



**JUDICIAL INVESTIGATION COMMISSION**

City Center East - Suite 1200 A  
4700 MacCorkle Ave., SE  
Charleston, West Virginia 25304  
(304) 558-0169 • FAX (304) 558-0831

September 27, 2017

Re: JIC Advisory Opinion 2017-20.

Dear Magistrate :

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: You would like to seek outside employment as a substitute teacher in the same county in which you serve as Magistrate. Alternatively, you would like to seek employment as a substitute teacher in the neighboring counties of your judicial circuit. You stress that you will work as a substitute teacher only when you are not serving as Magistrate and you are not on-call. You submitted your request to the Administrative Director of the West Virginia Supreme Court and you advised that he denied your request. You want to know if the Code of Judicial Conduct allows you to work in either position as you continue to serve as a Magistrate.

Section 11.3 of the Personnel Manual of the Supreme Court of Appeals of West Virginia provides in pertinent part:

**11.3 Limitations on Outside Employment**

Employees are prohibited from engaging in any outside employment that may be construed as compromising or interfering with performance in a judicial-branch position. Before an employee may engage in outside employment for which he or she is paid, the candidate must submit a written request to the Administrative Director for review and approval. Requests by employees in the circuits must be accompanied by a recommendation from the supervising Circuit Judge. The Administrative Director or his designee must determine whether such employment entails a conflict of interest, an impropriety, or the appearance of impropriety.

Since the Administrative Director has denied your request for outside employment the questions presented are moot, and the Commission therefore declines to issue an opinion.

Nonetheless, whenever you consider taking on outside employment, you must also be cognizant at all times of Rules 2.1 and 31 of the Code of Judicial Conduct which state:

**Rule 2.1 Giving Precedence to the Duties of Judicial Office**

The duties of judicial office, as prescribed by law, shall take precedence over all of a judge's personal and extrajudicial activities.

**Rule 3.1 Extrajudicial Activities in General**

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:

- (A) participate in activities that will interfere with the proper performance of the judge's judicial duties;
- (B) participate in activities that will lead to frequent disqualification of the judge;
- (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity or impartiality;
- (D) engage in conduct that would appear to a reasonable person to be coercive; or
- (E) make use of court premises, staff, stationary, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

If there is any further question regarding this matter do not hesitate to contact the Commission.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ronald E. Wilson', with a stylized flourish at the end.

Ronald E. Wilson, Chairperson  
Judicial Investigation Commission

REW/bjl