

## SCHOOL BOARD ADVISORY OPINION NO. 2004-07

Issued On August 5, 2004 By The

### WEST VIRGINIA ETHICS COMMISSION

#### OPINION SOUGHT

The Members of a County Board of Education ask if they may serve on the county Economic Development Authority, the Senior Citizen's Board, and the Governor's Highway Safety Task Force.

#### FACTS RELIED UPON BY THE COMMISSION

The requesters are current Board of Education Members. They seek a determination whether one or more of them may serve in certain positions in the community, including the county's Economic Development Authority which is established pursuant to W. Va. Code § 7-12-1, *et seq.*, the board which oversees a private, non-profit Senior Citizen's Center, and a regional highway safety coalition. Economic Development Authority members are appointed by the County Commission to serve three year terms. The other positions in question are filled by volunteers. No compensation is authorized for serving in any of these positions.

#### CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 18-5-1a, provides as follows:

(a) No person shall be eligible for membership on any county board who is not a citizen, resident in such county, or who accepts a position as teacher or service personnel in the school district in which he or she is a resident or who is an elected or an appointed member of any political party executive committee, or who becomes a candidate for any other office than to succeed oneself.

(b) No member or member-elect of any board shall be eligible for nomination, election or appointment to any public office, other than to succeed oneself, or for election or appointment as a member of any political party executive committee, unless and until after that membership on the board, or his status as member-elect to the board, has been terminated at or before the time of his filing for such nomination for, or appointment to, such public office or committee: *Provided*, That "**office**" or "**committee**", as used in this subsection and subsection (a) of this section, **does not include service on any board, elected or appointed, profit or non profit, for which the person does not receive compensation and whose primary scope is not related to the public schools.**

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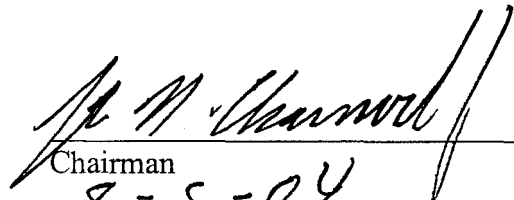
Effective July 1, 2003, members of county boards of education are not permitted to hold another public office, unless: (1) they do not receive compensation for serving in that office; and (2) the primary scope of the other office does not relate to the public schools.

As previously determined in School Board Advisory Opinion 2003-07, the Commission finds that an appointed member of a County Economic Development Authority holds a public office. Pursuant to W. Va. Code § 7-12-5(a), Authority members may not be compensated for their services. Further, the primary scope of this public office does not relate to the public schools. Accordingly, service by a School Board Member on a County Economic Development Authority is not prohibited by W. Va. Code § 18-5-1a.

The Senior Citizen's Center operates as a private non-profit charitable organization. As previously determined in School Board Advisory Opinion 2003-04, serving on the Board of Directors of a private, non-profit organization, such as a Senior Citizen's Center, does not comprise holding a public office.

The regional highway safety coalition recruits volunteers to serve as liaison with various local groups and organizations, including the public schools, to facilitate an exchange of information, concerns and initiatives related to various aspects of community safety, including highway safety. These volunteers are not compensated and exercise no executive or legislative authority. The Commission finds that serving on such a coalition does not comprise holding a public office.

Accordingly, service by a School Board Member on the governing board of a private, non-profit Senior Citizen's Center or as a volunteer member of a regional highway safety coalition is not prohibited by W. Va. Code § 18-5-1a because these positions are not public offices within the meaning of the statute.

  
Chairman  
8-5-04