

ADVISORY OPINION NO. 90-30

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON MARCH 16, 1990

GOVERNMENTAL BODY SEEKING OPINION

A public employee

OPINION SOUGHT

Whether it is a violation of the Act for a public employee's dependent children to contract with private individuals?

OTHER FACTS RELIED UPON BY THE COMMISSION

The public employee's son and daughter are in the process of trying to start a small fish business on his property. Their father's occupation is District Fisheries Biologist.

The public employee's children expect to raise a variety of fish and sell them to the public or private pond owners. The fish will also be used for stocking purposes. They have contacted fish dealers and producers outside of West Virginia for the sale of the first stock of fish in March.

The proceeds from the venture will be placed into funds specifically set aside for the children's college education.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

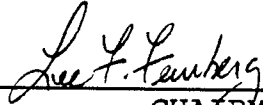
West Virginia Code Section 6B-2-5(d)(1) states in pertinent part that no...public employee or member of his or her immediate family may be a party to or have an interest in the profits or benefits of a contract with the governmental body over...which he or she is employed...

West Virginia Code Section 6B-1-3(d) states that "immediate family", with respect to an individual, means a spouse residing in the individual's household and any dependent child or children and dependent parent or parents.

ADVISORY OPINION

An analysis of the facts presented and the pertinent statutory provisions of subsections (d)(1) and (2) follows:

- a. The requestor is a public employee with a State Department.
- b. The public employee's immediate family members would have more than a limited interest in a business.
- c. For the purpose of this section "immediate family" is defined as dependent children residing in the individual's household.
- d. For the purpose of this section "limited interest" is defined as an interest not exceeding ten percent of the outstanding shares of stock issued by a corporation or thirty thousand dollars, whichever is the lesser.
- e. However, the public employee's immediate family members are not contracting with the governmental agency with which their father is employed.
- f. Therefore, it is not a violation of subsection (d)(1) of the Act for the public employee's immediate family members to contract with private individuals.



CHAIRMAN