



JUDICIAL STANDARDS COMMISSION
STATE OF NORTH CAROLINA

FORMAL ADVISORY OPINION: 2011-03

July 8, 2011

QUESTION:

May a judge serve as a mentor in the North Carolina Bar Association's (NCBA) mentorship program?

The NCBA mentorship program offers two types of mentorship opportunities, traditional and situational. Traditional mentoring contemplates the conventional model of a one-on-one, long-term relationship between a new lawyer and an experienced lawyer whereby a broad spectrum of topics may be discussed. With situational mentoring, a new lawyer is referred to an experienced lawyer for immediate advice on a particular issue.

COMMISSION CONCLUSION:

The Judicial Standards Commission determined judges should not participate as mentors in the North Carolina Bar Association's mentorship program, neither as traditional nor situational mentors.

DISCUSSION:

The Commission reasoned that while judges are permitted and even encouraged to informally discuss issues of professionalism, ethics and decorum with new attorneys, there are many Canons of the North Carolina Code of Judicial Conduct which are problematic with service as a mentor to new attorneys. Canon 5G of the Code provides that a judge may not practice law, which would include providing legal advice to an attorney. The attorney could then use the judge's advice in the representation of a client, thereby creating a situation whereby a judge had indirectly provided legal advice to a litigant. It is reasonable to anticipate that the attorney would inform his client that the attorney had consulted with the judge in an effort to boost the attorney's credibility or allay his client's apprehension. The mentoring conduct would then violate Canon 2B of the Code which provides that a judge may not lend the prestige of his/her judicial office to promote the private interests of others nor convey or permit others to convey the impression that they are in a special position to influence a judge. Participation in the mentor program will also raise disqualification issues under Canon 3C(1) of the Code for the judge in matters in which the

mentee attorney appears as counsel of record. Canon 2A of the Code requires conduct which promotes public confidence in the integrity and impartiality of the judiciary, while Canon 4 contains the proviso that a judge should not participate in quasi-judicial activities which cast substantial doubt on the judge's impartiality.

While judges should not participate as mentors in the NCBA mentorship program or otherwise serve as a mentor for an attorney, judges are strongly encouraged to mentor new judges and otherwise provide disinterested expert advice on the law upon the request of another judge. It should also be noted that Canons 4A and 5A of the Code provide that judges "may write, lecture, teach and speak on legal or non-legal subjects", however such activities are more appropriately suited for public or classroom venues.

References:

North Carolina Code of Judicial Conduct

Canon 2A

Canon 2B

Canon 3C(1)

Canon 4

Canon 5G