



COMMONWEALTH OF KENTUCKY  
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JUDICIAL ETHICS OPINION JE-42

Formal

- QUESTION #1: What is the definition of "solicit" as used in Canon 7 of the Code of Judicial Conduct?
- ANSWER: The word "solicit" has its ordinary dictionary meaning, to ask for something.
- QUESTION #2: May a publicly advertised campaign fundraiser, for which tickets are sold and a profit is made, be held prior to the 120 day period preceding the election?
- ANSWER: No.
- QUESTION #3: May a "Meet the Candidate" function, for which no tickets are sold and no solicitations made, be held prior to the 120 day period preceding the election?
- ANSWER: Yes.
- QUESTION #4: May a nonprofit function, for which tickets are sold to defray the cost of the event, be held prior to the 120 day period preceding the election?
- ANSWER: Qualified yes.
- QUESTION #5: May a candidate's campaign committee accept unsolicited contributions? If so, are there any time constraints?
- ANSWER: The committee may receive unsolicited contributions at any time.
- QUESTION #6: May the candidate himself accept either unsolicited or solicited contributions at any time?
- ANSWER: The candidate may accept any contributions which are proffered to him, but may not solicit any contributions.
- REFERENCE: SCR 4.300, Code of Judicial Conduct, Canon 7B(2).
- OPINION: (January 1983)

All the questions posed here are governed by SCR 4.300, The Code of Judicial Conduct, and specifically by Canon 7B(2) thereof. That Canon reads as follows:

A candidate, including an incumbent, for a judicial office that is filled by public election between competing candidates should not himself solicit campaign funds, but he may establish committees of responsible persons to secure and manage the expenditure of funds for his campaign and to obtain public statements of support for his candidacy. Such committees are not prohibited from soliciting campaign contributions and public support from lawyers. A candidate's committees may solicit funds for his campaign no earlier than 120 days before a primary election and no later than 120 days after the last election in which he participates during the election year. A candidate should not use or permit the use of campaign contributions for the private benefit of himself or members of his family.

Under the above quoted language, there can be no question that all judicial candidates -- incumbents and challengers alike -- are required to comply with its requirements.

Question #1:

We think that the word "solicit" as used in the Code of Judicial Conduct has its ordinary dictionary meaning. It hardly seems necessary to set out such a definition here; suffice it to refer to the discussion of the word "ask" and its synonyms in Webster's Dictionary of Synonyms (Merriam 1951) at 79, where it is stated that the words "ask, request, solicit agree in meaning to seek to obtain by making one's wants or desires known."

We hold that any request for campaign funds is "soliciting," whether it be a personal appeal to an individual or a newspaper advertisement, or any other request for campaign contributions.

Question #2:

Under our interpretation of the word "solicit," it is clear that any fundraiser is by definition a solicitation for funds. It must, therefore, be held within the time period set out in Canon 7B(2).

Question #3:

While Canon 7B(2) contains explicit time limits on fund raising, there is no such time limit on campaigning. Indeed, Canon 7A(2) states that "for purposes of this Canon a judge...will be deemed to be a candidate for reelection during his

entire term of office." It seems clear, therefore, that a candidate may campaign at any time. A "Meet the Candidate" function, for which there is no admission fee nor any financial condition, may be held at any time. But because fund raising may not be carried on outside the permissible time frame, any campaigning outside that time must not be allowed to become a fundraiser.

Question #4:

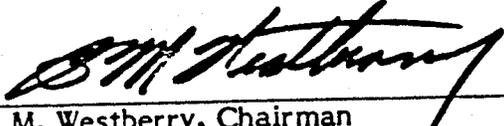
The nonprofit event for which tickets are sold to defray the cost of the event presents a more difficult problem. A function such as a luncheon at a restaurant, at which each person in attendance pays for his own meal, is in essence a "Meet the Candidate" affair and as such may be held outside the time limits of Canon 7B(2) in accordance with our answer to Question #3 above. But an event which has no fixed cost and which therefore may or may not reap a profit may not be held outside the time frame of Canon 7B(2).

Question #5:

We find no prohibition in the Code of Judicial Conduct against a campaign committee receiving funds at any time. The prohibition runs to soliciting, not to receiving. Therefore we hold that funds may be received at any time, whether they were solicited or not.

Question #6:

The American Bar Association Code of Judicial Conduct, on which Kentucky's Code is modeled, states explicitly in Canon 7B(2) that a judicial candidate "should not himself solicit or accept campaign funds" (emphasis added), but Kentucky's version of that Canon omits the words "or accept." For that reason, we hold that the candidate himself may accept campaign contributions. Like his campaign committee, he may accept both solicited and unsolicited gifts, and he may accept them at any time. But he may never solicit contributions. That function must be left to his campaign committee. When he accepts contributions, he should turn them over to his campaign committee forthwith.

  
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B. M. Westberry, Chairman  
Ethics Committee of the Kentucky Judiciary