

## **So You Want to Be A Judge CLE Q and A.**

- 1. Am I correct that a judicial candidate who is not raising or expending money, i.e., is unopposed, does not have to designate a treasurer when filing a certificate of candidacy?**

No, all candidates must designate a treasurer. W. Va. Code § 3-8-3.

Canon 4 of the Code of Judicial Conduct prevents judicial candidates from soliciting or accepting political contributions. However, judicial candidates who do not solicit or accept political contributions may serve as their own treasurer.

In such case the judicial candidate serving as treasurer for their own campaign is responsible for filing all reports due quarterly and 15 days before each election. Even if no campaign finances were raised or spent, candidates must still file a campaign finance report showing the financial activity or lack thereof. W. Va. Code § 3-8-5(b).

- 2. Does the Treasurer's time have to be reported as in kind?**

No. "A contribution does not include volunteer personal services without compensation." W. Va. Code R. § 146-3-2.8.3.

- 3. Can a candidate pay the Treasurer?**

Yes. Included in the express list of authorized expenditures is "payment for legal and accounting services rendered to a candidate or candidate committee if the services are solely related to the candidacy or campaign[.]" W. Va. Code § 3-8-9(a)(17).

- 4. If you raise no funds and use signs previously purchased through another election cycle are those reported?**

Yes, they should be reported as a transfer of assets from a previous committee account at the fair-market value. W. Va. Code §§ 3-8-1a(9)(B) and 3-8-5a(a)(3).

- 5. Does a purchase by the candidate for the use of the campaign get reported as in-kind?**

It depends. If purchased with personal funds directly (e.g. personal credit card), then it is reported as an in-kind contribution.

If a candidate desires to be reimbursed for the purchase, then the candidate should execute a simple loan agreement with the candidate's committee for the amount of the expenditure and make the purchase from the committee account. W. Va. Code § 3-8-5a(a)(5).

In the latter scenario, the loan should be reflected as such, and the purchase should be reflected the same as any other expenditure. At any time, the committee can raise funds

sufficient to cover the cost of the loan and repay the candidate in accordance with the agreement.

**6. Can your spouse be your treasurer?**

No. Spouses or those who reside in the same household as the judicial candidate cannot serve as the campaign treasurer.

**7. A candidate can't serve on your committee and you can't endorse or oppose a candidate, but can a candidate for office running in the same cycle endorse you?**

Yes. A candidate for a non-judicial office may endorse a judicial candidate.

**8. Does a judge have to disclose campaign fundraiser hosts?**

If the host is a lawyer who appears in front of the judge then the judge should disclose the fact that the lawyer has hosted a fundraiser for him/her and follow the appropriate trial court/family court/appellate court rules.

**9. As a judicial candidate may I serve on the board of a non-profit organization? As a judicial candidate may I support or seek donations on behalf of a non-profit organization?**

Judicial candidates may serve on the board of a non-profit organization but cannot seek donations on behalf of the organization. Judicial candidates cannot serve as treasurer for an organization and should not have their name listed on any paperwork seeking donations.

**10. Do you have to do a potential conflict announcement if an attorney is clearly undertaking public campaign activity with you but is not on your committee or does it only apply to committee members?**

You should do a disclosure even if an attorney is not on your committee but is undertaking public campaign activity on more than a de minimis level. For example, absent something more, you would not need to disclose if a lawyer put one of your campaign signs in his/her yard.

**11. Does the prohibition on family members serving on your committee apply to any family members other than spouse not living with the candidate?**

Adult family members who do not reside in the same household as the judicial candidate may serve as a campaign treasurer for a judicial candidate.

**12. Can your spouse donate at an event you are both attending?**

A spouse may donate if donation comes from his/her own account and not a joint account.

**13. As a judicial candidate, would I have to resign my position as a Fire Department Civil Service Commissioner?**

Generally, the JIC takes the position that if you are not yet a judicial officer you may continue to serve in your current position. While judicial officers are required to resign if they run for non-judicial office there is no such requirement pursuant to the Code of Judicial Conduct if a non-judicial office holder runs for judicial office. However, if you are elected you must resign the position prior to taking the oath of office as the West Virginia Constitution prevents judges from holding any other office elected or appointed from any other governmental entity while concurrently sitting as judge.

You should also be aware that W. Va. Code § 8-15-12 states in pertinent part that “No [fire civil service] commissioner shall hold any other office (other than the office of notary public) under the United States, this state or any municipality, county or other political subdivision thereof; nor shall any commissioner serve on any political committee *or take any active part in the management of any political campaign.*” W. Va. Code § 8-15-12 (emphasis added). Neither the JIC, Secretary of State’s Office, nor the Ethics Commission has authority to interpret this Code provision.

**14. This rule is confusing to me (the inability to post pics with other candidates for office) given that a candidate for public office can endorse you. Can you explain the difference? Does a disclaimer in the caption resolve the issue?**

While a candidate for another office may endorse you, judicial candidates can not endorse any other candidate for office. A judicial candidate posting a picture with another candidate creates the appearance, however wrong it may be, that the judicial candidate is endorsing another candidate for office. Since a picture is worth a thousand words, a disclaimer would not resolve the issue.

**15. Do you ever have to disclose in writing who is on your campaign committee?**

The Code of Judicial Conduct does not require disclosure in writing.

**16. So I can say "I'll apply the law equally" and also "I'll insure justice for all?"**

Yes.

**17. Is it permissible for me, as a judicial candidate, to advertise that I am a former elected prosecuting attorney?**

Judicial candidates may state where they worked as it explains their qualifications for office.

**18. How will credit for the seminar be given?**

The seminar has been approved for 3.2 hours in ethics. Lawyers may obtain credit by applying with the WV State Bar on its CLE page.

**19, Was the live webinar recorded? If so, is it available to watch again in the future?**

Yes. The webinar is located on the Court's You Tube Channel along with a copy of each presentation.