

ADVISORY OPINION NO. 91-52
ISSUED BY THE
WEST VIRGINIA ETHICS COMMISSION
ON AUGUST 1, 1991

GOVERNMENTAL BODY SEEKING OPINION

A City Employee

OPINION SOUGHT

Whether it is a violation of the Ethics Act for a City employee to work part-time as a private investigator?

FACTS RELIED UPON BY THE COMMISSION

The requestor is employed as the Director of Paramedics with a City Emergency Ambulance Service. Prior to accepting this position, the requestor was self-employed as a private investigator. He would like to continue to supply these services to area law firms on a part-time basis. The investigative work would be conducted during his off duty hours, in the evenings and on week-ends.

The requestor has stated that he would not conduct an investigation involving the City, a resident of the City, organizations which receive funding from the City or any case that involves a person being treated or transported by the City Emergency Ambulance Service.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(b)(1) states in pertinent part that...a public employee may not knowingly and intentionally use his...office or the prestige of his...office for his...own private gain or that of another person.

West Virginia Code Section 6B-2-5(h)(1) states in pertinent part that...no full-time public official or full-time public employee who exercises policymaking, nonministerial or regulatory authority may seek employment with, or allow himself or herself to be employed by any person who is or may be regulated by the governmental body which he or she serves while he or she is employed or serves in the governmental agency. The term "employment" within the meaning of this section includes professional services and other services rendered by the public official or public employee whether rendered as an employee or as an independent contractor.

West Virginia Code Section 6B-2-6(e) states in pertinent part that...No present or former public official or employee may knowingly and improperly disclose any confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests or the interests of another person.

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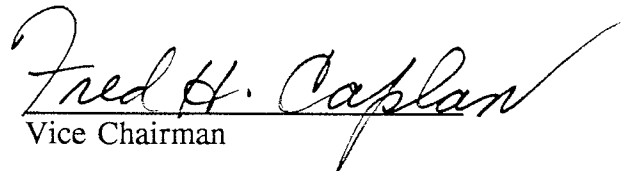
Subsection 6B-2-5(h)(1) of the Ethics Act prohibits a full-time public employee who exercises policymaking, nonministerial or regulatory authority from seeking employment with, or allowing himself to be employed by any person **who is or may be regulated** by the governmental body which he serves while he is employed or serves in such agency.

As the Director of Paramedics the requestor does have the requisite authority contemplated by this subsection since he does perform certain policymaking and nonministerial functions as they relate to emergency ambulance service.

However, the Commission finds that the City Ambulance Authority is not a regulatory agency. Therefore, it would not be a violation of subsection 6B-2-5(h)(1) of the Ethics Act for the Director of Paramedics for a City Ambulance Authority to be employed as a part-time investigator since his potential clients would not be regulated by the governmental agency with which he is employed.

The Commission would remind the requestor that pursuant to subsection 6B-2-5(b)(1) of the Ethics Act, a public employee may not use his office or prestige for his own private gain. The public employee may not use his status as the Director of Paramedics to obtain, influence, increase or promote business for his private investigative services.

Further, the Commission would note that subsection 6B-2-5(e) prohibits a public employee from knowingly and intentionally disclosing confidential information acquired by him during the course of his public employment for his own private gain or for that of another person. This would include using such information to benefit a client of his private investigative services.


Vice Chairman