

**ETHICS INTERPRETATION EI-2003-001
ISSUED JUNE 13, 2003**

The Ethics Commission [“the Commission”], in the executive session portion of its regular meeting held June 13, 2003, considered your request for an ethics interpretation. You have asked:

Do the Constitutional Ethics Rules [“the Rules”], Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 2003, Ch. 62, App., permit a cabinet secretary, who serves pro bono in a compensated position, to file the Statement Of Financial Interests Form F-2R, instead of the standard Form F-1R?

FACTS

You have advised that you are a secretary in the Governor’s cabinet. While your full-time position is a compensated one, you serve pro bono. You ask whether that entitles you to file the less comprehensive Form F-2R, or the standard Form F-1R.

ANALYSIS

The Rules designate who is to file the Statement of Financial Interests. These include:

Individuals required to file – Exemption

(a) The following individuals shall file, by paper form or computer diskette, or electronically transmit a statement of financial interests or a statement of no change with the Commission:

- (1) a state officer except for those excluded from the definition of a public member;
- (2) the chief administrative officer and the first assistant administrative officer of a government entity;
- (3) a state employee who determines state policy or who makes final spending decisions for the state or any governmental entity;
- (4) an individual who is a candidate to become an elective officer; and
- (5) a public member.

* * *

Section 257:15-1-2

[emphasis added]

As a cabinet secretary, you are clearly obligated to file the financial disclosure statement. The question is which form.

The Rules provide for two distinct levels of disclosure. The standard is the Statement Of Financial Disclosure [“Form F-1R”]. It bears the subtitle: “For Compensated Filers.”

As its name suggests, this is for those whose positions are compensated with state funds. The F-1R is more comprehensive and calls for detailed information. State officers, the chief administrative officer and first assistant, Ethics Commissioners, candidates for state office and certain state employees report on these forms.

“Public members,” who are citizens coming forward to serve on a part-time basis, are exempted from the same degree of disclosure. They file the Form F-2R, which is designated “For Uncompensated Filers.”

The answer to your question turns upon whether, as a full-time cabinet secretary to the executive branch of government, you are a “state officer” or a “public member.” The Rules define the former as “an elective, appointed or employed officer . . . in the executive, judicial or legislative branch of the State of Oklahoma. Definitions, 257:1-1-2 The latter, on the other hand is:

Public member

means a member appointed to a compensated or uncompensated part-time position on a board, commission, council, authority, bureau, committee, state beneficial public trust, or other establishment of the executive, legislative or judicial branch of the State of Oklahoma.

- (1) A public member does not lose this status by receiving reimbursement of expenses or a per diem payment for services.

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Section 257:1-1-2

[emphasis added]

While it is admirable you are serving pro bono, that does not alter the fact that you hold a full-time compensated position. As such, you fall under the category of a “state officer.” Moreover, you are expressly excluded from the definition of “public member” because you do not serve part-time. You must therefore file as a state officer and not as a public member. When making financial disclosure, the Rules do not permit you to file the Form F-2R, but obligate you instead to file the standard Form F-2R.

CONCLUSION

It is therefore the ethics interpretation of the Ethics Commission, as decided at its regular meeting held June 13, 2003, that the Rules do not permit a full-time cabinet secretary to the executive branch of government, who serves pro bono in a compensated position, to file the Statement Of Financial Interests For Uncompensated Filers [“Form F-2R”] but, instead, require that he or she file the standard Statement Of Financial Interests For Compensated Filers [“Form F-1R”].

Please be advised that ethics interpretations are fact specific. They answer only the question or questions put forth in the underlying request. While they may shed light on other situations, this opinion does not necessarily control them. To be binding on

the future action of this agency, the interpretation must be directed to the individual situation.

The Commission is authorized by Oklahoma Constitution Article XXIX, Section Five and Section 305(A)(6) of Title 51 of the Oklahoma Statutes to interpret the Rules and the Political Subdivisions Ethics Act, 51 P/S/ 1001. §§ 301-325. Questions pertaining to other Oklahoma Statutes and the Constitution cannot be interpreted by the Commission and must be referred to the appropriate authority.

Ethics Interpretations are published with sufficient deletions to prevent identification of the person or persons involved in the situations herein described. The name of the requestor is considered confidential. This letter has been labeled accordingly.