

ETHICS ADVISORY COMMITTEE

STATE OF NORTH DAKOTA

OPINION 92-1

ISSUE

May a judge serve as a reference?

ANSWER

Rule 2 of the North Dakota Rules of Judicial Conduct specifies that "[a] judge shall not lend the prestige of the judicial office to advance the private interests of others." N.D.R. of Jud. Conduct Rule 2. Accordingly, if a reference letter will be used to promote a person's political career, business, or other personal interests, it is impermissible under Rule 2 of the North Dakota Rules of Judicial Conduct. However, a judge may serve as a reference for prior employees, family members, and other persons of whom the judge has close personal knowledge. A judge who writes a reference letter for one of these persons should consider the following suggestions.

- limit distribution of the letter to the specific addressee;
- limit the scope of the letter so that it narrowly addresses the purpose of the request;
- state that the letter is "unofficial" or "personal" and avoid using office stationery unless writing an employment reference for court personnel;
- avoid using the phrase "letter of recommendation";
- include a disclaimer in a letter such as: "This letter is not intended as an endorsement of the private or political interests of [Name].";
- do not write a letter for someone who is involved in a legal proceeding unless the court or other decision-making body specifically requests information;
- do not write a letter for an attorney who is being disciplined unless requested by the disciplinary board to do so;
- unless specifically requested to do so, do not write a reference letter concerning a judicial candidate to the North Dakota Judicial Nominating Committee or to the appointing authority.