



DELAWARE PUBLIC INTEGRITY COMMISSION

410 Federal St., Suite 3; Dover, Delaware 19901
Phone (302) 739-2399 Fax (302) 739-2398

TO: Cabinet Secretaries

FROM: State Public Integrity Commission

DATE: June 2, 1997

SUBJECT: Ethics Bulletin 006 - Applicability of Financial Disclosure Reporting and the Code of Conduct Statutes to Persons Appointed to Boards and Commissions

The State Public Integrity Commission was recently asked if persons appointed to State Boards and Commissions are required to file annual financial disclosure reports pursuant to 29 Del. C. § 5811, *et. seq.* Such reports are filed by "public officers," and the statute defines "public officer" by specific State positions. 29 Del. C. § 5812(a)(1-18). Where the persons and things to which a statute refers are affirmatively or negatively designated, there is an inference that all omissions were intended by the Legislature. Norman V. Goldman, Del. Super., 173 A.2d 607, 610 (1961). In defining "public officers" the General Assembly clearly identified the positions held by "public officers." None of those positions include appointees to Boards or Commissions. Where the Legislature is silent, additional language will not be grafted onto the statute because such action would, in effect, be creating law. Goldstein v. Municipal Court, Del. Super., C.A. No. 89A-AP-13, J. Gebelein (Jan. 7, 1991). Further, the legislative history reflects that legislation was introduced to require members of certain boards and commissions to file disclosure statements but was never passed. See, H.A. No. 14 to H.S. No. 1 for House Bill No. 83 (June 9, 1983).

While the General Assembly did not include such appointees under the financial disclosure statute, it specifically included them as persons to whom the State Code of Conduct applies. Under the State Code of Conduct, appointees to Boards and Commissions are considered "State employees" if they receive or expect to receive more than \$5,000 in compensation for their appointment in a calendar year (not including reimbursement of expenses). 29 Del. C. § 5804(11). Appointees who receive or expect to receive less than \$5,000 in compensation in a calendar year (not including reimbursement of expenses), are "Honorary State officials" under the State Code of Conduct. 29 Del. C. § 5804(13).

Under certain circumstances, the State Code of Conduct establishes specific guidelines when persons covered by the State Code of Conduct must file, with the Commission, disclosure of a financial interest. See, e.g., 29 Del. C. § 5806(d). Additionally, the State Code of Conduct establishes rules regarding such things as acceptance of gifts, etc. See, 29 Del. C. § 5806(b).

Page 2

Ethics Bulletin 006 Applicability of Financial Disclosure Reporting and the Code of
Conduct Statutes to Persons Appointed to Boards and Commissions

Should your agency have any appointees to a Board or Commission to whom the Code of Conduct applies, please advise them that if they have any questions concerning disclosure statements to be filed, they may request an advisory opinion. Also, the Commission offers training classes covering the State Code of Conduct in its entirety and would be glad to schedule training sessions for any Board or Commission members.

cc: Governor Thomas R. Carper