

ADVISORY OPINION NO. 90-187

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON DECEMBER 6, 1990

GOVERNMENTAL BODY SEEKING OPINION

A Superintendent of a County School System

OPINION SOUGHT

Whether it is a violation of the Ethics Act for County Board of Education Members to accept passes to school events throughout the State from the Secondary School Activities Commission (hereafter referred to SSAC)?

OTHER FACTS RELIED UPON BY THE COMMISSION

The SSAC is an independent agency composed of secondary school principals or their representatives, whose County Boards of Education have certified in writing that they have elected to delegate the control, supervision and regulation of their interscholastic athletic and band activities of the students in the public secondary schools in their respective counties to the SSAC. The SSAC is governed by an Executive Secretary and an eight member Board of Appeals. Membership in the SSAC is on a voluntary basis and rests in the discretion of each County Board of Education.

The purpose of the SSAC is to control, supervise and regulate interscholastic athletic and band activities of the students in the secondary public schools.

The administration of the SSAC is vested in the secondary school principals who constitute a Board of Control. This Board determines the regulations of interscholastic athletic events and band activities among the schools. The Board of Control delegates and assigns a Board of Appeals to interpret and enforce the SSAC's rules and regulations.

The explanations, interpretations, rules and regulations of the agency are voted upon and approved by a majority vote of the members of the Board of Control. Fifty members constitute a quorum for the transaction of all business by the SSAC.

The SSAC which is composed of and controlled by secondary school principals or their representatives, would like to give free passes to any school event in the State to all participating County Board of Education members in order that the Board members may observe and monitor the events.

The requestor stated that the Board of Education members supervise the conduct of employees (such as the coaches) and students, as well as oversee security and crowd control as a part of their official responsibilities as elected Board members.

However, according to the rules and regulations of the SSAC, the participating Boards of Education have delegated the control, supervision and regulation of their interscholastic athletic and band activities in their respective counties to the SSAC.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(c)(1) states in pertinent part that...no official may knowingly accept any gift, directly or indirectly from any **person** whom the official knows or has reason to know:

(B) Is engaged in activities which are **regulated** or controlled by his or her agency; or

(C) Has **financial interests** which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his official duties.

West Virginia Code Section 6B-2-5(c)(2) states in pertinent part that...a person who is a public official may accept a gift described in this subdivision, and there shall be a presumption that the receipt of such gift does not impair the impartiality and independent judgment of the person...The provisions of subdivision (1) of this subsection do not apply to:

(C) Unsolicited gifts of nominal value or trivial items of informational value;

(E) Gifts of tickets or free admission extended to a public official or public employee to attend charitable, cultural or political events, if the purpose of such gift or admission is a courtesy or ceremony customarily extended to the office;

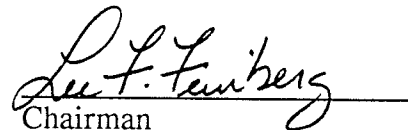
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The Commission recognizes that as a result of the proposed SSAC policy the County Board of Education members could receive free admission to interscholastic events including sports tickets for events which they supervise and oversee as part of their official responsibilities. The Commission considers these benefits to inure to the local County systems.

It is the Commission's opinion that the on-site supervision and monitoring of school events is part of the Board members' job responsibilities and free admission to such events would not be an impermissible gift under the Act. The Commission would note that this approval is limited to admission to interscholastic activities involving only the counties where the Board members serve or involving their County schools.

In its consideration of this question the Commission was influenced by the fact that the provider of the tickets to the Board members was the SSAC, which is not regulated by the County Board of Education.

The Commission would also note that this opinion is distinguishable from previous opinions regarding free admission or passes to athletic events supplied by employees. In this instance, the SSAC does not have a financial interest which could be affected nor is it regulated by the County Board of Education unlike County employees who supply gifts of free athletic tickets to Board of Education members. County employees have a significant financial interest that can be affected by the Board member and are clearly regulated or controlled by such officials.


Chairman