

ADVISORY OPINION NO. 2006-13

**Issued On October 5, 2006 By The
WEST VIRGINIA ETHICS COMMISSION**

OPINION SOUGHT

A County Commissioner asks if certain county personnel and resources may be used to support a private family picnic.

FACTS RELIED UPON BY THE COMMISSION

A County Commissioner explains that the Commission has been asked to authorize a county employee operating a county vehicle to provide shuttle service for citizens attending a large family picnic. The employee ordinarily works with individuals who are required to participate in the county's alternative sentencing program. Under the guidelines for that program, which are issued by the local Circuit Court, alternative sentencing personnel are only authorized to work on public property, not private property, such as a family cemetery. Although the family picnic may be held in a county park, the Commissioner is concerned that it remains an essentially private function.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5(b)(1) provides in pertinent part that ... A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person

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The Ethics Act generally prohibits public servants from using their public positions for their own personal private gain or the private gain of another. This conflict of interest rule generally prohibits elected, appointed or employed persons in public service from using government resources for personal projects that do not benefit the public generally.

For example, operating a public park and picnic area using government personnel and funds represents the type of activity that a County Commission may properly sustain, because a recreational facility of this nature benefits the public generally. Although every citizen in the community may not take advantage of the facilities offered in the park, this public facility remains available to everyone under the same terms and conditions.

According to the requester, providing county resources to operate a shuttle service for a private family picnic being held in a public park is not one of the amenities which the County Commission has routinely made available to all large groups attending private events. The requester notes that the County Commission has previously followed appropriate guidance from the judiciary that alternative sentencing personnel are not to be used for projects on private property. Accordingly, this Commission finds that use of county resources to provide shuttle service for a private picnic is not permissible in the circumstances presented.

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