



**JUDICIAL INVESTIGATION COMMISSION**

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

April 3, 2018

Re: JIC Advisory Opinion 2018-06.

Dear

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 are a sitting judge in your circuit having been recently appointed by the governor to your position. You are running for the seat in the May 2018 election. You want to know if you can attend an elimination dinner which raises funds for the Community Alternatives to Violence Program in the Eastern Panhandle. The organization offers a treatment program for men and women who are convicted of domestic violence. The program is often ordered by judges in abuse and neglect cases or as a term of probation in domestic violence convictions.

To address the questions, the Commission has reviewed Rules 1.2, 3.1(C), 3.7(A)(4), and 4.2(A)(1) of the Code of Judicial Conduct which provide:

**Rule 1.2 Confidence in the Judiciary**

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

### **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:

- (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;

### **Rule 3.7 – Participation in Educational, Religious, Charitable, Fraternal or Civic Organizations and Activities**

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

(emphasis added).

### **Rule 4.2 -- Political and Campaign Activities of Judicial Candidates in Public Elections**

- (A) A judge or candidate subject to public election shall:
  - (1) act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary;

In JIC Advisory Opinion 2016-15, the Commission told a family court judge in your jurisdiction that he/she could not serve as a keynote speaker at a luncheon given by the same organization since it would violate Rules 1.2, 3.1(C) and 3.7(A)(4) because the group only represented one interest in a particular area of law and its members could appear before the judge on a recurrent basis. This decision is consistent with another advisory opinion issued on January 12, 2000, in which the Commission informed a judge running for judicial office that he or she

could attend an elimination dinner unless it was "sponsored by an organization which appears regularly before the judge or any court."

Based upon the foregoing, a majority of the Commission is of the opinion that you cannot attend the luncheon sponsored by the Community Alternatives to Violence program. If there is any further question regarding this matter do not hesitate to contact the Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald E. Wilson", written in a cursive style.

Ronald E. Wilson, Chairperson  
Judicial Investigation Commission

REW/tat