



OHIO ETHICS COMMISSION

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Advisory Opinion
No. 74-003
October 4, 1974

Syllabus by Ohio Ethics Commission:

Members of county boards of elections are not required, by reason of their membership on such board, to file financial disclosure statements under the requirements set out in Section 102.02 (A) of the Revised Code.

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Your request for an advisory opinion asks whether, you as a member of the county board of elections, appointed to a full term commencing March 1, 1974, are required to file a financial disclosure statement with the Ohio Ethics Commission.

Section 102.02 of the Revised Code specifies who must file financial disclosure statements with the Ohio Ethics Commission. Division (A) lists those persons the law presently requires to file statements. Division (B) grants the commission authority, using the rule-making requirements of Chapter 119 of the Revised Code, to extend the filing requirement to additional classes of public officials or employees:

Sec. 102.02 (A) 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 . . . :

Sec. 102.02 (B) The ethics commission may, using the rule-making procedures of Chapter 119, of the Revised Code, require any class of public officials or employees whose positions involve a substantial and material exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws, rules, and regulations of the state, county or cities, or the execution of other public trusts, to file an annual statement on or before the fifteenth day of April under division (A) of this section. The commission shall send the officials or employees written notice of the requirement by the fifteenth day of February of each year the filing is required, unless the official or employee is appointed after such date, in which case the notice shall be sent

within thirty days after appointment and the filing shall be made not later than ninety days after appointment.

Section 3501.06 of the Revised Code describes the composition of boards of election and how vacancies are filled:

"There shall be in each county of the state a board of elections consisting of four qualified electors of the county, who shall be appointed by the secretary of state, as his representatives, to serve for the term of four years. On the first day of March in even-numbered years the secretary of state shall appoint two of such board members, one of whom shall be from the political party which cast the highest number of votes for the office of governor at the last preceding regular state election, and the other shall be from the political party which cast the next highest number of votes for the office of governor at such election. All vacancies filled for unexpired terms and all appointments to new terms shall be made from the political party to which the vacating or outgoing member belonged, unless there is a third political party which cast a greater number of votes in the state at the last preceding regular state election for the office of governor than did the party to which the retiring member belonged, in which event the vacancy shall be filled from such third party. (Emphasis added).

From the above quoted statute it is apparent that membership on a county board of elections is an appointed office not an elective office since a member is appointed by the secretary of state to a specific term, and the only appointed officers required, pursuant to Section 102.02 (A) of the Revised Code, to file financial disclosure statements are the directors and deputy directors of departments or agencies of state, 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.

Clearly, you are not a member of the Board of Commissioners on Grievances and Discipline of the Supreme Court or the Ethics Commission. It is equally clear that you are not the director or deputy director of a department or agency of state because you are a member of the county board of elections. Also, Section 3501.09 of the Revised Code confirms that a member of a county board of elections is not a "director or deputy director" when it states, "The clerk of the board of elections shall be ex officio, the director of elections in his county, and the deputy clerk of the board of elections shall be, ex officio, the deputy director of elections in his county." (Emphasis added.)

As of the date of this advisory opinion the Ohio Ethics Commission, pursuant to Section 102.02 (B) of the Revised Code, has not extended the financial disclosure filing requirement to any additional classes of public officials or employees. Hence, there exists no requirement that a member of a county board of elections file a financial disclosure statement under Section 102.02 (B) of the Revised Code.

Nothing contained in this Advisory Opinion should be construed to relieve members of county boards of elections, who also hold another public office or position, from a requirement that might arise by virtue of that office or position.

It is the opinion of the Ohio Ethics Commission, and you are so advised, that members of county boards of election are not required by reason of that membership to file financial disclosure statements under Section 102.02 (A) of the Revised Code.



OHIO ETHICS COMMISSION
by (Mrs.) Barbara H. Rawson, Chairman