

West Virginia Ethics Commission

Election Booklet



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West Virginia Ethics Commission Election Booklet

Overview

The West Virginia Ethics Commission interprets and enforces the Ethics Act, W. Va. Code §§ 6B-1-1 through 6B-3-11. The Ethics Commission does not regulate elections; that authority rests with the [West Virginia Secretary of State](#). Candidates for judicial office must also comply with the West Virginia Judicial Code of Conduct which is administered and enforced by the [West Virginia Judicial Investigation Commission](#).

This booklet provides general guidance on Ethics Act rules and other laws within the Ethics Commission's jurisdiction governing campaigns and successful candidates once they are sworn into office.

The Ethics Commission is also statutorily charged with interpreting:

- 1) W. Va. Code § 61-10-15, a criminal misdemeanor statute that prohibits county officials and certain board of education officials and employees from becoming pecuniarily interested in the proceeds of a contract, including employment contracts, over which they *may* exercise *voice, influence, or control* (emphasis added); and
- 2) W. Va. Code § 18-5-1a, a Code provision restricting board of education members from holding, in most instances, another public office.

Financial Disclosure Statements

Candidates (including incumbents) for elected state and county offices, including judicial candidates, must have filed a Financial Disclosure Statement with the Ethics Commission to be on a ballot, take the oath of office, or receive compensation from public funds. W. Va. Code § 6B-2-6. This same rule applies to municipal candidates in Charleston, Fairmont, and Morgantown because these municipalities have opted into the Financial Disclosure Statement requirement as authorized by law.

The Ethics Act specifies the information that must be disclosed in a Financial Disclosure Statement. An example of a Financial Disclosure Statement may be viewed [here](#).

The following persons must file Financial Disclosure Statements:

- All elected state and county officials, members of county boards of education, and all county school board superintendents;

- Candidates for all state and county offices within 10 days of filing a certificate of announcement, unless the candidate has filed a Disclosure for the previous calendar year;
- Members of state boards, commissions, and agencies who are appointed by the Governor;
- State Executive Branch cabinet secretaries, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads, and assistant department heads, and
- Elected officials and candidates in Charleston, Fairmont, and Morgantown municipal elections.

Financial Disclosure Statements are public documents. Completed Financial Disclosure Statements for the following filers - Members of the West Virginia Legislature; Elected members of the executive department (Governor, Treasurer, Auditor, Secretary of State, Commissioner of Agriculture, Attorney General); Members of the Supreme Court of Appeals, and candidates for these positions - may be viewed [here](#). All other Financial Disclosure Statements are available on request.

Any person who knowingly fails or refuses to file a required Financial Disclosure Statement is guilty of a misdemeanor pursuant to W. Va. Code § 6B-2-10(c).

Eligibility of public officials and public employees running for office

Public officials and public employees often have questions about whether they may be a candidate for public office. No provision in the Ethics Act disqualifies public employees or public officials from running for office. The Ethics Commission recently reaffirmed this rule of law in [Advisory Opinion 2019-18](#) (holding that a state employee may be a candidate for a county office) and [Advisory Opinion 2023-09](#) (holding that a state college employee may serve as a Legislator but other laws, including the State Constitution, may prohibit the person from holding both positions.)

Public employees and public officials need to be aware that other laws may restrict them from being a candidate for office or engaging in political activities. For example, a deputy sheriff may not be “a candidate for or hold any other public office in the county in which he or she is employed” pursuant to [W. Va. Code § 7-14-15](#). Board of education members may not be a candidate for most other public offices. [W. Va. Code § 18-5-1a](#).

Restrictions on business dealings with your agency

Successful candidates need to be aware that the Ethics Act, W. Va. Code § 61-10-15 (a statute which governs county officials and county schools), or other laws, may prohibit or restrict financial dealings by them, their spouses, and immediate family members¹ with the government agency to which they have been elected or other government agencies over which they may have influence due to their public position. (The guideline explaining what constitutes a prohibited interest in a public contract pursuant to the Ethics Act may be viewed on the Ethics Commission's website or [here](#).) (The guideline explaining the stricter provisions in W. Va. Code § 61-10-15 is [here](#).)

Here are some examples in which the Ethics Commission analyzed and applied the rules governing business dealings and other activities. Click on the Opinion number to view:

- A county commissioner's business may not provide materials and supplies to other county agencies. [Advisory Opinion 2017-02](#)
- A county commissioner may be employed by a nonprofit organization to which a county commission appropriated funds constituting less than seven percent of the nonprofit's fiscal year revenues. County funds may not be used to directly fund the county commissioner's employment position with the nonprofit. [Advisory Opinion 2023-12](#)

Restrictions on private employment and business activities

The Ethics Act restricts the outside business activities and employment of full-time public officials and public employees in certain circumstances.² Public officials and public employees may never use public resources for their own private gain. Here are some relevant Advisory Opinions and rulings.

- An elected assessor may not operate a real estate business in the same county where he serves as assessor. [Advisory Opinion 2011-14](#)
- A sheriff may continue to operate a real estate business that leases and sells property in the same county. A sheriff may not seek to sell or lease property to persons who have been the subject of a regulatory matter

¹ The financial interests of immediate family members are normally imputed to a public official under laws prohibiting a public official from having an interest in a public contract under his or her control. Immediate family members include spouses and dependent children, grandchildren, and grandparents. W. Va. Code § 6B-1-3(f).

² W. Va. Code § 6B-2-5(h).

within the last 12 months or which currently have a matter before the Sheriff's Office, such as persons under investigation by the Sheriff's Office, delinquent in paying county taxes, or subject to a warrant. [Advisory Opinion 2019-28](#)

- A sheriff may, in some instances, have private employment under the Ethics Act, but other laws may apply. [Advisory Opinion 2023-01](#)

Nepotism restrictions

The anti-nepotism provisions in the Ethics Act and related Legislative Rule prohibit public officials and public employees from giving an unfair advantage to relatives and persons with whom they reside. W. Va. Code § 6B-2-5(b)(4) and [W. Va. Code R. § 158-6-3 \(2022\)](#). The nepotism restrictions do not, however, bar an elected official's relative or a person with whom they reside from being employed with a public agency which an elected official is statutorily charged with administering so long as the nepotism rules are followed. County officials and board of education members must, however, abide by the stricter nepotism restrictions in W. Va Code § 61-10-15.

The nepotism rules are codified in the Commission's Legislative Rule, W. Va. Code R. § 158-6-3 (2022). A relative is defined as: "[S]pouse, mother, father, sister, brother, son, daughter, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, or daughter-in-law." W. Va. Code § 6B-1-3(m).

Some relevant Advisory Opinions include:

2021-20 County Commission

A sheriff's son may be employed as the director of courthouse security if the sheriff's chief deputy is responsible for hiring for this position and supervising the son.

2022-03 City Council Member

A city council member's son may serve as the city's municipal judge. The council member may not participate in or vote on matters affecting his son's employment or working conditions unless the matter affects his son as a member of a class of five or more similarly situated individuals.

2022-08 County Council

The father of a deputy sheriff may serve on the deputy civil service commission. He must recuse himself if a matter uniquely affects the employment or working conditions of his son, but he may vote if his son is affected in the same manner as five or more similarly situated individuals.

1995-24 County Commissioner/Sheriff

A county commissioner's wife may not work for the county commission or the sheriff's office. His emancipated son may.

Political campaign activities

No provision in the Ethics Act prohibits public officials or public employees from being involved in political campaigns on their own time. (Other laws may apply. Some state employees are subject to the West Virginia Division of Personnel Rules governing political activities. See DOP's Guidance to classified employees on political activities, [here](#).) Public officials and public employees may not use public resources for political campaigns.

Some relevant Advisory Opinions include:

1995-34 Public Official

A public official and his subordinates may seek campaign contributions without using public resources. May use public titles to endorse other candidates. Other laws and policies may apply.

2012-15 Sheriff

A sheriff may use his public title to endorse his chief deputy or other candidate for public office, including through newspaper advertisements or radio announcements. May not spend public funds for these purposes.

2020-04 Governor

The Governor may participate in personal and campaign activities following his state work and before his return flight in state aircraft under the following conditions:

- (i) the primary purpose of the trip is for official state business;
- (ii) the trip is not being used as a pretext to engage in non-state business, and
- (iii) any additional meals, lodging, or other travel expenses that the Governor incurs in serving a secondary purpose, e.g., a campaign or personal function, must be paid by the source associated with that secondary purpose.

School Board Members, restrictions on political activities

Pursuant to [W. Va. Code § 18-5-1a](#), county boards of education members may not become a candidate for public office or hold most other public offices. [SBAO 2022-02](#) discusses the restrictions on holding another public office.

Restrictions pertinent to law enforcement officers

Current law enforcement officers must comply with the restrictions on using their uniforms and badges in campaign advertisements and material.

Some relevant Advisory Opinions include:

2019-14 A City Police Officer

A city police officer may not include pictures of himself in uniform in his campaign materials because the police uniform conveys the endorsement of his police agency, which is the type of private gain the Ethics Act is intended to prohibit.

2020-09 A Retired City Police Officer

The Ethics Act does not prohibit a retired city police officer who is a candidate for sheriff from wearing his uniform in his campaign materials.

2020-08 A Chief Deputy Sheriff

A chief deputy sheriff may not include pictures of her badge in her campaign material.

1998-11 Sheriff

A Sheriff may not use his county cruiser to travel with his wife to her political activities.

Trinkets

Public officials and public employees may **not** use **public funds** or public resources to display the public official's name or likeness **for the purpose of promoting a public official or political party**. W. Va. Code § 6B-2B-2(b). Public officials and public employees, therefore, should check the applicable rules before placing a public official's picture or name on campaign materials and items, particularly around campaign time.

Some relevant Advisory Opinions include:

2021-19 Town Recorder

A town employee may bring a cup that contains a campaign slogan to work at Town Hall. The employee may not display the cup on her desk in a manner that makes the campaign slogan visible to the public because it could constitute the use of public resources to advertise a political party.

2016-11 State Legislator

A Legislator may purchase business cards with private funds that replicate his state-issued business card on one side and display his campaign information on the other provided that both sides of the business cards state that they are personally paid for by the Legislator. May not use state resources, including the Legislator's state telephone and email address, in furtherance of his personal re-election campaign.

Ballot issues, including levies

The Ethics Commission has held that public agencies may use public funds to educate the public about ballot issues, including levies. The specific rules are discussed in Advisory Opinion 2022-17.

2022-17 County Board of Education Member

The Ethics Act permits BOE members and school superintendents to speak for or against two proposed constitutional amendments. Public resources may be used to educate the public on the amendments, and to advocate for or against the “Education Accountability Amendment,” since no private gain is involved. Public resources may not be used to advocate for or against the “Property Tax Modernization Amendment” since private gain is involved.

Guidance

If you have any questions you can contact the Ethics Commission. Our contact information is:

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