

**JEAC 1998-2**  
February 5, 1998

You have requested an opinion from the Judicial Ethics Advisory Committee (the "Committee") on whether you may serve on a committee of the church of which you are a member (the "committee"). The committee on which you have been asked to serve is being formed to collect some \$24,000 in tuition due the school operated by the church. You have been advised that while the committee will send letters to and thereafter meet with persons who are in arrears, the school will not initiate lawsuits against those persons who remain in arrears. For the following reasons, this Committee concludes that you should not serve on the committee.

Canon 5B(2) of the Delaware Judges' Code of Judicial Conduct (the "Code") provides that "[a] judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization..." Delaware Judges' Code of Judicial Conduct [hereinafter "Code"], Canon 5B(2) at 1118. As a member of the committee, you would be urging, by letter, and in the case of those persons who do not respond to the letter, by face-to-face meetings, persons who have not paid their tuition bills to pay them. Such conduct would be tantamount to solicitation by a judge, which is prohibited by Canon 5B(2). By virtue of your position as a judge, the persons whom you contact might be intimidated into paying their bills. Such coercion (real or perceived) on the part of a judge is what Canon 5B(2) is designed to preclude. *See* Shaman et al., *Judicial Conduct and Ethics* (2d ed. 1995) [hereinafter "Shaman"] § 9.06 at 289 (citations omitted).

Canon 5B(2) also provides that a judge should not "use or permit the use of the prestige of the judicial office" for the purpose of fundraising. Code, Canon 5B(2) at 1118. Canon 2B similarly provides that "[a] judge should not lend the prestige of the judicial office to advance the private interests of others..." Code, Canon 2B at 1111. By virtue of your position as a judge, your participation on the committee would permit the judicial office to be used for the purpose of dunning persons who have not met their financial obligations to the school. Such activity on the part of a judge could demean the judicial office. *See* Shaman, § 9.06 at 289-90.

This Committee therefore advises that you decline to serve on the committee.

FOR THE COMMITTEE:  
Alison Whitmer Tumas