# WEST VIRGINIA CODE: §6B-2-5A

**§6B-2-5a. Code of conduct for state administrative law judges.**

(a) As used in this section, "state administrative law judge" means any public employee, public officer or contractor functioning as a hearing officer, referee, trial examiner or other position in state government to whom the authority to conduct an administrative adjudication has been delegated by an agency or by statute and who exercises independent and impartial judgment in conducting hearings and in issuing recommended decisions or reports containing findings of fact and conclusions of law in accordance with applicable statutes or rules, but does not include any person whose conduct is subject to the code of judicial conduct promulgated by the West Virginia Supreme Court of Appeals.

(b) In accordance with the provisions of chapter twenty-nine-a of this code, the commission, in consultation with the West Virginia State Bar, shall propose rules for legislative approval establishing a code of conduct for state administrative law judges, which shall incorporate the following major provisions:

(1) A state administrative law judge shall uphold the integrity and independence of the administrative judiciary;

(2) A state administrative law judge shall avoid impropriety and the appearance of impropriety in all activities;

(3) A state administrative law judge shall perform the duties of the office impartially and diligently;

(4) A state administrative law judge shall regulate the judge's extra-judicial activities to minimize the risk of conflict with judicial duties;

(5) A state administrative law judge shall refrain from political activity inappropriate to the office; and

(6) Appropriate civil penalties and sanctions for violations.

In proposing the rules, the commission shall consider the model codes of judicial conduct for state administrative law judges as drafted by the National Association of Administrative Law Judges and the American Bar Association.

(c) The legislative rules shall provide that an individual agency may develop a code of conduct for its own administrative law judges, which shall supersede the general code of conduct established under this section, if the commission determines that it is in substantial compliance with the objectives of the code proposed by the commission. Upon granting a waiver to an agency, the commission shall retain a copy of the agency's code to be made available to the public.

WV Legislature

(d) The commission shall propose the legislative rules by October 1, 2004, so that it may be considered by the Legislature at the 2005 regular session, and the commission may not promulgate an emergency rule on this matter in the interim.

WV Legislature