

ADVISORY OPINION NO. 89-123

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JANUARY 19, 1990

GOVERNMENTAL BODY SEEKING OPINION

President of the State Chapter of a National Organization

OPINION SOUGHT

Whether it is a violation of the Ethics Act for a public employee, who is also the President of a State Chapter of a National Organization, to solicit money for the Organization either through fundraisers or by encouraging membership?

OTHER FACTS RELIED UPON BY THE COMMISSION

The requestor is a public employee, employed as a County school teacher. The teacher is the President of the West Virginia chapter of a National Organization. The employee raises money for the Organization, either directly through fundraisers or indirectly, by encouraging membership.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(c)(1) states in pertinent part that... An employee of the state may not solicit any gift...

ADVISORY OPINION

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

Subsection (c)(1) of the Act pertains to the solicitation of gifts by public employees and officials. Since the president of the Organization is also a public school teacher, she is considered a public employee.

It is the Commission's opinion that the Legislature did not intend to prohibit the solicitation of all gifts.

Therefore, it would not be a violation of subsection (c)(1) for the public employee to solicit gifts for the Organization when:

1. it is for a charitable purpose;
2. the public employee or her immediate family or business with which she is associated does not receive a direct benefit from the gift;
3. and the public employee does not solicit from subordinates within the area of her employment or service.


Chairman