

Advisory Committee on the Code of Judicial Conduct

Hon. James J. Wechsler, Chair
Hon. Marie A. Baca
Paul L. Biderman, Esq.
Thaddeus Bejnar, Esq.

December 8, 2004

Re: Advisory Opinion No. 04-07

Dear

The Advisory Committee on the Code of Judicial Conduct has received your inquiry concerning the applicability of Rule 21-500 (C) (2) NMRA to a part-time municipal judge. That rule provides:

A judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system or the administration of justice. A judge may, however, represent a country, state or locality in ceremonial occasions or in connection with historical, educational or cultural activities.

We understand your inquiry to be whether a part-time municipal judge may serve on a committee or commission of the municipality for which the judge serves in a judicial capacity.

Rule 21-901 (C) (1) (b) NMRA specifically excepts a part-time municipal judge from complying with the provisions of Rule 21-500 (C) (2) with regard to service on governmental positions. As a result, the prohibition for Rule 21-500 (C) (2) does not apply to a part-time municipal judge. The part-time municipal judge must, however, comply

with Rule 21-100 NMRA, which requires the judge to observe such standards as would preserve the integrity and independence of the judiciary. In addition, the judge must comply with Rule 21-200 (A) NMRA, which requires the judge to, at all times, act in a manner that "promotes public confidence in the integrity and impartiality of the judiciary." Although the part-time municipal judge is not bound by the prohibition of Rule 21-500 (C), there may be aspects of the service on a municipality's committee or commission that raise issues with regard to Rule 21-100 and/or Rule 21-200. You have not provided us with any detail concerning the judge's activities, and the judge must examine the judge's activities in view of all applicable provisions of the Code of Judicial Conduct.

Very truly yours,

James J. Wechsler
Chair

JJW: ow

cc: Hon. Marie A. Baca
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