

# N.C. BOARD



# OF ETHICS

GEORGE F. BASON  
CHAIRMAN

1324 MAIL SERVICE CENTER  
RALEIGH, NORTH CAROLINA 27699-1324  
(919) 733-2780 FAX (919) 733-2785

PERRY Y. NEWSON  
EXECUTIVE DIRECTOR

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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

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 summarizes the Board's annual report for the 2003 calendar year.

Overall, this year's report is similar to last year's. Once again, the Board's ethics education program suffered the most during 2003 due to the State budget crisis. The number of basic ethics education and awareness presentations was way down compared to its 2000-2001 highs. With out-of-town travel restricted for the first half of the year, the Director made just 14 presentations, but with the lifting of the travel ban, staff hopes to resume a more vigorous presentation schedule in 2004. Staff will continue to use other means of educating covered Public Officials about the applicable rules and thereby help them avoid conflicts of interest or appearances of conflict.

### ETHICS EDUCATION

#### *Travel Ban Lifted*

We are once again able to travel outside of the Raleigh area to make basic ethics education and awareness presentations. If your board or agency would like such a presentation, please call the Board's offices to make the necessary arrangements.

In addition, Board staff is always available for telephone consultations on conflict of interest questions.

*"But if you ask what is the good of education in general, the answer is easy: that education makes good men, and good men act nobly."*

Plato

## 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 (919) 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).

# 2003 ANNUAL REPORT SUMMARY

The following is a summary of the Board’s 2003 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 former Governor Hunt in his Executive Order 127. The Board's overall mission remains protection of the public interest and maintenance of 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” (“SEI”) 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 appropriate “sanctions.”

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

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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. *See* sections 3 and 4 of 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**

Budget and staffing news was mixed for the year. On the one hand, the Board's full contingent of staff was short-lived. In January 2003 its Research Assistant resigned to take another job in state government, leaving the Board with just two staff members 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. On the positive side, however, the Board avoided major budget cuts. The Board's appropriation is now approximately \$213,000. As mentioned elsewhere, the Executive Director was unable to spend allocated travel funds to make basic ethics education presentations for the first seven months of the year.

## **III. REPORT ON ACTIVITIES FOR 2003**

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

Calendar year 2003 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 that 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 14 in 2003. The good news is that the travel ban was lifted in July 2003, and staff hopes to resume a vigorous presentation schedule in 2004.

As mentioned above, the Board did not have its full contingent of staff for very long. In January 2003, the Research Assistant left to take a job in another state department, leaving the Board with just two staff members for the remainder of the year. Once again this slowed the financial disclosure review process.

As in the past, even the Board's meeting schedule was impacted by the budget crisis. The Board waited until the new fiscal year (after July 1, 2003) to schedule a much-needed meeting to hear and resolve pending complaints against Public Officials.

Finally, the Board remained unable to publish and distribute its newsletters in hard copy. While it is reasonable to assume this resulted in a reduction in the amount of "ethics" information reaching covered Public Officials, staff attempted to increase distribution by creating and utilizing an electronic distribution list for newsletter and other communications. This appears to be the wave of the future not only here in North Carolina but also nationwide.

On the positive side, however, the budget situation continues to force Board staff to look for alternative ways to accomplish its mission, particularly on the education front. One way it has done so is through the Internet. The Board continued to update and expand its web site during 2003. Despite the chronic staff shortage, the Board produced seven newsletters in 2003, all in an electronic format. As mentioned above, the Board began distributing newsletters electronically to as many covered Public Officials and other interested parties as possible. The Board also updated and 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, staff was able to timely review nearly 1900 Statements of Economic Interest. Public Officials are able to file a “No-Change” short form if they do not have any material changes to report.

And finally on a positive note, Governor Easley appointed Waheed Haq “Rana” to the Board in May 2003, filling the seven-member body for the first time since September 2002.

## **B. Statistical Summaries**

The Board held two (2) meeting in 2003.

The Board investigated and resolved nine (9) formal complaints under its new procedures.

The Board issued two (2) formal advisory opinions.<sup>2</sup>

The Board's Executive Director made 14 ethics education and awareness presentations.

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” seven (7) electronic newsletters that were available on its web site.

Board staff evaluated 1874 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	260
Potential for conflict of interest	210
Supplemental Statements reviewed	1404
Total Statements Evaluated:	1874

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<sup>2</sup> 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.

#### **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 2003, the Board covered approximately 600 Public Officials under section 4 of the Order.

#### **IV. GOALS & RECOMMENDATIONS FOR 2004**

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. With the non-essential travel ban lifted, the Board hopes to restart its statewide ethics education program. 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**

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](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, advisory opinions, and all newsletters.

**WE ARE ALWAYS AVAILABLE FOR TELEPHONE CONSULTATION IF NECESSARY.**