

West Virginia Ethics Commission

Guideline



Second Jobs and the WV Ethics Act

The WV Ethics Act allows public officials and public employees to have a second job, but there are restrictions. A public employee or official should always check with his or her agency to see if it has any policies governing second jobs. The WV Ethics Act establishes minimum standards, but public agencies may adopt stricter standards.

The primary restriction is that *full-time* public officials and employees may not have a second job, which includes employment as an independent contractor, with certain persons or entities that interact with their public agencies on matters in which the public officials, public employees, or their subordinates are involved.¹

The Ethics Act lists the categories of persons or entities, which include for-profit and nonprofit entities, with which public officials or public employees may not have second jobs. If you are a full-time public official or public employee, you may not have secondary employment with any person or entity, excluding other government agencies, that:

- Had a matter on which you, or a subordinate is known to have taken, regulatory action within the preceding 12 months; or
- Has a matter before the agency on which you are working or a subordinate is known to be working, or
- Is a vendor to the agency where you serve or are employed and you, or a subordinate, exercise authority or control over a public contract with such vendor.²

¹ W. Va. Code § 6B-2-5(h).

² "Control" over a vendor's contract includes, but is not limited to drafting bid specifications or requests for proposals; recommending selection of the vendor; conducting inspections or investigations; approving the method or manner of payment to the vendor; providing legal or technical guidance on the formation,

If a potential employer does not fall within the categories listed above, then public officials or public employees may have secondary employment with that employer. All public officials or public employees must, however, comply with the other rules in the Ethics Act.

Other Rules:

Public officials and public employees may not:

- Use public work time or resources for their other job.
- Improperly disclose or use confidential information obtained through their public position. W. Va. Code § 6B-2-5(e).
- Receive private compensation for performing work which they are required to perform as part of their public job responsibilities. W. Va. Code § 6B-2-5(h)(6).
- Represent clients in certain matters in which the public servant is or was substantially involved through their public employment. W. Va. Code § 6B-2-5(f) (also containing limited exceptions).
- Use their public job title to advertise their private employer or business. The public job title may be listed in a biography.
- Take regulatory action on a matter affecting a person or entity by whom they are employed or with whom they are seeking employment or have an agreement concerning future employment.
- Participate in a decision, approval, disapproval, recommendation, rendering of advice, investigation, inspection or other substantial exercise of non-ministerial administrative discretion involving a vendor with whom they are employed or are seeking employment.

Other:

Elected and appointed public officials, full-time staff attorneys, and accountants may not appear before their agency during their employment and for a one-year period following their departure, on the following matters: (A) A contested case involving an administrative sanction, action, or refusal to act; (B) To support or oppose a proposed rule; (C) To support or contest the issuance or denial of a license or permit; (D) A rate-making proceeding, and (E) To influence the expenditure of public funds. W. Va. Code § 6B-2-5(g).

implementation or execution of the contract, or taking other nonministerial action which may affect the financial interests of the vendor.

All County officials and board of education superintendents must abide by the restrictions in W. Va. Code § 61-10-15, which prohibits outside employment with certain entities. More information about § 61-10-15 is available in the Commission's Guideline, [W. Va. Code § 61-10-15 Governing County Officials and School Officials](#). For example, a county commissioner may not be employed by a public service district (psd) if the county commission appoints the psd board members.

Public officials or public employees who have second jobs with other government agencies may have to file verified time records with the Ethics Commission if they have overlapping work hours. [Legislative Rule Title 158, Series 14](#).

If you are considering leaving your public position for another position, please review our Guideline, [How to Obtain an Employment Exemption before Looking for a New Job](#).

Summaries and links for some relevant Advisory Opinions:

1990-25 College Professor

A college professor may also work as a public accountant. (This Opinion was issued under a prior version of the Ethics Act, but the holding is still correct.)

2018-06 Fire Chief

A deputy fire marshal may lease and operate a private club that is subject to the City's fire code as long as neither he nor a subordinate of his inspect or investigate matters concerning the club.

2020-01 State Agency

A state agency's technician may not provide private services to persons who currently have a "matter" on which the technician or a subordinate is working. Persons whose management practices are being evaluated for inclusion in a conservation project for whom the technician completes ranking forms have a "matter" on which the technician is working. Providing routine services in the form of technical assistance and recommendations to individuals on how to install best land management practices do not constitute "matters" on which the technician is working.

2023-02 Housing Authority Executive Director

An executive director of a housing authority may accept a stipend from a bank for serving on an advisory council when the housing authority is not doing business with the bank. The executive director must take annual leave to avoid double dipping.

2023-06 State Agency Director

A state agency director may continue his part-time, of counsel employment with a private law firm unless the law firm, either directly or through the law firm's representation of clients, has matters before the state agency on which he or any of his state agency subordinates is working.

2023-13 County Commission

A county fire coordinator may not be a paid member of a nonprofit VFD in the County because he is a full-time county employee and the VFD has matters before his agency on which he is working. He may be an unpaid member of the VFD. The county fire coordinator is not a public official for purposes of W. Va. Code § 61-10-15.

Questions about the applicability of the rules may be addressed to the WV Ethics Commission by emailing ethics@wv.gov or by calling (304) 558-0664.

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210 BROOKS STREET, SUITE 300

CHARLESTON, WV 25301-1804

(304) 558-0664

ethics@wv.gov ethics.wv.gov

Issued: 01/08/2024