

Advisory Committee on the Code of Judicial Conduct

February 28, 2001

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

Re: Judicial Advisory Opinion
2001-02

Dear Judge _____

You have requested an opinion from this committee concerning if there is any problem with your name and two other district judges' names being on a Casa letterhead which lists you as the Judicial Advisory Board. This letterhead has been used by Casa in letters sent out for fund raising purposes.

You also have informed us that the listed judges agreed to serve on an informal judicial advisory board which you understood would involve speaking at Casa training sessions and giving feedback to Casa directors on the quality of the Casa volunteers' reports and their oral presentations in court. You were not aware by agreeing to be on the informal advisory board that your names would appear on the Casa letterhead.

A district judge's association with Casa was discussed In the Matter of Joe Cruz Castellano, Jr., 119 NM 140, 147, 889 P2d 175, 182 (1995). The various Casa programs throughout the State of New Mexico are not-for-profit organizations whose purpose is to recruit, train and oversee volunteers who serve as Court Appointed Special Advocates for abused and neglected children. Casa, through its volunteers, regularly engages in proceedings that come before the Children's Court Judge.

Rule 21-500 C(3)(a)(i) provides that a judge shall not serve as a nonlegal advisor of an organization devoted to the improvement of the law, the legal system or the administration of justice not conducted for profit if it is likely that the organization will engage in proceedings that would ordinarily come before the judge. Rule 21-500 C(3)(b)(i) prohibits the judge from personally participating in the solicitation of funds or other fund-raising activities.

The committee knows from the information that you furnished that you did not personally participate in any fund-raising activities and your duties as members of the Judicial Advisory Board is to speak at training sessions and report on representation provided by the volunteers. This in itself is permitted by Rule 25-500 (B) which allows a judge to speak, write, lecture or teach concerning the law and legal system.

The Casa letter of November 24, 2000 which you furnished us is for fund-raising purposes. Your names appear as the Judicial Advisory Board on the letterhead under the Board of Directors and the Volunteer Representative. It is our opinion that this gives an appearance of impropriety when considered in the light of Rule 21-500 (C) (3) (a) (i). It appears that you are in leadership position and are involved in fund-raising.

We suggest that you ask the Casa directors to change their letterhead to delete your names. If they refuse, an announcement to the attorneys that practice in your Children' s Court would at least advise them that there is no conflict of interest and what your true association is with Casa.

Very truly yours,



Frank H. Allen, Jr.
Chairman, Judicial Advisory Committee

FHA/mav

xc: Judge Wechsler
Judge Marie Baca
Professor MacPherson
T. Bejnar