Maryland Judicial Ethics Committee

Opinion Request Number: 1986-03

Date of Issue: May 14, 1986

■ Published Opinion ☐ Unpublished Opinion ☐ Unpublished Letter of Advice

Master Who Is Granted Leave of Absence Is Subject to Standard XXII, Prohibiting Partisan Political Activity

A master subject to the Code of Conduct promulgated under Md. Rule 1232 informed us that the master's spouse is a candidate for elective office and asked whether it would be proper for the master to accompany the spouse to political events or to campaign on behalf of the spouse. In [Opinion Request No. 1986-02 (unpublished)], we replied in the negative, relying on Standard XXII and our earlier [Opinion Request No. 1979-01] (Jan. 31, 1979). The master now asks whether the ruling "would preclude the Circuit Court ... from granting me a leave of absence, without pay, in order that I can engage in partisan activities for my spouse."

We think it necessary to change the focus of the question. Whether a master can be, or should be, given a "leave of absence" with or without pay is not a matter within this Committee's competence. That is an administrative, not an ethical, question, to be determined by the Circuit Court. The issue is whether the master can properly avoid the strictures of Standard XXII by taking a temporary leave of absence, which presumably would end when the spouse's campaign ends. We do not believe so.

Standard XXII is premised on the concern that "suspicion of being warped by political bias will attach to full-time appointees ... to whom this Standard expressly applies, who become the active promoters of the interests of one political party as against another." That same concern would naturally be evident where the appointee actively promotes the interests of a political candidate, including a spouse. Although nothing is said in Standard XXII about leaves of absence or resignation, we note that the subject is dealt with in Standard XXIV, which prohibits masters and appointees from becoming candidates themselves for political office. That Standard states:

> "If such full-time appointee should decide to become a candidate for any office not judicial, he should resign in order that it cannot be said that he is using the power or prestige of his position to promote his own candidacy or the success of his party." (Emphasis added.)

As these two standards are based on the same concern that judicial appointees be free from even the appearance of partiality due to political bias, we think that the remedy stated in Standard XXIV should also be applicable to Standard XXII. A temporary leave of absence, paid or unpaid, simply will not suffice, in our judgment, to allay the concern expressed in Standard XXII. Accordingly, we think that, if the master chooses to become actively involved in the spouse's campaign, the master should resign.