



# ETHICAL INTELLIGENCE: A ROADMAP FOR MAKING THE RIGHT DECISION

## Participant Guide



West Virginia Department of Transportation  
Division of Highways  
Training & Development  
FY2016

## **Workshop Objectives**

By the end of this workshop you will be able to:

- Define workplace ethics
- Identify universal rules of ethics
- Recognize characteristics of an ethical employee
- Analyze five principles of ethics
- Examine The Ethics Act
- Identify common ethical violations by employees
- Provide a model to help make ethical decisions

*One can be dishonest, unprincipled, untrustworthy, unfair and uncaring without breaking the law. Ethical persons measure their conduct by basic ethical principles rather than by laws and rules; they do not walk the line of propriety; they do more than they have to and less than they are allowed to.*

*Michael Josephson*

## **Introduction**

The Ethical Intelligence training session can help strengthen the core ethics of your district or division. The training session serves as a roadmap on how to make the right choices in the workplace. It also gives supervisors tools for recognizing unethical behavior in their employees and the characteristics that make up an ethical employee. A look at the WV Ethics Act will allow participants to gain a greater understanding of ethical behavior required for state agencies as it relates to Private Gain, Gifts, Dual Compensation and other issues. Sometimes ethical decisions are very easy to make and the answer is always clear. At other times the line between right and wrong is blurry. What is right for one situation may be wrong for another. This session includes guidelines that teach the participants how to make the best possible choice.

## Universal Ethical Rules

The Golden Rule: Do unto others as you would have them do unto you.

People should respect the rights of others.

They should keep their promises.

They should be honest.

People should take responsibility for their actions.

They should act in the best interest of others.

They should help others in need when possible.

People should be fair.

## Character Traits of Ethical Employees

**Honesty** — This is the core of personal ethics. People who are consistently honest are perceived as being trustworthy. Other people recognize that they can be counted on and entrusted with sensitive information.

**Respect** — the willingness to show consideration and appreciation for others. This means showing proper deference to a supervisor and demonstrating consideration for coworkers and customers. Respectful people do not treat others abusively, dishonestly, rudely or manipulative. Sam Walton, the founder of Wal-Mart possesses many character traits that led to his success, but the trait that stood out most to his employees was his respect for his workers. He often traveled from store to store encouraging his employees and it was said that he knew the names of all the store managers as well as the name of their spouses.

**Integrity** — Integrity is doing the right thing even when nobody is watching. This is a faithful adherence to a strict personal ethical code. It means sticking to the truth and one's principles no matter what the consequences. Pressures from peers, coworkers to take the easier path can be very strong. But people of integrity have the strength of character to stand up for what is right.

**Industriousness** — To be industrious is to consistently demonstrate perseverance and hard work. These types of workers do more than is expected of them and look for opportunities to do more.

**Loyalty** — This means being faithful to a supervisor, to a job, to tasks assigned. Keep in mind that this is not a blind loyalty that ignores or covers up wrong doing.

# Quiz: How Honest Are You?

By Ansley Roan



Are you an Honest Abe, or do you have trouble being truthful? Take this quiz to check your honesty quotient.

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**Q1.** You're online and accidentally discover someone in your apartment building has unprotected wireless Internet access. You:

1.  Put up a notice in your lobby, alerting everyone to the importance of password protection
2.  Use it occasionally, when your connection is down
3.  Are using it right now, what's the problem?

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**Q2.** As you're about to drive out of the grocery store parking lot, you realize the clerk gave you \$20 instead of \$10 for change. You:

1.  Keep driving. They should've been more careful
2.  Turn the car around, park, find the manager, and return the extra cash
3.  Resolve to donate the extra \$10 to charity

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**Q3.** At work, the office assistant does a big research project and leaves her report on your desk. Your boss assumes you did it and praises you for your hard work. You:

1.  Say thank you, then praise your assistant privately
2.  Explain that you didn't do the work
3.  Say thanks and keep your mouth shut

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**Q4.** You're parking your car at the mall when you accidentally give another car a minor scrape. You:

1.  Drive away. That's just the risk of mall parking
2.  Get out, make sure the damage is barely even visible, and then leave
3.  Leave a note with your name, number and insurance information

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**Q5.** In an office shuffle, your boss gets your old office and you get a cubicle. You still have the keys to your old office. You:

1.  Give them to your boss
2.  Hang on to them; you never know when they might come in handy
3.  Come in over the weekend to start snooping

**Q6.** You discover a \$50 mistake in your favor on your taxes. You:

1.  Send them in as is
  2.  Start over and re-calculate everything to get it right
  3.  Consider re-doing it, but decide it will all even out in the end
- 

**Q7.** Your intern makes a mistake on her timesheet, which costs her money. You:

1.  Explain it to her and show her how to calculate correctly
  2.  Don't tell her because you're over budget, but give her a general reminder to check her math
  3.  Don't tell her. If she can't figure out what she's owed, that's her problem
- 

**Q8.** Your company sends out statements for vacation time earned, and you realize they've given you an extra day. You:

1.  Start looking at plane tickets
  2.  Think about telling someone, then remember they owe you comp time from 1999
  3.  Tell Human Resources about the mistake
- 

**Q9.** Your best friend's new hair color looks terrible. When she asks what you think, you:

1.  Try not to answer directly, and say something that is true like, "It brings out your eyes"
  2.  Say it looks great to protect her feelings
  3.  Tell her it looks awful
- 

**Q10.** You and your kids are feeding the neighbor's cat while they're out of town. One of your children breaks a lamp there. When they return, you:

1.  Explain what happened and offer to pay for the lamp
  2.  Blame the cat
  3.  Wait to see if they say anything, then apologize
- 

**Q11.** You and your spouse agree on a monthly budget, which does not include the leather jacket you've had your eye on. You receive an unexpected \$200 windfall. You:

1.  Buy the jacket and hide it
  2.  Buy the jacket, but explain the money was unexpected
  3.  Tell your spouse about the money, and discuss whether to buy the jacket
-

**Q12.** You've spent hours arguing with your cell phone company because they overcharged you. On the next statement, you realize they've mistakenly given you 800 free minutes. You:

1.  Call it karma and phone your college roommate in India
  2.  Call the company and tell them they made a mistake
  3.  Carefully compare the overcharge to the free minutes to see if it evens out
- 

**Q13.** Your computer crashed and you've rushed to the nearest Internet café to send in a work project on time. There's a long line to pay the cashier, and a customer has left a computer with pre-paid time still running. You:

1.  Start using the time they're paying for. You'll work it out with the cashier when you're done
  2.  Stand in line anyway to pay for your time
  3.  Start using the free computer and hope you can get away without paying at all.
- 

**Q14.** Your exercise partner is going to be out of town for a week. You promise to walk every day while she's gone, but you sleep in all week. When she returns, you:

1.  Explain that you missed every day
  2.  Don't mention it
  3.  Tell her only if she asks
- 

**Q15.** You're given a new work computer, but the configurations haven't changed from the higher up who had it last, so you can view employee's salaries. You:

1.  Don't look, and alert the tech team to fix it
2.  Start looking. This will help when you negotiate your next pay raise
3.  Are tempted, but assume if you access those files you'll get caught eventually, so it's not worth it



# Workers' Compensation Fraud

## The 6 Red Flags



1. No witnesses
2. Accident allegedly occurred late on Friday or early Monday morning
3. Repeat Offender
4. Rumors that the claimant is employed elsewhere
5. Accident/Injury reported post-termination
6. Claimant does not attend doctor appointments and scheduled treatment

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# Principles of Ethics

<b>Egoism</b>	The belief that one ought to do what is in one's own self-interest.
<b>Utility</b>	The morally right action is the one that produces the best consequences for everyone involved, not just for one individual.
<b>Rights</b>	An action is considered moral when it respects the rights of others and is considered immoral when it violates another's rights.
<b>Duties</b>	People should do what is ethically right purely because people have a moral obligation to do what is ethically right. They should do the right thing because it's the right thing to do.
<b>Virtues</b>	Ethics is based on being a good person, that is, on incorporating ideal character traits into your life.

## Santa in the Summer

The mission of the National Institute for Engineering Ethics (NIEE) is to promote ethics in engineering practice and education. One component of NIEE is the Applied Ethics in Professional Practice (AEPP) program, providing free engineering ethics cases for educational purposes. The following case may be reprinted if it is provided free of charge to the engineer or student. Written permission is required if the case is reprinted for resale. For more cases and other NIEE Products & Services, contact the National Institute for Engineering Ethics, Texas Tech University, [www.niee.org](http://www.niee.org). (All reprints must contain these statements)

### The Case:

Rod Traverse is a civil engineering student at a well-known university in the mid-west. Because he did well in his surveying course during his junior year, he is working for the summer before his senior year for the state Department of Transportation (DOT) on a road construction project 140 miles from his hometown. His duties include working closely with the state's on-site resident engineer, Jim Upwright and several other state highway construction engineers for the project. Ethel Hicks (known to her friends as "Eth") is Upwright's supervisor at the DOT headquarters and visits the site every couple of weeks to see how the project is progressing.

Every Friday afternoon about 4:00 p.m., Rod and the DOT engineers get into their cars or trucks to drive home for the weekend. Since he works a good bit of the time reducing survey data and keeping records in the state's construction trailer, Rod has noticed individual foremen for the three separate bridge contractors working on the project putting a box or other article in the back of the resident engineer's pickup truck about 3:30 p.m. on most Fridays. These boxes and articles have included a new set of tires, a mountain bike, a case of Duggan's Dew o' Kirkintilloch Scotch whiskey, and a shotgun.

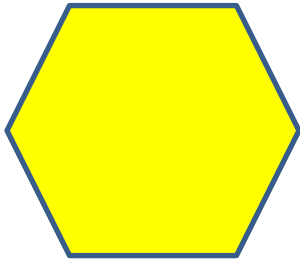
There are several more bridge structures to be designed and built under another contract for the project. Upwright will be asked to make comments and give recommendations regarding the three bridge contractors presently on the project, if they show interest in obtaining the additional work.

Since Rod's work is part of a summer credit course program at the university, Upwright will also be required to communicate with Rod's advisor at school (Dr. R. E. Serchur) and recommend an appropriate grade for Rod's summer work course.

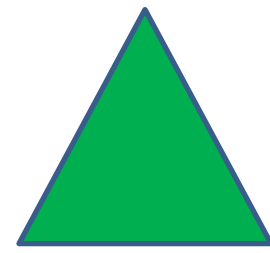








## USE OF OLD DOT SIGNS



### Case Study

Rick is an engineer in a rural area office which has provided tremendous service and benefit to the counties and rural communities it serves for many years. The public often looks to this area office for advice with engineering issues and depends upon the staff of the area office to look for opportunities to serve the greater public interest.

The State DOT maintenance section recently completed its annual sign replacement program and the county commissioner from one of the counties this area works in noticed a large bundle of old signs in the state DOT maintenance yard. These signs appeared to be in “fair shape” to the county commissioner, and he asked the maintenance supervisor what was going to be done with the signs. The maintenance supervisor told him they were being sent to the district office warehouse to be disposed of. The county commissioner asked if the State DOT would give them to the county to replace signs on country roads that were in much worse condition, or to install at locations where there were no signs in place. The maintenance supervisor told the county commissioner he could not approve this and sent him to see Rick.

Rick has driven many of the country roads in question, and knows that most of the existing county road signs are in horrible condition and need to be replaced. There are also several locations where signs are needed and none exist. Rick also knows that this is an economically disadvantage county and funding to replace or install new signs is not likely to be available any time soon. The old State DOT signs that are going to be disposed of are in much better shape than any of the existing signs on the country roads, so giving them to the county would help improve the signage on these county roads, thus improving safety of these roads for the traveling public.

Rick visited with the area engineer, Sheryl, about this request. Sheryl contacted the District Traffic Engineer, Weldon, to see what documentation would be required to allow State DOT to give the signs to the county. Weldon seems puzzled by the request and asks Sheryl why state DOT is replacing signs that appear to be in “fair shape.” Sheryl tells him that the signs no longer meet the reflectivity requirements for signs and are being replaced with new, more reflective signs.

Weldon is concerned about the potential liability problems State DOT may face if it gives signs that do not meet State DOT’s reflectivity standards to the county for use on county roads. Sheryl disagrees with Weldon. She feels that using old signs that do not meet State DOT’s reflectivity standards to replace the signs on the county roads is better than leaving existing county road signs in place that are completely faded and non-reflective, or do not exist at all. Weldon disagrees with Sheryl and instructs her to send signs to the warehouse to be destroyed.

# The ETHICS MODEL

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When faced with an ethical decision, follow the steps in the ETHICS Model to help you make the right decision.

**E**valuate the Problem

**T**hink through the Options

**H**ighlight the Stakeholder

**I**dentify and Apply Relevant Ethical Principles

**C**hoose the Wisest Option

**S**tate your Justification

1. Evaluate the Problem — Look at the big picture and of the problem. Gather all of the details and complexities of the situation. Then begin analyzing the information, gradually narrowing down the scope until you identify the central ethical decision you need to make.
2. Think through the Options — The next step is to consider what options are available to the decision maker. The more creative that you are in coming up with all potential responses, the stronger your final decision is likely to be.
3. Highlight the Stakeholder — Identify the people or groups of people who might be affected by a specific decision. Ex. The employee, coworkers, employee's family. The more stakeholders that you consider at this stage, the more balanced and fair your final decision will be.
4. Identify & Apply Relevant Ethical Principles: This step is the heart of the ETHICS model. The goal is not just to make a decision, but to make an ethical decision. Universal ethical rules include:
  - Do unto others as you would have them do unto you.
  - People should respect the rights of others.



- They should keep their promises.
- They should be honest.
- People should take responsibility for their actions
- They should act in the best interest of others.
- They should help others in need when possible.
- People should be fair.

Ethical Principles include:

- **Egoism Principle:** the right thing for a person to do in any situation is the action that best serves that person's own long-term interests.
- **Utility Principle:** The morally right action is the one that produces the best consequences for everyone involved, not just for one individual.
- **Principle of Rights:** An action is considered moral when it respects the rights of others and is considered immoral when it violates another's rights.
- **Principle of Duties:** People should do what is ethically right purely because people have a moral obligation to do what is ethically right. They should do the right thing because it's the right thing to do.
- **Principle of Virtues:** Ethics is based on being a good person, that is, on incorporating ideal character traits into your life.

5. **Choose the Wisest Option** — There is where you put it all together and review the first 4 steps in the ETHICS model. Choose the option that seems to represent the wisest and most ethical course of action.

6. **State your Justification** — Identify your reasons and arguments that support a decision because ethical decisions are often controversial. It is likely that at least some other people will not agree with your decision, therefore you may need to explain and defend your decision. A strength of the ETHICS model is that you have already considered, and perhaps documented, much of the information that you need. A good rule of thumb is to be able to provide three — five strong reasons or arguments that support the decision made.

## Application of the ETHICS model

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Directions: Using the ETHICS model given in your participant guide, analyze the case study presented. Once you have analyzed the case, select the best option from the options given. Be sure to record your justification.

Evaluate the problem:

Think through the options:

Highlight the stakeholders:

Identify and Apply relevant ethical principles:

Choose the Wisest Option: (Options 1, 2, 3 and 4 are listed below)

State your justification:

What should Sheryl do?

Options:

1. Do as Weldon instructed and forget about the matter?
2. Send a few of the worst signs to the warehouse to be disposed of and give the rest of the signs to the county?
3. Go over Weldon's head to see if someone else will give her the answer she really wants because it seems the right thing to do?
4. Quit her job?
5. Other option: \_\_\_\_\_

# *Values and Ethics*

Making ethical choices is a commitment to expect only the best from yourself and your employees. The following outline can help you evaluate your day-to-day behavior.

- I. Make a commitment to yourself and your job. By accepting employment from an organization, you are accepting an unwritten contract to:
  - A. Work toward the objectives of your position and organization.
  - B. Be honest, open, and candid in all dealings.
  - C. Perform to the best of your abilities.
  - D. Exercise mature and consistent judgement in all dealings.
  
- II. Take responsibility for yourself.
  - A. Listen and learn about your organization from others.
  - B. Be a solution creator instead of a complainer.
  - C. Be a team builder.
    1. Understand how your behavior and actions can affect the organization, other employees, and you.
    2. Be on time. Other employees and the organization depend on you to be at a specific place at a specific time.
    3. Unexpected illness and emergencies will happen. Know the proper way to proceed.
  
- III. Honesty and Trustworthiness—A Lasting Impression.
  - A. Personal business is personal time.
  - B. Know organizational policy regarding the use of phones and supplies.
  - C. Don't lie or cheat yourself or others.
  - D. Admit your mistakes. Learn and grow from them. Covering them up will only compound and harm you even more.

IV. Prevent harm to others and yourself.

A. Don't undermine fellow workers for personal gain.

B. Reject idle gossip—it is not to your advantage to listen to or spread gossip.

V. Rely on your good judgement.

A. Initiative is applauded—but know the difference between initiative and assuming.

1. Initiative—the action of taking the first step or move, responsibility for beginning or originating.

2. Assume—to take for granted, or without proof; to suppose as fact; as, to assume a principle in reasoning. Taking or disposed to take upon more than is just.

B. Asking questions when in doubt is a sign of commitment and caring, not stupidity.

## Engineers' Creed

As a Professional Engineer, I dedicate my professional knowledge and skill to the advancement and betterment of human welfare.

I pledge:

- To give the utmost of performance;
- To participate in none but honest enterprise;
- To live and work according to the laws of man and the highest standards of professional conduct;
- To place service before profit, the honor and standing of the profession before personal advantage, and the public welfare above all other considerations.

In humility and with need for Divine Guidance, I make this pledge.

*Adopted by National Society of Professional Engineers,  
June 1954*



# The Ethics Act

## A Code of Conduct for Public Servants

*W. Va. Code § 6B-1-1, et seq.*

West Virginia Ethics Commission  
210 Brooks Street, Suite 300  
Charleston, WV 25301  
(304)558-0664 Fax (304)558-2169  
Toll Free (866)558-0664  
Email: [ethics@wv.gov](mailto:ethics@wv.gov) Website: [www.ethics.wv.gov](http://www.ethics.wv.gov)

What is the Ethics Act?

The West Virginia Governmental Ethics Act is a code of conduct to guide public officials and public employees in avoiding conflicts between their personal interest and their public responsibilities.

Who is covered by the Act?

The code of conduct established by the Act applies to all full-time and part-time public servants (public employees, elected and appointed public officials) who serve in the legislative, judicial and executive branches of state, county and municipal governments and their respective boards, commissions and agencies.

What is the Ethics Commission?

The West Virginia Ethics Commission was created to administer the Ethics Act. It is comprised of nine part-time citizen members appointed by the Governor and approved by the West Virginia Senate. The Commission is supported by a full-time staff.

What does the Commission do?

The Ethics Commission is responsible for enforcing the Ethics Act and advising public servants regarding the Act. Many questions from the public can be addressed by staff over the phone. Please call (304)558-0664 or contact staff by email at [ethics@wv.gov](mailto:ethics@wv.gov). Some questions require consideration by the full Commission at its regular monthly meeting through the issuance of a written Advisory Opinion.

The Commission's Committee on Open Governmental Meetings answers questions from governing bodies and their members, and provides Advisory Opinions on the meaning and application of the Open Meetings Act. The Committee on Standards of Conduct for Administrative Law Judges answers questions from ALJs and provides Advisory Opinions to them which interpret the Code of Conduct for State Administrative Law Judges. It also rules on complaints filed against ALJs. The Ethics Commission is also responsible for the registration and reporting of lobbyists and for the processing of Financial Disclosure Statements.

Minimal Ethical Standards\* Established by the Act

\*Agencies may impose stricter rules of conduct than those set forth in the Ethics Act.

Private Gain



The basic principle underlying the code of conduct created by the Ethics Act is that those in public service must use their positions for the benefit of the public and not for their own private gain or for the private gain of another.

For example:

- Public servants may not use their agency's supplies or equipment for personal projects or activities.
- Public employees and full-time appointed officials may not work on personal projects or Activities during work hours for which they are paid by their government employer.
- Public servants may not use subordinates to work on personal projects or activities during work hours or compel them to do so on their own time.

### Gifts

Public servants may not solicit a gift unless it is for a charitable purpose from which he or his immediate family members derive no direct personal benefit. Public servants may solicit political contributions, but should be aware of W.Va. Code § 3-8-12(h), which provides: "No person shall solicit any political contribution from any non-electives salaried employee of the state government or any of its subdivisions." Public servants may not solicit a subordinate for any gift even if it is for a charitable purpose. Public servants may not accept gifts from lobbyists, or from interested persons\*, unless the gift fits into one of the following exceptions:

- meals and beverages if the person providing the meals and beverage is present;
- unsolicited gifts of a value of \$25 or less;
- ceremonial gifts or awards of trivial value;
- reasonable expenses incurred in appearing at a speaking engagement;
- reasonable honoraria;
- free tickets to political, charitable, or cultural events normally given as a courtesy to the office;
- purely private and personal gifts, and
- lawful political contributions.

\*"Interested persons" are those who do or seek to do business with, are regulated by or are otherwise financially interested in, the activities of the public servant's governmental agency.

### Selling to Subordinates

Although they may choose to buy from a supervisor, a public servant may not personally solicit (in person, by phone or by personal letter) private business from subordinates who the public servant directs, supervises or controls. Solicitations directed to the public

at large for sale of property which the public servant is not regularly engaged in selling are permitted.

### Voting\*

A public official may not vote on a matter in which she, or an immediate family member, has a financial interest or matters involving a business with which she or an immediate family member is associated. Legislative voting is governed by a separate provision in the Act which permits voting by Legislators after a ruling from the presiding officer in their chamber regarding a potential conflict is obtained. \*See Voting brochure for detailed information.

### Private Interests in Public Contracts, Purchases & Sales

A public servant may not have a financial interest in any contract, purchase or sale over which her public position gives her control. The public servant's spouse, dependent parents or dependent children also may not have such an interest unless the total value of the contracts, purchases or sales is less than \$1,000 in a calendar year. The Commission has authority to grant an agency a hardship exemption from this provision. This provision applies only to:

- (1) those contracts which one's job gives him authority to award or control, and
- (2) those purchases and sales he is authorized to make or direct others to make.

Part-time appointed officials (except those covered by W.Va. Code §61-10-15) are not subject to this prohibition provided they recuse themselves from considering and acting on such matters consistent with the provision regarding voting.

### Licensing & Rate-Making

A public servant may not take official action on a license or rate-making matter affecting an entity in which she, or the members of her immediate family, own or control an interest of 10% or greater. In addition, unless he files a prior written public disclosure with his agency, a public servant may not take official action on a license or rate-making matter affecting a person to whom the entity in which he has an interest has sold goods or services totaling more than \$1,000 during the preceding year.

### Moonlighting or Changing Jobs

Full-time public servants may not: (1) seek employment with, (2) be employed by or (3) seek to purchase from, or sell or lease real or personal property to, any person or business:

(a) that has a matter before the agency on which they are taking, or a subordinate is known to be taking, regulatory action, or

(b) that had, within the preceding 12 months, a matter on which they took, or a subordinate is known to have taken, regulatory action. The Ethics Commission has authority to grant an exemption from this prohibition.

#### Conflicts of Interest: Employment

Full-time public servants may not take personal regulatory action on matters affecting a person:

(a) by whom they are secondarily employed, or

(b) with whom they are seeking employment or have an agreement concerning future employment.

#### Dual Compensation

No public servant may receive compensation from two sources in state, county or municipal government for working the same hours except under certain limited circumstances. Persons who are allowed to make up time missed with a governmental employer to perform the duties of another governmental position are required to maintain specific time records. Their employers are required to submit these records to the Ethics Commission on a quarterly basis.

#### Private Pay Prohibited

Full-time public servants may not accept private pay for providing information or services which are within the scope of their public duties. They cannot sell, even on their own time, services which their public position requires them to provide.

#### Limitations During and After Governmental Service

**Confidential Information:** Public servants may not, during or after governmental service, knowingly and improperly disclose confidential information acquired through their public positions or use it to further the personal interests of themselves or of another person.

**Prohibited Representation:** The Ethics Act requires a public servant to obtain her agency's consent before she represents a client in a matter in which she is or was substantially involved on behalf of the agency. This applies both during and after the person's governmental service. The prohibition applies only to those matters in which the public servant was personally involved in a decision-making, advisory or staff support capacity. It does not apply to legislators or legislative staff.

Limitation on Practice: Certain public servants are prohibited from representing persons before the agency which they serve during their employment or service and for one year after the termination of their employment or service. This is referred to as the "revolving door prohibition." This prohibition applies only to elected and appointed public officials and full-time staff attorneys and accountants in agencies authorized to hear contested cases or make regulations. This prohibition applies to representation in contested cases, regulation filings, license or permit applications, rate-making proceedings and in efforts to influence the expenditure of public funds. It does not apply to legislators or legislative staff. The Ethics Commission has authority to grant an exemption from this prohibition.

Lobbying: The following public officers or employees may not, during or for one year after the termination of their public employment or service, be allowed to register as lobbyists:

- (1) Members of the Legislature;
- (2) Members of the Executive Department as referenced in article VII, section one of the Constitution of West Virginia (Governor, Secretary of State, Auditor, Treasurer, Commissioner of Agriculture and Attorney General);
- (3) Will and pleasure professional employees of the Legislature under the direct supervision of a member of the Legislature;
- (4) Will and pleasure professional employees of members of the Executive Department under the direct supervision of the Executive Department officer and who regularly, personally and substantially participates in a decision-making or advisory capacity regarding agency or department policy;
- (5) Members of the Supreme Court of Appeals;
- (6) Secretaries of the Departments of Administration, Education and the Arts, Environmental Protection, Health and Human Resources, Military Affairs and Public Safety, Revenue, Transportation, Commerce and Veterans' Assistance; and
- (7) Heads of any state departments or agencies.

#### For County Public Servants Only

Certain county personnel are also subject to W.Va. Code §61-10-15, which is a criminal statute containing a similar, but more comprehensive, prohibition regarding contracts. The Ethics Commission is responsible for advising public servants about this statute but has no role in its enforcement. W. Va. Code §61-10-15 applies to:

- (1) elected county officials (including sheriffs, county commissioners and school board members),
- (2) appointed county officials (those who serve on county boards, commissions, authorities and agencies), and
- (3) public school superintendents, principals and teachers. It does not apply to other county workers.

W.Va. Code §61-10-15 prohibits the county employees and officials from having personal financial interests, directly or indirectly, in a contract, purchase or sale over which their public position gives them "voice, influence or control." The prohibition extends to their spouses, those whom they support, and businesses in which they have an ownership interest or by which they are employed. The Ethics Commission has authority to grant exemptions to a county agency based upon documented hardship. W.Va. Code §61-10-15 imposes strict limitations on nepotism in employment. County officials may not hire their spouses or dependent family members. There are certain very specific exceptions to this statute. Contact the Ethics Commission with questions.

## Complaints

The Ethics Commission and its Probable Cause Review Board investigate and resolve violations of the Ethics Act. Any citizen who is aware of a violation of the Act may file a written complaint with the Commission. In addition, the Commission itself may initiate a complaint if it receives credible evidence of a material violation of the Act. Complaints are first reviewed by the three-member Probable Cause Review Board to determine whether the allegations in the complaint would constitute a violation of the Ethics Act. The Review Board dismisses complaints which allege trivial or inconsequential violations without an investigation. If a complaint is investigated, at the conclusion of the investigation the Review Board may either dismiss the complaint or issue an order finding that there is probable cause to believe that the person against whom the complaint was filed violated the Ethics Act. The matter will then proceed to a public hearing or be resolved through a settlement, or "conciliation," agreement. Persons found guilty of a material violation of the Act may be publicly reprimanded and fined up to \$5,000 per violation. The Commission also may order restitution, reimbursement to the Ethics Commission for its costs, or recommend that the person be terminated from employment or removed from office. It is a violation of the Act to give false and misleading information to the Commission or to procure or induce another to provide false information to the Commission. If the Commission finds by clear and convincing evidence that a complaint was made in bad faith it may issue sanctions against the person who filed the complaint.

West Virginia Ethics Commission  
210 Brooks Street, Suite 300  
Charleston, WV 25301  
(304) 558-0664 Fax (304) 558-2169  
Toll Free (866) 558-0664  
Email: [ethics@wv.gov](mailto:ethics@wv.gov)  
Website: [www.ethics.wv.gov](http://www.ethics.wv.gov)

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