

ADVISORY OPINION NO. 94-06

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON MARCH 3, 1994

GOVERNMENTAL BODY SEEKING OPINION

Employees of a State Agency

OPINION SOUGHT

Is it a violation of the Ethics Act for a staff attorney and spouse to be employed by different divisions of the same State Agency?

FACTS RELIED UPON BY THE COMMISSION

The requestor has been employed as a staff attorney for a Division of a State Agency since June of 1988, working almost exclusively on electric utility cases. Her job responsibilities include presenting the staff position in rate cases, certification of utility projects, resolution of complaints and appellate representation of the Division. All legal work is reviewed and supervised by the general counsel of the Division.

In mid-December the requestor's spouse accepted a full-time temporary position as a utilities financial analyst with another Division of the same Agency. As such he is responsible for presenting expert testimony on return on equity and overall rate of return in rate cases for gas, water, telephone and electric utilities.

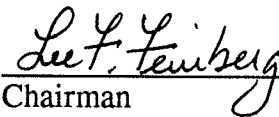
While ultimately the requestor and her spouse are employed by the same State Agency, they work for separate Divisions of the Agency. Each Division is responsible for its own administration, budget and hiring decisions.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

In its evaluation of this request the Ethics Commission reviewed the code of conduct established pursuant to WV Code §6B-2-5 in its entirety.

ADVISORY OPINION

In considering this request the Ethics Commission has analyzed the facts presented in light of the statutory violations contained in the Ethics Act. The Commission has determined that no provision of the Ethics Act prohibits a staff attorney and her spouse from being employed by a different independent division of the same State Agency.


Chairman