

ADVISORY OPINION NO. 96-28

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JUNE 6, 1996

PUBLIC SERVANT SEEKING OPINION

Executive Director of a State Agency

OPINION SOUGHT

Is it a violation of the Ethics Act for a State Agency to solicit monetary donations from area businesses and individuals to fund a conference relating to issues involving civil and human rights?

FACTS RELIED UPON BY THE COMMISSION

The requester is the Executive Director of a State Agency. The purpose of this Agency is to encourage mutual understanding and respect among racial, religious and ethnic groups and to eliminate various types of discrimination.

In order to achieve this goal the Agency, in conjunction with several other public interest organizations, would like to sponsor a Civil Rights Summit which will be an educational conference on issues involving civil and human rights in this State.

The planning committee proposes to finance this conference in part through donations from various entities, companies and individuals. It is conceivable that some of these "persons" may, at some point, be litigants before this State Agency in administrative hearings.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(c)(1) provides 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: *Provided*, That no public official or public employee may solicit for a charitable purpose any gift from any person who is also an official or employee of the state and whose position as such is subordinate to the soliciting official or employee.

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West Virginia Code 6B-2-5(c)(1) prohibits public servants from soliciting any gift unless the solicitation is for a charitable purpose. In the past, the Commission has established a broad definition of the term "charitable purpose". Programs which provide education, training,

increased public awareness or other specific benefits to the general public have been found to be "charitable" in nature. However, each solicitation must be decided on its individual merits on a case by case basis.

The Commission notes that WV Code 5-11-8(j) authorizes this State Agency:

To accept contributions from any person to assist in the effectuation of the purposes of this section and to seek and enlist the cooperation of private, charitable, labor, religious, civic and benevolent organizations for the purpose of this section.

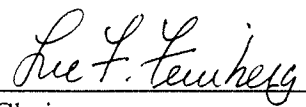
The purpose of the State Agency is to encourage mutual understanding and respect among racial, religious and ethnic groups and to eliminate the various types of discrimination. In order to achieve this goal the Agency, in conjunction with several other public interest organizations, would like to sponsor a Civil Rights Summit which will be an educational conference on issues involving civil and human rights in this State.

The Commission has determined that the Civil Rights Summit and other similar educational seminars, projects or programs would benefit the citizens of this State. Clearly, any project which strives to foster harmony, compassion and understanding between all people and endeavors to eradicate discrimination constitutes a "charitable purpose" as that term is used in the Ethics Act.

Therefore, it would not be a violation of the Ethics Act for the State Agency, its employees or anyone acting on their behalf, to solicit donations for such activities.

In all instances of solicitation, however, care should be taken that no gift is solicited or accepted under facts or circumstances which are improper, give the appearance of impropriety or the creation of a quid pro quo.

Finally, the Commission cautions the requester that WV Code 6B-2-5(c)(1) prohibits a public official or public employee from soliciting, even for a charitable purpose, any gift from any person who is a subordinate of the solicitor.


Chairman