

ETHICS COMMITTEE MEETING

August 21, 2013

ITEM 8. AO 13-02 Define the terms “organization,” “board of an organization,” and “board membership.” AS 24.60.030(f), Disclosure of membership on a board of an organization. Requested by: Ethics Committee

Included in the packet:

- Committee’s advisory opinion request dated June 25, 2013. The request was labeled AO 13-02.
- Draft AO 13-02 dated July 1, 2013 prepared by LAA Legal, Dan Wayne.
- January 15, 2013 legal memo prepared by LAA Legal, Dan Wayne.
- 2013 informal ethics advice given on this subject.
- 2012 informal ethics advice given on this subject.
- 2011 informal ethics advice given on this subject.
- February 26, 2013 committee meeting minutes.

DISCUSSION: Committee members review the draft opinion. Committee chair asks for public comment. Committee members discuss the draft opinion and make changes, additions or deletions if warranted.

ACTION: Motion to approve AO 13-02 as written or with changes. A roll call vote is required.

AO OPINION REQUEST 13-02

Requested by the Ethics Committee.

Many questions have been received by the Ethics Office asking what constitutes a “board,” an “organization” and “board membership” in relation to the disclosure requirement under AS 24.60.030(f). The obvious purpose of disclosure is to defuse the appearance of a conflict of interest.

A legislator or legislative employee who serves on a **board** of an **organization** , including a governmental entity, shall disclose the **board membership** to the committee.

Previous informal advice has interpreted “organization” for reporting purposes under AS 24.60.030(f) as a group of people united in a relationship and having some interest, activity, or purpose in common.

Previous informal advice has interpreted “board of an organization” for reporting purposes under AS 24.60.030(f) as a board that has the power to vote, manage, supervise, investigate, or advise on matters related to the organization. Long standing informal advice since the 90’s has excluded board membership of religious organizations. There are no records on file that indicate the reason for the exclusion.

Previous informal advice has interpreted “board membership” for reporting purposes under AS 24.60.030(f) to include a volunteer position, paid position, elected position, appointed position, or agreed upon position.

The committee is requesting a definition of these terms for reporting purposes pursuant to AS 24.60.030(f).

July 1, 2013

DRAFT ADVISORY OPINION 2013-02

The Select Committee on Legislative Ethics initiated this advisory opinion under AS 24.60.160 to answer the following question: what is the meaning of "organization," "board of an organization," and "board membership," in the context of the disclosure requirement under AS 24.60.030(f) of the Legislative Ethics Act?

Discussion

"Organization," "board of an organization," and "board membership" are terms used in AS 24.60.030(f) of the Legislative Ethics Act. The Act does not define these terms. AS 24.60.030(f) is a disclosure requirement. It reads:

(f) A legislative employee may not serve in a position that requires confirmation by the legislature. A legislator or legislative employee who serves on a *board of an organization*, including a governmental entity, shall disclose the *board membership* to the committee. A person required to make a disclosure under this subsection shall file the disclosure with the committee by the deadlines set out in AS 24.60.105 stating the name of each *organization* on whose board the person serves. The committee shall maintain a public record of the disclosure and forward the disclosure to the appropriate house for inclusion in the journal. This subsection does not require a legislator or legislative employee who is appointed to a board by the presiding officer to make a disclosure of the appointment to the committee if the appointment has been published in the appropriate legislative journal during the calendar year.

(Emphasis added).

Because the advisory authority of the committee extends only to rendering opinions based on our interpretation of the Legislative Ethics Act, we do not interpret or apply other state laws in this opinion. However, we adopt the common-sense approach of the Alaska Supreme Court in interpreting statutory terms. That court has advised that:

Dictionaries provide a useful starting point for determining what statutory terms mean, as they provide the common and ordinary meaning of words. When a popular or common word is used in a statute, but is not defined, the word should be given its common meaning.¹

In *Webster's Collegiate Dictionary*, Eleventh Edition, "organization" is defined as follows:

1)

a: the act or process of organizing or of being organized

b: the condition or manner of being organized

2)

a: ASSOCIATION, SOCIETY <charitable *organizations*>

b: an administrative and functional structure (as a business or a political party); *also*: the personnel of such a structure

In common understanding, the word "organization" is a noun used to describe a grouping of parts to form a whole. This term could describe a condition, like the *organization* of bee hives, or a process, such as the *organization* of a social event. But, in the context in AS 24.60.030(f), it means a group of people united for a common purpose, such as an association, or a structure for doing business, such as a corporation.

¹ *Alaskans For Efficient Government, Inc. v. Knowles*, 91 P.3d 273, 276 n.4 (Alaska 2004), quoting 2A Norman J. Singer, Sutherland Statutory Construction § 47.28 (6th ed. 2000).

The relevant definition of "board" in *Webster's Collegiate Dictionary*, Eleventh Edition, defines it as "a group of persons having managerial, supervisory, investigatory, or advisory powers."

The complete term, "board of an organization," seems to be commonly understood as a board that has power to manage, supervise, investigate, or advise an administrative and functional structure, such as a business, or a group of people united by a common purpose, such as an association or society.

The relevant definition of "membership" in *Webster's Collegiate Dictionary*, Eleventh Edition, defines it as "the state or status of being a member." The same authority defines "member" in this context as "one of the individuals composing a group." Therefore, the meaning of "board membership," necessarily combining the commonly understood meanings of "board," "member," and "membership," seems to be "an individual who is one of the individuals composing a group of persons having managerial, supervisory, investigatory, or advisory powers."

Because "organization," "board of an organization," and "board membership" are not specifically defined by the Act, the legislature has left discretion to this committee to interpret the meaning of these terms in the context of the Act. However, this does not mean we may create unique, narrow definitions that are inconsistent with common understandings of the terms, or that our definitions may create exceptions that are inconsistent with AS 24.60.030(f). AS 24.60.030(f) directs broad disclosure and does not contain exceptions for or distinguish between non-profit and for-profit organizations, governmental and non-governmental organizations, or religious and non-religious organizations.

The context in which an undefined term is used is an important consideration in interpreting its meaning. Because we are defining "organization," "board of an organization" and "board membership" in the context of a disclosure provision we should interpret these terms reasonably broadly in order to be consistent with the purpose of that

provision, which is to encourage disclosure. As we advised in AO 09-05, "ethics disclosure requirements are based in part on the principle that certain potential conflicts of interest, once out in the open, pose less of a threat to the public's confidence in government than they might if they were not revealed."

Conclusion

We interpret the terms "organization," "board of an organization," and "board membership" used in AS 24.60.030(f) as follows:

"board of an organization," means a group of persons having managerial, supervisory, investigatory, or advisory powers over an administrative and functional structure, such as a business, or over a group of people united for a common purpose, such as an association or society;

"board membership" means having the status of being an individual who is one of the individuals composing a board;

"organization" means an administrative and functional structure, such as a business, or a group of people united for a common purpose, such as an association or society.

Adopted by the Select Committee on Legislative Ethics on **

Members present and concurring in this opinion were:

Members dissenting from this opinion were:

Members absent were:

LIST OF MEMBERS OF THE COMMITTEE

_____, Chair	yes	no	absent
_____, Representative	yes	no	absent

_____, Representative	yes	no	absent
_____, Senator	yes	no	absent
_____, Senator	yes	no	absent
_____, public member	yes	no	absent
_____, public member	yes	no	absent
_____, public member	yes	no	absent
_____, public member	yes	no	absent

DCW:ljw

13-317.ljw

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

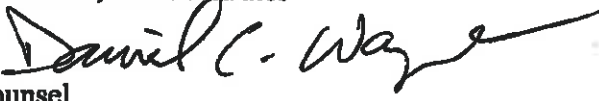
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 15, 2013

SUBJECT: Meaning of "board of an organization" under the Legislative Ethics Act (Work Order No. 28-LS0183)

TO: Select Committee on Legislative Ethics
Attn: Joyce Anderson, Administrator

FROM: Dan Wayne 
Legislative Counsel

You have asked for a legal opinion as to the meaning of the term "board of an organization," under AS 24.60.030(f), because the Legislative Ethics Act does not expressly define the term.

AS 24.60.030(f) is a disclosure requirement. It reads:

(f) A legislative employee may not serve in a position that requires confirmation by the legislature. A legislator or legislative employee who serves on a *board of an organization*, including a governmental entity, shall disclose the board membership to the committee. A person required to make a disclosure under this subsection shall file the disclosure with the committee by the deadlines set out in AS 24.60.105 stating the name of each organization on whose board the person serves. The committee shall maintain a public record of the disclosure and forward the disclosure to the appropriate house for inclusion in the journal. This subsection does not require a legislator or legislative employee who is appointed to a board by the presiding officer to make a disclosure of the appointment to the committee if the appointment has been published in the appropriate legislative journal during the calendar year.

(Emphasis added).

"Organization" appears several times in the Act but is not defined.¹ When terms are undefined in statute, AS 01.10.040(a) directs that they be construed "according to their common and approved usage."² The Alaska Supreme Court has said:

¹ The term is used frequently throughout the Alaska Statutes and seldom defined, which suggests that its meaning is left to common understanding in those instances.

Dictionaries provide a useful starting point for determining what statutory terms mean, as they provide the common and ordinary meaning of words. When a popular or common word is used in a statute, but is not defined, the word should be given its common meaning.³

The relevant definition of "board" in *Webster's Collegiate Dictionary*, Eleventh Edition, defines it as "a group of persons having managerial, supervisory, investigatory, or advisory powers."

In common understanding, the word "organization" is a noun used to describe a grouping of parts to form a whole. This term could describe a condition, like the *organization* of bee hives, or a process, such as the *organization* of a social event. But given the context here, it means a group of people united for a common purpose, such as an association, or a structure for doing business, such as a corporation. In *Webster's*, "organization" is defined as follows:

- 1)
a: the act or process of organizing or of being organized
b: the condition or manner of being organized
- 2)
a: ASSOCIATION, SOCIETY <charitable *organizations*>
b: an administrative and functional structure (as a business or a political party); *also*: the personnel of such a structure

The complete phrase, "board of an organization," refers to a board that has power to manage, supervise, investigate, or advise an administrative and functional structure such as a business, or a group of people united a common purpose such as an association or society. Accordingly, membership on the board of an organized group, business, association, or society, would have to be disclosed regardless of the organization's size or type. Obviously, an informal group or association that does not have a governing board does not fall under this subsection.

² Also, AS 01.10.040(b) says "[W]hen the words 'includes' or 'including' are used in a law, they shall be construed as though followed by the phrase 'but not limited to.'" Therefore, because "board of an organization" in AS 24.60.030(f) is subject to "including a governmental entity," "organization" should be interpreted as including non-governmental entities as well as governmental ones.

³ *Alaskans For Efficient Government, Inc. v. Knowles*, 91 P.3d 273, 276 n. 4 (Alaska 2004), quoting 2A Norman J. Singer, *Sutherland Statutory Construction* § 47.28 (6th ed.2000).

Select Committee on Legislative Ethics

January 15, 2013

Page 3

Because "board of an organization" is not specifically defined, the legislature has left discretion to the Select Committee on Legislative Ethics ("committee") to interpret this phrase within the context of this disclosure provision. This discretion gives the committee some flexibility in applying the Act. However, this is not to say that the committee has complete discretion to create a unique, narrow definition that is not consistent with a common understanding of the terms. For example, the exclusion of boards of specific types of organizations, such as religious organizations, may be inconsistent with the statute, which directs broad disclosure and does not create an exception for religious organizations. It seems likely the common understanding of "board of an organization" would include the governing board of a church, temple, or other religious organization.

Another consideration in interpreting this phrase is the context of the term within the Act. Because "board of an organization" is used in a disclosure provision, perhaps it should be given a broad definition to ensure full disclosure and defuse the appearance of a conflict of interest. As the Select Committee on Legislative Ethics advised in AO 2009-05, "[E]thics disclosure requirements are based in part on the principle that certain potential conflicts of interest, once out in the open, pose less of a threat to the public's confidence in government than they might if they were not revealed."

Ultimately, the committee has three choices. It may leave AS 24.60.030(f) subject to interpretation based on the common understanding of "board of an organization," as generally outlined above; it may choose to craft a specific definition in an advisory opinion under AS 24.60.160, which will be published when adopted; or, the committee may decide to draft a definition of the phrase and ask a legislator or a committee to file a bill at its request to add a definition to the Act.

Please let me know if you have any other questions or concerns.

DCW:lnd:ljw
13-007.lnd

**STAFF REPORT
SELECT COMMITTEE ON LEGISLATIVE ETHICS**

Jan 1, 2013 through Dec 31, 2013

Staff provides informal advice, under AS 24.60.158. Those requesting advice are told the advice, while given in good faith, is not binding on the committee unless the advice has been issued through the formal advisory opinion process. Requesters are told they may seek formal, binding advice by submitting a written request. The committee is asked to review the advice given and notify staff if any member has questions or disagrees with the advice. This report includes advice the committee may not have reviewed in the past; it does not represent all inquiries.

BOARDS & COMMISSIONS - AS 24.60.030(f)

Is a legislator required to disclose a membership on an advisory committee of a state-wide commission?

Determined the commission created the advisory committee in 2010. The committee has no duties and has not met since the legislator was appointed; and, further, the legislator does not know who is serving on the committee. This office checked the web site for the commission and no advisory body is listed. The advisory committee seems to be a committee only on paper. Recommended no disclosure. If the circumstances change, the legislator may be required to disclose the membership.

If the Speaker of the House appointed a legislator to two boards and the membership was disclosed in the Legislative Journal, is an ethics disclosure required?

No ethics disclosure is required since the board membership was disclosed in the Legislative Journal.

If a legislator steps down from a board, is a board membership disclosure required at the time of the annual filing of disclosures?

If the legislator served on the board at any time this year, a disclosure is required. The form asks for the term of service and the legislator would put the ending date of service to indicate s/he is no longer serving.

Do board memberships held prior to being sworn in as a legislator and no longer active need to be disclosed?

No, only active board memberships need disclosure.

Is a board membership required if a legislator serves on an advisory board that reports to a state agency?

Determined the board makes recommendations to the state agency. A board membership disclosure is required.

New legislative employee applied to be on a state board in October of last year. S/he received a call from the Governor's office about being appointed to the board. The employee was concerned as to whether the appointment was permitted since the board required legislative confirmation.

Informed the employee that if a state board requires legislative confirmation, the employee cannot serve on the board and maintain employment as a legislative employee. The employee called the Governor's office and removed his/her name from consideration.

May a legislator become a board member of an organization that is responsible for the state fair held in that community? The legislator was concerned because the organization raises money for the event.

There are no ethical concerns with serving on this board. Raising money for the fair does not create a conflict of interest unless the legislator promises to either take or withhold some legislative action. The board membership must be disclosed within 30 days of appointment.

May a legislative employee working for one of the legislature's umbrella agencies serve on a newly created state board?

Informed the employee to review the enabling legislation to determine if the governor's appointment requires legislative confirmation, and if so, the employee is prohibited from serving on the board. The appointment would be for a three year term. The nature of the board was directly related to the person's work.

Is a board membership disclosure required if a legislator is appointed to a statutory board by the Senate president and the announcement is published in the Legislative Journal?

Informed the legislative office that appointments published in the Legislative Journal do not require disclosure to the Ethics Office.

Is a board membership disclosure required at the beginning of the legislative session and again at the beginning of the interlm?

A board membership disclosure need only be disclosed once at the beginning of the legislative session. If a new board membership occurs, a disclosure would be required within 30 of the appointment/election to the board.

Does a board membership need disclosure if the board is an advisory board with no voting power?

Informed the legislative office that the Ethics Committee is requesting an advisory opinion on this very subject. The opinion should provide some clarity about what constitutes a board of an organization. Suggested that until the opinion is issued the board membership be disclosed based on long standing advice given out over several years.

Does membership on the board of an electrical co-op require disclosure?

Yes, an electrical co-op board membership requires disclosure.

Is a board disclosure required if a group of individuals recently organized with the intent to conduct an exploratory process to see if it is possible to secure non-profit funds to create a local community fund?

Determined the group is informally organized with no set positions for those joining. No disclosure required. Suggested the employee call back when a more formal group is formed and activities have begun.

Does membership on an advisory board that reports to the local assembly require disclosure?

Informed the employee that serving on an advisory board would require disclosure. Also pointed out to the employee that the committee will be issuing an advisory opinion on this subject later this summer.

Is a disclosure required if serving on a 'commission'?

Determined the commission was an official commission of the city government where the employee lives. The employee had to file a 'financial disclosure' with APOC. Yes, a board/commission disclosure is required. Employee will file today.

Is a board disclosure required if an employee serves on a homeowners association board?

Informed the employee all board memberships require disclosure. Mentioned that the Ethics Committee will be issuing an advisory opinion on this subject sometime this summer.

May a legislative employee continue to serve on a state commission if statutory language requires legislative confirmation but board members have never been confirmed by the legislature?

Determined that even though board members have never been confirmed by the legislature it is very clear in AS 24.60.030(f) that a legislative employee cannot serve under these statutory requirements. The state director of board and commissions pointed out that the commission is not regulatory, quasi-judicial or at the head of a principal department - as outlined in the Alaska Constitution. However, absent a court ruling stating that this section does not apply, the employee was informed s/he could not retain both positions. The employee submitted a letter of resignation to the state director of boards and commissions.

STAFF REPORT
SELECT COMMITTEE ON LEGISLATIVE ETHICS

Jan 1, 2012 through Dec 31, 2012

Staff provides informal advice, under AS 24.60.158. Those requesting advice are told the advice, while given in good faith, is not binding on the committee unless the advice has been issued through the formal advisory opinion process. Requesters are told they may seek formal, binding advice by submitting a written request. The committee is asked to review the advice given and notify staff if any member has questions or disagrees with the advice. This report includes advice the committee may not have reviewed in the past; it does not represent all inquiries.

BOARDS & COMMISSIONS - AS 24.60.030(f)

Is a legislative employee permitted to run for a seat on a local Fish and Game Council board and accept the appointment if elected?

Determined a local Fish and Game Council is a subunit of the State Board of Fish and Game. The position is elected by the community. There is no prohibition on running for a seat on the council and accepting the appointment if elected. Informed the caller it is best to inform his/her legislator about the position to avoid a time constraint issue and possible of conflict of interest when working on issues in the legislator's office. Also mentioned if elected to the council, a board membership disclosure would be required within 30 days of appointment.

May a legislator and a legislative employee serve as members of a leadership council when there is a pending APOC complaint against the council for non-monetary campaign contributions to the legislator? (Occurred in 2010)

Legislators and legislative employees are not prohibited from serving on a board or commission under these facts. Staff strongly recommended to both the legislator and legislative employee to decline the invitation to serve on the council during the APOC administrative hearing process due to an appearance of a conflict of interest and the perception of improper legislative influence in an administrative hearing pursuant to AS 24.60.030(i). Further, because the issue had progressed to the hearing stage, the use of state resources is prohibited for any purpose related directly to the complaint other than calling to obtain an update on the status of the complaint. AS 24.60.030(a)(2) prohibits a legislator or legislative employee from advocating on behalf of a constituent, i.e., the council.

May a legislative employee serve on a federal commission and if so what are the ethical considerations?

A legislative employee may serve on a federal commission, specifically a military and veterans commission. The term of appointment is six years. Determined the commission is housed out of the DC area and will involve travel. Reimbursement for travel expenses related to commission travel is not considered a gift and does not need to be disclosed. The appointment was in the area of fiduciary responsibilities. There appeared to be no conflict of interest with the appointment based on the facts provided. Suggested the employee inform the legislator of his possible appointment and relate the time commitment involved with the appointment. Informed employee a 'board and commission' disclosure is required within 30 days of appointment.

Received an email from a legislator stating s/he had nothing to report and the on-line system did not accept "none."

Informed the legislator there is no form for "nothing to report." Informed the legislator that in the previous year s/he reported two board memberships. Legislator informed the office s/he had resigned from both boards.

Does a legislator need to report board membership on a board s/he was appointed to by the Speaker or Senate President?

No. Board appointments by leadership and then published in the Legislative Journal do not need to be disclosed to Ethics. This was the case with the board appointments in question.

Is a disclosure required when a spouse of a legislator receives reimbursement for attending a board meeting of which the spouse is a board member?

Reimbursement of expenses for serving on a board is not considered a gift under the Act. Therefore, no disclosure is required by either the employee or spouse.

Is a disclosure required if a legislator serves on a Council of State Governments (CSG) Executive Board?

Board membership is not required if the board membership is published in the Legislative Journal. The legislator filed a disclosure.

What should a legislative employee do if s/he has been on a board of directors for at least five years and has not filed a board membership disclosure?

Informed the caller to file a board membership disclosure. The Ethics Office is looking into this matter since there were several board membership disclosures that were late.

A legislative employee contacted the Ethics Office regarding his/her board membership disclosure. The boards the employee is serving on do not have a termination date. The membership is for life. There are no yearly elections. The employee did not know s/he needed to file a board membership disclosure annually.

Based on the circumstances, a fine was not imposed. The employee is now aware of the annual disclosure.

A candidate called to ask if s/he could continue to serve on a municipal board if elected to the legislature?

Informed the candidate as long as the position does not require legislative confirmation, a legislator or employee may continue to serve on the board.

Is a disclosure required if a legislative employee is a volunteer on an advisory board at UAA?

Serving as a volunteer on a board is not a factor in evaluating this scenario. The board is an advisory board which makes recommendations to another board. A disclosure is required.

If a legislative employee is on the corporate board of the employee's father's corporation, is a disclosure required?

Determined the employee is the Secretary/Treasurer. The employee is not a voting member of the board and has no ownership in the corporation. No disclosure is required.

May a legislative employee accept an appointment to the State Board of Barbers and Hairdressers?

Determined the Board of Barbers and Hairdressers requires legislative confirmation. Under AS 24.60.030(f) a legislative employee may not serve in a position that requires confirmation by the legislature. Informed the staff person of this requirement. The staff person decided to resign membership on the board.

A former legislative staffer now working for a state agency called to seek clarification as to what are the prohibitions when legislative staff apply to serve on a state board and commission.

Informed the caller a legislative employee may be appointed to serve a state board or commission as long the appointment does not require confirmation by the legislature.

Does a legislator need to disclose travel reimbursement for attending a board meeting?

Determined serving on the board was not related to legislative status. Therefore, no disclosure is required. Reimbursement was for actual expenses incurred for attending the board meeting. Referenced AO 89-06.

Does board membership need to be disclosed if appointed to a statewide board?

Determined the staff person currently sits on the local board and was recently appointed to the state board to represent a segment of Alaska. Yes, a disclosure is required since the position is a voting position.

May a legislator who lost in the Primary election serve on a state board prior to leaving office in January?

A sitting legislator may serve on a state board or commission as long as the appointment does not require confirmation by the legislature. The legislator is still considered a sitting legislator until the new legislator is sworn in on January 2013. Determined, after checking the State board and commission web site, the board in question was listed as not requiring legislative confirmation. However, the actual statute indicated legislative confirmation was required. Informed the legislator the statute prevails in this type of scenario. The legislator would have to wait until January 2013 to serve on this particular board.

Is a board membership disclosure required if serving on a commission?

Determined the commission was a voting board and took action; therefore, a disclosure is required.

Is a board membership disclosure required if a legislator is a board member of a 'national' organization'?

Informed the legislative office that at the Ethics Committee January 2013 meeting this subject will be discussed. Will keep the legislator informed.

Is a disclosure required if legislative staff serves on a state commission?

Determined the board membership did not require confirmation by the legislature. The legislative employee may serve on the commission. Disclosure is required. However, disclosure should take place in 2013.

**STAFF REPORT
SELECT COMMITTEE ON LEGISLATIVE ETHICS**

Jan 1, 2011 through Dec 31, 2011

Staff provides informal advice, under AS 24.60.158. Those requesting advice are told the advice, while given in good faith, is not binding on the committee unless the advice has been issued through the formal advisory opinion process. Requesters are told they may seek formal, binding advice by submitting a written request. The committee is asked to review the advice given and notify staff if any member has questions or disagrees with the advice. This report includes advice the committee may not have reviewed in the past; it does not represent all inquiries.

BOARDS & COMMISSIONS - AS 24.60.030(f)

Does board membership on a condo association require disclosure?

Yes, board memberships that take action or vote on issues must be disclosed.

Is a disclosure required for board membership on a political organization?

Yes. All board memberships must be disclosed.

Does a legislative employee need to disclose planning an event for an organization when s/he is not on the board of the organization?

No, disclosure is only required if a member of the board of directors.

Does a legislative employee need to disclose board membership when appointed by the municipality to two boards/commissions?

Yes. The appointments were not read into the House or Senate record and were not published in the Legislative Journal. AS 24.60.030(f) states board membership must be disclosed "including a governmental entity."

Does a legislator need to disclose a board membership if the legislator holds an "ex-officio" position and is a nonvoting member as well?

If the position is nonvoting, the membership does not need to be reported.

Is a disclosure required if a legislator is on an advisory commission that does not take action or vote on issues?

No. Service on boards and commissions that take action must be disclosed.

1.) If a legislator or legislative employee is appointed to a board because of their status as a member of the legislator or as a legislative employee, is a board membership ethics disclosure required?; and 2.) Does reimbursement of travel expenses for attending those board meetings require disclosure if more than \$250?

1.) If appointed to serve on a board of an organization or government entity by the presiding officer AND the appointment is read into the record on the appropriate house floor (which is then recorded in the Legislative Journal), no board membership disclosure is required. 2.) If serving on a board for PERSONAL REASONS and not a representative of the legislature, reimbursement of expenses is not considered a gift and no disclosure is required. If serving on a board as a REPRESENTATIVE OF THE LEGISLATURE through appointment by the presiding officer and expenses were paid for with other than legislative funds, a gift of travel/hospitality related to the board membership must be disclosed within 30 days if the value of the gift is \$250 or more.

What board appointments are published in the Legislative Journal?

Determined the Senate reads into the record and published in the Legislative Journal all board appt's including interim appts (although they are read into the record). The House does not read the appt's into the record and appt's made by the Speaker are not recorded in the Legis Journal. They will begin with this session. This issue came up at legislator training.

Does a legislator need to disclose board membership on a board that does not vote on issues or take action?

Determined the legislator was invited by the former governor and other members of the committee in question to sit on the committee. Even with this information, no disclosure is required since the board takes no action. Informed the legislator that the intent of reporting board memberships is avoid any conflict of interest whereby the board may take action that intersects with legislative interests.

Does a legislator need to disclose membership on two national boards of which the legislator was elected to serve (versus being appointed)?

Yes. The board memberships were not published in the Legislative Journal since the memberships were elected positions and not appointments through the legislative process. Both organizations are related to service as a legislator.

Does a legislative employee need to disclose board membership on two out-of-state boards?

Determined both board memberships should be disclosed. One board membership also has a legislator as a board member.

Is a disclosure required if a legislator sits on a resource advisory council that forwards decisions to a national agency?

Determined the council makes direct referrals to a national agency which then moves forward with the project as forwarded. There is no intermediate step. Membership on a board/council should be reported if the board/council has authority to make decisions and recommendations for another body to consider.

Is a disclosure required for membership on a national organization that is affiliated with the legislature?

If a legislator is appointed by the legislature and the appointment is published in the Legislative Journal, no disclosure is required with the Ethics Office. If not, then a disclosure is required.

Must a legislator disclose membership on an advisory council that makes recommendations to a board who then makes the final decision on all matters?

Determined a board membership disclosure is not required in this situation. The advisory council does not have decision making authority. (2013 Note: The advice should have been that the membership on the advisory council required disclosure.)

Does a legislative employee need to disclose an appointment to a committee which is not technically a board?

Determined the appointment was through the Senate to a pre-planning committee for the redistricting process. The appointment was disclosed in the Legislative Journal. No other action is required.

May a legislative employee serve on the Council on Domestic Violence and Sexual Assault board?

Determined appointees to the board serve at the pleasure of the Governor and do not require legislative confirmation. The fact sheet for this board indicates state employees are prohibited from serving. Suggested the employee call the state boards and commissions information line for clarification as to whether legislative employees are considered state employees when it comes to board membership.

May a LAA support employee become a member of the National Rifle Association (NRA)?

There is no prohibition. No board membership disclosure is required.

May a legislative employee speak at a Juneau Chamber of Commerce meeting on behalf of the commission of which the employee is a board member?

Determined the speaking engagement is on the lunch hour. Suggested the employee mark on the office calendar s/he is off at that particular time and inform the legislator of the engagement. No conflicts or reporting required. Employee had already disclosed the board membership.

Must a legislator disclose board membership if the legislator is a board member of a business corporation owned by the legislator's child?

No. A corporation, in this instance, does not fall under the requirement to file a disclosure as an officer of a board or commission.

May a legislative staffer take over as president of a private professional organization and if so are there any ethical considerations?

Legislative staff may serve on a board of an organization as long as the appointment does not require confirmation by the legislature. All board memberships must be disclosed within 30 days of appointment. Serving as president of a board does not pose an ethical issue in and of itself. Informed the employee if in the future there appears to be a conflict of interest to contact the Ethics Office for advice. Reminded the employee that all board duties must be conducted without the use of state resources and not government time.

Is a legislator required to report a spouse's appointment to one of the Governor's boards?

No. However, a legislator would need to report if a spouse had a contract or lease with the state.

May an employee of an agency of the legislature be on a board of directors of a national organization that directly relates to the work product of the agency?

An employee of an agency of the legislature may serve on the board of directors of an organization. Disclosure is required within 30 days of appointment or election. The organization was formed in the early 1960's and is very prevalent in the lower 48 and is just now being formed in Alaska. Informed the caller to separate legislative duties from work for the organization and if the organization moves into the area of requesting legislative appropriations, to call back for additional advice.

If a legislative employee was appointed to a Board in May (after session adjourned) is a disclosure required?

Yes. Board memberships must be disclosed within 30 days of appointment. Informed the employee the disclosure would be considered late. Since this was the first late disclosure no fine was assessed.

Does membership on a church board need to be disclosed?

No, church boards do not require disclosure. Long standing advice from this office has excluded church boards. Other types of board membership should be disclosed.

February 26, 2013 Minutes -- ITEM 9: BOARD OF AN ORGANIZATION: Define the term under the requirements of AS 24.60.030(f), disclosure of board membership on an organization – Chair Thomas referred members to the legal opinion drafted by Mr. Wayne and asked if there were any comments or questions. Senator Gardner asked what prompted this item to be discussed by the committee. Ms. Anderson stated that she receives numerous questions on the requirements to file a board disclosure. No advisory opinions defining what constitutes a board membership have been issued other than the fact board memberships must be disclosed. Ms. Anderson stated that it would be helpful to have criteria when providing informal advice on the matter. Chair Thomas stated the need for this discussion came up in an Ethics House Subcommittee executive session. A person covered by the Act identified him/herself as a secretary of an organization but it was not determined whether or not a separate entity existed for that organization.

Members agreed that there needed to be some clarity to defining the requirements of when a board membership should be disclosed as there are many types of board memberships. Some members reported that they weren't necessarily board members but "delegates". Several committee members stated their own personal experiences in which they questioned whether or not they were required to disclose. Members agreed that a definition was much needed and discussed whether they define it by adopting the legal opinion provided by Mr. Wayne, in which the statute is interpreted by LAA Legal, and a more general interpretation, or if they should request a formal, binding advisory opinion, which is interpreted by the committee usually based on a specific fact pattern. Members concurred that they would seek an advisory opinion.

Mr. Wayne stated that when he drafted the Legal Opinion, it was helpful to him to break it down between two terms: Organization and Board. Ms. Anderson offered to draft up a question and circulate it to all of the members for comment and work with Mr. Wayne and any members interested in working on it.