidate is not presently serving in a judicial capacity on a full- or part-time basis.

DISCUSSION

The Nevada Code of Judicial Conduct sets forth the applicable standards from which judges and candidates for judicial election are provided guidance for ethical conduct. The Code of Judicial

Conduct applies in its entirety to persons who serve in a judicial capacity on a full-time basis. See, Application of Code of Judicial Conduct. It also applies to officers of a judicial system who perform judicial functions, including a magistrate, court commissioner, special master or referee. Id. There are also four categories of judicial service in other than a full-time capacity, which are defined and to which certain portions of the Code do not apply. See, Application of Code of Judicial Conduct, B., Retired Judge Subject to Recall; C., Continuing Part-Time Judge; D., Periodic Part-Time Judge; and, E., Pro-Tempore Part-Time Judge.

Canon 5 of the Code of Judicial Conduct does apply to a candidate for election to judicial office even though the candidate is not serving in a judicial capacity on a full-time basis and does not perform any judicial function on a part-time basis. In the judgment of the Committee, there is nothing in Canon 5 which would prohibit a candidate for election to judicial office from continuing to serve as an officer of a Bar Association. Indeed, the Commentary to Canon 5A(1)(a) specifically notes that a candidate for elective judicial office may retain during candidacy "a public office, such as county prosecutor." Canon 5B(2)(b)(i) expressly allows a candidate for appointment to judicial office to retain an office in a political organization during that candidacy.



Canon 5A(3)(a) also provides that a candidate for judicial office “shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary....” In the past, the Committee has concluded that guidance concerning compliance with Canon 5A(3)(a) is provided by the provisions of and the commentary on Canon 1, Canon, 2 and Canon 4, which apply to persons acting in a judicial capacity and which cover issues similar to those referenced in Canon 5A(3)(a). See, Nevada Advisory Opinion JE06-008 (July 21, 2006). The Committee finds nothing in those Canons to suggest that a candidate’s continuation as an officer of a Bar Association constitutes actions inconsistent with the dignity appropriate to judicial office or with the impartiality, integrity, and independence of the judiciary.

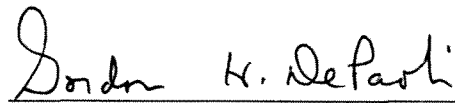
CONCLUSION

A candidate for judicial election who is not serving in a judicial capacity on a full- or a part-time basis may continue as an officer of a Bar Association. This advisory opinion is not intended to imply that a person who is serving in a judicial capacity on a full- or part-time basis may or may not be an officer of a Bar Association. That question is not before the Committee at this time.

REFERENCES

Nevada Code of Judicial Conduct, Canon 5C; Canon 5A(1)(a); Canon5A(3)(a); Canon 5B(2)(b)(i); Nevada Advisory Opinion JE 06-008 (July 21, 2006).

This opinion is issued by the Standing Committee on Judicial Ethics and Election Practices. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, the Nevada Commission on Judicial Discipline, any person or tribunal charged with regulatory responsibilities, any member of the Nevada judiciary, or any person or entity which requested the opinion.



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