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Ethics News

For WV Counties and Cities

Volume 1 April 2019

Welcome to our newsletter

This newsletter is brought to you by the West Virginia Ethics Commission, the state agency responsible for educating the public and enforcing the state Ethics Act.

The newsletter will explain provisions in the Ethics Act, and in the state's Open Meetings Act, which apply to employees and officials of county, city and town government.

For more information on any topic covered in this newsletter, officials and employees are encouraged to contact the Ethics Commission. The Commission's contact information is on page 2.

Open Meetings Q & A

Q: When must meeting minutes be made available to the public?

A: Usually one business day after the public body's next regular meeting at which they are approved. If the public body makes material changes to the draft minutes, the approved minutes should be made public no later than three business days following that meeting.

Q: May a citizen be prohibited from recording an open meeting?

A: No; a governmental entity may not prohibit the public from recording a meeting which is open to the public. For more information, click here.

WV Ethics Act

The Ethics Act provides rules of conduct for public officials and employees in all levels of government in West Virginia.

Topics covered by the Act include voting, employment, contracts, gifts and using a public office for private gain.

The Act applies to full-time and part-time public employees; elected public officials, and appointed public officials in state, county and municipal government, including all boards, commissions and agencies. For an overview of the Ethics Act, click here.

What is 'private gain?'

Those in public service may not use their public office or job for their own private gain or for the private gain of someone else.

This means that public officials and employees may not use their employer's supplies or equipment for their personal projects or activities. They also may not use their subordinates to work on their personal projects or activities during work hours or compel them to do so on their own time.

Here are some examples of public officials using their offices for "private gain":

- Using a city vehicle to routinely drive a child to piano lessons;
- Using government supplies, time and an email account to run a private business;
- Using an agency's Purchasing Card for personal purchases, and
- Using surplus money from a Concealed Weapons Fund to pay for meals during staff meetings or meetings with the public.

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Nepotism in hiring and supervision

Nepotism is showing favoritism or granting patronage in the employment or working conditions of one's relatives or persons with whom they reside.

In West Virginia, county and city employees and officials may not be involved in hiring decisions involving certain relatives and household members. They also must follow rules on supervision of relatives. To see these rules, click here.

Under these rules, it is okay to hire a city council member's grandson to work with the city's parks crew to paint the city's swimming pool if the grandson is qualified for the position and if the city council member was not involved in writing the job description, interviewing candidates or voting on the hiring decision.

Nepotism and county employment

W. Va. Code § 61-10-15, a law which is separate from the Ethics Act, imposes strict limitations on nepotism in employment. County officials may not hire their spouses or dependent family members. In addition, county Commissioners, their spouses, and dependent family members are normally prohibited from working at any county office or agency. If a county official is elected when the official's spouse is currently employed in the same county office, or in the case of a County Commissioner in any county office, then the spouse must terminate his or her employment before the county official is sworn into office. Please contact the Ethics Commission with questions about this provision.

Some exceptions:

- The spouse of a County Commissioner may work at a county hospital if the spouse is a licensed medical professional, and
- Spouses of county officials and teachers may be employed as a principal, teacher, auxiliary or service employee in the public schools.

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Arranging relatives to substitute teach

The Ethics Commission has issued an Advisory Opinion finding that county public school teachers may not prearrange for their relatives to substitute teach for them or place them on a preferred list of substitutes.

Advisory Opinion 2019-03, issued on March 4, 2019, found that this practice violates the Ethics Act's nepotism provisions. To view the Opinion, click here.

The county school superintendent who requested the Opinion stated that the school system utilizes an automated system that manages teacher absences and substitute job assignments. When a teacher creates an absence in the system, it searches and contacts a substitute for the job based on a general rotation list. The system allows teachers to prearrange a substitute without the system calling the general list of available substitutes. The system also allows a teacher to make a preferred list of substitutes for the system to call before it calls the general list of available substitutes.