

ADVISORY OPINION NO. 94-17

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JUNE 2, 1994

GOVERNMENTAL BODY SEEKING OPINION

A Member of a County Board of Education

OPINION SOUGHT

Is it a violation of WV Code §61-10-15 for a member of the County Board of Education to also serve as a member of the County Board of Health when the Board of Health currently receives some funding from the County Board of Education?

FACTS RELIED UPON BY THE COMMISSION

The requestor has served as a member of a County Board of Health for over twenty years and is presently the chairman of the Board. Her term on the Board of Health will expire on June 30, 1994. Board of Health members are not compensated for their services but are reimbursed for travel expenses. The annual travel expenses for this member average less than \$50.

Funding for the County Board of Health is provided by the County Commission, State and Federal funds, special state service funding and some donations. Also, the Board currently receives \$3,500 per year from the County Board of Education to cover environmental and other health activities not covered by the school nurses. All funding is combined into one account from which the Board's various expenses are paid.

On May 10, 1994 the requestor was elected to a four year term on the County Board of Education. Although her term on the Board of Health will expire on June 30, 1994 the County Board of Education has expressed a desire to have her continue on the Board of Health as one of its appointed representatives.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code §61-10-15 states in pertinent part that...It shall be unlawful for any county officer...to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in furnishing any supplies in the contract for, or the awarding or letting of, which as such member he may have any voice, influence or control.

ADVISORY OPINION

West Virginia Code §61-10-15 provides that it is a criminal violation for any county officer to be pecuniarily interested, directly or indirectly, in the proceeds of any contract or service when he may have voice, influence or control over the letting of such contract.

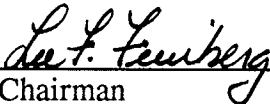
The requestor is the chairman of the County Board of Health and was recently elected to serve as a member of the County Board of Education. As a member of the County Board of Education she has voice, influence or control over the funding provided to the County Board of Health by the Board of Education.

However, as a volunteer member of the County Board of Health who serves without compensation, the requestor has neither a direct or indirect pecuniary interest in the funding provided by the County Board of Education. Further, the Commission has determined that the mere reimbursement of travel expenses does not create the type of pecuniary interest contemplated in WV Code §61-10-15.

Therefore, it would not be a violation of WV Code §61-10-15 for a member of the County Board of Education to also serve as a member of the County Board of Health when the Board of Health receives some funding from the County Board of Education since the requestor does not have a pecuniary interest in the monies provided the Board of Health by the County Board of Education beyond the fact that she is reimbursed for travel expenses related to her duties on the Board of Health.

Pursuant to WV Code §6B-2-3, any person acting in good faith reliance on an advisory opinion issued by the Ethics Commission is immune from the sanctions of section fifteen, article ten, chapter sixty-one, and shall have an absolute defense to any criminal prosecution for actions taken in good faith reliance upon such opinion.

The Commission notes that this opinion is strictly limited to the facts set forth in the opinion.


Chairman