

R 1-8-4 Minimum Ethical Standards Established by the Ethics Act

Private Gain

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

- ❖ You may not use your 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 employer.
- ❖ You may not use subordinates to work on your personal projects or activities during work hours or compel them to do so on their own time.

Gifts

You may not solicit a gift unless it is for a charitable purpose from which you and your immediate family members derive no direct personal benefit. You may not solicit a subordinate for any gift - not even a gift for a charitable purpose.

The Ethics Act's prohibition against solicitation of gifts does not apply to solicitation of political contributions. However, WVC §3-8-12(h) dealing with regulation and control of elections provides "No person shall solicit any [political] contribution from any non-elective salaried employee of the state government or of any of its subdivisions." You may not accept gifts from lobbyists, or from "interested persons", unless it fits into one of the following exceptions:

- ❖ meals and beverages;
- ❖ unsolicited gifts of a value of \$25 or less;
- ❖ ceremonial gifts or awards of insignificant value;
- ❖ reasonable expenses incurred in appearing at a speaking engagement;
- ❖ reasonable honoraria (check the Commission's rules);
- ❖ free tickets to political, charitable, or cultural events customarily given as a courtesy to the office;
- ❖ purely private and personal gifts; or
- ❖ lawful political contributions

Note: "interested persons" are those who do or seek to do business with, are regulated by, or are otherwise financially interested in the activities of your governmental agency.

Selling to Subordinates

Although they may choose to buy from you, you may not personally solicit (in person, by phone, or personal letter) private business from subordinates you direct, supervise or control. Solicitations directed to the public at large or for property of a kind you are not regularly engaged in selling are permitted.

Private Interests in Public Contracts, Purchases & Sales

The Ethics Act says you may not have a financial interest in any contract, purchase or sale over which your public position gives you control; nor may your spouse, your dependent parents, your dependent children, or any business in which you or they have an ownership interest greater than 10%, or a creditor's interest greater than 10% of the indebtedness of the business.

This provision applies only to (1) those contracts your job gives you authority to award or control and (2) those purchases and sales you are authorized to make or direct others to make. The Ethics Commission can grant your agency a hardship exemption from this provision of the Ethics Act.

Note: Part-time appointed officials may avoid the prohibition by recusing themselves from considering and acting on such matters.

Confidential Information

You may not during or after government service, knowingly and improperly disclose confidential information acquired through your public position or use it to further personal interests of yourself or another person.

Rules Which Apply to County Public Servants only (WV Code §61-10-15)

Certain county personnel (designated below) are also subject to a criminal statute which contains a similar, but more comprehensive public contract prohibition from which exemptions are not permitted.

- ❖ WVC §61-10-15 applies to: (1) elected county officials [such as sheriff, 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 employees.
- ❖ WVC §61-10-15 prohibits these designated county personnel 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 they support, and businesses in which they have an ownership interest or by which they are employed.

Note: As a result of an amendment to the law in 2002, agency transactions with businesses which employ these designated personnel or their spouses may be legitimized, if the public servant is recused from agency action in regard to the transaction and other specific requirements are met.