

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

March 5, 1985

The Judicial Inquiry Commission has considered your request for an opinion concerning whether, under the Alabama Canons of Judicial Ethics, a district court judge may serve as a member of the Superintendent's Advisory Council for the Fayette County Schools. The Advisory Council is a group of approximately 50 community leaders, parents of school children and others. The Superintendent of Education has appointed this group to advise her on school issues, likes and dislikes of the community and what these citizens see as the strong points and weak points of the school system. The Council serves as the Superintendent's way of gaining input from the community served by the Fayette County School System. It has no legal status and is advisory only.

The activity here in question is governed by Canon 5 and Canon 3C(l) of the Alabama Canons of Judicial Ethics. Canon 5 provides:

"A Judge Should Regulate His Extra-Judicial Activities To Minimize the Risk of Conflict with His Judicial Duties"

Canon 3C(l) provides in pertinent part:

"A judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned ..."

Together these Canons set the standard a judge should follow in accepting extra-judicial responsibilities. His judicial duties take precedence over other duties.

Therefore, it is the opinion of the Commission that a district court judge may serve as a member of the Superintendent's Advisory Council so long as such service does not conflict with the performance of his judicial duties. It must be noted that should the Council consider matters or issues which would ordinarily come before the judge's court, Canons 5 and 3C(l) would require that the judge immediately cease to participate as an Advisory Council member. Otherwise, the judge would be required to constantly recuse himself when these matters or issues come before his court.

Very truly yours,

JUDICIAL INQUIRY COMMISSION