

SEATTLE ETHICS AND ELECTIONS COMMISSION

Ethics Code Interpretive Rules

Rule 1. Members of City Advisory Boards, Commissions, and Committees.

I. SUMMARY OF RULE

- a. Members of an advisory committee, board, or commission that is created by law (federal or state law, City Charter, or City ordinance) are subject to the Ethics Code unless a particular law provides otherwise.
- b. Members of an advisory committee, board, or commission that is created by other City action (resolution, executive order, or other similar or less formal action) are not covered by the Ethics Code.
- c. Members of a committee, board, or commission that is authorized to administer, interpret, or execute City laws are covered by the Ethics Code and are required to file the statements of financial interests described in SMC 4.16.080.C.
- d. Members of a committee, board, or commission that is not authorized to administer, interpret, or execute City laws are not required to file the statements of financial interests described in SMC 4.16.080.C.

II. BACKGROUND:

Separate SMC sections govern: 1) whether members of a particular City board, commission, or committee ("committee") are covered by the Ethics code generally; and 2) whether members of a particular board, commission, or committee must file financial interest statements. The sections are worded differently.

SMC 4.16.080.C.2 requires filing only by members of committees that administer, interpret, or execute City laws, and thereby exempts from the filing requirement members of advisory committees.

SMC 4.16.030, on the other hand, exempts from coverage by SMC Chapter 4.16 members of "ad hoc advisory committees." Inclusion of the modifier "ad hoc" evidences a legislative intent to narrow the exemption so that it does not exempt members of all advisory committees only members of "ad hoc" advisory committees.

III. PURPOSES:

- a. Clarify the meaning of "ad hoc advisory committees" in order to provide guidance in determining whether a particular committee is a "City agency" or an "ad hoc advisory committee" for purposes of determining the applicability of SMC Chapter 4.16 to members of the committee.

b. Clarify the meaning of "administers, interprets, or executes City laws" in order to provide guidance in determining whether members of a particular committee must file the financial statement described in SMC 4.16.080C.

IV. REFERENCES:

a. The City Ethics Code (SMC Chapter 4.16) applies generally to "City officers or employees" of any "City agency." "City officer or employee" means every individual elected or appointed to an office or position of employment in any City agency, whether such individual is paid or unpaid. SMC 4.16.030.E.

b. "City agency" expressly excludes "public corporations and ad hoc advisory committees." SMC 4.16.030.D. Members of an ad hoc advisory committee are therefore not subject to Chapter 4.16. The phrase "ad hoc advisory committee" is not defined in Chapter 4.16.

c. SMC 4.16.080.C.2 requires members of a "City committee, City board, or City commission that administers, interprets, or executes City laws" to file a brief statement of financial interest described in SMC 4.16.080.C.3. The phrase "administers, interprets, or executes City laws" is not defined in Chapter 4.16.

d. SMC 3.70.100.C empowers the Commission to promulgate rules and regulations in order to carry out the Commission-administered ordinances, including the Ethics Code.

e. SMC 4.16.080.A requires that candidates and elected officials who file a comprehensive financial interest statement pursuant to State law file copies of that State-mandated report with the Commission.

V. RULE

A. DEFINITIONS

1. "Ad hoc committee" means a committee, board, commission, or other similar City entity created by means other than by federal or state law, City Charter, or City ordinance.

2. "Advisory committee" means a committee, board, commission or other similar City entity that lacks the authority to administer, interpret, or execute City laws, but provides advice or recommendations to a City entity that has the authority to administer, interpret, or execute City laws.

3. "Administering, interpreting, or executing City laws" means having legal authority to carry out or enforce provisions of the City charter or City ordinance, and includes the authority to obligate the City to expend public funds.

B. OPERATION OF RULE

1. Coverage of Ethics Code Generally

- a. If a state law, City Charter provision, or City ordinance ("law") expressly provides for purposes of Chapter 4.16 that a committee is (or is not) a "City agency," or is (or is not) an "ad hoc advisory committee," that express language governs.
- b. If the law that creates an advisory committee otherwise expressly states that the members of the committee are subject to (or not subject to) the provisions of Chapter 4.16, that language governs.
- c. If the act that creates an advisory committee is silent or ambiguous on the issue of whether the committee is intended to be considered a "City agency" or an "ad hoc advisory committee" for purposes of Chapter 4.16, the following will govern the Commission's determination.
 - i. If an advisory committee is created by law, the committee is a "City agency" and not an "ad hoc advisory committee" for purposes of Chapter 4.16.
 - ii. If an advisory committee is created by other City action, such as by resolution, executive order, or other similar or less formal action, the committee is an "ad hoc advisory committee" and not a "City agency" for purposes of Chapter 4.16.
 - iii. If creation of an advisory committee is authorized but not mandated by law, the committee is an "ad hoc advisory committee" and not a "City agency" for purposes of Chapter 4.16.

2. Financial Reporting Requirement

- a. Members of advisory committees, as defined above, are not required to file the statements described in SMC 4.16.080.C.3.
- b. If the law or other action that creates a committee provides that the City may or must consider the committee's recommendation or advice before the City takes final action, the committee remains an advisory committee because the City entity with the authority to administer, interpret, or execute City laws has retained that authority and has not delegated it to the committee.
- c. If the law or other action that creates a committee expressly provides that the decision of the committee may by default become the legally binding final action of the City without any further action by the City, the committee is not an advisory committee and instead is authorized to "administer, interpret, or execute City laws."

These Rules were adopted by the Seattle Ethics and Elections Commission at the meeting on September 7, 2005 and will be effective on the date they are filed with the City Clerk. The Commission members voting to take this action were:

Bruce Heller, Chair Mel Kang, Vice Chair Paul Dayton Gregg Hirakawa Robert Mahon Nancy Miller Michele Radosevich

STATE OF WASHINGTON CITY OF SEATTLE

I, WAYNE BARNETT, Executive Director of the Seattle Ethics and Elections Commission, State of Washington, do hereby certify that this is a true and correct copy of the Voters' Pamphlet Administrative Rules, implementing SMC 2.14, as adopted on September 7, 2005.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of May, 2006.

_____ WAYNE BARNETT, Executive Director