

Wyoming Supreme Court Judicial Ethics Advisory Committee
Advisory Opinion 2014-04

Question Presented

Can the Supreme Court apply for publically available competitive grants from private foundations whose stated purpose is concerned with the public education of matters related to the law?

Response

The Committee answers yes to the question presented.

Factual Background

The Wyoming Supreme Court is initiating efforts to construct a Judicial Learning Center in the Supreme Court Building modeled after a similar center at the Colorado Supreme Court. The Center is intended to enhance the public's understanding of the role of the courts in society as well as highlight important events in Wyoming's legal history. The Wyoming Legislature has appropriated \$280,000 for the Center, once an equal amount of funding has been received by the Supreme Court from private sources.

The question presented to this Committee is in response to the JEAC Advisory Opinion 2014-03 in which this Committee concluded that the Supreme Court should not be directly involved in the solicitation of private donations for the Judicial Learning Center.

However, the Committee did advise that a third party intermediary, such as the Wyoming State Bar Foundation, could be involved in the direct solicitation of funds for the Center.

The Committee is now asked whether the Supreme Court can apply for publically available grants to help fund the Learning Center.

As an initial observation, the Committee is aware that some courts in Wyoming have, in the past, benefited from grants for construction projects or courthouse security from entities such as the Department of Homeland Security.

Applications for grants appear to the committee to be a mix of judicial and extra-judicial activities. Providing the public with a better understanding of the Wyoming Court

system and history is a very worthwhile judicial function, while applying for grants seems more extra-judicial in nature.

Rule 1.2 of the Judicial Code of Ethics provides:

A judge shall uphold and promote the independence, integrity and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.

Rule 2.4(B) provides that:

A judge shall not permit family, social, political, financial or other interests or relationships to influence the judge's judicial conduct or judgment.

Rule 3.1 states:

A judge may engage in extra-judicial activities, except as prohibited by law or this Code...

Discussion

This Committee has the following understanding regarding the proposed grants:

1. The potential grants are from reputable grantors which are governmental, charitable, or non-profit;
2. The grantors are very unlikely to become involved in the Wyoming Court system;
3. The grants are available, on a competitive basis, to the public;
4. The grant money would be used for educational purposes that would benefit the citizens of Wyoming and not be used for the legal decision making process of the Wyoming Supreme Court.

At the heart of the inquiry, is whether the application for such grants would undermine the Court's impartiality, integrity, independence, and public confidence. The Learning Center itself would likely enhance the public's understanding and confidence in the judicial system.

The Committee believes that the grants, in the context outlined above, would safeguard the Court's integrity. The available grants are not being solicited from persons or entities who might well be litigants before the Wyoming Court.

Rather, the grants are publically available by way of a competitive application process through governmental agencies, and reputable non-profit or charitable foundations that are highly unlikely to be involved in litigation.

Finally, the purpose of the grants would be for the benefit of the public and not for the Court's decision making responsibilities.

In summary, a review of the Code and its commentary does not reveal any prohibition against the application for monetary grants in the factual situation presented here.

Conclusion

The Committee recognizes that the Supreme Court would, on a case-by-case basis, need to make an assessment about whether any particular grantor might have some real potential to be a litigant in the Wyoming Court system, or otherwise, call into question the Court's integrity, independence, impartiality, or undermine the public's confidence.

The Committee concludes that applications by the Wyoming Supreme Court for grants, as set forth herein, would not violate the Code of Judicial Conduct.

FINALIZED AND EFFECTIVE this 16th day of September, 2014, by the Wyoming Supreme Court Judicial Ethics Advisory Committee.