

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 2002 calendar year. This report was prepared and submitted pursuant to Executive Order One.

The Board's ethics education program continued to suffer during 2002 due to the State budget crisis. The number of basic ethics education and awareness presentations by the executive director was way down compared to its 2000-2001 highs. With out of town travel again restricted, the Director could only address six 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** by **May 15 each year**. See section 9 (b).

We will be mailing our new and improved Statements (including a "No-Change" short form) 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).

2002 ANNUAL REPORT SUMMARY

The following is a summary of the Board’s 2002 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) modified, but largely left intact, the significant changes made by Governor Hunt in former Executive Order 127. The Board's overall mission is still to protect the public interest and maintain the public trust by helping Public Officials and the boards and commissions¹ 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 Executive Order Number One. 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 retained its ability to investigate complaints and issue sanctions in appropriate cases.

While Executive Order Number One retained the basic philosophical approach of its predecessor, the new Order made some significant changes. The most obvious change was a general reorganization of sections and subsections in order to, among other things, combine all duties and responsibilities pertaining to individuals (e.g., Agency heads) or public bodies (e.g., the Board of Ethics) into comprehensive sections.

¹ 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.

II. BUDGET & STAFFING

At the close of 2002, the Board had a full staff of three for the first time in several years (the Research Assistant position was filled in August 2002) with which to oversee and assist 265 boards, commissions, and agencies and approximately 2500 actual or prospective appointees and employees over the course of the calendar year. The budget situation has not improved, however, from last year. With another major cut at the end of the fiscal year, the Board's budget is approximately \$207,000. The Executive Director has been unable to spend allocated travel funds to make basic ethics education presentations outside of the Raleigh area.

III. REPORT ON ACTIVITIES FOR 2002

A. Summary of Major Events/Developments

Calendar year 2002 was fiscally hard on State government as a whole, and the Board of Ethics was no exception. Literally from its re-establishment in January 2001, 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 budding 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 six in 2002.

In addition, while the Board was able to fill its long-vacant Research Assistant position, its Administrative Officer was on an extended medical leave from March through June, resulting in another staff shortage for a third of the year. Once again this slowed the financial disclosure review process as well as production of newsletters as the Director's time was redirected to other Board functions.

As during 2001, 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, 2002) to schedule much-needed meetings 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 continued to expand its web site during 2002. Despite the critical staff shortage during the first half of

the year, the Board produced six newsletters in 2002 (more than any year except the record preceding year), all in an electronic format. The Board also expanded the type and amount of information available on the web pertaining to advisory opinions. In addition to adding the actual opinions, the Board updated and improved its different indexes to aid Public Officials and other researchers in answering prospective ethics questions. It also improved all financial disclosure forms for the next filing year. All financial disclosure forms are also available on the web (although electronic filing is not yet an option).

Despite the reduction in manpower during the first half of the year (really 100% of those regularly doing financial disclosure review and evaluation), staff was able to timely review over 2200 Statements of Economic Interest. Public Officials are now able to file a “No-Change” short form if they do not have any material changes to report.

In addition to resolving the seven pending complaints, one of the major orders of business at its August meeting was the Board’s adoption of new internal operating procedures. The Board had not updated its procedures pursuant to the Governor’s Executive Order Number One, and several changes were necessary. Perhaps the most dramatic change was to the way the Board investigates and handles complaints against covered Public Officials. Based on outside legal advice and its interpretation of Executive Order Number One, the Board made it clear that until directed otherwise it will serve an investigatory and advisory role in dealing with valid complaints. This is consistent with both legal requirements and over 20 years of the Board’s operating history. In addition, the Board added several stages to the investigation process, including an initial review, limited preliminary investigation, written reports and responses, and an informal conference with all concerned parties. At the conclusion of the full complaint process, the Board will make a final report to the proper officials, and may make such other recommendations as it deems appropriate under the circumstances.

B. Statistical Summaries

The Board met once in 2002.

The Board investigated and resolved seven (7) formal complaints.

The Board issued three (3) formal advisory opinions.²

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

² Complaints and advisory opinions are initiated by third parties and thus their numbers are outside the Board's control. This number does not include numerous informal opinions given by the Executive Director or Administrative Officer.

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, including the issuance of informal advisory opinions.

The Board “published” six (6) electronic newsletters that were available on its expanded web site.

Board staff evaluated 2217 Statements of Economic Interest, including both full and “Supplemental” statements. Specific findings for the SEI evaluations were as follows:

No actual, apparent, or potential conflict of interest	283
Potential for conflict of interest	274
Supplemental Statements reviewed	1,660
Total Statements Evaluated:	2,217

IV. OTHER PUBLIC OFFICIALS VOLUNTARILY COMING UNDER THE BOARD’S JURISDICTION

While the first reach of Executive Order Number One is to the Governor’s employees and appointees, others may voluntarily come under the Order’s coverage and thereby the Board’s jurisdiction. Section 4 of the Order invites each of the elected heads of the Council of State agencies, 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.

For calendar year 2002, the Board covered approximately 514 Public Officials under section 4 of the Order.

IV. GOALS & RECOMMENDATIONS FOR 2003

Within the current and anticipated budget constraints, 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 increase electronic communications and try to make more services and information available through the Internet. At the appropriate time, it will seek confirmation or clarification of its complaint jurisdiction and authority and seek appropriate gubernatorial or legislative direction if necessary.

IMPORTANT INFORMATION ON-LINE

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

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.