

State of Washington

Ethics Advisory Committee

Opinion 09-05

Question

May a judicial officer have an internet blog where the judicial officer would post an essay and people would respond to those comments?

The judicial officer would like to create a Web site dedicated to promoting "a more fair, just and benevolent" blog" in that an essay would be posted and people would be able to comment and the judge would respond to those comments.

Answer

As noted in the Comment to Canon 4, judicial officers are specially learned in the law and they are in a position to promote the improvement of the law, the legal system and the administration of justice. To the extent that their activities are within the parameters permitted by the Code of Judicial Conduct. Similarly, judges should be encouraged to promote the law. This answer assumes that the judge will limit his or her comments to the area of the law, the legal system and the administration of justice.

The Code of Judicial Conduct does not specifically prohibit a judge from blogging on the internet. CJC (Code of Judicial Conduct) concerning the law, the legal system and the administration of justice provided that activity does not call into question the impartiality of any issue that may come before them. Even though a judicial officer may post an internet blog, the limitations of Canon 4(A), will also be subject to the limitations of Canon 2(A) and Canon 3. That is, a manner that promotes public confidence in the integrity and impartiality of the judiciary and judicial duties. The Code of Judicial Conduct does not specifically prohibit a judge from blogging on the internet. CJC (Code of Judicial Conduct) concerning the law, the legal system and the administration of justice provided that activity does not call into question the impartiality of any issue that may come before them. Even though a judicial officer may post an internet blog, the limitations of Canon 4(A), will also be subject to the limitations of Canon 2(A) and Canon 3. That is, a manner that promotes public confidence in the integrity and impartiality of the judiciary and judicial duties.

Even though a judicial officer may post a blog on the internet, caution should be exercised as to how to use the blog to in order to make sure that the judicial officer's impartiality is not called into question or the action of the judge to decide impartiality issues that come before the judicial officer. For instance, the judicial officer should be careful of the manner conveyed when responding to comments that are posted on the blog and how to tailor those comments to the judicial officer's impartiality might be called into question. The judicial officer should also consider whether real-time impartiality is impaired by the volume and content of the comments received.

If the judicial officer does post a blog, the judicial officer may want to consider posting a disclaimer that the author and should not be imputed to other judges. The judicial officer may also want to consider other activities that judicial officers are subject such as commenting on pending cases or discussing cases with persons appearing in court to avoid ex parte communication. If possible, the judicial officer should review a response before allowing it to be posted. Alternatively, regularly monitor the responses to make sure that the thread of the discussion does not become a discussion of the merits of the case.

The Supreme Court adopted a new Code of Judicial Conduct effective January 1, 2011. In addition to the opinions, the following should be noted:

CJC 1.2
CJC 2.1
CJC 3.1
CJC 3.1 Comment [1]
CJC 3.1 Comment [4]

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