



OHIO ETHICS COMMISSION

8 East Long Street, 10th Floor

Columbus, Ohio 43215

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April 28, 1998

Informal Opinion 1998-INF-0428

Maria J. Armstrong, Chief Legal Counsel
Office of the Governor
Columbus, Ohio 43266-0601

Dear Ms. Armstrong:

In a letter received by the Ethics Commission on April 1, 1998, and in prior telephone conversations, you asked by what date the Governor and Lieutenant Governor must file their 1997 Ohio Financial Disclosure Statements (FDSs), in light of the fact that they are also candidates for the United States Congress. As I previously advised you verbally, and for the reasons explained below, this letter will serve to document that the Ohio Ethics Law requires the Governor and Lieutenant Governor to file their FDSs with the Commission on or before April 15, 1998.

Financial Disclosure Statement Filing Requirements--R.C. 102.02(A)

Under R.C. 102.02(A), every person who is elected to a state office must file an FDS. R.C. 102.02(A)(10) states that the general filing deadline for these state office holders is April 15th. Therefore, as incumbent state office holders, the Governor and Lieutenant Governor would ordinarily be required to file their 1997 Ohio FDSs with the Ethics Commission on or before April 15, 1998.

Because the Governor and Lieutenant Governor are also candidates for the United States Congress, however, you have asked whether their status as candidates alters their April 15th filing deadline. Under R.C. 102.02(A), every person who is a candidate for "the office of member of the United States congress" is required to file an FDS. R.C. 102.02(A)(10) states that the filing deadline for candidates is thirty days before the primary, special, or general election at which the candidacy is to be voted on, whichever election occurs soonest. Accordingly, as candidates appearing on the May 5, 1998 primary election ballot, at first glance it might appear that the Governor and Lieutenant Governor would be required to file their 1997 Ohio FDSs with the Ethics Commission on or before April 6, 1998.

However, according to 5 U.S.C. App. 4, §103(h)(1)(A)(i)(I) and (II), candidates for the United States Congress are required to file a federal FDS with either the Clerk of the House of Representatives or the Secretary of the Senate. This federal filing requirement states that:

The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest.

5 U.S.C. App. 4, §107(b) (emphasis added). While the term "supersede" is not statutorily defined for purposes of the Ohio Ethics Law, the Commission has consistently followed the rule of statutory construction that words used in a statute must be construed according to rules of grammar and common usage, and must give effect to the intent of the legislature in enacting the statute. See R.C. 1.42, 1.47, and 1.49; Ohio Ethics Commission Advisory Opinion No. 96-003. Applying these rules of statutory construction, Black's Law Dictionary (5th Ed., 1979) defines "supersede" as: "obliterate, set aside, annul, replace, make void, inefficacious or useless, repeal. To set aside, render unnecessary, suspend, or stay."

Therefore, the federal filing requirement sets aside the requirement of R.C. 102.02(A) that the Governor and Lieutenant Governor file an FDS with the Commission in their capacities as candidates for the United States Congress. However, the federal filing requirement does not supersede the requirement of R.C. 102.02(A) that the Governor and Lieutenant Governor file an FDS with the Ethics Commission in their capacities as state office holders. Accordingly, the Governor and Lieutenant Governor are not required to file their 1997 Ohio FDSs with the Commission on or before the April 6, 1998 deadline for candidates appearing on the May 5, 1998 primary election ballot. Instead, the Governor and Lieutenant Governor are required to file their 1997 Ohio FDSs with the Ethics Commission on or before the April 15, 1998 deadline for incumbent state office holders. Indeed, in accordance with this requirement, our records indicate that both the Governor's and Lieutenant Governor's FDSs were filed by hand-delivery, along with the \$50 filing fees, on April 15, 1998.

Finally, you have also asked whether the Ohio Ethics Law requires the Governor and Lieutenant Governor to disclose campaign-related expenses on their 1997 Ohio FDSs. The Ohio Ethics Law does not require the disclosure of campaign-related expenses on a public official's FDS. See R.C. 102.02(A). Therefore, the Governor and Lieutenant Governor are not required to disclose campaign-related expenses on their 1997 Ohio FDSs.


Summary and Conclusion

As set forth above, the Governor and Lieutenant Governor are required to file their 1997 Ohio FDSs with the Ethics Commission on or before the April 15, 1998 deadline for incumbent state office holders. In accordance with this requirement, our records indicate that both the Governor's and Lieutenant Governor's FDSs were filed by hand-delivery, along with the \$50 filing fees, on April 15, 1998. However, the Governor and Lieutenant Governor are not required to disclose campaign-related expenses on their 1997 Ohio FDSs.

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This informal advisory opinion represents the views of the undersigned, 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. I apologize for the delay in forwarding this written response to your request to supplement our telephone discussion prior to the filing deadlines. If you have any further questions, or need additional information, please feel free to contact this Office again.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Freel". The signature is fluid and cursive, with a large initial "D" and "F".

David E. Freel
Executive Director