

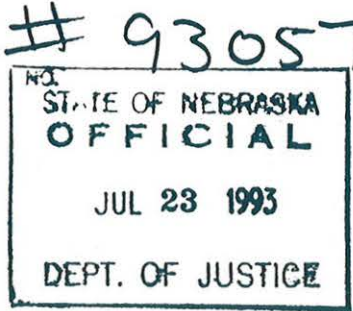


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DATE: July 16, 1993

SUBJECT: Appointment to Accountability and Disclosure Commission

REQUESTED BY: Dannie Trautwein, Executive Director
Nebraska Accountability and Disclosure Commission

WRITTEN BY: Don Stenberg, Attorney General
Linda L. Willard, Assistant Attorney General

You have inquired whether service on the Nebraska Community Improvement Program (NCIP) Advisory Board constitutes being a public official or public employee such that simultaneous service on the NCIP Advisory Board and the Nebraska Accountability and Disclosure Commission would be prohibited. This question has arisen since an individual who serves on the NCIP Advisory Board has been appointed by the Governor to serve on the Nebraska Accountability and Disclosure Commission. We conclude that an individual may not serve simultaneously on both the NCIP Advisory Board and the Commission.

Neb. Rev. Stat. § 49-14,114 (1992 Supp.) addresses members of the Accountability and Disclosure Commission and states, "(1) No appointed individual, while a member of the commission, shall engage in any activity or hold any position or office which is regulated by the commission as follows: . . . (b) being a public official, a public employee, or a state elective official; . . . (2) An appointed individual shall withdraw from any activity and resign from any position or office regulated by the commission prior to beginning his or her term on the commission. . . ."

Neb. Rev. Stat. § 49-1443 (1989) states, in significant part, "[p]ublic official shall mean an official in the executive branch, an official in the legislative branch, or an elected or appointed

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official in the judicial branch of the state government or a political subdivision thereof; . . ."

Neb. Rev. Stat. § 49-1436 (1989) states:

Official in the executive branch shall mean an official holding a state executive office as provided in Article IV, Constitution of Nebraska, including Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, Tax Commissioner, the heads of such other executive departments as set forth in the Constitution or as may be established by law, a deputy thereto, or a member of any state board or commission. This includes an individual who is elected or appointed and has not yet taken, or an individual who is nominated for appointed to, any of the offices enumerated in this section.

(Emphasis added.)

Therefore, based on the definitions of "public official" and "official in the executive branch," it is our determination that a member of the NCIP Advisory Board would be a public official and, as such, could not serve simultaneously on both the NCIP Advisory Board and the Nebraska Accountability and Disclosure Commission. An individual serving on the NCIP Advisory Board who is appointed to the Accountability and Disclosure Commission must make a decision as to which position they wish to hold.

Sincerely,

DON STENBERG
Attorney General


Linda L. Willard
Assistant Attorney General

28-03-14.op

APPROVED:



Attorney General