



Indiana Judicial Nominating Commission Indiana Commission on Judicial Qualifications

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ADVISORY OPINION

Code of Judicial Conduct
Canon 7

#5-90

The Indiana Commission on Judicial Qualifications issues the following advisory opinion concerning the Code of Judicial Conduct. The views of the Commission are not necessarily those of a majority of the Indiana Supreme Court, the ultimate arbiter of judicial disciplinary issues. Compliance with an opinion of the Commission will be considered by it to be a good faith effort to comply with the Code of Judicial Conduct. The Commission may withdraw any opinion.

ISSUE

The issue is whether judges should prohibit their court employees such as bailiffs, reporters, probation officers, administrators, and secretaries from running for or holding elected offices within their political parties.

ANALYSIS

In addressing political activities by court employees while off duty, the Commission wrote in Advisory Opinion #1-90, "[A] judge may permit employees to lawfully participate in the partisan political process, except that a judge's employee may not be a candidate for partisan elective office". Several judges have asked whether these employees may be permitted to run for elected party offices such as precinct committeeman, delegate to a state convention, or central committee officer.

Behind Advisory Opinion #1-90 lay concerns that a judicial employee who held or ran for an office which is filled by public election would be unable to separate the political contest from his or her court duties and that the public's perception of the judiciary's impartiality might be impaired by virtue of the court employee's political identification. We recognized in that opinion that, in deciding that court employees could not run for or hold partisan elective office, we had chosen a place on a continuum at which to draw a line and that reasonable arguments could be made for imposing limits differently.

Again, judges may allow political activity by their employees short of running for partisan elective office and so long as the activity is accomplished completely off-duty. Political parties have their internal elections, and these contests were not the subject of Advisory

Opinion #1-90. As to whether judges should allow employees to hold or run for office within their political parties, the Commission again will attempt to strike a fair balance between employees' freedoms and the need to preserve appearances. A court employee who is active in a political party may participate in an elected contest within the party, and this is not improper. However, the Commission believes that a limit should be set on this activity, too, and that a court employee should not run for or hold a position as an officer of the party's central committee. To do so involves the employee in such a high level of political activity as to implicate all the dangers Advisory Opinion #1-90 was intended to avoid.

CONCLUSION

A court employee subject to Advisory Opinion #1-90 may run for elected office within the political party with the limitation that the employee may not hold or run for a position as an officer of the party's central committee.