

ADVISORY OPINION NO. 91-60
ISSUED BY THE
WEST VIRGINIA ETHICS COMMISSION
ON SEPTEMBER 13, 1991

GOVERNMENTAL BODY SEEKING OPINION

A Public Employee

OPINION SOUGHT

Whether it is a violation of the Ethics Act for a public employee to seek part-time employment with a Company which conducts business with persons regulated by his governmental agency?

FACTS RELIED UPON BY THE COMMISSION

The requestor is employed by a County Health Department as a Sanitarian. His job responsibilities include monitoring certain environmental issues by performing various tests on area drinking water and conducting restaurant inspections.

The public employee would like to work part-time as a sales representative for a Company which markets air and water filters, water coolers and a variety of other related items.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

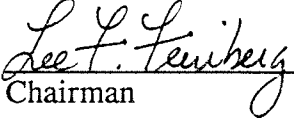
West Virginia Code Section 6B-2-5(h)(1) states in pertinent part that...no full-time public employee who exercises policymaking, nonministerial or regulatory authority may seek employment with, or allow himself...to be employed by any person who is or may be regulated by the governmental body which he...serves while he...is employed or serves in the governmental agency.

ADVISORY OPINION

Subsection 6B-2-5(h)(1) of the Ethics Act prohibits a full-time public employee with policy-making, nonministerial or regulatory authority from being employed by any person who is or may be regulated by the governmental agency with which he is employed.

The term "regulate" is not defined within the Act. However, the common definition is "to control or direct according to a rule", or "to adjust in conformity to a specification or requirement". In accordance with this definition, the Commission has determined that the requestor does exercise regulatory authority as contemplated by subsection 6B-2-5(h)(1) of the Ethics Act.

The requestor would be soliciting the purchase of products that are directly related to his regulatory activities. The target customers would be private individuals and businesses which are regulated by his governmental agency and by the requestor personally. Therefore, it would be a violation of subsection 6B-2-5(h)(1) of the Ethics Act for the requestor, an employee of a County regulatory agency to be employed on a part-time basis by the Company.


Chairman