

SCHOOL BOARD ADVISORY OPINION NO. 2014-01

Issued On February 6, 2014 by

THE WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **County Board of Education Employee** asks if she may keep her job as Attendance Director/Alternative School Liaison and be a candidate for membership on the same County Board of Education.

FACTS RELIED UPON BY THE COMMISSION

The Requester is considering running for a position on the County Board of Education (BOE). She is presently employed as Attendance Director/Alternative School Liaison for the same county school system, and intends to retire effective June 30, 2014. If her candidacy is successful, she would become a BOE member in July 2014. At no time, therefore, would she simultaneously serve on the BOE and be employed thereby.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 18-5-1a, provides, in relevant part:

(a) A person who is a member of a county board:

(2) May not be employed by the county board on which he or she serves, including employment as a teacher or service person;

(3) May not engage in the following political activities:

(A) Become a candidate for or hold any other public office, other than to succeed him or herself as a member of a county board subject to the following:

(i) A candidate for a county board, who is not currently serving on a county board, may hold another public office while a candidate if he or she resigns from the other public office prior to taking the oath of office as a county board member.

ADVISORY OPINION

Although a number of School Board Advisory Opinions evaluate various positions to determine whether they present a statutory impediment to membership on a County Board of Education (BOE), the question presented here is one of first impression:

whether the Requester may run for a seat on the BOE while employed by the same county school system.

W. Va. Code § 18-5-1a(a)(2) clearly prohibits a BOE **member** from being employed by the county board on which s/he serves, including employment as a teacher or service person. That prohibition does not expressly apply, however, to **candidates**. Instead W. Va. Code § 18-5-1a(a)(3)(A)(i) permits a candidate (other than a BOE member running for re-election) to hold another public office while a candidate if s/he resigns from the other public office prior to taking the oath of office as a county board member.

Here, the Requester intends to sever her employment with the county school system before newly elected BOE members are seated. As a result, he **may** continue her employment as Attendance Director/Alternative School Liaison for the same county school system while running for a seat on the BOE.



R. Kemp Morton, Chairperson