

ADVISORY OPINION NO. 90-175 SUPP.

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON DECEMBER 6, 1990

GOVERNMENTAL BODY SEEKING OPINION

A Deputy County Clerk

OPINION SOUGHT

Whether it is a violation of the Ethics Act for a County Clerk's Office to accept a gift from a law firm?

OTHER FACTS RELIED UPON BY THE COMMISSION

A law firm located in the County would like to purchase a gift such as a coffee pot or toaster oven for the County Clerk's Office to use. This gift would belong to the office and would be for the entire staff's use and not limited to any one individual.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(c)(1) states in pertinent part that...No public official or public **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; or
- (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.

## ADVISORY OPINION

Pursuant to subsection 6B-2-5(c)(1) of the Ethics Act a public official or a public employee may not accept any gift from persons who are seeking to conduct business with his or her governmental agency, persons who are regulated by the public official's governmental agency or any person who has a financial interest in the performance of the public official's duties. The area law firm would fall within such a category.

The subsection which prohibits the acceptance of gifts pertains to **individual** public officials and public employees receiving gifts. In this instance the requestor has stated that the gifts from the area law firm would be used by a governmental entity, specifically the County Clerk's Office. There is no prohibition against a governmental entity accepting a gift.

The Commission has determined that the governmental agency may accept gifts **as an entity** if the acceptance of such gifts inures to the benefit of the public generally or is in furtherance of the operation of the office. The Commission considers a gift used to defray the cost and expense of specific governmental needs such as that determined in Advisory Opinion 90-175 (payment of deputy training) to be acceptable. Therefore, it would not be a violation of subsection 6B-2-5(c) of the Ethics Act for a County Clerk's Office to accept such a gift from an area law firm.

  
Chairman