

Advisory Committee on the Code of Judicial Conduct

Hon. Frank H. Allen, Jr., Chairman
Hon. Marie A. Baca
Hon. James J. Wechsler
Prof. William MacPherson

July 17, 2002

Re: Judicial Advisory Opinion 02-03

Dear

You have asked the committee to give you their opinion as to whether it would be a violation of the Code of Judicial Conduct for a Metropolitan Judge to hold the position of Game Stats Crew Member. The information furnished by you indicates that the position would entail being a statistician at _____ football and/or basketball games. You also note that pay is not an issue in that you would be willing to perform on a voluntary basis, if required.

Several provisions of Rule 21-500 should be considered.

21-500. A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.

A. Extra-judicial activities in general. A judge shall conduct all of the judge's extra-judicial activities so that they do not:

- (1) cast doubt on the judge's capacity to act impartially as a judge;
- (2) demean the judicial office;
- (3) interfere with the proper performance of judicial duties; or

(4) violate the judge's oath and obligation to uphold the laws and constitutions of the United States and the State of New Mexico.

D. Financial Activities

(1) A judge shall not engage in financial and business dealings that:

(a) may reasonably be perceived to exploit the judge's judicial position;
or

(b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.

H. Conflicting compensated activities. A judge shall not hold any other paid position, judicial or otherwise, that conflicts with the hours and duties the judge is required to perform for every judicial position. A judge shall devote the number of hours that is required by any judicial position held. In no event shall other paid employment or compensable activity hours be performed simultaneously.

Also Section 10.06, Judicial Conduct and Ethics Second Edition (1990) provides:

The third rationale for the restrictions placed on judges is the need to ensure that they will not be distracted from their duties by extraneous activities. The reasoning behind this principle is self-evident: judges should spend their time judging and not in pursuit of other goals, no matter how harmless or even beneficial. It does not appear that any judge has ever been disciplined on this basis for engaging in social activities, although the rationale has been fairly widely used regarding business involvement, investments, and even charitable and civic work.

In reviewing these provisions of the Code that prohibit the judge from engaging in extra-judicial activities or financial and business dealing the prohibition that might cause problems with a judge acting as a statistician for _____ football and basketball games in that such activity could interfere with the proper performance of judicial duties. Judicial duties take precedence over all other activities. A judge is required to devote the number of hours required by his judicial duties.

Although usually university football games take place on Saturdays or at night and university basketball games usually take place at night most of the time there are out of town games for both sports. It is impossible for the committee to anticipate exactly what being a statistician would entail or what would be required of you. For that reason it is our opinion that

you should review each of these requirements set out in this opinion to see if being a statistician for _____ sports would violate these requirements with a special consideration of the time you would have to devote that might conflict with your judicial duties.

Very truly yours,

A handwritten signature in black ink, appearing to read "Frank H. Allen Jr.", written in a cursive style.

Frank H. Allen Jr.
Chairperson
Judicial Advisory Committee

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