



Indiana Judicial Nominating Commission Indiana Commission on Judicial Qualifications

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ADVISORY OPINION

Code of Judicial Conduct
Canon 7

#3-91

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 Advisory Opinion #1-90, in which the Commission stated that a judge's employee may not be a candidate for or hold partisan elective office, applies to court employees who run for or are members of Township legislative bodies, also known as Township Boards or Advisory Boards.

ANALYSIS

The Commission wrote in Advisory Opinion #1-90 that, except during working hours, "[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." An Indiana court employee who has been a member of her Township's board for ten years has asked the Commission whether candidacy for and membership in that office may be exempted from the Commission's advice in #1-90.

There are over one thousand Townships in Indiana, each of which has an elected Trustee and an elected Board or legislative body. A Township legislative body meets in January each year to consider and approve the Trustee's Annual Report and meets later in the year, approximately quarterly, to perform its other primary functions which are to adopt a budget for the Township Trustee and to set salaries for Township employees. Board members, of which there are three, serve four-year terms.

The concerns behind the advice stated in Advisory Opinion #1-90 were that a judicial employee running for or holding office filled by public election might be unable to separate the political contest from the 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. The cases which

have been presented to the Commission before and after Advisory Opinion #1-90 typically have involved employees running for Sheriff, Mayor, Recorder, the state legislature, and other highly visible and sometimes hotly contested elected positions.

The Commission has decided that a position on a Township Trustee Board, although an elected position, is not a position from which court employees must be excluded. First, the geographic scope of the position is far more limited than most elected positions, as is its impact on the public and the public's awareness of its office holders. Nor is it, by nature, a position which normally would have contact with the judiciary as part of its function. A court employee subject to Advisory Opinion #1-90 may run for or hold elected office on the Township Board.

CONCLUSION

Advisory Opinion #1-90, in which the Commission stated that confidential court employees should not run for or hold partisan elective office, does not apply to employees who run for or hold office on Township Boards.