

OHIO ETHICS COMMISSION

Santiago Feliciano, Jr.
Commission Chair

David E. Freel
Executive Director



8 East Long Street, 10th Floor
Columbus, Ohio 43215
Telephone: (614) 466-7090
Fax: (614) 466-8368

Website: <http://www.ethics.state.oh.us>

Advisory Opinion Number 2000-01
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Syllabus by the Commission:

(1) Division (A) of Section 102.02 of the Revised Code requires that an individual who holds a valid treasurer's license and performs the statutorily created powers or duties of treasurer of an educational service center must file a financial disclosure statement with the Ohio Ethics Commission, regardless of whether the individual receives compensation from the educational service center for performing the statutorily created powers or duties of treasurer;

(2) Division (A) of Section 102.02 of the Revised Code requires that an individual who holds a valid treasurer's license and performs the statutorily created powers or duties of treasurer of an educational service center must file a financial disclosure statement with the Ohio Ethics Commission, regardless of the manner in which the individual attains the position and regardless of the length of time the individual performs the statutorily created duties and powers of treasurer; and

(3) The conclusions in this opinion apply to any individual who performs, and who holds a valid license or certificate to perform, the statutorily created powers or duties of a treasurer, business manager, or superintendent of any school district board of education or educational service center.

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In your letter to the Ethics Commission, you ask whether the individual who filled in for you as treasurer of an educational service center (ESC) during 1999 is required to file a financial disclosure statement (FDS). You state that the ESC engaged the individual, from a non-profit cooperative, to serve as treasurer on a temporary basis. The ESC entered into a contract with the cooperative, and paid the cooperative for the time the individual performed the duties of treasurer of the ESC. The individual did not receive any compensation directly from the ESC.

As explained below, Division (A) of Section 102.02 of the Revised Code requires that "every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center . . . shall file" an FDS. The filing responsibility imposed by R.C. 102.02 applies to individuals who hold a valid treasurer's license and performs the statutorily created duties and powers of ESC treasurer. The responsibility exists regardless of whether such individual receives compensation directly from

the ESC for his or her services. Therefore, the fact that the individual who performed the statutorily created duties and powers of an ESC treasurer in your question does not receive compensation directly from the ESC does not affect the individual's filing responsibilities under R.C. 102.02. In addition, the filing responsibility imposed by R.C. 102.02 is not affected by the length of time the individual performs the duties and powers associated with the position of treasurer.

The filing responsibilities of a treasurer of an ESC under R.C. 102.02(A) are the same as those of treasurers of a city, local, exempted village, joint vocational, or cooperative education school district. In addition, business managers and superintendents of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center have the same filing responsibilities under R.C. 102.02(A). Therefore, the conclusions reached above apply to similar situations involving any of these school officials. If any individual performs the statutory duties of, or assumes the power or authority associated with, any of these positions, and holds a valid license or certificate to perform the statutory duties of any of these positions, the individual is required to file an FDS with the Ethics Commission.

FDS Filing Responsibilities of a Treasurer of an ESC—R.C. 102.02(A)

The filing responsibilities of a treasurer of an ESC are outlined in R.C. 102.02(A), which provides, in pertinent part, that "every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center . . . shall file" an FDS. In Advisory Opinion No. 95-003, the Ethics Commission stated that the statutory language of R.C. 102.02(A), as cited above, requires that every business manager must file an FDS if he: (1) holds a valid school district manager's license issued by the Department of Education; and (2) exercises the statutorily created powers and duties on behalf of one of the kinds of school districts designated in R.C. 102.02. Ohio Ethics Commission Advisory Opinion No. 95-003. The statutory language that outlines the financial disclosure requirements of a school district or ESC treasurer is the same language that outlines the financial disclosure requirements of a business manager of a school district or ESC. Therefore, every individual who holds a valid treasurer's license issued by the Department of Education and performs the statutorily created powers or duties of an ESC treasurer is required to file an FDS. Thus, in order to address the question that you have presented to the Commission, it is first necessary to examine the statutorily created duties and authority of an ESC treasurer.

Duties and Authority of an ESC Treasurer

The powers and duties of a treasurer of a board of education are set forth in several sections of the Ohio Revised Code. The treasurer must perform all of these duties and no one other than the treasurer, or someone reporting to the treasurer, has the authority to perform them. R.C. 3313.22 provides that, with a few narrow exceptions, no person shall be engaged to serve as a school district treasurer who does not hold a valid license. See also R.C. 3301.074 (empowering the state Board of Education to establish standards for, and issue and renew, licenses for school district treasurers).

R.C. 3313.31 provides that the treasurer shall be the chief fiscal officer of the school district and shall be responsible for the financial affairs of the district, subject to the direction of

the district board of education. As chief fiscal officer, one of the treasurer's duties is to keep an account of all school funds of the district and to receive all vouchers for payments and disbursements made to and by the board and preserve such vouchers for a period of ten years. R.C. 3313.29. The treasurer is required to render a monthly statement to the board and to the superintendent of the school district showing the revenues and receipts from whatever sources derived, the various appropriations made by the board, the expenditures and disbursements therefrom, the purposes thereof, the balances remaining in each appropriation, and the assets and liabilities of the school district. *Id.* The treasurer is also responsible for executing conveyances made by the board, and executing and delivering deeds or other necessary instruments of conveyance to complete any sale or trade of real or personal property. R.C. 3313.33 and 3313.41.

The treasurer also has duties and powers that are administrative in nature. For instance, the treasurer is responsible for keeping records of school statistics, educator licenses, and internship certificates filed by teachers. R.C. 3319.36. The treasurer is also responsible for recording the proceedings of each meeting of the board of education. R.C. 3313.26.

Effect of Compensation on the FDS Filing Requirement

The filing responsibility of a treasurer of an ESC, as imposed by R.C. 102.02(A), is not dependent on the receipt of compensation by the treasurer. Therefore, the level of compensation and the source of the compensation received by a person who performs the duties of treasurer of an ESC are not conclusive factors in a determination of a treasurer's statutorily imposed filing responsibilities. In the situation you have described, the individual assumed the position of treasurer and performed one or more of the above specified duties and powers of the position. The fact that he was not compensated directly by the ESC for his services is not a controlling factor in your question. Because he performed the statutory duties and powers of an ESC treasurer, the individual in your question is required to file an FDS if he holds a valid treasurer's license.

Effect of the Temporary Nature of the Position on the FDS Filing Requirement

R.C. 102.02(A) does not specify that an ESC treasurer must hold the position for a certain period of time before the FDS filing requirement becomes effective. Therefore, the filing responsibility of an ESC treasurer is not dependent on the duration of his or her service. If an individual holds a valid treasurer's license, and performs the powers or duties of the position of treasurer of an ESC, the individual is required, by virtue of R.C. 102.02(A), to file an FDS. This filing requirement is imposed by the statute regardless of the duration of time during which he or she performs, or assumes, the statutory powers or duties of an ESC treasurer.

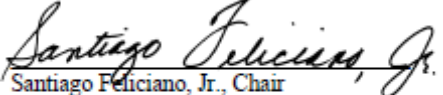
R.C. 102.02(A)(10) requires an individual who holds a treasurer's license, and performs the duties and powers of an ESC treasurer on a temporary basis, to file an FDS within ninety days after appointment or employment. In the situation you have described, R.C. 102.02(A)(10) would require your temporary replacement to file an FDS within ninety days after he assumed the duties and powers associated with the position of ESC treasurer. The individual will also be required to file a statement, in 2000, reflecting calendar year 1999, because he served as a school district treasurer during 1999.

Conclusion

As explained below, Division (A) of Section 102.02 of the Revised Code requires that "every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center . . . shall file" an FDS. The filing responsibility imposed by R.C. 102.02 applies to individuals who hold a valid treasurer's license and performs the statutorily created duties and powers of ESC treasurer. The responsibility exists regardless of whether such individual receives compensation directly from the ESC for his or her services. Therefore, the fact that the individual who performed the statutorily created duties and powers of an ESC treasurer in your question does not receive compensation directly from the ESC does not affect the individual's filing responsibilities under R.C. 102.02. In addition, the filing responsibility imposed by R.C. 102.02 is not affected by the length of time the individual performs the duties and powers associated with the position of treasurer.

The filing responsibilities of a treasurer of an ESC under R.C. 102.02(A) are the same as those of treasurers of a city, local, exempted village, joint vocational, or cooperative education school district. In addition, business managers and superintendents of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center have the same filing responsibilities under R.C. 102.02(A). Therefore, the conclusions reached above apply to similar situations involving any of these school officials. If any individual performs the statutory duties of, or assumes the power or authority associated with, any of these positions, and holds a valid license or certificate to perform the statutory duties of any of these positions, the individual is required to file an FDS with the Ethics Commission.

This advisory opinion is based on the facts presented. It is limited to questions arising under Chapter 102. and Sections 2921.42, 2921.421, and 2921.43 of the Revised Code, and does not purport to interpret other laws or rules. Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, that: (1) Division (A) of Section 102.02 of the Revised Code requires that an individual who holds a valid treasurer's license and performs the statutorily created powers or duties of treasurer of an educational service center must file a financial disclosure statement with the Ohio Ethics Commission, regardless of whether the individual receives compensation from the educational service center for performing the statutorily created powers or duties of treasurer; (2) Division (A) of Section 102.02 of the Revised Code requires that an individual who holds a valid treasurer's license and performs the statutorily created powers or duties of treasurer of an educational service center must file a financial disclosure statement with the Ohio Ethics Commission, regardless of the manner in which the individual attains the position and regardless of the length of time the individual performs the statutorily created duties and powers of treasurer; and (3) The conclusions in this opinion apply to any individual who performs, and who holds a valid license or certificate to perform, the statutorily created powers or duties of a treasurer, business manager, or superintendent of any school district board of education or educational service center.


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