

Advisory Opinion #2014-02

(adopted September 15, 2014)

Question: *May judges make financial contributions to “Justice Not Politics”, a non-profit 501(c) (4) organization that has as its mission to oppose efforts to alter the Alaska Constitution’s Judiciary Article or similar organizations addressing judicial selection, retention and justice system issues?*

Opinion: Judges are not only permitted, but are encouraged to speak to the public about justice issues. Canon 4B states: “As part of the judicial role, a judge is encouraged to render public service to the community. Judges have a professional responsibility to educate the public about the judicial system and the judicial office...” The commentary to that section adds: “Judges may participate in efforts to promote the fair administration of justice, the independence of the judiciary, and the integrity of the legal profession.”

At the same time, to ensure an apolitical judiciary in our state, the Code does not permit judges to contribute to political organizations. (Canon 5 A(1)(e))

Because judges in Alaska are generally prohibited from engaging in any political activity or to contribute to a political organization under Alaska Code of Judicial Conduct Canon 5(A)(1)(e) and yet judges are encouraged to speak on improvements in the law and the administration of justice, each provision must be considered. The Alaska Code of Judicial Conduct recognizes that potential conflict in its definition of “political organization:”

"Political organization" means a party, committee, association, club, foundation, fund, or any other organization, whether incorporated or not, whose primary purpose is to:

- (i) influence the selection, nomination, election or appointment of any individual to public office or to office in a political party, or
- (ii) influence the outcome of any recall effort or ballot proposition, or
- (iii) further or defeat proposals to change the law *in matters other than the improvement of the law, the legal system, or the administration of justice.*

Because the mission of “Justice Not Politics” concerns improvement of the legal system or the administration of justice, judges may participate and contribute funds that go to its educational mission. However, because the organization may, in the future, be active in opposing a ballot proposition, any judicial contributions to the organization should not be used for those purposes. So too, judges may participate and contribute

funds for educational purposes to an organization that may seek changes to the current judicial system. Contributions by judges, regardless of the viewpoint, can be made to educate the public on the administration of justice issue but cannot be used to influence the outcome of any ballot proposition.