

ADVISORY OPINION NO. 90-185  
ISSUES BY THE  
WEST VIRGINIA ETHICS COMMISSION  
ON DECEMBER 6, 1990

**Governmental BODY SEEKING OPINION**

The Director of a State University Research Center

**OPINION SOUGHT**

Whether it is a violation of the Ethics Act for the Director of a Research Center at a State University to be employed as a technical consultant with a Company?

**OTHER FACTS RELIED UPON BY THE COMMISSION**

The Research Center is a unit of a State University engaged in conducting research leading to the development of technology that can help industry build better products in shorter time. As Director of the Center, the requestor is charged with the technical management responsibility for all projects involving the University and a consortium of leading universities and industrial organizations.

The requestor is currently employed as a member of the teaching staff at the State University as a Professor of Computer Science. He is also involved in several research projects, one of which is the use of knowledge-based techniques in the area of modeling and simulation and its application to intelligent decision support systems.

The requestor is engaged in publication activities in his field of expertise. To date he has released a total of thirty articles or books for publication as well as technical reports and software reference manuals.

A Company is engaged in developing state-of-the-art software and related services. It has nearly forty-five technical personnel in the area working on a variety of projects around the Country, one of which is with the University in support of a project with the Research Center.

Participants in the University's Research Center projects are selected by the University's purchasing Department using applicable procurement procedures. Technical evaluations are conducted by a team of the Research Center's personnel but final authority on all procurement matters rests with the University's Administration.

Because of the requestor's nationally recognized contributions to the field of Artificial Intelligence and his deep knowledge of the software product of the company, he has been asked to serve as a technical consultant to the company (consulting with outside agencies is specifically permitted by written University policies). This was based solely on the recognition of his value to the Company's technical strategy and is in no way based on his position at the University. Because of this relationship the requestor has excluded himself from all deliberations connected with the contractual relationship between the University and the Company.

#### **PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION**

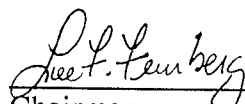
West Virginia Code Section 6B-2-5(L) states in pertinent part that...Any person who is employed as a member of the faculty or staff of a public institution of higher education and who is engaged in teaching, research, **consulting** or publication activities in his or her field of expertise with public or private entities and thereby derives private benefits from such activities shall be exempt from the prohibitions contained in subsections (b), (c) and (d) of this section when the activity is approved as a part of an employment contract with the governing board of such institution or has been approved by the employee's department supervisor or the president of the institution by which the faculty or staff member is employed.

#### **ADVISORY OPINION**

Pursuant to subsection 6-2-5(L) of the West Virginia Ethics Act, any person who is a staff member of a public institution of higher education may derive private benefits which result from teaching, research, **consulting** or publication activities since this class of employees has been afforded an exemption from the general prohibitions contained in subsections 6B-2-5(b), (c) and (d) of the Ethics Act.

This public employee is a faculty member of a higher education institution and is engaged in **consulting** in his field of expertise. However, the faculty member's activity must be approved as a part of the employment contract or must be approved by the employee's department supervisor or the president of the institution.

Therefore, it would not be a violation of the Ethics Act for the Director of a Research Center at a State University to be employed as a technical consultant with a Company, if he obtains the necessary approval established for the class exemption category as provided in subsection 6B-2-5(L) of the Ethics Act.

  
Chairman