

## **ADVISORY OPINION NO. 99-04**

**Issued On February 4, 1999 By The**

### **WEST VIRGINIA ETHICS COMMISSION**

#### **OPINION SOUGHT**

A **County Board of Education Administrator** asks whether it would be a violation of WV Code 61-10-15 for her to serve as Superintendent of Schools or Assistant Superintendent of Schools while her husband was also employed by Board as a central office administrator.

#### **FACTS RELIED UPON BY THE COMMISSION**

The Administrator wants to consider applying for the position of County School Superintendent or Assistant County School Superintendent. Both she and her husband are currently employed by the county board of education as central office administrators.

The requester asks whether it would be a violation of WV Code 61-10-15 if she were to serve as either County School Superintendent or Assistant County School Superintendent while her husband was employed by the board as a central office administrator.

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

West Virginia Code Section 61-10-15 states in pertinent part that...It shall be unlawful for any ...district school officer, secretary of a board of education, supervisor or superintendent, principal or teacher of public schools to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in furnishing any supplies in the contract for, or the awarding or letting of, which as such member he may have any voice, influence or control.

#### **ADVISORY OPINION**

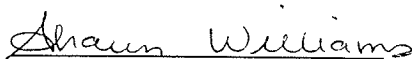
WV Code 61-10-15 is a criminal misdemeanor statute which prohibits certain county public servants from having a private financial interest in public contracts, purchases or sales over which their public position gives them authority or control. This statute applies to, among others, a "... district school officer, secretary of a board of education, supervisor or superintendent, principal or teacher of public school ...."

In *W.Va. Education Assn. v. Preston County Bd. of Ed.*, 297 S.E.2d 444 (WV 1982) the Supreme Court ruled that it would be a violation of WV Code 61-10-15 for a school superintendent's wife to be employed by the board as a central office administrator because he would have a financial interest in her employment contract and would have control over such contract.

Similarly, it would be a violation for an assistant superintendent to have an interest in the employment contract of his or her spouse, **if**, assistant supervisors are covered by WV Code 61-10-15.

The Ethics Commission finds that the word "supervisor" used in the phrase "supervisor or superintendent", cited above, is intended to encompass an associate or assistant superintendent of schools as well as other central office administrators.

Therefore, an assistant superintendent of schools is covered by WV Code 61-10-15 and it would be a violation for the Requestor to serve as school superintendent or assistant school superintendent while her spouse was employed by the board of education as a central office administrator.

  
Vice Chairman