

ADVISORY OPINION NO. 89-130

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JANUARY 19, 1990

GOVERNMENTAL BODY SEEKING OPINION

An Interim Chancellor of a Board of Trustees

OPINION SOUGHT

Whether it is a violation of the Ethics Act for the members of an Association to hold a reception, in conjunction with its' mid-winter meeting, for legislators, staff members and Board Advisors?

OTHER FACTS RELIED UPON BY THE COMMISSION

The reception is an annual event held in conjunction with the Association's mid-winter meeting. Institutional representatives set up exhibits and provide literature and information about their schools. There is no program, except welcoming remarks made by the President of the Association.

Staff representatives, Board of Advisor members, presidents, faculty members, friends of higher education and legislators are invited to attend. Hors d'oeuvres and beverages are served.

The reception is held to provide informal discussions and interaction between the various members attending. The Association's cost for the reception ranges from eight (8.00) dollars to fifteen (15.00) dollars per person. Average attendance is between 225 to 350 people.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(c)(1) states in pertinent part that... 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.

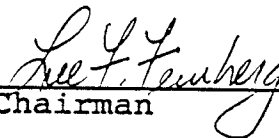
West Virginia Code 6B-2-5(c)(2) states in pertinent part that... a person who is a public official or public employee may accept a gift described in this subdivision, and there shall be a presumption that the receipt of such gift does not impair the impartiality and independent judgment of the person. This presumption may be rebutted only by direct objective evidence that the gift did impair the impartiality and independent judgment of the person or that the person knew or had reason to know that the gift was offered with the intent to impair his or her impartiality and independent judgment. The provisions of subdivision (1) of this subsection do not apply to:

(A) Meals and beverages;

#### ADVISORY OPINION

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

1. Subsections (c)(1) and (c)(2) of the Act permit the acceptance of certain gifts by elected public officials and public employees.
2. Subsection (c)(2) of the Act identifies gifts which may be accepted and are provided a presumption that such acceptance does not impair the judgment or impartiality of the person accepting the gift. Meals and beverages are afforded this presumption.
3. Therefore, it is not a violation of subsections (c)(1) and (c)(2) of the Act for the Association to provide meals and beverages at a reception for legislators and public employees.

  
Chairman