

Informal Opinion 06-6
December 5, 2006

Question:

A juvenile court judge has asked the Ethics Advisory Committee for an opinion on whether the judge may ethically make presentations to certain groups. These include a parenting class at the Division of Child and Family Services (DCFS), an award program sponsored by the Court Appointed Special Advocate (CASA), the Foster Parents Association, juveniles in a detention center, and school officials.

Answer:

The judge may make presentations before the groups as long as the judge is careful about the contents of the discussions.

Discussion:

The judge states that he receives various requests throughout the year to make presentations to different groups of people. The presentations include a class sponsored by DCFS to improve parenting skills. Some of the parents are court-ordered to attend the program and are within the jurisdiction of the court on which the judge sits. The judge has also been invited to give presentations at the CASA Awards Program and before the Foster Parents Association. The former would include both CASA volunteers and the local guardian ad litem, while the latter would include foster parents and potential foster parents for kids who will require court placement. The judge has also been invited to meet with school officials to discuss and coordinate truancy matters and other issues. Finally, the judge would like to periodically visit detention centers and speak to the juveniles in the centers. The juveniles in the center would have been sent there by the judge and most will be back before the court.

There are several canons involved in resolving this question. Canon 2A is implicated as judges must promote public confidence in the integrity and impartiality of the judiciary. Canon B(7)'s prohibition against ex-parte communication may be relevant, as may Canon 3B(9), which prohibits a judge from publically commenting on pending cases. Canons 4A and 4C are also involved. Canon 4A states that a judge must conduct extra-judicial activities in a manner that does not cast doubt on the judge's capacity to act impartially. Finally, Canon C(4) states that judges have a professional responsibility to educate the public about the judicial system and the judicial office, subject to the requirements of this code.

The Committee has previously discussed a judge's professional interaction with individuals or organizations who might appear before the judge. In Informal Opinion 90-2, a judge was asked to participate in moot court exercises conducted by the Division of Peace Officers Standards and Training, and the Department of Corrections. The Committee determined that a judge could not participate in the moot court exercises. The Committee based its decision on three factors: the program benefitted a single component of the criminal justice system, the program involved individuals who were likely to appear before the judge, and the subject matter of the exercise would include issues which are frequently the focus of adversary proceedings. In subsequent opinions, the Committee determined that a judge could not participate in a law

enforcement ride-along (Informal Opinion 97-5) nor could a judge participate in the CASA juror check-off program (Informal Opinion 97-9). In both of these opinions, the Committee stated that a judge cannot permit organizations and individuals to appear as if they are in a special position of influence with the court.

The Committee has determined, however, that a judge can appear before a group of attorneys who represent a single component of the justice system. Informal Opinion 99-6. The Committee noted a difference between single component interaction with attorneys and single component interaction with other participants in court proceedings. In the former situation, the Committee recognized the importance of interaction between the bench and members of the bar. Judges can appear before single components of the bar because this promotes an educated bar and bench. The judge could not give legal advice, comment on pending cases, or offer opinions that would indicate biases or prejudgment of certain types of cases. The judge must also be willing to accept invitations from other components in the system.

The Committee has also determined that juvenile justice is inherently a broader concept than justice in the adult system. The Committee made this determination in a question involving service to a governmental board, but the principle is relevant to the immediate question. In Informal Opinion 98-4, the Committee did not prohibit a judge from sitting on the board of a Children's Justice Center, a multi-disciplinary board addressing juvenile justice issues. The Committee instead provided advice on the content of the judge's discussions and participation. The judge could not participate in discussions (i.e. prosecutorial tactics) that would benefit only a single component of the system, and would not benefit the system as a whole.

The question before the Committee is whether the Committee should retreat from the prohibition against interaction with non-attorney groups consisting of only one component of the legal system, at least in matters involving juvenile justice. The Committee determines that there should not be an absolute prohibition against such interaction, but a judge must be very circumspect in the judge's comments and discussions before such groups.

Canon 4C(4) states that judges have a professional responsibility to educate the public about the judicial system. The Committee agrees that there may be some benefit to a judge appearing before the groups listed by the judge. The interaction can increase respect for the court and can increase the participants' understanding of the judicial process. In appearing before such groups, a judge should therefore focus comments on the judicial system as a whole and on the workings of the judicial office. A judge should not discuss pending cases, give legal advice, show any inappropriate biases, or participate in any other specific discussions that might benefit one component of the system, without benefitting the system as a whole. A judge must also be open to invitations from all components of the system. Under these restrictions, the judge may engage in the anticipated activities.