

Advisory Opinion 2025-05

Issued on June 5, 2025, by

The West Virginia Ethics Commission

Opinion Sought

A **Law Enforcement Agency** asks whether it may allow a nonprofit organization to use the agency's name for a fundraising event for cancer research.

Facts Relied Upon by the Commission

The Requester's law enforcement agency and a nonprofit professional association of law enforcement officers have been hosting an annual sporting event in the name of the law enforcement agency to raise money for charitable causes. The event has been open to current and retired employees of the professional association and their family members. The event's guests pay an entry fee that covers the costs of the event and a charitable donation. This year's event raised money to fund medical research to find a cure for cancer.

The law enforcement agency and professional association have decided not to host the event in the future. A different nonprofit organization, however, which is also composed of law enforcement officers, would like to continue the event and take over the responsibilities of hosting it. The Requester would like to allow the new host to use its agency's name for the event but wants to have no other involvement with the event. The new host would be solely responsible for organizing, collecting money, and the logistical matters concerning the event.

Provisions Relied Upon by the Commission

W. Va. Code § 6B-2-5(b)(1) states:

A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in de minimis private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

W. Va. Code § 6B-2-5(c)(1) states, in relevant part:

A public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family: Provided, That no public official or public employee may solicit for a charitable purpose any gift from any person who is also an official or employee of the state and whose position is subordinate to the soliciting official or employee. . . .

W. Va. Code R. § 158-7-6 states in relevant part:

6.1. Public officials and public employees may solicit gifts for a charitable purpose when there is no resulting direct pecuniary benefit to the public official or public employee or an immediate family member.

6.2. The Ethics Commission may recognize programs or activities as involving a charitable purpose on a case-by-case basis.

6.3. It is improper for a public official or public employee to solicit any gift or donation, including those for a charitable purpose, from a subordinate employee.

...

6.7. State government agencies and the governing bodies of political subdivisions may solicit funds to support or underwrite agency programs which are statutorily created or authorized and are intended to help the poor and disadvantaged. **If a state government agency or governing body of a political subdivision seeks to solicit funds for use by the agency for any other purpose, then the state government agency or governing body of a political subdivision must first seek permission from the Executive Director of the West Virginia Ethics Commission or the Ethics Commission through issuance of a formal advisory opinion. The Executive Director or Ethics Commission may only authorize such a solicitation if it serves a public purpose.**
(Emphasis added)

W. Va. Code R. § 158-7-8 states:

8.1. The Ethics Commission finds that the interest of the public is served by having stricter limitations which govern solicitations by law enforcement officers due to the unique nature of the authority which law enforcement officers exercise over the public, including arrest powers.

8.2. "Law-enforcement officer" means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and

order, prevent and detect crime, make arrests and enforce the laws of the state or any county or municipality thereof.

8.3. Except as otherwise provided for in these rules, law enforcement officers may not solicit for charity while in uniform, but may show identification upon request.

8.4. Public officials or employees may solicit donations for charity while out of uniform and when they are off duty.

8.5. Law enforcement officers or associations composed of law enforcement officers may not provide signs, stickers, decals or other items of display by individual donors showing whether or not a donation has been made on account of any charitable contribution solicited on behalf of law enforcement officers or their association, unless such signs, stickers, decals or other items of display contain the following disclaimer: "The holder of this item is not entitled to any special treatment."; Provided, That, certificates, plaques or other items of display which are not intended for display on motor vehicles may be distributed to donors without the inclusion of any such disclaimer; Provided, However, That an association may provide to its members who are currently serving as law enforcement officers, or who previously served as law enforcement officers, a sign, sticker, decal or other item of display, including those items intended for display in a motor vehicle, which demonstrate that a present or former law enforcement officer is a member of an association or fraternal group primarily composed of law enforcement officers, without the inclusion of any such disclaimer.

8.6. Law enforcement officers or associations composed of law enforcement officers may conduct telephonic or oral solicitations in their official capacity; Provided, That, when conducting a telephonic solicitation, law enforcement officers may not identify themselves by rank or title or otherwise reference their rank or title during the conversation unless specifically requested by the person with whom they are having a conversation.

8.7. Law enforcement officers may not pick up a donation while in uniform except as otherwise provided for in these rules.

8.8. Law enforcement officers may wear their uniforms while participating in fund-raising activities based on an exchange of value. Further, they may wear their uniforms while participating in a fund-raising event such as a motorcycle ride, walk or other activities where the public, for a fee or donation, is invited to join a law enforcement officer as part of a fund-raising activity for charity.

8.9. Law enforcement officers may deliver proceeds raised for charity to the intended recipient while in uniform and while on duty.

Advisory Opinion

Private Gain -- promoting a charitable event

W. Va. Code § 6B-2-5(b) prohibits public employees and officials, including law enforcement officers and personnel, from using the resources and prestige of their public office for their private gain or the private gain to another. The Ethics Commission has recognized that W. Va. Code § 6B-2-5(b)(1) restrains public officers and employees from promoting or endorsing commercial products and services. See [Advisory Opinion 2015-13](#), citing [Advisory Opinion 1995-05](#) and [Advisory Opinion 2015-04](#). See also [Advisory Opinion 2005-10](#), [Advisory Opinion 2012-21](#), and [Advisory Opinion 2014-15](#). In [Advisory Opinion 2021-02](#), the Commission concluded, however, that W. Va. Code § 6B-2-5(b) does not prohibit public officials or employees from promoting charitable causes. The Commission considered whether a mayor could endorse a drug and alcohol rehabilitation center. After finding the center served a charitable purpose, the Commission concluded that the mayor may appear in a video using his name and public title to promote and solicit donations for the center. The Commission based its opinion, in part, on [Advisory Opinion 2016-10](#), which allowed a private charity to recognize a public servant by name and title for her personal donation to a charitable event. The Commission found that a charitable cause is not the equivalent of a “commercial product” or “business.”

Therefore, the Ethics Act would not prohibit the Requester from allowing the nonprofit organization to use the law enforcement agency's name for its event, as long as it serves a charitable purpose. In addition to [Advisory Opinion 2021-02](#), in which the Commission found that a drug and alcohol rehabilitation center served a charitable purpose, the Commission has identified many other charitable purposes. For example, in [Advisory Opinion 2005-02](#), the Commission held that a public health program administered by a county board of health served a charitable purpose. In [Advisory Opinion 2011-1](#), the Ethics Commission found that a recreational department for the homeless provided by an agency tasked with housing veterans served a charitable purpose. In [Advisory Opinion 2013-40](#), the Ethics Commission held that educating the children of West Virginia offers a significant public benefit and a charitable purpose. In [Advisory Opinion 2014-03](#), the Commission held that funding county hospital projects that enable physicians to offer their best medical care to patients who are unable to pay and for other missions which serve to protect the health and safety of West Virginia citizens are charitable purposes.

Consistent with the foregoing advisory opinions of the Commission, medical research to find a cure for a dreaded disease like cancer constitutes a charitable purpose under the Ethics Act.

Therefore, the Commission holds that the Requester may lend the law enforcement agency's name to an event sponsored by a nonprofit organization for the purpose of raising funds for cancer research, a charitable purpose.

Limitations on soliciting gifts by law enforcement

While W. Va. Code § 6B-2-5(c)(1) permits a public official or employee to solicit a gift for charitable purposes, limitations apply. First, a public employee or official may not solicit donations if the funds would result in a direct pecuniary benefit to the official, employees, or their immediate family members. Cancer is not an occupational disease that preys exclusively or predominantly upon law enforcement personnel. It is a scourge to all mankind, bringing pain and devastation to countless millions. Accordingly, no direct pecuniary benefit will be conferred upon the law enforcement agency's officials, employees, or their immediate family beyond the benefits conferred on the public. Also, cancer research takes years and the funds raised by this event would not likely provide a "direct pecuniary benefit" to a particular law enforcement officer.

Next, there are specific restrictions on public officials or public employees soliciting for charitable purposes (See [Title 158 Series 07 Gifts & Charitable Contributions](#).) An association of law enforcement officers must also abide by the rules for solicitation of gifts for charity as its constituent members are law enforcement officers. [Advisory Opinion 1995-40](#). These rules are set out in W. Va. Code R. § 158-7-8.

In [Advisory Opinion 2007-01](#), the Commission addressed the application of these rules to uniformed state employees. However, these requirements apply equally to all law enforcement officials or employees, whether municipal, county or state. The Commission stated:

The solicitation by a State employee in uniform necessarily involves use of the prestige or influence of the public law enforcement position. Thus, the Ethics Act prohibits State regulatory officers from soliciting donations for charitable purposes while in uniform. As a result, the Commission hereby overrules Advisory Opinion 2004-07, wherein the Commission ruled that law enforcement officials could, with certain restrictions, conduct solicitations for charitable purposes while on duty and in uniform. Public servants may no longer rely on Advisory Opinion 2004-07 as precedent.

State employee members of the Association are hereby permitted to accompany other Association members and solicit donations only while out of uniform and when they are off duty. Further, public servants generally are allowed to engage in charitable solicitations of the general public, on their own time, in their private capacity.

Under no circumstances shall the Association or the State Agency provide signs, stickers, decals, or other items for display by individual donors showing whether or not a donation has been made on account of any

charitable contribution solicited by or on behalf of a government entity or government employee. A mere listing of donors, however, without indication that the contribution was the result of solicitation by a government entity or employee, is permitted.

This Advisory Opinion is based on the facts provided. If all material facts have not been provided, or if new facts arise, the Requester must contact the Ethics Commission for further advice, as it may alter the analysis and render this Opinion invalid. This Advisory Opinion is limited to questions arising under the Ethics Act, W. Va. Code §§ 6B-1-1 through 6B-3-11, and W. Va. Code § 61-10-15, and does not purport to interpret other laws or rules.

In accordance with W. Va. Code § 6B-2-3, this Opinion has precedential effect and may be relied upon in good faith by public servants and other persons unless and until it is amended or revoked or the law is changed.

/s/ Terry L. Walker
Terry L. Walker, Acting Chairperson
West Virginia Ethics Commission