

N.C. BOARD



OF ETHICS

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Volume 8, Issue 1

Annual Report Edition

January 2005

"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 2004 calendar year.

Overall, this year's report is similar to last year's. Once again, the Board's ethics education program was not up to full speed, although this time *not* due to a budget crisis. Because of a unique staffing situation, the Board could not advertise its ethics education services directly to covered Public Officials. The Director made presentations to every group that requested one, but the number was still low compared to the highs established at the beginning of the education program. Staff hopes to resume a more vigorous presentation schedule in 2005 and will continue to use other means of educating covered Public Officials about relevant conflict of interest topics.

ETHICS EDUCATION *"Have Order, Will Travel"*

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

MAJOR STAFF NEWS

The Board of Ethics was extremely pleased to welcome its new Administrative Assistant, **Beth Carpenter**, on October 1 of last year. Beth joined the Board after working in the Governor's Boards & Commissions office for three years. In her former capacity, Beth worked closely with Board staff, particularly its former Administrative Officer, Millie Donavant, and came to her new position with knowledge of and experience in not only the general nature of the Board's work but also its custom database used to track Public Officials covered by Executive Order Number One.

As expected, Beth has had a seamless transition to her new position and is doing splendidly. For more information about Beth, see her biographical sketch on page 6.

"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 soon be mailing Statements of Economic Interest and "No-Change" short forms, where applicable, to all covered Public Officials. If you have any questions relating to the Statement, please call the Board's offices at (919) 733-2780 and ask for Beth Carpenter.

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).

2004 ANNUAL REPORT SUMMARY

The following is a summary of the Board’s 2004 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 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 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” within jurisdictional and other limitations.

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. *See* sections 3 and 4 of the Order.

This should make it easier for Public Officials and others to identify and follow applicable rules and guidelines.

II. BUDGET & STAFFING

As seems to be the case every year, budget and staffing news was mixed. On the one hand, one of the biggest events in the history of the Board of Ethics took place in August 2004 when its long-time Administrative Officer retired. Millie Donavant had served the Board for its entire 27-year history, much of that time by herself. Her departure creates a tremendous void in institutional knowledge and practical experience. Moreover, Millie's replacement did not begin until October 1, thus leaving a span of over a month where the Board had only one staff member with which to oversee and assist 265 boards, commissions, and agencies and approximately 2500 actual or prospective appointees and employees. On the positive side, however, Beth Carpenter joined the Board's staff on October 1, 2004, and has done a wonderful job transitioning to the new position. In addition, the Board plans to fill its long-vacant Research Assistant position in early 2005, thus giving it a full staff contingent for the first time in well over a year.

The Board also avoided major budget cuts. The Board's appropriation is now approximately \$224,000, and the Board came in under budget in all categories.

III. REPORT ON ACTIVITIES FOR 2004

A. Summary of Major Events/Developments

The seemingly perennial budget crisis under which both State government as a whole and the Board of Ethics in particular suffered for the past several years eased in 2004. Literally from its re-establishment in January 2001, the Board has been significantly impacted by budget issues. Some of the initial impacts have lingered, but others have been significantly reduced. From the beginning, not all consequences were bad.

Most significantly, the ban on non-essential travel was lifted, allowing staff the ability to once again make out-of-town ethics education presentations. As background information, the elimination of all non-essential travel in early 2001 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. While continuing to increase over the past two years, the number of presentations remained a relatively low 17 in 2004. The reason is that the lifting of the travel ban coincided with announcement of the long-time Administrative Officer's retirement and related staff issues, thus negatively impacting the Board's ability to advertise and solicit participation in its basic ethics education and awareness program. The good

news is that the travel ban remains lifted, and the Board should begin 2005 with a full staff contingent. Staff thus hopes to pursue a more vigorous presentation schedule in 2005.

As mentioned above, the Board was short-staffed in 2004. Its long-time Administrative Officer retired in August 2004. Once again this slowed the financial disclosure review process, though not materially. This was largely due to the typical pre-election slowdown in appointments, the new Administrative Assistant's experience and expertise with the Board's custom database system, and the Executive Director's ability to handle SEI evaluations in the interim.

Finally, the Board remained unable to publish and distribute its newsletters *in hard copy*. While it is reasonable to assume that this still results in a reduction in the amount of "ethics" information reaching covered Public Officials, staff attempted to increase distribution by expanding its electronic distribution list for newsletters and other communications. This is obviously the wave of the future not only here in North Carolina but also nationwide. As more Public Officials and other interested parties become used to receiving information in an electronic format, the negative aspects of not sending hard copy newsletters will dissipate and eventually disappear.

On the positive side, however, both past and current budget pressures continue to force the Board 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 utilize its web site during 2004. Despite the chronic staff shortage, the Board produced six newsletters in 2004, 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).

While the number of formal advisory opinions issued by the Board has decreased in recent years (the Board issued five opinions in 2004), the number of "informal" advisory opinions and other advice has increased dramatically. Staff handles a multitude of varied requests almost daily.

Despite the loss of its long-time Administrative Officer, the Board was able to timely review over 1800 Statements of Economic Interest. Public Officials are still able to file a "No-Change" short form if they do not have any material changes to report.

And finally on a positive note, the Board remains at full strength since Governor Easley's appointment of Waheed Haq "Rana" in May 2003.

B. Statistical Summaries

The Board held two (2) meetings in 2004.

The Board received no formal complaints reviewable under Executive Order Number One.

The Board issued five (5) formal advisory opinions.²

The Board's Executive Director made 17 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” six (6) electronic newsletters that were available on its expanded web site.

Board staff evaluated 1818 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	176
Potential for conflict of interest	162
Supplemental Statements reviewed	1480
Total Statements Evaluated:	1818

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 2004, the Board covered approximately 550 Public Officials under section 4 of the Order.

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.

V. GOALS & RECOMMENDATIONS FOR 2005

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, 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.

In addition, the Board's Executive Director has been asked to serve on a special Executive Branch Ethics Committee, chaired by Secretary of Revenue E. Norris Tolson, which is charged with recommending to the Governor any beneficial changes to existing executive orders (specifically including Executive Order Number One), regulations, and practices regarding ethical conduct within the executive branch of North Carolina state government. It is likely that this Committee's work will result in the issuance of a new and expanded executive order on executive branch ethics, thus impacting the Board's role in this area. The Director will provide any information and support requested by the Committee and work diligently to affect any necessary or helpful changes to the current Order.

Board Hires New Administrative Assistant

A new era dawned on October 1, 2004, when **Beth Carpenter** began work as the Board of Ethics' Administrative Assistant. By all indications, this will be another successful and happy run for the Board and the Public Officials it serves.

Beth began her public career with the North Carolina Human Relations Commission in April 1992. In 1994, she transferred to the Secretary of Administration's Office and worked as the Administrative Assistant for the Deputy Secretary over the advocacy divisions. She stayed with the Department of Administration for approximately 5 years. In 1999, she went to work for the North Carolina Business Committee for Education. Beth had two quick changes in 2001. First she transferred to the Governor's Policy Office and then was snatched up by the Governor's Boards and Commissions Office, where she remained until joining the Board of Ethics. It was at Boards and Commissions that Beth gained invaluable experience with high-level public officials, financial disclosure forms, and database programs. Among other things, she maintained records on over 400 boards and commissions, many of which were the same boards regulated by the Board of Ethics. In addition, she served as the Boards and Commissions' liaison officer with the Board of Ethics and became familiar with the Board's custom database system and evaluation procedures. This knowledge and expertise has helped tremendously during Beth's transition to her new position.

Beth has been married for 15 years to the "Ragin' Cajun," Bobby Carpenter, and they have two beautiful children (Leah age 6 ½ and David at 6 months). Beth is very active in her church, including serving as music director and Sunday school teacher. She loves to read, play the piano, and play tennis and softball.

Beth will eventually have responsibility for the Board's Statement of Economic Interest review, evaluation, and filing functions, as well as supervise the soon-to-be-hired Research Assistant.

Please join the Board and its Executive Director in welcoming Beth. We are fortunate to have her.

IMPORTANT INFORMATION ON-LINE

Board of Ethics **newsletters, opinions,** and other items 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 Internal Operating Procedures, Statement of Economic Interest forms, advisory opinions, and all newsletters.

WE ARE ALWAYS AVAILABLE FOR TELEPHONE CONSULTATION IF NECESSARY.