

ADVISORY OPINION 89-47

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON DECEMBER 7, 1989

GOVERNMENTAL BODY SEEKING OPINION

President of a state association

OPINION SOUGHT

Whether it is a violation of the Act for an association to give public officials, Legislators, and various state employees a Day Book?

OTHER FACTS RELIED UPON BY THE COMMISSION

The association has published and furnished a complimentary Day Book to Legislators and certain state employees since 1965. The Day Book is valued at less than three dollars.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(c)(1) states in pertinent part that an official or employee of the state may not solicit any gift. No official or employee may knowingly accept any gift, directly or indirectly, from any person whom the official or employee knows or has reason to know..."

West Virginia Code Section 6B-2-5(c)(2) states in pertinent part that a person who is a public official or public employee may accept a gift described in this subdivision, and there shall be a presumption that the receipt of such gift does not impair the impartiality and independent judgment of the person. This presumption may be rebutted only by direct objective evidence that the gift did impair the impartiality and independent judgment of the person or that the person knew or had reason to know that the gift was offered with the intent to impair his or her impartiality and independent judgment. The provisions of subdivision (1) of this subsection do not apply to...

(C) Unsolicited gifts of nominal value or trivial items of informational value;

ADVISORY OPINION

It is the commission's opinion that legislators and other public employees may accept unsolicited gifts (Day Books having a value of approximately three dollars) from the association since they are considered gifts of nominal value or trivial items of informational value as permitted by West Virginia Code Section 6B-2-5(c)(2)(C).

  
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Chairman