



OHIO ETHICS COMMISSION

150 EAST BROAD STREET

COLUMBUS 43215

(614) 466-7090

Advisory Opinion No. 76-002

January 29, 1976

Syllabus by the Ohio Ethics Commission:

Persons who are elected or appointed to or are candidates for village office are not required, pursuant to Section 102.02 (A) of the Revised Code, to file financial disclosure statements with the Ohio Ethics Commission.

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Your request for an advisory opinion asks whether village officials are required by Chapter 102 of the Revised Code to file financial disclosure statements.

Section 102.02 (A) of the Revised Code states:

"Every person who is elected to or is a candidate for a state, county, or city office, or the office of member of the United States congress, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office, and the director and deputy directors of any department or agency of the state, all members of the board of commissioners on grievances and discipline of the supreme court and of the ethics commission created under Section 102.05 of the Revised Code, and every other public official or employee who is designated by the ethics commission pursuant to division (B) of this section, excluding any presidential elector or delegate to a national convention shall file with the appropriate ethics commission on a form prescribed by the commission, a statement disclosing:"

It is obvious that persons elected or appointed to or candidates for village office are not persons elected or appointed to or candidates for a state, county or congressional office. They are not directors or deputy directors of any department or agency of the state, a member of the Board of Commissioners on Grievances and Discipline of the Supreme Court, nor a member of the Ohio Ethics Commission created pursuant to Section 102.05 of the Revised Code.

The question remains are they elected or appointed to or candidates for "city office" as that term is used in Section 102.02 of the Revised Code.

Section 703.01 of the Revised Code establishes cities and villages as types of municipal corporations and distinguishes them:

"Municipal corporations, which, at the last federal census, had a population of five thousand or more, or five thousand registered resident electors or resident voters as provided in section 703.011 of the Revised Code, are cities. All other municipal corporations are villages. . ."

From the above statute it can be discerned that, on the basis of population, a village is separate and distinct from a city, and persons elected or appointed to or candidates for a village office are not persons elected or appointed to or candidates for a city office. Village officials and candidates for village office are not city officials or candidates for city office. Village officials and candidates for village office are not of the types of public officials and candidates required by Section 102.02 (A) of the Revised Code to file financial disclosure statements. Therefore, village officials and candidates are not required to file financial disclosure statements.

Additionally, the Ohio Ethics Commission has no authority to promulgate a rule which would require village officials to file financial disclosure statements. Section 102.02 (B) of the Revised Code limits the rule making authority of the Ohio Ethics Commission to extend the financial disclosure filing requirement to classes of "public officials and employees." The term "public officials or employee" is defined in Section 102.01 (B) of the Revised Code to mean:

". . . any person who is elected or appointed to an elective office or employed by any public agency. 'Public official or employee' does not include a person elected or appointed to the office of precinct, ward, or district committee member under section 3517.03 of the Revised Code, any presidential elector, delegates to a national convention, members of school boards, village officials and employees, township trustees and officials and employees, . . . " (Emphasis added)

Village officials are specifically excluded from the term "public official or employee." Since village officials are specifically excluded from the term "Public official or employee" to whom the Ohio Ethics Commission may extend the financial disclosure filing requirement, the Ohio Ethics Commission may not extend the filing requirement to village officials.

It should be noted, however, that the prohibitions established in Section 102.04 (B) of the Revised Code apply to persons elected or appointed to an office of a municipal corporation. Pursuant to Section 703.01 of the Revised Code a village is a type of municipal corporation, and therefore, the prohibitions established in Section 102.04 (B) of the Revised Code do apply to village officials:

"No person who is elected or appointed to an office of or employed by a county, township, municipal corporation, or any other governmental entity, excluding the courts, shall receive or agree to receive directly or indirectly compensation other than from the agency with which he serves for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is before any agency, department, board, bureau, commission, or other instrumentality, excluding the courts, of the entity of which he is an officer or employee." (Emphasis added)

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, that persons who are elected or appointed to or are candidates for village office are not required, pursuant to Section 102.02 (A) of the Revised Code, to file financial disclosure statements with the Ohio Ethics Commission.

Barbara H. Rawson

OHIO ETHICS COMMISSION
(Mrs) Barbara H. Rawson