

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

COMPLAINT NO. VCRB 2019-48

**LOUISE STOKER,
Mayor,
Town of Bramwell**

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Louise Stoker freely and voluntarily enter into the following Conciliation Agreement pursuant to W. Va. Code § 6B-2-4(t) to resolve all potential charges arising from allegations in the above-referenced complaint.

FINDINGS OF FACT

1. Louise Stoker is the Mayor of the Town of Bramwell.
2. At all times pertinent herein, Stoker was a "public official" as defined in the Ethics Act, at W. Va. Code § 6B-1-3(k).
3. The Ethics Commission has jurisdiction over alleged violations of the Ethics Act committed by public employees or officials, such as Stoker. W. Va. Code §§ 6B-1-1 through 6B-3-11.
4. On March 27, 2014, Stoker hired her granddaughter as a part-time receptionist for the Town of Bramwell. The granddaughter's salary was \$8.00 per hour and the Town did not provide her benefits. Stoker's granddaughter does not live with her nor is she financially dependent upon Stoker.
5. The granddaughter's job duties included answering the phone, filing, computer data input, greeting visitors, and providing general information to the public about the Town. The granddaughter kept time sheets to document the hours she worked.
6. At the time Stoker hired her granddaughter, the Ethics Commission's Legislative Rule relating to nepotism, at W. Va. R. § 158-6-3 (1992), did not list grandchildren as relatives covered by the nepotism restrictions. Before hiring her LS LS

granddaughter, Stoker reviewed the Legislative Rule in effect at that time and contacted Ethics Commission staff to verify that grandchildren were not covered by the Rule. Stoker admits that she did not advertise for the position but considered her granddaughter to be qualified for the position. Her granddaughter was a high school graduate and had taken some classes at Bluefield State College.

7. The Town's elected officials (the Mayor, Recorder and Council members), were aware that the Mayor had hired her granddaughter as a Town employee and was supervising her.

8. The Town paid the granddaughter the following amounts: 2014 - \$3,030.20, 2015 - \$2,988, 2016-\$2,564.02, 2017-\$3,368.77, 2018-\$5,368.14 and 2019-\$3,740.64. The granddaughter only received pay raises when necessary to keep her rate of pay at the state mandated minimum wage.

9. The Ethics Commission's Legislative Rule was revised in 2017 to include more specific guidance on the nepotism restrictions. The changes to the Rule included, in relevant part, adding grandchildren to the list of covered relatives and prohibiting public officials and employees from directly supervising their relatives.

10. An Ethics Complaint was filed against Stoker on July 1, 2019, alleging that she violated the Ethics Act by hiring and supervising her granddaughter. Stoker states that she did not know about the changes to the nepotism restrictions, which became effective on May 15, 2017, until she received notice of the Verified Complaint filed against her with the Ethics Commission and attended a training on the Ethics Act shortly after she received the notice.

11. After Stoker received notice of the Complaint, she terminated her granddaughter's employment with the Town. Stoker states that, had she been aware of the changes to the Legislative Rule relating to nepotism, she would have taken steps sooner to ensure she was complying with the new requirements.

12. The granddaughter's last day of employment with the Town was July 15, 2019. Since her termination, the granddaughter has continued to volunteer for the Town for approximately six hours per week as an office assistant/receptionist.

13. Stoker attended training conducted by the Ethics Commission on the Ethics Act and Open Meetings Act in Welch, WV on July 25, 2019.

RELEVANT LEGAL PROVISIONS

W. Va. Code § 6B-2-5(b) states, in relevant part:

(1) A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person.

...

(4) A public official or public employee may not show favoritism or grant patronage in the employment or working conditions of his or her relative or a person with whom he or she resides: *Provided*, That as used in this subdivision, "employment or working conditions" shall only apply to government employment: *Provided, however*, That government employment includes only those governmental entities specified in subsection (a) of this section.

W. Va. Code R. § 158-6-3 (2017) states:

3.1. As used in this section, the term "nepotism" means favoritism shown or patronage granted in employment or working conditions by a public

official or public employee to relatives or persons with whom the public official or public employee resides.

3.2. The Ethics Act prohibits public officials and public employees from knowingly and intentionally using their office or the prestige of their office for their own private gain or the private gain of another person. Nepotism is one form of the use of office for private gain because if public officials or employees use their positions to give an unfair advantage to relatives or persons with whom the public official or employee resides, the primary benefit to such action is to the public official or employee or another person rather than to the public.

3.3. "Relative" means spouse, 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.

3.4. A public official or employee may not influence or attempt to influence the employment or working conditions of his or her relative or a person with whom he or she resides.

3.5. A public agency, including its officials and employees, must administer the employment and working conditions of a relative of a public employee or a public official or a person with whom the public official or employee resides in an impartial manner.

3.5.a. To the extent possible, a public official or public employee may not participate in decisions affecting the employment and working conditions of his or her relative or a person with whom he or she resides. If he or she is one of several people with the authority to make these decisions, others with authority shall make the decisions.

3.5.b. A public official or public employee may not directly supervise a relative or a person with whom he or she resides. This prohibition includes reviewing, auditing or evaluating work or taking part in discussions or making recommendations concerning employment, assignments, compensation, bonuses, benefits, discipline or related matters. This prohibition does not extend to matters affecting a class of five or more similarly situated employees.

3.5.c. Notwithstanding the limitations in this subsection, if a public official or public employee must participate in decisions affecting the employment, working conditions or supervision of the public official or public employee's relative or a person with whom the public official or public employee resides, then:

3.5.c.1. An independent third party shall be involved in the process. A public official or public employee may not use a subordinate for the independent third party unless it is an elected public official who may not lawfully delegate the powers of his or her office, e.g., county assessor or county clerk; and,

3.5.c.2. The public official or employee shall exercise his or her best objective judgment in making the decision, and be prepared to justify his or her decision.

3.6. A public official may not vote on matters affecting the employment or working conditions of a relative unless the relative is a member of a class of persons affected. A class shall consist of not fewer than five similarly situated persons. For a public official's recusal to be effective, he or she must 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 interests and recusing him or herself from voting on the issue.

CONCILIATION OF VIOLATION

I, Louise Stoker, the Respondent, admit that I violated the nepotism restrictions in the West Virginia Governmental Ethics Act, at W. Va. Code § 6B-2-5(b), and related Legislative Rule, W. Va. Code R. § 158-6-3 (2017), by supervising my granddaughter. I state that had I known about the 2017 changes in the law which extended the nepotism restrictions to grandchildren, I would have contacted the Ethics Commission for advice on the situation and would have followed the guidance provided.

In order to resolve this matter, I am entering into this Conciliation Agreement. I understand that for this Agreement to be finalized, the Ethics Commission must approve it and determine which sanctions to impose.

In consideration for the settlement of this matter, I agree to the Commission's imposition of the following sanction:

1. The Respondent shall undergo training on the West Virginia Governmental Ethics Act. The Ethics Commission finds that the Respondent's in-person attendance at the July 25, 2019, training satisfies this requirement.

I understand and agree that if the Ethics Commission fails to approve this Conciliation Agreement, then this Conciliation Agreement is null and void and the Complaint against me will proceed before the Probable Cause Review Board, where it will be processed in accordance with the West Virginia Code and Ethics Commission's Legislative Rules.

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 West Virginia Code § 6B-2-4(t), this Conciliation Agreement and Commission Order must be made available to the public.

5/7/20
Date

Robert J. Wolfe
Robert J. Wolfe, Chairperson
West Virginia Ethics Commission

04/03/2020
Date

Louise Stoker
Louise Stoker, Respondent

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

COMPLAINT NO. VCRB 2019-48

**LOUISE STOKER,
Mayor,
Town of Bramwell**

COMMISSION'S ORDER

After considering the Findings of Fact, Relevant Legal Provisions and Conciliation of Violation in the Conciliation Agreement, the West Virginia Ethics Commission finds that the Conciliation Agreement is in the best interest of the State and Louise Stoker as required by W. Va. Code § 6B-2-4(t). In accordance with W. Va. Code § 6B-2-4(s), the Commission imposes the following sanction:

Respondent Stoker shall undergo training on the West Virginia Governmental Ethics Act. The Ethics Commission finds that the Respondent's in-person attendance at the July 25, 2019, Ethics Commission training satisfies this requirement.

5/7/20
Date


Robert J. Wolfe, Chairperson
West Virginia Ethics Commission