

ADVISORY OPINION 98-36

September 3, 1998

RE: May attorney volunteer as a trial commissioner?

DECISION: Yes, as long as attorney does not use influence to benefit himself privately.

This opinion is in response to your August 11, 1998, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September 3, 1998, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. The Kentucky Supreme Court recently proposed changes in the handling of complaints against attorneys and disciplinary actions. Part of the plan includes a review by a trial commissioner who would determine if there is a basis for the complaint. It is your understanding that the position is voluntary and there is no payment other than travel expenses. The trial commissioner would not hear cases coming from his or her own judicial district. You ask whether an attorney for the state may volunteer to serve as a trial commissioner.

KRS 11A.020(1)(a) provides:

(1) No public servant, by himself or through others, shall knowingly:

(a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;

...

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

In Advisory Opinion 98-34 (a copy of which is enclosed), the Commission stated that volunteer activities are not prohibited under the Code of Ethics provided the volunteer activity does not present a conflict with the employee's official duties. Specifically, an attorney is not prohibited from volunteering to serve as a trial commissioner provided he does not use his influence in his official position to benefit himself privately.

Enclosures: AO 98-34