

ADVISORY OPINION NO. 92-46

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON NOVEMBER 5, 1992

GOVERNMENTAL BODY SEEKING OPINION

A Member of a County Board of Education

OPINION SOUGHT

Is it a violation of the Ethics Act for a county board of education member to vote on a specific matter which affects a political action committee which endorsed that member during an election campaign?

FACTS RELIED UPON BY THE COMMISSION

The requestor was elected to a four year term on the county board of education. During the campaign the requestor was endorsed by a political action committee. The PAC valued its endorsement as an in-kind contribution at \$77 which was subsequently reported on the candidate's campaign financial statements.

For several years the political action committee's parent organization has received money from the county board of education for providing a variety of services for the system, including coordinating business partnerships. Continuation of this relationship is currently under consideration by the board of education and the requestor would like to participate in the discussion and vote regarding this matter.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code §6B-1-2(c) states in pertinent part that...the State government and its many public bodies and local governments have many part-time public officials and public employees serving in elected and appointed capacities; and that certain conflicts of interest are inherent in part-time service and do not, in every instance, disqualify a public official from the responsibility of voting or deciding a matter; however, when such conflict becomes personal to a particular public official or public employee, such person should seek to be excused from voting, recused from deciding, or otherwise relieved from the obligation of acting as a public representative charged with deciding or acting on a matter.

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 the requestor from voting on specific matters affecting the parent organization of a Political Action Committee which endorsed that board member during the election campaign.

West Virginia Code §6B-1-2(c) provides that a part-time public official should seek to be excused from voting, deciding or otherwise acting on a matter that has become "personal" to that official.

The Commission considers a matter to be "personal" when the public official has any direct or indirect pecuniary interest in the matter, is affected in a manner which may affect his vote, or when voting would create the appearance of impropriety. Nothing in the facts presented reveal a matter in which the requestor would have a "personal" interest which would mandate not voting, deciding or otherwise taking official action on.

Public officials are elected to serve as representatives of the people and provide voters with a voice in government. Ideally, voters base their selection on the candidate's proposals, beliefs and policy positions. Similarly, organizations endorse certain candidates based on the position or viewpoint that the public official takes on issues which affect the membership of the organization.

The Commission established in Advisory Opinion #92-31 that prior involvement with specific issues as a private citizen or as a candidate does not, by itself, create a disqualifying "personal" interest in those issues when they are dealt with as a board member. Similarly, political endorsements from PACs or other organizations would not create a disqualifying "personal" interest.

Therefore, it would not be a violation of the Ethics Act for a county board of education member to vote on a specific matter which affects an organization even if the organization's political action committee endorsed the member during the election campaign.


Vice Chairman