

**SCHOOL BOARD ADVISORY OPINION NO. 2003-08**

**Issued On November 6, 2003 By The**

**WEST VIRGINIA ETHICS COMMISSION**

**OPINION SOUGHT**

A Board Member asks if filing pre-candidacy papers would bar her 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. She is contemplating running for elected public office but would prefer to file pre-candidacy papers to explore raising funds before making a decision. She is considering filing as a pre-candidate for the State Legislature or other elected office at the state, county or municipal level. Pre-candidates are permitted to file papers for an "undeclared" position, naming the office when they file as a candidate.

**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.

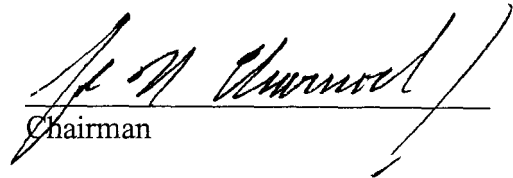
(b) No member or member-elect of any board shall be eligible for nomination, election or appointment to any public office, other than to succeed oneself, or for election or appointment as a member of any political party executive committee, unless and until after that membership on the board, or his 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 . . . .

W. Va. Code § 3-5-7, provides as follows:

Any person who is eligible and seeks to hold an office or political party position to be filled by election in any primary or general election . . . shall file a certificate of announcement declaring as a candidate for the nomination or election to the office.

**ADVISORY OPINION**

The Commission finds that there is a fine line between filing pre-candidacy papers to raise money for a possible election campaign and formally filing as a declared candidate for a specific public office. However, the Commission concludes that for the purposes of W. Va. Code § 18-5-1a, as currently worded, a person may not be denominated a “candidate” before having filed a certificate of announcement of their candidacy for nomination or election to office, as provided in W. Va. Code § 3-5-7. Accordingly, the requester is not barred from continuing to serve as a Board Member by filing as a pre-candidate for either a specific public office or an undeclared public office.

  
Chairman