

ADVISORY OPINION NO. 89-121

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JANUARY 19, 1990

GOVERNMENTAL BODY SEEKING OPINION

Executive Director for a Corporation

OPINION SOUGHT

Whether it is a violation of the Ethics Act for a company to sponsor a dinner which is open to all Legislators, State officials and others who attend a conference?

OTHER FACTS RELIED UPON BY THE COMMISSION

Each year this company sponsors a dinner in conjunction with a continuing education seminar held during the legislative session. The dinner is open to all Legislators, state officials and others who attend the conference.

There are no speeches given during the dinner, only an opportunity for the participants of the seminar to become acquainted. An information booth is set up for anyone who wishes to obtain further information on the subject matter discussed during the seminar.

The company is a small organization and does not use a lobbyist for the Legislative session.

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;

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The Ethics Act prohibits the acceptance of certain gifts by public officials and employees. Subsection (c)(2) allows public officials and employees to accept gifts with the presumption that such acceptance does not impair the impartiality and the independent judgment of that person. Meals and beverages are included in the gifts afforded such presumption.

Therefore, it would not constitute a violation of subsection (c)(1) of the Act for a company to sponsor a dinner or provide meals and beverages to Legislators, state officials and others who attend a seminar during the legislative session.

  
Chairman