



SUPREME COURT LAW LIBRARY  
P.O. DRAWER L  
SANTA FE, NM 87504-0318

## 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 J. Romero  
Hon. Sandra W. Engel

This is an advisory opinion by the New Mexico Advisory Committee on the Code of Judicial Conduct. Advisory opinions are responses to inquiries from judges seeking guidance on judicial ethics questions. They are not issued, approved, or endorsed by the New Mexico Supreme Court; nor are they binding.

May 11, 2018

[REDACTED]

Re: Judicial Advisory Opinion 18-06

Dear [REDACTED]

You are a uniformed leader of your son's Boy Scout troop. You have asked the Advisory Committee on the Code of Judicial Conduct whether, now that you have been appointed as a judge, the Code of Judicial Conduct permits you to (1) continue to engage in troop activities by participating in troop meetings, serving as a troop committee member, participating in adult scout leader training, and serving as an adult leader on troop campouts; and (2) wear a scout uniform in the presence of others involved in scouting at scouting events such as troop meetings and scout campouts.

The Code of Judicial Conduct "recognizes that a judge's participation in community activities provides important benefits to both society and to the judge personally." Rule 21-001(B) NMRA. It therefore permits judges to engage in extrajudicial activities subject to limitations designed to ensure that public confidence in the judiciary is not impaired by such activities. See generally Rule 21-301 NMRA (permitting extrajudicial activities with limitations). In addition, the Code provides that a "judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others[.]" Rule 21-103 NMRA.

*Page Two*

As to your first question, the Committee believes that Rule 21-301 permits you to engage in the activities that you describe. None of the activities appears to fall within the Rule 21-301 prohibitions. *See* Rule 21-301 (prohibiting a judge from engaging in extrajudicial activities that “interfere with the proper performance of judicial duties[,]” “will lead to frequent disqualification[,]” reasonably appear “to undermine the judge’s independence, integrity, or impartiality[,]” appear to involve coercive conduct, or involve use of court resources except for activities concerning the law, the legal system, or the administration of justice).

Although you do not describe the activities involved in your serving as a committee member, you state that you would not be involved in fundraising or representing the Boy Scouts in public settings. Indeed, fundraising is the type of activity that may implicate Rule 21-103. Provided that your activity is solely within the troop setting and does not involve members of the public, the prohibitions or Rule 21-103 and Rule 21-301 would not seem to apply.

With regard to your second question, you have informed the Committee that you wish to wear a scout uniform only at scouting events and not in the company of members of the general public. The Committee notes your concern under Rule 21-103 that your wearing of the uniform could be perceived as the use of the prestige of your office to support the scouting effort. Your wearing of the uniform solely in the company of others involved in scouting as you propose, however, does not raise that concern. The Committee believes that you may do so.

Very truly yours,

  
James J. Wechsler  
Co-Chair

  
Julie J. Vargas  
Co-Chair

cc: Hon. Sandra W. Engel  
Hon. Freddie J. Romero  
Professor Robert L. Schwartz  
Paul L. Biderman, Esq.