



California Supreme Court Committee on Judicial Ethics Opinions

350 McAllister Street, San Francisco, California 94102

www.JudicialEthicsOpinions.ca.gov

INVITATION TO COMMENT [CJEO Draft Formal Opinion 2024-026]

Title

CJEO Draft Formal Opinion 2024-026:
Fundraising Activities for Child's School

Action Requested

Review and submit comments by
September 13, 2024

Prepared by

The California Supreme Court
Committee on Judicial Ethics Opinions

Proposed Date of Adoption or Other Action

To be determined

For information about the committee and its
members, visit the [CJEO website](#)

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CJEO Invites Public Comment

The California Supreme Court Committee on Judicial Ethics Opinions (CJEO) has adopted a draft formal opinion and approved it for posting and public comment pursuant to California Rules of Court, rule 9.80(j), and CJEO Internal Operating Rules and Procedures, rule 7(d). ([Rule 9.80](#); [CJEO Rules](#).) The public is invited to comment on the draft opinion before the committee considers adoption of an opinion in final form, or other action.

This CJEO Draft Formal Opinion has not been adopted by the committee in final form and is circulated for comment purposes only.

CJEO Draft Formal Opinion 2024-026 addresses the ethical guidelines for a judge’s involvement in their child’s school fundraiser, and more specifically, whether a judge whose child is participating in a school fundraiser may send an internet link for donations to neighbors and friends who have already pledged to participate in the fundraiser in response to a solicitation from the child.

After receiving and reviewing comments, the committee will decide whether the draft opinion should be published in its original form, modified, or formally withdrawn. (Rule 9.80(j)(2); CJEO rule 7(d)). Comments are due by **September 13, 2024**, and may be submitted as described below.

How to Submit Comments

Comments may be submitted: (1) [online](#); (2) by email to Judicial.Ethics@jud.ca.gov; or (3) by regular mail to:

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Comments Due by September 13, 2024

At the close of the comment period, or after **September 13, 2024**, the committee will post on its [website](#) all comments that are not clearly identified as confidential.

Attachment: CJEO Draft Formal Opinion 2024-026



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

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CJEO Draft Formal Opinion 2024-026

FUNDRAISING ACTIVITIES FOR CHILD'S SCHOOL

I. Question

The Committee on Judicial Ethics Opinions (CJEO) has been asked to provide advice as to whether a judge,¹ whose child is participating in a school fundraiser that requires donors to log on to a website to donate funds, 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.

¹ As used in this opinion, judge refers to all judicial officers, including trial court judges, appellate justices, and other judicial officers who are subject to the California Code of Judicial Ethics. (Cal. Code Jud. Ethics, canon 6A [anyone who is an officer of the state judicial system and who performs judicial functions is a judge within the meaning of the code and shall comply with the code except as otherwise provided].)

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II. Summary of Conclusions

While judges may help plan fundraising activities for community and charitable organizations, including schools, they are prohibited from personally participating in that fundraising. A judge who emails a link to a fundraising website to friends and neighbors on behalf of the judge's child would be participating in fundraising in violation of the code, even when the recipients of the email already agreed to donate.

III. Authorities

A. Applicable Canons

Canon 2B(2): "A judge shall not lend the prestige of judicial office or use the judicial title in any manner, including any oral or written communication, to advance the pecuniary or personal interests of the judge or others."

Canon 4C(3)(b): "Subject to the following limitations and the other requirements of this code, . . . [¶] a judge may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, service, or civic organization not conducted for profit; . . ."

Canon 4C(3)(c): "Subject to the following limitations and the other requirements of this code, . . . [¶] a judge shall not serve as an officer, director, trustee, or nonlegal advisor if it is likely that the organization [¶] (i) will be engaged in judicial 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."

Canon 4C(3)(d)(i): "Subject to the following limitations and the other requirements of this code, . . . [¶] a judge as an officer, director, trustee, nonlegal advisor, or as a member or otherwise [¶] (i) may assist such an organization in planning fundraising and may participate in the management and investment of the organization's funds. However, a judge shall not personally participate in the solicitation of funds or other fundraising activities, except that a judge may privately solicit funds for such an organization from members of the judge's family or from other judges (excluding court commissioners, referees, court-appointed arbitrators, hearing officers, temporary judges, and retired judges who serve in the Temporary Assigned Judges Program, practice law, or provide alternative dispute resolution services); . . ."

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Advisory Com. commentary foll. canon 4C(3)(d): “Solicitation of funds or memberships for an organization similarly involves the danger that the person solicited will feel obligated to respond favorably if the solicitor is in a position of influence or control. A judge must not engage in direct, individual solicitation of funds or memberships in person, in writing, or by telephone except in the following cases: (1) a judge may solicit other judges (excluding court commissioners, referees, retired judges, court-appointed arbitrators, hearing officers, and temporary judges) for funds or memberships; (2) a judge may solicit other persons for membership in the organizations described above if neither those persons nor persons with whom they are affiliated are likely ever to appear before the court on which the judge serves; and (3) a judge who is an officer of such an organization may send a general membership solicitation mailing over the judge’s signature.

B. Constitutional Provisions, Statutes, and Other Authorities

California Judges Association, Advisory Opinion No. 41 (1989, Rev. 1998)

California Judges Association, Judicial Ethics Update (2010, 2012)

Rothman, et al., California Judicial Conduct Handbook, (4th ed. 2017) §§ 10:42, 10:43, 10:53

IV. Discussion

Judges are encouraged to be actively engaged in their communities. One meaningful way a judge may do so is by volunteering at their child’s school. However, before participating in any capacity in a school fundraising event, a judge must consider whether the proposed assistance complies with the ethical requirements relating to fundraising.

Within certain parameters, the code permits judges to be involved in, and hold leadership positions in, organizations that engage in fundraising, including educational institutions. (Canons 4C(3)(b) [a judge may serve as an officer, director, trustee, or nonlegal advisor of certain community and charitable organizations]; 4C(3)(c) [a judge may not serve in a leadership position if the organization will be engaged in proceedings

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that would ordinarily come before the court or will be frequently engaged 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 general, a judge may assist an educational, religious, charitable, service, or nonprofit civic organization in planning fundraising provided that the judge does not personally participate in the solicitation of funds or other fundraising activities.²

The prohibition against personal participation in fundraising activities is supported by strong policy reasons. First, personal solicitation by a judge presents a risk that the person solicited may feel obligated to donate funds because the requesting party is a judge. (Advisory Com. commentary foll. canon 4C(3)(d) [purpose of the canon is to prevent "... the danger that the person solicited will feel obligated to respond favorably if the solicitor is in a position of influence or control."]) Second, judges who personally participate in fundraising may be seen as impermissibly using their position to advance private interests even if those interests represent the best of intentions. (Canon 2B(2) [a judge must not engage in activities that lend prestige of judicial office to further another's pecuniary or personal interests].) To recite the familiar Rothman refrain, the ban on personal participation in fundraising activities "does not contain an exception for worthwhile causes or extraordinary needs." (CJEO Formal Opinion 2014-009 (Nov. 24, 2014), pp. 1-2, citing Rothman, *supra* § 10.42, p. 556.)

The question presented to this committee highlights the careful consideration a judge must give when determining the extent to which they may ethically participate in their child's school fundraising activities. On the one hand, a judge *may* assist in planning and organizing a school fundraiser and may participate in the management and

² However, a judge may privately solicit funds for a community or charitable organization from members of the judge's family or from other judges, excluding court commissioners, referees, court-appointed arbitrators, hearing officers, temporary judges, and retired judges who serve in the Temporary Assigned Judges Program, practice law, or provide alternative dispute resolution services. (Canon 4C(3)(d)(i).)

investment of funds raised. (Canon 4C(3)(d)(i); Cal. Judges Assn., Judicial Ethics Update (2012), p. 7 [a judge may assist her Girl Scout daughter in loading and unloading Girl Scout cookies for a fundraiser and may stand near the cookie stand as long as the judge does not personally sell the cookies]; Cal. Judges Assn., Judicial Ethics Update (Feb. 2010), p. 6 [a judge may serve on a committee to organize a fundraiser for the judge's child's preschool but the judge may not be listed as a co-chair of the committee]; Rothman, *supra*, § 10:53, p. 731 [a judge may organize or work in a fundraising telephone bank but may not make calls].) On the other hand, a judge may *not* personally participate in solicitation of the funds or any other direct fundraising activities, even nominally, such as by sending an email with a link to the fundraising website. (Canon 4C(3)(d)(i); Cal. Judges Assn., Judicial Ethics Update (2012), p. 7 [a judge may not send an email to close friends recommending that they support a particular charity].)

Under the facts presented there is a significant risk that a judge who sends a fundraising email on behalf of their child may influence the recipient or inadvertently lend the power and prestige of the office for another's pecuniary gain, even when the recipient has already verbally agreed to donate. In this instance, a potential donor may feel added pressure to donate such that the donor cannot back out or donate less than the agreed-upon amount and may even compel the recipient to increase their donation. The judge's email could also create the impression that the donation will curry judicial favor. Accordingly, the committee advises judges who are considering whether to participate in fundraising events for a child's school to be mindful of the important policy reasons behind the general prohibition on fundraising and to take a broad view of the scope of personal participation in fundraising.

V. Conclusion

The code permits and encourages judges to be members, and leaders, of community and charitable organizations that engage in fundraising activities and to assist

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in planning and organizing those activities, but prohibits them from personally participating in any fundraising. 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.



This opinion is advisory only (Cal. Rules of Court, rule 9.80(a), (e); Cal. Com. Jud. Ethics Opns., Internal Operating Rules & Proc. (CJEO) rule 1(a), (b)). It is based on facts and issues, or topics of interest, presented to the California Supreme Court Committee on Judicial Ethics Opinions in a request for an opinion (Cal. Rules of Court, rule 9.80(i)(3); CJEO rule 2(f), 6(c)), or on subjects deemed appropriate by the committee (Cal. Rules of Court, rule 9.80(i)(1); CJEO rule 6(a)). The conclusions expressed in this opinion are those of the committee and do not necessarily reflect the views of the California Supreme Court or any other entity. (Cal. Rules of Court, rule 9.80(b); CJEO rule 1(a).)

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