



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 128

April 1, 1993

Whether appointed members of a committee that advises the Texas Education Agency must file financial disclosure statements. (AOR-135)

The Texas Ethics Commission has been asked whether appointed members of a committee that advises the Texas Education Agency must file financial disclosure statements. Article 6252-9b, section 3(a), requires "state officers" to file annually with the Ethics Commission statements disclosing certain financial information. The issue is whether members of the committee are "state officers" for purposes of article 6252-9b.

The committee is provided for by section 2932 of title 20 of the United States Code. Under that provision, states that receive certain federal grants must provide "for a process of active and continuing consultation with the State educational agency of an advisory committee." 20 U.S.C. § 2932(a)(2). Members of the "advisory committee" are appointed by the governor and include parents, teachers, and administrators of schools. The purpose of the committee is "to advise" TEA on the allocation of federal funding to various programs. *Id.* § 2932(a)(2)(I).

Article 6252-9b defines a state officer as "an elected officer, an appointed officer, a salaried appointed officer, an appointed officer of a major state agency, or the executive head of a state agency as defined in this section." V.T.C.S. art. 6252-9b, § 2(1). Committee members are unsalaried and not members of a major state agency, but they are appointed to their positions by the governor. Section 2(3) defines an "appointed officer" as:

- (A) the secretary of state;
- (B) an individual appointed with the advice and consent of the senate to the governing board of any state supported institution of higher education;
- (C) an officer of a state agency who is appointed for a term of office specified by the constitution or a statute of this state, excluding a person appointed to fill a vacancy in an elective office; or
- (D) a person who is not otherwise within the definition of elected officer, appointed officer, or executive head of a state agency, but who holds a position as a member of the governing board or commission of a state agency acquired through a method other than appointment.

Under this statutory definition, the members of the committee are not appointed state officers. They do not serve as the secretary of state or on the governing board of an institution of higher education. They are not appointed to serve terms under the Texas Constitution or by Texas statute, since the statute which governs the creation of the committee is a federal statute, not a statute "of this state." Nor do they hold positions "through a method other than appointment." Because members of this committee fit none of the definitions of a "state officer" under article 6252-9b, they are not required to file annual financial disclosure statements. See [Ethics Advisory Opinion No. 121](#) (1993) (members of purely advisory bodies are not state officers for purposes of article 6252-9b).

SUMMARY

Members of a committee that advises the Texas Education Agency, provided for by section 2932 of title 20 of the United States Code, are not required to file financial disclosure statements under article 6252-9b.