

Advisory Committee on the Code of Judicial Conduct

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

June 1, 2005

The Honorable

Re: Advisory Opinion No. 05-03

Dear Judge:

You have asked this advisory committee whether the Code of Judicial Conduct permits you to write a letter of endorsement for a judge who has applied to a judicial nominating commission for appointment to a judicial vacancy. The committee has concluded that you are permitted to do so.

Rule 21-200(B) NMRA of the Code of Judicial Conduct prohibits lending the prestige of judicial office for the private benefit of any person. The official code commentary to that section applies that the rule to letters of reference as follows:

Although a judge should be sensitive to possible abuse of the prestige of office, a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation.

The next paragraph in the commentary to the same section of the Code further authorizes judges to cooperate with the judicial nominating process and to respond to official inquiries from nominating commissions about nominees. While that paragraph does not explicitly authorize letters of reference by judges on behalf of nominees for judicial vacancies, we read that second paragraph as supplemental to the general authorization to write letters of reference. That is, this second address issues specific to the formal judicial nominating process, while the preceding paragraph authorizes letters of recommendation in general.

We therefore conclude that the Code of Judicial Conduct permits you to write a letter to a judicial nominating commission, based on your personal knowledge, supporting their nomination of a judge for appointment to the bench.

Very truly yours,

James J. Wechsler
Chair

JJW: ow

cc: Hon. Marie A. Baca
Paul Biderman, Esq.
Thaddeus Bejnar, Esq.