

EXECUTIVE BRANCH ETHICS COMMITTEE



33 Capitol Street
Concord, New Hampshire 03301-6397

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L. Douglas O'Brien
John J. Barthelmes

Advisory Opinion

2007-007

Question Presented

Are members of a statutorily established executive branch advisory commission who are not appointed by the Governor, Governor and Executive Council, the President of the Senate, or the Speaker of the House required to file a statement of financial interest?

Summary Answer

Yes. A person who accepts an appointment by a private organization or authority to a statutorily established executive branch advisory commission is subject to the duty to file a statement of financial interest because he or she is volunteering to act on behalf of the Governor or an agency engaged in state business.

Facts

Councils and foundations, private organizations that have an interest in the public policy and practice at issue, but which are not part of State government, appoint certain members of an advisory commission that advises a State executive branch official. Executive or legislative branch officials appoint the remaining members of the commission. All of the members of the commission have an equal opportunity to influence public policy and practice.

Legal Authority

RSA Chapter 15-A

Analysis

The duty to file a statement of financial interest applies to “[a]ny person, not employed by or working under contract for the state, who is acting on behalf of the governor or an agency while engaged in state business.” RSA 15-A:3, VIII. A volunteer serving on an executive branch advisory commission is a person who is acting on behalf of the governor or an agency while engaged in state business.

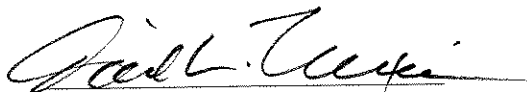
The duty to file a statement of financial interest also applies to “[e]very person appointed by the governor, governor and council, president of the senate, or the speaker of the house of representatives to any board, commission, committee, board of directors, authority, or equivalent state entity whether regulatory, advisory, or administrative in nature.” RSA 15-A:3, III.

Therefore, all members of the commission are required to file a statement of financial interests because all are volunteers acting on behalf of the governor or an agency while engaged in state business. Those advisory commission members who are appointed by the Governor, the Governor and Executive Council, the President of the Senate, or by the Speaker of the House of Representatives are also required to file because of the source of their appointment.

Conclusion

A person who accepts appointment to serve on a statutorily established Executive Branch advisory commission or any equivalent state entity is required to file the statement of financial interest required by RSA chapter 15-A because he or she is a volunteer acting on behalf of the governor or the agency being advised by the commission. This requirement applies even where the appointment is made by a private organization or entity.

This Advisory Opinion is issued by the Executive Branch Ethics Committee on February 21, 2007, pursuant to RSA 21-G:30, I (c).



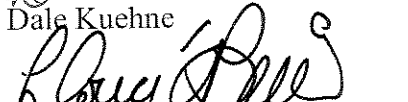
Chairman David L. Nixon



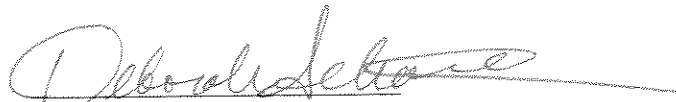
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