

ADVISORY OPINION NO. 89-40

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON DECEMBER 7, 1989

GOVERNMENTAL BODY SEEKING OPINION

A Superintendent of a County Board of Education

Opinion Sought

Whether members of the Board of Education as elected officials may accept tickets, passes, or other gratuities to school related events as a part of their general oversight and supervisory responsibilities?

Other Facts Relied Upon By The Commission

The Superintendent specifically refers to free tickets given to board members for the County majorette festival and Secondary School Activities Commission passes to athletic events.

Pertinent Statutory Provisions Relied Upon By The Commission

West Virginia Code 6B-2-5(c)(1) states that an official or employee of the state may not solicit any gift. No official or employee may knowingly accept any gift, directly, or indirectly, from any person whom the official or employee knows or has reason to know:

(A) Is doing or seeking to do business of any kind with his or her agency.

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

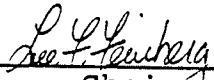
(C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his official duties.

West Virginia Code 6B-2-5(c)(2)(E) states in pertinent part that the provisions of 6B-2-5(c)(1) are not applicable... to 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 the gift or admission is a courtesy or ceremony customarily extended to the office.

ADVISORY OPINION

It is the Commission's opinion that acceptance of free tickets by Board of Education members to school related events (such as the Majorette Festival) attended for oversight or supervisory purposes is permitted within the 6B-2-5(c)(E) exception which permits acceptance of tickets to charitable, cultural or political events since this is a courtesy or ceremony customarily extended to the office.

Furthermore, the Commission is not aware of an exception to the general (c)(1) provision that permits the acceptance of free tickets or admission to athletic events by public officials or employees. Furthermore the Commission specifically finds that had the Legislature intended these types of activities to be included as permissible gifts it would have set that out when drafting the statute. Therefore, it would be a violation of subsection (c)(1) for County Board of Education members to accept free tickets or admission to Secondary School Activities Commission athletic events.



Chairman