

ADVISORY OPINION NO. 90-128

ISSUED BY

THE WEST VIRGINIA ETHICS COMMISSION

ON AUGUST 2, 1990

GOVERNMENTAL BODY SEEKING OPINION

A Director of School Transportation

OPINION SOUGHT

Whether it is a violation of the Act for School Transportation Directors and various other transportation personnel as part of their job responsibilities to accept an expense paid trip from a school bus vendor to inspect and examine the vendor's factory?

OTHER FACTS RELIED UPON BY THE COMMISSION

A Company which constructs and sells school buses has requested that they be allowed to provide an in-service trip for school transportation directors and school bus inspectors.

The Company will provide transportation, meals and lodging for one night for approximately 61 school transportation personnel throughout the State. The purpose of this trip is to allow these individuals to tour the company's construction facility and observe the building of their school buses. This experience will help the transportation personnel to understand how a school bus is constructed and the location of important wiring, fuel lines and joint structure supports which are vital to the ongoing maintenance programs in each County. The requestor states that the information gained from this trip will be beneficial to the transportation personnel in their positions.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 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;
- (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 Section 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. The provisions of subdivision (1) of this subsection do not apply to:

- (A) Meals and beverages;

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The Commission recognizes that as a result of this trip the employees will be receiving free transportation, meals and lodging but considers these benefits to inure to the State and local county systems. It is the Commission's opinion that the on-site review of the school bus construction facilities is part of the employee's training and education and would not be considered a gift within the meaning of the Act. Therefore, it would not be a violation of subsection (c)(1) of the Ethics Act for the employees to accept an expense paid trip from a school bus vendor to inspect and examine the vendor's facility.

Chairman