



# TEXAS ETHICS COMMISSION



## ETHICS ADVISORY OPINION NO. 402

*August 14, 1998*

*Whether the requirement to file an annual personal financial disclosure statement applies to the executive head of an institution that is identified in Education Code section 61.003(6) as an "other agency of higher education." (AOR-442)*

The Texas Ethics Commission has been asked to consider whether the requirement to file an annual personal financial disclosure statement applies to the executive head of an institution that is identified in Education Code section 61.003(6) as an "other agency of higher education."

Each year the "executive head of a state agency" is required to file a personal financial disclosure statement. Gov't Code §§ 572.026(a) (filing requirement applies to "state officer"), 572.002(12) ("the executive head of a state agency" is a state officer). For purposes of that filing requirement, the "executive head of a state agency" means

the director, executive director, commissioner, administrator, chief clerk, or other individual 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 and who is not an appointed officer. 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, Education Code.

*Id.* § 572.002(5). Education Code section 61.003 defines various terms used to describe different types of academic institutions. For purposes of the financial disclosure law, the term "state agency" includes all of the following types of academic institutions, as those terms are defined by Education Code section 61.003: general academic teaching institutions; public senior colleges and universities; medical and dental units; other agencies of higher education; public technical institutes; institutions of higher education; and university systems.

Even though the statute states that the head of any "state agency" is required to file a personal financial disclosure statement, it has been suggested that the requirement does not apply to the executive head of any academic institution other than the head of a university system or the head of a public senior college or university. The basis of this suggestion is the fact that the second sentence of the definition of "executive head of a state agency" specifically identifies the head of a university system and the head of a public senior college or university as the executive head of a state agency. We do not interpret that sentence as limiting the definition of "state agency." Rather, because the sentence states that the term "includes" certain individuals, we think that sentence was intended to give examples of who is in fact the executive head of certain state agencies, not to limit the definition of "executive head of a state agency" to only the individuals described in that sentence. *See* Code Construction Act, Gov't Code § 311.005(13) ("'Includes' and 'including' are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded"). We conclude therefore that the requirement to file an annual personal financial disclosure statement applies to the executive head of an institution that is identified in Education Code section 61.003(6) as an "other agency of higher education."

**SUMMARY**

The requirement to file an annual personal financial disclosure statement applies to the executive head of an institution that is identified in Education Code section 61.003(6) as an "other agency of higher education."