

South Dakota
Special Committee
on Judicial Election
Campaign
Intervention

500 East Capitol Avenue
Pierre, SD 57501-5070



Committee Members:

Retired Chief Justice
Robert A. Miller (Chair)
Pierre, South Dakota
Retired Circuit Judge
Rodney Steele (Vice-Chair)
Brookings, South Dakota
Honorable Harvey Wollman
Frankfort, South Dakota
John Blackburn, Esq.
Yankton, South Dakota
Professor Christine Hutton
Vermillion, South Dakota
Arlene Ham-Burr
Rapid City, South Dakota
Dr. Robert Burns
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Bob H. Miller
Pierre, South Dakota
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General Legal Counsel:

Greg Sattizahn, Esq.
Pierre, South Dakota

Suzanne Kappes, Esq.
Pierre, South Dakota

January 7, 2013

OPINION #14-01

Dear [REDACTED]:

You have requested an advisory opinion from the Special Committee on Judicial Election Campaign Intervention:

Whether a legislator in his fourth term as State Representative can campaign for a judicial position and continue his role as a state legislator.

The Committee answers in the affirmative.

The South Dakota Constitution provides, in part: “No judge . . . shall be a member of the Legislature[.]” SD Const. Art. 3, § 3. Presuming that you choose to become a candidate for a judicial position, this provision would not prohibit you from campaigning for judicial office while simultaneously holding the position as State Representative. Notably, a successful candidate would also be precluded from serving as a judicial officer and a member of the legislature simultaneously. See SD Const. Art. 26, § 19.

The Committee would also encourage you to review Canon 5 of the Code of Judicial Conduct concerning permissible campaign conduct in order to ensure the integrity, impartiality and independence of the judiciary.

With this letter, the Committee considers this matter concluded and has elected to treat this as a formal opinion. This opinion, however, is advisory in nature and should be regarded as such.

For the Committee,

A handwritten signature in black ink, appearing to read 'R. Miller'.

Robert A. Miller, Retired Chief Justice
Committee Chair

The Committee is a non-partisan group dedicated to preserving the dignity and integrity of this state’s judicial system. We believe judicial candidates should aspire to the highest ethical standards to promote public trust and confidence in the fairness and impartiality of this state’s courts. We do not endorse candidates, and this opinion is not intended to announce support for, or opposition to, any candidate. Instead, we strive to educate the candidates, the media, and the public about judicial campaign conduct.