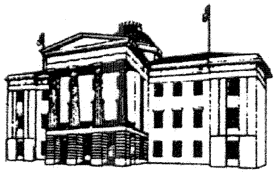
State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 35

ETHICS STANDARDS FOR CERTAIN BOARDS

WHEREAS, the General Assembly, Governor, other state officials, or state agencies have established numerous boards, commissions, councils, committees, task forces, or similar entities (hereinafter "boards") to assist the State in its work for the citizens of North Carolina; and

WHEREAS, to provide the expertise necessary to perform the complex advisory and other functions of such boards, the membership of such boards may include persons who have professional or economic interests that relate to the functions of the board; and

WHEREAS, the General Assembly has concluded that the State Government Ethics Act does not cover public entities that have only advisory authority, and the State Ethics Commission has determined that the boards subject to this Order have only advisory authority; and

WHEREAS, it is nevertheless important that such boards exercise their advisory responsibilities in a transparent manner so that the Governor and citizens will have full knowledge of the professional and economic interests of the board members as the State evaluates their expert advice provided to their boards; and

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

1. This Executive Order shall apply to the following boards (hereinafter "covered boards"):

   a. North Carolina Aeronautics Council
   b. Advisory Committee on Cancer Coordination and Control
   c. North Carolina Community Development Council
   d. State Criminal Justice Partnership Advisory Board
   e. North Carolina Council for the Deaf and Hard of Hearing
   f. Energy Policy Council
   g. North Carolina Film Council
   h. North Carolina Travel and Tourism Board
   i. North Carolina Forestry Council
   j. Economic Development Board

k. Information Technology Advisory Board
l. State Water Infrastructure Commission
m. Interagency Coordinating Council for Children from Birth to Five with Disabilities and Their Families
n. School Technology Commission
o. Domestic Violence Commission
p. Budget Reform and Accountability Commission
q. StreetSafe Task Force

2. The members of the covered boards shall always act in the best interests of the public and shall bring their particular knowledge and experience to the covered board to serve the public interest.

3. The following process shall be observed for all meetings at which the covered board or any subcommittee of such board takes any action:

   a. At the beginning of each meeting, the Chair shall remind all members of their duty to act always in the best interest of the public without regard for their financial or other interests and that they should recuse themselves from voting on any matter on which they cannot meet this standard.

   b. Prior to conducting any business, each member shall disclose any financial benefit he or she may derive from any matter coming before the covered board or subcommittee for action at that meeting. A member derives a financial benefit from a matter under consideration if the person or his or her spouse (i) has an ownership interest in an entity that is directly affected by the matter under consideration; (ii) will derive any income or commission as a direct result of action on the matter under consideration; or (iii) will acquire property as a direct result of action on the matter under consideration. When any member indicates that he or she will derive a financial benefit from a matter coming before the covered board or any subcommittee, the member shall recuse himself or herself from voting on the matter, unless the chair determines that the member's financial benefit is so remote or insignificant that a reasonable person would conclude that the member's ability to perform his or her official duties would not be compromised.

   c. Prior to conducting any business, each member also shall disclose any other interest(s) he or she may have, in any matter coming before the covered board or subcommittee for action at that meeting, that might cause a reasonable person to question the member's impartiality due to such interest. The Chair will determine if the member needs to recuse himself or herself from voting on the matter in order to ensure the integrity of the actions of the covered board or subcommittee.

   d. A member who has recused himself or herself from voting is not prohibited from deliberating on the matter unless the Chair determines, after review, that participation by the member in deliberations would impair the integrity of the actions of the covered board or subcommittee.

e. The minutes of the covered board and its subcommittees will reflect all disclosures and recusals made pursuant to this section, and such minutes will be provided to the state official or entity with authority over the board for review with any recommendations from the board.

f. A challenge to a member's participation in a vote on issues under this Executive Order may be raised only by a member of the covered board or a state employee who regularly works with the covered board. In such case where a challenge is made, the Chair, in consultation with the covered board's legal counsel, shall determine whether the challenge is valid and the action that should be taken.

g. For the purposes of this Executive Order, the term "Chair" means the Chair of a covered board or the Chair of any subcommittee of a covered board. In the absence of the Chair or if the financial or other interests of the Chair must be reviewed pursuant to this section, then the Vice-Chair of the covered board or subcommittee shall make the determinations required by this section.

4. No member of a covered board shall improperly influence or attempt to influence state employees in performing their responsibilities to the covered board for any action in which the member has a direct, conflicting financial or other interest.

5. This Executive Order is for the Governor's and other state officials' purposes in reviewing and approving or amending proposals or recommendations of the covered boards. This Order does not and should not be construed to create any rights, nor create claims under the State Ethics Act or other laws of this State.

6. Any covered board under this Executive Order that is subsequently determined to be subject to the State Ethics Act will no longer be subject to this Executive Order.

This Executive Order is effective immediately and shall remain in effect until rescinded in writing.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this ninth day of December in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.

Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State