



JUDICIAL INVESTIGATION COMMISSION

WV Judicial Tower - Suite 700 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169

June 6, 2023

Re: JIC Advisory Opinion 2023-14

Dear Judge :

Your request for a formal advisory opinion was recently reviewed by the Judicial Investigation Commission. You want to know if you may be a member of the County Republican Club. You also want to know if your spouse can be a member of the County Republican Women's Club and, if so, whether she can be appointed to a committee. You also indicated that your spouse has been asked to participate in writing the organization's by-laws.

The County Republican Club is considered a political organization and is listed as such on its Facebook page. The Club "works closely with the County Executive Committee to promote and showcase Republican ideas and principles in [the] community. The Club seeks to "increase the number of registered Republicans" in the County; "encourage worthy Republicans to become candidates for public office; and encourage greater voter participation in the election process, participate in the political education of Club members to broaden understanding of Republican aims in government, [and to] identify and develop conservative leaders." The County Republican Women's Club appears to be an offshoot of the County Republican Club. Its mission is to "promote the principles and philosophy of the Republican Party and increase the number of women in political office."

In JIC Advisory Opinion 2012-07, the Commission advised a candidate for magistrate that she would immediately have to resign her membership in the County Federation of Democratic Women. In JIC Advisory Opinion 2011-03, the Commission

informed a judge that his wife should not become an officer of the County Democratic Women's Club. We see no reason to change our position on this matter.

Canon 4 of the Code of Judicial Conduct governs the political activity of judicial officers and candidates. Rule 4.1(A)(1) provides that "a judge or a judicial candidate shall not act as a leader in or hold an office in a political organization." The term "political organization" denotes "a political party or other group, the principal purpose of which is to further the election or appointment of candidates to political office."

Rule 4.1(A)(3) provides that a judge or judicial candidate shall not publicly endorse or oppose a candidate for any public office. Rule 4.1(A)(4) states that "a judge or a judicial candidate shall not solicit funds for a political organization or candidate." Meanwhile, Rule 4.1(B) states that "a judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate any activities prohibited under paragraph (A)."

Rule 4.2(A)(1) states that "a judge or a candidate shall act at all times in a manner consistent with the independence, integrity and impartiality of the judiciary." Rule 4.2(A)(4) provides that a judge or candidate shall "take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities, other than those described in Rule 4.4, that the candidate is prohibited from doing by Rule 4.1. . . ."

Rule 3.7 governs a judicial officer's involvement in civic activities and provides in pertinent part:

- (A) Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system or the administration of justice and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities. . . .
 - (3) soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity, but only if the organization or entity is concerned with the law, the legal system or the administration of justice;
 - (4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an

even of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system or the administration of justice; . . .

Rule 3.1(C) states that “[a] judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not participate in activities that would appear to a reasonable person to undermine the judge’s independence, integrity or impartiality.”

Based upon the foregoing, neither your spouse nor you should join the County Republic Club or County Women’s Republican Club. The Clubs clearly meet the definition of "political organization." Moreover, the Code of Judicial Conduct provisions set forth above are in direct conflict with the stated purpose of the two Clubs. Judicial elections are non-partisan in West Virginia. While judges and judicial candidates can maintain their party affiliation and vote their preference, they must remain neutral and detached in the eyes of the public. Therefore, the Commission is of the opinion that your wife and you should refrain from joining those organizations.

The Commission hopes that this opinion fully addresses the issues which you have raised. Please do not hesitate to contact the Commission should you have any questions, comments or concerns.

Sincerely,



Alan D. Moats, Chairperson
Judicial Investigation Commission

ADM/tat