

Advisory Opinion 2026-06

Issued on June 4, 2026, by

The West Virginia Ethics Commission

Opinion Sought

A **County Planning Commissioner** asks whether he may participate in and vote on matters associated with amending the county's zoning ordinance, serving on the solar subcommittee, and voting on rezoning applications, given that his employer, a public university, received a research grant from the solar developer.

Facts Relied Upon by the Commission

The Planning Commission anticipates a utility scale solar developer will submit an application for a wholesale renewable energy production facility. The County's current zoning ordinance permits wholesale renewable energy production facilities only in industrial zones. The Planning Commission is considering zoning amendments to address renewable energy production of all sizes and types in all zones. The Planning Commission consists of 12 members who are appointed by the County Commission. To draft the proposed zoning changes, the Planning Commission established a zoning subcommittee. The subcommittee is responsible for recommending ordinance revisions to the Planning Commission, which subsequently require approval from the County Commission.

The Requester holds a full-time position at a public university within its college of agriculture. He is responsible for managing one of the five agricultural farms operated by the college. The farm is primarily used for raising cattle and sheep, and the Requester's primary duty is to care for the animals. He also coordinates the day-to-day farm affairs. The college's research activities are overseen by another university employee. The Requester's involvement in the research activities that occur on the farm

is limited to ensuring animal safety and coordinating the students and faculty's access to the farm.

In 2025, the solar developer contributed \$300,000 to the university's private foundation, a nonprofit organization that receives and administers private donations on behalf of the university. The solar developer earmarked the donation for a research partnership fund meant to enhance research in multiple areas, including solar energy sources, soil health, vegetative growth, and sustainable land management. The funding was granted unconditionally, with no requirement for the zoning commission to approve any future zoning requests. Through this program, students are able to investigate renewable energy systems and determine optimal strategies for implementing extensive solar panel arrays to improve environmental outcomes. The college administration selected the Requester's farm for the research project because it was the only farm with the equipment necessary to do the research.

The Requester did not ask for the donation from the solar developer, nor did the developer coordinate the donation through the Requester. The Requester did not influence how the funds would be used, and he will not personally or directly benefit from the funds. His position at the college is paid for by federal grants from the USDA.

The Requester has been on the Planning Commission since 2024. The solar developer has attended Planning Commission meetings during the Requester's term and was aware the Requester was employed by the university at the time the donation was made. Beyond attendance at public meetings, the Requester has had no direct communication with the solar developer regarding the potential project or donation.

Provisions Relied Upon by the Commission

[W. Va. Code § 6B-1-2](#)(c) provides, in relevant part:

The Legislature finds that the state government and its many public bodies and local governments have many part-time public officials and public employees serving in elected and appointed capacities; and that certain conflicts of interest are inherent in part-time service and do not, in every instance, disqualify a public official or public employee from the responsibility of voting or deciding a matter; however, when such conflict becomes personal to a particular public official or public employee, such person should seek to be excused from voting, recused from deciding, or otherwise relieved from the obligation of acting as a public representative charged with deciding or acting on a matter.

[W. Va. Code § 6B-2-5\(b\)\(1\)](#) provides, in relevant part:

A public official or public employee may not knowingly and 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. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in *de minimis* private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

[W. Va. Code § 6B-2-5\(j\)](#) provides, in relevant part:

(1) Public officials, excluding members of the Legislature who are governed by subsection (i) of this section, may not vote on a matter:

(A) In which they, an immediate family member, or a business with which they or an immediate family member is associated have a financial interest. Business with which they are associated means a business of which the person or an immediate family member is a director, officer, owner, employee, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding stocks of any class....

(2) A public official may vote:

(A) If the public official, his or her spouse, immediate family members or relatives or business with which they are associated are affected as a member of, and to no greater extent than any other member of a profession, occupation, class of persons or class of businesses. A class shall consist of not fewer than five similarly situated persons or businesses; or....

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Planning commission members “must be qualified by knowledge and experience in matters pertaining to the development of the county” and “must fairly represent different areas of interest, knowledge and expertise, including, but not limited to, business, industry, labor, farming, government and other relevant disciplines. [W. Va. Code § 8A-2-4\(b\)\(2\)](#) and (d). Given the required credentials of planning commission members, situations may arise where a member may be financially affected by the official actions of the planning commission and its subcommittees.

Private gain

To begin, the Ethics Commission notes that the asserted facts do not state a violation of W. Va. Code § 6B-2-5(b)(1), the Act’s prohibited private gain provision. The Requester asserts he did not solicit or influence the terms of the donation, and the donation will not enhance his salary or provide other benefits of his employment. Beyond attendance at public meetings, the Requester has had no direct communication with the solar developer regarding the potential project or donation.

Voting

Public officials, generally, may not vote on or participate in a matter in which they or a business with which they are associated, such as an employer, have a financial interest. W. Va. Code § 6B-2-5(j)(1)(A). The question here is whether the Ethics Act prevents or limits the Requester's participation in matters concerning the solar development project given the developer's \$300,000 donation to the Requester's public employer in 2025.

The Ethics Act prohibits public officials from participating in matters that, among other things, affect 1) their own financial interests or 2) those of a business with which they are associated. Because the donation has already occurred and will have no impact on the Requester's salary or benefits, he does not possess a personal financial interest in the donation or the zoning issues before the County.

But, as an employee, the Requester is associated with the university, W. Va. Code § 6B-2-5(j)(1)(A), and the university certainly has a financial interest in the donation. However, the Commission notes that since the university has already secured the grant, it likely has no financial stake in the County Commission's or committee's zoning decisions. The Requester includes no assertions suggesting that the grant or any prospective support depends on the outcomes of zoning-related issues.

Furthermore, the Commission previously found that the Act's voting restriction does not apply to public officials associated with a *public* employer. In [Advisory Opinion 2014-02](#), the Commission held that state board members were permitted to vote on applications submitted by municipalities with which they had a relationship, including employment, because the Act's definition of "business" does not include a public entity. "Business" means "any entity through which business for-profit is conducted including a corporation, partnership, proprietorship, franchise, association, organization, or self-employed individual." W. Va. Code § 6B-1-3(b). See also [Advisory Opinion 2023-09](#), where a university professor who served in the state legislature asked if he could vote on matters affecting the university. The Commission stated, "The Ethics Act... does not

require the Requester to recuse himself from votes or matters regarding legislation or the appropriation of money to his college employer.” (This conclusion is consistent with [Advisory Opinion 1992-30](#) in which the Commission expressly held that the term “person” in the Act does not include public agencies. The voting prohibition applies only when the employer is a “business,” and a public university is not a business. W. Va. Code § 6B-2-5(j)(1)(A)).

The Ethics Commission finds:

- 1) Since the donation has already occurred and will have no impact on the Requester's salary or benefits, he does not possess a personal financial interest in the donation or the zoning issues before the Planning Commission.
- 2) Because the donation was made unconditionally and has already been given to the university, it is unlikely the university maintains a financial stake in the outcome of the zoning deliberations.
- (3) Even if the university had a financial interest in the zoning outcomes, the university's financial interests are not imputed to its employees, such as the Requester, under the Act's voting provision because the university is not a “business.”

Therefore, nothing in the Ethics Act requires the Requester to recuse himself from zoning matters related to the solar project, and he may participate in all matters that come before the County, Planning Commission, solar committee, and other boards and committees concerning the solar development project.

This Advisory Opinion is based upon the facts provided. If all material facts have not been provided, or if new facts arise, the Requester must contact the Ethics Commission for further advice as it may alter the analysis and render this Opinion invalid. This Advisory Opinion is limited to questions arising under the Ethics Act, W. Va. Code §§ 6B-1-1 through 6B-3-11 and does not purport to interpret other laws or rules.

In accordance with W. Va. Code § 6B-2-3, this Opinion has precedential effect and may be relied upon in good faith by public servants and other persons unless and until it is amended or revoked or the law is changed.

/s/ Robert J. Wolfe
Robert J. Wolfe, Chairperson
WV Ethics Commission