

ADVISORY OPINION NO 89-58

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON DECEMBER 7, 1989

GOVERNMENTAL BODY SEEKING OPINION

A Social Studies Supervisor of a County School System

OPINION SOUGHT

Whether it is a violation of the Act for a County Curriculum Specialist to review for compensation a manuscript for a publishing company?

FACTS RELIED UPON BY THE COMMISSION

A County school social studies specialist will coordinate, but would have no vote in a textbook selection. The book she will review may or may not be submitted to the county for selection. The company will pay a flat fee for this review.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(b)(1) states in pertinent part that...a public employee may not intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person.

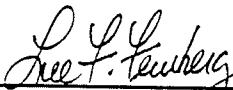
West Virginia Code Section 6B-2-5(h)(1) states in pertinent part that no...full-time public employee who exercises policymaking, nonministerial or regulatory authority may seek employment with, or allow...herself to be employed by any person who is or may be regulated by the governmental body which he or she serves while... she is employed or serves in the governmental agency. The term "employment" within the meaning of this section includes professional services and other services rendered by the public official or public employee whether rendered as an employee or as an independent contractor.

ADVISORY OPINION

It is the Commission's opinion that although the county school specialist is a full-time employee and does exercise some policy-making and non-ministerial duties, subsection 5(h)(1) would not be applicable since the textbook company is not regulated by the county school system nor the specialist.

However, the specialist should not intentionally use her position with the county school system for financial gain pursuant to subsection 5(b)(1). It is apparent that the specialist is receiving financial gain as a result of her position with the school systems, but it does not seem to be the type contemplated to be prohibited by the legislature in enacting the Ethics Act.

While beyond the scope of oversight of the Ethics Commission your attention is called to the Constitution of the State of West Virginia, Article 12, section 9, and West Virginia Code, Section 61-10-15 and 50 Attorney General Op.21 (1962).



Chairman