



OHIO ETHICS COMMISSION
THE ATLAS BUILDING
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COLUMBUS, OHIO 43215-2940
(614) 466-7090

August 21, 1991

Informal Opinion 1991-INF-0821-2

Brenda Shoemaker
Berry & Shoemaker

Dear Ms. Shoemaker:

You have asked the Ethics Commission whether you are subject to the Ohio Ethics Laws and related statutes, including the requirement to file a financial disclosure statement, due to your serving as Executive Secretary for the Workers' Compensation Advisory Commission.

In order to answer your question it is first necessary to analyze the principal powers and duties of the Workers' Compensation Advisory Commission and determine whether its members are subject to Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code.

The Workers' Compensation Advisory Commission is a statutorily created commission within state government. See R.C. 4121.07 (A). It is comprised of fourteen members: eight members who are appointed by the Governor and confirmed by the Senate and six members who also serve in the State Legislature. See R.C. 4121.07 (A)(1). The eight gubernatorial appointees consist of four representatives of the interests of labor and four representatives of the interests of employers; the members' vocation, employment, or affiliation determines the respective interest which they represent. Id. The gubernatorial appointees serve for a four-year term; the legislative members serve during the session of the General Assembly to which they have been elected and for as long as they are members of the General Assembly. See R.C. 4121.07 (B).

The Advisory Commission must meet at least once each quarter. See R.C. 4121.07 (D). The members of the Advisory Commission do not receive a salary; however, each member is paid fifty dollars per day and expenses while engaged in the performance of his duties from the funds used to pay the operating expenses of the Industrial Commission. See R.C. 4121.07 (C). The Industrial Commission also pays the Advisory Commission's operating expenses as determined by the Advisory Commission. See R.C. 4121.07 (F).

The Advisory Commission has the principal statutory duty to advise the Industrial Commission and its members on their duties under Chapters 4123., 4127., and 4131. of the Revised Code. See R.C. 4121.07 (A). Also, within one year after the selection of the

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Advisory Commission's original members, the Advisory Commission must present a recommendation to the Industrial Commission on means to streamline the hearing adjudicatory process; the Industrial Commission shall take such action which it deems appropriate. See Section 16 (uncodified), Am. Sub. H.B. 222, 118th Gen. A. (1989) (eff. November 3, 1989).

The Advisory Commission has statutory authority to conduct its own research, make and publish reports, and recommend to the Industrial Commission, the Governor, or the General Assembly needed changes in R.C. Chapters 4121., 4123., 4127., and 4131. or the rules of the Industrial Commission. See R.C. 4121.07 (G). The Advisory Commission is statutorily authorized to employ professional and clerical assistance which it considers necessary. See R.C. 4121.07 (E).

The Ethics Commission is empowered to administer, interpret, and help enforce Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code. See R.C. 102.02, 102.06, and 102.08. These provisions include Ohio's financial disclosure law, as well as prohibitions against public officials and employees misusing their official position for their own personal benefit or the benefit of their family members or business associates. R.C. 102.01 (B) defines the term "public official or employee" for purposes of Chapter 102. of the Revised Code as "**any person who is elected or appointed to an office** or is an employee of any public agency." (Emphasis added.) R.C. 102.01 (C) defines the term "public agency" as:

[T]he general assembly, all courts, **any** department, division, institution, board, **commission**, authority, bureau or other instrumentality **of the state**, a court, city, village, township, and the five state retirement systems, or any other governmental entity. (Emphasis added.)

R.C. 2921.01 (A) defines the term "public official" for purposes of R.C. Chapter 2921. as:

[A]ny elected or **appointed officer**, or employee, or agent **of the state** or any political subdivision thereof, whether in a temporary or permanent capacity, and including without limitation legislators, judges and law enforcement officers. (Emphasis added.)

Since the Workers' Compensation Advisory Commission is a commission which is established within state government, it is a "public agency" under the statutory definition provided by R.C. 102.01 (C) and a state entity for purposes of R.C. Chapter 2921. The issue becomes whether a member of the Workers' Compensation Advisory Commission is "**appointed to an office . . . of any public agency**"

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for purposes of Chapter 102. or is an "appointed officer . . . of the state" for purposes of R.C. 2921.42. (Emphasis added.)

Under Ohio law, a person who holds an "office" is an "officer." In the case of Muskingum County Democratic Executive Committee v. Burrier, 31 Ohio Op. 570 (C.P. Muskingum County 1945) the Court held:

The terms "officer" and "office" are paronymous, and in their original and proper sense, are to be regarded as strictly correlative.

See also Ohio Ethics Commission Advisory Opinion No. 85-005.

The Ethics Commission, in Advisory Opinion No. 74-007, established a test to determine whether one is "appointed to an office;" that is, whether the person: (1) is appointed; (2) has a title; (3) exercises a function of government concerning the public; (4) is not subject to a contract of employment. The Commission emphasized that no one indicium controls and combinations of factors will determine whether a person is deemed to hold an office. See Advisory Opinion No. 75-004. This test was modified in Advisory Opinion No. 75-004 when the Commission added the requirement that the person exercise the "sovereign power" of government as an additional and essential criterion. The Commission explained "sovereign power" in Advisory Opinion No. 75-004:

The concept of sovereign power originates with the idea that the office is created by public authority, be it executive order, the Constitution or some statute. Furthermore, it has been held that "if a man is placed in a position which is continuous and permanent and has certain powers which, under the law, only he can exercise; then he has sovereign power delegated to him." Shaw v. Jones, 40 O.N.P. 372 (1897).

In Advisory Opinion No. 77-004 the Commission held:

Sovereign power includes the exercise of a duty entrusted to one by virtue of statute or some other public authority, a duty that is not merely clerical, but that involves discretionary, decision-making qualities.

The Commission quoted from the Ohio Supreme Court case of State ex rel. Landis v. Butler, 95 Ohio St. 157 (1917), in Advisory Opinion No. 85-005, as follows:

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[I]f the appointee is invested with the independent power in the disposition of public property or with the power to incur financial obligations upon the part of the county or state, if he is empowered to act in those multitudinous cases involving business or political dealings between individuals and the public, wherein the latter must necessarily act through an official agency, then such functions are a part of the sovereignty of the state.

In Advisory Opinion No. 85-005, the Ethics Commission held that members of a public agency which functions exclusively for advisory purposes and does not exercise the sovereign powers of government are not deemed to be "appointed to an office" or "officers." In that opinion the Ethics Commission held that members of the Technical Advisory Committee to the Coal Development Office do not exercise sovereign power and thus are not subject to the prohibitions of R.C. Chapter 102. or Section 2921.42 since the statutes establishing the Committee and defining its duties do not confer upon its members the power to exercise discretionary decision-making authority and bind the Coal Development Office.

As explained above, the Workers' Compensation Advisory Commission's principal statutory duty is to provide advice and recommendations to the Industrial Commission, the Governor, and the General Assembly. See R.C. 4121.07 (G); Section 16 (uncodified), Am. Sub. H.B. 222, 118th Gen. A. (1989) (eff. November 3, 1989). It is apparent that the Advisory Commission does not exercise final discretionary decision-making authority. See, e.g., Section 16 (uncodified), Am. Sub. H.B. 222, 118th Gen. A. (1989) (eff. November 3, 1989) (the Industrial Commission "shall take such action as it deems appropriate" regarding the Advisory Commission's findings and recommendations on streamlining the hearing adjudication process).

As stated above, other indicia of sovereign power include whether a public agency has statutory and independent duties with regard to the ability to incur financial obligations upon the part of the state. See Advisory Opinion No. 85-005. As explained above, the Workers' Compensation Advisory Commission is statutorily authorized to employ professional and clerical assistance which it considers necessary. It thus becomes necessary to determine whether the ability of the Advisory Commission to hire professional and clerical assistance constitutes the exercise of "sovereign power."

In Advisory Opinion No. 75-007 the Ethics Commission held that members of the Cuyahoga County Soldiers and Sailors Monument Commission did not perform functions constituting the exercise of

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sovereign power despite the fact that the Monument Commission was statutorily authorized to hire a custodian and set his compensation. The Ethics Commission explained in Advisory Opinion No. 75-007 that even though a commission performs acts which result in the provision of a public service, that the commission's principal duty must be examined in order to determine whether the commission's actions are the exercise of sovereign power, holding:

The principle [sic] duty of the Commission is "caring for the monument and the grounds surrounding the same." To this end the Commission may draft rules and regulations for their internal government, hire a custodian and set his compensation, set restrictions on the use of what is described as the "southeast corner of the public square," make repairs and improvements on the monument and the like. These acts are indeed a public service performed by the members of the Commission; however, they are not an exercise of "sovereign power."

See also Advisory Opinion No. 75-012 (members of the former Ohio Constitution Review Commission did not perform functions constituting the exercise of sovereign power despite the fact that the Committee was statutorily authorized to employ consultants.) Also, the Ethics Commission determined at its meeting on September 1, 1988 that members of the Ohio Public Works Commission are not subject to Chapter 102. and Section 2921.42 since the Ohio Public Works Commission exercises advisory rather than sovereign functions despite the fact it is authorized to appoint a director who is statutorily granted discretionary decision-making sovereign power.

In the instant situation, the Advisory Commission is authorized to employ professional and clerical assistance in order to achieve its principal duties. The operating expenses of the Advisory Commission are paid by the Industrial Commission from Industrial Commission funds. The ability of the Advisory Commission to employ individuals and otherwise incur operating expenses is not, however, an exercise of sovereign power since it only advances the principal statutory duties of the Advisory Commission which, as described above, consist of conducting research, making and publishing reports, and presenting non-binding recommendations. These principal duties do not involve the exercise of any final discretionary decision-making authority and do not constitute the exercise of sovereign power. Therefore, since the Advisory Commission does not exercise sovereign power, a member of the Workers' Compensation Advisory Commission is neither "appointed to an office" for purposes of R.C. Chapter 102. nor an "officer . . . of the state" for purposes of R.C. 2921.42.

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Furthermore, the Advisory Commission members do not hold an employment relationship with the State, since: (1) the members receive no salary but only fifty dollars a day and expenses while performing their duties; (2) the gubernatorial appointees are chosen due to their outside vocation, employment, or affiliation; (3) the members serve a limited term; and, (4) the members are required to meet only quarterly. See generally Advisory Opinions No. 75-022 and 85-005. Therefore, a member of the Workers' Compensation Advisory Commission is not a public employee for purposes of Chapter 102. or Section 2921.42 of the Revised Code.

However, R.C. 2921.01 also includes "agents" of the state, as well as officers and employees, within the definition of "public official" for purposes of R.C. 2921.42. The issue remains therefore, whether a member of the Advisory Commission can be considered an "agent" of the state for purposes of R.C. 2921.42.

The Ethics Commission has held that an individual is an "agent" of the state when the state has empowered him or his board to act on the state's behalf, and bind the state. See Advisory Opinion No. 85-005. As described above, the Advisory Commission's principal statutory duties consist of conducting research, making and publishing reports, and presenting non-binding recommendations. These are advisory functions which do not empower the Advisory Commission to act on behalf of, or bind, the Industrial Commission or any other state entity. Therefore, a member of the Workers' Compensation Advisory Commission is not an "agent" of the state who is subject to Section 2921.42 of the Revised Code. However, this would not preclude a finding that a member, under the appropriate circumstances, has acted to bind the state and, thus created an agency relationship.

It should be noted, however, that a member of the Advisory Commission who is otherwise a public official or employee is subject to the provisions of Chapter 102. and Section 2921.42 of the Revised Code due to his position as a public official or employee, but not due to his membership on the Advisory Commission.

In Advisory Opinion No. 85-005, the Ethics Commission cautioned members of the Technical Advisory Committee to the Coal Development Office that even though they are not subject to Chapter 102. or Section 2921.42, their participation in matters which could advance their private interests or the interests of their institutions could create an appearance of impropriety. In this instance, although the members of the Advisory Commission are not subject to Chapter 102. or Section 2921.42, members of the Advisory Commission should abstain from participating in matters which would benefit their own interests or the interests of businesses or organizations with which they serve or are affiliated in order to avoid the appearance of favoritism or impropriety.

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R.C. 2921.43 also falls within the Ethics Law and this statute applies to "public servants." R.C. 2921.01 (B) defines the term "public servant" as used in R.C. 2921.43 as: any public official as defined in R.C. 2921.01 (A); a candidate for public office; and, "[a]ny person performing ad hoc a governmental function, including without limitation a juror, member of a temporary commission, master, arbitrator, advisor, or consultant." A member of the Advisory Commission is not, as discussed above, a "public official" under the definition set forth in Division (A) of Section 2921.01; however, the Advisory Commission members are performing a governmental function by providing advice and recommendations to the Industrial Commission, the Governor, and the General Assembly. Therefore, a member of the Advisory Commission is a "public servant" for purposes of R.C. 2921.43.

R.C. 2921.43 (A) prohibits a public servant from accepting compensation, other than allowed by law, to perform his official duties. R.C. 2921.43 (A) also prohibits a person, including an individual, corporation, partnership, association or other similar entity, see R.C. 1.59, from promising or giving to a public servant any compensation, other than allowed by law, to perform any act in his public capacity or generally perform the duties of his public position. See Advisory Opinions No. 89-012, 89-013, 89-014, and 90-001. In the instant situation, R.C. 2921.43 (A) prohibits members of the Advisory Commission from accepting, and prohibits private parties from promising or giving to members of the Advisory Commission, any compensation other than allowed by law. See R.C. 4121.07 (C). R.C. 2921.43 (B) and (C) also prohibit a public servant from soliciting or accepting anything of value, or coercing a campaign contribution, in consideration of an appointment to a public position, or other kind of action material to any aspect of a public position.

The issue remains whether members of the Advisory Commission are subject to Ohio's financial disclosure law. R.C. 102.02, which contains the financial disclosure law, does not use the term "public official or employee" as defined in R.C. 102.01 (B) and (C) to determine the scope of its applicability, but rather uses different standards in setting forth who is subject to its requirement.

R.C. 102.02 (A) requires individuals who are elected to state, county, and city office, candidates and appointees for these elective offices, specified upper level state officials, and state employees who are paid according to Schedule "C" of R.C. Section 124.15 to file a financial disclosure statement with the Ohio Ethics Commission. The members of the Advisory Commission do not fall within the group of officials required to file a financial disclosure statement under R.C. 102.02 (A).

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R.C. 102.02 (B) provides that other public officials or employees may be required to file financial disclosure statements if they hold positions that involve a "**substantial and material** exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws and rules of the state . . . or the execution of other public trusts." (Emphasis added.) The Ethics Commission has held that a financial disclosure filing is required from officials of state boards and commissions if the officials exercise such substantial and material discretion.

As described above, the principal statutory duties of the Advisory Commission consist of conducting research, making and publishing reports, and presenting non-binding recommendations. As explained above, these duties are advisory functions, rather than decision-making, and do not empower the Advisory Commission to act on behalf of, or bind, the state. Accordingly, these duties do not involve a "substantial and material" exercise of administrative discretion in the formulation of public policy, the enforcement of laws and rules of the state, or the execution of other public trusts.

The Advisory Commission has the authority to employ professional and clerical assistance. As explained above, the operating expenses of the Advisory Commission are paid by the Industrial Commission with Industrial Commission funds. See R.C. 4107.08 (C) and (F). As further explained above, the ability of the Advisory Commission to employ and otherwise incur operating expenses does not constitute a "substantial and material" exercise of administrative discretion in the expenditure of public funds since it only advances the principal statutory duties of the Advisory Commission which, as described above, consist of non-binding advisory functions. Therefore, members of the Advisory Commission are not required to file a financial disclosure statement with the Ohio Ethics Commission. Of course, an Advisory Commission member must file a statement if the member is required to file because of service or employment in another public position.

Thus, to summarize the response to questions regarding the Workers' Compensation Advisory Commission, a member of the Advisory Commission: (1) is not subject to the provisions of Chapter 102. or Section 2921.42 of the Revised Code since a member is not an officer, employee, or agent of the state; (2) is a "public servant" for purposes of Section 2921.43 of the Revised Code and subject to the provisions thereof; and, (3) is not required to file a financial disclosure statement.

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The above analysis of the powers and duties exercised by the Workers' Compensation Advisory Commission help determine whether you are subject to Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code due to your service with the Advisory Commission as Executive Secretary.

The posting for the position of Executive Secretary states that you will serve for one year working up to twenty hours per week. As Executive Secretary you supervise the Advisory Commission's preparation of reports, documents, and proposals for legislation. You research materials relevant to the Commission's activities and assist the Commission members in drafting proposed legislation. Also, you perform administrative functions such as scheduling meetings, recording minutes, and ensuring payroll processing for Commission members.

The determination whether you are subject to the provisions of Chapter 102. and Section 2921.42 is a separate and distinct issue from whether the members of the Advisory Commission exercise sovereign power. In order to explain this distinction, it is necessary to closely examine the statutory definitions provided by Chapters 102. and 2921.

R.C. 102.01 (B) defines the term "public official or employee" for purposes of Chapter 102. of the Revised Code as "any person who is elected or appointed to an office or is an employee of any public agency." (Emphasis added.) As set forth above, R.C. 102.01 (C) defines the term "public agency" to include "any . . . commission . . . of the state." (Emphasis added.)

R.C. 2921.01 (A) defines the term "public official" for purposes of R.C. 2921.42 as:

[A]ny elected or appointed officer, or employee, or agent of the state or any political subdivision thereof, whether in a temporary or permanent capacity, and including without limitation legislators, judges and law enforcement officers. (Emphasis added.)

R.C. 2921.01 (B) also defines the term "public servant" for purposes of R.C. 2921.43 to include "[a]ny public official."

The fact that you are hired pursuant to contract does not necessarily mean that you do not exercise sovereign power. See Advisory Opinion No. 77-004. See also Advisory Opinion No. 78-004. As explained above however, a member of the Advisory Commission is not an "officer" or "appointed to an office" since the state commission with which he serves does not exercise "sovereign power." The statutes which establish the Advisory Commission and prescribe its duties and jurisdiction neither create the position

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of Executive Secretary nor impose upon the Executive Secretary any additional independent powers and duties. Cf. R.C. 164.05 (the director of the Ohio Public Works Commission has the statutory authority to exercise substantial and material discretion in the formulation of public policy, expenditures of public funds, enforcement of laws and rules, and the execution of other public trusts even though the Ohio Public Works Commission itself does not). In the absence of express statutory authority, you are unable to exercise greater authority as Executive Secretary than that which is conferred by statute upon the Advisory Commission and your responsibility is limited to assisting the Commission perform its statutorily authorized advisory duties. Therefore, you are not an "officer" or "appointed to an office."

However, if an individual serves a public agency as an "employee" it is not necessary that the individual, or the public agency by which she is employed, exercise "sovereign power" in order for her to fall within the statutory definitions described above and thus be subject to Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code. See Advisory Opinion No. 75-012. The sole requirement is that the individual be an "employee" of either a "public agency" for purposes of Chapter 102., or "of the state" for purposes of R.C. Sections 2921.01 (A) and (B).

However, the Ethics Commission determined in Advisory Opinion No. 75-010 that an individual who is hired by a public agency as an "independent contractor" rather than as an "employee" is generally not subject to the Ohio Ethics Law. See also Advisory Opinions No. 75-011, 75-012, 75-016, 77-008, 89-003 and 89-009. Cf. Advisory Opinion No. 77-004 (a part-time village engineer is a "public official" and subject to the Ohio Ethics Law due to his exercise of sovereign power even though he is engaged as an independent contractor). The issue becomes whether you serve the Advisory Commission as an independent contractor or as an employee.

In Advisory Opinion No. 75-012 the Commission applied the tests which distinguish employees from independent contractors set forth in Gillum v. Industrial Commission, 141 Ohio St. 373, 381-82 (1943):

- (a) the extent of control which, by the agreement, the master may exercise over the details of the work;
- (b) whether or not the one employed is engaged in a distinct occupation or business;
- (c) the kind of occupation, with reference to whether, in that locality the work is usually done under the direction of the employer or by a specialist without supervision;

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- (d) skill required in the particular occupation;
- (e) whether the employer or the workman supplies the instrumentalities, tools and the place of work for the person doing the work;
- (f) length of time for which the person is employed;
- (g) the method of payment, whether by time or by job;
- (h) whether or not the work is a part of the regular business of the employer; and,
- (i) whether or not the parties believe they are creating a relationship of master and servant.

The Ethics Commission held that the primary test is whether one is engaged in a distinct occupation or business, stating "[i]f the person employed has a distinct occupation or business, his association with the employing public authority or agency and its public trust is obviously distant. Seldom does this test, standing alone, control, however, and the other tests must be also examined as well." Advisory Opinion No. 75-012. See also Advisory Opinions No. 75-023 and 77-008.

Advisory Opinion No. 75-012 involved the same issues which are present in the instant situation. In Advisory Opinion No. 75-012 the Ethics Commission determined that members of the Ohio Constitutional Revision Commission were not "appointed to an office" and thus were not subject to R.C. 102.04. However, the Commission was also asked whether consultants who were employed by the Ohio Constitution Review Commission were subject to R.C. 102.04. The Commission determined that consultants who were employed by the Ohio Constitutional Review Commission were not "employees" of a "public agency" but were "independent contractors" due to the manner in which they were hired, the type of work that they performed, and the degree of control exercised over them by the members of Ohio Constitutional Review Commission. The Ethics Commission determined that since the consultants who were hired by the Constitutional Review Commission were independent contractors and not employees, the consultants were not subject to the Ohio Ethics Law. See Advisory Opinion No. 75-012. See also Advisory Opinions No. 75-010, 75-012, 75-016, 75-023, 77-008, 89-003 and 89-009.

In the instant situation, it is apparent that you have been hired by the Advisory Commission to serve as Executive Secretary pursuant to the Advisory Commission's statutory authority to employ professional and clerical assistance. See R.C. 4121.07 (E). You

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are engaged in a distinct occupation - the practice of law with a private firm. Since your duties as Executive Secretary include researching legislative histories and drafting proposed legislation it is apparent that the Advisory Commission retains your services due to your ability in the legal field. The Advisory Commission retains your services as Executive Secretary pursuant to an annual contract under which you work up to twenty hours per week. These factors are all indications that you are an independent contractor rather than an employee of the Workers' Compensation Advisory Commission.

Furthermore, you are not an "agent" of the state for purposes of R.C. 2921.01 since you have no authority to act on the Advisory Commission's behalf and bind the Commission. Since you are an independent contractor rather than an employee or agent of the Advisory Commission and do not exercise the sovereign powers of the state you are not subject to Chapter 102. or Section 2921.42.

However, as stated above, R.C. 2921.43 applies to "public servants" which includes any person performing a governmental function. As Executive Secretary to the Advisory Commission you perform a governmental function by assisting the Commission members to carry out their statutory duties; the Commission's duties themselves being, as discussed above, the performance of a governmental function. Therefore, you are a "public servant" for purposes of R.C. 2921.43 and subject to that Section's provisions as described above.

The issue remains whether you are subject to Ohio's financial disclosure law due to your service as the Advisory Commission's Executive Secretary. Since you are hired pursuant to an annual contract under which you work up to twenty hours per week it is presumed that you are not paid according to Schedule "C" and thus would not fall under the requirements of R.C. 102.03 (A).

As explained above, R.C. 102.02 (B) does not require members of the Advisory Commission to file a financial disclosure statement since the principal duties of the Women's Commission do not involve a substantial and material exercise of administrative discretion in the formulation of public policy, the expenditure of public funds, the enforcement of laws and rules of the state, or the execution of other public trusts. As described above, the statutes which establish the Advisory Commission and prescribe its duties and jurisdiction neither create the position of Executive Secretary nor impose upon the Executive Secretary any additional independent powers and duties. Therefore, the financial disclosure law does not require you to file a financial disclosure statement with the Ohio Ethics Commission due to your service as Executive Secretary.

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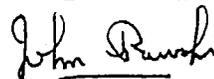
However, in the instant situation you were employed as Director of Human Resources with the Department of Development during 1990. As explained above, a person who serves a public agency in a capacity where a filing is not required must file a statement if she holds other service or employment in another public position where a filing is required. R.C. 102.02 (A) required you to file a financial disclosure statement due to your position as Director of Human Resources. R.C. 102.02 requires that the information provided on a public official's or employee's financial disclosure statement reflect the calendar year immediately preceding the date on which the statement is required to be filed. See Advisory Opinions No. 75-032 and 89-001. Accordingly, you have filed a financial disclosure statement for calendar year 1990 even though you no longer are employed as Director of Human Resources with the Department of Development. R.C. 102.02 required you to file this statement due to your past employment as Director of Human Resources with the Department of Development during 1990 but not due to your service as Executive Secretary for the Advisory Commission. R.C. 102.02 will not require you to file a financial disclosure statement for your service as Executive Secretary during 1991.

To summarize the response to your question concerning your service as Executive Secretary, you are: (1) an "independent contractor" of the Workers' Compensation Advisory Commission and are not subject to the provisions of Chapter 102, and Sections 2921.42 of the Revised Code; (2) a "public servant" for purposes of Section 2921.43 of the Revised Code and subject to the provisions thereof; and, (3) not required to file a financial disclosure statement.

This informal staff advisory opinion was approved by the Ethics Commission at its meeting on August 21, 1991. The opinion is based on the facts presented, and is limited to questions arising under Chapter 102, and Sections 2921.42 and 2921.43 of the Revised Code. It interprets the Ohio Ethics Law and related statutes and does not purport to interpret other laws or rules.

I apologize for the delay in responding to your request and sincerely regret any inconvenience this delay may have caused. Please contact me if you have any questions or wish to request a formal advisory opinion from the Ethics Commission.

Very truly yours,



John Rawski
Staff Attorney