

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE: CHARLES REIDER

COMPLAINT NO. VCRB 2009-14

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Charles Reider freely and voluntarily enter into the following Conciliation Agreement pursuant to West Virginia Code § 6B-2-4(s) to resolve all potential charges arising from the above-referenced Complaint.

FINDS OF FACT

1. Charles Reider (Respondent or Reider) was an elected Member of the Harrison County Board of Education (BOE) at all times relevant herein.
2. On September 8, 2009 another elected Member of the Harrison County BOE filed a verified ethics complaint against Reider alleging various violations of the Ethics Act related to Respondent's wife's BOE employment and Respondent's official actions related thereto.
3. The complaint was referred to the Commission's Probable Cause Review Board which ordered the issuance of a Notice of Investigation (NOI). The Commission issued the NOI, and Ethics Commission staff investigated the complaint.
4. The Harrison County BOE sets the salary of all BOE employees, and establishes supplemental pay for certain employees using funds from an excess levy. The BOE votes on its budget annually.
5. Sometime before the Harrison County BOE's vote on its 2009-10 budget, the BOE's auditors assumed additional duties necessitated by the Harrison County BOE assuming administrative responsibility for various RESA VII employees.
6. During the development of 2009-10 budget, the auditors asked their boss, the Finance Director, to include a raise for them in the proposed budget, given their increased workload.

7. Harrison County BOE employs four (4) auditors, one of whom is married to Respondent. Mitzie Reider had been employed by the BOE as an auditor for 12 years before Respondent's election to the BOE.
8. Pursuant to the Ethics Act's voting provision, five or more individuals constitute a class.
9. On May 7, 2009, during a budget work session, open to the public and in a public meeting in response to a proposal that certain coaches, band directors and other employees receive raises, the Respondent proposed a pay raise for the auditors, given their increased workload.
10. On May 7, 2009, at each of two public meetings, Respondent moved that the Harrison County BOE adopt the proposed 2009-10 budget which contained, *inter alia*, pay increases for the auditors.
11. Each of the foregoing motions died for lack of a second.
12. Harrison County BOE member Michael Queen then moved to strike the auditor's pay raises from the proposed budget. The motion passed.
13. Although Respondent did not vote, he did not recuse himself. For recusal to be proper, public servants must first fully disclose on the record their disqualifying interest in any matter before the governing body, then leave the room during the discussion, deliberation and vote on the matter.
14. Immediately thereafter, Respondent moved to eliminate from the proposed budget Member Michael Queen's proposed increase in extra-curricular pay for coaches and athletic directors.
15. Following discussion, Respondent withdrew his motion.
16. Following further discussion, Member Queen withdrew his motion, and Respondent moved to table the budget and set up a special meeting for approval of the budget. The motion passed unanimously.
17. On May 12, 2009, the Harrison County BOE adopted the 2009-2010 budget by a unanimous vote of all five members. Respondent voted on the 2009-2010 budget which included

pay increases for various classes of employees including, but not limited to, auditors.

18. Respondent did not vote on any individual increases in pay for his spouse nor did he vote separately on any pay increase for auditors. Instead, Respondent voted in favor of the entire budget.
19. Throughout the Investigation, Respondent has cooperated and has expressed a willingness to conform his official actions to the requirements of the Ethics Act.

RELEVANT LEGAL PROVISION

W.Va. Code § 6B-2-5(b) provides that a public official may not knowingly and intentionally use his office or the prestige of his office for private gain.

W.Va. Code § 6B-2-5(j) provides:

(1) Public officials, excluding members of the Legislature who are governed by subsection (I) of this section, may not vote on a matter:

(A) In which they, an immediate family member, or a business with which they or an immediate family member is associated have a financial interest. Business with which they are associated means a business of which the person or an immediate family member is a director, officer, owner, employee, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding stocks of any class.

(C) A personnel matter involving the public official's spouse or relative;

(II) A public official may vote:

(A) If the public official, his or her spouse, immediate family members or relatives or business with which they are associated are affected as a member of, and to no greater extent than any other member of a profession, occupation, class of persons or class of businesses. A class shall consist of not fewer than five similarly situated persons or businesses; or

(3) For a public official's recusal to be effective, it is necessary to excuse him or herself from participating in the discussion and decision-making process by physically removing him or herself from the room during the period, fully disclosing his or her interest, and recusing him or herself from voting on the issue.

CONCILIATION OF VIOLATION

I, Charles Reider, freely and voluntarily acknowledge that I should not have advocated for a pay raise for the auditors, including my wife. I further acknowledge that, based upon my current knowledge and understanding of the West Virginia Government Ethics Act, I may have violated the Ethics Act by advocating for a raise for a group of employees that includes my wife. My wife is one of four auditors whose workload has, in fact, increased. I further acknowledge that I should have contacted the Ethics Commission for guidance before voting on a budget that included a pay raise for the auditors.

In Order to resolve this matter, I enter this agreement. By signing this agreement, I agree to the imposition of sanctions by the West Virginia Ethics Commission.

For this Conciliation Agreement to be finalized, the Commission must approve the Agreement and must further determine which sanctions to impose in consideration for the settlement of this matter, I agree to the Commissions's imposition of the following sanctions:

- (1) Public Reprimand; and,
- (2) Fine not to exceed \$250.00.

In addition to the sanctions hereinabove set forth, I also agree to seek a formal Advisory Opinion from the Ethics Commission. The Advisory Opinion will define the procedure for voting and participation by board members who have spouses or close dependents employed by the Board of Education with respect to salaries, benefits or other employment matters.

In Order to resolve this matter, I enter this agreement. By signing this agreement, I agree to the imposition of sanctions by the West Virginia Ethics Commission. By signing this Agreement, I hereby acknowledge and agree that the Commission will impose only the sanctions listed above. In the event the Commission enters an order imposing any sanction other than those specifically set forth below, then this Conciliation Agreement is null and void and the case shall promptly proceed to a public hearing on the merits.


If the Ethics Commission approves the agreement, it will enter an Order in which it approves the agreement and sets forth the sanctions listed above.

Both parties understand that, pursuant to W. Va. Code § 6B-2-4(s), the Conciliation Agreement and Commission Order must be made available to the public.

Date: 06/03/10


Kemp Morton, Chairperson
W.Va. Ethics Commission

Date: 5/28/10


Charles Reider, Respondent

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

CHARLES REIDER

COMPLAINT NO. VCRB 2009-14

COMMISSION'S ORDER

After considering the foregoing FINDINGS OF FACT, RELEVANT LEGAL PROVISIONS and CONCILIATION OF VIOLATION, the West Virginia Ethics Commission finds that the Conciliation Agreement is in the best interest of the State and the Respondent, as required by West Virginia Code § 6B-2-4(s). In accordance with West Virginia Code § 6B-2-4(r) and the terms of the Conciliation Agreement, the Commission imposes the following sanctions:

- (1) The West Virginia Ethics Commission hereby **Orders** that the former public official, Charles Reider, should be and hereby is **publicly reprimanded** for using his public office for private gain;
- (2) The West Virginia Ethics Commission hereby **Orders** Respondent Charles Reider to pay a **\$250 fine**, payable to the West Virginia Ethics Commission, for violating the West Virginia Governmental Ethics Act. The fine is to be paid within thirty (30) days of the entrance of this Order; and
- (3) Respondent shall request a formal Advisory Opinion which will define the procedure for voting and participation by school board members who have spouses or close dependents employed by the Board of Education with respect to salaries, benefits, or other employment matters.

Date 06/03/10


Kemp Morton, Chairperson
West Virginia Ethics Commission