

ADVISORY OPINION NO. 2001-18

Issued On July 12, 2001 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

Two **County Ambulance Authorities** ask if it is permissible to provide meals and beverages for Board Members, employees, and others participating in various activities.

FACTS RELIED UPON BY THE COMMISSION

Each County Ambulance Authority meets monthly at noon to conduct the regular business of the Authority. A majority of the Board Members hold full-time employment elsewhere and the lunch hour provides the most convenient meeting time to ensure a quorum is present. The Authorities wish to provide light meals or snacks to meeting attendees, such as pizza, potato chips and soft drinks.

Section 6 of the Emergency Ambulance Service Act of 1975, W. Va. Code § 7-15-6, provides that ambulance authority board members may receive no more than \$20 for each meeting actually attended, "as compensation for ... services on the board." The statute also provides that each member shall be reimbursed for "all reasonable and necessary expenses" incurred in the discharge of his duties.

Employees and staff are required to maintain current certification as emergency medical service personnel. In addition, the Authorities seek to ensure their employees and staff maintain a high level of preparedness for emergency response by receiving training on current medical techniques and recent advances in emergency medicine and related areas.

The Authorities provide this training in-house without charge. Only employees who are on duty at the time, a small minority of those in attendance, are paid while attending training. Even those on duty are not required to attend the training, and must respond to routine business of the agency at all times. The vast majority of those attending are not compensated for their time in training. The employer wants to provide light meals and snacks, similar to the board meetings, for participating instructors, employees and staff.

One Ambulance Authority further inquires if it can purchase and dedicate a plaque to one of its founding members who is now deceased. The plaque is intended to honor the former member's place in the history of the Authority.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

WV Code § 6B-2-5 (b) provides that 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."

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The basic concept of the Ethics Act is that public servants may not use their public positions for their own private gain or the private gain of others. The Act's Legislative findings explain that the Act is intended to prevent public servants from using their public positions "...for personal gain beyond the lawful emoluments of their position ... [or] ... to benefit narrow economic or political interests at the expense of the public at large"

Public servants do not ordinarily receive meals while working at their regular duty locations. Specific Legislative authority must exist to warrant giving such benefits at public expense. The members of an Authority's board who gave unauthorized benefits to themselves, or other Authority personnel, benefits which were "beyond the lawful emoluments of their position", could be found to have committed a material violation of the Ethics Act.

Free lunches for Authority members. The compensation to which Board members are entitled is set by the Legislature at \$20 for each meeting actually attended. Members are also entitled to reimbursement for reasonable and necessary expenses incurred in carrying out their duties.

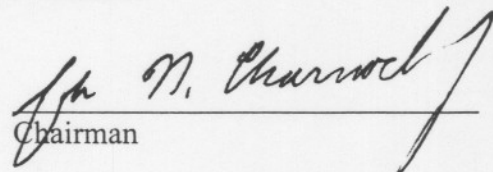
While noon meetings are clearly convenient, the Commission finds that free lunch is not necessary for Authority meetings and exceeds limits established for expense reimbursement. Free lunches are, therefore, not among the benefits included in the Board members' lawful emoluments and may not be provided them.

Free lunches for Authority employees. The compensation to which Authority employees are entitled is not set by the Legislature, but is a matter to be decided by the Authority Boards. The Boards have the authority and responsibility to establish the lawful emoluments of Authority employees.

The Commission finds that, if it is otherwise lawful, nothing in the Ethics Act would prevent the Authority from paying employees to attend training sessions which were reasonably necessary to maintain or advance their professional competence. Alternatively, the Act would not prevent the Authority from offering meals and refreshments as an inducement to encourage employees to voluntarily attend such training sessions on their own time, without pay.

An Authority's expenditures on meals and refreshments for such training sessions for employees who attend on their own time, without pay, would be justified by the counterbalancing public benefit from the training. The expenditures would not be a prohibited use of office for the private gain of Authority employees.

Finally, the Commission finds that an Authority's purchase of an appropriate commemorative plaque to be placed in its offices to honor the memory of a deceased founding member would not constitute a prohibited use of office for private gain and would not be a violation.


Chairman