



OHIO ETHICS COMMISSION
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Advisory Opinion Number 95-002
February 8, 1995

Syllabus by the Commission:

Division (A) of Section 102.02 of the Revised Code requires a member of a board of education of a county school district that has an average daily membership of twelve thousand or more students to file a financial disclosure statement with the Ohio Ethics Commission.

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You have asked whether R.C. 102.02 (A) requires a member of the board of education of a county school district with twelve thousand or more students to file a financial disclosure statement with the Ohio Ethics Commission.

As explained below, recent changes in Ohio's Ethics Law contained in R.C. 102.02 (A) require a member of a board of education of a county school district with twelve thousand or more students to file a financial disclosure statement with the Ohio Ethics Commission.

Your attention is directed to R.C. 102.02 (A), which reads, in pertinent part:

[E]very business manager, treasurer, or superintendent of a city, local, exempted village, county, joint vocational, or cooperative education school district; every person who is elected to or is a candidate for the office of member of a board of education of a city, local, exempted village, county, joint vocational, or cooperative education school district that has an average daily membership of twelve thousand or more as most recently certified to the state board of education pursuant to division (A) of section 3317.03 of the Revised Code . . . shall file with the appropriate ethics commission on a form prescribed by the commission, a [financial disclosure statement]. (Emphasis added.)

The General Assembly, in Am. Sub. H.B. 285, 120th Gen. A. (1994) (eff. March 2, 1994), acting on its own volition, amended R.C. 102.02 (A) to require board members and candidates for the office of member of boards of education of school districts with twelve thousand or more students, as well as superintendents, treasurers, and business managers of all school districts, to file financial disclosure statements with the Ohio Ethics Commission. As a result, you question the application of these changes to boards of education of county school districts.

You state in your letter that you believe that the intent of R.C. 102.02 (A) is to enable monitoring of public officers and employees who control large amounts of public funds. You

contend that the General Assembly's use of twelve thousand students as the threshold for requiring school board members to file a financial disclosure statement is inconsistent with the purpose of monitoring public officers and employees who control large amounts of public funds because a school district's student population is not necessarily a measure of a school district's budget. You indicate that the county school district with which you serve has twelve thousand or more students but that the district's budget is lower than the budgets of local school districts within the same county that have student populations of less than twelve thousand.

The Ethics Commission addressed the issue of statutory construction of the Ethics Law in its first formal advisory opinion and held in Ohio Ethics Commission Advisory Opinion No. 74-001:

In rendering advisory opinions pursuant to Section 102.08 of the Revised Code, the Ohio Ethics Commission, like the courts, in the construction of a statute, must be guided by the statute as it exists, in other words, as the Legislature enacted it. The primary and paramount rule in the interpretation or construction of statutes is to ascertain, declare, and give effect to the intention of the Legislature. . . . [I]t is to be assumed that the Legislature used the language contained in a statute advisedly and intelligently and expressed its intent by the use of the words found in the statute. (Emphasis added.)

In the instant situation, the plain language used by the General Assembly in R.C. 102.02 (A) leaves room for neither discussion nor debate. R.C. 3317.03 provides a uniform method that all school districts must use in order to determine the average daily membership of students within the school district. The superintendents of schools in each county, city, and exempted village school district must certify their district's average daily membership to the state board of education on or before the fifteenth day of October in each year. R.C. 3317.03.

The General Assembly has used the average daily membership of twelve thousand students, as determined by R.C. 3317.03, as the threshold for requiring school board members and candidates for the office of school board member to file a financial disclosure statement. There is no language in R.C. 102.02 (A) to link the requirement to file a financial disclosure statement with the amount of public monies expended by a school district. See Dougherty v. Torrence, 2 Ohio St. 3d 69 (1982) (in interpreting a statute, reference is made to the fact that if the legislature intended a particular meaning, it could easily have found apt words or phrases to express that meaning).

This is not the first time the General Assembly has used the population of a political subdivision as the standard for determining whether a particular class of public officers are required to file a financial disclosure statement. R.C. 102.03 (A) requires those holding elected city office and candidates for elected city office to file a statement with the Ohio Ethics Commission. However, elected village officers and candidates for elected village office are not subject to this requirement. Municipalities in Ohio are classified as either cities or villages; those with a population over five thousand are cities, those with a population of five thousand or less are villages. See generally Ohio Ethics Commission Advisory Op. No. 90-014. While school districts are not classified by their student population, it is apparent that the General Assembly

has considered the number of people who are affected by a public officer's actions in defining the classes of public officers who are required to file a financial disclosure statement.

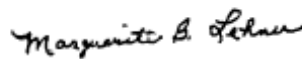
In Advisory Opinion No. 89-001, the Ethics Commission explained that the financial disclosure requirement of R.C. 102.02 reminds public officials and employees of their responsibility to avoid conflicts of interest through a review of their own financial interests, and assists the public and the Ohio Ethics Commission in monitoring areas of potential conflicts of interest. The official actions of school district board members who serve a school district with twelve thousand or more students will have an impact upon a greater number of individuals within the school district than the official actions of school district board members who serve districts with a student population of less than twelve thousand.

Accordingly, the General Assembly's establishment of a threshold of twelve thousand students recognizes a need for these school officials themselves to review their financial interests and avoid conflicts of interest. At the same time, the public and others may monitor school district board members who serve school districts with a large student population for conflicts of interest, regardless of the amount of public monies under the control of the school district board members.

Furthermore, it must be noted that candidates for the office of member of the board of education in school districts that have an average daily membership of twelve thousand or more are required to file a financial disclosure statement with the Ethics Commission. A candidate who is not an incumbent neither holds public office nor expends public monies. However, prior to the amendment made by Am. Sub. H.B. 285, which required school board members and candidates for the office of school board member in school districts with an average daily membership of twelve thousand or more students, to file financial disclosure statements, R.C. 102.02 (A) had required candidates on the state, county, and city level to file financial disclosure statements. Therefore, the General Assembly's imposition of this requirement in R.C. 102.02 (A) upon specified classes of candidates for public office does not support your contention that the intent of R.C. 102.02 (A) is to enable monitoring of public officers and employees who control large amounts of public funds.

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) of Section 102.02 of the Revised Code requires a member of a board of education of a county school district that has an average daily membership of twelve thousand or more students to file a financial disclosure statement with the Ohio Ethics Commission.



Marguerite B. Lehner, Chair
Ohio Ethics Commission