

ADVISORY OPINION NO. 98-13

Issued on June 4, 1998 by the

WEST VIRGINIA ETHICS COMMISSION

PUBLIC SERVANT SEEKING OPINION

Treasurer/Business Manager of a School Board

OPINION SOUGHT

Is it a violation of the Ethics Act or WV Code 61-10-15 if schools purchase from a company which employs the spouse of the Treasurer/Business Manager?

FACTS RELIED UPON BY THE COMMISSION

The requester is the Treasurer/Business Manager of a County School Board. In that capacity he is responsible for all of the business affairs of the school system. He exercises no control or influence over purchasing decisions, but does control, in concert with the Board of Education, the procedures and practices which the purchasing department must follow.

The requester has been asked by the Director of the Title I program (federal funds targeted to provide educational services to low income students) if schools may use their Title I monies to make purchases from a company which employs the requester's spouse.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 61-10-15 states in pertinent part that...It shall be unlawful for any member of a county commission...district school officer...supervisor or superintendent, principal or teacher of public schools, or any member of any other county or district board, or for any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in furnishing any supplies in the contract for, or the awarding or letting of, which as such member he may have any voice, influence or control.

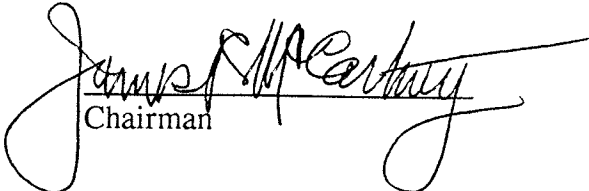
ADVISORY OPINION

No provision of the Ethics Act would prohibit schools from using their Title I monies to make purchases from the company which employs the requester's spouse. However, in Advisory Opinion 95-54 the Commission held that the requester, as the Treasurer/Business manager of a County School Board, was subject to the provisions of WV Code 61-10-15.

West Virginia Code 61-10-15 is a criminal statute which bars county officers from having a direct or indirect financial interest in any contract if they have voice, influence or control over the letting of the contract.

In this case, even though federal Title I monies are involved, the ordinary purchasing procedures of the School Board will be followed. The requester must sign the checks which pay for any purchases made with such funds and the Title I Director is part of the central office administration chain of command.

The Commission therefore finds that the requester would have voice and influence over Title I purchases within the County. Thus, it would be a violation of WV Code 61-10-15 if purchases were made from the company which employs the requester's spouse since he has an indirect financial interest in such purchases.


Chairman