

**ADVISORY OPINION NO. 92-24**

**ISSUED BY THE**

**WEST VIRGINIA ETHICS COMMISSION**

**ON SEPTEMBER 3, 1992**

**GOVERNMENTAL BODY SEEKING OPINION**

A Superintendent of a County School System

**OPINION SOUGHT**

Is it a violation of the Ethics Act for a County School Superintendent to organize and conduct a leadership academy for the County School Superintendents Association through his private company?

**FACTS RELIED UPON BY THE COMMISSION**

The requestor is currently the Superintendent of a County School system and a member of an Administrators' Association which is comprised of other Superintendents of county school systems in the State. This Association is not formally co-sponsored with public monies and is funded entirely with private dues.

Approximately three years ago the Association organized a Creative Leadership academy which was financed with a grant. The requestor was a member of the planning committee for that seminar. Recently, upon their own initiative, several County School Superintendents asked the requestor to organize and conduct another leadership academy. The academy would be a private initiative of the Superintendents and their Association and would not be used to fulfill any training required by State law.

The requestor's private consulting firm would act as the principal agent on the project, hiring the presenters, renting the facilities and attending to the other necessary details. Although the requestor's company is a private for-profit company, the requestor intends to provide these services to his colleagues on a cost basis. The requestor will donate his time to the project and will seek reimbursement only for the expenses incurred for the meeting rooms and payment of honoraria and expenses to the selected presenters.

Attendance to that seminar would be voluntary and would be limited to County School Superintendents. Individuals from the requestor's County would not attend. Since the Association is funded by membership dues, there would be no public contract or public funds involved in the creation and presentation of this academy. Further, the requestor has stated that he would use accrued vacation days to conduct the academy.

#### **PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION**

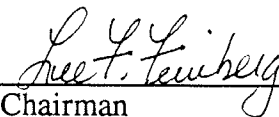
West Virginia Code §6B-2-5(b)(1) states in pertinent part that...a public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person.

#### **ADVISORY OPINION**

In considering this request the Ethics Commission has analyzed the facts presented in light of the statutory violations contained in the Ethics Act. The Commission has determined that there is no provision of the Ethics Act which per se prohibits a County School Superintendent from creating and conducting a leadership academy for the County School Superintendents' Association through his private company on his own private time.

The Association is funded by membership dues and consequently, there would be no public contract or public funds involved in the creation and presentation of this academy. Further, the requestor has stated that attendance to the seminar is strictly voluntary, that he would use accrued vacation days to conduct the academy and that he would not personally receive any compensation for his efforts.

The Commission reminds the requestor that pursuant to WV Code §6B-2-5(b)(1), a public employee may not use his office or the resulting prestige for his own private gain. Therefore, he may not use his position as Superintendent with the County Board of Education to influence, obtain, increase or promote business for his private company. The requestor should also consult the Commission's legislative rules on private gain, sections 158-6-5 and 158-6-8, which prohibits more than a de minimis use of public time, equipment and resources for private activities.

  
Chairman