

ADVISORY OPINION NO. 95-29

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JULY 6, 1995

GOVERNMENTAL BODY SEEKING OPINION

Public Information Officer of a State Division

OPINION SOUGHT

Is it a violation of the Ethics Act for a State Division to solicit donations from various organizations in order to provide prizes for a contest being sponsored by the Division at an informational booth at the State Fair?

FACTS RELIED UPON BY THE COMMISSION

Each year a State Division operates an informational booth at the State Fair. This booth serves as an educational tool by providing information on environmental issues and programs to the general public and encouraging individuals to ask specific questions regarding such matters.

This year, to encourage attendance at the booth, the Division would like to promote a contest. In order to provide prizes to the participating individuals, the Division would solicit various organizations to donate prizes. Such prizes may include a whitewater rafting trip or tickets to a WVU football game. In return for providing the prizes, the donor's brochures, pamphlets or instructions for contacting the organization will also be distributed at the booth.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code §6B-2-5(c)(1) states in pertinent part that...a public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family...

ADVISORY OPINION

Each year a State Division operates an informational booth at the State Fair. To encourage attendance at the booth, the Division would like to promote a contest. In order to provide prizes for the contest the Division would like to solicit various organizations for donations.

Pursuant to WV Code §6B-2-5(c)(1), a public official or employee may not solicit any gift except for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family. The Commission considers the solicitation outlined in this request to be a "charitable purpose" as that term is used in the Ethics Act since this booth promotes environmental protection and conservation and is a valuable educational tool easily accessible to the general public.

In considering this specific request the Commission examined the potential benefit to all parties involved. Clearly, no personal gain or benefit will accrue to any public official or employee from this solicitation. The donating organization will benefit since the donor's brochures, pamphlets or other similar information will be distributed at the booth. Most importantly the citizens of this State will benefit since the booth provides important information regarding environmental issues and programs having a broad impact on the quality of life in this State.

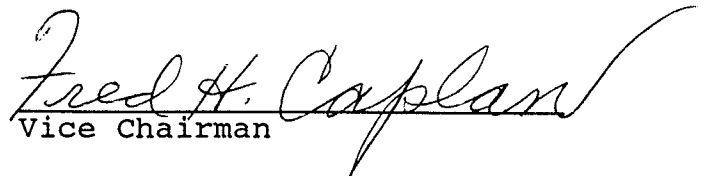
Therefore, it would not be a violation of the Ethics Act for the State Division to solicit donations from various organizations in order to provide prizes for an otherwise lawful contest being held at the Division informational booth at the State Fair.

However, the Commission notes that the Agency may not refuse to distribute the materials, brochures or pamphlets of individuals who do not elect to donate a prize to the Agency for the contest.

Also, care must be taken that no gift is solicited under facts or circumstances which are improper or give the appearance of impropriety or the creation of a quid pro quo.

Finally, public employees or public officials of the Agency may not be eligible to participate in the contest.

The Commission cautions that this opinion is limited to the facts of this case and should not be relied upon by others without prior consultation with the Commission.


Vice Chairman