



JUDICIAL INVESTIGATION COMMISSION

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

December 18, 2019

Re: JIC Advisory Opinion 2019-27

Dear Judge :

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:

The Greater Kanawha Valley Foundation's Advisory Group ("TGKVF") is the largest community foundation in Central Appalachia and funds initiatives in education, health, community economic development, basic needs and arts and culture. The group has recently established a partnership with the Chan Zuckerberg Foundation to fund criminal justice reform initiatives in West Virginia. This is a new priority area for TGKVF and to ensure that they "have the best minds around the table assisting [them] in making critical funding decisions," they are establishing the Justice Advisory Group. One of the key responsibilities of the group is to "review digital grant application packages submitted quarterly" and to "make funding recommendations to the distribution committee." TGKVF has asked you to serve as an *ex officio* member of the Justice Advisory Group. You want to know whether you can serve in that capacity.

To address your question the Commission has reviewed Rule 3.7(A)(6) of the Code of Judicial Conduct which states:

- (A) Subject to the requirements of rule 3.1, a judge may participate in activities sponsored by organizations or government 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:

- (6) serving as an officer, director, trustee, or **nonlegal advisor** of such an organization or entity, unless it is likely that the organization or entity:
 - (a) will be engaged in proceedings that would ordinarily come before the judge; or
 - (b) will frequently be engaged in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction or the court of which a judge is a member.

(emphasis added).

Based upon the foregoing, the Commission is of the opinion that you may serve as an *ex officio* member of the group since you would be functioning as a nonlegal advisor and you would not be voting on any grant applications, etc. The Commission also wishes to remind you that from time to time you may wish to reconsider your position with the group if it becomes likely that your participation will result in disqualification from cases.

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