
ISSUE

May a judge serve as a “greeter” at an election polling place?

ANSWER

No.

FACTS

A municipal judge would like to work at the election polls as a “greeter” when he is not a candidate for election. He states he would not be an “election official.” He would engage in activities such as assisting voters in determining their proper voting district, directing them where to go if they need to register to vote, and giving them “I voted” stickers when they leave. He would not be in the room where voting is occurring and would not participate in any manner with handling or counting ballots after the election.

DISCUSSION

The Code of Judicial Conduct, SCR 60.05(3)(b) controls. That code provision states:

SCR 60.05. A judge shall so conduct the judge’s extra-judicial activities as to minimize the risk of conflict with judicial obligations.

....

(b) A judge may not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system or the administration of justice. A judge may represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities and may serve on a governmental or private committee, commission or board concerned with historical, educational or cultural activities. A judge may serve in any branch of military reserves and be called to duty in the active military.

In Opinion 05-2 of the Judicial Conduct Advisory Committee, we concluded that a judge could not serve as an election official because, among other reasons, under SCR 60.05(3)(b), the judge would impermissibly be serving in a governmental position “concerned with issues of fact ... on matters other than the improvement of the law, the

legal system or the administration of justice.” Although the judge here does not perceive himself as an “election official,” the activities he describes fall within the broad statutory definition of that term found in Wis. Stat. § 5.02(4e), and the reasoning we applied in Opinion 05-2 applies with equal weight here.

Wisconsin Stat. § 5.02(4e), defines “Election official” as “an individual who is charged with any duties relating to the conduct of an election.” A “greeter” is defined in Wis. Stat. § 7.30(1)(b), which provides: “Each municipality may appoint one additional inspector to serve at each polling place without regard to party affiliation who shall serve as a greeter to answer questions and to direct electors to the proper locations for registration and voting and who shall be available to substitute for other election officials who must leave the room during the voting process.”

The polling place duties described by the judge here show that he would like to act as a “greeter” who is, therefore, an “elected official” because the position is “charged with any duties relating to the conduct of an election.” Wis. Stat. § 5.02(4e). Moreover, because greeters “shall be available to substitute for other election officials,” Wis. Stat. § 7.30(1)(b), the judge would fall within the reasoning we applied in Opinion 05-2.


CONCLUSION

Because the duties the judge seeks to perform here are those of an “election official,” such service would violate SCR 60.05(3)(b).

APPLICABILITY

This opinion is advisory only. It is based on the specific facts and questions submitted by the petitioner to the Judicial Conduct Advisory Committee and is limited to questions arising under the Supreme Court Rules, Chapter 60, Code of Judicial Conduct. This opinion is not binding on the Wisconsin Judicial Commission or the Supreme Court in the exercise of their judicial disciplinary responsibilities. This opinion does not purport to address provisions of the Code of Ethics for Public Officials and Employees, Subchapter III of Ch. 19 of the statutes.

I hereby certify that this is Formal Opinion No. 08-1 issued by the Judicial Conduct Advisory Committee for the State of Wisconsin this 14th day of May, 2008.



Honorable George S. Curry
Chair