

(For publication and indexing in the code of state rules by the Secretary of State, § 6B-2-3.)

ADVISORY OPINION NO. 89-1A

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON SEPTEMBER 7, 1989

GOVERNMENTAL BODY SEEKING OPINION

A County Board of Education

Opinion Sought

"Would there be any conflict of interest for the Board of Education to conduct business with an automotive parts store that is owned by an employee's spouse? The employee involved is a central office accountant/secretary. The employee would not be involved in the decision making process as to where goods would be purchased nor would she prepare the payment of these vendor bills for board approval."

Other Facts Relied Upon By The Commission

The School Superintendent indicates that automotive parts are available from a number of sources in the County. Most such purchases are put to bid. The subject parts store is not the consistent low bidder. Only a small amount of purchases are made at the subject store. The spouse, an accountant, is in the central office, in daily personal contact with the superintendent and others making purchasing decisions.

Pertinent Statutory Provisions Relied Upon By The Commission

"(1). . .no public employee or member of his or her immediate family. . .may be a party to or have an interest in the profits or benefits of a contract with the governmental body. . .with which he or she is employed."

* * * *

"(3) Where the provisions of subdivisions (1) and (2) of this subsection would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship, or other substantial interference with the operation of a state, county, municipality, county school board or other governmental agency, the affected governmental body or agency may make written application to the ethics commission for an exemption from subdivisions (1) and (2) of this subsection."

West Virginia Code, Chapter 6B, Article 2, Section 5(d)

Advisory Opinion

The sale of auto parts to the board of education by the spouse of an employee of that governmental agency is proscribed by the West Virginia Government Ethics Act.

The County Board of Education may make written application to this commission for an exemption, if it is of the opinion that enforcement of the Act in this instance would result in excessive cost, undue hardship, or other substantial interference with the operation of the County school system.


Chairman