

ADVISORY COMMITTEE  
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 3 - 2017

RE: The date on which probate judge can solicit and receive campaign contributions and public support.

FACTS

Probate judges are required to form a committee to solicit and receive campaign contributions and public support. The committee is limited in time to do this “no earlier than one year before an election.” The inquiring probate judge seeks an opinion as to when the one year begins -- one year prior to a general election or one year prior to a primary election.

CONCLUSION

Under the Code of Judicial Conduct, a probate judge’s committee may solicit and receive campaign contributions one year prior to a primary election.

DISCUSSION

The heading to Canon 5C is “Judges and Candidates Subject to Public Election.” Canon 5C(2) governs the campaign solicitation for judges subject to public election and states:

A candidate shall not personally solicit or accept campaign contributions or personally solicit publicly stated support. A candidate may, however, establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. **A candidate's committees may solicit contributions and public support for the candidate's campaign no earlier than one year before an election and no later than 90 days after the last election in which the candidate participates during the election year.** A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

Canon 5C(2), Rule 501, SCACR (emphasis added). The Canon itself states “an election” but

does not specify whether it refers to a primary or general election. “Election” is not defined in the Terminology section of Rule 501, SCACR. However, “public election” is defined in Rule 501, SCACR, as follows:

This term includes primary and general elections; it includes partisan elections, nonpartisan elections and retention elections. See Section 5C.

*Id.* Thus, the only logical interpretation of Canon 5C(2) is that judges that are subject to public election (such as probate judges) may, through a committee, solicit contributions and public support no earlier than one year before any election, whether primary, general, partisan, nonpartisan, or retention.

S/ A. Camden Lewis  
A. CAMDEN LEWIS, CHAIRMAN

S. Jocelyn B. Cate  
JOCELYN B. CATE

March 27, 2017