

ADVISORY COMMITTEE
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 5 - 2018

RE: Propriety of a full-time magistrate judge serving on the board of trustees for a children's home.

FACTS

A full time magistrate has inquired about the propriety of serving on the board of trustees of a church-sponsored children's home. The children's home provides residential housing, education, counseling, medical care, and spiritual enrichment for children aged four to eighteen. The trustees are responsible for overseeing the work of the home. There are various committees that review the work and make recommendations (Finance, Building Maintenance, Governance, etc.). The trustees meet four times a year, including one overnight retreat, in which goals and objectives for the year are set. Trustees serve four-year terms and may serve up to eight years consecutively. It does not appear that trustees are required to participate in fundraising.

CONCLUSION

A full-time magistrate judge may serve as a member of the board of trustees for a church-based children's home, provided the judge/trustee is not required to personally participate in fundraising.

OPINION

A judge may serve as an officer, director, trustee or non-legal advisor of an educational, religious, charitable, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code. Rule 501. Canon 4C(3), SCACR. "A judge as an officer, director, trustee or non-legal advisor, or as a member or otherwise may assist such an organization in planning fund-raising and may participate in the management and

investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund- raising activities." Rule 501, Canon 4C(3)(b)(I), SCACR. A judge must not engage in direct, individual solicitation of funds or membership in person, in writing or by telephone. Rule 501, Canon 4(C)(3)(b) Commentary, SCACR. Solicitation of funds for an organization involves the danger that the person solicited will feel obligated to respond favorably to the solicitor if the solicitor is in a position of influence or control. Id. Furthermore, a judge must not serve as an officer or director of a charitable organization that will be regularly engaged in proceedings that would come before the judge. Canon 4C(3)(a).

According to the facts here, it does not appear that the duties of a trustee include fund-raising, only the planning and management of the funds as permitted by the Canons. In addition, it does not seem likely that the children's home would regularly appear in proceedings before the magistrate's court. Thus, the judge may accept the nomination to be a trustee on the board of a church-based children's home.

S/ LETITIA H. VERDIN
LETITIA H. VERDIN, CHAIR

S/ USHA JEFFERIES BRIDGES
USHA JEFFERIES BRIDGES

S/ KEITH M. BABCOCK
KEITH M. BABCOCK

February 23, 2018.