

## **ADVISORY OPINION NO. 2000-11**

**Issued On July 6, 2000 By The**

### **WEST VIRGINIA ETHICS COMMISSION**

#### **OPINION SOUGHT**

A **County School Board President** asks if it would be a violation for the Board to purchase audio amplification equipment to accommodate a board member's hearing impairment.

#### **FACTS RELIED UPON BY THE COMMISSION**

A newly-elected Board Member has advised the Board that she has a severe hearing impairment and asked the Board to purchase certain amplification equipment which she believes is necessary to her effective participation in Board meetings.

The Board Member's audiologist has recommended that approximately \$3,0000 worth of amplification equipment be installed in the Board's meeting room to work in conjunction with digital hearing aids and ear pieces at a cost of approximately \$5,000.

The Board Member has offered to pay for the cost of the hearing aids, which are designed for her individual use and will become her personal property. She will wear the hearing aids on a daily basis in addition to the time she spends attending Board meetings.

#### **CODE PROVISIONS RELIED UPON BY THE COMMISSION**

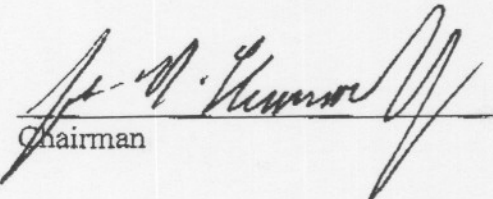
WV Code § 6B-2-5 (b) provides that a "public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person."

#### **ADVISORY OPINION**

The Board seeks to make reasonable accommodation for the Member's hearing impairment and asks if it may use county school funds to purchase sound amplification equipment. The question turns on whether the Board has a legally binding duty to provide amplification equipment - a determination the Ethics Commission lacks the authority to make.

In the absence of a duty to provide the equipment, the expenditure would constitute a gift of public funds for the Member's private benefit and could constitute a violation of the Ethics Act. The Board should obtain an independent evaluation from a qualified entity, such as the West Virginia Division of Rehabilitation Services, indicating that the accommodation sought is reasonable and necessary to remedy a particular disability the Board is legally obligated to accommodate.

It would not be a violation for the Board to purchase equipment in accordance with a determination by an appropriate authority that it has a duty to do so and a specification of the nature of the equipment required to work in conjunction with the hearing aids and ear pieces provided by the Member at her own expense. It would be a violation for the Board to pay for the Board Member's hearing aids and ear pieces, in the absence of a legally binding ruling that it must do so.

  
Chairman