

ADVISORY OPINION NO. 2006-07

Issued On August 3, 2006 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **State Employee** asks if she may accept a "door prize" won in a random drawing at a training conference she attended.

FACTS RELIED UPON BY THE COMMISSION

The requester is employed as a Supervisor II within a State Department. She attended an out-of-state, work-related training conference at her employer's expense. On the last night of the conference, during dinner, each attendee had the opportunity to deposit a ticket to win one of several prizes. The requester's ticket was drawn for a prize that included complimentary accommodations for two nights in each of two separate hotels in Myrtle Beach, SC.

The training conference was hosted by a vendor that provides services to government agencies around the country, including the requester's Department. The requester was one of two public servants from West Virginia in attendance out of over 200 participants. The exact value of this gift is unknown but is believed to be in excess of \$200.

The requester obtained training at the conference to facilitate her ability to provide assistance to other public servants, primarily at the county level, who use a computer-based program provided by the vendor hosting the conference. The requester has no direct responsibility for approving or monitoring the agency's contract with this vendor.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code 6B-2-5(c)(1) provides, in pertinent part:

No official or employee may knowingly accept any gift, directly or indirectly, from a lobbyist or from any person whom the official or employee knows or has reason to know:

- (A) Is doing or seeking to do business of any kind with his or her agency;
- (B) Is engaged in activities which are regulated or controlled by his or her agency;
- (C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

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the provisions of subdivision (1) . . . do not apply to:

- (A) Meals and beverages;
- (B) Ceremonial gifts or awards which have insignificant monetary value;
- (C) Unsolicited gifts of nominal value or trivial items of informational value;
- (D) Reasonable expenses for food, travel and lodging of the official or employee for a meeting at which the official or employee participates in a panel or has a speaking engagement;

- (E) Gifts of tickets or free admission extended to a public official or public employee to attend charitable, cultural or political events, if the purpose of such gift or admission is a courtesy or ceremony customarily extended to the office;
- (F) Gifts that are purely private and personal in nature; or
- (G) Gifts from relatives by blood or marriage, or a member of the same household.

ADVISORY OPINION

The Ethics Act generally prohibits public servants from accepting unsolicited gifts from interested persons, unless the gift falls within one of the Act's specific exceptions. The door prize at issue, complimentary hotel accommodations for a total of four nights, is coming from a contractor that provides services to the requester's agency.

Ordinarily, public servants are prohibited from accepting gifts from vendors who do business, or seek to do business, with their agency. That the requester was one of over 200 people attending the conference where the door prize was won in a bona fide random drawing, and her influence over contracting decisions may be limited, does not create an exception to the prohibition.

Accordingly, the Commission finds that it would violate the Ethics Act for the requester to accept this door prize from a vendor to her agency. The requestor may either turn the gift certificates over to her agency for official use or return them to the vendor.

This advisory opinion is limited to questions arising under the Ethics Act, W.Va. Code § 6B-1-1, *et. seq.*, and does not purport to interpret other laws or rules. In accordance with W.Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by public servants and other persons unless and until it is amended or revoked, or the law is changed.


Chairman