



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
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Charleston, West Virginia 25304
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April 13, 2020

Re: JIC Advisory Opinion 2020-12.

Dear Administrative Director :

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The factual scenario giving rise to the request is as follows:

You want to know if an administrative assistant in a county probation office can serve as a poll worker in the June 2019 election. Circuit Judges are responsible for hiring probation employees. Probation employees serve at the will and pleasure of the Circuit Judges even though the Chief Probation Officer and a Deputy Chief Probation Officer provide day to day supervision.

A person must meet several requirements in order to operate as a poll worker including "be a registered voter" of the county in which they serve. Poll workers are nominated by the county executive committee for each of the two major political parties in the county by a majority vote at a duly called meeting. The executive committee must file in writing a list of all nominated persons and the positions they are nominated for to the appointing body, which is the County Commission. The County Commission appoints the poll workers no later than 49 days before the election. *See generally* W. Va. Code §§ 3-1-28, 29 and 30.

To address the question which you have raised, the Commission has reviewed Rules 1.2, 2.12(A) and 3.4 of the Code of Judicial Conduct. Rule 1.2 states that "[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 3.4 provides that “[a] a judge shall not accept appointment to a governmental committee, board, commission or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice.” This provision is consistent with W. Va. Const., Art. VIII § 7 which provides that “[n]o justice, judge or magistrate shall hold any other office, or accept any appointment or public trust, under this or any other government. . .” Meanwhile, Rule 2.12(A) of the Code states that “[a] judge shall require court staff, court officials and others subject to the judge’s direction and control to act in a manner consistent with the judge’s obligations under this Code.”

Based upon the foregoing, the Commission is of the opinion that an administrative assistant in a county probation office shall not concurrently serve as a poll worker in any election. It is hoped that this opinion fully addresses the issue raised by you. If there is any further question regarding this matter do not hesitate to contact the Commission.

Sincerely,



Alan D. Moats, Chairperson
Judicial Investigation Commission

ADM/tat