

Ethics News

For WV Counties and Cities

Volume 4

January 2020

Financial Disclosures due February 3

All elected state and county officials, including members of county boards of education and county school board superintendents, are required to file Financial Disclosure Statements with the Ethics Commission by February 3, 2020.

The Disclosures, which cover the period of the preceding calendar year, also must be filed by candidates for all state and county offices within 10 days of filing a certificate of announcement, unless the candidate has previously filed a Disclosure for the previous calendar year.

In addition, candidates and elected officials in Charleston, Fairmont and Morgantown municipal elections must file Disclosures, although candidates and officials in other towns and cities are not required to file. Members of state boards, commissions and agencies who are appointed by the Governor and certain state Executive Department officials must file within 30 days after assuming their duties.

Political party executive committee candidates and delegates to party conventions do not need to file a Disclosure. Filers who are no longer in a public position or elected office required to file a Disclosure as of February 3 need not file a Disclosure.

Filing may be done online on the Commission's website or through submission of a paper form.

Candidates should note that the Financial Disclosure Statement required to be filed with the Ethics Commission is different from a form required by the Secretary of State's Office. That form is a "State of West Virginia Campaign Financial Statement." It should be filed with the Secretary of State's Elections Division at the Capitol Complex, Building 1, Suite 157-K, 1900 Kanawha Boulevard, East, Charleston, WV 25305.

For more information, click [here](#).

Online Filing

To file a Financial Disclosure Statement online, click [here](#). If you have filed online previously, you may use the username and password that you used earlier. If your password has expired, you will be prompted to create a new one. If you have forgotten your password, you may use the "forgot password" feature to receive a temporary password via email.

If you have forgotten your username or are unable to reset your password, call West Virginia Interactive at (304) 414-0265.

If you have not previously filed online, click [here](#) and follow the instructions. You must create your username and password. After doing so, call the Ethics Commission at (304) 558-0664 to get a PIN number.

Notice to County Clerks

County Clerks play an important role in assisting the Ethics Commission's acceptance of Financial Disclosure Statements from candidates for county offices.

Ethics Commission staff member Ellen Briggs will be sending County Clerks emails throughout election year 2020 to keep them informed of which candidates have filed their Disclosures and which have not. The Commission asks County Clerks to please keep Ms. Briggs up-to-date on write-in candidates and candidates who have withdrawn their candidacy through emails to her at ellen.m.briggs@wv.gov.

County Clerks should stress to candidates in their counties that Disclosures must be completed in full, and will not be considered "filed" until they are complete.

Uniforms in campaign ads

A police officer may not include pictures of himself in uniform in his campaign material, according to Advisory Opinion 2019-14.

The city police officer who requested the Advisory Opinion was considering running for county sheriff in the next election. During his candidacy, he would still be employed by the city as a police officer.

The Ethics Commission evaluated prior Advisory Opinions on similar issues and rulings by other states. It noted that in Advisory Opinion 2012-15, it held that a county sheriff could use his public job title to endorse candidates for public office through newspaper and radio advertisements, and that is still allowed.

It found that it had historically held that law enforcement officers must exercise caution in using the authority of their office for outside activities. It noted that a Legislative Rule, W. Va. Code R § 158-7-8.4, provides that law enforcement officers may not solicit for charity while in uniform but may show identification upon request.

The Advisory Opinion found that the officer's police uniform conveys the endorsement of his police agency and that this would result in the type of private gain the Ethics Act is intended to prohibit. It concluded that he may not include pictures of himself in uniform in his campaign material. Click [here](#) to read the Opinion.

Statewide election dates

May 12, 2020: Primary Election

November 3, 2020: General Election

Advisory Opinions

Private businesses

The Ethics Commission recently responded to an inquiry from a pre-candidate for Sheriff who asked whether he may continue to operate his residential real estate leasing business if he is elected.

In Advisory Opinion 2019-28, the pre-candidate indicated that he owns a real estate business which leases residential rental properties and farmland in the county in which he has pre-filed with the Secretary of State as a candidate for Sheriff.

The Advisory Opinion held that the Ethics Act permits a Sheriff to continue to operate a real estate business that leases and sells property to individuals and businesses in the same county. A Sheriff does not regulate or have ongoing matters before his office

with all county residents and taxpayers merely by providing routine police services or by performing the ministerial functions of collecting taxes which are not delinquent.

A Sheriff may not, however, seek to sell or lease property to persons, which includes businesses, which have been the subject of a regulatory matter within the last 12 months or which currently have a matter before the Sheriff's Office. Some examples of persons or businesses to whom a Sheriff may not sell or lease property include those who are: under investigation by the Sheriff's Office, delinquent in paying taxes or fees owed to the county or subject of an outstanding warrant or civil or criminal process.

To view the Opinion, click [here](#).

Payment to spouse

The Ethics Commission issued Advisory Opinion 2019-24 on September 5, 2019, in response to a Town Council's inquiry of whether it may pay an invoice submitted by the previous mayor's spouse.

The Town received an invoice for \$117 from the spouse for preparing and sending letters to businesses regarding actions to be taken to meet requirements associated with preventing water backflow.

The Opinion noted that the Ethics Act prohibits public officials or their immediate family members from having an interest in a public contract over which the public official has authority and control.

However, a "limited interest" — one that does not exceed \$1,000 in the profits or benefits in a calendar year — is permitted.

In general, a mayor has direct authority and control over the awarding of a town's public contracts. Here, since the contract was under \$1,000, so long as the previous mayor did not make, participate in making, or in any way attempt to use his office to influence the Town's decision with respect to his wife's work, the Opinion held that the Ethics Act does not prohibit the contract. The invoice accordingly may be paid.

To view the Opinion, click [here](#).

Open Meetings Q & A

Q: Are private, non-profit corporations subject to the Open Meetings Act?

A: No. The Open Meetings Act applies only to public agencies. The Act defines a "public agency" as "any administrative unit of state, county or municipal government, including any department, division, bureau, office, commission, authority, board, public corporation, section, committee, subcommittee or any other agency or subunit of the foregoing, authorized by law to exercise some portion of executive or legislative power."

Q: Are political party executive committees subject to the Open Meetings Act?

A: No. Political party executive committees are not administrative units of state, county or municipal government. Therefore, they are not public agencies subject to the requirements of the Open Meetings Act. These committees are required to follow the provisions in W. Va. Code § 3-1-9(h) instead.

Q: Are all invoices to be approved at a public meeting required to be listed on the meeting's agenda?

A: No. An agenda item which reads "approve invoices" or "payment of bills" is sufficient. Nevertheless, governing bodies which elect to use the above agenda items as opposed to listing all invoices on their agendas must either have a list of invoices available for public review at least two business days before the meeting or have all invoices being considered available for review at the agency's office at least two business days before the meeting.

Q: Can members of a governing body attend a meeting by telephone?

A: Yes. The Open Meeting Act's definition of meeting states that meetings may be held by telephone conference or other electronic means.

Contact us

210 Brooks Street
Suite 300
Charleston, WV 25541

(304) 558-0664
(866) 558-0664

Email: ethics@wv.gov
Website: ethics.wv.gov