

# N.C. BOARD



# OF ETHICS

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*"WHEREAS, THE PEOPLE OF NORTH CAROLINA ENTRUST PUBLIC POWER TO ELECTED AND APPOINTED OFFICIALS FOR THE PURPOSE OF FURTHERING THE PUBLIC, NOT PRIVATE OR PERSONAL, INTEREST..."*  
*EXECUTIVE ORDER NO. ONE*

## ANNUAL REPORT

Governor Easley's Executive Order Number One directs the Board of Ethics to submit an annual report to the Governor covering not only its specific activities over the past calendar year but also the subject of public disclosure, ethics, and conflicts of interest in State government in general. This issue of our newsletter focuses primarily on the Board's annual report for the 2001 calendar year. This report was prepared and submitted pursuant to Executive Order One.

One of the most dramatic developments was in the area of ethics education. Due to the State budget crisis, the number of basic ethics education and awareness presentations by the executive director declined markedly in 2001. With all out of town travel restricted, the Director could only address 11 entities on a local basis, but we hope to use other means of educating covered Public Officials about the applicable rules (such as these newsletters published on our web site) and thereby help them avoid conflicts of interest or appearances of conflict.

## ETHICS EDUCATION

Due to the current State budgetary situation, we are temporarily unable to travel outside of the Raleigh area to make basic ethics education and awareness presentations.

If your board or agency is meeting in the area and you would like such a presentation, please call the Board's offices to make the necessary arrangements.

In the meantime, Board staff is always available for telephone consultations and conflict of interest questions.

## ATTENTION "AGENCY HEADS"

Help us help you. We depend on **you** to let us know who the exempt employees, appointees to non-advisory "boards," and other "Public Officials" under section 3 of Executive Order One are so that we can make sure they receive the necessary financial disclosure forms and other important information.

We will be glad to help you comply with sections 4 and 6 of the Order, but we need to know whom to contact. We are only as good as our database in this respect.

Thanks for your help.

## "Statements of Economic Interest" Coming Soon

All **new** employees or appointees who are covered by Executive Order Number One must file their Statement as soon as reasonably possible, the intent being to have a conflict evaluation prior to or contemporaneous with the commencement of public service where feasible.

All covered Officials must file an **updated Statement** between **April 15 and May 15** each year. See section 9 (b).

We will be mailing new or "Supplemental Statements" to all covered Public Officials soon. If you have any questions relating to the Statement, please call the Board's offices at 733-2780 and ask for Millie Donavant.

## ANNUAL REPORT

“The Board shall submit a report annually to the Governor on its activities and generally on the subject of public disclosure, ethics, and conflicts of interest. The report shall include such recommendations for administrative and legislative action as the Board deems appropriate.”

Executive Order No. One, Section 5 (a) (4).

# 2001 ANNUAL REPORT

The following is a summary of the Board’s 2001 annual report to the Governor.

## I. BACKGROUND INFORMATION

Following a tradition started in 1977, Governor Michael F. Easley used his first executive order to establish the North Carolina Board of Ethics (“BOE” or “the Board”) as the State’s primary conflict of interest “watchdog” for high-level employees and appointees in the executive branch of State government. Executive Order Number One (January 12, 2001) modifies, but largely leaves intact, the significant changes made by Governor Hunt in former Executive Order 127, as modified. The Board's overall mission is to protect the public interest and maintain the public trust by helping Public Officials and the boards and commissions<sup>1</sup> on which they sit avoid conflicts of interest and appearances of conflict of interest as they perform their public duties. The Board pursues its goals primarily through education, evaluation, and enforcement.

For example, the Board has developed and pursues, within the budgetary constraints discussed below, an ethics education and awareness program for covered Public Officials. In addition to producing periodic newsletters and making ethics presentations, the Board issues advisory opinions on prospective ethics questions involving conflict of interest and the appearance of conflict. The comprehensive financial and personal interest disclosure requirements in the form of a sworn “Statement of Economic Interest” were retained virtually unchanged in the new Order. To identify areas of possible ethical concern, the Board reviews and evaluates these statements filed by persons subject to the Order to determine whether the financial interests and other information reported reveals an actual or potential conflict of interest. Finally, the Board retains its broad powers to investigate complaints and issue sanctions in appropriate cases.

While Executive Order Number One retains the basic philosophical approach of its predecessor, the new Order makes some significant changes. The most obvious change is a general reorganization of sections and subsections in order to, among other things, combine all duties and responsibilities pertaining to

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<sup>1</sup> This includes public bodies called "authorities," "councils," "agencies," and "alliances," as well as covered community college trustees, university officers, exempt employees, and all other covered "Public Officials" under the Order.

individuals (e.g., Agency heads) or public bodies (e.g., the Board of Ethics) into comprehensive sections. For example, all duties and responsibilities of Agency heads are collected in one section. This should make it easier for Public Officials and others to identify and follow applicable rules and guidelines.

## **II. BUDGET & STAFFING**

The Board currently has a staff of two (one position has been vacant since June 2001) and a budget of approximately \$216,000 with which to oversee and assist 265 boards, commissions, and agencies and approximately 2500 actual or prospective appointees and employees over the course of a year. The Governor has requested that all State agencies identify areas in which to cut 4% of their operating budgets, and the Board has done so. With a 4% reduction, the Board's budget will be approximately \$208,000.

## **III. REPORT ON ACTIVITIES FOR 2001**

### **A. Summary of Major Events/Developments**

Calendar year 2001 was fiscally hard on State government as a whole, and the Board of Ethics was no exception. Literally from its re-establishment in January, the Board has been significantly impacted by the State budget crisis. Not all consequences were bad, however.

On the one hand, the elimination of all non-essential travel early in the year brought the Board's ethics education and awareness program to an abrupt halt. In 1999 and 2000, the Board's Executive Director made basic ethics education and awareness presentations to over 120 entities reaching literally thousands of Public Officials and other interested individuals. The number of presentations dropped to just 11 in 2001.

In addition, one of the Board's three staff members (the Research Assistant) resigned in May to take another job out-of-state, and the current hiring freeze prevents finding a replacement. Among other things, this has slowed the financial disclosure review process during the busiest time in the past four years (after a change in gubernatorial administrations).

Even the Board's meeting schedule was impacted by the budget crisis. The Board had to wait until the new fiscal year (after July 1, 2001) to schedule a much-needed meeting to hear and resolve pending complaints against Public Officials.

Finally, the Board was unable to publish and distribute its newsletters in hard copy. While not readily quantifiable, it is reasonable to assume this resulted in a significant reduction in the amount of "ethics" information reaching covered Public Officials.

On the positive side, however, the budget situation forced Board staff to look for alternative ways to accomplish its mission, particularly on the education front. One way it did so was through the Internet. The

Board greatly expanded its web site during 2001. The Board produced twice as many newsletters in 2001 as it did the preceding year, albeit in an electronic format. The Board also expanded the type and amount of information available on the web pertaining to advisory opinions. Among other things, it created and made available not only the actual opinions but also several different indexes to aid Public Officials and other researchers in answering prospective ethics questions. All financial disclosure forms are also available on the web (although electronic filing is not yet an option).

Despite the reduction in manpower (really 50% of those regularly doing financial disclosure review and evaluation), staff was able to timely review over 1844 full Statements of Economic Interest (“long forms”). Next year Public Officials will be able to file a short form (“Supplemental Statement”) if they do not have any material changes to report.

**B. Statistical Summaries**

The Board had two (2) meetings in 2001.

Seven (7) formal complaints were filed with the Board. The Board investigated and resolved two, and due to the potential challenge in the Inman vs. Owen case mentioned above, five complaints (including Owen’s) remained pending at the close of the year.

The Board issued five (5) advisory opinions.<sup>2</sup>

The Board's Executive Director made ethics education and awareness presentations to 11 entities.

Board staff handled numerous telephone inquiries concerning the Order and Statement of Economic Interest filing requirements and general conflict of interest/appearance of conflict issues.

The Board “published” eight (8) electronic newsletters that were available on its expanded web site.

Board staff evaluated 1,844 Statements of Economic Interest. Governor Easley, his Department Heads, exempt employees in those departments, and the Public Officials listed in section IV below are covered by the Order and file statements of economic interest. Specific findings for the SEI evaluations were as follows:

No actual, apparent, or potential conflict of interest	1,129
Potential for conflict of interest	715
Actual or apparent conflict of interest	0
Total New Statements Evaluated:	1,844

<sup>2</sup> Complaints and advisory opinions are initiated by third parties and thus their numbers are outside the Board's control.

#### **IV. OTHER PRINCIPAL STATE AGENCIES AND LEGISLATIVE OFFICIALS WHO VOLUNTARILY FILE STATEMENTS OF ECONOMIC INTEREST**

Section 4 of the Order invites each of the elected heads of the Council of State agencies<sup>3</sup>, the Board of Governors of the University of North Carolina System, the President Pro Tempore of the North Carolina Senate, and the Speaker of the House of Representatives to voluntarily participate in the Order. Those desirous of participating may specify those appointees and exempt employees who must submit a Statement of Economic Interest for evaluation by the Board of Ethics. All services available to Public Officials under the Order are available to those brought within the coverage of the Order voluntarily.

Lt. Governor Beverly Perdue, Speaker of the House of Representatives Jim Black, and President Pro Tem of the Senate Marc Basnight covered their appointees to non-advisory boards under the Order. The President and Vice Presidents of the University system and the Chancellors and Vice Chancellors of the 16 constituent institutions were covered by the Order in 2001. The State Controller, Executive Director of the Housing Finance Agency, and Director of State Personnel are covered by the Order. Exempt employees in the offices of the Lt. Governor, Attorney General, State Treasurer, and State Superintendent of Public Instruction are covered by the Order. The State Auditor, State Treasurer, Attorney General, Lt. Governor, and State Superintendent of Public Instruction are covered by the Order.

#### **V. GOALS FOR 2002**

The Board will continue to emphasize ethics education and conflict identification/prevention, primarily through statement of economic interest evaluations, education and awareness presentations where possible, periodic newsletters, and advisory opinions. It will make more services and information available through the Internet. It will address and resolve the questions concerning its jurisdiction and authority raised in the Inman vs. Owen complaint and seek appropriate gubernatorial or legislative relief if necessary.

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<sup>3</sup> The Lieutenant Governor, the Secretary of State, the State Auditor, the State Treasurer, the State Superintendent of Public Instruction, the Attorney General, the Commissioner of Agriculture, the Commissioner of Labor, and the Commissioner of Insurance.

## IMPORTANT INFORMATION ON-LINE

The Board of Ethics' **newsletters** and other key information is available **on-line** at the Board's web site:

**[www.doa.state.nc.us/doa/ethics](http://www.doa.state.nc.us/doa/ethics)**.

Alternatively, you can access the Board's web site through the North Carolina home page. Just click on "NC Agencies" at the top of the page and "go" to the Department of Administration "Quick Link." Then select "Boards and Commissions" where you will find the Board of Ethics listed. The Board of Ethics' "home page" will give you access to Executive Order Number One, the Board's Rules and Regulations, Statement of Economic Interest forms, and all newsletters. Eventually, advisory opinions will be available through the site as well.

WE ARE ALWAYS AVAILABLE FOR TELEPHONE CONSULTATION IF NECESSARY.

## Important Definitions

The following terms have special meaning under Executive Order Number One (the Order):

**"Boards"** – This term includes all boards, commissions, councils, committees, task forces, authorities, or similar public bodies, however denominated, which are located within the executive branch of State government. See section 3 (f) of the Order.

**"Heads of State Agencies"** – This term includes the chair of each board subject to the Order. See section 6 (a) of the Order.

**"Public Officials"** – This term includes, but is not limited to, all department heads and their chief deputies or chief administrative assistants, certain exempt employees, gubernatorial appointees to non-advisory "boards," and those individuals who voluntarily come under the Board of Ethics' jurisdiction pursuant to section 4 of the Order. See section 3 of the Order.