

ADVISORY OPINION NO. 94-14
ISSUED BY THE
WEST VIRGINIA ETHICS COMMISSION
ON APRIL 7, 1994

GOVERNMENTAL BODY SEEKING OPINION

Committee of State and County public servants

OPINION SOUGHT

Is it a violation of the Ethics Act for public servants to solicit contributions to underwrite the registration costs of a conference on Adult and Elder Abuse and Neglect?

FACTS RELIED UPON BY THE COMMISSION

A Conference on Adult and Elder Abuse and Neglect is planned for later this year. This is the third year for the Conference and it has grown from less than 400 participants to approximately 600 this year. Although no state funds are used to put on the conference, it is coordinated by a planning committee comprised of various state and county public servants.

The Conference is attended by concerned private citizens, public servants whose expenses are reimbursed by their employers, and public servants who elect to attend and pay their own expenses.

In the first two years the conference was funded entirely by federal funds. This year the conference has expanded to a regional meeting with invitations extended to neighboring states. The increase in the conference's size has also required a change in location. Although expenses have grown due to the increased number of participants and the change in location, federal funding has been reduced.

The planning committee would like to send a solicitation letter, over the signature of the committee chairperson, to corporations and foundations seeking contributions to underwrite the costs of the conference. The chairperson is a state employee whose official responsibilities include participation on the planning committee.

Any funds received from the solicitation would be used to help defray the cost of hall rental and travel and honoraria for national speakers invited to participate in the conference. The planning committee will use such contributions to keep the registration fees for the conference reasonable. None of the funds received would go to the travel, lodging or meal expenses of attendees.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(c)(1) states in pertinent part that...a public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family: **Provided**, That no public official or public employee may solicit for a charitable purpose any gift from any person who is also an official or employee of the state and whose position as such is subordinate to the soliciting official or employee...

ADVISORY OPINION

Solicitation

Pursuant to WV Code §6B-2-5(c)(1) public servants may not solicit any gift unless the solicitation is for a charitable purpose. The conference on Adult and Elder Abuse and Neglect is intended to provide education, training, and increased public awareness of the issue of Elder Abuse. The Conference is open to concerned members of the public as well as professionals in the field. The Commission has determined that subsidizing the registration fees to attend such a conference is a "charitable" purpose as that term is used in the Ethics Act.

Therefore, it would not be a violation of WV Code §6B-2-5(c)(1) for the planning committee to solicit businesses and foundations to underwrite the registration fees for such a conference.

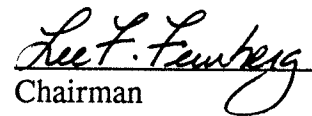
In all instances of solicitation, however, care should be taken that no gift is solicited or accepted under facts or circumstances which are improper or give the appearance of impropriety or the creation of a quid pro quo.

Acceptance

Pursuant to WV Code §6B-2-5(c)(1) public servants may not accept gifts from lobbyists, vendors, persons who are regulated by their governmental agency, or any person who has a financial interest in how the public servants perform their official duties.

This subsection prohibits individual public officials and employees from **personally** accepting gifts. In the situation posed by the requestor, however, the donations would not be used for any specific public servant's personal benefit but rather would inure to the benefit of their public employer and/or the public generally.

Therefore it would not be a violation of the Ethics Act for the planning committee to accept donations when such funds will be used to subsidize the registration fee for the Conference outlined in the request.


Chairman