

West Virginia Ethics Commission

2017 Annual Report



West Virginia Ethics Commission
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Duties of the Ethics Commission

The Ethics Commission interprets and enforces the West Virginia Governmental Ethics Act. The purpose of the Act is to preserve the public's confidence in the integrity and impartiality of governmental actions. The Commission also interprets the Open Governmental Meetings Act (W. Va. Code § 6-9A-1 through 6-9A-12); W. Va. Code § 61-10-15, a criminal misdemeanor statute, and W. Va. Code §18-5-1a(a) and (b) relating to eligibility to serve on a county school board.

The Commission enforces the Ethics Act's prohibitions through the Verified Complaint and Initiated Complaint processes; administers lobbyist registration and reporting provisions; publishes an annual Lobbyist Directory; renders formal Advisory Opinions on the meaning and application of the Ethics Act and the Open Governmental Meetings Act; issues formal Advisory Opinions to county school board members and candidates for those boards regarding other elected or appointed positions potentially barring their service; administers the Code of Conduct for State Administrative Law Judges; processes Financial Disclosure Statements, and advises and educates public employees and officials and members of the public regarding the Ethics Act and the Open Governmental Meetings Act. The Commission also grants exemptions from the employment and contract prohibitions in the Ethics Act.

All Complaints are considered by the three-member Probable Cause Review Board, which is an autonomous board not under the direction or control of the Ethics Commission. The Review Board reviews Complaints filed with or initiated by the Ethics Commission to make a threshold determination of whether probable cause exists to believe that a violation of the Ethics Act has occurred.

Commission Members

The members of the West Virginia Ethics Commission are appointed by the Governor with the advice and consent of the Senate. W. Va. Code § 6B-2-1(a). Members as of December 31, 2017, are:

Robert J. Wolfe, Chairperson
Man, WV

Lynn Davis
Wellsburg, WV

Karen Disibbio
Bluefield, WV

Robert Harman
Keyser, WV

Betty Ireland
Charleston, WV

Suzan Singleton
Moundsville, WV

Larry Tweel
Huntington, WV

Terry Walker
Kearneysville, WV

Monté Williams
Morgantown, WV

Probable Cause Review Board Members

The members of the Probable Cause Review Board are appointed by the Governor with the advice and consent of the Senate. Members as of December 31, 2017, are:

James E. Shepherd, II, Chairperson
Huntington, WV

Daniel J. Guida
Weirton, WV

Michael A. Kawash
Charleston, WV

Staff

The staff of the Ethics Commission consists of the Executive Director, two full-time attorneys, two part-time attorneys and two full-time administrative assistants.

Rebecca L. Stepto
Executive Director

Derek A. Knopp
Staff Attorney

Kimberly B. Weber
General Counsel

Teri Anderson
Lobbyist Registrar

Andrew R. Herrick
Staff Attorney

M. Ellen Briggs
Executive Assistant

Theresa M. Kirk
Staff Attorney

Budget

The Ethics Commission was allocated the following amounts from the General Revenue Fund for the following fiscal years:

2017-2018	\$ 687,840.00
2016-2017	\$ 691,813.00
2015-2016	\$ 706,575.00
2014-2015	\$ 720,725.26
2013-2014	\$ 757,879.32

Informal advice

Public servants may seek informal advice from the Ethics Commission staff by contacting the Commission or by sending an email to ethics@wv.gov. If staff is unable to answer a question based upon the language in the statute at issue (the Ethics Act, the Open Meetings Act or other statutes which the Commission has jurisdiction to interpret), a Commission Guideline or an Advisory Opinion, a new Advisory Opinion may be requested.

Following is a summary of the number of requests for informal written advice received by the Commission during the past five years:

Fiscal year	Written informal advice
2016-2017	475
2015-2016	512
2014-2015	448
2013-2014	542
2012-2013	507

Formal Opinions/Exemptions

The Ethics Commission issues formal Advisory Opinions which respond to questions relating to the application of the Ethics Act. It also issues Opinions regarding W. Va. Code § 61-10-15 (relating to county employees' interests in contracts) and regarding W. Va. Code § 18-5-1a (to county board of education members, members-elect and candidates for election to board regarding whether they may hold certain other positions and serve on a county board).

In addition, two of the Commission's Committees are authorized to issue Advisory Opinions. The Committee on Open Governmental Meetings issues Advisory Opinions which interpret the Open Governmental Meetings Act. The Committee on Standards of Conduct for State Administrative Law Judges issues Advisory Opinions regarding the Code of Conduct for Administrative Law Judges.

Following are five-year totals of formal Opinions issued regarding the Ethics Act, the Open Governmental Meetings Act, the ALJ Code of Conduct and county school board eligibility as well as formal Contract and Employment Exemptions granted or denied by the Commission during 2017.

Subject Matter	2013	2014	2015	2016	2017
Ethics	64	29	24	15	21
Open Meetings	4	6	3	3	2
ALJ Code of Conduct	0	0	0	0	0
Contract Exemptions	8	4	3	5	7
Employment Exemptions	24	22	18	48	34
Property Exemptions	0	0	0	0	1
School Board	0	4	0	0	1
TOTAL:	100	65	48	71	66

Ethics Act Advisory Opinions

AO 2017-02 County Commissioner

W. Va. Code § 61-10-15 prohibits county commissioner's company from becoming a subcontractor for supplies and materials for county parks and recreation commission and public service district projects.

AO 2017-03 State Agency Director

The state agency's directors and deputy directors are required to file Financial Disclosure Statements.

AO 2017-04 Candidate for County Commission

W. Va. Code § 61-10-15 prohibits the county commissioner from continuing to be employed by a public library to which the county commission provides funding. The commission's appropriation to the library constitutes approximately 7 percent of the library's budget which, for purposes of § 61-10-15, constitutes the exercise of voice, influence and control over the library's contracts.

AO 2017-05 Legislative Office Manager

The Requester would not violate the Act by having his agency join a purchasing cooperative even though it would result in a sales commission to the vendor's representative because the expectation of future benefits to the state provides an overriding public benefit sufficient to justify the private benefit to the sales representative.

AO 2017-06 Legislative Office Manager

The manager and employees of a legislative office are not required to file Financial Disclosure Statements pursuant to W. Va. Code § 6B-2-6(a)(3) because that provision describes positions only in the executive branch of state government. This Opinion overrules Advisory Opinion 1990-36.

AO 2017-07 Legislative Office Manager

Microsoft's Home Use Program "HUP" is not a prohibited gift or private gain to employees due to the following circumstances: HUP is offered to all eligible employees; HUP is not

offered to impair the impartiality of employees with the authority to determine whether to do business with Microsoft; HUP is made available to a large group of customers, and HUP adds no additional cost to the public agency.

AO 2017-08 State Agency Director

The state agency charged with providing health care benefits to public employees may contract with a private company to provide a wellness program that offers financial rewards to public employees.

AO 2017-09 Cabinet Secretary

No provision of the Act per se prohibits Requester from owning 20 percent of non-voting Class B stock in a health care consulting firm or from being the sole member of a limited liability company that owns the building leased by the health care consulting firm.

AO 2017-10 County Commissioner

The county commissioner's company may sell construction materials and supplies to county contractors to use on non-county projects.

AO 2017-11 County Commissioner

The county commissioner may not knowingly sell his products to contractors or subcontractors to use for county projects. The Requester's staff is not required to ask all customers what the final disposition of the materials purchased will be but, instead, the Requester must take reasonable precautions to ensure that his products are not sold to county contractors or subcontractors to use for county construction projects.

AO 2017-12 County Commissioner

Neither the Act nor W. Va. Code § 61-10-15 prohibits an employee or board member of a county parks board from being employed by the convention and visitor's bureau ("CVB") or serving on a CVB board even if the parks board provides some in-kind support to the CVB. The parks board member who is also employed by the CVB may not vote on the appropriations of money or the awarding of a contract to the CVB.

AO 2017-13 Mayor

The mayor's private business may participate as a vendor at a municipal association conference. He may be a speaker at the conference in his private capacity. He must instruct the association that it may not endorse his business or encourage participants to conduct business with his business. His public position may be referenced in biographical information and when he is introduced as a speaker.

AO 2017-14 County Commissioner

The county commissioner may vote on county contract with a contractor who is also a customer of the commissioner's construction supply business when the contractor does not use the commissioner's supplies on county projects because he lacks a prohibited financial interest in these county contracts.

AO 2017-15 Board of Education Member

W. Va. Code § 61-10-15 prohibits a board of education member from contracting with a business that leases commercial property from a company owned by the board of education member's spouse.

AO 2017-16 State Agency

The state agency's yearly publication is "educational material" under the Act's name and likeness provisions. The publication is not a "report required to be issued by law" because it is disseminated to the public rather than submitted to a reporting authority. Therefore, the names and photographs of public officials, including the Governor and the agency's Director, Commissioners and Section Chiefs, may not appear in the publication.

AO 2017-17 A County Planning Commission Member

A county planning commission member may not attend public hearings before the planning commission on which he serves on projects with which he is associated. He may, however, pursuant to a specific exception in the Ethics Act and related Code provision, communicate with planning commission staff outside of meetings and public hearings regarding the projects.

AO 2017-18 A Cabinet Secretary

A Cabinet Secretary's former stock ownership interest in a consulting firm does not require him to remove himself from matters involving the firm or its clients. W. Va Code § 6B-2-5(h) does not prohibit a Cabinet Secretary's lease of real property to a firm which has or may have regulatory matters before his department as the lease predates his appointment to public office and is being continued under its original terms. He may not use his public office to unlawfully benefit the firm and must seek a Property Exemption from the Ethics Commission if he seeks to make a material change, such as a rent increase, to the terms of the lease.

AO 2017-19 County Planning Commission

Planning Commission members whose businesses use signs are not required to recuse themselves from matters related to the sign ordinance because they fall within a class of five or more similarly situated businesses that would not be uniquely affected by changes to the sign.

AO 2017-20 Municipal Police Officers

A municipal police chief may allow police officers to participate in a "Coffee with Cops" event held by a local fast-food restaurant where the purpose of the event is to promote community relations and outreach programs. Attending the event is not an improper endorsement of the restaurant because a reasonable citizen would not find that the officers were promoting the restaurant.

AO 2017-22 A State Agency

A part-time appointed state board member whose spouse has a finder's fee agreement with property owners applying for inclusion in the board's conservation easement program may serve on the board or one of its subcommittees, but must recuse himself from all board and subcommittee matters involving conservation easement applications. For recusal to be proper, he must disclose the nature of his spouse's financial interest in the contract and comply with the other recusal requirements in W. Va. Code § 6B-2-5(j) and related Legislative Rule governing interests in public contracts, W. Va. Code R. § 158-8-5 (2009). *Advisory Opinion 2017-22 overrules, in part, Advisory Opinions 2009-08 and 2011-18.*

AO 2017-24 A State Agency

A state agency may include a link on its website to its cyber liability insurance producer for the benefit of non-state entities. The agency must, however, allow equal access on its website to all producers for cyber liability insurance and include a disclaimer explicitly stating it is not endorsing the producer, any insurance carrier or its services or products.

Open Meetings Act Advisory Opinions

The Commission's Committee on Open Governmental Meetings issues written Advisory Opinions to governing bodies, or to its members, on whether an action or a proposed action violates the Open Meetings Act. The Commission issued two Open Meetings Act Advisory Opinions in 2017.

OMAO 2017-01 City Council members-elect

A gathering of city council members-elect does not constitute a governing body under the Open Meetings Act because the members-elect at the time of their meeting do not have the authority to make decisions for or recommendations to the city on policy or administration prior to taking the oath of office.

OMAO 2017-02 Statewide Interoperability Executive Committee

The Open Meetings Act applies to meetings of the Statewide Interoperability Executive Committee in the exercise of its supervision and implementation of the Statewide Interoperability Radio Network.

School Board Advisory Opinion

The Ethics Commission is authorized to issue written Advisory Opinions to county Board of Education members, members-elect and candidates for election to the board as to whether they may hold certain other positions and also serve on a county board under W. Va. Code § 18-5-1a. The Commission issued one School Board Advisory Opinion in 2017.

SBAO 2017-01 County Board of Education Member

The board of education member may apply to the county commission to fill a vacant seat on the commission without first resigning from the board. If appointed to the commission, the member would resign from the board of education.

Contract Exemptions

The Ethics Act prohibits elected public officials and full-time public employees from having a financial interest in certain contracts, purchases or sales over which their public position gives them control. The Commission has authority to grant a governmental entity an exemption from the Act's contract provisions.

The Commission granted or denied Contract Exemptions during 2017 in the following matters:

CE 2017-01 Clay County Commission

Granted an exemption authorizing the Clay County Commission to continue contracting with King's Wrecker Service for a period not to exceed one year. The exemption expires on March 2, 2018.

CE 2017-02 Putnam County Public Service District

Granted an exemption authorizing the Putnam County Public Service District to continue purchasing concrete replacement parts for manholes and wet-wells from Foster Supply in an amount not to exceed \$5,000 per fiscal year and to make other purchases in emergency situations in an amount not to exceed \$1,000 per fiscal year. The exemption expires on June 30, 2019.

CE 2017-04 Development Office and Tourism Office

Granted exemption to Development Office and Tourism Office, in an amount not to exceed \$5,000, for the cost of registration for its staff to attend the 2017 Business Summit of the West Virginia Chamber of Commerce at The Greenbrier. Blanket exemption for both entities to attend similar events at The Greenbrier in the future was denied.

CE 2017-05 Town of Reedsville

Granted exemption to contract with its Mayor's excavation and repair company for a street crowning and ditching project because the town had properly advertised for bids and received no responses from the general public.

CE 2017-06 Town of Fairview

Granted an exemption authorizing the Town to continue contracting on a temporary basis with its Mayor and a Council Member to work at the water plant and perform general maintenance through December 31, 2017. The payments from the Town to the Mayor and Council Member for the work may not exceed \$3,500 and \$3,000, respectively.

CE 2017-07 Hardy County Sheriff

Denied Sheriff's request for an exemption to purchase emergency lighting equipment for the Sheriff's Department's law enforcement vehicles from a deputy sheriff.

CE 2017-08 Hancock County Commission

Denied request for an exemption to allow its Sheriff's Department to use a car wash business owned by a county commissioner.

Property Exemption

A full-time public official or full-time public employee who would be adversely affected by the Ethics Act's prohibitions against purchasing, selling or leasing real or personal property to certain persons or entities may apply to the Ethics Commission for an exemption from the prohibition. The Commission issued one Property Exemption in 2017.

PE 2017-01 Jeff S. Sandy, Cabinet Secretary, Department of Military Affairs and Public Safety

Jeff S. Sandy may continue to lease the vehicle to Perry & Associates in accordance with the terms of the lease agreement and subject to the limitations imposed herein. The Ethics Commission also authorizes Sandy to sell the vehicle to the lessee in accordance with the terms of the lease agreement as the options to purchase are expressly part of the lease agreement.

Employment Exemptions granted

The Ethics Act prohibits full-time public servants from seeking or accepting employment from persons or businesses that they or their subordinates regulate, or from seeking or accepting employment from vendors if the public servant, or his or her subordinates, exercise authority or control over a public contract with that vendor.

Public servants may request an exemption from the Ethics Commission to seek employment with vendors or regulated persons with whom they or a subordinate exercise control at present or in the prior 12 months.

The following Employment Exemptions were granted during 2017:

- EE 2017-01** Harry J. Bergstrom, Deputy Cabinet Secretary/Deputy Commissioner, Division of Highways
- EE 2017-02** Edwin Clarkson, Technical Analyst, Public Service Commission
- EE 2017-03** Eric B. Hudnall, Department of Transportation, Division of Highways
- EE 2017-04** Patricia A. Hickman, Director of the Division of Land Restoration, Department of Environmental Protection
- EE 2017-05** William A. Youse, Technical Analyst, Public Service Commission

- EE 2017-06** James E. Rubenstein, Commissioner, Division of Corrections
- EE 2017-07** Michael J. Folio, Director of Legal Division, Department of Transportation, Division of Highways
- EE 2017-08** Timothy J. Keller, Environmental Inspector, Department of Environmental Protection
- EE 2017-09** Joseph E. Hager, II, Environmental Resources Analyst, Division of Mining and Reclamation, DEP
- EE 2017-10** David Tincher, Director, Purchasing Division
- EE 2017-11** Justin D. Butler, Division of Financial Institutions
- EE 2017-12** Phillip Williamson, Environmental Inspector, Department of Environmental Protection
- EE 2017-13** Willie Kyle Stollings, Director, WVDOH Maintenance Division
- EE 2017-14** Lisa A. McClung, Executive Assistant to the Cabinet Secretary, Department of Environmental Protection
- EE 2017-15** J. Leah Cooper, Director of Financial Conditions/Chief Financial Examiner, Office of Insurance Commissioner
- EE 2017-16** Elbert Lin, Solicitor General, Office of the Attorney General
- EE 2017-17** David L. Vande Linde, Permit Supervisor, Division of Mining and Reclamation, Department of Environmental Protection
- EE 2017-18** Douglas Boone, Environmental Inspector Specialist, Department of Environmental Protection
- EE 2017-19** Truman Sayre, Jr., Chief Administrative Law Judge, Unemployment Comp Board
- EE 2017-20** Jeremiah E. Carter, Environmental Inspector, Department of Environmental Protection
- EE 2017-21** Monica D. Miller, Community Development Manager, Development Office
- EE 2017-22** Joseph D. Garcia, Senior Counsel to Legislation and Policy, Office of the Governor
- EE 2017-23** Michael D. Lilly, Technical Division Head, Department of Transportation
- EE 2017-24** Jason Pizatella, Deputy Chief of Staff, Office of the Governor
- EE 2017-25** Thomas L. Clark, Associate Counsel, Department of Environmental Protection
- EE 2017-26** William Tucker, Administrator, Office of Miners' Health, Safety and Training
- EE 2017-27** Logan T. Dominick, Environmental Inspector-in-Training, Department of Environmental Protection
- EE 2017-28** Devin Michael Piraino, Transportation Engineering Technician Senior, Division of Highways
- EE 2017-29** Chuck Joseph, Environmental Inspector, Department of Environmental Protection
- EE 2017-30** Brian Skinner, Bureau General Counsel, Department of Health and Human Resources, Bureau for Public Health
- EE 2017-31** Rebecca Epperly, Project Manager, Engineering Division, Division of Highways

- EE 2017-32** Nicholas Payne, Environmental Resource Specialist III, Department of Environmental Protection, Division of Mining and Reclamation
- EE 2017-33** Jennifer J. Meeks, General Counsel, West Virginia Health Care Authority
- EE 2017-34** Lewis A. Halstead, Deputy Director, Division of Mining and Reclamation Department of Environmental Protection
- EE 2017-35** Harry O. Yates, Attorney II/Disclosure Officers, State Tax Department
- EE 2017-36** William E. Carper, Chief Investigator, Racing Commission
- EE 2017-37** Ali Sadeghian, Regional Design Engineer, Engineering Division, Division of Highways
- EE 2017-38** Jeffrey W. McLaughlin, Technical Analyst, Department of Environmental Protection, Office of Oil and Gas

Blind Trusts approved

The West Virginia Ethics Act contains provisions allowing public officials or employees to submit qualified blind trusts to the Ethics Commission for approval. Officials or employees with an approved trust need not report holdings, or income from holdings, which are included in the trust on their Financial Disclosure Statements filed with the Commission. In addition, provisions of the Ethics Act relating to certain public contracts do not apply to holdings which are assets in the trust.

The Ethics Commission approved the following qualified blind trusts during 2017:

BT 2017-01 H. Wood Thrasher

By Order entered February 2, 2017, the Commission found that the trustees and trust instrument submitted by H. Wood Thrasher met the conditions of W. Va. Code § 6B-2-8 and in accordance with this Code provision, approved the qualified blind trust of H. Wood Thrasher.

BT 2017-02 James C. Justice, II

By Order entered March 2, 2017, the Commission found that the trustee and trust instrument submitted by James C. Justice, II, met the conditions of W. Va. Code § 6B-2-8 and in accordance with this Code provision, approved the qualified blind trust of James C. Justice, II.

Enforcement

The Ethics Commission enforces the West Virginia Ethics Act through an administrative Complaint process. Anyone may file a Complaint, and the Commission itself may initiate Complaints against a person subject to the Ethics Act.

All Complaints are considered by the three-member Probable Cause Review Board, which initially determines whether the allegations in the Complaint, if taken as true, state

a material violation of the Ethics Act. Complaints which do state a material violation of the Act are investigated, and those that do not are dismissed.

Complaints which allege trivial or inconsequential violations or were filed outside of the statute of limitations are dismissed.

Public hearings are held in matters in which probable cause to believe that a violation of the Act has occurred. However, persons against whom Complaints are filed may enter into a settlement of the allegations through a Conciliation Agreement with the Commission.

Persons found to have violated the Ethics Act may be publicly reprimanded, fined up to \$5,000 per violation, ordered to pay restitution and/or ordered to reimburse the Commission for its costs of investigation and prosecution. The Commission also may recommend that the person be removed from office or that his or her employment be terminated.

Complaints

Calendar Year	Total Filed	Initiated by Commission (of Total Filed)	Dismissed without investigation	Investigated	Dismissed After Investigation (no probable cause found)	Resolved via Conciliation Agreement
2017	85	5	61	30	24	4
2016	108	0	58	49	54	7
2015	153	0	100	49	59	17
2014	143	14	68	68	64	7
2013	127	3	90	32	33	9

*Note that Complaints may not have been resolved in the year in which they were filed.

Public Hearing Results in 2017

VCRB 2016-116: Eric L. Hodges, Former Assessor of Wayne County

Eric L. Hodges used a state Purchasing card and a Wayne County Assessor's Office credit card for personal purchases and expenditures totaling \$14,137.156 and \$42,290.29, respectively. On June 1, 2017, following a public hearing conducted on March 21, 2017, the Ethics Commission ordered the following sanctions against Hodges: a public reprimand, a fine of \$10,000, reimbursement to the Commission in the amount of \$1,908.55 for the actual costs of prosecution, and training on the West Virginia Ethics Act before holding a public service position or employment in the future.

VCRB 2014-126: J. Michael Ihle, Former Mayor of the City of Ravenswood

J. Michael Ihle used public resources, a City-owned cellular phone and related service plan, to subsidize his 2014 election campaign to the West Virginia House of Delegates. The cost of the cellular phone and the unlimited plan to the City of Ravenswood from January 9, 2014, until November 8, 2014, was \$536.77. On August 3, 2017, following a public hearing conducted on April 26, 2017, the Ethics Commission ordered the following sanctions against Ihle: a public reprimand, a fine of \$536.77, reimbursement to the Commission in the amount of \$2,076.50 for the actual costs of prosecution, and training on the West Virginia Ethics Act before holding a public service position or employment in the future.

Conciliation Agreements Approved in 2017

Pre-Complaint: James E. Rubenstein, Commissioner of the Division of Corrections, and former Deputy Secretary, Department of Military Affairs and Public Safety

In February 2011, Rubenstein began using a two-room garage apartment pursuant to a verbal agreement with the property's owner, a limited liability company comprised of two members. One member of the limited liability company was also the owner and registered agent of another company which was a vendor to Rubenstein's agency. Per the verbal agreement, Rubenstein would live in the apartment without paying rent or utilities in exchange for furnishing the apartment. Rubenstein moved out of the apartment in November 2013, but still had access to the apartment agreeing to pay \$50 for each night he used the apartment. Rubenstein also requested and received reimbursement from the state for one night of personal hotel lodging expenses when he was unable to stay in the apartment due to frozen pipes.

W. Va. Code § 6B-2-5(b) prohibits the use of public office for private gain. W. Va. Code § 6B-2-5(c) prohibits public officials and employees from accepting gifts from any person who is doing or seeking to do business with his or her agency. W. Va. Code § 6B-2-5(h) prohibits full-time public officials and employees from leasing real property from any person who is a vendor to the agency where the official or employee exercises authority or control over a public contract with such vendor.

On February 2, 2017, the Ethics Commission entered an order approving a Conciliation Agreement whereby Rubenstein agreed to a public reprimand, to repay the state for the one-night hotel stay and to be fined in the amount of \$7,000.

VCRB 2016-015: Chris E. Jarrett, Executive Director, Water Development Authority

Jarrett stored at least 12 pieces of his personal furniture in an unfinished storage room in his agency's building. Jarrett's agency leased 8,305 square feet of space in the building to another state agency, which included use of the unfinished storage room. Jarrett's personal furniture included four large desks, large credenzas, chairs, a couch and a large conference table.

On June 1, 2017, the Ethics Commission entered an order approving a Conciliation Agreement whereby Jarrett agreed to a public reprimand, to pay restitution in the amount of \$2,500 to the lessee and to pay a fine of \$2,000.

VCRB 2016-040: Robert D. Herron, City Manager, City of Wheeling

Herron brought personally-owned vehicles to the city garage and asked a city mechanic to evaluate the vehicles for minor part installation and repair. The work was performed by the city mechanic during the mechanic's paid work time. Herron neither compensated the city mechanic nor the city for the work. The city mechanic previously repaired Herron's vehicles at the mechanic's private business on several occasions and was compensated by Herron.

W. Va. Code § 6B-2-5(b) prohibits the use of public office for private gain. W. Va. Code R. § 158-6-4.2 prohibits public officials and employees from using subordinate employees during work hours to perform private work or provide personal services for their benefit.

On February 2, 2017, the Ethics Commission entered an Order approving a Conciliation Agreement in which Herron agreed to pay a fine of \$500 and to complete training on the Ethics Act.

VCRB 2016-061: David Hopkins, Former Sheriff, Nicholas County

Hopkins sought re-election as Sheriff in 2016. His opponent was a former employee of the Sheriff's Office. As part of his campaign efforts and while using his cruiser and in uniform, Hopkins distributed copies of two physician's statements submitted by his opponent in support of sick leave requests while he was an employee. Hopkins made handwritten notations beside the physician's statements indicating that during the time his opponent was on sick leave, the opponent's wife had posted a picture of him at a resort and another function which showed that his opponent was not sick.

W. Va. Code § 6B-2-5(b) prohibits the use of public office for private gain. W. Va. Code § 6B-2-5(e) prohibits any present or former public official or employee from knowingly and improperly disclosing any confidential information acquired by him or her in the course of his or her official duties or using such information to further his or her personal interests. On February 2, 2017, the Ethics Commission entered an Order approving a Conciliation Agreement in which Hopkins agreed to pay a fine of \$500 and to complete training on the Ethics Act.

Lobbyists

The Ethics Commission conducts the registration of lobbyists in West Virginia. It also processes and enforces lobbyists' reporting of their lobbying activities and expenditures. The Commission also retains a Certified Public Accountant to conduct annual audits of randomly selected lobbyists' activity reports.

Lobbyist registrations by calendar year:

2017 – 414
2016 – 406
2015 – 409
2014 – 370
2013 – 331

Lobbyist spending by calendar year:

2017 – \$452,918.43
2016 – \$525,846.50
2015 – \$523,642.66
2014 – \$405,532.55
2013 – \$403,312.40

Financial Disclosure Statements

The Ethics Act requires certain public officials and candidates to file Financial Disclosure Statements with the Commission. All Disclosures are available for public inspection and copying. Disclosures filed by members of the Legislature, elected members of the executive department, justices on the Supreme Court of Appeals and candidates for these positions are placed on the Commission's website.

Following are the numbers of Disclosures processed during the prior five calendar years:

2017 – 2,880
2016 – 3,512
2015 – 2,388
2014 – 2,784
2013 – 2,609

Training – Public Servants and Lobbyists

The Ethics Commission staff provides training on the Ethics Act and the Open Governmental Meetings Act to lobbyists and to large groups of public officials and employees. In addition to "live" training sessions, the Commission provides videos of training on the Ethics Act, the Open Governmental Meetings Act, and lobbyist provisions on its website.

The Commission trained 1,866 public employees and lobbyists in 2017.

Report issued January 4, 2018