

Contract Exemption 2026-01

Issued on January 8, 2026, by

The West Virginia Ethics Commission

Opinion Sought

The **Boone County Parks & Recreation Board** seeks a Contract Exemption to contract for services with **Joey Sharp**, a member of the Board of Directors and former director of the Parks & Recreation Department.

Facts Relied Upon By the Commission

The Boone County Parks & Recreation Board (“Parks Board”) is a county entity created by [W. Va. Code § 16-2-11](#). The Boone County Commission appoints the members of the Parks Board. The Parks Board has the power to “employ... any technical, administrative, clerical, or other persons, to serve as needed and at the will and pleasure of the Board.”

In August 2025, the director of the Parks Board unexpectedly resigned. Mr. Sharp had formerly served as the director of the Parks Board and has been assuming the director duties due to his unique knowledge of the position and ability to fulfill the requirements that go along with it. Mr. Sharp has volunteered his time to this point. The Parks Board is not able to hire a full-time director due to current budgetary constraints. The Parks Board can only afford to retain a part-time director. Mr. Sharp has agreed to fill this need on a temporary, part-time basis for \$10 per hour with no benefits.

Mr. Sharp, as a Parks Board member, has not participated in the review or evaluation of his contract with the Parks Board, has been recused from deciding, evaluating, and voting on the contract, and has fully disclosed the extent of his interest in the contract.

Provisions Relied Upon By the Commission

W. Va. Code § 6B-2-5(d)(1) states, in relevant part:

In addition to the provisions of section fifteen, article ten, chapter sixty-one of this code, no elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which the official or employee may have direct authority to enter into, or over which he or she may have control Provided, however, That nothing herein shall be construed to prohibit a member of the Legislature from entering into a contract with any governmental body, or prohibit a part-time appointed public official from entering into a contract which the part-time appointed public official may have direct authority to enter into or over which he or she may have control when the official has

not participated in the review or evaluation thereof, has been recused from deciding or evaluating and has been excused from voting on the contract and has fully disclosed the extent of his or her interest in the contract.

W. Va. Code § 6B-2-5(d)(2) states, in relevant part:

In the absence of bribery or a purpose to defraud, an elected or appointed public official or public employee or a member of his or her immediate family or a business with which he or she is associated shall not be considered as having a prohibited financial interest in a public contract when such a person has a limited interest as an owner, shareholder or creditor of the business which is awarded a public contract. A limited interest for the purposes of this subsection is:

(A) An interest which does not exceed one thousand dollars in the profits or benefits of the public contract or contracts in a calendar year;. . .

W. Va. Code § 6B-2-5(d)(3) states, in relevant part:

If a public official or employee has an interest in the profits or benefits of a contract, then he or she may not make, participate in making, or in any way attempt to use his office or employment to influence a government decision affecting his or her financial or limited financial interest. Public officials shall also comply with the voting rules prescribed in subsection (j) of this section.

W. Va. Code § 6B-2-5(d)(4) states, in relevant part:

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.

W. Va. Code § 61-10-15(a) states, in relevant part:

It is unlawful for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary,

supervisor, superintendent, principal or teacher, he or she may have any voice, influence or control. . . .

W. Va. Code § 61-10-15(h) states, in relevant part:

Where the provisions of subsection (a) of this section 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 governmental body or agency, the affected governmental body or agency may make written application to the West Virginia Ethics Commission pursuant to subsection (d), section five, article two, chapter six-b of this code for an exemption from subsection (a) of this section.

Opinion

Ethics Act

The Ethics Act prohibits public employees and officials from having more than a limited interest in the profits or benefits of a public contract over which they have direct authority or control unless their governing body seeks, and receives, an exemption to contract with the public employee or official. W. Va. Code § 6B-2-5(d)(1). Mr. Sharp, as a member of the Board of Directors, has direct authority or control over the Board's contracts. See [Contract Exemption 2024-03](#).

This provision of the Ethics Act, however, also contains an exception for a part-time appointed official to contract with his or her agency as long as he or she has “not participated in the review or evaluation thereof, has been recused from deciding or evaluating and has been excused from voting on the contract and has fully disclosed the extent of his or her interest in the contract.” W. Va. Code § 6B-2-5(d)(1). The Board members of a parks board are part-time appointed officials, and therefore, they may contract with the Board under the Ethics Act, without a contract exemption, as long as they recuse themselves and do not participate in matters concerning in which they have a financial interest pursuant to W. Va. Code § 6B-2-5(d). Since Mr. Sharp has been recused from deciding or evaluating the contract, has been excused from voting on the contract, and has fully disclosed the extent of his interest in the contract, the Ethics Act does not prohibit this contract.

W. Va. Code § 61-10-15(a)

A member of a county board, however, must also abide by the stricter prohibitions in W. Va. Code § 61-10-15(a), a statute that imposes criminal penalties against a county official, including a parks board member, who has a pecuniary interest, either directly or indirectly, in the proceeds of a contract over which the official exercises voice, influence, or control. W. Va. Code § 61-10-15, unlike the Ethics Act, does not contain an exception for part-time appointed officials. Hence, to comply with § 61-10-15, it is necessary for

the Requester to obtain a contract exemption in order to contract with Mr. Sharp. See [Contract Exemption 2024-03](#).

Contract Exemption

The Ethics Commission may only grant a contract exemption from the prohibitions in W. Va. Code § 61-10-15(a) if the prohibition would result in excessive cost, undue hardship, or other substantial interference with the operation of a governmental body or agency.

The Requester asserts that Mr. Sharp is uniquely qualified for this contract, and that it is in the best interest of the Parks Board to enter into a contractual agreement with Mr. Sharp to perform the services described herein. The Requester estimates that Mr. Sharp will contribute 15-25 hours per week to help perform duties essential to the operation of the Parks Board in the short term. Further, Mr. Sharp's continued use of his own time without compensation will create an undue financial hardship on him and his family. Given the unique qualifications of Mr. Sharp and the Requester's limited resources, the Ethics Commission finds that the Parks Board will face undue hardship and substantial interference in its operations if this request is denied. Therefore,

The Ethics Commission grants a contract exemption to the Boone County Parks & Recreation Board to contract with Joey Sharp, a Board member, at the rate of \$10 per hour for one year. This Contract Exemption is effective until February 1, 2027.

First, Mr. Sharp must recuse himself from decisions, discussions, and votes relating to his contract and payment for services. He must follow the restrictions in W. Va. Code § 6B-2-5(j). For recusal to be proper, he must first fully disclose on the record his disqualifying interest and leave the room during the discussion, deliberation, and vote on the matter. In addition, the minutes or record of the meeting must reflect the basis for the recusal and that Mr. Sharp left the room during all consideration, discussion, and vote on the contract and payment for his services. W. Va. Code § 6B-2-5(j)(3).

Second, the Parks Board may compensate Mr. Sharp for work he may have already performed since he recused himself from decisions, discussions, and votes relating to his contractual services and he followed the restrictions in W. Va. Code § 6B-2-5(j) and (j). In the event he has not complied with the above limitations, he may not be compensated for his past services.

Third, the Parks Board is obligated to advertise the vacant director position and exercise due diligence in the search for a qualified individual to fill the role.

The Commission notes that exemptions must be granted on a case-by-case basis. Therefore, this Contract Exemption is limited to the facts and circumstances of this particular case and may not be relied upon as precedent by other persons or entities.

/s/ Robert J. Wolfe
Robert J. Wolfe, Chairperson
West Virginia Ethics Commission