

ADVISORY OPINION NO. 89-91

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON DECEMBER 22, 1989

GOVERNMENTAL BODY SEEKING OPINION

Transportation Director for a County School Board

OPINION SOUGHT

Whether it would be a violation of the Ethics Act for a School Board to contract with a service station when the station owner has two relatives who work for the Board of Education.

OTHER FACTS RELIED UPON BY THE COMMISSION

The County School Board purchases fuel from a distributor and stores it in independent service stations throughout the County. The stations are paid a fixed price per gallon for the fuel used in County owned vehicles.

A particular service station is owned by a person who has two relatives working for the Board of Education. One employee is a sister-in-law and the other is a cousin.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

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

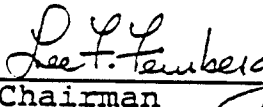
West Virginia Code 6B-2-5(d)(2) states in pertinent part that... a public employee or a member of his or her immediate family or a business with which he or she is associated shall not be considered as having an interest in a public contract when such a person has a limited interest as an owner or shareholder. A limited interest for the purposes of this section is an interest not exceeding ten percent of the partnership or the outstanding shares of a corporation or thirty thousand dollars, whichever is the lesser.

West Virginia Code 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

A analysis of the facts presented and pertinent statutory provision (d)(1) follows:

1. The County School Board employees (the cousin and sister-in-law) are public employees within the meaning of the Act.
2. Subsection (d)(1) prohibits public employees and members of their immediate family, from being a party to or having an interest in the profits of a contract with a government agency by which they are employed.
3. Immediate family members are defined as a spouse residing in the individual's household and any dependent children or parents. Since the service station owner's relationship to the public employees is as a cousin and brother-in-law he would not fall within this category.
4. Therefore, it is not a violation of Subsection (d)(1) of the Ethics Act for the County School Board to contract with this particular service station owner.


Chairman