

## SCHOOL BOARD ADVISORY OPINION NO. 2003-09

Issued On November 6, 2003 By The

### WEST VIRGINIA ETHICS COMMISSION

#### OPINION SOUGHT

A person being considered for appointment to a County Board of Education vacancy asks if he may continue to serve on the Board of Directors of a private non-profit organization which operates a sheltered workshop for physically and mentally challenged people.

#### FACTS RELIED UPON BY THE COMMISSION

The requester has been approached to serve on the Board of Education, filling an unexpired term. He would like to continue serving on the Board of Directors of a sheltered workshop which provides assistance to persons with mental and physical challenges. The workshop operates as a private, non-profit charitable organization under § 501(c)(3) of the Federal Internal Revenue Code.

#### CODE PROVISIONS RELIED UPON BY THE COMMISSION

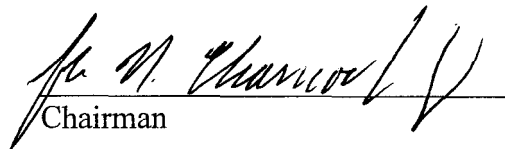
W. Va. Code § 18-5-1a, provides as follows:

(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.

**ADVISORY OPINION**

W. Va. Code § 18-5-1a bars school board members from holding other public offices, except in certain limited circumstances. In School Board Advisory Opinion 2003-04, this Commission determined that serving on the Board of Directors of a Community Action Organization established as a private, non-profit corporation did not equate to holding another public office. Applying the same reasoning to a sheltered workshop established as a private, non-profit corporation, the Commission finds that such position is not a public office. Therefore, pursuant to W. Va. Code § 18-5-1a, the requester is eligible to serve simultaneously on a County Board of Education and on the board that governs the sheltered workshop.

  
Chairman