



OHIO ETHICS COMMISSION

THE ATLAS BUILDING
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Advisory Opinion Number 94-005
September 30, 1994

Syllabus by the Commission:

Division (A)(10) of Section 102.02 of the Revised Code does not require individuals who have been appointed to the positions of school board member, superintendent, treasurer, or business manager since April 15, 1994, and candidates for school board member, to file a 1993 financial disclosure statement in the 1994 calendar year.

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The Ethics Commission has been asked whether individuals who have been appointed to the positions of school board member, superintendent, treasurer, or business manager since April 15, 1994, and candidates for school board member, are required to file a 1993 financial disclosure statement in the 1994 calendar year.

Based upon the intent and effort of recent changes to the Ethics Law which apply to new financial disclosure filings made by school board members and selected administrators in 1995, the Ethics Commission will not require those newly appointed to school positions since April 15, 1994 to file financial disclosure statements until 1995, as is described below.

R.C. 102.02 (A)(10) requires new appointees to an unexpired elective office to file a financial disclosure statement with the Ethics Commission no later than 15 days after qualifying for office. Also, R.C. 102.02 (A)(10) requires new appointees to a non-elective office and public employees to file a financial disclosure statements with the Ethics Commission within 90 days after employment, promotion, or appointment. Furthermore, R.C. 102.02 (A)(10) requires a person who is a candidate for elective office to file a financial disclosure statement with the Ethics Commission no later than the thirtieth day before the first election at which the person's name appears on the ballot.

Thus, at first, it appears that R.C. 102.02 (A)(10) requires individuals who have been appointed to the positions of school board member, superintendent, treasurer, or business manager since April 15, 1994, and candidates for school board member, to file a 1993 financial disclosure statement in the 1994 calendar year. However, in order to address this question, the special circumstances regarding this issue must be examined.

Since January 1994 the General Assembly has amended the Ohio Ethics Laws and related statutes in five separate pieces of legislation. See Am. Sub. H.B. 285, 120th Gen. A. (1994) (eff. March 2, 1994); Am. Sub. H.B. 492, 120th Gen. A. (1994) (eff. May 12, 1994); Sub. H.B. 150, 120th Gen. A. (1994) (eff. June 23, 1994); Sub. H.B. 715, 120th Gen. A. (1994) (eff. August 22, 1994); and Am. Sub. H.B. 582, 120th Gen. A. (1994) (eff. July 7, 1994). Three pieces of

legislation have amended R.C. 102.02 (A), the financial disclosure law. See Am. Sub. H.B. 285, Am. Sub. H.B. 492, and Sub. H.B. 715.

Am. Sub. H.B. 285, upon the General Assembly's initiative, requires superintendents, treasurers, and business managers of all school districts, as well as board members of school districts with over 12,000 students, to file financial disclosure statements. Am. Sub. H.B. 492, which was enacted on the same day as Am. Sub. H.B. 285, amended R.C. 102.02 (A) to require the disclosure of personal financial information which was not previously required to be divulged by those public officials and employees filing a financial disclosure statement.

For example, prior to the enactment of Am. H.B. 492, R.C. 102.02 (A)(7) established a threshold of \$500 for gift reporting and R.C. 102.02 (A)(2) established a threshold of \$500 for source of income reporting. The General Assembly continued these \$500 thresholds for public officials and employees in political subdivisions who receive less than \$16,000 per calendar year for their public service, and unpaid college and university trustees. See R.C. 102.022. However, the General Assembly, in Am. H.B. 492, also amended R.C. 102.02 (A)(7), for public officials and employees in political subdivisions who receive more than \$16,000 per calendar year for their public service, to substantially lower the threshold to \$75 for gift reporting and to completely remove the threshold for source of income reporting.

Furthermore, the General Assembly, in Am. H.B. 492, amended R.C. 102.02 (A)(7) to require public officials and employees in political subdivisions who receive more than \$16,000 per calendar year for their public service, to disclose the source and amount of payment of expenses for travel to destinations inside and outside the state in connection with their official duties, except for expenses to meetings or conventions of a national or state organization to which the General Assembly, any legislative agency, any state institution of higher education, any other state agency, or any political subdivision, pay membership dues. In addition, the General Assembly, in Am. H.B. 492, amended R.C. 102.02 (A)(7) to require all public officials and employees to disclose the source of payment of expenses for meals, and other food and beverages, incurred in connection with the person's official duties, that exceed an aggregate total of \$100 per calendar year. These changes were described as an effort to increase public confidence in public institutions and those serving the public by requiring more comprehensive disclosure of personal financial information by a greater number of public officials and employees.

The changes to R.C. 102.02 (A), described above, as a result, will require school board members, superintendents, treasurers, and business managers who receive more than \$16,000 per calendar year for their public service to meet the enhanced reporting requirements for gifts, income, and reimbursed travel expenses. Also, all school board members, superintendents, treasurers, and business managers will be subject to the requirement to disclose the source of payment of expenses for meals, and other food and beverages, incurred in connection with their official duties that exceed \$100 aggregated per calendar year. Obviously, the 1993 financial disclosure statement used in the 1994 calendar year does not reflect these changes.

Sub. H.B. 715 provided that individuals serving as superintendents, treasurers, and business managers of all school districts, as well as the board members in districts with over 12,000 students on April 15, 1994, would not be required to file disclosure statements until the

1995 calendar year. Thus, in the coming 1995 calendar year, superintendents, treasurers, and business managers of all school districts, as well as the board members in districts with over 12,000 students on April 15, 1994, will first be required to divulge personal financial information which was not previously required to be disclosed by public officials and employees filing a financial disclosure statement on their 1994 financial disclosure statement.

Since Am. Sub. H.B. 285 and Am. Sub. H.B. 492 were enacted on the same day, it is the intention of the General Assembly that superintendents, treasurers, and business managers of all school districts, as well as the board members in districts with over 12,000 students on April 15, 1994, disclose personal financial information which was not previously required to be divulged by those public officials and employees filing a financial disclosure statement before R.C. 102.02 (A) was amended. If individuals who have been appointed to the positions of school board member, superintendent, treasurer, or business manager since April 15, 1994, and candidates for school board member were to file a 1993 financial disclosure statement in the 1994 calendar year, then these individuals would not be disclosing the personal financial information required by Am. Sub. H.B. 492.

Also, it is apparent that individuals who have been appointed to the positions of school board member, superintendent, treasurer, or business manager since April 15, 1994, and candidates for school board member, represent only a fraction, perhaps a very small minority, of the entire class of school district candidates, officials, and employees subject to R.C. 102.02 (A). It would be fundamentally unfair to require individuals in this group of school district candidates, officials, and employees to file a 1993 financial disclosure statement in the 1994 calendar year when most individuals in the same class would not file disclosure statements until the 1995 calendar year. See R.C. 1.47 (in enacting a statute, it is presumed that a just and reasonable result feasible of execution is intended) and R.C. 1.49 (in interpreting a statute, the consequences of a particular construction may be considered).

The Ethics Commission recognizes that special circumstances exist in this situation and accordingly, will not, under R.C. 102.02 (A)(10), require individuals who have been appointed to the positions of school board member, superintendent, treasurer, or business manager since April 15, 1994, and candidates for school board member, to file a 1993 financial disclosure statement in the 1994 calendar year.

This advisory 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.

Therefore, it is opinion of the Ohio Ethics Commission, and you are so advised, that: Division (A)(10) of Section 102.02 of the Revised Code does not require individuals who have been appointed to the positions of school board member, superintendent, treasurer, or business manager since April 15, 1994, and candidates for school board member, to file a 1993 financial disclosure statement in the 1994 calendar year.


Jack Paul DeSario, Chair
Ohio Ethics Commission