



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 135

April 1, 1993

Whether certain officers and employees of the Texas State Technical College System are required to file annual financial disclosure statements under article 6252-9b, V.T.C.S. (AOR-154)

The Texas Ethics Commission has been asked to consider questions about whether officers and employees of the Texas State Technical College System are required to file annual financial disclosure statements under article 6252-9b, V.T.C.S. The Texas State Technical College System has campuses in various Texas cities.

Executive Head

The first question is whether the chancellor of the system, the vice-chancellor, the secretary to the board, and the president of each TSTC System campus must file financial statements. Section 3(a) of article 6252-9b provides:

On or before April 30th of each year, every state officer and every Party chairman shall file with the commission a financial statement complying with the requirements of Section 4 of this Act.

Included in the definition of "state officer" is the "executive head of a state agency as defined in this section." V.T.C.S. art. 6252-9b, § 2(1) (defining "state officer"), (6) (defining "executive head"), (8) (defining "state agency").¹ Therefore the "executive head" of the TSTC System must file if the system itself is a "state agency" as defined by section 2(8) of article 6252-9b.

A state agency includes "a university system or an institution of higher education as defined in Section 61.003, Texas Education Code." *Id.* § 2(8)(B). The TSTC System is included in the definition of "institution of higher education" in section 61.003(8) of the Education Code.² Therefore the "executive head" of the TSTC System is required to file an annual financial disclosure statement.

An "executive head" is

the director, executive director, commissioner, administrator, chief clerk, or other individual not within the definition of appointed officer who is appointed by the governing body or highest officer of the state agency to act as the chief executive or administrative officer of the agency. The term includes the chancellor or highest executive officer of a university system and the president of a public senior college or university as defined by Section 61.003, Texas Education Code, as amended.

Id. § 2(6).

The TSTC System is a "state agency," and the executive head of the agency who is required to file a financial statement is "the chief executive or administrative officer of the agency." *Id.* § 2(6), (8)(B).³ Therefore the chancellor of the entire TSTC System is required to file a financial statement as the executive head of the system. The vice-chancellor, the secretary to the board, and the president of each TSTC System campus are not required to file.

Appointed Officers

The second question is whether a person who is appointed to the TSTC System board of regents must file an annual financial statement. Section 2(5)(A)(xx) of article 6252-9b provides that an "appointed officer of a major state agency" includes:

a member of the governing board of a state senior college or university as defined by *Section 61.003, Education Code*, including. . . Texas State Technical Institute--Amarillo; Texas State Technical Institute--Harlingen; Texas State Technical Institute--Sweetwater; and Texas State Technical Institute--Waco. (Emphasis added).⁴

"Governing board" is defined in section 61.003(9) of the Education Code to include "the body charged with policy direction of any public technical institute." Section 61.003(7) provides that the term "public technical institute" refers to the TSTC *System*. Although section 2(5)(A)(xx) of article 6252-9b refers to the separate campuses of the system, and thereby indicates that each campus is a separate technical institute, the statutes governing the TSTC System do not provide for a separate governing body for each campus. *See* Educ. Code § 135.21, et seq. Thus "governing board" can only refer to the TSTC System board, which oversees the entire system including each individual campus. A member of the system board of regents is therefore required to file a financial statement.

Annual Filing Requirement

The requestor also asks whether a member of the TSTC System board of regents must file an annual financial statement even if he filed a financial statement at the time of his appointment. There are two statutory filing deadlines applicable to the TSTC System board of regents. Under section 3(a) of article 6252-9b, a regent of the TSTC System must file annually on or before April 30th of each year. Also, when a person is appointed to the board of regents, he or she must file a financial statement "within 30 days after the date of his appointment or the date he qualifies for the office, or if confirmation by the senate is required, before his confirmation, whichever is earlier." V.T.C.S. art. 6252-9b, § 3(b).

These two separate provisions do not, however, require a state officer to file duplicate financial statements covering the same year.⁵ Section 3(g) of article 6252-9b, V.T.C.S. provides:

If a person has filed a financial statement as required by one subsection of this section covering the proceeding calendar year, he is not required to file a financial statement as required by another subsection if before the deadline for filing under the other subsection he notifies the [commission] in writing that he has already filed a financial statement under the subsection specified.

SUMMARY

The chancellor of the Texas State Technical College System must file an annual financial disclosure statement. The vice-chancellor, the secretary of the board, and the president of each TSTC System campus are not required to file. The members of the board of regents of the TSTC System are required to file financial disclosure statements.

¹ The TSTC System campuses are described in a section that lists the major state agencies whose members are appointed officers. V.T.C.S. art. 6252-9b, § 2(5)(A)(xx). That listing is not relevant to determining whether someone is the executive head of a state agency as defined in section 2.

² Section 61.003 of the Education Code defines "institution of higher education," in part, as "any public technical institute." Section 61.003(7) states that "public technical institute" means the Texas State Technical College System.

³ The definition of "executive head" provides that this can be the chancellor of a "university system." However, the definition of "university system" in section 61.003(10) of the Education Code does not include the TSTC System. An executive director can also be "the

president of a public senior college or university." "Public senior college or university" as defined in section 61.003(4) of the code does not include the TSTC System. See Educ. Code § 61.003(1), (3), (5), (6).

⁴ "State senior college" and "university" are not terms that are defined in section 61.003 of the Education Code. The closest defined term is "public senior college or university," but that definition excludes TSTC. Educ. Code § 61.003(4).

⁵ The financial statement which must be filed annually includes financial activity "for the preceding calendar year." V.T.C.S. art. 6252-9b, § 4(a). A statement filed in 1993 would provide financial information for calendar year 1992. See [Ethics Advisory Opinion No. 28](#) (1992).