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Comments on the Financial Disclosure Form:

Ethics Matters submits these comments on the proposed financial disclosure form to the Ethics Commission.

1. Comment: The ethics code includes a number of specially defined terms. The financial disclosure form does not indicate what these terms are or provide their definitions. Part of the financial disclosure form should be a definition sheet containing the complete definitions of those words or phrases. Further, these words should be high-lighted on the Checklist and Schedules so that those who are making the disclosure know to refer to the definition sheet and check for their special meanings. These words and phrases would include “business entity,” “doing business with,” “gift,” “interest,” “official/employee,” and “person.”

Problem: When they are unaware of terms that have a special meaning in the context of the code, filers may unintentionally violate the law by omitting required information, or they may supply more information than is required.

Here are three examples where not providing a definition could cause problems because a filer does not understand what is required.

(i) Business entity: Any corporation (including any parent, subsidiary, or affiliated corporation or business entity), general or limited partnership, sole proprietorship (including a private consultant operation), LLC’s, joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit.

A person filling out the form may not realize all that is meant by a “business entity” in the context of the disclosure form -- for example, it includes organizations that are not operated for profit -- and, in ignorance of the law, may omit the required information.

(ii) Doing business with: Having or negotiating a contract that involves the commitment (either in a single transaction or a combination of transactions) of one thousand dollars (\$1,000.00) or more of funds controlled by Queen Anne’s County in a calendar year.

If those filing the form are not aware of the \$1,000.00 threshold for reporting, they may undertake burdensome and unnecessary reporting.

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(iii) In Schedule A, a partial definition of *interests* has been supplied. But left out is the ethics law's requirement that interests held "directly or indirectly" be reported. This is a serious omission, because it invites evasion of the disclosure required by the law. For example, a person filing the form might take the position that he does not need to report an ownership interest in a parent corporation whose subsidiary owns real estate in the County, claiming that he does not "individually, [j]ointly, in partnership, or corporately" hold real estate in the County, inasmuch as the only corporation that he has an interest in is not itself an owner of County real estate. It should be made clear, by providing the complete definition, that ownership interests held "indirectly" must be disclosed as the law requires.

2. Comment: The financial disclosure form should follow the ethics law with respect to whose positions in business entities must be disclosed.

Problem: In "C" on the Checklist and in Schedule C itself, the requirement for disclosing "any office, directorship, partnership, or salaried employment in any business entity" held by the official/employee and spouse has been expanded beyond the requirements of the Ethics Law to include such positions held by family members in their household. This expansion of the law may be a good idea. The disclosure form, however, cannot not add requirements that are not written in the law it is implementing. Perhaps the Ethics Commission may want to suggest this expansion of accountability as one of the amendments to the Ethics Law.

3. Comment: What should be asked for in Schedule C is the title and nature of offices, directorships, employment etc. that the official/employee and spouse held in any business entities and the names and addresses of those business entities.

Problem: There seems to be a misprint in Schedule C. It asks for the "Name and address of the principal office of business entity held."

Thank you for considering these comments.

Submitted by

Mary Campbell
For Ethics Matters, Inc.
January 31, 2006

