



Ohio Board of Professional Conduct

OPINION 2017-08

December 8, 2017

(Update and Withdrawal of Former Opinion 1993-9)

Judicial Participation in a Community Parade

SYLLABUS: A judge generally may participate in a community parade during either an election or nonelection year. However, a judge should avoid participation in a parade if it will reflect adversely upon his or her integrity, independence, or impartiality. In addition, in order to avoid the appearance of an endorsement, a judge should not walk or appear in a parade on floats or vehicles with nonjudicial candidates or nonjudicial elected officials, or permit his or her signage to be displayed with that of other public officials or candidates.

This nonbinding advisory opinion is issued by the Ohio Board of Professional Conduct in response to a prospective or hypothetical question regarding the application of ethics rules applicable to Ohio judges and lawyers. The Ohio Board of Professional Conduct is solely responsible for the content of this advisory opinion, and the advice contained in this opinion does not reflect and should not be construed as reflecting the opinion of the Supreme Court of Ohio. Questions regarding this advisory opinion should be directed to the staff of the Ohio Board of Professional Conduct.



Ohio Board of Professional Conduct

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QUESTIONS PRESENTED: May a judge participate in a community parade during either an election or nonelection year?¹

APPLICABLE RULES: Jud.Cond.R. 1.2, 1.3, 3.1, 3.6 and 4.4.

OPINION:

Parades

During both election and nonelection years, judges are routinely invited to, or seek to participate in, community parades commemorating recognized holidays like the 4th of

¹ This opinion analyzes the substantially same question addressed by former Adv. Op. 1993-9, but does so under the existing Ohio Code of Judicial Conduct.

July or Memorial Day. The Code of Judicial Conduct contains no express prohibition against participation in a parade and therefore the Board concludes that a judge may participate in a parade during either an election or nonelection year. *See Wash. Jud.Ethics Op. 95-15.* However, participation in a parade is only permitted if it will not compromise the judge's independence, integrity, or impartiality, interfere with the performance of judicial duties, or lead to frequent disqualification. Jud.Cond.R. 1.2, 3.1.

In the most common types of community parades, a judge is not engaged in an activity that would reflect adversely on his or her independence, impartiality, or integrity. *See NY Jud. Adv. Op. 91-55.* Moreover, the participation by judges in parade assists in integrating them into the community and promotes better public understanding and respect for the courts and the judiciary as a whole. Jud.Cond.R. 3.1, cmt. [2]; Jud.Cond.R. 1.2, cmt. [6].

Avoiding the Appearance of An Endorsement

Community parades typically involve the appearance of several officeholders and candidates for elected office. Consequently, during either an election or nonelection year, the Board advises judges that they should not walk in a parade or ride in a float or vehicle with nonjudicial candidates or nonjudicial officeholders. While there are no judicial decisions or Board advisory opinions that specifically address the topic, the Board cautions that a judge may be perceived as endorsing candidates and elected officials or acting in a manner inconsistent with judicial independence or impartiality. Jud.Cond.R. 1.2, 4.1(A)(3). The latter situation is of particular concern when the other officeholders are persons with whom the judge has regular, professional interaction, such as the prosecutor, sheriff, or county commissioners. For similar reasons, the Board recommends that parade signage or banners displaying a judge's name and office not accompany the signage of a nonjudicial candidate or other officeholder on floats or vehicles in order to further maintain the appearance of judicial independence and integrity.

Issue-based Parades

Before participating in any parade, a judge should consider the type of organization that is organizing or sponsoring the parade, the purpose or reason the parade is being held, and whether his or her participation may reflect adversely on the

integrity, independence, and impartiality of the judiciary. Jud.Cond.R. 1.2. For example, participation in a parade primarily organized by an entity to promote a particular position on a controversial political or social issue may later call into question the judge's impartiality in cases involving the same or related issues. The same conclusion is reached if a judge participates in a parade sponsored by an organization that practices invidious discrimination. Jud.Cond.R. 3.1, cmt. [3]. *See also* Jud.Cond.R. 3.6. Finally, a judge should consider whether his or her participation in the parade and prestige of judicial office is being used to advance the interests of the organizers or sponsors of the parade. Jud.Cond.R. 1.3.

Parades During Nonelection Years

Finally, participation in a parade during a nonelection year presents an opportunity for a judge to present himself or herself before the future voting public. While the judge's participation in a parade in a nonelection year may be viewed as a type of campaigning, it is not expressly prohibited by the Code. Furthermore, campaigning by an elected judge is not restricted to the 120-day fundraising period in Canon 4. *See* Jud.Cond.R. 4.4.

CONCLUSION: Judges are not prohibited from participating in a parade in either an election or nonelection year. The Code of Judicial Conduct encourages judges to participate in civic extrajudicial activities in order to integrate them into their communities and strengthen the public's understanding and respect for the courts and judicial system. However, a judge should consider whether the participation will adversely reflect on the judge's independence, integrity, or impartiality based upon the sponsor and purpose of the parade. In either an election or nonelection year, a judge should avoid appearing with nonjudicial candidates and nonjudicial elected offices in the parade or on floats/vehicles to avoid an implied endorsement. Likewise, a judge should not permit any banner or signage displaying his or her name and office from appearing on floats or vehicles of a political party, candidate, or officeholder. Lastly, an elected judge may participate in a parade in a nonelection year, even though the participation may appear to be a type of campaigning.