

Ben Rose, *Chair*
Betty Davis, *Vice Chair*
Merom Brachman
Michael A. Flack
Maryann B. Gall



OHIO ETHICS COMMISSION
William Green Building
30 West Spring Street, L3
Columbus, Ohio 43215-2256
Telephone: (614) 466-7090
Fax: (614) 466-8368

Paul M. Nick
Executive Director

www.ethics.ohio.gov

July 26, 2011 Informal Opinion 2011-INF-0726-1

John Brighton
[REDACTED]

Dear Mr. Brighton:

On April 11, 2011, the Ohio Ethics Commission received your request for an advisory opinion. You explained that:

- In 2010, you were an employee of the Ohio Board of Regents;
- The Board of Regents has identified you as the Chancellor's assigned designee to serve on the Science, Technology, Engineering, and Mathematics (STEM) subcommittee; and
- The Board of Regents has notified you about your requirement to file a financial disclosure statement because you were a designee on the STEM subcommittee.

You have asked that the Commission review the facts to determine whether you are required to file the disclosure statement.

You explained that you did not actively participate in STEM subcommittee meetings. You stated that:

- You attended 'parts of a few meetings' as an observer but did not participate in meeting discussions; and
- You spoke at one STEM committee meeting in 2010 when the Chancellor asked that you call the meeting to order. When the Chancellor arrived, he chaired the meeting and you took your place in the observer section. You have described your participation at this meeting as "perfunctory."

Question and Answer:

Question: Do you have to file a financial disclosure statement?

Answer: Yes, because the Chancellor has identified you as a designee for the STEM committee, you are required to file a financial disclosure statement. Because you served as a designee in 2010, you are required to file a statement for calendar years 2009 and 2010.

You should file your 2009 and 2010 financial disclosure statements with the Ohio Ethics Commission no later than October 24, 2011, which is 90 days after the day on which this opinion was approved.

Filing Requirement of STEM Committee Member Designees

In 2008, the Ohio Ethics Commission determined that STEM subcommittee members, and any person named by a member to serve as his or her designee, are required to file annual financial disclosure statements.¹ A “designee” means any person who is designated to serve in the place of another public official or employee for a board, commission, council, agency, department, or other such entity.²

You have argued that your involvement with the STEM committee does not rise to the level of a designee and you should not be required to file a financial disclosure statement. The definition of designee does not require that an individual have any specific qualifications or duties. A designation is based on the actions and intent of the official to authorize an individual to serve in his or her place.

The Commission cannot make a determination of whether a person actually is a “designee,” but relies on public agencies to identify and disclose individuals who have served as designees for agency officials.³ The Board of Regents has identified you a designee on the STEM committee in 2010. Therefore, even though your role as a designee was limited in scope, you are required to a file financial disclosure statement.

A filer must disclose financial information for the complete calendar year prior to the year he begins serving in his filing position (even if the filer was not a public servant in that year).⁴ You began serving as a designee in 2010 so you were required to file a statement in 2010 for the calendar year 2009.

A filer is also required to file a statement for each year he holds a filing position. Therefore, a filer must file a statement reflecting the complete preceding calendar year, in the year after he leaves his filing position.⁵ You served as a designee in 2010 only, so you were required to file a statement in 2011 for calendar year 2010.

You should file the two disclosure statements (for calendar years 2009 and 2010) with the Ohio Ethics Commission no later than October 24, 2011, which is ninety days from the day this opinion was approved. Copies of the 2009 and 2010 financial disclosure statements are attached for your use.

The Ohio Ethics Commission approved this informal advisory opinion at its meeting on July 26, 2011. The opinion is based on the facts presented. It is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code and does not purport to interpret other laws or rules. If you have any questions or desire additional information, please feel free to contact this Office again.

Sincerely,



Jennifer A. Hardin
Chief Advisory Attorney

The Ohio Ethics Commission Advisory Opinions referenced in this opinion are available on the Commission's Web site: www.ethics.ohio.gov.

¹ The Commission made this decision under its authority set forth in R.C. 102.02(B), amplified in OAC 102-5-01 and 102-5-02, and after analyzing the statutory and regulatory authority of the Subcommittee as set forth in R.C. Chapter 3326.

² O.A.C. 102-1-01(G).

³ O.A.C. 102-05-01(B) gives the executive director of the commission, upon request by an administrative department of the state, the authority to review the duties and responsibilities of a position of any employee or official of the department to determine whether the employee or official holds a position of *equivalent rank* to director, assistant director, deputy director, or division chief, and is thereby required the employee or official to file an annual financial disclosure statement. However, there is no similar authority given for the review of the duties and responsibilities of designees.

⁴ Ohio Ethics Commission Advisory Opinion No. 75-032.

⁵ *Id.*
