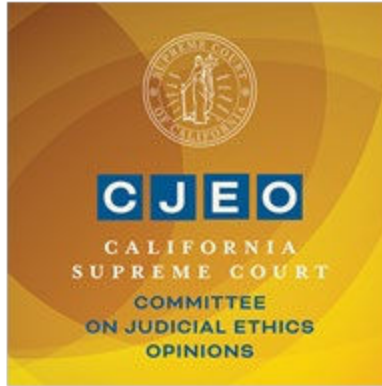




**CALIFORNIA SUPREME COURT
COMMITTEE ON JUDICIAL ETHICS OPINIONS**

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CJEO *Draft* Formal Opinion 2024-026

FUNDRAISING ACTIVITIES FOR CHILD'S SCHOOL

Public Comments Submitted with a Waiver of Confidentiality

Comments from members of the public submitted in response to an Invitation to Comment on a CJEO Draft Formal Opinion are confidential communications to the committee that may not be disclosed unless confidentiality is affirmatively waived (Cal. Rules of Court, rule 9.80(h)(3); Cal. Com. Jud. Ethics Opns., rule 5(b)(1), (e)).

The following comments received by the committee on CJEO Draft Formal Opinion 2024-026 were submitted with a statement waiving confidentiality or consenting to disclosure.

Comment No. 1

Submitted by: Commissioner Samra Furbush, Riverside County Superior Court

Received on: August 13, 2024

Confidentiality waived.

I just wanted to give the committee some factual information to make sure you are aware of how this type of fundraising works.

I have children in public school and also involved in local sports. Most of the schools no longer make the kids sell magazines or candy or whatever. Most are now fundraising by asking the parents to give them a list of 25 e-mail addresses (of friends, relatives, etc), and then the school generates/sends an email soliciting donations from them. Or in the alternative, the school or organization gives parents a link and asks parents to forward the link to at least 20 people (via text or email). The links/emails sometimes sell things, or sometimes just outright ask for donations.

These are not really optional for the kids. My daughter's track team (in a public high school) would not let kids compete unless/until they provided proof this was done. My younger daughter's elementary school would throw a party for the kids and they could not attend unless the fundraising was done, so whoever didn't participate would sit in the library while their classmates had a party. In the past we've offered to just donate a set amount to avoid any fundraising, but they still require that we give them the list of emails.

My kids are now teenagers, so they have their own emails they can use to send the links if necessary, even though I still have to provide them with the email addresses of friends/relatives. But for parents of younger kids, they don't have that option. Also in theory my husband could send these out, but single parents often don't have that option as well.

I guess my comment/question is, when these mandatory fundraisers happen, how are (especially single) parents of young kids supposed to handle them? Set up an email account in the child's name to use as basically a "surrogate" for the bench officer to fundraise for them? That seems disingenuous, if the email is actually coming from the parent, not the 1st grader. But I can't figure out a practical/ethical way around it.

To be clear, I would prefer not to be involved at all with fundraising, but for bench officers with kids, it can be a very complicated and difficult situation. I hope the

committee can take this into consideration and give some practical suggestions about how best to handle this.

Thank you so much for your time and hard work.

Comment No. 2

Submitted by: Candice Garcia-Rodrigo

To: Judicial Ethics

Received on: August 22, 2024

Confidentiality waived.

I respectfully submit these comments for consideration in finalizing the opinion. The draft opinion interprets the "personally participate in the solicitation of funds or other fundraising activities" in this instance too broadly. The authorities supporting the conclusion involved some affirmative communication and request by the judge participating in the fundraising activity. Sending an email recommending close friends support a particular charity is substantively different than forwarding a link for a fundraising at another person's request, who has already agreed to donate to the specify organization. The judge in this opinion is not using the judge's title or the prestige of the office to encourage or suggest any donation. The child made that request. Most minor children do not have email addresses to forward online fundraising links, yet the schools and organizations rely primarily or solely on online fundraising rather than in-person. This situation is similar to a judge who is assisting a child with physically setting up a girl scout cookie table and standing nearby. The judge did not make any request (or solicitation). The judge did not participate in the fundraising. The draft also appears to be assuming additional facts that were not provided, such as the neighbor advising the judge of the pledged donation amount or that the judge will follow-up or track the donation. If the judge were informed of the amount and if the judge asked for confirmation of donation or follows up post-forwarding of link, then the risk is present as stated on p. 5. The risk presented on these limited facts is speculative.

Comment No. 3

Submitted by: Judge Renee C. Reyna

Received on: September 12, 2024

Confidentiality waived.

Dear CJEO Committee:

I am a superior court judge and a member and current vice chair of the California Judges Association (CJA) Ethics Committee, and I agree with the official public comment sent by the CJA Executive Board and the CJA Ethics Committee. I am offering this public comment in my personal capacity as a judge and parent.

I respectfully disagree with the conclusion reached in the CJEO Draft Formal Opinion 2024-026. The conclusion states, “If a judge’s child solicits donations for a school fundraiser, the judge may not email donors a link to the fundraising website, even where they have already agreed to donate, because doing so would constitute personal participation in fundraising in violation of the code.”

I do not agree that the conduct is fundraising as explained in the CJA public comment. I also want to offer the perspective as a judge with school-aged children. It seems these days that most if not all fundraising campaigns for schools happen on-line. There are typically seasonal or annual-type fundraisers (e.g. read-a-thons) that students are highly encouraged/required to participate in. Read-a-thon fundraisers, for example, can be helpful in encouraging students to read by setting personal goals related to reading and fundraising for the school. However, for many good reasons, most elementary school-aged students, in particular, do not have email addresses, social media, or phones. As a parent and a judge, I do not think it would be unethical for a judge to forward an email on behalf of their child to a family member or friend who has already previously committed to donate to the child after the child asked the family member or friend to donate. How else is a judge who is a parent of an elementary school-aged child who does not have email/social media/phone supposed to help their child participate in such routine and encouraging events at school?

As judges, we must adhere to our ethical obligations, but we are also allowed to be parents. I do not view the conduct described in the CJEO Draft Formal Opinion 2024-026 to be unethical, and I respectfully request the Committee to reconsider its conclusion.

Thank you for your consideration.

Sincerely,

Judge Renee C. Reyna

Comment No. 4

Submitted by: Nicole Virga Bautista, Executive Director and CEO

Judge Brett Bianco, President, Ethics Committee

On behalf of: California Judges Association

Received on: September 12, 2024

Confidentiality waived.

The California Judges Association Executive Board and California Judges Association Judicial Ethics Committee respectfully disagree with the conclusion reached in CJEO Draft Formal Opinion 2024-026. This draft deals with a judge whose child is participating in a school fundraiser that requires donors to log on to a website to donate funds. The opinion addresses whether the judge may send an internet link for the fundraising website to neighbors and friends who have already pledged to participate in the fundraiser in response to a solicitation by the child. We believe the answer to this question is yes.

The act of providing the internet link when requested supports the fundraising effort, but is not, in and of itself, fundraising. Providing the internet link is akin to other activities related to charitable efforts that have been approved so long as the judge does not make direct fundraising appeals. These approved activities include loading and unloading Girl Scout cookies and standing near the sale table, working in a telephone bank, or working in a booth or kitchen or serving food at a fundraiser. The simple act of providing the donor with an internet link the donor essentially requested does not have a reasonable likelihood of altering the donation that would have been made if someone other than a judge had provided the link. We respectfully ask the Committee to reconsider its conclusion and find that providing an internet link to a prospective donor, who has already pledged to participate in a fundraiser in response to a solicitation by the judge's child, does not violate the general ban on fundraising activities because this conduct is not fundraising.

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1 Hon. Erica Yew abstained from the vote.