

**TITLE 158**  
**LEGISLATIVE RULE**  
**WEST VIRGINIA ETHICS COMMISSION**

**SERIES 21**  
**PUBLIC USE OF NAME OR LIKENESS**

**§ 158-21-1. General.**

- 1.1. Scope. – This legislative rule establishes guidelines concerning limitations on a public official using his or her name or likeness pursuant to W. Va. Code § 6B-2-5c.
- 1.2. Authority. – W. Va. Code § 6B-2-5c.
- 1.3. Filing Date. – May 11, 2015.
- 1.4. Effective Date. – June 23, 2015.

**§ 158-21-2. Persons subject to W. Va. Code § 6B-2-5c.**

- 2.1. The provisions of this section apply to all elected and appointed public officials and public employees, their agents, and any other person on the public payroll, whether full or part time, in state, county, municipal governments and their respective boards, agencies, departments and commissions and in any other regional or local governmental agency, including county school boards.

**§ 158-21-3. Exceptions.**

- 3.1. Incidental use of public resources for personal or business purposes resulting in *de minimis* private gain to a person subject to this section or another person does not constitute a violation of this section.
- 3.2. Nothing in W. Va. Code § 6B-2-5c shall require the removal of names or likenesses of public officials which appear on publicly-owned vehicles as of May 28, 2015.

**§ 158-21-4. Advertising.**

- 4.1. “Advertising,” for purposes of W. Va. Code § 6B-2-5c(a)(3), means any form of publication or media communication intended for general dissemination to the public that has the primary intent or effect of promoting a public official. Dissemination of office press releases or official information via e-mail, social media or other public media tools for official purposes is not considered advertising under W. Va. Code § 6B-2-5c(a)(3).

- 4.2. This section does not prohibit communications released by college and university staff, for marketing, development, recruiting or other advertising purposes.

**§ 158-21-5. Entertainment Activities.**

- 5.1. “Within forty-five days,” for purposes of W. Va. Code § 6B-2-5c(a)(4), means forty-five days prior to a primary, general, or special election.
- 5.2. The term “entertainment activities,” for purposes of W. Va. Code § 6B-2-5c(a)(4), does not include any activity considered usual and customary to the official’s position, an activity with a charitable purpose that does not directly benefit a person subject to this act, or an activity that primarily advances public policy or constituent services.
- 5.3. Nothing in W. Va. Code § 6B-2-5c(a)(4) shall be construed to infer that the expenditure of public funds on private entertainment activities is otherwise permitted under the Ethics Act.

**§ 158-21-6. Trinkets.**

- 6.1. Nothing in W. Va. Code § 6B-2-5c(b)(2) shall be construed to permit persons subject to this section to purchase with public funds pens, pencils or other markers featuring a public official’s name or likeness. However, public officials are not prohibited from expending public funds to purchase pens, pencils or other markers used during ceremonial signings.