

ADVISORY OPINION NO. 93-45
ISSUED BY THE
WEST VIRGINIA ETHICS COMMISSION
ON DECEMBER 2, 1993

PERSON SEEKING OPINION

A registered lobbyist

OPINION SOUGHT

1. Does the Ethics Act require a lobbyist to report expenditures made for the benefit of the spouse of a public servant?
2. How should expenditures for a hospitality suite at a multi-state legislative conference be reported?

FACTS RELIED UPON BY THE COMMISSION

The requestor, a registered lobbyist, took a public official to a dinner that was also attended by the official's spouse. The requestor paid the bill for both the public official and the spouse. On another occasion the requestor paid a portion of the expenses associated with a hospitality suite at a Legislative Conference attended by legislators from several states including West Virginia. All of the state's representatives were invited to attend but attendance at the hospitality suite was not documented.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code §6B-1-3(d) states that "immediate family", with respect to an individual, means a spouse residing in the individual's household and any dependent child or children and dependent parent or parents.

West Virginia Code §6B-3-4(b)(1) provides, in pertinent part, that ...each report filed by a lobbyist shall show the total amount of all expenditures for lobbying made or incurred by such lobbyist, or on behalf of such lobbyist by the lobbyist's employer, during the period covered by the report. The report shall also show subtotals segregated according to financial category, including meals and beverages...gifts to public officials or employees or to members of the immediate family of such persons; and other expenses or services.

West Virginia Code §6B-3-4(e) states in pertinent part that...If, during the period covered by the report, the lobbyist made expenditures in the reporting categories of meals and beverages, living accommodations, travel, gifts or other expenditures, other than for those expenditures governed by subsection (f) of this section, which expenditures in any such reporting category total more than twenty-five dollars to or on behalf of any particular public official or employee, the lobbyist shall report the name of the public official or employee to whom or on whose behalf the expenditures were made, the total amount of the expenditures, and the subject matter of the lobbying activity, if any. Under this subsection (e), no portion of the amount of an expenditure for a dinner, party or other function sponsored by a lobbyist or a lobbyist's employer need be attributed to or counted toward the reporting amount of twenty-five dollars for a particular public

official or employee who attends such function if the sponsor has invited to the function all the members of (1) the legislature, (2) either house of the Legislature, (3) a standing or select committee of either house, or (4) a joint committee of the two houses of the Legislature. However, the amount spent for such function shall be added to other expenditures reported under subsection (b) of the section.

ADVISORY OPINION

1. West Virginia Code §6B-3-4(b)(1) requires lobbyists to report **all** expenditures for lobbying according to several financial categories. Included in those categories are meals and beverages and "gifts to public officials or employees **or to members of the immediate family of such persons ...**" Spouses are included, at WV Code §6B-1-3(d), in the Ethics Act's definition of immediate family members.

Therefore, a lobbyist must report the expenditures made for the benefit of a spouse of a public official. For ease of reporting, the requestor should report the expenditure under the category of meals and beverages.

If the total amount expended on the spouse of a public official exceeds twenty-five dollars (\$25.) a Schedule A must be filed in conjunction with the lobbyist's report noting the name of the recipient. Again, for ease of reporting on the Schedule A, the lobbyist can specify "Mr. and Ms. Smith" under Recipient Name and enter the combined total spent on meals and beverages.

2. The requestor also paid a share of the expenses associated with a hospitality suite at a Legislative Conference where all members of the Legislature in attendance were invited. Specific attendance at the hospitality suite was not documented. In such a case the requestor must report the total amount spent on the hospitality suite. This figure may be reported as Group Entertainment.

The Commission's decision to treat such expenditures as group entertainment is limited to the specific facts presented and should not be relied upon by any other public servant or lobbyist subject to the Ethics Act.

Chairman