



JUDICIAL INVESTIGATION COMMISSION

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

June 3, 2019

Re: JIC Advisory Opinion 2019-14

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 were recently appointed to serve as Magistrate. Prior to taking the position, you would occasionally teach National Rifle Association ("NRA") handgun safety classes in your area so that members of the public can obtain their concealed carry permit. You want to know if you can continue to serve as an NRA safety instructor. The classes occur a "few times" a year. They usually take place on the weekends at such places as local gun shops or fire departments. You do not teach law enforcement – just civilians. The class sizes are usually between ten (10) and fifteen (15) individuals, and the members pay you for the training.

To address your question, the Commission has reviewed Rules 3.1(A), (B) and (C), 3.12 and 3.15(A)(1), (B) and (C) of the Code of Judicial Conduct which state:

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; . . .

Rule 3.12 – Compensation for Extrajudicial Activities

A judge may accept reasonable compensation for extrajudicial activities permitted by this Code or other law unless such acceptance would appear to a reasonable person to undermine the judge's independence, integrity or impartiality.

Rule 3.15 – Reporting Requirements

- (A) A judge shall publicly report the amount or value of:
 - (1) Compensation received for extrajudicial activities as permitted by Rule 3.12; . . .
- (B) When public reporting is required by paragraph (A), a judge shall report the date, place, and nature of the activity for which the judge received any compensation
- (C) The public report required by paragraph (A) shall be made annually by July 1 for the preceding calendar year, and must be filed as a public document in the office of the Clerk of the Supreme Court of Appeals.

Based upon the foregoing, the Commission is of the opinion that you may continue to teach the NRA handgun safety classes as long as they do not interfere with your position as a magistrate. You should screen potential students for cases currently pending in your courtroom and voluntarily recuse yourself from presiding over those matters whenever appropriate. Lastly, you should follow the reporting requirements of Rule 3.15 and list the trainings on your annual financial disclosure statements.

It is hoped that this opinion fully addresses the issues which you have raised. Please do not hesitate to contact the Commission if you have any other questions regarding this matter.

Sincerely,



The Honorable Alan D. Moats, Chairperson
Judicial Investigation Commission