

ADVISORY OPINION NO. 2003-10

Issued On August 7, 2003 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **County School Board Member** asks whether she may vote on a matter before the Board which involves a private business in which family members have a personal financial interest.

FACTS RELIED UPON BY THE COMMISSION

The Board is considering a proposal to restructure the television studio and associated curriculum at a county high school. The proposal involves a collaborative venture with several private sector businesses, WV Public Broadcasting, West Virginia University and a private university.

A trust set up by the Board Member and her husband, for the benefit of their children, has an ownership interest in one of the private businesses involved in the program. For this reason she has asked for an opinion from the Ethics Commission on whether it would be proper for her to take part in the Board's discussion and vote on the proposal.

Those entities joined with the school system in the venture will provide increased educational opportunities for students, but will themselves receive no financial benefit from their involvement. No county funds or other property would be transferred to any of the participating entities and none of them would have use of the schools facilities for their own activities.

CODE PROVISIONS RELIED UPON BY COMMISSION

WV Legislative Rules 158-9-2

2.1 A public official or public employee may not vote on or decide a matter that has become "personal" to that individual.

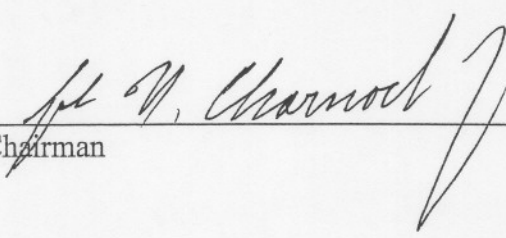
2.2 For the purpose of this section a matter will be considered "personal" to a public official or public employee when he or she has any pecuniary interest either directly or indirectly in the matter or is affected in a manner which may influence his or her vote or would clearly give the appearance of impropriety.

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The Ethics Commission's Legislative rules on voting say that public servants may not vote on matters which have become personal to them. These rules say that matters become personal to a public servant "... when he or she has any pecuniary interest either directly or indirectly in the matter or is affected in a manner which may influence his or her vote or would clearly give the appearance of impropriety."

The proposed restructuring of the high school's media program is designed to increase the educational opportunities offered its students and the private businesses will receive no financial benefit from their involvement. Neither the Board Member nor her family members can derive financial benefit from the proposal and the Commission finds that her relationship to the business does not suggest it would influence her vote or give the appearance of impropriety.

These findings make it clear that no provision of the Ethics Act or its legislative rules on voting require the Board Member to be recused from consideration of and vote on this proposal, simply because the trust owns stock in one of the private businesses involved. Her participation is proper and would not be a violation of the Ethics Act.



Chairman