

Advisory Opinion 2025-10

Issued on October 2, 2025, by

The West Virginia Ethics Commission

Opinion Sought

A **state employee**, working as an events manager, asks whether she may personally use Marriott bonus points that accumulated from her arranging hotel accommodations for the agency's officials and employees.

Facts Relied Upon by the Commission

An events manager for a state office, whose duties include making travel reservations for officials and employees, plans training sessions across West Virginia that require using state funds for overnight accommodations. She has asked whether she may use bonus points accumulated from her public duties at the Marriott for personal use. The Marriott has suggested that she use these points for both state office use (to obtain free rooms) and occasional personal use.

Code Provisions Relied Upon by the Commission

[W. Va. Code § 6B-2-5\(b\)](#) provides, in part:

(1) 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.... 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.

(2) Notwithstanding the general prohibition against use of office for private gain, public officials and public employees may use bonus points acquired through participation in frequent traveler programs while traveling on official government business: Provided, That the official's or employee's participation in such program, or acquisition of such points, does not result in additional costs to the government.¹

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The Commission's analysis will begin with a brief overview of the history of the exception for "bonus points" acquired from "frequent travel programs" from the prohibited private gain provision. The Legislature created the exception in W. Va. Code § 6B-2-5(b)(2) in 2008. Prior to the 2008 amendment, the Ethics Commission had

¹ The Commission need not analyze the prohibited gifts provision found in W. Va. Code § 6B-5-2(c) as the Marriott's bonus points program is available to all its customers. See [Advisory Opinion 1990-118](#).

issued a series of advisory opinions prohibiting government officials and employees from using rewards or bonus points earned while on state travel.² [Advisory Opinion 1998-14](#) summarized this line of opinions as follows:

The Commission has consistently held that promotional benefits resulting from official travel expenditures, such as airline or motel bonus points, belong to the public and may be used only for official purposes. These benefits, like other public resources, may not be converted to the personal use and private gain of public servants, regardless of what a private company may permit its employees to do.

Since the 2008 amendment, the Commission has interpreted the private gain “bonus points” exception in only one opinion, [Advisory Opinion 2019-13](#). The Commission determined, in that Opinion, that bonus points earned from gasoline stations were included in the category of “frequent traveler programs” for purposes of the bonus points exception. Therefore, the Commission held that state agency employees may use their personal rewards cards when purchasing gasoline for their own travel with a state-issued credit card and keep the bonus points for their personal use. The bonus points from the purchase of gasoline, just like those earned from hotels and airlines, did not have to be used for the state’s benefit, e.g., to offset future state travel expenses.

The question today is whether the Requester may use the bonus points associated with the travel arrangements she makes for *other* employees and officials in her state office. The Commission will first examine the plain language of the provision as the rules of statutory construction provide.³ The plain language of the exception allows public employees to keep bonus points acquired through “participation in frequent traveler programs while traveling on official government business.” The provision does not indicate which public employee or official’s participation in the traveler program is required. Does the employee who is traveling get to keep the bonus points, or is it permissible for someone who makes the reservation on behalf of the traveler(s), such as the Requester, to keep the bonus points? Because this question is not plainly answered by the language used in the provision, the legislative intent of the provision must be construed.

The Commission notes that the Legislature amended the Ethics Act to add the bonus points exception after the Commission issued a series of advisory opinions, which are

² See Advisory Opinions [1990-64](#), [1990-100](#), [1990-105](#), [1990-118](#), [1990-132](#), and [1998-14](#).

³ “To glean legislative intent, “[w]e look first to the statute’s language. If the text, given its plain meaning, answers the interpretive question, the language must prevail and further inquiry is foreclosed.” *Appalachian Power Co. v. State Tax Dept’ of West Virginia*, 195 W. Va. 573, 587, 466 S.E.2d 424, 438 (1995). In other words, “[a] statutory provision which is clear and unambiguous and plainly expresses the legislative intent will not be interpreted by the courts but will be given full force and effect.” Syl. pt. 2, *State v. Epperly*, 135 W. Va. 877, 65 S.E.2d 488 (1951). Conversely, “[a] statute that is ambiguous must be construed before it can be applied.” Syl. pt. 1, *Farley v. Buckalew*, 186 W. Va. 693, 414 S.E.2d 454 (1992). *Teets v. Miller*, 237 W. Va. 473, 788 S.E.2d 1 (W. Va. 2016). See also, [West Virginia Legislature Bill Drafting Manual](#) (2022) provides at p.58 in the section on “General Rules of Statutory Construction: “Where language is clear and plain, the court will not look to the Legislature’s intent.... Legislative intent will be pursued if possible and will be followed even if it is not the literal meaning of the words. Rules of construction may be invoked only where the language is ambiguous.”

identified in footnote 2, in which public officials were denied using the bonus points acquired from their traveling for state business for their own private use. None of these Opinions had denied an official or employee who made reservations on behalf of others from keeping the points. Therefore, had the Legislature intended for any employee, other than the traveler, to use these points, it would have made this clear in the amendment. Also, the Commission believes the Legislature did not intend to create a windfall to the employee who happens to be responsible for making travel arrangements for his/her public office. The Commission finds that the legislative intent was to allow the traveling public official or employee to use the bonus points.

The Ethics Commission holds that W. Va. Code § 6B-2-5(b)(2) does not allow the Requester to personally use Marriott bonus points that accumulated from her arranging hotel accommodations for the agency's officials and employees other than herself. These points could be used personally by the traveling official or employee or for future state travel to reduce the cost to the state.

This Advisory Opinion is based upon 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 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