



## OHIO ETHICS COMMISSION

150 EAST BROAD STREET

COLUMBUS 43215

(614) 466-7090

Advisory Opinion

No. 75-024

August 19, 1975

Syllabus by the Ohio Ethics Commission:

- 1) A member of a municipal corporation's civil service commission, who receives less than \$1000 per year for serving on the commission is not a "public official or employee" as that phrase is used in Chapter 102 of the Revised Code.
- 2) The prohibitions of Section 102.03 (D) of the Revised Code do not apply to a chairman of a municipal corporation's civil service commission who receives less than \$1000 per year for serving on the commission.

\* \* \* \* \*

Your request for an advisory opinion asks whether an individual who has a contract with a city to provide food services for city prisoners, may serve in the capacity of chairman of the municipal corporation's civil service commission.

The request states that the chairman of a municipal corporation's civil service commission, is responsible for the administration of testing and recommending of municipal civil service appointments, promotions and advancements, including policemen. The chairman of the commission contracts in a private capacity with the city to provide food services for the city jail. The contract was obtained on a bid basis and the contract price is entirely dependent upon the number of prisoners incarcerated in the jail.

The civil service commission was appointed by the city council pursuant to Section 705.51 (F) of the Revised Code and members serve without compensation.

The section of the ethics law applicable to the present situation is Section 102.03 (D) of the Revised Code which states:

"No public official or employee shall use or attempt to use his official position to secure any valuable thing or valuable benefit for himself that would not ordinarily accrue to him in the performance of his official duties, which thing or benefit is of such character as to manifest a substantial and improper influence upon him with respect to his duties."

The question is whether the chairman of the municipal civil service commission is within the purview of Section 102.03 (D) of the Revised Code. Section 102.03 (D) of the Revised Code applies only to a person who is a "public official or employee." That phrase is defined in Section 102.01 (B) of the Revised Code as:

" . . . any person who is elected or appointed to an elective office or employed by any public agency. 'Public official or employee' does not include . . . any member of a . . . commission . . . of any . . . city who receives less than one thousand dollars per year for serving in such position."


Thus, the chairman of a municipal civil service commission who receives no compensation is not within the purview of Section 102.03 (D) of the Revised Code.

Although from the facts contained in your request it does not appear applicable, we direct your attention to Section 102.04 (B) of the Revised Code. The chairman of the municipal civil service commission would be a person appointed to an office of a municipal corporation and, therefore, within the purview of Section 102.04 (B) of the Revised Code. Section 102.04 (B) of the Revised Code provides:

"No person . . . appointed to an office of . . . a . . . municipal corporation . . . shall receive or agree to receive directly or indirectly compensation other than from the agency with which he serves for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is before any . . . instrumentality, excluding the courts, of the entity of which he is an officer . . . "

Therefore, the chairman of the civil service commission would be prohibited from receiving compensation, other than from the commission itself or other municipal instrumentality, for rendering services in any case, proceeding, application, or other matter which is before any instrumentality of the municipal corporation.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised that a member of a municipal corporation's civil service commission, who receives less than \$1000 per year for serving on the commission is not a "public official or employee" as that phrase is used in Chapter 102 of the Revised Code; and, that the prohibitions of Section 102.03 (D) of the Revised Code do not apply to a chairman of a municipal corporation's civil service commission who receives less than \$1000 per year for serving on the commission.

  
OHIO ETHICS COMMISSION

(Mrs) Barbara H. Rawson, Chairman