

ADVISORY OPINION NO. 2001-31

Issued On November 1, 2001 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **State Employee** asks whether he may solicit private and public financial support to pay for a trip to China.

FACTS RELIED UPON BY THE COMMISSION

The Employee has been invited to join a group traveling to China under the auspices of a private sector, nonpolitical organization dedicated to fostering international understanding. The trip will take ten days and will focus on electronic commerce. Delegation members are required to pay their own travel expenses.

The focus of the trip is unrelated to the Employee's public position and he would travel while on unpaid leave. The Employee states that "Most likely, I can come up with the necessary \$5500 to \$6000 myself. However, it would put a very considerable strain on my finances. That being the case, I am considering seeking help from government agencies and/or the private sector in paying for me to go to China."

CODE PROVISIONS RELIED UPON BY COMMISSION

WV Code 6B-2-5(c) *Gifts*. -- (1) A public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family ...

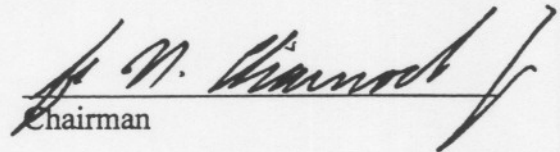
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The Ethics Act prohibits public servants from soliciting a gift, unless it is for a charitable purpose. The China trip is not a charitable purpose and the Employee may not solicit financial support for the project from public or private sources.

The Employee could, however, apply to existing grant programs for a grant to fund, or help fund, his travel expenses. The existence of a grant program, whether public or private, is an offer of financial assistance for those purposes for which the grant program was established. The Commission finds that making an application for a grant from such a program is in effect an effort to accept an existing offer of financial aid and is not covered by the Act's gift solicitation provisions.

Therefore, it would not be a violation of the Ethics Act for the Employee to seek a grant from an established grant program with eligibility criteria or parameters matching the purpose of the sponsoring organization's trip. Note: this ruling is subject to the considerations discussed in the following paragraph.

The Commission's ruling is intended to legitimize only those grant applications directed to an existing program established to offer financial assistance for the type of activity with which the Employee is involved. Unless there is an existing grant program, there is no standing offer for the Employee to accept and his request for financial help, even if it is called a grant application, would constitute a prohibited gift solicitation.


Chairman