

ADVISORY OPINION NO. 2001-21

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WEST VIRGINIA ETHICS COMMISSION

COPY

OPINION SOUGHT

A **State University** asks if it may solicit from the privately owned concessionaire which operates the University's bookstore a discount for purchases made by faculty and staff members.

FACTS RELIED UPON BY THE COMMISSION

WV Code 18B-10-14 gives each state institution of higher education the authority to establish and operate a bookstore at the institution. It says: "The bookstore shall be operated for the use of the institution itself, including each of its schools and departments ... and for the benefit of students and faculty members .... The prices to be charged the institution, the students and the faculty ... shall be fixed by the governing board ...." The University operates its bookstore through a private concessionaire.

CODE PROVISIONS RELIED UPON BY COMMISSION

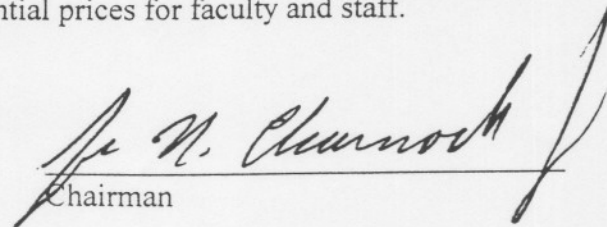
WV Code 6B-2-5(b)(1) provides in pertinent part that ... A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person .....

ADVISORY OPINION

It appears that the Legislature intended that the University's bookstore be operated to benefit and supply the needs of the institution, its students and faculty. It is entirely proper for the University to work with its concessionaire to secure the lowest prices possible for them.

It would not, however, be proper for the University to secure discounted prices for purchases made by faculty and staff alone. Since the concessionaire must make a profit on its operation, reduced prices to one group of customers will result in increased prices to its other customers. Discounts for faculty and staff would come at the expense of the students and the University.

Therefore, it would be a violation of the Ethics Act's prohibition against the use of office for private gain for the University to arrange preferential prices for faculty and staff.

  
Chairman