# Advisory Opinion 2026-10

**Issued on November 5, 2026, by**

**The West Virginia Ethics Commission**

## Opinion Sought

A potential **County Commissioner** candidate asks whether a county commissioner's spouse may be employed by the County Economic Development Authority as its Executive Director.

## Facts Relied Upon by the Commission

The Requester is considering his candidacy as a County Commissioner. His wife is considering employment with the County Economic Development Authority (EDA), a county agency, as its executive director. County Commissions, pursuant to W. Va. § 7-12-1, *et. seq*., appoint all the members of a county EDA board. A county commission does not otherwise employ, supervise, or direct the executive director of the EDA and does not have day-to-day authority or responsibility over the EDA or its executive director beyond its statutory authority concerning appointments to the EDA Board. This opinion addresses whether spouses can hold these two county positions simultaneously under the Ethics Act and W. Va. § 61-10-15.

## Provisions Relied Upon by the Commission

W. Va. Code § 6B-1-3 states, in relevant part:

> (f) "Immediate family," with respect to an individual, means a spouse with whom the individual is living as husband and wife and any dependent child or children, dependent grandchild or grandchildren, and dependent parent or parents.

W. Va. Code § 6B-2-5(b) states, in relevant part:

> (1) 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....
>
> (4) A public official or public employee may not show favoritism or grant patronage in the employment or working conditions of his or her relative or a person with whom he or she resides: *Provided*, That as used in this subdivision, "employment or working conditions" shall only apply to government employment: *Provided*, *however*, That government employment includes only those governmental entities specified in subsection (a) of this section.

W. Va. Code § 6B-2-5(d) states, in relevant part:

> (1) In addition to the provisions of § 61-10-15 of this code, no elected or appointed public official or 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 which the official or employee may have direct authority to enter into, or over which he or she may have control: Provided, That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body....

W. Va. Code § 61-10-15 states, in relevant part:

> (a) It is unlawful for any member of a county commission, district school officer, secretary of a board of education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary, supervisor,

> superintendent, principal or teacher, he or she may have any voice, influence or control: *Provided*, That nothing in this section prevents or makes unlawful the employment of the spouse of a member, officer, secretary, supervisor, superintendent, principal or teacher as a principal or teacher or auxiliary or service employee in the public schools of any county or prevents or makes unlawful the employment by any joint county and circuit clerk of his or her spouse....

**Advisory Opinion**

The relationship between a county commission and a county EDA is governed by W. Va. Code § 7-12-1 et seq. A county commission has the authority, but is not mandated to create, an EDA. If a commission creates an EDA, it is required to appoint the members to serve on the EDA, which shall include one member to represent the county commission on the board. The county commission has the authority to remove the members. Thereafter, an EDA governs its property, operations, business, and other affairs, such as contracting, acquiring and disposing of property, borrowing, issuing revenue bonds, and employing personnel. W. Va. Code § 7-12-7. An EDA is a public corporation. W. Va. Code § 7-12-6

*Ethics Act*

The Ethics Act's public contract restrictions contain an express exemption allowing for government employment. W. Va. Code § 6B-2-5(d) states: "That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body…." Thus, the Ethics Act does not prohibit the employment of a county commissioner's spouse with another county agency. W. Va. Code § 6B-2-5(d). (Of course, the voting restrictions in the Act would apply.) All public officials and employees are subject to the prohibitions of using public office for private gain and other provisions in the Act that may become operative, e.g., nepotism restrictions, voting restrictions, misusing confidential information, and accepting prohibited gifts. See W. Va. Code § 6B-2-5(b), (c), (e) and (f).

However, while the Ethics Act permits the employment of a county commissioner's spouse with another county agency, the below statute must also be considered:

*W. Va. Code § 61-10-15*

W. Va. Code § 61-10-15 is a criminal misdemeanor statute that prohibits county commissioners, and other designated county officials and employees, from being a party to or having a financial interest in a contract over which their public positions give them voice, influence, or control. W. Va. Code § 61-10-15 also prohibits a county commissioner's spouse from being employed by the county or other entities over which the county commission exercises voice, influence, or control, unless an exception is applicable.

In Advisory Opinion 1994-30, the Ethics Commission found that, under W. Va. Code § 61-10-15, a county commissioner may not work as a realtor in the sale of property owned by the county development authority because a county commission appoints all of the board members of an EDA. Specifically, the Ethics Commission explained that "the power of the county commission to appoint the members of the county development authority, along with the authority to make contributions from general funds and transfer and convey property to the Authority, is sufficient to give the requester some voice or influence over the Development Authority's contracts."

The Commission has further consistently held that W. Va. Code § 61-10-15 applies to spouses of county officials, including commissioners. Advisory Opinion 1995-24 held that the spouse of a county commissioner could not work as a deputy sheriff because the commissioner would have a pecuniary interest in the employment contract between the sheriff's office and his spouse. Further, the spouse of a county commissioner may not be employed by a public service district in the county. In Advisory Opinion 1996-23, the Ethics Commission found that a county commissioner had control over the public service district's employment contracts because the commission appoints its board members.

Finally, W. Va. Code § 61-10-15 provides a discrete list of exceptions that permit a county official's spouse to work for some county agencies. Unless the employment is specifically authorized by one of several exceptions, the spouse's employment is prohibited. For instance, a spouse may work as "a principal or teacher or auxiliary or service employee in the public schools" under W. Va. Code § 61-10-15(a); a salaried employee of a vendor under W. Va. Code § 61-10-15(e), and a licensed health care provider at government-owned healthcare facilities under W. Va. Code § 61-10-15(k).

**The Ethics Commission holds that W. Va. Code § 61-10-15 disqualifies a county commissioner's spouse from employment with the County Economic Development Authority.**

*This Advisory Opinion is based upon the facts provided. If all material facts have not been provided, or if new facts arise, the Requester should 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, at W.Va. Code §§ 6B-1-1 through 6B-3-11, and W. Va. § 61-10-15, 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 other public agencies unless and until it is amended or revoked or the law is changed.*

/s/ Robert J. Wolfe

Robert J. Wolfe, Chairperson
West Virginia Ethics Commission