

SCHOOL BOARD ADVISORY OPINION NO. 2003-07

Issued On October 2, 2003 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A Board Member asks if serving on a County Economic Development Authority would bar him from serving on the County Board of Education.

FACTS RELIED UPON BY THE COMMISSION

The requester is currently serving as a Board of Education Member. He has been asked to serve on the board of the County Economic Development Authority. Authority members are ordinarily appointed by the County Commission to serve three year terms. Persons serving on the Development Authority Board are not compensated beyond being reimbursed for reasonable and necessary expenses.

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.**

W. Va. Code § 7-12-5(a), applicable to County Economic Development Authorities, provides as follows:

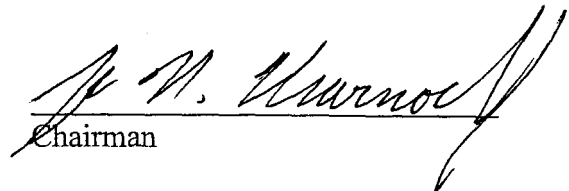
No member of the authority shall receive any compensation, whether in formal salary, per diem allowance or otherwise, in connection with his or her services as such member. Each member shall, however, be entitled to reimbursement by the authority for any necessary expenditures in connection with the performance of his or her general duties as such member.

### ADVISORY OPINION

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.

The Commission finds that a Director of a County Economic Development Authority holds a public office. Further, the Commission finds that the primary scope of this office is not related to the public schools.

W. Va. Code § 18-51a, as amended in 2003, permits a Board of Education Member to hold a public office that does not primarily relate to the public schools, provided the position is not compensated. W. Va. Code § 7-12-5(a) forbids compensation of authority members. Accordingly, the Commission finds that the requester's service on a County Economic Development Authority would not be a bar to his continued service on the County Board of Education. As previously determined in School Board Advisory Opinion 2003-01, acceptance of reimbursement for reasonable travel expenses incurred in the performance of official duties does not constitute "compensation" prohibited by 18-5-1a.

  
Chairman