

*Key Issues in
Judicial Ethics*

**POLITICAL ACTIVITY
BY MEMBERS OF A JUDGE'S FAMILY**

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THE RULE

Although the public may inevitably believe that the positions of a judge's politically active spouse "must implicate the fundamental thinking of the judge and the court represented by that judge," the "autonomy of the judge's spouse should simply be accepted as an understood premise of modern life," and the public should accept the political neutrality of a judge despite the political involvement of the judge's spouse. *Application of Gaulkin*, 351 A.2d 740 (New Jersey 1976).

It is not reasonable for anyone to assume that married individuals share the same political views. While marriage is many things, it is not a merger of the political thoughts and beliefs of the individuals joined in marriage. To the contrary, marriage "is an association that promotes a way of life, not causes; a harmony in living, not political faiths; a bilateral loyalty, not commercial or social projects."

Illinois Advisory Opinion 06-2, quoting Griswold v. Connecticut, 381 U.S. 479, 486 (1965).

Therefore, consistent with the right to free speech in the First Amendment, the code of judicial conduct has never prohibited, and probably could not prohibit, a judge's spouse and other members of a judge's family from engaging in independent political activity or required a judge to compel family members to abstain from political activity.

Judges have, however, been required to *encourage* family members to shun political activity. The 1972 *American Bar Association Model Code of Judicial Conduct* provided, in Canon 7B(1)(a):

A candidate, including an incumbent judge, for a judicial office that is filled either by public election between competing candidates or on the basis of a merit system election should encourage members of his family to adhere to the same standards of political conduct that apply to him.

The ABA committee that drafted the 1972 model code had "considered setting mandatory political conduct standards for members of the candidate's family," but rejected the idea because there would be no way to enforce such standards. Thode, *Reporter's Notes to [1972] Code of Judicial Conduct*, at 98 (ABA 1973). However, under the 1972 model code, a judge or candidate had "the duty to try to dissuade" his spouse from engaging in polit-

NOTES ABOUT THE CODE OF JUDICIAL CONDUCT AND JUDICIAL ETHICS ADVISORY COMMITTEES

The ethical standards for judges are established by the code of judicial conduct adopted in each jurisdiction. The basis for the state and federal codes is the *Model Code of Judicial Conduct* — adopted by the American Bar Association in 1972 and revised in 1990 and 2007 — although jurisdictions modify the model before adopting it. One of the major changes in 2007 was to reduce the number of canons from five to four, with numbered rules under each canon. Unless otherwise noted, the references to the code of judicial conduct in this paper are to the canons in the 1990 model code, followed by the corresponding rule from the 2007 model code.

Codes of judicial conduct vary from jurisdiction to jurisdiction, particularly in the area of political activity, in large part because the way judges are chosen varies considerably from state to state. Not all state codes prohibit the same conduct by judges and judicial candidates that is prohibited by the model code. In addition, there have been many constitutional challenges to restrictions on judges' political conduct, and some of those challenges have been successful. This paper assumes the constitutionality of the rules.

Over 40 states and the United States Judicial Conference have judicial ethics advisory committees to which judges can submit inquiries regarding the propriety of contemplated future action. There are links to the web-sites of judicial ethics advisory committees at www.ajs.org/ethics/eth_advis_comm_links.asp.

ical activity such as running for non-judicial office, acting as a leader in a political organization, making speeches for a political organization or candidate, publicly endorsing a candidate, and attending political gatherings.

The 1990 revisions to the model code eliminated the duty to dissuade, except with respect to a

judicial candidate's own campaign. Canon 5A(3)(a) provides:

A candidate for judicial office shall encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate.

The 1990 change reflected "awareness that the families of judges and judicial candidates are composed of individuals with independent lives, interests and rights, and that any requirement that a judge or judicial candidate seek to influence or control the behavior of those individuals must be narrowly tailored." Milord, *The Development of the [1990] ABA Judicial Code*, at 49 (1992).

In the 2007 revisions to the model code, the provision related to family members and politics was revised further to change the requirement from one of "encouragement" to that of taking "reasonable measures" and to treat members of a candidate's family the same as employees and others controlled by a candidate. Thus, Rule 4.1(B) now states: "A judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A)." Further, a new comment 5 to Rule 4.1 states:

Although members of the families of judges and judicial candidates are free to engage in their own political activity, including running for public office, there is no "family exception" to the prohibition . . . against a judge or candidate publicly endorsing candidates for public office. A judge or judicial candidate must not become involved in, or publicly associated with, a family member's political activity or campaign for public office. To avoid public misunderstanding, judges and judicial candidates should take, and should urge members of their families to take, reasonable steps to avoid any implication that they endorse any family member's candidacy or other political activity.

Therefore, nothing in the code of judicial conduct in any state prevents members of a judge's family from running for political office, supporting other candidates' campaigns, or being involved in other political activities.

However, "an implicit burden" always rests on the judge "to be vigilant" to detect possible impropriety or the likelihood of the public appearance of

impropriety in a family member's political conduct. *Application of Gaulkin*, 351 A.2d 740 (New Jersey 1976). Moreover, a family that "chooses to combine a judicial career with political endeavors takes on a particularly heavy burden to protect the judge and the judicial office from appearances of political bias, and it is possible that the judge will be answerable if there exists anything less than a clear division between the political activities of the spouse and the judicial office." *Indiana Advisory Opinion 2-93*. Finally, a judge must "pay attention" to the "increased likelihood" that "a spouse's involvement in political activities or candidacy for elected office may increase the frequency with which a judge is required to recuse." *U.S. Advisory Opinion 53* (2009).

WHEN A FAMILY MEMBER IS RUNNING FOR POLITICAL OFFICE

A judge's kinship to a candidate does not create an exception to the rule that prohibits a judge from publicly endorsing another candidate for public office (Canon 5A(1)(b)/Rule 4.1A(3)). The prohibition applies regardless whether the family member is running for a judicial or non-judicial office or in a partisan or non-partisan campaign. Moreover, the limits on what a judge can do in support of a relative-candidate are based in part on the prohibition against using the prestige of office to advance private interests (Canon 2B/Rule 1.3).

Judges who have become publicly involved in a family member's election campaign have been disciplined.¹

- A judge contacted attorneys to seek help for his son's candidacy for county court judge and asked an individual why he was backing his son's opponent. *Inquiry Concerning Turner*, 573 So. 2d 1 (Florida 1990) (reprimand for this and other misconduct).
- A judge delivered and erected signs for his wife's campaign for county court clerk and attached political disclaimers to the signs. *In re McGregor*, 614 So. 2d 1089 (Florida 1993) (public reprimand).
- A judge attended two fund-raisers for his wife's campaign for county clerk. *In the Matter of Rath*, Determination (New York Commission on Judicial Conduct February 21, 1989) (www.scjc.state.ny.us) (admonition for this and other misconduct).
- A judge encouraged several people to vote for his wife, who was running for judicial office. *In the Matter of Codispoti*, 438 S.E.2d 549 (West Virginia 1993) (censure for this and other misconduct).

1. Activities to promote the appointment of a spouse are also prohibited. See *In re Hartman*, Opinion (February 11, 2005), Order (Pennsylvania Court of Judicial Discipline May 18, 2005) (www.cjdpa.org/decisions/index.html) (public reprimand for, in addition to other misconduct, working to have wife appointed as his successor by asking individuals to write letters of endorsement and accompanying wife to a Republican Party committee meeting at which she sought the party's endorsement).

A judge is also prohibited from displaying support for a relative's candidacy by, for example, wearing a campaign button in public or in chambers (*Colorado Advisory Opinion 05-5*; *Ohio Advisory Opinion 2001-1*) or maintaining a relative's campaign sign in chambers, in plain view (*Colorado Advisory Opinion 05-5*; *Ohio Advisory Opinion 2001-1*; *Oregon Advisory Opinion 82-2*).

Further, a judge should not publicly campaign on behalf of the candidacy of a spouse or other family member by:

- giving speeches (*Alabama Advisory Opinion 82-142*; *Colorado Advisory Opinion 05-5*; *Delaware Advisory Opinion 2008-1*; *Michigan Advisory Opinion JI-30* (1990); *Ohio Advisory Opinion 2001-1*);
- soliciting funds or support through political appearances, by telephone, or through the media (*Louisiana Advisory Opinion 52* (1981));
- handing out a family member's campaign literature (*Alabama Advisory Opinion 82-142*; *Michigan Advisory Opinion JI-30* (1990));
- delivering campaign literature (*Delaware Advisory Opinion 2008-1*);
- soliciting votes (*Michigan Advisory Opinion JI-30* (1990));
- soliciting others to assist or support the campaign (*Delaware Advisory Opinion 2008-1*);
- soliciting persons to display campaign signs in their yards, erecting those signs, or handing out campaign signs or posters (*Delaware Advisory Opinion 2008-1*; *Michigan Advisory Opinion JI-30* (1990); *West Virginia Advisory Opinion* (February 25, 1994));
- informing friends of the family member's candidacy even without soliciting votes or support (*Florida Advisory Opinion 87-22*);
- placing a bumper sticker for his spouse's campaign on his car (*Colorado Advisory Opinion 05-5*); or
- driving a car that displays his spouse's campaign sticker (*Delaware Advisory Opinion*

2008-1; *Florida Advisory Opinion 87-22*; *Maine Advisory Opinion 94-3*; *Michigan Advisory Opinion JI-30* (1990); *West Virginia Advisory Opinion* (February 25, 1994).

But see New Mexico Advisory Opinion 96-2 (judge may solicit signatures for his spouse's nominating petition and assist his spouse in door-to-door campaigning as long as he does so as a private person, outside of his normal business hours); *New York Advisory Opinion 06-94* (when it is necessary or particularly convenient, judge is not prohibited from driving an automobile owned by his spouse that displays a bumper sticker supporting the spouse's candidacy).

The restriction also extends to behind-the-scenes activities in support of a relative's campaign. Therefore, a judge whose relative is a candidate may not:

- do "leg work" for the campaign (*Florida Advisory Opinion 87-22*);
- compile voter or contributor lists (*Maine Advisory Opinion 94-3*);
- stuff envelopes (*Maine Advisory Opinion 94-3*);
- drive the candidate to events (*Maine Advisory Opinion 94-3*); or
- perform manual labor such as delivering or picking up campaign materials from printers or advertisers (*West Virginia Advisory Opinion* (February 25, 1994)).

But see Michigan Advisory Opinion JI-30 (1990) (judge may perform behind-the-scenes campaign activities for candidates, including relatives, such as stuffing envelopes, participating in voter registration drives, placing ads, writing speeches, and building yard signs); *South Carolina Advisory Opinion 9-2002* (judge may drive a truck for his spouse when she is setting out campaign signs); *South Carolina Advisory Opinion 14-2003* (judge may visit his spouse's campaign offices).

Further, a judge may not act or appear to act as a political advisor for a family member's campaign. *Delaware Advisory Opinion 2008-1*; *New Hampshire Advisory Opinion 78-3*; *Application of Gaulkin*, 351 A.2d 740 (New Jersey 1976); *New York Advisory*

Opinion 92-129. However, the New York committee noted that it was not suggesting "any restrictions on private conversations between husband and wife." *See also Massachusetts Advisory Opinion 03-8* (judge whose son is running for city council may privately discuss with him issues such as financial contributions from family members and his performance at campaign events).

Use of the judge's home

A few advisory opinions direct a judge whose spouse is running for office to forbid any campaign activity in their home. *Delaware Advisory Opinion 2008-1*; *Michigan Advisory Opinion JI-30* (1990). *See also New Hampshire Advisory Opinion 78-3* (consideration should always be given to not using the marital home for political or fund-raising meetings). Most opinions, however, allow a judge's spouse to use the home they jointly own as headquarters for the spouse's campaign and, as long as the judge does not attend, to hold events such as fund-raisers, strategy meetings, and constituent meetings at the home. *Maine Advisory Opinion 94-3*. *Accord New York Advisory Opinion 06-147* (spouse may use home for campaign-related meetings and/or fund-raising events);² *Washington Advisory Opinion 86-8* (spouse may use home for campaign headquarters, fund-raisers, and other campaign activities); *U.S. Advisory Opinion 53* (2009) (spouse may use home for political meetings and fund-raising events).

To disassociate herself from any political event held in her home, the judge:

- should not be identified on invitations to the event (*Washington Advisory Opinion 86-8*);
- should not assist in preparations for the event (*Washington Advisory Opinion 86-8*);
- should not serve as host by greeting guests, mingling with visitors, pouring coffee, or serving cake (*Florida Advisory Opinion 87-22*; *Maine Advisory Opinion 94-3*); and

2. In *New York Advisory Opinion 06-147*, the New York advisory committee overruled several previous opinions. *See New York Advisory Opinion 00-75* (judge whose spouse is a candidate for elective political office may not allow campaign committee meetings to be held at their joint residence); *New York Advisory Opinion 90-77* (judge's spouse may not hold a political fund-raiser at their joint residence, even if the judge does not appear at or participate in the fundraiser).

- should not appear at the event and should make reasonable efforts to avoid contact with the meeting's attendees (*New York Advisory Opinion 06-147*).

But see California Advisory Opinion 49 (2000) (judge may attend fund-raisers and other political events even at the judge's home).

Whether a judge is required to absent herself from her home during a campaign event there may depend on the type of event. The New York committee advised that a judge is not required to leave her residence during a campaign strategy meeting for her candidate-spouse but should do so during a campaign fund-raiser. *New York Advisory Opinion 06-147*. The Maine advisory committee stated that, assuming a judge can withdraw to another part of the house, the judge is not required to leave the house when political gatherings related to her spouse's candidacy are scheduled. *Maine Advisory Opinion 94-3*. *Cf.*, *New York Advisory Opinion 06-183* (judge should not attend or be present during any fund-raising event hosted at their joint residence by the judge's child who is a candidate for office, but, when the event is being held in the child's "distinct living area," the judge need not vacate the joint residence).

Campaign signs

The Ohio advisory committee stated that a judge may allow campaign signs promoting his spouse's candidacy to be placed on real estate they jointly own. *Ohio Advisory Opinion 2000-1*. The committee explained: "Placement of a spouse's campaign sign on property co-owned by a judge and spouse does not constitute a 'public endorsement' by the judge."

Further, in *New York Advisory Opinion 06-94*, the New York committee balanced the spouse's entitlement "to exercise his/her rights in support of his/her own candidacy, and at the location where he/she resides" with the code of judicial conduct. The committee emphasized that the code restrictions "should not and need not distort or ignore the realities of normal familial relations, and especially the public perception of those relationships" and that "the political rights of a candidate for public office who happens to be married to a judge cannot be ignored." The committee concluded that a judge

whose spouse is running in a contested election for school board is not obligated "to discourage the spouse from displaying a campaign sign supporting the spouse's election on the lawn of the marital residence." *But see Colorado Advisory Opinion 05-5* (judge may not allow campaign signs promoting her spouse's candidacy to be placed on jointly owned real estate).

Campaign literature

Although at least one early advisory opinion states that a family member cannot use the judge-relative's picture in campaign materials (*Alabama Advisory Opinion 82-143*), in most states, campaign ads, flyers, and similar materials may identify a judge-relative by name and relationship to the candidate and the judge-relative may be included in a family photograph as long as the judge-relative is not identified as a judge. *Florida Advisory Opinion 07-13*; *Florida Advisory Opinion 90-7*; *Maine Advisory Opinion 94-3*; *Kansas Advisory Opinion JE-3* (1984); *New Mexico Advisory Opinion 96-2*; *New York Advisory Opinion 06-94*; *New York Advisory Opinion 04-41*; *New York Advisory Opinion 00-75*; *New York Advisory Opinion 96-7*; *South Carolina Advisory Opinion 14-2003*; *Texas Advisory Opinion 295* (2009); *Vermont Advisory Opinion 2728-10* (2004); *Washington Advisory Opinion 02-2*; *West Virginia Advisory Opinion* (June 19, 1991); *West Virginia Advisory Opinion* (December 30, 2002); *U.S. Advisory Opinion 53* (2009).

To ensure that the materials depict the judge only as a member of the candidate's family and not as a member of the judiciary:

- the judge should not be identified by any reference to title, such as "magistrate," "judge," or "honorable" (*Colorado Advisory Opinion 05-5*; *South Carolina Advisory Opinion 9-2002*);
- the judge should not be pictured in robes or in a courthouse setting (*California Advisory Opinion 49* (2000); *Colorado Advisory Opinion 05-5*); and
- the caption should indicate it is a depiction of the candidate's family, not an endorsement (*California Advisory Opinion 49* (2000)).

See also *Florida Advisory Opinion 92-40* (photograph of a judge, in robes, administering the oath of office to a candidate may not be used in campaign literature even if the judge is related to the candidate).

In a few states, campaign materials for family members may go further and identify the candidate's relative as a judge as long as the judge's office or title are not used and his judicial duties are not discussed, the occupations of other family members are also identified, and the judge is not pictured in robes. The Ohio advisory committee reasoned that, although "a family picture symbolizes love and support . . . it is not a 'public endorsement' of a family member's candidacy even when included in campaign literature. The love and support portrayed by a family picture applies to the members of a family generally in all their endeavors, not specifically to one family member's candidacy for elective office." *Ohio Advisory Opinion 2001-1*.

In campaign literature, a family picture provides biographical information regarding a candidate. The family picture is often accompanied by the names of the family members and sometimes other biographical family information is provided. The Board finds no ethical bar to using a family picture and listing a judge's name with or without the title "judge" along with the names of the other family members in the campaign literature of a judge's spouse. Family member pictures, names, and occupations are biographical information about a candidate and the candidate's family, not a prohibited "public endorsement."

The committee did warn that, other than the title "judge," a judge should not be depicted in his official capacity in a family picture.

Similarly, the Massachusetts committee explained that "the public's expectation that it will learn certain basic biographical information about a candidate negates, or at least minimizes to an acceptable degree, any perception that a reference to a judicial spouse in such literature or commercials implies a judicial endorsement." *Massachusetts Advisory Opinion 99-16*.³ The committee did emphasize that reference to a judicial spouse "must be limited to the degree necessary to supply such basic biographical information," permitting use of the judge's name, a

picture in a family context, and "a simple (preferably one) reference" to the judge's occupation. The committee cautioned that "in no event should [the] judicial position be given any undue prominence," prohibiting a photograph of the judge in his robes, a reference by title, or a discussion of judicial duties.

The Texas committee stated that, if during an interview a candidate-spouse is asked about his spouse, he may state that she is a judge if her judicial title is not identified. *Texas Advisory Opinion 295* (2009). *But see Washington Advisory Opinion 02-2* (candidate-spouse should not refer to his spouse as a judge under any circumstances during his campaign).

The Massachusetts committee also permitted a judge, with numerous conditions, to appear in a commercial, provide a quote to be used in campaign materials, or take part in an interview related to her spouse's campaign. *Massachusetts Advisory Opinion 99-16*.⁴ Whether an interview would be appropriate, the committee stated, will turn on its specific nature and focus." In general, the committee warned against any emphasis that would transform the judge's role "from a passive one (that is, of simply being described), to a more active one, designed, arguably, to enhance the electability of the candidate, thus making [the judge] an endorser of sorts." The committee cautioned that a judge's role in any interview "must be confined in scope solely to the legitimate need of the candidate to present a full biography" of himself, and the judge should not weigh in on issues being raised in the campaign or give her views on why voters should vote for her husband and not his opponent.

The committee advised that, "at a minimum," the "safest course would be to limit the number of any such interviews," and, while the judge may be identified as a judge, she "should not allow the interviewer to use [her] title as a manner of address, should not appear in [her] judicial robes, and should not permit interviews to be conducted at the courthouse." The committee cautioned the judge to "understand beforehand the scope of the interviewer's interest in your role, . . . keep your participation brief, . . . limit your remarks to personal matters about your marriage and family, . . . not allow the interview to focus on your judicial duties, and . . .

3. The husband of the judge who made the inquiry that resulted in *Massachusetts Advisory Opinion 99-16* was running for a United States Senate seat in another state, but this was not identified as a factor in the committee's advice.

4. See footnote 3, *supra*.

avoid at all costs being drawn into political debate.” If the interviewer asks a question the judge should not answer, the committee added, the judge should change the subject or stop the interview, “no matter how awkward.”

Attending events with a candidate-relative

A political event is any event that “the public fairly would perceive as political in nature” (*New York Advisory Opinion 89-48*) and that is “designed to enhance the electability of, pay homage to, to rally support behind, or to raise funds for, a particular candidate,” or to show solidarity against the opposing party. *Massachusetts Advisory Opinion 99-16*. Whether a judge can accompany a candidate-spouse to political events varies from state to state, depending, at least in part, on whether the judge is prohibited from attending political events in general.

In some states, a judge may accompany a spouse to events for the spouse’s campaign, including fundraisers, the announcement of the campaign, and election night. See *California Advisory Opinion 49* (2000); *Illinois Advisory Opinion 96-12*; *Kansas Advisory Opinion JE-62* (1996); *Michigan Advisory Opinion JI-30* (1990); *South Carolina Advisory Opinion 14-2003*.

In other states, a judge may not accompany a candidate-spouse to a fund-raiser but may attend other political events related to the campaign. See *New Mexico Advisory Opinion 89-2*; *Washington Advisory Opinion 02-2* (judge whose spouse is running for a non-judicial partisan position may attend a campaign event that is not a fund-raiser, is not sponsored by a political organization, and is not attended only by members of a particular political organization). Cf., *Texas Advisory Opinion 180* (1995) (judge may attend campaign functions with her candidate-spouse); *West Virginia Advisory Opinion* (February 25, 1994) (judge may attend campaign rallies and social functions with her candidate-spouse).

In a third set of states, the “ordinary courtesy” of a judge accompanying a spouse to a political gathering of any kind is prohibited. *Application of Gaulkin*, 351 A.2d 740, (New Jersey 1976). *Accord Delaware Advisory Opinion 2008-1*; *New Hampshire Advisory Opinion 78-3*; *Oregon Advisory Opinion 82-2*; *Utah*

Informal Advisory Opinion 89-15; *U.S. Advisory Opinion 53* (2009). See also *New York Advisory Opinion 92-129*; *New York Advisory Opinion 89-48*; *New York Advisory Opinion 00-75*.⁵ In those jurisdictions, a judge whose spouse is running for a public office may not attend with the candidate-spouse:

- a campaign kick-off, cocktail party, or rally even if the spouse is running for a non-partisan office (*Colorado Advisory Opinion 05-5*);
- meetings or strategy sessions with supporters and advisors (*Vermont Advisory Opinion 2728-10* (2004));
- a non-partisan, “meet and greet” gathering at the judge’s home or the homes of friends or neighbors (*Florida Advisory Opinion 07-13*);
- a campaign “coffee” (*Maine Advisory Opinion 94-3*);
- a breakfast sponsored by his spouse’s fundraising committee to honor her service and raise money (*Maryland Advisory Opinion 1979-1*);
- a cook-out, hosted by his spouse’s campaign, for members of the general assembly, a state party committee, and labor leaders even if she is a candidate in a state other than the one in which the judge sits (*Massachusetts Advisory Opinion 99-16*);
- a post-election gathering sponsored by his spouse’s campaign (*New York Advisory Opinion 06-147*); or
- an out-of-state dinner hosted by a high-ranking congressional leader and financed by that leader’s campaign (*New York Advisory Opinion 06-147*).

The Florida committee cautioned that a candidate-spouse should not explain a judge-spouse’s absence from campaign functions because that explanation would reveal the spouse’s judicial status and thus achieve indirectly what could not be done directly.

5. The code of judicial conduct in New York defines a “window period” nine months before a nomination to six months after the general election in which judicial candidates, including incumbent judges, can attend political gatherings and engage in other political activity.

Florida Advisory Opinion 90-7.

However, in all states, a judge may accompany a candidate-spouse to civic, social, religious, community, cultural, or recreational events that are not politically sponsored, even if the spouse engages in some campaigning during the events, when the judge would have attended the event had his spouse not been a candidate. *Maine Advisory Opinion 94-3*; *New York Advisory Opinion 89-48*; *Vermont Advisory Opinion 2728-10* (2004). Thus, a judge may accompany a candidate-spouse to:

- ceremonial events, *e.g.*, a state funeral, an inauguration, or a swearing-in ceremony (*Massachusetts Advisory Opinion 99-16*; *U.S. Advisory Opinion 53* (2009));
- a public candidates' forum that is not sponsored by a political organization or designed to garner support for one candidate but is intended to inform the electorate about all candidates (*Colorado Advisory Opinion 05-5*; *Massachusetts Advisory Opinion 99-16*; *New York Advisory Opinion 00-75*);
- a meeting of a fraternal organization (*New York Advisory Opinion 00-75*);
- a community event at which the candidate-spouse is appearing (*Washington Advisory Opinion 02-2*); and
- civic gatherings sponsored by non-political organizations to which all candidates are invited (*U.S. Advisory Opinion 53* (2009)).

In deciding whether a civic event is appropriate to attend with a candidate-spouse, a judge should consider:

- why he and his spouse are attending,
- whether he would have attended even if his spouse was not a candidate,
- whether the event would have been held even if there was no campaign,
- who is sponsoring the event,
- what his spouse plans to do at the event,
- whether his spouse views the event as an

opportunity to enhance her candidacy, and

- whether the average citizen would perceive the event as political in nature.

Massachusetts Advisory Opinion 99-16.

When attending an event with a candidate-spouse, a judge should take precautions not to appear to be campaigning on behalf of the spouse.

- The judge's appearance must be discreet and low-profile. *Colorado Advisory Opinion 05-5*; *Vermont Advisory Opinion 2728-10* (2004); *West Virginia Advisory Opinion* (June 19, 1991).
- If the judge is introduced, his title may not be mentioned. *Colorado Advisory Opinion 05-5*; *Kansas Advisory Opinion JE-62* (1996); *Louisiana Advisory Opinion 52* (1981); *Massachusetts Advisory Opinion 99-16*; *New Mexico Advisory Opinion 89-2*; *Vermont Advisory Opinion 2728-10* (2004); *Washington Advisory Opinion 02-2*.
- The judge may not make comments that concern the candidate-spouse's position relating to the judiciary. *New Mexico Advisory Opinion 89-2*.
- The judge may not solicit votes or financial support for his spouse. *Louisiana Advisory Opinion 52* (1981).
- The judge may not speak on behalf of or endorse his spouse's candidacy. *Colorado Advisory Opinion 05-5*; *Louisiana Advisory Opinion 52* (1981); *Texas Advisory Opinion 180* (1995); *Washington Advisory Opinion 02-2*.
- The judge must make clear at all times that he is not present in any judicial capacity and is not supporting his spouse's candidacy. *South Carolina Advisory Opinion 14-2003*.
- The judge's attendance should be passive, and the judge should not speak or engage in partisan displays of public support, for example, carrying a campaign sign, passing out literature, or encouraging people to support his spouse. *Massachusetts Advisory Opinion 99-16*.

For example, while a judge may attend a local parade or community fair, the judge should not march beside his spouse under her campaign banner or work the crowd with her. *Maine Advisory Opinion 94-3*. See also *New York Advisory Opinion 06-147* (judge may march in a parade with other dignitaries and judges but not with his campaigning spouse). If the line is difficult to draw, the judge should err on the side of caution and avoid any activity that could be construed as campaigning on behalf of his spouse. *Maine Advisory Opinion 94-3*.

Campaign contributions

Whether a judge can make a financial contribution to the campaign of a spouse or other family member varies, depending on each state's rule regarding political contributions by judges in general. In Michigan, for example, where a judge is permitted to contribute to any political candidate at any time, the Michigan advisory committee stated that a judge may personally contribute to her spouse's campaign. *Michigan Advisory Opinion JI-30* (1990).

In contrast, in Delaware, Maine, and New York, where a judge is prohibited from making contributions at any time, a judge whose spouse is campaigning for political office cannot contribute to his campaign. *Delaware Advisory Opinion 2008-1*; *Maine Advisory Opinion 94-3*; *New York Advisory Opinion 92-129*; *New York Advisory Opinion 00-75*.

Further, the Colorado committee directed a judge to require that a candidate-spouse create a separate account to which the judge does not contribute to ensure that joint funds are not used in the campaign. *Colorado Advisory Opinion 05-5*. Accord *Delaware Advisory Opinion 2008-1* (any financial contributions a judge's spouse makes to his own campaign must be clearly designated as originating from him alone); *Maine Advisory Opinion 94-3* (judge's spouse should not pay for expenses of his campaign out of a joint bank account that includes funds contributed by the judge and over which she shares control). But see *Florida Advisory Opinion 87-22* (candidate-spouse may withdraw funds from a joint account and place it into a campaign account).

According to several advisory opinions, a judge's spouse may not knowingly accept campaign contributions from attorneys or litigants who are

appearing or may appear before the judge. *Delaware Advisory Opinion 2008-1*; *New Hampshire Advisory Opinion 78-3*. See also *Application of Gaulkin*, 351 A.2d 740 (New Jersey 1976) (contributions to the campaign of a judge's spouse from attorneys or litigants who are appearing or may appear before the judge "would be particularly offensive from an ethical standpoint"). Further, the Delaware committee stated that a judge should recuse from any matter involving an individual or entity that the judge discovers contributed to her spouse's campaign. *Delaware Advisory Opinion 2008-1*.

WHEN A FAMILY MEMBER SUPPORTS A POLITICAL CANDIDATE

Members of a judge's family may support a candidate for elective public office publicly and actively — but independently from the judge and without reference to the judicial office. That support may include:

- circulating nominating petitions (*Arizona Advisory Opinion 03-5*);
- working as a volunteer or paid employee (*Arkansas Advisory Opinion 2002-6*; *California Advisory Opinion 49* (2000));
- serving as a campaign manager or on a campaign committee (*Kansas Advisory Opinion JE-37* (1992); *Kansas Advisory Opinion JE-61* (1996); *New York Advisory Opinion 91-85*; *New York Advisory Opinion 95-22*; *Pennsylvania Informal Advisory Opinion 10/1/04*);
- a public endorsement (*California Advisory Opinion 49* (2000); *Illinois Advisory Opinion 06-2*; *Louisiana Advisory Opinion 154* (1996); *Maryland Advisory Opinion 1985-6*);
- soliciting funds (*California Advisory Opinion 49* (2000); *Illinois Advisory Opinion 06-2*; *Louisiana Advisory Opinion 154* (1996); *Maryland Advisory Opinion 1985-6*; *South Carolina Advisory Opinion 33-2001*);
- making contributions (*California Advisory Opinion 49* (2000); *New York Advisory Opinion 90-88*);
- hosting a fund-raiser (*Texas Advisory Opinion 284* (2001));
- campaigning door-to-door (*California Advisory Opinion 49* (2000); *South Carolina Advisory Opinion 33-2001*);
- handing out campaign materials (*Texas Advisory Opinion 170* (1994));
- recommending to people that they vote for a candidate (*Texas Advisory Opinion 170*

(1994)); and

- displaying signs for a candidate and having a campaign party at her law office (*Florida Advisory Opinion 94-21*).

But see Oklahoma Advisory Opinion 02-11 (judicial candidate's spouse may, in an individual capacity and without identifying the judicial candidate, campaign for a son-in-law who is a legislative candidate, but should be discouraged from doing so).

While campaigning, family members should take “every precaution to insulate the judge from direct or indirect involvement” (*Kansas Advisory Opinion JE-37* (1992)), to ensure that the family member's participation in the campaign is not misunderstood as “surrogate judicial participation” (*Maryland Advisory Opinion 1985-6*), and to avoid any suggestion that the judge supports the candidate (*Arkansas Advisory Opinion 2002-6*). The California advisory committee imposed on the judge the responsibility of ensuring that, when a family member endorses a candidate, the judge's name and title are not used and the endorsement does not imply that the judge shares the family member's view. *California Advisory Opinion 49* (2000). Similarly, the New York judicial ethics committee stated that a judge should make a concerted effort to convince his spouse not to refer to the judge in a letter to friends expressing her support for and soliciting support for a candidate for the United States Congress. *New York Advisory Opinion 06-142*. The South Carolina advisory committee stated that, when a judge's spouse is soliciting funds and campaigning door-to-door for a candidate, she may not introduce herself as the judge's spouse. *South Carolina Advisory Opinion 33-2001*.

Use of the judge's home

Several advisory opinions require a judge to prohibit the judge's spouse from holding gatherings in support of a candidate in their home. The Kansas advisory committee, for example, stated that a judge may not permit his spouse to host a “Come over and meet the Governor” party in their home, owned in joint tenancy, in an election year when the governor was a candidate for re-election even if there would be no fund-raising and the judge would not take part in

the event. *Kansas Advisory Opinion JE-33* (1990). *Accord Texas Advisory Opinion 284* (2001) (judge's spouse may not host a fund-raiser for a judicial candidate in the judge's home). *See also New Hampshire Advisory Opinion 78-3* (when judge's spouse participates in political campaigns, consideration should always be given to not using the marital home for political or fund-raising meetings); *ABA Advisory Opinion 113* (1934) (judge should not approve his spouse's practice of giving political teas at their home to advance the candidacy of partisan nominees for political office).

Other committees, however, advise that a judge may allow her spouse to host political events in their home but must take reasonable steps to dissociate herself from the event. For example, the California judicial ethics committee advised that, whenever a judge's spouse intends to use the family home for a non-judicial political fund-raiser or meeting, the judge should review with the spouse the ethical constraints on the judge to strictly avoid the appearance that the judge is engaging in fund-raising or endorsing the candidate. *California Advisory Opinion 49* (2000). The committee specified that the judge's name should not be used in any invitation or other announcement and the judge should not be present even though California judges usually can attend political gatherings. Moreover, the committee directed a judge to specifically discourage a family member from hosting an event in support of a candidate for an office closely associated with the courts, such as district attorney, and to disclose such an event in cases in which the candidate appears.

Similarly, the Wisconsin judicial ethics committee stated that, if a judge's spouse hosts political fund-raising activities in their home, the judge should be careful not to be seen by those attending the event. *Wisconsin Advisory Opinion 97-2*. However, the committee stated that a judge is not required to leave the house unless its layout is such that the judge would probably be seen by some of those in attendance. Further, the committee advised that the judge could assist his spouse by performing tasks such as cleaning, child care, and preparing and replenishing refreshments as long as the judge's activities are not visible to those attending the fundraiser. *Accord South Carolina Advisory Opinion 14-2006* (spouse may hold party for a political can-

didate in their home as long as the judge does not attend and the judge's name is not used); *West Virginia Advisory Opinion* (May 7, 2002) (spouse may hold political fund-raising events in their home as long as the judge would not be present); *West Virginia Advisory Opinion* (August 28, 1995) (spouse may hold fund-raiser in their home as long as the judge is not involved in raising funds or endorsing the candidate). *Cf., In the Matter of Troy*, 306 N.E.2d 203 (1973) (no misconduct when a judge attended meetings held by his wife in their home with a gubernatorial candidate and supporters where it was not proven that he took any active part in the campaign or fund-raising).

In states where a judge may attend political gatherings, a judge may attend an event hosted by her spouse for a political candidate in their home. *Illinois Advisory Opinion 01-9*. However, the Illinois committee warned that the judge should not in any manner act as a sponsor or lend her name or office to the event.

Campaign signs

Several judicial ethics committees have advised that, because a lawn or window sign implies an endorsement by both house-holders, a judge should not permit a sign endorsing a political candidate to be placed on property jointly owned by the judge and the judge's spouse. *Arkansas Advisory Opinion 2006-3*; *South Carolina Advisory Opinion 33-2001*. Other committees direct a judge to advise a spouse of the concerns that arise when a political sign is placed at their joint residence but acknowledge that, once the judge has "strongly urged" that the sign not be placed on the property, he is not required to take further action if that attempt fails. *New York Advisory Opinion 07-169*. *Accord California Advisory Opinion 49* (2000) (judge should specifically discourage family members from displaying lawn or window signs or any other political endorsement in a manner that may imply that the judge endorses the non-judicial candidate); *Florida Advisory Opinion 06-11* (judge should not authorize or encourage his spouse to place a political sign supporting a relative's candidacy for a partisan political office in the yard of their home); *Massachusetts Advisory Opinion 05-8* (judge may not permit his adult daughter, who

shares his home but lives independently, to display a campaign sign in front of the home in support of his son's campaign, for which she is campaign manager). *But see New York Advisory Opinion 99-118* (judge, who is not currently a candidate, should advise his spouse not to place signs endorsing political candidates on the house or other parts of the property where they reside even if the spouse is the sole owner of the property).

In contrast, the Illinois advisory committee stated that a judge's spouse may display a campaign sign in the yard of the home they jointly own. *Illinois Advisory Opinion 06-2*. The committee acknowledged that "some members of the public, upon observing a sign placed by a spouse on jointly held property, may erroneously conclude that the spouse's independent political act is the act of the judge," but noted "this will not be true in all cases and certainly will not be true when the spouse has a higher community or political profile than the judge." The committee emphasized that "the likelihood of a sign being misinterpreted as the judge's act is also reduced by the accepted view that married individuals remain individuals with separate property rights and beliefs," stating the community is simply less likely today to automatically consider the joint residence the "judge's house." Noting that "a judge does not possess a superior right in joint property or a right to dictate permitted and non-permitted uses," the committee stated that, although spouses may agree on how their joint property can and cannot be used in a campaign, "if an agreement is not reached, the judicial spouse cannot bar his or her spouse's independent act by fiat or self-help." The committee concluded that, although "some people will misinterpret the campaign sign as a prohibited political endorsement by the judge," which may require disqualification, that does "not justify curtailment of a spouse's right to political expression."⁶

Campaign bumper stickers on a vehicle raise similar concerns. The California advisory committee

stated that a judge is not obligated to take any action when a bumper sticker is placed on a vehicle that is primarily used by a family member but should not drive the vehicle. *California Advisory Opinion 49* (2000). If both regularly use the vehicle, the committee advised, the judge should not allow a bumper sticker on the vehicle. *See also Florida Advisory Opinion 06-11* (judge may not operate an automobile solely owned by the judge's spouse that displays a sign supporting a partisan political candidate). *Cf., Illinois Advisory Opinion 06-2* (judge's spouse may display a bumper sticker on a vehicle jointly owned by the spouse and the judge and driven by the spouse).

Contributions

Members of a judge's family may contribute to a candidate, but the judge should not participate in the decision to contribute or use the family member's freedom to channel funds to a candidate. *California Advisory Opinion 49* (2000). Judges have been disciplined for failing to make that distinction.

After introducing himself to the campaign manager for a candidate for Secretary of State at the office of the Indiana Democratic Party, a judge stated, "I want to give you \$100, but, I want you to put it in my wife's name because I'm a sitting judge and I'm not supposed to be doing this." The judge wrote "on behalf of Cheri Sallee" on the check but knew that he would also be identified as a contributor. *In the Matter of Sallee*, 579 N.E.2d 75 (Indiana 1991) (public reprimand).

The Nebraska Commission on Judicial Qualifications publicly reprimanded a judge who had actively facilitated a campaign contribution from her husband to a candidate. *In the Matter of Prochaska*, Reprimand (Nebraska Commission on Judicial Qualifications October 7, 2002). The judge had been approached by a candidate for city council who practiced before her. The candidate stated, "I know you can't give me money for my campaign, but maybe your husband can give me money." The judge agreed to talk to her husband and subsequently gave him the candidate's brochure. The judge's husband signed a check for \$50 payable to the candidate's campaign, on a joint account with the names "Donald F. or Jane H. Prochaska" printed on it.

6. In *In the Matter of McCormick*, 639 P.3d 735 (Iowa 2002), the Iowa Supreme Court publicly reprimanded a judge who told the Judicial Qualifications Commission that his wife had given permission for a campaign sign supporting the sheriff to be placed in their yard when he, in fact, had authorized the sign. The court stated it was not addressing "the responsibilities of a judge whose spouse places a political campaign sign in the yard of the marital home."

Several days later, the judge saw the candidate in the courthouse and said “I have something for you.” When he accompanied her to her office, she handed him an envelope that contained the check.

The Commission found that, notwithstanding the judge’s intent and her belief that the contribution was from her husband, the judge violated the prohibition on inappropriate political activity and contributing to a political organization or candidate. The Commission found that the co-mingling of their funds meant the contribution could not be considered to be from the husband’s funds alone.

A spouse’s contribution of \$1,000 to a gubernatorial candidate from a joint bank account was one of the grounds for a judge’s removal in *In the Matter of Briggs*, 595 S.W.2d 270 (Missouri 1980). Noting the “closely woven business and political aspects” of the judge and his wife, the Missouri Supreme Court concluded that the Commission on Retirement, Removal and Discipline “simply did not believe any of the contributions to have been the independent act of Mrs. Briggs or regard as credible Briggs’ statements that he was unaware of his wife’s check to [the gubernatorial candidate] on this account.”

In *In Application of Gaulkin*, 351 A.2d 740 (1976), the New Jersey Supreme Court stated that the use of any portion of the marital assets for a political contribution suggests at least indirect involvement of the judge. Thus, although a judge’s spouse may make financial contributions to a candidate for political office, he should do so from the spouse’s separate account and not from a joint account. *Colorado Advisory Opinion 06-4*; *Kansas Advisory Opinion JE-13* (1985); *Nebraska Advisory Opinion 96-6*; *New York Advisory Opinion 95-138*; *New York Advisory Opinion 98-22*; *South Carolina Advisory Opinion 33-2001*; *West Virginia Advisory Opinion* (June 19, 1991); *West Virginia Advisory Opinion* (August 28, 1995). The Delaware code of judicial conduct specifically provides that the checks by which a judge’s spouse makes a campaign contribution “shall not include the name of the judge.” Several advisory committees concur. See *Pennsylvania Informal Advisory Opinion 99-6-1*; *New York Advisory Opinion 98-111*. See also *Florida Advisory Opinion 84-19* (spouse may make a contribution in the spouse’s name without any reference to the judge or his judicial position); *Louisiana Advisory Opinion*

134 (1996) (judge’s spouse or a member of the judge’s immediate family may contribute to political campaigns provided the contribution is made without reference to the judge or the judge’s office and is not made to do indirectly what the judge cannot do directly).

The California advisory committee noted that spouses who make campaign contributions “from a community property joint account often write on the check and accompanying paperwork that the contribution is from the spouse alone” and that “some judges even ask their spouse to cross off the printed name of the judge on the check.” *California Advisory Opinion 49* (2000). However, the committee stated:

These cosmetic precautions do not necessarily determine if an ethical violation occurs. *The issue is not the source of the money, or the name(s) on the check, but rather the source of the decision to make the contribution* Obviously, a judge should not use the family member’s freedom to contribute as a device for the judge to channel funds to a candidate. (Emphasis in original)

Escorting spouse to campaign events

In general, a judge may not escort the judge’s spouse to campaign gatherings for a political candidate even if the judge is not introduced at the event and does not participate in the program. The New Jersey Supreme Court publicly reprimanded two judges who attended the inaugural ball for the state’s governor, which was also a fund-raiser, with their spouses who were active fund-raisers for the governor’s campaign. *Statement by Chief Justice on Behalf of the New Jersey Supreme Court Concerning Judge Alexander Lehrer and Judge Sybil Moses* (January 29, 1990). The court noted its sympathy for a judge who could not attend a political event that was important to the judge’s spouse. However, stating, “judges must make many sacrifices, sometimes most substantial, in order to maintain the public’s confidence in the judiciary,” the court concluded:

We are certain that a judge who attends any political event damages the most valuable interests of the judiciary, damages the public’s confidence in the judiciary, damages the public’s confidence in its independence, and damages the public’s confidence in the judiciary’s

total separation from politics.

(Judges are appointed, not elected, in New Jersey.)

Thus, a judge may not escort the judge's spouse to a political gathering of any kind (*New Hampshire Advisory Opinion 78-3*), including fund-raisers for political candidates (*In the Matter of Rath*, Determination (New York State Commission on Judicial Conduct February 21, 1989) (www.scjc.state.ny.us)) or a reception and dinner to promote the governor's re-election (*Pennsylvania Informal Advisory Opinion 8* (1974)).

FAMILY MEMBERS' PARTICIPATION IN A JUDGE'S CAMPAIGN

Under Canon 5A(3)(a) of the 1990 model code, a judicial candidate, including an incumbent judge running for re-election or retention in office, was required to encourage members of the judge's family "to adhere to the same standards of political conduct in support of the candidate as apply to the candidate." Similarly, under Rule 4.11(B) of the 2007 model code, a judge or judicial candidate is required to take reasonable measures to ensure that other persons, including family members, "do not undertake, on behalf of the judge or judicial candidate, any activities" the candidate is prohibited from engaging in. According to the terminology section of the 2007 model code, "member of the family" means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the judge or judicial candidate maintains a close familial relationship.

Thus, on behalf of a judge or judicial candidate, a family member cannot, for example:

- personally solicit or accept campaign contributions other than through a campaign committee;
- knowingly, or with reckless disregard for the truth, make any false or misleading statement;
- make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court; and
- in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

Some states may have different or additional restrictions.⁷

Several advisory opinions state that, because a judge cannot personally solicit campaign contributions and the purpose of a campaign committee is to solicit campaign contributions, a member of the family of a judicial candidate cannot be a member of or at least the treasurer of the candidate's committee. The Michigan committee noted that, "to the extent that the [campaign] treasurer is closely related to or living in the household of the candidate, the separation of the candidate from the solicitation and acceptance of funds is compromised." *Michigan Advisory Opinion JI-90* (1994). Therefore, the committee advised that a judge should not appoint his father-in-law as campaign treasurer. The Florida committee advised that a judge's brothers, mother-in-law, and cousins who are members of the judge's campaign committee may solicit contributions and endorsements in support of the judge's election — but only if the judge does not maintain a close familial relationship with them. *Florida Advisory Opinion 2010-16*.

Similarly, the South Carolina committee stated that a judge's spouse may not send letters to solicit funds for the judge's campaign and may not serve on the judge's campaign committee. *South Carolina Advisory Opinion 26-1998*. The advisory committee considered the solicitation of funds for a judicial candidate by the candidate's spouse to subvert "the very basis of Canon 5 and ethical judicial elections."⁸ *Cf., Pennsylvania Informal Advisory Opinion 99-2-16* (spouse of a judge who is a candidate for retention in office may serve as the judge's campaign treasurer, but may not solicit contributions). Finally, the Florida advisory committee stated that a judge should discourage his parents from authoring and circulating a letter to their friends and acquaintances supporting their child's candidacy and soliciting

7. For example, in Florida, a judge or judicial candidate is prohibited from attending political party functions. Thus, a judge's spouse may attend a political party event only if the spouse does not campaign in any way for the judge's election at the event. *Florida Advisory Opinion 2010-16*. See *Inquiry Concerning Angel*, 867 So. 2d 379 (Florida 2004) (public reprimand for, in addition to other misconduct, wife's attendance and participation with the judge's knowledge and on his behalf at a county Federated Women Republican's "Meet the Candidate Night").

8. The committee also concluded that a non-candidate spouse who is an attorney would violate the Rules of Professional Conduct by knowingly or recklessly assisting a judicial candidate spouse violate the code of judicial conduct

campaign contributions. *Florida Advisory Opinion 2008-9*.

In contrast, the New York committee advised that a judicial candidate may permit his relatives to serve on his campaign committee and engage in fund-raising on his behalf, including planning or sponsoring a fund-raising event and signing or adding a personal note to invitations to the fundraiser. *New York Joint Opinion 08-125, 08-147, 08-148 and 08-149*. The committee reached that conclusion even though it acknowledged that the code provision requiring a judicial candidate to "encourage members of [his] family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate" did not include an exception for serving on a campaign committee or otherwise expressly permit such activity.

The issue of family support of a judicial candidate is complicated when the family member is also a partisan-elected public official. The Kentucky advisory committee stated that a judicial candidate whose parent is a public official may not, even if the parent's office is not identified, publicize the parent's endorsement, use the parent's name and image in campaign literature and advertisements, or authorize the parent to host a fund-raiser for the campaign. *Kentucky Advisory Opinion JE-116* (2008). However, the committee advised that the judicial candidate may campaign with the parent at church picnics and other public functions if the parent's office is not identified and may permit the parent to urge his friends and acquaintances to vote for his child in letters, postcards, and e-mails, as long as the candidate does not direct the activities of the parent-official.

In Florida, where judicial elections are required to be non-partisan, the advisory committee stated that a judicial candidate's spouse who is a member of a political party's executive committee could still campaign for the candidate by making speeches and hosting lunches at events other than meetings of the party's executive committee. However, the committee cautioned the candidate to encourage the spouse to avoid engaging in any activity on behalf of the candidate that might give the appearance that a political party or organization endorses or otherwise supports his judicial candidacy. *Florida Advisory Opinion 2010-22*. See also *Florida Advisory Opinion 98-3* (judicial candidate's spouse, who serves as a member of the Florida legislature, may accompany

the candidate to non-partisan events while the candidate is actively promoting the campaign; may mention the candidate's campaign to other colleagues or constituents, as well as answer questions about the candidate's campaign; may attend non-partisan legislative events, for example, opening day of the legislative session or an open house sponsored by the governor; may attend the candidate's campaign events, such as fund-raisers and coffees; and may sponsor a fund-raiser for the candidate).

OTHER POLITICAL CONDUCT

As long as the judge's office is not evoked, there are no limits on a member of a judge's family belonging to or being an officer in a political organization. Thus, for example, a family member may hold office in a political party's central committee (*Indiana Advisory Opinion 2-93*); serve as treasurer of a town Republican committee (*New York Advisory Opinion 08-168*); be a member of a county political organization club that raises funds to support candidates in local elections (*New York Advisory Opinion 90-88*); be appointed to fill the vacancy on a political party's county committee created by the judge's election (*New York Advisory Opinion 92-65*); or be a member of the local Republican Women's Club and the state Federation of Republican Women (*Arizona Advisory Opinion 76-2*). *Accord Arizona Advisory Opinion 03-5; Florida Advisory Opinion 2010-22; New Mexico Advisory Opinion 90-5; New York Advisory Opinion 94-60; West Virginia Advisory Opinion* (November 8, 1993).

Advisory opinions are split, however, on whether a judge may accompany a family member who is a party leader to political gatherings. For example, some committees have advised that a judge may not accompany his spouse to a state political party convention to which the spouse has been elected as a delegate (*New York Advisory Opinion 96-73/96-80; South Carolina Advisory Opinion 4-1982*) or to a dinner honoring the President sponsored by the Democratic National Committee (*New York Advisory Opinion 96-73/96-80*). In contrast, other committees have stated that a judge may attend political functions with his spouse, provided the spouse is only a member of the organization sponsoring the function and not attending as an officer and the judge may even be recognized if public officials are recognized at the function. *Arizona Advisory Opinion 76-2*. *See also Michigan Advisory Opinion JI-47* (1992) (judge may sit on the dais with the judge's spouse when the spouse is serving as co-chair of a political party social event).