



## JUDICIAL INVESTIGATION COMMISSION

WV Judicial Tower - Suite 700 A  
4700 MacCorkle Ave., SE  
Charleston, West Virginia 25304  
(304) 558-0169

April 20, 2026

via: email

Re: JIC Advisory Opinion 2026-02

Dear Judge :

Your request for an advisory opinion to Counsel was reviewed by the Judicial Investigation Commission. You are a senior status family court judge and are currently handling a long-term assignment. You want to know if you can continue to serve as a senior status family court judge, a mediator of domestic cases in counties where you will not be presiding and a guardian ad litem in abuse and neglect cases in any county in this state.

To address your questions, the Commission has reviewed Application II(B) and (D) of the Code of Judicial Conduct and the Administrative Order pertaining to the Amended Rule on Judicial Officers Admitted to Senior Status signed by the Honorable William R. Wooton, Chief Justice of the Supreme Court of Appeals of West Virginia:

### **Application II: Retired Judges**

(B) A retired judge admitted to senior status but who engages in limited law practice is not required to comply with Rule 3.8.

....

(D) A retired judge, whether or not admitted to senior status and whether or not engaging in law practice, may be employed as a mediator or an arbitrator notwithstanding the provisions of Rule 3.9

## **Administrative Order**

(a) Eligibility

...

(2) Practice of Law

- C. Engagement in a limited law practice (e.g., no association with a law firm, except if employed as “of counsel” or “special counsel,” or part-time law practice) shall not disqualify a retired judicial officer from eligibility for senior status for those eligible for senior status pursuant to subsection (a)(1)(B) and (C) hearing. However, a retired judicial officer admitted to senior status shall be disqualified from assignment to duty in any circuit or county where they engage in practice, or from any matter in which the law firm in which they are employed as “of counsel” or “special counsel” is involved or has participated. For purposes of this rule, the terms “of counsel” or “special counsel” shall mean employment by a law firm that does not include (1) any partnership interest in the firm; (2) appearance before *any* tribunal representing any client of the firm; (3) work in the firm on a full-time basis; and (4) a salary equivalent to or greater than any partner in the firm.
- D. Engagement in mediation or arbitration shall not disqualify a retired judicial officer from eligibility for senior status in accordance with Application II(D) of the Code of Judicial Conduct.

Based upon the foregoing, the Commission holds that you may engage in mediation as long as it is not occurring in a county in which you are serving as a senior status family court judge and that you take care not to serve as a mediator in any cases that you may have handled as a senior status judge. The Commission is also of the opinion that you may also serve as a guardian as long as it is done on a part-time basis, you have an active law license, and you are not practicing in any “circuit or county where you serve as a senior status family court judge. Again, you should also take care not to serve as a guardian in any case arising from a family matter that you handled as a senior

status judge or serve as a senior status family court judge in any matter that you may have handled as a guardian.

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

ADM/tat