



## **Advisory Committee on the Code of Judicial Conduct**

Hon. James J. Wechsler, Chair  
Hon. Kevin L. Fitzwater  
Paul L. Biderman, Esq.  
Prof. Robert L. Schwartz

April 27, 2009

### **Re: Judicial Advisory Opinion No. 09-02**

Dear

You have asked the Advisory Committee on the Code of Judicial Conduct whether a judge may be elected a delegate to a county political convention. The Committee believes that a judge may not serve in such a position.

Rule 21-700(A) NMRA addresses the political activity of incumbent judges. Rule 21-700(A)(3)(a) provides that a judge shall not "act as a leader or hold an office in a political organization." Webster's Third New International Dictionary 1567 (unabridged 1993) defines an "office" in part as "a special duty, charge, or position conferred by an exercise of governmental authority and for a public purpose... a position of responsibility." By law, political parties in New Mexico must adopt rules and regulations pertaining to the governance of the political party and file such rules and regulations with the Secretary of State. NMSA 1978, § 1-7-2(A) (1995). The Committee understands that delegates within a political party's organization are elected or designated pursuant to these rules and regulations. Because the operations of political parties within New Mexico are thus governed by statute and officially-filed rules and regulations, the positions established in those rules and regulations bear the imprimatur of official authority. As a result, the Committee believes that such positions, including that of delegates to a county convention, fall within the dictionary definition of "office" and are offices within a political party as addressed by Rule 21-700(A)(3)(a).

The intent of the Code of Judicial Conduct supports this conclusion. Judges "shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Rule 21-200(A) NMRA. To satisfy Rule 21-200(A), a judge is required to avoid any appearance of impropriety. Rule 21-200(A) commentary. By definition, political parties act in a partisan manner. Although judges may certainly identify as members of a political party and engage in political activities as permitted by the Code of Judicial Conduct, when a judge serves in an elected or designated position in a political party, the public may connect the judge to the partisan activities of that party. Indeed, the public may consider the judge to be more inclined or disinclined to favor legal issues with political overtones. The judge's role as a delegate would compromise the public confidence in the integrity and impartiality of the judiciary.

Very truly yours,

A handwritten signature in cursive script, appearing to read "James J. Wechsler", is written over a solid black rectangular redaction box.

James J. Wechsler  
Chair

JJW:ow

cc: Hon. Kevin Fitzwater  
Paul L. Biderman, IPL Director  
Professor Robert L. Schwartz