

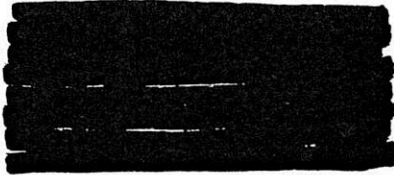


## Advisory Committee on the Code of Judicial Conduct


Hon. James J. Wechsler, Co-Chair (ret.)  
Hon. Julie J. Vargas Co-Chair  
Paul L. Biderman, Esq.  
Prof. Robert L. Schwartz  
Hon. Freddie Romero  
Hon. Sandra Engel

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December 3 2019



RE: AO 19-04

Dear Judge 

You are concerned about the negative stigma attached to the court in your community. You would like to have a “Christmas at the Courthouse” event for which you would invite the public to learn how the court operates and see parts of the courthouse. Using your own resources, you plan to purchase and wrap gifts for the children who attend. You would like to have a local personality portray Santa to give the gifts to the children. You have asked the Advisory Committee on the Code of Judicial Conduct whether you may host this event. You have also asked whether, as a separate activity, you may purchase gifts that you hide in your courtroom for children who may come to the court for weddings or to accompany adults appearing in court as attorneys, law enforcement officials, or parties. You have advised the Committee that you do not intend to engage in any of these activities in an election year.

A judge may initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration

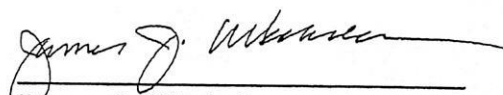
“of justice.” Rule 21-102 NMRA, cmnt 6. In doing so, “the judge must act in a manner consistent with” the Code of Judicial Conduct. *Id.* Under Rule 21-101 NMRA, a judge “shall respect and comply with the law, including the Code of Judicial Conduct.”

The Code of Judicial Conduct provides that a “judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.” Rule 21-203 NMRA. Recognizing that Christmas is a religious holiday that is not observed by all people, the Committee believes that your use of the courthouse for a “Christmas at the Courthouse” event would be an expression of bias in the performance of your administrative duties.

The event that you propose, however, is contemplated by Rule 21-102, comment 6. The Committee believes that you may hold the event as you have described it with the following qualifications. First, you must consider the event a “holiday” rather than a “Christmas” event and use the term “holiday” in the description of the event and all relevant aspects of it. The Committee does not believe that is problematic to include a Santa because of the secular nature of the character of Santa in our society. Second, you may not discriminate in any manner or favor any select group in distributing invitations to the event.

The Committee observes that you have indicated that you will pay for the costs of the event. We therefore assume that there is no conflict with any statutory requirement or restriction related to your legislative funding. We further assume that there will not be any alcoholic beverages served. Based on the language of Rule 21-102, comment 6, we lastly assume, as you have described, that you will engage in community outreach during the event that promotes a “public understanding of and confidence in” the court.

With regard to your second question concerning gifts to children that you personally provide to children who attend court, the Committee does not perceive a problem as you have described your intent provided that you do not distribute the gifts in any discriminatory manner. You have advised that you may say that Santa left the gifts for the children. As discussed, the Committee does not perceive a problem in that regard.

  
James J. Wechsler  
Co-chair

Judge Julie J. Vargas did not participate in this opinion.