

JUDICIAL STANDARDS COMMISSION
STATE OF NORTH CAROLINA

FORMAL ADVISORY OPINION: 2007-01

February 9, 2007

QUESTION:

Judge sought Commission approval to participate as a member of an interview committee/board interviewing candidates for the position of city chief of police and making recommendations to the hiring authority.

COMMISSION CONCLUSION:

The Judicial Standards Commission approved the request for the judge to participate as a member of the interview committee/board as part of a panel to interview candidates for the position of city chief of police.

DISCUSSION:

This inquiry involves several provisions of the North Carolina Code of Judicial Conduct. Canon 4A and Canon 5B of the Code allow judges to participate in a variety of civic activities if such participation does not substantially interfere with the performance of the judge's judicial duties nor cast substantial doubt on the judge's impartiality. Similarly, Canon 2A of the Code requires that a judge "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

Canon 3C(1) of the Code reads, "[O]n motion of any party, a judge should disqualify himself/herself in a proceeding in which the judge's impartiality may reasonably be questioned..." Therefore should the new city chief of police appear as a substantive witness in a hearing or as a party to an action in a matter before the judge, it is advised that the judge disclose the information that he participated as a member of the interview committee/board that interviewed candidates for the city chief of police position. In addition, upon a motion to disqualify, the judge should disqualify if the judge's impartiality may "reasonably" be questioned or if the judge has an actual bias or prejudice against a party. In any event, a judge always has the option to disqualify himself/herself, should the judge deem such action proper pursuant to Canon 3D of the Code.

Reference:

North Carolina Code of Judicial Conduct
Canon 2A
Canon 3C & 3D
Canon 4A
Canon 5B