

# Advisory Committee on the Code of Judicial Conduct

Hon. Frank H. Allen, Jr. Chairman  
Hon. Thomas A. Donnelly  
Prof. William T. MacPhearson, Jr.  
Hon. Marie Baca

May 29, 1996

Re: Judicial Advisory Opinion 96-06

Dear

You have requested an advisory opinion from this committee as to whether it would be proper under the Code of Judicial Conduct for you to serve on the board of directors of the Casa program in the First Judicial District. As you point out in your letter to the committee you are the Child Support Hearing Officer for the First Judicial District Court in Santa Fe and therefore required to conform to Cannons 21-100 through 21-700 of the Code of Judicial Conduct. (Section 40-4B-4C NMSA).

Section 21-500C (3) (a) (i) (ii) provides as follows:

A judge may serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable, fraternal, or civic organization not conducted for profit, subject to the following limitations and other requirements of this Code:

(a) a judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that the organization:

(i) will be engaged in proceedings that would ordinarily come before the judge; or

(ii) will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member .

In the Matter of Joe Cruz Castellano Jr., District Judge 119 NM 140, 889 P2d. 175 (Supreme Court 1995) was concerned in part with the judges association with Casa. In this opinion the court stated as follows:

The Special Masters found that First CASA of Santa Fe was a not-for-profit organization whose purpose was to recruit, train, and oversee volunteers who served as Court-Appointed Special Advocates for abused and neglected children in juvenile dependency proceedings; it was regularly engaged in proceedings that came before the Children's Court judge of the First Judicial District. Judge Castellano was the Children's Court judge for the First Judicial District from April 1989 until December 1993.

Although you stated in your letter to us "while due to my limited jurisdiction, the volunteers do not ordinarily appear before me. . .", you are part of the Court which hears cases in which the Casa volunteers regularly appear. Section 21-500 3(a) (ii) specifically prohibits a judge from being a director for an organization that "engaged frequently in adversary proceedings in the court of which the judge is a member".

Since you are a member of the Court before which Casa volunteers frequently appear and you are required to conform to Section 25-500 it is our opinion that being on the board of directors of Casa would be in violation of the Code of Judicial Conduct.

Very truly yours,

Frank H. Allen, Jr .

Chairman, Judicial Advisory  
Opinion

xc :