

Jurisdiction Ethics Act • W. Va. Code § 61-10-15 (County officials and employees) Open Meetings Act School Board eligibility Administrative Law Judge Code of Conduct Lobbyists registration Financial Disclosure Statements

Who is covered by the Ethics Act? Public employees Elected and appointed public officials Public servant volunteers - in general person who is not paid but is vested with powers ordinarily reserved to public Legislative, judicial and executive branches of state government County and municipal governments and 3

Advice Informal Advice – Ethics Commission staff Advisory Opinions – on Commission website May request a formal Advisory Opinion – issued by the WV Ethics Commission

Topics of Ethics Act Gift and Solicitation Rules · Prohibited Public Contracts Employment Restrictions Private Gain Voting Financial Disclosure Statements · Conflicts of Interest 5









May you accept a discount on a cellular phone service plan offered by a vendor to public employees?

Answer: Yes. If the discount is not solicited and is part of the company's standard practice.

AOS 2010-02 and 2017-07.

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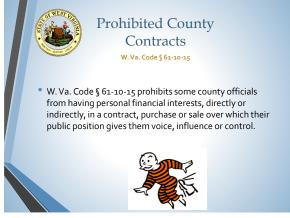
Prohibited Contracts

W. V. A. Code § 68-2-5(d)

Part-time appointed officials are not subject to prohibition, but they must recuse themselves if a conflict arises.

PART-TIME

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Prohibited County
Contracts

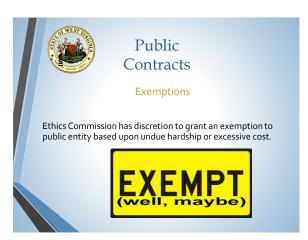
Exceptions

Nothing prevents or makes unlawful the employment of a spouse as a principal or teacher or auxiliary or service employee in the public schools of any county.

Does not apply to any person who is a salaried employee of a vendor or supplier if the employee meets the five criteria found in W. Va. Code § 61-10-15(e).

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Employee – Seeking Employment

W. Va. Code § 6B-2-5(h)

Full-time public employees may not seek employment with any person who:

Had a matter on which they or their subordinate took regulatory action within the past 12 months, or

Currently has a matter before their agency on which they or a subordinate is working, or

Is a vendor over which they exercise control

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Employees - second jobs Restrictions apply if you are full-time and the second job is with a vendor or person conducting business with your agency. Otherwise, a second job is okay if you: Perform work on your own time Follow agency rules Do not get paid for doing something which is part of your job duties If two public jobs – may need to file time records with the Ethics Commission

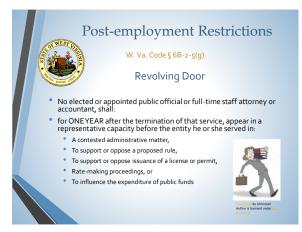
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Other Jobs/ **Public Contracts** Question: Is it permissible for a public laborer's private trucking business to subcontract with a contractor of the agency which employs him? What if the public employee is an inspector at the job site where the contractor works? Answer: See A.O. 2013-22





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Private Gain Nepotism "Nepotism" means favoritism shown or patronage granted in employment or working conditions by a public official or public employee to relatives or persons with whom the public official or public employee resides. "Relative" means spouse, mother, father, sister, brother, son, daughter, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law. Must follow the Legislative Rule at 158 C.S.R. § 6.

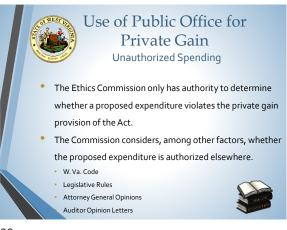
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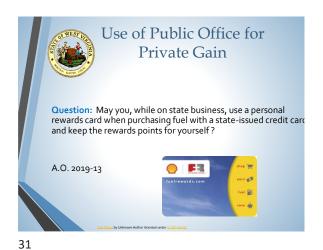


Use of Office for Private Gain Nepotism W. Va. Code § 61-10-15 - County commissions and agencies subject to stricter limitations. May not hire a commissioner's spouse or immediate family member.



Use of Public Office for Private Gain Paying for Meals Review applicable laws to determine whether there is express or implied authority for the expenditure. Unauthorized expenditures for meals violate the private gain provision of the Act if the overriding benefit is to the employee, or another person, and not the government agency.

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Use of Public Office for Private Gain

Employee Recognition

May use public funds to recognize public employees because it serves a public purpose of promoting employee morale through recognition of achievement.

\$25 per employee per year

May be used, for example, to purchase light refreshments, meals or mementos of appreciation.

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Use of Public Office for Private Gain
Retirement Gifts/Events

May spend up to \$100 of public funds to purchase plaque or other commemorative item.

Usually, may not spend public funds to pay for meals, food, or beverages at an event.

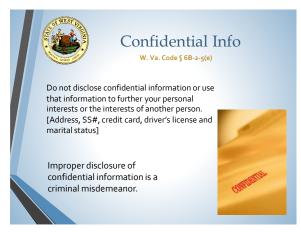
Use of Public Office for Private Gain

Endorsements

Do not endorse commercial products. Do not give testimonials such as town was a "satisfied customer."

A.O. 2017-24: Can sell ads but should use disclaimers and make ads available to other businesses.

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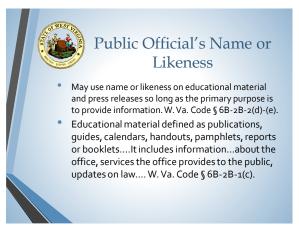


Limitations on Public Official's Name or Likeness

• May not use public funds, public employees, or public resources to distribute, disseminate, publish or display the public official's name or likeness for the purpose of promoting public official or political party. W. Va. Code § 6B-2B-2(b).

• Example – do not use agency funds to buy coffee mugs with the name of an elected official on it.

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Public Official's Name or Likeness

May use public funds to communicate with constituents in the normal course of duties but do not include any reference to voting in favor of the public official in an election.

May use name on letterhead, envelopes, reports, certificates, office signs, press releases

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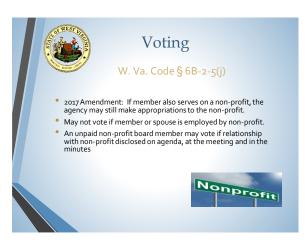


• May not vote if public official or employee, or an immediate family member, or a business with which they or a family member is associated, have a financial interest. (Class exception - five similarly situated)

• Public officials may not vote on a personnel matter involving a relative.

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Voting

Proper Recusal

A public servant who is required to recuse himself or herself must:

Fully disclose his or her interest

Leave the room during both the discussion of, and the vote on, the issue

Minutes must reflect recusal

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Financial Disclosures:
Executive Branch filers

All members of state boards, commissions and agencies appointed by the governor.

Secretaries of departments, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads and assistant department heads.

The above positions in state colleges and universities do not have to file.

Sanctions

W. Va. Code § 6B-2-4(s)(1)

Public reprimand

Restitution

Fines of \$5,000 per violation

Reimbursement to the Commission

Recommendation that a Respondent be terminated from employment or removed from office.

Open Meetings Act

• Enacted in 1975

• State, county, and municipal administrative and legislative bodies, and any bodies that meet the definition of "public agency," are subject to the Act.

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"Meeting" defined

A "meeting" is defined by the Act as:

The convening of a governing body of a public agency

For which a quorum is required in order to make, or deliberate toward, a decision

On a matter which results or will result in official action.



Exceptions General Discussion Planned or unplanned Social, educational, training, informal, ceremonial or similar Without intent to conduct public business and No intention for the discussion to lead to an official action

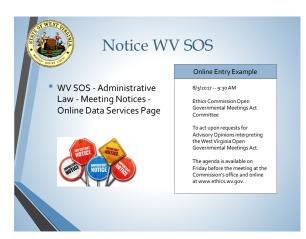
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Notice and Agenda The Open Meetings Act requires advance notice of the Please Notice This date, time, and place of the meeting, including any committee meeting, and an agenda of all matters to be considered and/or discussed.





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Meeting Agenda Agendas must give reasonable notice to the public of every issue to be discussed • Items must be specific enough to put the public on notice of intended action Vague headings are insufficient, e.g., Old Business **New Business** Open Meetings Advisory Opinion 2008-17

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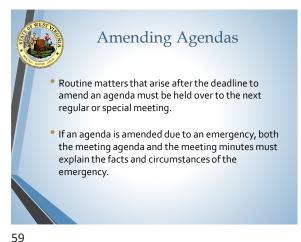


Amending Agendas The agenda may be amended up to TWO business days before the meeting. The amended agenda must be made available to the public and media in the same manner as the original • The only circumstance under which the agenda may be amended during a meeting is if an emergency arises. OMAO 2006-15

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Executive Session W.Va. Code § 6-9A-4 May only go into executive session for reasons permitted by the Open Meetings Act. There must be a corresponding agenda item. • The motion to go into executive session must identify the reason for entering the session. Majority vote of those present is required. No decision may be made in the executive session.

Executive Session Reasons include -

- To consider personnel matters of a particular public official or employee.
- To decide upon disciplining, suspension or expulsion of any student in any public school or public college or university, unless the student requests an open meeting.
- To discuss matters which, by express provision of federal law or state statute or rule of court is rendered confidential, or which is not considered a public record within the meaning of FOIA. Open Meetings Act A.O. 2017-02.
- W. Va. Code § 6-9A-4 (contains complete list)

Meeting Minutes W.Va. Code § 6-9A-5 Minutes required for all meetings, including committee and sub-committee meetings, but not executive sessions OMAO 99-09 Meeting Minutes

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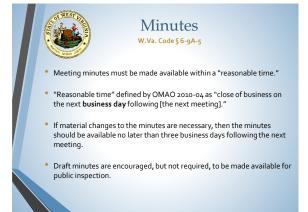


votes, the vote of each member by name.

Sample Minutes

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Open Meetings Advisory Opinion 2019-02 May not prohibit the public or the media from using equipment necessary for broadcasting, photographing, filming or recording a meeting unless it is to prevent undue interference with the meeting.

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