

ADVISORY OPINION NO. #91-71

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON OCTOBER 3, 1991

GOVERNMENTAL BODY SEEKING OPINION

Administrative Assistant for a State Department

OPINION SOUGHT

Whether it is a violation of the Ethics Act for an Administrative Assistant of a State Department to seek employment as a sales representative of an Annuity Company?

FACTS RELIED UPON BY THE COMMISSION

The requestor is currently employed as an Administrative Assistant for a State Department. His activities are limited to those typically assigned to an Administrative Assistant. He answers directly to the State Superintendent and has no direct authority or control over any other professional personnel employed by the State Department.

The requestor would like to seek full-time employment with the successful bidder selected to provide annuity retirement programs for persons covered by the teachers retirement system. He had no involvement with the process for selecting the provider of the annuity programs.

If the requestor is employed by the Company, he would sell annuity programs primarily to employees of County Boards of Education.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code §6B-2-5(h)(1) states in pertinent part that...no full-time public employee who exercises policymaking, nonministerial or regulatory authority may seek employment with, or allow 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 the governmental agency.

ADVISORY OPINION

Pursuant to Subsection 6B-2-5(h)(1) of the Ethics Act, a public employee who exercises nonministerial authority may not seek employment with any person who is or may be regulated by the governmental agency which he serves while he is employed in such agency.

The requestor does have the requisite authority contemplated in this subsection since he does exercise nonministerial authority as it relates to administrative responsibilities. However, the Annuity Company is not regulated by his current employing governmental agency.

Therefore, it would not be a violation of subsection 6B-2-5(h)(1) of the Ethics Act for an Administrative Assistant of a State Department to seek employment as a sales representative with an Annuity Company, since the Company is not regulated by his governmental agency.


Chairman