



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

HON. JOSEPH A. ZAYAS
CHIEF ADMINISTRATIVE JUDGE

HON. NORMAN ST. GEORGE
FIRST DEPUTY CHIEF ADMINISTRATIVE JUDGE

DAVID NOCENTI
COUNSEL

MEMORANDUM

To: All Interested Persons

From: David Nocenti

Re: Request for Public Comment on a proposal to amend 22 NYCRR §§ 34.3 & 100.4 to permit judicial participation in charitable in-kind donation drives in courthouses

Date: November 4, 2024

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The Administrative Board of the Courts is seeking public comment on a proposal to amend 22 NYCRR §§ 34.3 & 100.4 to permit judicial participation in charitable in-kind donation drives in courthouses.

The proposed amendments are attached as Exhibit A.

The Rules of Judicial Conduct contain specific provisions prohibiting certain fundraising activities by judges. In particular, although a judge is permitted to serve as an officer, director, trustee or non-legal advisor of charitable and other similar organization, and even may assist such organization in planning fundraising, Section 100.4(C)(3)(b)(i) expressly states that judges “shall not personally participate in the solicitation of funds or other fund-raising activities.” Similarly, Section 100.4(C)(3)(b)(iv) provides that judges “shall not use or permit the use of the prestige of judicial office for fund-raising.”

The Advisory Committee on Judicial Ethics has consistently interpreted the above sections as prohibiting judicial participation in charitable in-kind donation drives in courthouses. *See* Advisory Opinions 94-58, 98-35, 03-137, 20-190 and 23-216.

However, there are times when other Unified Court System employees wish to organize in-kind charitable donation activities for children and families in need, such as toys drives, clothing drives, and the collection of nonperishable food items. The Administrative Board is now considering whether to amend the Rules of Judicial Conduct to permit judges to participate in these in-kind charitable donation drives.

In particular, the proposed amendments would authorize Administrative Judges or their designees to approve in-kind charitable donation drives in court facilities subject to certain restrictions, and make clear that the approval must “balance the interests between not endorsing or appearing to endorse any third-party entity and allowing court employees as a group to engage

in the community by contributing to individuals and groups in need.”

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Persons wishing to comment on the proposal should e-mail their submissions to rulecomments@nycourts.gov or write to: David Nocenti, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 10th Fl., New York, New York, 10004. Comments must be received no later than Friday, December 13, 2024.

All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.

EXHIBIT A

Proposed Amendments

Part 34 of the Rules of the Chief Judge is amended by adding a new Section 34.3 to read as follows (additions underscored):

§ 34.3 In-kind Charitable Drives

(a) In-kind charitable drives are permitted in courthouses or court facilities with the approval of the Administrative Judge or designee. Administrators must balance the interests between not endorsing or appearing to endorse any third-party entity and allowing court employees as a group to engage in the community by contributing to individuals and groups in need.

(b) Guidelines. Organizers of in-kind charitable drives should not:

1. disrupt court activities;
2. create an undue burden upon the resources of the courts;
3. detract from the dignity or decorum of the courthouse;
4. interfere with the performance of employees' jobs;
5. coerce subordinate employees to participate;
6. solicit cash donations;
7. solicit litigants, attorneys, and other court visitors or users.

Section 100.4(C)(3) of the Rules of the Chief Administrator is amended by adding a new subparagraph (c) to read as follows (additions underscored):

§ 100.4. A Judge Shall so Conduct the Judge's Extra-Judicial Activities as to Minimize the Risk of Conflict with Judicial Obligations

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(C) Governmental, Civic, or Charitable Activities.

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(3) A judge may be a member or serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable, cultural, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Part.

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(c) Notwithstanding the restrictions in (b)(i) and (b)(iv) above, in-kind charitable drives may be authorized in any courthouse pursuant to the provisions of Section 34.3 of the Rules of the Chief Judge.