

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

**Danny Grace,
Mayor, Town of Wayne**

Pre-Complaint Conciliation Agreement

The West Virginia Ethics Commission and Danny Grace freely and voluntarily enter into the following Conciliation Agreement pursuant to W. Va. Code § 6B-2-4(t) to resolve all the potential charges arising from allegations of violations of the West Virginia Governmental Ethics Act based upon the facts set forth below.

Findings of Fact

1. Danny Grace ("Respondent" or "Grace") is the Mayor of the Town of Wayne, West Virginia.
2. At all times pertinent herein, Grace 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 West Virginia Ethics Act committed by employees or officials, such as Grace. W. Va. Code §§ 6B-1-1 through 6B-3-11.
4. In the spring and summer of 2020, the Town of Wayne's regular employees who worked in the Town Hall and had various administrative duties, frequently could not report to work due to COVID-19 quarantine requirements.
5. Grace determined that the Town should hire trustworthy temporary employees to perform minor clerical duties at the Town Hall until the regular employees were able to return to work. Grace states that he did not post the positions because he

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felt pressure to resolve the situation quickly. Grace hired his adult son, Devan Grace, and another individual to whom he was not related.

6. Grace stated that he hired his son and the other individual because he knew and trusted them. Grace informed the Town Council of his decision to hire his son and the other person, and the Town Council voted to approve their employment. Grace did not, however, remove himself from the hiring decision.

7. Devan Grace does not reside with his father nor are they dependent upon each other financially. Devan Grace is, however, a relative of the Mayor for purposes of the Ethics Act's nepotism restrictions.

8. The Town of Wayne paid Devan Grace \$10 an hour for 112 hours of work he performed during the approximate period of March 23, 2020, through May 19, 2020. The Town also paid Devan Grace \$10 an hour for working 72 hours during the approximate period of August 28, 2020, through September 11, 2020. Hence, the total amount paid by the Town to Devan Grace was \$1,840.00.

9. Grace supervised his son and assigned him work tasks.

Relevant Legal Provisions

W. Va. Code § 6B-2-5(b)(4) states, in relevant part:

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

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.

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Conciliation of Violation

I, Danny Grace, admit that I hired my son, Devan Grace, as a Town of Wayne employee and that I supervised him. I admit that these actions constituted use of my public office for the private gain of another in violation of the nepotism restrictions in W. Va. Code § 6B-2-5(b)(4) and W. Va. Code R. § 158-6-3 (2017). I, Danny Grace, wish to note that I took this action during the early months of the COVID-19 pandemic and that my judgment was clouded due to an unprecedented situation in which I felt pressure to act quickly.

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 of the settlement of this matter, I agree to the Commission's imposition of the following sanctions:

1. A fine in the amount of \$500 to be paid to the West Virginia Ethics Commission within 30 days of the entrance of the Order approving the Conciliation Agreement.
2. To undergo training on the West Virginia Governmental Ethics Act, either in person or by viewing the training provided on the Ethics Commission's website, at ethics.wv.gov, within 30 days of the entrance of the Order approving the Conciliation Agreement. I shall provide written confirmation of the completion of this training to the Ethics Commission within five business days of completing it.

I understand and agree that if the Ethics Commission fails to approve this Conciliation Agreement, then this Conciliation Agreement is null and void and that a Complaint against me may be filed.

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(t), this Conciliation Agreement and Commission Order must be made available to the public.

3/2/23
Date

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

2-18-23
Date

Danny Grace
Danny Grace, Respondent

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:
Danny Grace,
Mayor, Town of Wayne

COMMISSION'S ORDER

After considering the Findings of Fact, Relevant Legal Provisions, and Conciliation of Violation in the Pre-Complaint Conciliation Agreement, the West Virginia Ethics Commission finds that the Pre-Complaint Conciliation Agreement is in the best interests of the State and Danny Grace, 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 sanctions:

1. Respondent shall pay a fine in the amount of \$500 to the Ethics Commission within 30 days of the entrance of this Order.
2. Respondent shall undergo training on the West Virginia Governmental Ethics Act, either in person or by viewing the training provided on the Ethics Commission's website, at ethics.wv.gov, within 30 days of the entrance of this Order and shall provide written confirmation of the completion of this training to the Ethics Commission within five business days of completing the training.

3/2/23
Date


Robert J. Wolfe, Chairperson
West Virginia Ethics Commission