

ADVISORY OPINION 89-48

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON DECEMBER 7, 1989

GOVERNMENTAL BODY SEEKING OPINION

County School Superintendent

OPINION SOUGHT

Whether a County School Board of Education needs an exemption from the Ethics Commission to purchase vehicles from an individual whose daughter and daughter-in-law are employed in the county as teachers?

OTHER FACTS RELIED UPON BY THE COMMISSION

The County Board of Education advertised (in various newspapers) for sealed bids to be opened publicly for the sale of a 1/2 ton cab and chassis, one panel truck, and one small pick up. The only bid was from a company who was owned by an individual who has a daughter and daughter-in-law employed as teachers by the county school board.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

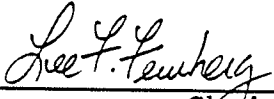
West Virginia Code 6B-2-5(d)(1) states in part that "...no public employee or member of his or her immediate family... may be a party to or have an interest in the profits or benefits of a contract with the governmental body...with which he or she is employed.

West Virginia Code 6B-1-3(d) defines "immediate family", with respect to an individual to mean a spouse residing in the individual's household and any dependent child or children and dependent parent or parents.

West Virginia Code 6B-2-5(d)(3) states that where the provisions of subdivision (1) of this subsection would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship, or other substantial interference with the operation of a state, county, municipality, county school board or other governmental agency, the affected governmental body or agency may make written application to the ethics commission for an exemption from subdivision (1) of this subsection.

ADVISORY OPINION

The key issue here is whether the owner of the company's daughter or daughter-in-law is dependent on him within the meaning of the Act. Since neither teacher (as a public employee) is, there would not be a violation of subsection 5(d)(1).



Chairman