

# West Virginia Ethics Commission

## 2024 Annual Report



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## Duties of the Ethics Commission

The Ethics Commission interprets and enforces the West Virginia Governmental Ethics Act. The purpose of the Act is to preserve the public's confidence in the integrity and impartiality of governmental actions. The Commission also interprets the Open Governmental Meetings Act (W. Va. Code §§ 6-9A-1 through 6-9A-12); W. Va. Code § 61-10-15, a criminal misdemeanor statute, and W. Va. Code §§18-5-1a(a) and (b) relating to eligibility to serve on a county school board.

The Commission enforces the Ethics Act's prohibitions through the Verified Complaint and Initiated Complaint processes; administers lobbyist registration and reporting provisions; publishes an annual Lobbyist Directory; renders formal Advisory Opinions on the meaning and application of the Ethics Act and the Open Governmental Meetings Act; issues formal Advisory Opinions to county school board members and candidates for those boards regarding other elected or appointed positions potentially barring their service; administers the Code of Conduct for State Administrative Law Judges; processes Financial Disclosure Statements, and advises and educates public employees, public officials, and members of the public regarding the Ethics Act and the Open Governmental Meetings Act. The Commission also grants exemptions from the employment and contract prohibitions in the Ethics Act.

All Complaints are considered by the three-member Probable Cause Review Board, which is an autonomous board not under the direction or control of the Ethics Commission. The Review Board reviews Complaints filed with or initiated by the Ethics Commission to make a threshold determination of whether probable cause exists to believe that a violation of the Ethics Act has occurred.

## Commission Members

The members of the West Virginia Ethics Commission are appointed by the Governor with the advice and consent of the Senate. W. Va. Code § 6B-2-1(a). Members serving in 2024 were:

Robert J. Wolfe, Chair Man, WV	Lynn Davis Wellsburg, WV	Jordan K. Herrick <sup>1</sup> Charleston, WV
D. Blake Carter, Jr. <sup>2</sup> Charleston, WV	Karen Disibbio Bluefield, WV	Suzan Singleton Moundsville, WV
Joshua Cottle Culloden, WV	Robert Harman Keyser, WV	Terry Walker Kearneysville, WV

<sup>1</sup> appointed to the Commission September 24, 2024

<sup>2</sup> appointed to the Commission February 2, 2024

## Probable Cause Review Board Members

The members of the Probable Cause Review Board are appointed by the Governor with the advice and consent of the Senate. W. Va. Code § 6B-2-2a(b). Members serving in 2024 were:

Michael A. Kawash, Chair Charleston, WV	Daniel J. Guida Weirton, WV
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The Probable Cause Review Board has one vacancy.

## Staff

The staff of the Ethics Commission consists of the Executive Director, General Counsel, Deputy General Counsel, and two Administrative Assistants:

Kimberly B. Weber Executive Director	John E. Roush Interim General Counsel
Theresa M. Kirk <sup>3</sup> General Counsel	M. Ellen Briggs <sup>4</sup> Executive Assistant
Andrew R. Herrick <sup>5</sup> Staff Attorney	Kateland J. Cantrell <sup>6</sup> Lobbyist Registrar/Paralegal
John N. Ellem <sup>7</sup> Deputy General Counsel	Rachel Y. Carpenter <sup>8</sup> Executive Assistant

## Budget

The Ethics Commission was allocated the following amounts from the General Revenue Fund for the following fiscal years:

2024-2025	\$ 773,228.00
2023-2024	\$ 753,099.00
2022-2023	\$ 737,544.00

<sup>3</sup> resigned effective October 15, 2024

<sup>4</sup> retired effective October 31, 2024

<sup>5</sup> resigned effective April 12, 2024

<sup>6</sup> began employment November 4, 2024

<sup>7</sup> began employment July 29, 2024

<sup>8</sup> moved from Lobbyist Registrar to Executive Assistant November 4, 2024

2021-2022	\$ 719,844.00
2020-2021	\$ 719,844.00

## Informal Advice

Public servants may seek informal advice from the Ethics Commission staff by contacting the Commission or by sending an email to [ethics@wv.gov](mailto:ethics@wv.gov). If staff is unable to answer a question based upon the language in the statute at issue (the Ethics Act, the Open Meetings Act, or other statutes which the Commission has jurisdiction to interpret), a Commission Guideline, or an Advisory Opinion, staff may recommend that the public servant request a new Advisory Opinion.

The following is a summary of the number of responses by the Commission to requests for informal written advice during the past five years:

2024	813
2023	642
2022	610
2021	503
2020	451

The following is a summary of the number of responses by the Commission to requests for oral advice, usually over the telephone, during the past five years:

2024	2,197
2023	2,072
2022*	2,293
2021	1,102
2020	1,225

\*In 2022, the annual report began including oral advice given by all staff members, not just attorneys.

## Formal Opinions/Exemptions

The Ethics Commission issues formal Advisory Opinions which respond to questions relating to the application of the Ethics Act. The Commission also issues Opinions regarding W. Va. Code § 61-10-15 (to county officials relating to county officials' interests in contracts) and regarding W. Va. Code § 18-5-1a (to county board of

education members, members-elect, and candidates for election to boards regarding whether they may hold certain other public positions and serve on a county board).

In addition, two of the Commission's Committees are authorized to issue Advisory Opinions. The Committee on Open Governmental Meetings issues Advisory Opinions which interpret the Open Governmental Meetings Act. The Committee on Standards of Conduct for State Administrative Law Judges issues Advisory Opinions regarding the Code of Conduct for Administrative Law Judges.

The following are the totals over the past five years of formal Advisory Opinions issued regarding the Ethics Act and W. Va. Code § 61-10-15, the Open Governmental Meetings Act, the ALJ Code of Conduct, and county school board eligibility, as well as formal Contract and Employment Exemptions granted or denied by the Commission.

<b>Subject Matter</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Ethics (and W. Va. Code § 61-10-15)	13	23	20	13	11
Open Meetings	0	1	2	1	3
ALJ Code of Conduct	0	0	0	0	0
Contract Exemptions	7	2	4	5	5
Employment Exemptions	28	26	67	93	91
Property Exemptions	0	0	0	0	0
School Board	0	0	2	0	4
<b>TOTAL:</b>	<b>48</b>	<b>52</b>	<b>95</b>	<b>112</b>	<b>114</b>

## **Ethics Act Advisory Opinions (AO) 2024**

### **[Advisory Opinion 2024-01](#) - Prosecutor**

**Category:** Private Gain

A **Prosecutor** asked whether the Ethics Act requires the Sheriff's Department in his county to remove itself from criminal investigations involving county officials or employees. The Requester was concerned that if the Sheriff's Department does not remove itself from criminal investigations involving other county officials or their employees, it would create the appearance of impropriety and a risk that such investigations will be used for improper political reasons or retaliation.

The Ethics Commission considered the plain language in the Ethics Act, including the private gain provision, to determine whether the Ethics Act requires a sheriff's department to recuse itself from criminal investigations involving county officials or employees. The Ethics Commission held that no provision in the Ethics Act prohibits a

sheriff's department from conducting a criminal investigation involving other county officials or their employees.

### [Advisory Opinion 2024-02](#) - County Commission Candidate

**Categories:** Employment restrictions and W. Va. Code § 61-10-15 County Officers (Criminal Provision)

A **County Commission Candidate** asks whether he may remain employed by a municipality in the same county if elected.

The Ethics Commission finds that, based on the plain language in the Ethics Act and [Advisory Opinion 2022-05](#), the Ethics Act allows a county commissioner to simultaneously be employed by a municipality in the same county. The Ethics Commission holds that because the County Commission does not appoint the Municipality's officials or employees or make appropriations constituting seven percent or more of the Municipality's budget, the County Commission does not currently exercise voice, influence, or control over the Municipality's contracts, including its employment contracts. The Ethics Commission finds, therefore, that it would not violate W. Va. Code § 61-10-15 for the Requester to simultaneously be a county commissioner and municipal employee for as long as the County's appropriations to his Municipal employer remain less than seven percent of the Municipality's budget.

### [Advisory Opinion 2024-03](#) - County Board of Education Superintendent

**Category:** Private Gain

A **County Board of Education Superintendent** asks whether the board members may increase their per-meeting compensation during their current terms of office.

The state law, in [W. Va. Code § 18-5-4\(e\)](#), authorizes each county board of education to set the compensation of its board members in an amount equal to or less than the statutory maximum. During the 2024 Regular Session of the West Virginia Legislature, the Legislature passed [House Bill 5514](#), amending W. Va. Code § 18-5-4(e) and allowing board of education members to be paid up to \$260 per meeting for up to 40 meetings per fiscal year. The effective date of the bill is June 6, 2024. Under the prior version of W. Va. Code § 18-5-4(e), the maximum allowable per-meeting rate of compensation was \$160 for a maximum of 50 meetings in one fiscal year.

The Requester's County Board of Education (BOE) policy sets the BOE members' compensation in that county. The policy provides, "Board members shall receive compensation at a rate of \$160 per meeting attended, and may receive pay for up to fifty (50) meetings in any one (1) fiscal year."

The Ethics Commission analyzed the private gain provision and held that county board of education members may not increase their per-meeting compensation for their current terms of office.

#### [Advisory Opinion 2024-04](#) - A State employee

**Category:** Gifts and Solicitations

A **State Employee**, who is also an officer of a professional association, asked whether public employees may sell tickets, sponsorships, and advertisements to vendors and others for an event to raise funds for scholarships for its members.

The Association is considering hosting a dinner theater event to raise funds for scholarships for its members to use for continuing education and professional certifications. The Association plans to sell tickets to the public for the event, which would include a full meal and a theater performance. The tickets have historically been sold for \$25.

The Commission held that public servants 1) may not solicit donations for the dinner theater event without offering something of value in exchange because education and certifications are not charitable purposes; 2) may sell tickets to the dinner theater event on their own time and the Association and use the proceeds to pay for scholarships for continuing education and professional certifications for its members - so long as the sales solicitations for the tickets are made in a fair and even-handed manner, and 3) may sell advertising or sponsorships to raise funds to help defray the costs of hosting the dinner theater event when the proceeds from the event will be used for scholarships for continuing education opportunities and professional certifications for its members.

#### [Advisory Opinion 2024-05](#) - County Commission

**Categories:** Contracts and W. Va. Code § 61-10-15

A **County Commission** asks whether it may buy or sell property to or from a business owned by the sons of a County Commissioner's business partner.

The Requester needs more office space because the Courthouse and Courthouse annex have inadequate office space to fulfill the County Commission's existing needs. The County Commission plans on purchasing a building across the street from the Courthouse for additional office space from a business owned by the two adult sons of a person who co-owns a business with a County Commissioner. The County Commission also plans on acquiring property situated behind the Courthouse annex, from the same business, to use for Courthouse parking.

The County Commissioner and his business partner own a business engaged in buying and selling residential real estate, but their business has no ownership interest in the subject properties. Further, neither the County Commissioner nor his business partner

has an ownership interest in the sons' business. The Requester states that the County Commissioner, who co-owns another business with the father of the adult property owners, has not voted on matters relating to the property transactions in question.

The Ethics Commission analyzed the public contract restrictions in the Ethics Act and W. Va. Code § 61-10-15 and held that the county commission may buy or sell property to or from a business owned by the sons of a County Commissioner's business partner.

### [Advisory Opinion 2024-06](#) - Principal of Career and Technical Center

**Category:** Employment Restrictions

A **Board of Education Superintendent** asked whether a career and technical center principal may operate a consulting business that helps students and their families apply for college scholarships.

The principal of the career and technical center supervises the instructional and service personnel assigned to the center. The principal of the career and technical center or his or her subordinates evaluate the academic performance of students who attend the career and technical center. The principal of the career and technical center or his or her subordinates have a role in any disciplinary proceedings involving students who attend the career and technical students. The principal of the career and technical center or his or her subordinates make and enforce any rules peculiar to the center or its various classrooms. The principal of the career and technical center or his or her subordinates recruit students who attend other schools within the county school system to attend the career and technical center.

The counselor at the career and technical center and the counselors at other schools within the county school system are primarily responsible for providing guidance to students of the school system in applying for college scholarships. The principal of the career and technical center's primary involvement in this process is to direct students to the appropriate counselor.

The Commission analyzed the restrictions in W. Va. Code § 6B-2-5(h) and held that a career and technical center principal may operate a consulting business that helps students and their families apply for college scholarships, but the principal may not contract with students who currently attend his school, have attended his school in the preceding twelve months, or who have a matter currently pending before the principal or his or her subordinates.

### [Advisory Opinion 2024-07](#) - Legislative employee

**Category:** Revolving Door

A **Legislative employee** sought guidance on the post-employment restrictions in the Ethics Act. The Requester is a legislative employee whose primary responsibility is to

provide expert advice and assistance to a legislative committee in his area of expertise. The Requester is not an attorney. He reports to a legislative manager, not to a member of the Legislature. He does not take an oath of office, and his position was not created in the West Virginia Code.

The Requester seeks guidance on the restrictions in the Ethics Act that will apply to him if he leaves his legislative position and is employed in industries and fields in his area of expertise.

The Commission held that a legislative employee, who is not under the direct supervision of a member of the Legislature, is not subject to the lobbyist revolving door prohibition in W. Va. Code § 6B-3-2(e). The Commission also held that, based upon express exceptions in the Ethics Act, a legislative employee is not subject to the one-year revolving door ban in W. Va. Code § 6B-2-5(g) or the restrictions in W. Va. Code § 6B-2-5(f).

### [Advisory Opinion 2024-08](#) - **Municipal Judge candidate**

**Category:** Employment Restrictions

A **Municipal Judge candidate** asked whether she may be employed as the municipal judge in a city where her father is employed as the city attorney.

The municipal judge position has no supervisory duties or control over the city attorney, the assistant city attorney, or the operations of the city attorney's office. Similarly, the city attorney position has no supervisory duties or control over the municipal judge. The Requester and her father are practicing attorneys in a law firm together.

Under W. Va. Code § 6B-2-5(d)(1), the prospective municipal judge would not have a prohibited financial interest in the employment contract between the City and her father, the city attorney. Even though she and her father share office expenses in their law firm, the public contract restrictions do not apply to prevent "the employment of any person with any governmental body." W. Va. Code § 6B-2-5(d)(1). Further, the municipal judge does not have authority or control over the employment of the city attorney, supervise the city attorney, or make or participate in decisions affecting the city attorney's working conditions. Similarly, the city attorney does not have authority or control over the employment of the municipal judge, supervise the municipal judge, or make or participate in decisions affecting the municipal judge's working conditions.

Thus, the public contract restrictions, W. Va. Code § 6B-2-5(d), the nepotism restrictions, W. Va. Code § 6B-2-5(b)(4), W. Va. Code R. § 158-6-3 (2022), and other provisions in the Ethics Act do not prohibit the Requester's employment as a municipal judge in a city where her father is the city attorney.

## [Advisory Opinion 2024-09](#) - Public Charter School Board member

**Category:** Persons covered by the Act

A **Public Charter School Board Member**, for a nonprofit charter school, asked whether he is subject to the Ethics Act.

In 2019, the West Virginia Legislature authorized the creation of public charter schools in [Chapter 18, Article 5G](#)<sup>9</sup> of the West Virginia Code (“public charter school law”).<sup>10</sup> “[P]arents, community members, teachers, school administrators, or institutions of higher education”<sup>11</sup> may apply to the following entities to obtain authority to form a charter school: (1) a county board of education; (2) two or more boards of education; (3) the West Virginia Professional Charter School Board<sup>12</sup>; or, in limited circumstances, (4) the West Virginia Board of Education.<sup>13</sup> The public charter school law designates the listed entities as “authorizers,” and authorizers have the power to “review applications, decide whether to approve or reject applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to renew or not renew charter contracts.”<sup>14</sup> Public charter schools receive public funding as required by the public charter school law.<sup>15</sup>

The Requester’s public charter school is a nonprofit corporation, incorporated in West Virginia.<sup>16</sup> Public charter school applicants must have obtained 501(c)(3) tax-exempt status or have submitted an application for 501(c)(3) tax-exempt status to be approved as a charter school.<sup>17</sup> A 501(c)(3) tax-exempt status is a legal designation under the Internal Revenue Code. [IRS website](#) (discussing exempt organizations).<sup>18</sup> The Requester’s public charter school (“charter school”) organized itself as a nonprofit corporation to obtain its 501(c)(3) tax-exempt status from the IRS before submitting its application to the West Virginia Professional Charter School Board, which then approved its application.

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<sup>9</sup>West Virginia Code, Chapter 18, Article 5G, [code.wvlegislature.gov](http://code.wvlegislature.gov), August 25, 2024. The Legislature has also subsequently amended this law.

<sup>10</sup> SCHOOLS AND SCHOOL DISTRICTS, 2019 West Virginia Laws 1st Ex. Sess. Ch. 31 (H.B. 206)

<sup>11</sup> W. Va. Code § 18-5G-2(1)

<sup>12</sup> 18-5G-2(2)(C). The West Virginia Professional Charter School Board was created pursuant to §18-5G-15.

<sup>13</sup> W. Va. Code § 18-5G-2(2)(D)

<sup>14</sup> W. Va. Code § 18-5G-2(2)

<sup>15</sup> W. Va. Code § 18-5G-5

<sup>16</sup> West Virginia Nonprofit Corporation Act, W. Va. Code §§ 31E-1-101 to 31E-16-1603 (governing the creation and operation of nonprofit corporations in this state).

<sup>17</sup> W. Va. Code § 18-5G-2(1)(A). This Code provision also authorizes an applicant to be a state institution of higher education as defined in § 18B-1-2, but the Requester’s charter school was not organized by a higher education institution.

<sup>18</sup> “Exempt Organization Types,” [www.irs.gov](http://www.irs.gov), August 25, 2024

As required by the West Virginia public charter school law, the charter school is overseen by a board whose members receive no compensation for their service.<sup>19</sup> The charter school's bylaws state that the governing board (1) shall consist of five members, as required by the charter school law,<sup>20</sup> and (2) may increase the number of members by resolution. The public charter school law requires each charter school to establish how each will appoint their governing board members in the charter application.<sup>21</sup> The Requester's charter school selects its board members in the manner prescribed by its bylaws.

The public charter school law expressly states that public charter schools must comply with the Open Meetings Act and the Freedom of Information Act, but it does not expressly state whether public charter schools are subject to the West Virginia Ethics Act.<sup>22</sup> The Requester, therefore, is requesting this opinion to obtain clear guidance on whether the Ethics Act applies to him and other public charter school board members.

The Ethics Commission finds that because the Legislature has designated a public charter school's governing board as a public corporation, a public charter school is a political subdivision for purposes of the Ethics Act, even if it is incorporated as a nonprofit corporation.

The Ethics Commission also finds that public charter school board members are public officials for purposes of the Ethics Act and that the public charter school law does not exempt charter school board members or employees from the Ethics Act.

### **[Advisory Opinion 2024-10](#) - County Farmland Protection Board**

**Categories:** W. Va. Code § 61-10-15 County Officers (Criminal Provision) and Voting

A **County Farmland Protection Board member** asked whether he may participate in a conservation program in which the Board would pay him for a conservation easement on his farmland.

The Voluntary Farmland Protection Act, W. Va. Code § 8A-12-1, *et seq.*, allows county commissions to create county farmland protection boards. These boards are authorized to purchase conservation easements on farmland, which prevent the development of the land for most purposes unrelated to farming. The Requester is an appointed, unpaid member of a county farmland protection board. The Requester and his uncle own contiguous farmland properties in the County. They have submitted an application(s) for these properties to be considered for a funded conservation easement.

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<sup>19</sup> W. Va. Code §§ 18-5G-3(b) and § 18-5G-7

<sup>20</sup> W. Va. Code § 18-5G-7

<sup>21</sup> W. Va. Code § 18-5G-7

<sup>22</sup> W. Va. Code § 8-5G-3(c)(2) and W. Va. Code § 18-5G-7(f). The Open Meetings Act is codified at W. Va. Code §§ 6-9A-1 to 6-9A-12, and the Freedom of Information Act is codified at W. Va. Code §§ 29B-1-1 to 29B-1-7.

The Commission determined that the county Farmland Protection Board's purchase of a conservation easement from a board member constituted a public contract. The Requester had a pecuniary interest in the contract and, as a member of the board, had a voice, influence, or control of the contract. The clear and unambiguous provision of W. Va. Code § 61-10-15 prohibited the transaction. In reaching this conclusion, the Commission declined to follow the reasoning in Advisory Opinion 2003-07, a non-precedential opinion.

As for the Requester's uncle, the Commission finds that neither W. Va. Code § 61-10-15 nor the Ethics Act prohibit him from receiving compensation from the Board in exchange for granting a conservation easement, to the extent that his application is severable from the application of the Requester, because the Requester does not have a financial interest in his uncle's farmland and is not a relative or immediate family member of his. Further, the Requester may participate in the Board's actions and votes on his uncle's application.

The part-time appointed official exception to W. Va. Code § 6B-2-5(d) would have allowed the purchase of a conservation easement under the Ethics Act. The purchase of the conservation easement from the uncle of Requester is not prohibited.

### **[Advisory Opinion 2024-11](#) - Division of a State Department**

#### **Category: Nepotism**

A State Department asked whether a mother and daughter may work together in the same agency. The Ethics Commission held that the Ethics Act does not prohibit a mother and daughter from working in the same state agency as co-workers when one's work may only tangentially affect the workload of the other. The Ethics Act would prohibit, however, a relative from intentionally using her position to decrease or increase the workload of a relative.

The Legislative Rule on nepotism also states: "3.4. A public official or employee may not influence or attempt to influence the employment or working conditions of his or her relative or a person with whom he or she resides." The Requester explained that the resource specialist's work output may impact the workload of the account auditor. For example, if the daughter selected an existing contractor, rather than a new one, this could result in less paperwork for the account auditor, her mother.

The issue in this request was whether the activities of the resource specialist "influence the working conditions" of a person holding the transaction account auditor position. The Ethics Commission had not addressed the full meaning of "working conditions" in previous opinions. The Commission is unaware of a comprehensive list of items in West Virginia law that identifies what is included in the term "working conditions." The Commission, however, believes that in some instances, at least, workload may be a "working condition" contemplated by the term for purposes of the anti-nepotism laws.

For example, if a job or position has the power to dictate the number of hours a relative is to work, this could be a working condition contemplated by the law. However, simply working together in a non-supervisory relationship at work is not prohibited if the workload is merely affected as a co-member of a team or project. It goes without saying that every employee's work or performance in an agency may affect the workload, at least tangentially, of the other employees working in the agency or on a project. However, this type of effect on workload is at best an indirect one, if not in fact a speculative one. Consequently, the working situation described by the Requester does not create a prohibited working condition under the Act and Rule.

## Open Meetings Advisory Opinions (OMAO) 2024

### [OMAO 2024-01](#) - Jefferson County Commission

**Category:** Miscellaneous

The **Jefferson County Commission** ("County Commission") asked whether the Jefferson County Planning Commission's ("Planning Commission") committees must notice and hold public meetings when performing certain actions.

The Ethics Commission's Committee on Open Governmental Meetings found that although the County Commission created and funded the Planning Commission, the Planning Commission was a separate public agency with its own governing body. The Committee found that the Open Meetings Act authorizes a public agency to request an advisory opinion regarding its own conduct but not the conduct of another public agency. The Committee held, therefore, that the County Commission did not have standing to request an Open Meetings Advisory Opinion regarding the actions or proposed actions of the Planning Commission because it is a separate public agency.

### [OMAO 2024-02](#) - Jefferson County Planning Commission

**Category:** Meeting Defined

The **Jefferson County Planning Commission** asked whether its Committees are subject to the Open Meetings Act.

The Open Meetings Committee found that when a committee is facilitating interactions between Planning Commission staff and consultants and presenting progress reports to the Planning Commission do not constitute making decisions or recommendations to a public agency on policy or administration. Thus, when the Committees' authority is limited to these activities, the Committees are not governing bodies of the Planning Commission under the Open Meetings Act.

The Requester also states, however, that the Committees make recommendations to Planning Commission staff and the consultants who in turn make recommendations to the Planning Commission. This Committee finds that if the Planning Commission delegated authority to the Committees to make recommendations to Planning Commission staff or consultants on policy or administration, such as the contents of an ordinance or budget, and the staff or consultants make recommendations to the Planning Commission on these same matters, then the Committees are governing bodies under the Open Meetings Act. While the Committees are making recommendations to the staff and consultants and not directly to the Planning Commission, this Committee finds that making a recommendation to staff or consultants that are or may be passed along in part or whole to the governing body constitutes making a recommendation to the Planning Commission, a public agency. In making this determination, this Committee has also considered that the Planning Commission Committees consist exclusively of three Planning Commission members.

This Committee held that when the Committees merely facilitate interactions between Planning Commission staff and consultants or present progress reports to the Planning Commission, such gatherings may be held in private because they are not public meetings under the Open Meetings Act.

If the Committees make recommendations to Planning Commission staff or consultants on policy or administration, such as the contents of an ordinance or budget, and the staff or consultants make recommendations to the Planning Commission on these same matters, then a quorum of those Committee members may not meet with Planning Commission staff or consultants outside of a properly noticed public meeting.

### [OMAO 2024-03](#) - Vienna City Council

**Categories:** Meetings Defined and Committees

A **Vienna City Council member** asked whether the Open Meetings Act will apply to a steering committee it creates to help guide an engineering firm in creating a master plan for a city park and to make recommendations to city council on the final approval of the plan.

The City of Vienna has four properties alongside the Ohio River. Located within this area is a park known as Spencer's Landing. The City would like to develop a "master plan" for these properties, called the "Spencer's Landing Amphitheater Master Plan Project" (hereinafter the "Project").

To accomplish this Project, the City sought out qualified engineering firms and ultimately decided on the Thrasher Group (hereinafter "Thrasher"). Thrasher's contract envisions the City creating a steering committee that will meet with the engineers and design team to give them feedback and recommendations on the Project, which Thrasher will then use to revise and make a master plan. Then, once "the master plan has been

developed it will be reviewed with the project steering committee to receive a final round of feedback prior to finalizing the plan.” Finally, once a final Project master plan is in place, the engineers propose to work with the steering committee to break the project into different phases of construction based on available funds. Notably, the Project, “will depend heavily on meetings for public engagement and steering committee engagement to be scheduled in a timely manner so that feedback . . . can be incorporated by the design team.” The final version of the Project master plan will require approval by the Vienna City Council. This Committee held that the steering committee exercises some portion of the City’s executive power, per W. Va. Code § 6-9A-2(7), and qualifies as a public agency under the Open Meetings Act.

The Committee also held that since the Vienna City Council is delegating authority to the steering committee to work with a city-hired consultant to make recommendations to the City Council on policy or administration, including initial, revised, and proposed designs and features of the park Project, then the steering committee is a governing body under the Open Meetings Act. Therefore, the steering committee is subject to the OMA.

## **Contract Exemptions (CE) 2024**

The Ethics Act prohibits public officials and public employees from having a financial interest in certain contracts, purchases, or sales over which their public position gives them control. The Commission has authority to grant a governmental entity an exemption from the Act’s contract provisions.

The Commission granted or denied Contract Exemptions during 2024 in the following matters:

### **[Contract Exemption 2024-01](#) - Fayette County Board of Education**

The **Fayette County Board of Education** requested a contract exemption to continue contracting with Rainelle Medical Center, Inc. and enter into a new contract if James Pat Gray, a BOE member, becomes an uncompensated member of Rainelle Medical Center’s (“RMC”) board of directors.

The Ethics Act prohibits contracts between the BOE and a business with which a BOE member is associated, unless the BOE seeks and receives an exemption from the Ethics Commission. W. Va. Code §§ 6B-2-5(d)(1)-(4). A BOE member is associated with a business if he or she, or their immediate family member, is a director or officer of the business. W. Va. Code R. § 158-8-4. Therefore, Mr. Gray is associated with RMC even without having a financial interest in the business.

The BOE asserts that the main clinic where RMC provides services to Fayette County Schools is on one of the BOE’s campuses in a building owned by RMC. In the event

that RMC ceased to be the provider and an equivalent one had to be found, the BOE may need to spend hundreds of thousands of dollars, possibly even up to \$300,000, building a new facility. Furthermore, it would take at least a year or longer to set up such arrangements, particularly if new construction or expansions to school facilities were required. The Ethics Commission finds support in its past holding in [Advisory Opinion 1989-129](#), to grant the exemption in this case.

The Commission held that, if James Pat Gray becomes a member of Rainelle Medical Center, Inc.'s board of directors, the Fayette County Board of Education may continue the pre-existing contract with Rainelle Medical Center, Inc. until the contract's terms expire in June and September 2024.

As for the new contract, the Ethics Commission finds that the Fayette County Board of Education will face excessive cost, undue hardship, and substantial interference in its operations if this request is denied. Therefore, the Commission granted the contract exemption until June 30, 2026, when Mr. Gray's BOE term expires, with limitations.

### **[Contract Exemption 2024-02](#) - Kanawha County Sheriff's Office**

The **Kanawha County Sheriff's Office** sought a contract exemption to continue contracting with the law firm Bailey & Wyant PLLC if the Kanawha County Commission selects Marc Slotnick, an equity member in the law firm Bailey & Slotnick PLLC, an entity that is a member of the law firm Bailey & Wyant PLLC, to fill a vacant seat on the County Commission.

The Sheriff's Office stated that Bailey & Wyant has represented the Sheriff's Office for over 16 years in over 200 matters involving the management of conservatorships and the administration of decedents' estates pursuant to the Sheriff's Office statutory authority and duties relating to fiduciary matters. The Sheriff's Office stated that Bailey & Wyant is currently providing legal representation in approximately 30 pending fiduciary matters. The Sheriff's Office further stated that it uses Bailey & Wyant for approximately 100% of its fiduciary matters due to the law firm's expertise in this area.

The Sheriff's Office stated that it will suffer an undue hardship if it cannot use Bailey & Wyant for the approximate six-month period that Marc Slotnick would serve as a County Commissioner, if he is selected, because of Bailey & Wyant's expertise and experience in handling fiduciary matters. Marc Slotnick would not be performing the work.

It is the Sheriff's Office, not the County Commission, that hires attorneys to represent the Sheriff's Office in fiduciary matters and authorizes the payment of the invoices for legal fees and expenses incurred. The Sheriff's Office submits some invoices to the County Commission for approval to pay them. The Requester stated for any invoices requiring County Commission approval for payment, that Mr. Slotnick will refrain from voting or taking any other action regarding such invoices.

The Ethics Commission held that under W. Va. Code § 61-10-15, that the Sheriff's Office could only contract with Bailey & Wyant if it received a contract exemption. The Ethics Commission granted an exemption to the Kanawha County Sheriff's Office to contract with the law firm Bailey & Wyant PLLC for legal services for conservatorship and estate matters for the approximate six-month period that Marc Slotnick, an equity member in the law firm Bailey & Slotnick PLLC, an entity that is a member of the law firm Bailey & Wyant PLLC, will serve as a Kanawha County Commissioner.

### **Contract Exemption 2024-03 - Kanawha County Parks and Recreation Commission**

The **Kanawha County Parks and Recreation Commission** sought a contract exemption to continue contracting with Bailey & Wyant PLLC, a law firm in which Kanawha County Commissioner Marc Slotnick has a financial interest.

On May 24, 2024, the Kanawha County Commission appointed Marc Slotnick to fill a vacancy on the County Commission. Marc Slotnick is an equity member in the law firm Bailey & Slotnick PLLC ("Bailey & Slotnick"), an entity that is a member of the law firm Bailey & Wyant PLLC ("Bailey & Wyant"). Mr. Slotnick's term of office as a county commissioner will expire on December 31, 2024. Mr. Slotnick is not a candidate for this office in the 2024 general election and is, therefore, only serving in this position until the voters elect a new commissioner.

The Parks Commission states it has contracted with Bailey & Wyant for approximately 20 years for legal services. Bailey & Wyant advises the Parks Commission on its day-to-day operations; acts as local counsel for litigation; and attends the Parks Commission's monthly commission meetings. Other partners or associates at Bailey & Wyant, not Marc Slotnick, provide legal services to the Parks Commission.

The Parks Commission states that it will suffer undue hardship if it cannot use Bailey & Wyant for the approximate six-month period that Marc Slotnick will be serving as a Kanawha County Commissioner because of Bailey & Wyant's expertise in providing legal counsel to the Parks Commission. Further, Bailey & Wyant is helping the Parks Commission to manage a pending lawsuit against the Parks Commission by overseeing outside counsel and assisting in responding to discovery requests.

The Kanawha County Commission appoints the Park Commission board members and provides funding to it, in an amount that exceeds seven percent of the Parks Commission's budget. The County Commission does not approve the Parks Commission's legal invoices but approves its budget.

Based upon the factors presented and applicable law, the Ethics Commission held that it would create an undue hardship on the operation of the Parks Commission for it to discontinue using the services of Bailey & Wyant during the limited period that Marc Slotnick will serve as a County Commissioner.

### **Contract Exemption 2024-04 - Logan County Development Authority**

The **Logan County Development Authority** requested an exemption to permit it to donate property at the Ray Tomblin Industrial Park to WV Gear, LLC, a manufacturing business owned by Logan County Commissioner Diana Barnette.

A contract exemption from the prohibitions in W. Va. Code § 61-10-15 was necessary for the Development Authority to donate the property in the Industrial Park to WV Gear because a county commissioner has the requisite voice, influence, or control over the contracts of the development authority.

The Development Authority asserted that denying this exemption would result in undue hardship and substantial interference with the operation of the Development Authority. Since its creation in 2002, no other businesses have agreed to locate in the Industrial Park. WV Gear has committed to creating 72 local, high-paying jobs. The Requester also asserts that WV Gear may serve as an anchor to attract other businesses to the Industrial Park. Such job opportunities would further the mission of the Development Authority to advance the business prosperity and economic welfare of the county, its citizens, and its industrial complex and to assist existing businesses and industries.

The Ethics Commission granted an exemption to the Logan County Development Authority to donate 17 acres in the Ray Tomblin Industrial Park to WV Gear, LLC. Commissioner Barnette may not make, participate in, or in any way attempt to use her office to influence a government decision affecting her financial interests, including decisions related to the above-mentioned property.

### **Contract Exemption 2024-05 - President of Shepherd University**

**Shepherd University** requested a contract exemption allowing the University to sell property it owns on 120 North Princess Street in Shepherdstown, West Virginia, to Eric J. Lewis, a member of the University's Board of Governors.

A board of governors member has direct authority or control over the contracts of a university. Therefore, W. Va. Code § 6B-2-5(d) must be analyzed. See [Advisory Opinion 1990-50](#) and [Advisory Opinion 1990-138](#). In [Advisory Opinion 2010-10](#), a county solid waste authority asked whether its part-time appointed board members may bid on a building the authority was selling at auction. The Commission stated that the "part-time appointed" exception in (d)(1) was only available "provided they [SWA members] properly recuse themselves from any and all consideration of any matter concerning the sale of the property, including the method of selling it."

The Commission found that the prerequisite conditions of the part-time appointed exception were triggered when the BOG first became involved with the decision-making process concerning the sale of the property. Mr. Lewis, as a BOG member, was involved in the decisions to put the property on the market and to accept the initial

purchase offer that later fell through. The Commission finds that Mr. Lewis's prior involvement in the sale of the property cannot be undone.

The University asserts the following undue hardship on its operations if this sale to Mr. Lewis is not authorized: 1) The property has been on the market for eight months, and the University has no other prospective buyers of the property at the statutorily required sales price. 2) The University's effort to improve its fiscal reserves by the sale will be at a dead end without this transaction. 3) Retaining this building would also create multiple hardships for the University, including the expenses of maintenance, repairs, and liability insurance. 4) The empty building would create a nuisance.

The Commission granted a contract exemption, pursuant to W. Va. Code § 6B-2-5(d)(3), to Shepherd University to sell the property at 120 North Princess Street, in Shepherdstown, West Virginia, to Eric J. Lewis, for \$525,000 with terms substantially equivalent to the previous sales contract offer that was withdrawn. Mr. Lewis must continue to recuse himself from all matters concerning the sale of the property.

## School Board Advisory Opinions (SBAO) 2024

The Ethics Commission is authorized to issue written Advisory Opinions to County Board of Education members, members-elect, and candidates for election to the Board as to whether they may hold certain other public positions and also serve on a County Board under W. Va. Code § 18-5-1a.

### [School Board Advisory Opinion 2024-01](#) - **President of Community and Technical College**

**Categories:** Permitted Offices and W. Va. Code § 18-5-1a

The **President of a Community and Technical College** that operates a public charter high school asks whether she may serve on a county board of education.

The president of a community and technical college serves at the will and pleasure of the community and technical college's governing board. State law does not prescribe the qualifications, duties, salary, or tenure of community college presidents. Further, state law does not require that presidents of community colleges be bonded or take an oath of office. The community college for which the Requester is president established and operates a public charter high school in the same county in which the community college is located. The Requester appoints the charter school board members, but she does not serve on the charter school board.

A board of education ("BOE") member may not "[b]ecome a candidate for or hold any other public office, other than to succeed him or herself as a member of a county board [of education] . . . ." W. Va. Code § 18-5-1a(a)(3)(A). The Legislature has directed the

Ethics Commission to issue advisory opinions on whether another elected or appointed position held or sought by a person is a public office that would bar service on a county board of education. W. Va. Code § 18-5-1a(b).

The Ethics Commission relied on a prior opinion, [School Board Advisory Opinion 2022-01](#), and applied the factors in *Carson v. Wood*, 175 S.E.2d 482 (W. Va. 1970) to determine that the position of community and technical college president does not constitute a public office that bars a person holding this position from serving on a county board of education for purposes of W. Va. Code § 18-5-1a(a)(3)(A). Accordingly, the Requester may serve on a county board of education while also being employed as a community and technical college president.

### [School Board Advisory Opinion 2024-02](#) - Chief Deputy Sheriff

**Categories:** Prohibited Offices and W. Va. Code § 18-5-1a

A **Chief Deputy Sheriff** asks whether he may serve on a county board of education.

A board of education member may not “[b]ecome a candidate for or hold any other public office, other than to succeed him or herself as a member of a county board [of education] . . . .” W. Va. Code § 18-5-1a(a)(3)(A). In [School Board Advisory Opinion 2014-04](#), the Ethics Commission applied the test set forth in *Carson v. Wood*, 175 S.E.2d 482 (W. Va. 1970) by the Supreme Court providing the criteria that should be considered in determining if a particular position is a public office. The Supreme Court, in *Carr v. Lambert*, 367 S.E.2d 225 (W. Va. 1988), used this same test for purposes of the school board eligibility statute in W. Va. Code § 18-5-1a:

Among the criteria to be considered in determining whether a position is an office or a mere employment are whether the position was created by law; whether the position was designated an office; whether the qualifications of the appointee have been prescribed; whether the duties, tenure, salary, bond and oath have been prescribed or required; and whether the one occupying the position has been constituted a representative of the sovereign.

In [School Board Advisory Opinion 2014-04](#), the Commission concluded that the position of municipal police officer satisfies each of the criteria of public office, rendering the requester ineligible to serve on the county board of education. The Commission found that the criteria were met because [W. Va. Code §§ 8-14-1 to 24](#) provides for the qualifications, duties, salary, bonding requirements, and taking an oath of office for municipal police officers.

The Commission applied the *Carson* factors to the positions of deputy sheriff and chief deputy sheriff to determine that the positions are public offices for purposes of W. Va.

Code § 18-5-1a. Accordingly, neither a deputy sheriff nor a chief deputy sheriff may serve on a county board of education.

### **[School Board Advisory Opinion 2024-03 - Deputy Assessor](#)**

**Categories:** Prohibited Offices and W. Va. Code § 18-5-1a

A **County Deputy Assessor** asks whether she may serve on a county board of education.

The Requester states that her title is Deputy Assessor. Her job duties mainly include entering data on oil and gas assessment values.

The Requester states that she is a will and pleasure employee of the Assessor's Office and may be terminated at any time unless it is for an unlawful reason. The Requester states that she is paid from the County's general funds, not the revolving valuation fund under W. Va. Code § 11-1C-8. The Assessor must seek the advice and consent of the County Commission before hiring her or others for positions funded through the County's general fund. The Requester took an oath of office. She also states that state law does not require her to have a bond, and she does not have one. Her salary is set by the Assessor, not by statute.

A board of education ("BOE") member may not "[b]ecome a candidate for or hold any other public office . . ." W. Va. Code § 18-5-1a(a)(3)(A). The Ethics Commission relied on a prior opinion, [School Board Advisory Opinion 2022-01](#), and applied the factors in *Carson v. Wood*, 175 S.E.2d 482 (W. Va. 1970) to determine whether the position of deputy assessor is a public office. The Commission found that state law designates the position of deputy assessor as an office and requires them to take an oath of office. The Opinion also notes that state law provides that deputy assessors, when authorized by the assessor, may "perform and discharge any of the official duties of his principal, and any default or misfeasance in office of the deputy shall constitute a breach of the conditions of the official bond of his principal." W. Va. Code § 6-3-1(a)(4)

The Ethics Commission held that the position of deputy assessor is a public office for purposes of W. Va. Code § 18-5-1a(a)(3)(A). Accordingly, the Requester may not serve on a county board of education while also serving as a deputy assessor.

## **Property Exemptions (PE) 2024**

A full-time public official or full-time public employee who would be adversely affected by the Ethics Act's prohibitions against purchasing, selling or leasing real or personal property to certain persons or entities may apply to the Ethics Commission for an exemption from the prohibition. The Commission received no Property Exemption requests in 2024.

## Employment Exemptions (EE) 2024

The Ethics Act prohibits full-time public servants from seeking or accepting employment from persons or businesses that they or their subordinates regulate, or from seeking or accepting employment from vendors if the public servant, or his or her subordinates, exercise authority or control over a public contract with that vendor.

Public servants may request an exemption from the Ethics Commission to seek employment with vendors or regulated persons over whom they or a subordinate exercise control at present or in the prior 12 months.

The following Employment Exemptions were requested and granted during 2024:

- EE 2024-01** Kira Renee Robinson, Transportation Engineering Technician, Department of Transportation, Division of Highways
- EE 2024-02** Charles R. Hall, Appraisal Manager, Right of Way, Department of Transportation, Division of Highways
- EE 2024-03** Sasha Danberry, Assistant Director, Department of Transportation, Division of Highways
- EE 2024-04** Ronald L. Stanevich, Director, Materials Control, Soils and Testing Division, Department of Transportation, Division of Highways
- EE 2024-05** Jared Kerns, Transportation Engineer Trainee 2, Department of Transportation, Division of Highways
- EE 2024-06** Travis L. Ray, District 5, Deputy District Engineer, Department of Transportation, Division of Highways
- EE 2024-07** Michael J. Foley, Construction Engineer, Department of Transportation, Division of Highways
- EE 2024-08** Donald Simmons, Special Testing Technician, Materials Control, Soils and Testing Division, Department of Transportation, Division of Highways
- EE 2024-09** Myra Couch, Transportation Engineering Technician, Department of Transportation, Division of Highways
- EE 2024-10** Alexander B. Polansky, Engineering Technician, Department of Transportation, Division of Highways
- EE 2024-11** Adam Gillispie, Highway Engineer Associate Senior, Materials Control, Soils and Testing Division, Department of Transportation, Division of Highways
- EE 2024-12** James Collins, Deputy District Engineer/Maintenance Engineer, Department of Transportation, Division of Highways
- EE 2024-13** Chad J. Toney, Director of Right of Way, Department of Transportation, Division of Highways
- EE 2024-14** Justin B. Smith, District 3 Engineer/Manager, Department of Transportation, Division of Highways

- EE 2024-15** Matthew A. Mongold, Highway Engineer Trainee, Department of Transportation, Division of Highways
- EE 2024-16** Steven D. Boggs, Assistant Director, Publications, Department of Transportation, Division of Highways
- EE 2024-17** Cecil B. Shrader, III, Assistant Director, Right of Way, Department of Transportation, Division of Highways
- EE 2024-18** Steven T. Egnor, District Surface Inspector, Office of Miners' Health, Safety, and Training
- EE 2024-19** Jennelle H. Jones, Attorney, Office of Technology
- EE 2024-20** Deidra Begley, Assistant Director, Alternative Project Delivery, Technical Support, Department of Transportation, Division of Highways
- EE 2024-21** Rebecca Epperly, Project Manager, Department of Transportation, Division of Highways
- EE 2024-22** Travis M. Rose, Data Manager, TRET, Senior, Department of Transportation, Division of Highways
- EE 2024-23** Joshua D. Norris, Transportation Engineering Technologist (TRETENO), Department of Transportation, Division of Highways
- EE 2024-24** Michael R. Jones, Chemist 3, Environmental and Coatings Section, Department of Transportation, Division of Highways
- EE 2024-25** Gary Franklin Foster, Director, West Virginia Office of Miners' Health, Safety, and Training
- EE 2024-26** Laken R. Workman, Transportation Engineering Technician Associate, Department of Transportation, Division of Highways
- EE 2024-27** Chase T. Lindsey, Bridge Engineer (Acting), Department of Transportation, Division of Highways
- EE 2024-28** Hannah F. Urban, D5 Environmental Coordinator (Acting), Department of Transportation, Division of Highways
- EE 2024-29** Emilee Hitt, Transportation Engineer Trainee 2, Engineering Division, Department of Transportation, Division of Highways
- EE 2024-30** Nancy L. Davidson, Division Manager II, Department of Transportation, Division of Highways
- EE 2024-31** Brett R. Settles, Transportation Engineer Trainee 3, Department of Transportation, Division of Highways
- EE 2024-32** Danielle Cox, Chief Information Security Officer, Office of Technology
- EE 2024-33** Daniel J. Rollins, Transportation Engineer Associate, District 5, Department of Transportation, Division of Highways
- EE 2024-34** Andrew Lore, IT Procurement and Business Services Manager, Office of Technology
- EE 2024-35** Joshua Howell, Construction Engineer, Department of Transportation, Division of Highways
- EE 2024-36** Donna J. Hardy, Assistant Director, Safety Advancement, Department of Transportation, Division of Highways
- EE 2024-37** Tommy Hively, HTRETEN – D-1 Utilities Supervisor, Department of Transportation, Division of Highways

- EE 2024-38** Raymond Scott Eplin, Assistant Deputy Secretary of Transportation, Department of Transportation
- EE 2024-39** Sarah Leigh Runyon, Assistant Director (Transportation Engineer Senior), Department of Transportation, Division of Highways
- EE 2024-40** Marvin W. Carder, Jr., D06, Construction Area Supervisor (HTRETCN), Department of Transportation, Division of Highways
- EE 2024-41** Levi I. Whetzel, TENGTR, Department of Transportation, Division of Highways
- EE 2024-42** Robert L. Pennington, District Engineer, Department of Transportation, Division of Highways
- EE 2024-43** James T. Collins, Assistant Chief Engineer of Construction and Materials, Department of Transportation, Division of Highways
- EE 2024-44** Thomas N. Caldwell, Jr., Utility Supervisor, Department of Transportation, Division of Highways
- EE 2024-45** Tayler Thompson, Transportation Engineer, Department of Transportation, Division of Highways
- EE 2024-46** Devin M. Piraino, Transportation Engineering Tech Senior, Materials Office Coordinator, Department of Transportation, Division of Highways
- EE 2024-47** Chris Williams, Transportation Engineering Analyst Senior, Department of Transportation, Division of Highways
- EE 2024-48** Brandon Raines, Transportation Engineering Associate Senior, Department of Transportation, Division of Highways
- EE 2024-49** Trevor Armes, Transportation Geologist Trainee, Materials Control, Soils, and Testing Division, Department of Transportation, Division of Highways
- EE 2024-50** Donn Cyrus, Lab Coordinator, Materials Laboratory, Department of Transportation, Division of Highways
- EE 2024-51** Terry Dunford, Lottery Supervisor, West Virginia Lottery
- EE 2024-52** Timothy Sedosky, Assistant Division Director, Department of Transportation, Division of Highways
- EE 2024-53** Richard Aliff, Area Engineer/TRETCNO, Department of Transportation, Division of Highways
- EE 2024-54** Justin Cain, Maintenance Assistant, Department of Transportation, Division of Highways
- EE 2024-55** Natalie Ringer, TMNASST, Department of Transportation, Division of Highways
- EE 2024-56** Jeremiah Samples, Senior Advisor, Joint Committee on Government and Finance, West Virginia Legislature
- EE 2024-57** Jonathan Stowers, WV TRET IV, Engineering Division, Department of Transportation, Division of Highways
- EE 2024-58** Gregory Silvester, Transportation Maintenance Assistant, Department of Transportation, Division of Highways
- EE 2024-59** Daniel Hamrick, Highway Engineer Trainee-2, Department of Transportation, Division of Highways
- EE 2024-60** Dorman Parker, County Highway Administrator, Department of Transportation, Division of Highways

- EE 2024-61** Jason Arnold, Transportation Engineering Technician Trainee, Department of Transportation, Division of Highways
- EE 2024-62** Chadwick Vance, TRET IV, Facilities Compliance Coordinator, Department of Transportation, Division of Highways
- EE 2024-63** Jack Harden, II, Project Engineer, Department of Transportation, Division of Highways
- EE 2024-64** Carl Bulson, Staff Engineer/Transportation Engineer Trainee, Department of Transportation, Division of Highways
- EE 2024-65** Clinton Craddock, Safety Instructor, WV Office of Miners Health, Safety, and Training
- EE 2024-66** Sebastian Mccllease, Transportation Engineer Technician Trainee, Department of Transportation, Division of Highways
- EE 2024-67** Chad E. Robinson, Assistant District Engineer-Bridge, Department of Transportation, Division of Highways
- EE 2024-68** Russell L. Kees, Assistant Director, Contract Administration, Department of Transportation, Division of Highways
- EE 2024-69** J. Berkeley Bentley, General Counsel, Office of the Governor
- EE 2024-70** Johnnie A. Gavin, TRET SR, District 1, Project Supervisor, Department of Transportation, Division of Highways
- EE 2024-71** Joshua S. Vincent, Transportation Engineer Associate, Department of Transportation, Division of Highways
- EE 2024-72** Erin K. Hunter, Deputy Commissioner and General Counsel, Office of the Insurance Commissioner
- EE 2024-73** Matthew Irby, Tax Commissioner, West Virginia Tax Division
- EE 2024-74** Douglas Kirk, Chief Engineer of Environmental Compliance, Department of Transportation, Division of Highways
- EE 2024-75** Alanna J. Keller, Deputy Secretary Transportation/Deputy Commissioner Highways, Department of Transportation, Division of Highways
- EE 2024-76** William R. Murray, Transportation Engineer Senior, Department of Transportation, Division of Highways
- EE 2024-77** Toni L. Rogers, Statewide Inspection Supervisor, Department of Transportation, Division of Highways
- EE 2024-78** Matt D. Crum, Assistant Director-Construction, Department of Transportation, Division of Highways
- EE 2024-79** Cammie Chapman, Deputy Secretary, Department of Human Services, Children and Adult Services
- EE 2024-80** Larry Shea, Senior Highway Engineer, Department of Transportation, Division of Highways
- EE 2024-81** Bennett Murphy, Highway Engineer Trainee II, Department of Transportation, Division of Highways
- EE 2024-82** Phillip Cook, Transportation Engineer/Evaluation Engineer, Department of Transportation, Division of Highways
- EE 2024-83** Keeling Fife, District Bridge Engineer, Department of Transportation, Division of Highways
- EE 2024-84** Brigitte M. Codling, Civil Rights Senior Specialist, Department of Highways

- EE 2024-85** Jason Hamilton, Regional Construction Engineer, Department of Transportation, Division of Highways
- EE 2024-86** Cynthia Persily, Cabinet Secretary, Department of Human Services
- EE 2024-87** Jason Tharp, Regional Construction Engineer – Contract Administration, Department of Transportation, Division of Highways
- EE 2024-88** David Scott Abbott, Integrated Construction Technologies Supervisor, Department of Transportation, Division of Highways
- EE 2024-89** Mark C. Dickson, TRET SR – Concrete Section, Department of Transportation, Division of Highways
- EE 2024-90** Jay R. Wallace, D6, Construction, Area Engineer, HENGR, Department of Transportation, Division of Highways
- EE 2024-91** Travis Long, Division Director, Department of Transportation, Division of Highways

## Enforcement

The Ethics Commission enforces the West Virginia Ethics Act through an administrative Complaint process. Anyone may file a Complaint, and the Commission itself may initiate Complaints against a person subject to the Ethics Act.

All Complaints are considered by the three-member Probable Cause Review Board, which initially determines whether the allegations in the Complaint, if taken as true, state a material violation of the Ethics Act. Complaints which do state a material violation of the Act are investigated, and those that do not are dismissed.

Complaints which allege trivial or inconsequential violations or were filed outside of the statute of limitations are dismissed.

Public hearings are held in matters in which there is probable cause to believe that a violation of the Act has occurred. However, persons against whom Complaints are filed may enter into a settlement of the allegations through a Conciliation Agreement with the Commission.

Persons found to have violated the Ethics Act may be publicly reprimanded, required to undergo Ethics training, fined up to \$5,000 per violation, ordered to pay restitution and/or ordered to reimburse the Commission for its costs of investigation and prosecution. The Commission also may recommend that the person be removed from office or that his or her public employment be terminated.

## Complaints

Calendar year	Total New Complaints filed	Initiated by Commission (of total filed)	*Dismissed without investigation	*Investigated during year	*Dismissed after investigation	*Resolved via Conciliation Agreement
2024	146	0	131	18	10	3
2023	114	0	97	14	10	7
2022	74	0	57	14	13	5
2021	90	0	85	19	15	3
2020	127	0	81	37	40	9

\*The last four columns of this chart reflect the resolutions of Complaints that were pending in the designated year regardless of the year the Complaint was filed.

**Calendar year	Total Complaints filed	Initiated by Commission (of total filed)	Dismissed without investigation	Investigated	Dismissed after investigation	Resolved via Conciliation Agreement	Still Pending
2024	146	0	127	17	4	1	12

\*\*This chart reflects the status of the Complaints filed in 2024, which shows that 12 of them are still pending.

## Staff-initiated Investigations

The Commission may initiate complaints and make investigations even in the absence of a verified Complaint by a citizen.

Calendar Year	Total Staff-Initiated Investigations	Total Complaints filed by Commission
2024	25	0
2023	27	0
2022	37	0
2021	30	0
2020	28	0

## Public Hearings

The Ethics Commission had one public hearing in 2024 for two respondents.

[VCRB 2022-02](#) - Lillie Junkins, Vice Mayor, City of Clarksburg

[VCRB 2022-04](#) - James E. Marino, former Mayor, City of Clarksburg

The public hearing for Lillie Junkins and James Marino, former members of the Clarksburg City Council, was held and completed on April 9, 2024. It was alleged in the Statement of Charges that the Respondents had used their public offices for private gain and violated the voting rules by participating in the discussion and vote on city ordinances related to the extension of their terms in office.

On November 7, 2024, the Ethics Commission found that the charges had been established by clear and convincing evidence and ordered the following sanctions against each of the Respondents: a public reprimand, pay a fine in the amount of \$200 for the violations of the Ethics Act, reimbursement to the Ethics Commission in the amount of \$2,196.12 each, and an Ethics Act training requirement. The Respondents appealed to the West Virginia Intermediate Court of Appeals on December 7, 2024, where the cases are currently pending.

## Conciliation Agreements during 2024

[VCRB 2023-46](#) - Jeremy Taylor, Former Sheriff, Mineral County

On January 21, 2021, the Respondent, after he had left office and with the approval of the County, purchased the Springfield Armory Saint .223 rifle and the Glock 43 9mm handgun from the County for nine hundred eighty-five dollars (\$985.00). The weapons had not been declared surplus, and the County had not disposed of the weapons pursuant to the process required by West Virginia law, governing the sale of surplus weapons. The Respondent acknowledged that West Virginia law does not expressly provide for the transfer of a sheriff's deputy's service weapon, other than a service pistol, to a sheriff's deputy after the sheriff's deputy's separation from employment. The Ethics Commission approved the Conciliation Agreement, but did not impose any sanctions.

[VCRB 2024-40](#) - John Treu, Chairman, Board of Directors, West Virginia Academy

Mr. Treu violated W. Va. Code §§ 6B-2-5(b)(4) and 6B-2-5(j) of the West Virginia Governmental Ethics Act when he did not remove himself from the Board meeting room during the discussions of and votes on his wife's nomination for Executive Director of

the WV Academy and her subsequent job extension. He asserted that he was unaware of the requirement in the law that the Ethics Act applies to the Board members of WV Charter Schools and was unaware that the West Virginia Ethics Commission has now held, in [Advisory Opinion 2024-09](#), that public charter schools' governing boards are public corporations, and as such, a public charter school is a political subdivision for purposes of the Ethics Act even if incorporated as a nonprofit corporation. Mr. Treu was ordered to undergo training on the Ethics Act and pay a \$50 fine.

### **[Casey Mathes](#), City of Nitro, Fire Department Chief**

Mr. Mathes violated W. Va. Code § 6B-2-5(d)(1) of the Ethics Act when Nitro Fire Department funds were used to purchase products from his business, C4, in the amount of \$918.50 in the calendar year 2022. He violated the public contract restrictions because although the purchases from C4 in 2022 did not exceed the limited financial interest threshold of \$1,000, he did not remove himself from making or participating in decisions relating to the Nitro Fire Department's purchases from C4 and included links to C4 in an email he sent to Fire Department employees. Mr. Mathes was ordered to undergo training, pay a \$250 fine, and cease and desist from allowing City of Nitro stipend monies to purchase items from any business that he owns, unless the Nitro Fire Department or the City of Nitro complies with the Ethics Act, including seeking and receiving an Advisory Opinion from the Ethics Commission prior to using stipend monies to make or authorize future purchases from Mr. Mathes' business.

## **Lobbyists**

The Ethics Commission conducts the registration of lobbyists in West Virginia. It also processes and enforces lobbyists' reporting of their lobbying activities and expenditures. The Commission also retains a Certified Public Accountant to conduct annual audits of randomly selected lobbyists' activity reports. For the calendar year 2024, the Commission registered 58 new or reinstated lobbyists.

### **Active Registered Lobbyist by calendar year**

2024 - 410  
2023 - 386  
2022 - 362  
2021 - 321  
2020 - 347

### **Lobbyist spending by calendar year**

2024 – \$845,323.38  
2023 – \$741,332.10  
2022 – \$429,854.83  
2021 – \$342,983.58  
2020 – \$713,783.11

## **Financial Disclosure Statements**

The Ethics Act requires certain public officials and candidates to file Financial Disclosure Statements with the Commission. All Disclosures are available for public inspection and copying. Disclosures filed by members of the Legislature, elected members of the executive department, justices on the Supreme Court of Appeals and candidates for these positions are placed on the Commission’s website at [Financial Disclosure Search](#).

Following are the numbers of Disclosures processed during the prior five calendar years:

2024 – 3,586  
2023 – 3,162  
2022 – 3,759  
2021 – 3,240  
2020 – 3,285

## **Training – Public Servants and Lobbyists**

The Ethics Commission staff provides training on the Ethics Act, the Open Governmental Meetings Act, and the Administrative Law Judge Code of Conduct to large groups of public officials and employees and to lobbyists. In addition to “live” training sessions, the Commission provides videos of training on the Ethics Act, the Open Governmental Meetings Act, and lobbyist provisions on its website.

The Commission trained 2,659 public officials, employees, and lobbyists in 2024 for the following agencies, associations, and events:

Association of Government Accountants Board  
Alcohol Beverage Commission  
Chapter 30 Licensing Boards

City of Elkins  
City of New Martinsville  
Commerce, Division of Rehabilitation  
County Commissioners Association  
Department of Natural Resources  
Jefferson County  
Jefferson County Commission and Development Authority  
Jefferson County Parks and Recreation  
Lobbyist Training (2)  
Lottery Commission (2)  
Municipal League Training (2)  
Office of Technology  
Pcard Coordinator Conference (2)  
Purchasing Training (2)  
Quarterly Training for the Public on the Ethics and Open Meetings Acts (4)  
Ritchie County Board of Education  
School Board Member Training  
Treasurer's Office  
Wheeling School Business officials  
WV Association of Conservation Districts  
WV Counties Training  
WV Division of Financial Institutions  
WV Funeral Directors & Crematory  
WV National Guard  
WV State University  
WV Public Health Association  
WV School Board Executive Secretaries Association  
WV State Auditor's Office (8)  
WV State Bar

## **New Legislation in 2024**

None

*Report issued January 31, 2025*