

Ethics News

For WV Counties and Cities

Volume 6

July 2020

Public Employee Recognition Events

A public agency may recognize its employees and/or retirees to both promote morale and acknowledge achievement.

Subject to the limitations in the Ethics Commission's recently updated "Public Employee Recognition and Retirement Guideline," agencies may use public resources to hold events recognizing these individuals.

Events may include a gathering with food, beverages, entertainment and the presentation of a gift or memento of service. Importantly, an agency may expend public funds totaling no more than \$25 per employee per fiscal year for these purposes. This amount may be allocated between one or more events or activities, but the expenditure on any one individual may not exceed \$100.

Recognition events may be conducted on government premises or at an off-site location. Public funds may not be used, however, for rental or related fees associated with an event held off-site.

Public employees and officials may plan an event, solicit contributions for a gift and/or meals, and prepare and send invitations to an event in accordance with the Guideline. Any such activities must be of limited duration and may not negatively impact the mission of the public agency.

The responsibility for deciding whether public funds should be expended for this purpose lies with the head of an agency, elected official or appointed board. For more information, click [here](#).

Soliciting in the office

Public employees and officials may voluntarily contribute personal funds for food, beverages and entertainment for an event recognizing a public employee or retiree. If contributions are solicited, however, limitations apply.

Requests for contributions should be disseminated in a general announcement to all employees and must be limited to asking for a maximum contribution of \$5 per person. Solicitations must also be free of any coercion. Supervisors may never solicit their subordinates, and information regarding the identity of contributors or the amounts they contributed may not be disclosed to anyone other than those who plan and coordinate the recognition or retirement event.

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

Soliciting outside the office

The Ethics Act prohibits public employees and public officials from soliciting or accepting gifts from lobbyists, those doing or seeking to do business of any kind with the agency, those engaged in activities which are regulated or controlled by the agency and those having financial interests which may be uniquely affected by the agency.

If one of these persons/entities wishes to make a voluntary contribution to a recognition event, he/she/it may contribute no more than \$25.

If a public agency receives "anonymous" gifts for which the donor cannot be identified, they should be rejected or donated to charity.

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

Restrictions on hiring relatives

This is a reminder that the nepotism restrictions apply to spouses, mothers, fathers, sisters, brothers, sons, daughters, grandmothers, grandfathers, grandchildren, mothers-in-law, fathers-in-law, sisters-in-law, brothers-in-law, sons-in-law or daughters-in-law.

The restrictions on hiring and supervising relatives are set forth in the Ethics Commission's Rule, Title 158, Series 6, which became effective on May 15, 2017.

A prior version of the Rule, which was enacted in 1992, did not explicitly extend the nepotism restrictions to in-laws and grandchildren.

Voting and Recusal

Several restrictions apply to city and county officials when they cast votes during meetings of their agencies or other governmental entities. For instance, local public officials may not vote if they or their spouse (or another immediate dependent family member) has a financial interest in the outcome of the vote. This restriction also applies to votes affecting businesses associated with public officials or their immediate family members and votes that involve personnel matters of their relatives.

Recusal

When public officials are prohibited from voting, they must follow the proper recusal procedures. Simply *not* voting is *not* enough! Public officials must fully disclose their financial interests and then excuse themselves from participating in the discussion and the decision-making process by physically leaving the room while the matter is being discussed and voted on. If the vote involves a public contract, the public official must also disclose the amount of his or her interest in the contract. The meeting's minutes should reflect the recusal and the reason for the recusal. (W. Va. Code § 6B-2-5(j) and Legislative Rule, W. Va. Code R. § 158-8-5 (2009), govern the recusal requirements. To view the Code, click [here](#). To view the Rule, click [here](#).)

Class Exception

When, however, public officials (or their spouse or another immediate dependent family member) are members of a class of five or more similarly situated people or businesses, public officials may vote even though they have a financial interest in the outcome of the vote. This is called the class exception.

Money to Non-profits

Public officials may not vote to appropriate money or award a contract to a non-profit from which they or their spouse (or another immediate dependent family member) are compensated. A public official (or an immediate dependent family member) who is an uncompensated officer or board member may vote however. The official must publicly disclose his or her relationship to the non-profit. Such disclosure must be made on the agenda item relating to the appropriation or contract, if known at the time of the agenda, by the public official at the meeting prior to the vote, and in the minutes of the meeting.

There are other times when a public official may not vote. Please see the Voting Brochure on our website [here](#), and see the Advisory Opinions below for more guidance.

Recent Voting Advisory Opinions

Advisory Opinion 2018-09: A City Council member does not have a prohibited interest in the City's contract to purchase property adjacent to the member's residence and 28 other residences because the benefit to the member is not selective, differential or in disproportion to the benefit provided to the other 28 owners. The member may deliberate and vote on the purchase as a member of a class. To view this AO, click [here](#).

Advisory Opinion 2019-08: A Mayor may vote on matters affecting a proposed hotel development project near properties he owns because he is a member of a class of five or more similarly situated persons who own property near the hotel project. No provision in the Act dictates whether a public agency may require the recusal of one of its members. To view this AO, click [here](#).

Advisory Opinion 2019-11: The Ethics Act's voting provision for appropriations to non-profits, at W. Va. Code § 6B-2-5(j)(1) (D), prohibits Town officials who are also current employees of a private, non-profit college from voting on whether the Town donates cruisers to the college. The voting provision does not prohibit retired college employees from voting. To view this AO, click [here](#).

Advisory Opinion 2020-07: A City Council member may vote on the City's budget which contains a line item appropriation to her public employer, a County Public Library. To view this AO, click [here](#).

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