

**JUDICIAL ETHICS COMMITTEE**  
**Advisory Opinion 09-4**  
**Issued November 25, 2009**

Issue

A Probate Judge has inquired as to the present applicability of Advisory Opinion 97-3, issued October 14, 1997. The issue in Opinion 97-3 was whether a judge may act as a cashier at a used book sale held to benefit a non-profit library or at a food stand operated by a charitable organization.

Statement of Facts

The Ethics Committee applying the then existing Code of Judicial Conduct responded that the suggested activity was a violation of the then existing Code.

Applicable Provisions

The Supreme Judicial Court in Docket No. SJC-112-A amended the Maine Code of Judicial Conduct, effective July 1, 2005. The pertinent provisions of the Amendment are as follows:

Canon 4(C)(3)(b):

(b) A judge as an officer, director, trustee or non-legal advisor, or as a member or otherwise:

(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities, except that a judge may: (a) solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority; (b) be listed as an officer, director, or trustee of such an organization on its fund-raising letters, but may not sign that letter or be listed as a judge or as honorable; and (c) work at a fund-raising event so long as the judge's participation could not reasonably be perceived by others as directly soliciting funds.

### Discussion

As we understand the Amendment effective July 1, 2005, it was intended in part at least to allow judicial officers to work at fund-raising events so long as the judge's participation could not reasonably be perceived by others as directly soliciting funds.

Thus, if the issues presented in Opinion No. 97-3 were presented today; namely, whether a judge may act as a cashier at a used book sale held to benefit a non-profit library or at a food stand operated by a charitable organization, the Judicial Ethics Committee would apply the new standard and approve the activity.

### Conclusion

In view of the 2005 Amendment to the Code, and thus a change in the legal standard to be applied, Advisory Opinion 97-3 has no continuing validity.